

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 2914

(SENATE AUTHORS: FRANZEN, Jensen, Schmit and Hoffman)

DATE	D-PG	OFFICIAL STATUS
03/17/2016	5114	Introduction and first reading Referred to Taxes

1.1

A bill for an act

1.2

relating to economic development; conforming certain income, franchise,

1.3

and property tax refund provisions to changes in federal law; providing an

1.4

administrative mechanism for conforming to certain federal changes; creating

1.5

an account; transferring money; providing a small business tax refund;

1.6

modifying small business development center services; promoting initiative

1.7

foundation business finance services; modifying duties of the Bureau of Small

1.8

Business; establishing a private letter ruling; requiring a report; appropriating

1.9

money; amending Minnesota Statutes 2014, sections 116J.68; 270C.33, by

1.10

adding a subdivision; 270C.34, subdivision 1; 289A.60, subdivision 1; 290.01,

1.11

subdivisions 19a, 19b, 19c, 19d; 290.091, subdivision 2; Minnesota Statutes

1.12

2015 Supplement, sections 289A.02, subdivision 7; 290.01, subdivisions 19,

1.13

31; 290.0671, subdivision 1; 290A.03, subdivision 15; 291.005, subdivision 1;

1.14

proposing coding for new law in Minnesota Statutes, chapters 270C; 290; 297A.

1.15

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

1.16

ARTICLE 1

1.17

FEDERAL TAX CONFORMITY

1.18

Section 1. Minnesota Statutes 2015 Supplement, section 289A.02, subdivision 7,

1.19

is amended to read:

1.20

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal

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Revenue Code" means the Internal Revenue Code of 1986, as amended through December

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31, ~~2014~~ 2015.

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Sec. 2. Minnesota Statutes 2015 Supplement, section 290.01, subdivision 19, is

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amended to read:

1.25

Subd. 19. **Net income.** The term "net income" means the federal taxable income,

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as defined in section 63 of the Internal Revenue Code of 1986, as amended through the

date named in this subdivision, incorporating the federal effective dates of changes to the Internal Revenue Code and any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

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

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

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

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

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

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

The Internal Revenue Code of 1986, as amended through December 31, ~~2014~~ 2015, shall be in effect for taxable years beginning after December 31, 1996.

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

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

Sec. 3. Minnesota Statutes 2014, section 290.01, subdivision 19a, is amended to read:

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

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute; and

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except:

(A) the portion of the exempt-interest dividends exempt from state taxation under the laws of the United States; and

(B) the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends, including any dividends exempt under subitem (A), that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

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

(2) the amount of income, sales and use, motor vehicle sales, or excise taxes paid or accrued within the taxable year under this chapter and the amount of taxes based on net income paid, sales and use, motor vehicle sales, or excise taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the state itemized deduction exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code, minus any addition that would have been required under clause (17) if the taxpayer had claimed the standard deduction. For the purpose of this clause, income, sales and use, motor vehicle sales, or excise taxes are the last itemized deductions disallowed under clause (15);

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

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

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

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

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

(8) for taxable years beginning before January 1, 2015, 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

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

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

(11) for taxable years beginning before January 1, 2010, the amount deducted for qualified tuition and related expenses under section 222 of the Internal Revenue Code, to the extent deducted from gross income;

(12) for taxable years beginning before January 1, 2010, the amount deducted for certain expenses of elementary and secondary school teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted from gross income;

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

(14) changes to federal taxable income attributable to a net operating loss that the taxpayer elected to carry back for more than two years for federal purposes but for which the losses can be carried back for only two years under section 290.095, subdivision 11, paragraph (c);

(15) the amount of disallowed itemized deductions, but the amount of disallowed itemized deductions plus the addition required under clause (2) may not be more than the

amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code, and reduced by any addition that would have been required under clause (17) if the taxpayer had claimed the standard deduction:

(i) the amount of disallowed itemized deductions is equal to the lesser of:

(A) three percent of the excess of the taxpayer's federal adjusted gross income over the applicable amount; or

(B) 80 percent of the amount of the itemized deductions otherwise allowable to the taxpayer under the Internal Revenue Code for the taxable year;

(ii) the term "applicable amount" means \$100,000, or \$50,000 in the case of a married individual filing a separate return. Each dollar amount shall be increased by an amount equal to:

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof;

(iii) the term "itemized deductions" does not include:

(A) the deduction for medical expenses under section 213 of the Internal Revenue Code;

(B) any deduction for investment interest as defined in section 163(d) of the Internal Revenue Code; and

(C) the deduction under section 165(a) of the Internal Revenue Code for casualty or theft losses described in paragraph (2) or (3) of section 165(c) of the Internal Revenue Code or for losses described in section 165(d) of the Internal Revenue Code;

(16) the amount of disallowed personal exemptions for taxpayers with federal adjusted gross income over the threshold amount:

(i) the disallowed personal exemption amount is equal to the number of personal exemptions allowed under section 151(b) and (c) of the Internal Revenue Code multiplied by the dollar amount for personal exemptions under section 151(d)(1) and (2) of the Internal Revenue Code, as adjusted for inflation by section 151(d)(4) of the Internal Revenue Code, and by the applicable percentage;

(ii) "applicable percentage" means two percentage points for each \$2,500 (or fraction thereof) by which the taxpayer's federal adjusted gross income for the taxable year exceeds the threshold amount. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "\$1,250" for "\$2,500." In no event shall the applicable percentage exceed 100 percent;

(iii) the term "threshold amount" means:

(A) \$150,000 in the case of a joint return or a surviving spouse;

(B) \$125,000 in the case of a head of a household;

(C) \$100,000 in the case of an individual who is not married and who is not a surviving spouse or head of a household; and

(D) \$75,000 in the case of a married individual filing a separate return; and

(iv) the thresholds shall be increased by an amount equal to:

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof; and

(17) to the extent deducted in the computation of federal taxable income, for taxable years beginning after December 31, 2010, and before January 1, 2014, the difference between the standard deduction allowed under section 63(c) of the Internal Revenue Code and the standard deduction allowed for 2011, 2012, and 2013 under the Internal Revenue Code as amended through December 1, 2010.

EFFECTIVE DATE. This section is effective retroactively for taxable years beginning after December 31, 2014.

Sec. 4. Minnesota Statutes 2014, section 290.01, subdivision 19b, is amended to read:

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

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

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

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or

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

(4) income as provided under section 290.0802;

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

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over \$500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code, under the provisions of Public Law 109-1 and Public Law 111-126;

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

(8) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (12), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c,

clause (12), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

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

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

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

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

~~(13) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19e, clause (13), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19e, clause (13), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year,~~

~~a subtraction is not allowed under this clause~~ the section 179 expensing subtraction as provided under section 290.0803, subdivision 3;

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

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

(16) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under subdivision 19a, clause (13);

(17) the amount of the net operating loss allowed under section 290.095, subdivision 11, paragraph (c);

(18) the amount of expenses not allowed for federal income tax purposes due to claiming the railroad track maintenance credit under section 45G(a) of the Internal Revenue Code;

(19) the amount of the limitation on itemized deductions under section 68(b) of the Internal Revenue Code; and

(20) the amount of the phaseout of personal exemptions under section 151(d) of the Internal Revenue Code; and.

~~(21) to the extent included in federal taxable income, the amount of qualified transportation fringe benefits described in section 132(f)(1)(A) and (B) of the Internal Revenue Code. The subtraction is limited to the lesser of the amount of qualified transportation fringe benefits received in excess of the limitations under section 132(f)(2)(A) of the Internal Revenue Code for the year or the difference between the maximum qualified parking benefits excludable under section 132(f)(2)(B) of the Internal Revenue Code minus the amount of transit benefits excludable under section 132(f)(2)(A) of the Internal Revenue Code.~~

EFFECTIVE DATE. This section is effective retroactively for taxable years beginning after December 31, 2014.

Sec. 5. Minnesota Statutes 2014, section 290.01, subdivision 19c, is amended to read:

Subd. 19c. **Corporations; additions to federal taxable income.** For corporations, 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 amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code;

(9) 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;

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

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

(12) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

(13) for taxable years beginning before January 1, 2015, 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

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

(15) the amount of expenses disallowed under section 290.10, subdivision 2; and

(16) 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 retroactively for taxable years beginning after December 31, 2014.

Sec. 6. Minnesota Statutes 2014, 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) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code, except that:

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

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

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

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

12.13 (5) an amount for interest and expenses relating to income not taxable for federal
12.14 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and
12.15 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or
12.16 291 of the Internal Revenue Code in computing federal taxable income;

12.17 (6) in the case of mines, oil and gas wells, other natural deposits, and timber for
12.18 which percentage depletion was disallowed pursuant to subdivision 19c, clause (8), a
12.19 reasonable allowance for depletion based on actual cost. In the case of leases the deduction
12.20 must be apportioned between the lessor and lessee in accordance with rules prescribed
12.21 by the commissioner. In the case of property held in trust, the allowable deduction must
12.22 be apportioned between the income beneficiaries and the trustee in accordance with the
12.23 pertinent provisions of the trust, or if there is no provision in the instrument, on the basis
12.24 of the trust's income allocable to each;

12.25 (7) for certified pollution control facilities placed in service in a taxable year
12.26 beginning before December 31, 1986, and for which amortization deductions were elected
12.27 under section 169 of the Internal Revenue Code of 1954, as amended through December
12.28 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes
12.29 1986, section 290.09, subdivision 7;

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

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

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

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

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

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

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (12), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19c, clause (12). The resulting delayed depreciation cannot be less than zero;

~~(15) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (13), an amount equal to one-fifth of the amount of the addition~~ the section 179 expensing subtraction as provided under section 290.0803, subdivision 3;

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

(17) the amount of expenses not allowed for federal income tax purposes due to claiming the railroad track maintenance credit under section 45G(a) of the Internal Revenue Code.

EFFECTIVE DATE. This section is effective retroactively for taxable years beginning after December 31, 2014.

Sec. 7. Minnesota Statutes 2015 Supplement, section 290.01, subdivision 31, is amended to read:

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December

31, ~~2014~~ 2015. Internal Revenue Code also includes any uncodified provision in federal law that relates to provisions of the Internal Revenue Code that are incorporated into Minnesota law. When used in this chapter, the reference to "subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code" is to the Internal Revenue Code as amended through March 18, 2010.

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

Sec. 8. **[290.016] CONFORMITY TO FEDERAL TAX EXTENDERS BY ADMINISTRATIVE ACTION.**

Subdivision 1. Legislative purpose. (a) The legislature intends this section to provide an ongoing mechanism for conforming the Minnesota individual income and corporate franchise taxes to federal tax legislation enacted after the legislature has adjourned that extends existing provisions of federal law, if the provisions affect a taxable year that ends before the legislature is scheduled to reconvene in regular session. Congress has regularly enacted changes of that type that affect computation of Minnesota tax through its links to federal law. The federal changes consist mainly of extending provisions that reduce revenues and that are scheduled to expire. Because Minnesota law is linked to federal law as of a specific date, taxpayers and the Department of Revenue must assume that Minnesota law does not include the effect of these federal changes even though the legislature regularly adopts most of the federal provisions retroactively in the next legislative session. This situation undermines compliance and administration of Minnesota taxes, causing delay, uncertainty, and added costs. This section provides an administrative mechanism to conform to most of these federal changes. The legislature's intent is to conform to the federal tax extenders, including minor modifications of them, and to set aside the necessary state budget resources to do so.

(b) By expressing its intent regarding specific federal provisions and indicating how to treat each federal extender provision, the legislature is exercising its legislative power and is not delegating to congress or the commissioner the authority to determine Minnesota tax law. The legislature believes that this section is consistent with the Minnesota Supreme Court's ruling in the case of Wallace v. Commissioner of Taxation, 289 Minn. 220 (1971).

Subd. 2. Federal tax conformity account established; transfer. (a) A federal tax conformity account is established in the general fund. Money in the account is available for transfer to the general fund to offset the reduction in general fund revenues resulting from conforming Minnesota tax law to federal law under this section.

(b) \$20,000,000 is transferred from the general fund to the federal tax conformity account, effective July 1, 2016. On January 1 of each fiscal year in which a transfer is made under paragraph (c), the commissioner shall transfer an amount to the account necessary to maintain a \$20,000,000 balance in the account or the amount necessary to offset the estimated annual revenue reduction from conforming to eligible federal tax preferences that are scheduled to expire under federal law, whichever is less.

(c) Within ten days after receiving notice of the amount from the commissioner, the commissioner of management and budget shall transfer from the account to the general fund each year the amount that the commissioner determines is required under subdivision 4.

(d) Amounts sufficient to make the transfers under:

(1) paragraph (b) are appropriated from the general fund; and

(2) paragraph (c) are appropriated from the federal tax conformity account.

Subd. 3. **Eligible federal tax preferences.** For purposes of this section and section 290.01, the term "eligible federal tax preferences" means any of the following items that are not in effect under the Internal Revenue Code for future taxable years beginning after December 31, 2016:

(1) discharge of qualified principal residence indebtedness under section 108(a)(1)(E) of the Internal Revenue Code;

(2) mortgage insurance premiums treated as qualified residence interest under section 163(h)(3)(E) of the Internal Revenue Code;

(3) qualified tuition and related expenses under section 222 of the Internal Revenue Code;

(4) the special rules for itemized deductions of the expenses of medical care by individuals who have attained the age of 65 under section 213(f) of the Internal Revenue Code;

(5) classification of certain race horses as three-year property under section 168(e)(3)(A)(i) and (ii) of the Internal Revenue Code;

(6) the seven-year recovery period for motorsports entertainment complexes under section 168(i)(15) of the Internal Revenue Code;

(7) the accelerated depreciation for business property on an Indian reservation under section 168(j) of the Internal Revenue Code;

(8) the election to expense mine safety equipment under section 179E of the Internal Revenue Code;

(9) the special expensing rules for certain film and television productions under section 181 of the Internal Revenue Code;

(10) the special allowance for second-generation biofuel plant property under section 168(l) of the Internal Revenue Code;

(11) the energy efficient commercial buildings deduction under section 179D of the Internal Revenue Code;

(12) the five-year recovery period for property described in section 168(e)(3)(B)(vi)(I) of the Internal Revenue Code and qualifying for an energy credit under section 48(a)(3)(A) of the Internal Revenue Code; and

(13) the amount of the additional section 179 allowance in an empowerment zone under section 1397A of the Internal Revenue Code.

Subd. 4. Designation of qualifying federal conformity items. (a) If, after final adjournment of a regular session of the legislature, Congress enacts a law that extends one or more of the eligible federal tax preferences to taxable years beginning during the calendar year in which the legislature adjourned, the commissioner shall prepare a list of qualifying federal conformity items and publish it on the Department of Revenue's Web site within 30 days following enactment of the law. In preparing the list, the commissioner shall estimate the change in revenue resulting from allowing the eligible federal tax preferences, including the effect of subdivision 6, for the current and succeeding fiscal year only. The commissioner shall not include an item on the list of qualifying federal conformity items if the commissioner estimates that its inclusion would reduce general fund revenues for the current and succeeding fiscal year by more than the balance in the federal tax conformity account.

(b) The commissioner shall consider the provisions of subdivision 6 as the first item to include on the list of qualifying conformity items. The commissioner shall apply the following priorities in determining which additional items to include:

(1) the effect of all the eligible federal tax preferences on computation of federal adjusted gross income under this chapter and household income under chapter 290A, is the first priority;

(2) the effect of the federal law on computation of Minnesota tax credits is the second priority;

(3) the items in subdivision 3, clauses (5) to (13), in that order, are the third priority; and

(4) the items in subdivision 3, clauses (1) to (4), in that order, are the last priority.

(c) In determining whether to include an eligible federal tax preference on the list of qualifying federal conformity items, the commissioner may include items in which nonmaterial changes were made in the federal law extending allowance of the eligible federal tax preferences, as compared to the provision that was in effect for the prior federal

taxable year. For purposes of this determination, nonmaterial changes are limited to changes that are estimated to increase or decrease Minnesota tax revenues by no more than \$1,000,000 for the affected eligible federal tax preference item for the taxable year.

(d) Within ten days after the commissioner's final determination of qualifying federal conformity items under this subdivision, the commissioner shall notify the commissioner of management and budget, in writing, of the amounts of the federal tax conformity account transfers under subdivision 2.

Subd. 5. Provisions in effect. (a) For purposes of determining tax and credits under this chapter, including the taxes under sections 290.091 and 290.0921, and household income under chapter 290A, qualifying federal conformity items and bonus depreciation rules under subdivision 6 apply for the designated taxable year and all the provisions of this chapter apply as if the definition of the Internal Revenue Code under section 290.01, subdivision 31, included the amendments to the qualifying federal conformity items.

(b) The commissioner shall administer the taxes under this chapter, and refunds under chapter 290A, as if Minnesota had conformed to the federal definitions of net income, adjusted gross income, and tax credits that affect computation of Minnesota tax or refunds resulting from extension of the qualifying federal conformity items.

(c) For purposes of this subdivision and subdivision 6, "designated taxable year" means a taxable year that begins during a calendar year in which an eligible federal tax preference is enacted after the legislature adjourned its regular session and is effective for taxable years beginning during that calendar year.

Subd. 6. Bonus depreciation; 80 percent rule applies. If following final adjournment of a regular session of the legislature, Congress enacts a law that extends application of the depreciation special allowances under section 168(k) of the Internal Revenue Code to taxable years beginning during the same calendar year, the allowance must be determined using the rules under section 290.01, subdivisions 19a, clause (7), and 19c, clause (12), for the designated taxable year, and the rules under section 290.01, subdivisions 19b, clause (8), and 19d, clause (14), for the five tax years immediately following the designated taxable year.

Subd. 7. Forms preparation. If the provisions of subdivisions 3 and 4 apply to a taxable year, the commissioner shall prepare forms and instructions that reflect the qualifying federal conformity items and bonus depreciation rules under subdivision 6, if applicable, for the taxable year consistent with the provisions of this section.

Subd. 8. Draft legislation. For a taxable year for which the commissioner publishes a list of qualifying federal conformity items under this section, the commissioner shall provide the chairs of the house of representatives and senate committees with

jurisdiction over taxes with draft legislation that would conform Minnesota Statutes to the qualifying federal conformity items and any other conformity items that the commissioner recommends be adopted, including application to taxable years beyond those to which this section applies. The draft legislation is intended to make the statutes consistent with application of the designated qualifying federal conformity items under this section for the convenience of members of the public. Failure to pass the draft legislation does not affect computation of Minnesota tax liability for the affected taxable years under this section.

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

Sec. 9. Minnesota Statutes 2015 Supplement, section 290.0671, subdivision 1, is amended to read:

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

(b) For individuals with no qualifying children, the credit equals 2.10 percent of the first \$6,180 of earned income. The credit is reduced by 2.01 percent of earned income or adjusted gross income, whichever is greater, in excess of \$8,130, but in no case is the credit less than zero.

(c) For individuals with one qualifying child, the credit equals 9.35 percent of the first \$11,120 of earned income. The credit is reduced by 6.02 percent of earned income or adjusted gross income, whichever is greater, in excess of \$21,190, but in no case is the credit less than zero.

(d) For individuals with two or more qualifying children, the credit equals 11 percent of the first \$18,240 of earned income. The credit is reduced by 10.82 percent of earned income or adjusted gross income, whichever is greater, in excess of \$25,130, but in no case is the credit less than zero.

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

(f) For a person who was a resident for the entire tax year and has earned income not subject to tax under this chapter, including income excluded under section 290.01, subdivision 19b, clause (9), the credit must be allocated based on the ratio of federal adjusted gross income reduced by the earned income not subject to tax under this chapter over federal adjusted gross income. For purposes of this paragraph, the subtractions for military pay under section 290.01, subdivision 19b, clauses (10) and (11), are not considered "earned income not subject to tax under this chapter."

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

~~(g) For tax years beginning after December 31, 2007, and before December 31, 2010, and for tax years beginning after December 31, 2017, the \$8,130 in paragraph (b), the \$21,190 in paragraph (c), and the \$25,130 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by \$3,000 for married taxpayers filing joint returns. For tax years beginning after December 31, 2008, the commissioner shall annually adjust the \$3,000 by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B), the word "2007" shall be substituted for the word "1992." For 2009, the commissioner shall then determine the percent change from the 12 months ending on August 31, 2007, to the 12 months ending on August 31, 2008, and in each subsequent year, from the 12 months ending on August 31, 2007, to the 12 months ending on August 31 of the year preceding the taxable year. The earned income thresholds as adjusted for inflation must be rounded to the nearest \$10. If the amount ends in \$5, the amount is rounded up to the nearest \$10. The determination of the commissioner under this subdivision is not a rule under the Administrative Procedure Act.~~

~~(h)(1)~~ (g)(1) For tax years beginning after December 31, 2012, and before January 1, 2014, the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in paragraph (d), after being adjusted for inflation under subdivision 7, are increased by \$5,340 for married taxpayers filing joint returns; and (2) for tax years beginning after December 31, 2013, ~~and before January 1, 2018,~~ the \$8,130 in paragraph (b), the \$21,190 in paragraph (c), and the \$25,130 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by \$5,000 for married taxpayers filing joint returns. For tax years beginning after December 31, 2010, ~~and before January 1, 2012,~~ and for tax years beginning after December 31, 2013, ~~and before January 1, 2018,~~ the commissioner shall annually adjust the \$5,000 by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B), the word "2008" shall be substituted for the word "1992." For ~~2011~~ 2014, the commissioner shall then determine the percent change from the 12 months ending on August 31, 2008, to the 12 months ending on August 31, ~~2010~~ 2013, and in each subsequent year, from the 12 months ending on August 31, 2008, to the 12 months ending on August 31 of the year preceding the taxable year. The earned income thresholds as adjusted for inflation must be rounded to the nearest \$10. If the amount ends in \$5, the amount is rounded up to the nearest \$10. The determination of the commissioner under this subdivision is not a rule under the Administrative Procedure Act.

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

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

Sec. 10. **[290.0803] SECTION 179 EXPENSING SUBTRACTION.**

Subdivision 1. Current year allowance. (a) In each of the five tax years immediately following the tax year in which an addition is required under section 290.01, subdivision 19a, clause (8), or 19c, clause (13), the current year allowance equals one-fifth of the addition made by the taxpayer under section 290.01, subdivision 19a, clause (8), or 19c, clause (13).

(b) In the case of a shareholder of a corporation that is an S corporation, the current year allowance is reduced by the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition and, if the net operating loss exceeds the addition for the tax year, the current year allowance is zero.

Subd. 2. Section 179 expensing carryover. For purposes of this section, the current year allowance determined under subdivision 1 is considered to be the last subtraction allowed in determining taxable income. If the amount allowed under subdivision 1 exceeds taxable income, then the excess is a section 179 expensing carryover to each of the ten succeeding taxable years. The entire amount of the section 179 expensing carryover is carried first to the earliest taxable year to which the section 179 expensing carryover may be carried and then to each successive year to which the section 179 expensing carryover may be carried.

Subd. 3. Section 179 expensing subtraction. A taxpayer is allowed a section 179 expensing subtraction from federal taxable income. The subtraction equals the sum of:

- (1) the current year allowance determined under subdivision 1; and
- (2) any section 179 expensing carryover from prior taxable years determined under subdivision 2.

EFFECTIVE DATE. This section is effective retroactively for taxable years beginning after December 31, 2014.

Sec. 11. Minnesota Statutes 2014, section 290.091, subdivision 2, is amended to read:

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

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

21.3 (1) the taxpayer's federal alternative minimum taxable income as defined in section
21.4 55(b)(2) of the Internal Revenue Code;

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

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

21.9 (ii) the medical expense deduction;

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

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

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

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

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

21.23 (6) the amount of addition required by section 290.01, subdivision 19a, clauses (7)
21.24 to (9), and (11) to (14);

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

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

21.27 (2) an overpayment of state income tax as provided by section 290.01, subdivision
21.28 19b, clause (2), to the extent included in federal alternative minimum taxable income;

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

21.33 (4) amounts subtracted from federal taxable income as provided by section 290.01,
21.34 subdivision 19b, clauses (6), (8) to (14), and (16), ~~and (21)~~; and

21.35 (5) the amount of the net operating loss allowed under section 290.095, subdivision
21.36 11, paragraph (c).

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

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

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

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

22.9 (e) "Tentative minimum tax" equals 6.75 percent of alternative minimum taxable
22.10 income after subtracting the exemption amount determined under subdivision 3.

22.11 **EFFECTIVE DATE.** This section is effective retroactively for taxable years
22.12 beginning after December 31, 2014.

22.13 Sec. 12. Minnesota Statutes 2015 Supplement, section 290A.03, subdivision 15,
22.14 is amended to read:

22.15 Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal
22.16 Revenue Code of 1986, as amended through December 31, ~~2014~~ 2015.

22.17 **EFFECTIVE DATE.** This section is effective retroactively for property tax refunds
22.18 based on property taxes payable after December 31, 2015, and rent paid after December
22.19 31, 2014.

22.20 Sec. 13. Minnesota Statutes 2015 Supplement, section 291.005, subdivision 1, is
22.21 amended to read:

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

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

22.26 (2) "Federal gross estate" means the gross estate of a decedent as required to be valued
22.27 and otherwise determined for federal estate tax purposes under the Internal Revenue Code,
22.28 increased by the value of any property in which the decedent had a qualifying income
22.29 interest for life and for which an election was made under section 291.03, subdivision 1d,
22.30 for Minnesota estate tax purposes, but was not made for federal estate tax purposes.

22.31 (3) "Internal Revenue Code" means the United States Internal Revenue Code of
22.32 1986, as amended through December 31, ~~2014~~ 2015.

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

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

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

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

(8) "Situs of property" means, with respect to:

(i) real property, the state or country in which it is located;

(ii) tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death or for a gift of tangible personal property within three years of death, the state or country in which it was normally kept or located when the gift was executed;

(iii) a qualified work of art, as defined in section 2503(g)(2) of the Internal Revenue Code, owned by a nonresident decedent and that is normally kept or located in this state because it is on loan to an organization, qualifying as exempt from taxation under section 501(c)(3) of the Internal Revenue Code, that is located in Minnesota, the situs of the art is deemed to be outside of Minnesota, notwithstanding the provisions of item (ii); and

(iv) intangible personal property, the state or country in which the decedent was domiciled at death or for a gift of intangible personal property within three years of death, the state or country in which the decedent was domiciled when the gift was executed.

For a nonresident decedent with an ownership interest in a pass-through entity with assets that include real or tangible personal property, situs of the real or tangible personal property, including qualified works of art, is determined as if the pass-through entity does not exist and the real or tangible personal property is personally owned by the decedent. If the pass-through entity is owned by a person or persons in addition to the decedent,

24.1 ownership of the property is attributed to the decedent in proportion to the decedent's
24.2 capital ownership share of the pass-through entity.

24.3 (9) "Pass-through entity" includes the following:

24.4 (i) an entity electing S corporation status under section 1362 of the Internal Revenue
24.5 Code;

24.6 (ii) an entity taxed as a partnership under subchapter K of the Internal Revenue Code;

24.7 (iii) a single-member limited liability company or similar entity, regardless of
24.8 whether it is taxed as an association or is disregarded for federal income tax purposes
24.9 under Code of Federal Regulations, title 26, section 301.7701-3; or

24.10 (iv) a trust to the extent the property is includible in the decedent's federal gross
24.11 estate; but excludes

24.12 (v) an entity whose ownership interest securities are traded on an exchange regulated
24.13 by the Securities and Exchange Commission as a national securities exchange under
24.14 section 6 of the Securities Exchange Act, United States Code, title 15, section 78f.

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

24.16 Sec. 14. **INDIVIDUAL INCOME TAX COLLECTION ACTION PROHIBITED.**

24.17 Notwithstanding any law to the contrary, the commissioner shall not increase the
24.18 amount due or decrease the refund for an individual income tax return for the taxable
24.19 year beginning after December 31, 2014, and before January 1, 2016, to the extent the
24.20 amount due was understated or the refund was overstated because the taxpayer calculated
24.21 the tax or refund based on the Internal Revenue Code, as amended through December 31,
24.22 2014, rather than based on the Internal Revenue Code, as amended through December
24.23 31, 2015, as provided in this act.

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

24.25 Sec. 15. **AMENDED RETURNS.**

24.26 Subdivision 1. **Certain IRA rollovers.** An individual who excludes an amount
24.27 from net income in a prior taxable year through rollover of an airline payment amount to
24.28 a traditional IRA, as authorized under Public Law 114-113, division Q, title III, section
24.29 307, may file an amended individual income tax return and claim for refund of state taxes
24.30 as provided under Minnesota Statutes, section 289A.40, subdivision 1, or, if later, by
24.31 September 1, 2016.

24.32 Subd. 2. **Exclusion for certain incarcerated individuals.** An individual who
24.33 excludes from net income in a prior taxable year civil damages, restitution, or other

25.1 monetary award related to wrongful incarceration, as authorized under Public Law
25.2 114-113, division Q, title III, section 304, may file an amended individual income tax
25.3 return and claim for refund of state taxes as provided under Minnesota Statutes, section
25.4 289A.40, subdivision 1, or, if later, by September 1, 2016.

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

25.6 **ARTICLE 2**

25.7 **SMALL BUSINESS COLLECTION CREDIT**

25.8 Section 1. **[297A.816] SMALL BUSINESS COLLECTION CREDIT.**

25.9 Subdivision 1. **Eligibility.** A retailer or seller that is a small business may apply
25.10 to the commissioner for a refund for the annual cost of employing a certified service
25.11 provider or a certified automated system to collect and remit the appropriate amount of
25.12 sales taxes collected on their sales.

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

25.15 (b) "Certified service provider" and "certified automated system" have the meanings
25.16 given in article II of the Streamlined Sales and Use Tax Agreement, as amended through
25.17 May 15, 2014.

25.18 (c) "Small business" means a small business as defined in section 645.445.

25.19 Subd. 3. **Application; administration.** Upon application on forms prescribed
25.20 by the commissioner, a refund of the costs under subdivision 1 must be paid to the
25.21 qualifying small business. The application must provide sufficient information to permit
25.22 the commissioner to verify that the business qualifies and to document the actual costs
25.23 incurred. An applicant may file one application per calendar year for expenses incurred in
25.24 its latest fiscal year ending prior to the date of application.

25.25 Subd. 4. **Interest.** Interest must be paid on the refund at the rate in section
25.26 270C.405, from 90 days after the refund claim is filed with the commissioner.

25.27 Subd. 5. **Appropriation.** The amount required to pay the refunds under this section
25.28 is appropriated to the commissioner from the general fund.

25.29 **EFFECTIVE DATE.** This section is effective beginning with costs after June
25.30 30, 2016.

ARTICLE 3

SMALL BUSINESS DEVELOPMENT CENTERS

Section 1. **SMALL BUSINESS DEVELOPMENT CENTERS; APPROPRIATION.**

(a) \$500,000 in fiscal year 2017 is appropriated from the general fund to the commissioner of employment and economic development for small business development center (SBDC) services to support business transition planning. For the purposes of this section, business transition planning includes, but is not limited to:

(1) succession planning for next generation proprietors. For the purposes of this clause, "next generation proprietors" do not include immediate family members of the current business owner;

(2) matching business owners seeking to sell existing businesses with aspiring business owners. Matching services under this clause may be targeted to small businesses located in economically disadvantaged communities or areas of declining population. For the purposes of this clause, "economically disadvantaged communities" means communities in which the average household income is less than 80 percent of statewide median household income as measured by the United States Census Bureau or communities that contain two or more contiguous census tracts in which the average household income is less than 80 percent of the statewide median household income as measured by the United States Census Bureau; and

(3) providing information and counseling services to business owners, prospective owners, and others regarding the importance of business transition and succession planning, the transition and succession process, and financing options and requirements related to the business transition and succession process.

(b) Funds available under this section may be used to:

(1) provide the necessary information and services under paragraph (a);

(2) build small business development center staff capacity to provide business transition and succession planning services; and

(3) match funds under the federal Small Business Development Center Program under United States Code, title 15, section 648, and other federal, state, or local funds available for the purposes of this section.

ARTICLE 4

INITIATIVE FOUNDATIONS

Section 1. **INITIATIVE FOUNDATIONS; APPROPRIATION.**

\$7,000,000 in fiscal year 2017 is appropriated from the general fund to the commissioner of employment and economic development for grants to initiative foundations to provide financing for business start-ups, expansions, and maintenance; and for business ownership transition and succession. Of the amount appropriated:

(1) \$1,000,000 is for a grant to the Southwest Initiative Foundation;

(2) \$1,000,000 is for a grant to the West Central Initiative Foundation;

(3) \$1,000,000 is for a grant to the Southern Minnesota Initiative Foundation;

(4) \$1,000,000 is for a grant to the Northwest Minnesota Foundation;

(5) \$1,000,000 is for a grant to the Initiative Foundation;

(6) \$1,000,000 is for a grant to the Northland Foundation; and

(7) \$1,000,000 is for a grant to the Urban Initiative Board under Minnesota Statutes, chapter 116M. Funds available under this clause must be allocated as follows:

(i) 50 percent of the funds must be allocated for projects in the counties of Dakota, Ramsey, and Washington; and

(ii) 50 percent of the funds must be allocated for projects in the counties of Anoka, Carver, Hennepin, and Scott.

ARTICLE 5

BUREAU OF SMALL BUSINESSES

Section 1. Minnesota Statutes 2014, section 116J.68, is amended to read:

116J.68 BUREAU OF SMALL BUSINESS.

Subdivision 1. **Generally.** The Bureau of Small Business within the business assistance center shall serve as a clearinghouse, technical assistance center, and referral service for information and other assistance needed by small businesses including small targeted group businesses and small businesses located in an economically disadvantaged area.

Subd. 2. **Duties.** The bureau shall:

(1) provide information and assistance with respect to all aspects of business planning, business finance, and business management related to the start-up, operation, or expansion of a small business in Minnesota;

(2) refer persons interested in the start-up, operation, or expansion of a small business in Minnesota to assistance programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations;

(3) plan, develop, and implement a master file of information on small business assistance programs of federal, state, and local governments, and other public and private organizations so as to provide comprehensive, timely information to the bureau's clients;

(4) employ staff with adequate and appropriate skills and education and training for the delivery of information and assistance;

(5) seek out and utilize, to the extent practicable, contributed expertise and services of federal, state, and local governments, educational institutions, and other public and private organizations;

(6) maintain a close and continued relationship with the director of the procurement program within the Department of Administration so as to facilitate the department's duties and responsibilities under sections 16C.16 to 16C.19 relating to the small targeted group business and economically disadvantaged business program of the state;

(7) develop an information system which will enable the commissioner and other state agencies to efficiently store, retrieve, analyze, and exchange data regarding small business development and growth in the state. All executive branch agencies of state government and the secretary of state shall to the extent practicable, assist the bureau in the development and implementation of the information system;

(8) establish and maintain a toll-free telephone number, e-mail account, and other electronic contact mediums determined by the commissioner, so that all small business persons anywhere in the state ~~can call~~ may contact the bureau office for assistance.

An outreach program shall be established to make the existence of the bureau and the assistance and services the bureau may provide to small businesses well known to its potential clientele throughout the state. If the small business person requires a referral to another provider the bureau may use the business assistance referral system established by the Minnesota Project Outreach Corporation;

(9) conduct research and provide data as required by the state legislature;

(10) develop and publish material on all aspects of the start-up, operation, or expansion of a small business in Minnesota;

(11) collect and disseminate information on state procurement opportunities, including information on the procurement process;

(12) develop a public awareness program ~~through the use of~~ regarding state assistance programs for small businesses, including those programs specifically for socially disadvantaged small business persons. The commissioner may utilize print and electronic newsletters, personal contacts, and advertising devices as defined under section 173.02, subdivision 16, social media, other electronic and print news media advertising ~~about state assistance programs for small businesses, including those programs specifically~~

~~for socially disadvantaged small business persons, and any other means determined by the commissioner;~~

(13) enter into agreements with the federal government and other public and private entities to serve as the statewide coordinator or host agency for the federal small business development center program under United States Code, title 15, section 648; and

(14) assist providers in the evaluation of their programs and the assessment of their service area needs. The bureau may establish model evaluation techniques and performance standards for providers to use.

Sec. 2. **BUSINESS DEVELOPMENT SPECIALISTS; APPROPRIATION.**

\$..... in fiscal year 2017 is appropriated from the general fund to the commissioner of employment and economic development for expansion of business assistance services provided by business development specialists located in the northwest region, northeast region, west central region, southwest region, southeast region, and Twin Cities metropolitan region offices established throughout the state. Funds under this section may be used to provide services including, but not limited to: business start-ups; expansion; location or relocation; finance; regulatory and permitting assistance; and other services determined by the commissioner. Business development specialists must, to the extent feasible, contact owners of new or expanded businesses within 90 days of the business start-up or expansion to offer follow-up or consultative services, or other services or assistance upon request. The commissioner may also use funds under this section to increase the number of business development specialists in each region of the state, increase and expand the services provided through each regional office, and publicize the services available and provide outreach to communities in each region regarding services and assistance available through the business development specialist program.

Sec. 3. **BUREAU OF SMALL BUSINESS PROMOTION ACTIVITIES; APPROPRIATION.**

\$..... in fiscal year 2017 is appropriated from the general fund to the commissioner of employment and economic development to enhance the outreach and public awareness activities of the Bureau of Small Business under Minnesota Statutes, section 116J.68.

ARTICLE 6

PRIVATE LETTER RULINGS

Section 1. **[270C.075] PRIVATE LETTER RULINGS.**

30.1 Subdivision 1. **Program established.** By January 1, 2017, the commissioner shall
30.2 establish and implement a program for issuing private letter rulings to taxpayers to
30.3 provide guidance as to how the commissioner will apply Minnesota tax law to a specific
30.4 transaction, arrangement, or other fact situation of the applying taxpayer. In establishing
30.5 the terms of the program, the commissioner may provide that rulings will not be issued
30.6 in specified subject areas, for categories of transactions, or under specified provisions
30.7 of law, if the commissioner determines doing so is in the best interests of the state and
30.8 sound tax administration.

30.9 Subd. 2. **Application procedure; fees.** (a) The commissioner shall establish an
30.10 application procedure and forms for a taxpayer to request a private letter ruling. The
30.11 commissioner may require the taxpayer to provide any supporting factual information and
30.12 certifications that the commissioner determines necessary or appropriate to issuing private
30.13 letter rulings. The requirements may vary based on the type of ruling requested.

30.14 (b) The commissioner may charge an applicant for the actual cost of preparing the
30.15 private letter ruling, including the cost of employee time, but the charge may not exceed
30.16 \$1,000 per private letter ruling.

30.17 (c) If the commissioner fails to issue a ruling to the taxpayer within 90 days after the
30.18 taxpayer's filing of a completed application, the commissioner must refund the application
30.19 fee to the taxpayer, however, the commissioner must issue a private letter ruling unless the
30.20 taxpayer withdraws the request.

30.21 Subd. 3. **Effect.** (a) A private letter ruling is binding on the commissioner with
30.22 respect to the taxpayer to whom the ruling is issued, if:

30.23 (1) there was no misstatement or omission of material facts in the application or
30.24 other information provided to the commissioner;

30.25 (2) the facts that subsequently developed were not materially different from the facts
30.26 upon which the ruling was based;

30.27 (3) the applicable statute, administrative rule, federal law referenced by state law, or
30.28 other relevant law has not changed; and

30.29 (4) the taxpayer acted in good faith in applying for and relying on the ruling.

30.30 (b) Private letter rulings have no precedential effect and may not be relied upon by a
30.31 taxpayer other than as provided by paragraph (a).

30.32 Subd. 4. **Public access.** The commissioner shall make private letter rulings issued
30.33 under this section available to the public on the department's Web site. The published
30.34 rulings must redact any information that would permit identification of the requesting
30.35 taxpayer.

31.1 Subd. 5. **Legislative report.** (a) By January 31 of each odd-numbered year, the
31.2 commissioner shall report, in writing, to the legislature the following information for the
31.3 immediately preceding two calendar years:

- 31.4 (1) the number of applications for private letter rulings;
31.5 (2) the number of private letter rulings issued, including the number issued within
31.6 the 90-day time period under subdivision 2, paragraph (c);
31.7 (3) the amount of application fees refunded, if any;
31.8 (4) the tax types for which rulings were requested;
31.9 (5) the types and characteristics of taxpayers applying for rulings; and
31.10 (6) any other information that the commissioner considers relevant to legislative
31.11 oversight of the private letter ruling program.

31.12 (b) The report must be filed as provided in section 3.195, and copies provided to the
31.13 chairs and ranking minority members of the committees of the house of representatives and
31.14 the senate with jurisdiction over taxes and appropriations to the Department of Revenue.

31.15 **EFFECTIVE DATE.** This section is effective the day following final enactment,
31.16 except that the first legislative report under subdivision 5 is due January 31, 2019.

31.17 Sec. 2. Minnesota Statutes 2014, section 270C.33, is amended by adding a subdivision
31.18 to read:

31.19 Subd. 4a. **Limitations; sales, corporate, and income taxes.** (a) The provisions
31.20 of this subdivision are a limitation on the assessment authority of the commissioner
31.21 under this section.

31.22 (b) The commissioner must not assess additional tax due under chapter 290 or 297A
31.23 if each of the following requirements are met:

- 31.24 (1) the tax reported by the taxpayer is consistent with and based on past reporting or
31.25 other practices of the taxpayer that were fully disclosed to the commissioner and were
31.26 approved, in writing, to the taxpayer by the commissioner, including by issuing an audit
31.27 assessing no additional tax liability with respect to that item for a prior taxable period; and
31.28 (2) effective for a taxable period beginning after the period covered by clause (1),
31.29 neither the statute or administrative rule on which the reporting or other practice is based
31.30 has been materially changed, nor has the commissioner issued a revenue notice or directly
31.31 notified the taxpayer, in writing, of a change in the commissioner's position as to the proper
31.32 reporting or other treatment of the relevant income, transaction, deduction, or other item.

31.33 **EFFECTIVE DATE.** This section is effective for assessments made after June
31.34 30, 2016.

32.1 Sec. 3. Minnesota Statutes 2014, section 270C.34, subdivision 1, is amended to read:

32.2 Subdivision 1. **Authority.** (a) The commissioner may abate, reduce, or refund any
32.3 penalty or interest that is imposed by a law administered by the commissioner, or imposed
32.4 by section 270.0725, subdivision 1 or 2, or 270.075, subdivision 2, as a result of the late
32.5 payment of tax or late filing of a return, or any part of an additional tax charge under
32.6 section 289A.25, subdivision 2, or 289A.26, subdivision 4, if the failure to timely pay the
32.7 tax or failure to timely file the return is due to reasonable cause, or if the taxpayer is located
32.8 in a presidentially declared disaster or in a presidentially declared state of emergency area
32.9 or in an area declared to be in a state of emergency by the governor under section 12.31.

32.10 (b) The commissioner shall abate any part of a penalty or additional tax charge
32.11 under section 289A.25, subdivision 2, or 289A.26, subdivision 4, attributable to erroneous
32.12 advice given to the taxpayer in writing by an employee of the department acting in
32.13 an official capacity, if the advice:

32.14 (1) was reasonably relied on and was in response to a specific written request of the
32.15 taxpayer; and

32.16 (2) was not the result of failure by the taxpayer to provide adequate or accurate
32.17 information.

32.18 (c) In addition to the authority under paragraphs (a) and (b), the commissioner may
32.19 decline to impose or may abate any penalty under section 289A.60 or other law, or an
32.20 additional tax charge under section 289A.25, subdivision 2, or 289A.26, subdivision 4.

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

32.22 Sec. 4. Minnesota Statutes 2014, section 289A.60, subdivision 1, is amended to read:

32.23 Subdivision 1. **Penalty for failure to pay tax.** (a) If a corporate franchise, fiduciary
32.24 income, mining company, estate, partnership, S corporation, or nonresident entertainer
32.25 tax is not paid within the time specified for payment, a penalty of six percent is added to
32.26 the unpaid tax, except that if a corporation or mining company meets the requirements of
32.27 section 289A.19, subdivision 2, the penalty is not imposed.

32.28 (b) For the taxes listed in paragraph (a), in addition to the penalty in that paragraph,
32.29 whether imposed or not, if a return or amended return is filed after the due date, without
32.30 regard to extensions, and any tax reported as remaining due is not remitted with the return
32.31 or amended return, a penalty of five percent of the tax not paid is added to the tax. If the
32.32 commissioner issues an order assessing additional tax for a tax listed in paragraph (a),
32.33 and the tax is not paid within 60 days after the mailing of the order or, if appealed, within
32.34 60 days after final resolution of the appeal, a penalty of five percent of the unpaid tax
32.35 is added to the tax.

(c) If an individual income tax is not paid within the time specified for payment, a penalty of four percent is added to the unpaid tax. There is a presumption of reasonable cause for the late payment if the individual: (i) pays by the due date of the return at least 90 percent of the amount of tax, after credits other than withholding and estimated payments, shown owing on the return; (ii) files the return within six months after the due date; and (iii) pays the remaining balance of the reported tax when the return is filed.

(d) If the commissioner issues an order assessing additional individual income tax, and the tax is not paid within 60 days after the mailing of the order or, if appealed, within 60 days after final resolution of the appeal, a penalty of four percent of the unpaid tax is added to the tax.

(e) If a withholding or sales or use tax is not paid within the time specified for payment, a penalty must be added to the amount required to be shown as tax. The penalty is five percent of the tax not paid on or before the date specified for payment of the tax if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.

(f) No penalty applies under this subdivision if the total calculated penalty that would otherwise apply under paragraphs (a) to (e) is less than \$150.

EFFECTIVE DATE. This section is effective for penalties imposed after June 30, 2016.

Sec. 5. APPROPRIATION; PRIVATE LETTER RULING PROGRAM.

\$..... in fiscal year 2017 is appropriated from the general fund to the commissioner of revenue for the cost of establishing and administering the private letter ruling program under section 1.

APPENDIX
Article locations in 16-6166

ARTICLE 1	FEDERAL TAX CONFORMITY	Page.Ln 1.16
ARTICLE 2	SMALL BUSINESS COLLECTION CREDIT	Page.Ln 25.6
ARTICLE 3	SMALL BUSINESS DEVELOPMENT CENTERS	Page.Ln 26.1
ARTICLE 4	INITIATIVE FOUNDATIONS	Page.Ln 26.31
ARTICLE 5	BUREAU OF SMALL BUSINESSES	Page.Ln 27.17
ARTICLE 6	PRIVATE LETTER RULINGS	Page.Ln 29.30