A bill for an act

relating to economic development; providing green job incentives; providing for green job opportunity building zones; providing small business investment company and job growth investment tax credits; allowing tax benefits; making conforming changes; defining terms; allowing biomethane energy projects; amending Minnesota Statutes 2008, sections 216B.241, by adding a subdivision; 216B.2411; 268.19, subdivision 1; 270B.14, subdivision 3; 270B.15; 272.02, by adding a subdivision; 272.029, subdivision 7; 289A.12, by adding a subdivision; 290.01, subdivisions 19b, 29; 290.06, subdivision 2c, by adding subdivisions; 290.067, subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivisions 2, 3; 297A.68, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 116J; 297I; 469.

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

ARTICLE 1
GREEN JOB OPPORTUNITY BUILDING ZONES

Section 1. Minnesota Statutes 2008, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(1) state and federal agencies specifically authorized access to the data by state or federal law;

(2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;

(3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;

(4) the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;

(5) human rights agencies within Minnesota that have enforcement powers;

(6) the Department of Revenue to the extent necessary for its duties under Minnesota laws;

(7) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(8) the Department of Labor and Industry and the Division of Insurance Fraud Prevention in the Department of Commerce for uses consistent with the administration of their duties under Minnesota law;

(9) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(10) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(11) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

(12) the United States Citizenship and Immigration Services has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(13) the Department of Health for the purposes of epidemiologic investigations;

(14) the Department of Corrections for the purpose of preconfinement and postconfinement employment tracking of committed offenders for the purpose of case planning; ~~and~~

(15) the state auditor to the extent necessary to conduct audits of job opportunity building zones and green job opportunity building zones as required under ~~section~~ sections 469.3201~~.~~ and 469.3701; and

(16) any agency responsible for monitoring compliance with job opportunity building zones or green job opportunity building zones business subsidy agreements.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department in the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

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

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

Subd. 3. **Administration of enterprise, job opportunity, ~~and~~ biotechnology and health sciences industry zone, and green job opportunity building zone programs.** The commissioner may disclose return information relating to the taxes imposed by chapters 290 and 297A to the Department of Employment and Economic Development or a municipality receiving an enterprise zone designation under section 469.169 but only as necessary to administer the funding limitations under section 469.169, subdivision 7, or to the Department of Employment and Economic Development and appropriate officials from the local government units in which a qualified business is located but only as necessary to enforce the job opportunity building zone benefits under section 469.315, ~~or~~ biotechnology and health sciences industry zone benefits under section 469.336, or green job opportunity building zone benefits under section 469.365.

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

Sec. 3. Minnesota Statutes 2008, section 270B.15, is amended to read:

270B.15 DISCLOSURE TO LEGISLATIVE AUDITOR AND STATE AUDITOR.

(a) Returns and return information must be disclosed to the legislative auditor to the extent necessary for the legislative auditor to carry out sections 3.97 to 3.979.

(b) The commissioner must disclose return information, including the report required under section 289A.12, subdivision 15, to the state auditor to the extent necessary to conduct audits of job opportunity building zones as required under section 469.3201, and audits of green job opportunity building zones and business subsidy agreements under section 469.3701.

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

Sec. 4. Minnesota Statutes 2008, section 272.02, is amended by adding a subdivision to read:

Subd. 90. **Green job opportunity building zone property.** (a) Improvements to real property and personal property classified under section 273.13, subdivision 24, and located within a green job opportunity building zone, as defined under section 469.360, are exempt from ad valorem taxes levied under chapter 275.

(b) For property to qualify for exemption under paragraph (a), the occupant must be a qualified business as defined in section 469.360, subdivision 9.

(c) The exemption applies beginning for the first assessment year after designation of the green job opportunity building zone by the commissioner of employment and economic development. The exemption applies to each assessment year that begins during the duration of the green job opportunity building zone. To be exempt, the property must be occupied by July 1 of the assessment year by a qualified business that has signed the business subsidy by July 1 of the assessment year.

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 272.029, subdivision 7, is amended to read:

Subd. 7. **Exemption.** The tax imposed under this section does not apply to electricity produced by wind energy conversion systems owned or operated by a qualified business located in a job opportunity building zone, designated under section 469.314, or a green job opportunity building zone as defined under section 469.360 for the duration of the zone. The exemption applies beginning for the first calendar year after designation of the zone and applies to each calendar year that begins during the designation of the zone.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 289A.12, is amended by adding a subdivision to read:

Subd. 16. **Report of green job opportunity building zone benefits; penalty for failure to file report.** (a) By October 15 of each year, every qualified business, as defined under section 469.360, subdivision 9, must file with the commissioner, on a form prescribed by the commissioner, a report listing the tax benefits under section 469.365 received by the business for the previous year.

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

(c) A business that fails to submit the report as required under paragraph (b) is no longer a qualified business under section 469.360, subdivision 9, and is subject to the repayment provisions of section 469.369.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 7. Minnesota Statutes 2008, 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. 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 and under the provisions of Public Law 109-1;

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

(8) 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;

(9) 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 (15), 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 (15), 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;

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

(11) 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 performed in Minnesota, excluding 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); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) 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 outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) 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;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), 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 19c, clause (16), 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;

(15) to the extent included in federal taxable income, 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);

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

(17) 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~~.~~; and

(18) green job opportunity building zone income as provided under section 469.366.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 290.01, subdivision 29, is amended to read:

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

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

(2) for corporations, the taxable net income less

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

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

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

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

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

(vi) the exemption for operating in a green job opportunity building zone under section 469.367.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 290.06, subdivision 2c, is amended to read:

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

(1) On the first $25,680, 5.35 percent;

(2) On all over $25,680, but not over $102,030, 7.05 percent;

(3) On all over $102,030, 7.85 percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 10. Minnesota Statutes 2008, section 290.06, is amended by adding a subdivision to read:

Subd. 37. **Green job opportunity building zone jobs credit.** A taxpayer that is a qualified business, as defined in section 469.360, subdivision 9, is allowed a credit as determined under section 469.368 against the tax imposed by this chapter.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 290.067, subdivision 1, is amended to read:

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

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

(c) If a married couple:

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

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

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

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

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

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

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

In the case of a nonresident, part-year resident, or a person who has earned income not subject to tax under this chapter including earned income excluded pursuant to section 290.01, subdivision 19b, clause (10) ~~or~~, (16), or (18), the credit determined under section 21 of the Internal Revenue Code must be allocated based on the ratio by which the earned income of the claimant and the claimant's spouse from Minnesota sources bears to the total earned income of the claimant and the claimant's spouse.

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

For residents of Minnesota, 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."

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 290.0671, subdivision 1, is amended to read:

Subdivision 1. **Credit allowed.** (a) An individual 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 1.9125 percent of the first $4,620 of earned income. The credit is reduced by 1.9125 percent of earned income or adjusted gross income, whichever is greater, in excess of $5,770, but in no case is the credit less than zero.

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

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

(e) For a nonresident or 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 (10) ~~or~~, (16), or (18), 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 (11) and (12), 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, 2001, and before December 31, 2004, 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 each increased by $1,000 for married taxpayers filing joint returns.

(h) For tax years beginning after December 31, 2004, and before December 31, 2007, 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 each increased by $2,000 for married taxpayers filing joint returns.

(i) For tax years beginning after December 31, 2007, and before December 31, 2010, 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 each increased by $3,000 for married taxpayers filing joint returns. For tax years beginning after December 31, 2008, the $3,000 is adjusted annually for inflation under subdivision 7.

(j) 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 July 1, 2009.

Sec. 13. Minnesota Statutes 2008, 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:

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

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

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

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

(ii) the medical expense deduction;

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

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

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

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

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

(6) the amount of addition required by section 290.01, subdivision 19a, clauses (7) to (9), (12), and (13);

less the sum of the amounts determined under the following:

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 14. Minnesota Statutes 2008, section 290.0921, subdivision 3, is amended to read:

Subd. 3. **Alternative minimum taxable income.** "Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h) of the Internal Revenue Code. If a corporation files a separate company Minnesota tax return, the minimum tax must be computed on a separate company basis. If a corporation is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary basis. The following adjustments must be made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) Alternative minimum taxable income excludes the income from operating in a job opportunity building zone as provided under section 469.317.

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

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

<u>(17) Alternative minimum taxable income excludes the income from operating in a green job opportunity building zone as provided under section 469.367.</u>

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

<u>EFFECTIVE DATE.</u> <u>This section is effective July 1, 2009.</u>

Sec. 15. Minnesota Statutes 2008, section 290.0922, subdivision 2, is amended to read:

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

(1) corporations exempt from tax under section 290.05;

(2) real estate investment trusts;

(3) regulated investment companies or a fund thereof; and

(4) entities having a valid election in effect under section 860D(b) of the Internal Revenue Code;

(5) town and farmers' mutual insurance companies;

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

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

(8) an entity, if for the taxable year all of its property is located in an international economic development zone designated under section 469.322, and all of its payroll is international economic development zone payroll under section 469.321. The exemption under this clause applies to taxable years beginning during the duration of the international economic development zone~~.~~<u>; and</u>

<u>(9) an entity, if for the taxable year all of its property is located in a green job opportunity building zone under section 469.360, subdivision 4, and all of its payroll is green job opportunity building zone payroll under section 469.360, subdivision 5.</u>

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

<u>**EFFECTIVE DATE.** This section is effective July 1, 2009.</u>

Sec. 16. Minnesota Statutes 2008, section 290.0922, subdivision 3, is amended to read:

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

(b) "Minnesota property" means total Minnesota tangible property as provided in section 290.191, subdivisions 9 to 11, any other tangible property located in Minnesota, but does not include: (1) property located in a job opportunity building zone designated under section 469.314, (2) property of a qualified business located in a biotechnology and health sciences industry zone designated under section 469.334, ~~or~~ (3) for taxable years beginning during the duration of the zone, property of a qualified business located in the international economic development zone designated under section 469.322, or (4) property of a qualified business located in a green job opportunity building zone as defined under section 469.360. Intangible property shall not be included in Minnesota property for purposes of this section. Taxpayers who do not utilize tangible property to apportion income shall nevertheless include Minnesota property for purposes of this section. On a return for a short taxable year, the amount of Minnesota property owned, as determined under section 290.191, shall be included in Minnesota property based on a fraction in which the numerator is the number of days in the short taxable year and the denominator is 365.

(c) "Minnesota payrolls" means total Minnesota payrolls as provided in section 290.191, subdivision 12, but does not include: (1) job opportunity building zone payrolls under section 469.310, subdivision 8, (2) biotechnology and health sciences industry zone payrolls under section 469.330, subdivision 8, ~~or~~ (3) for taxable years beginning during the duration of the zone, international economic development zone payrolls under section 469.321, subdivision 9, (4) green job opportunity building zone payroll under section 469.360, subdivision 5. Taxpayers who do not utilize payrolls to apportion income shall nevertheless include Minnesota payrolls for purposes of this section.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 17. Minnesota Statutes 2008, section 297A.68, is amended by adding a subdivision to read:

Subd. 42. **Green job opportunity building zones.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.360, are exempt if the property or services are primarily used or consumed in a green job opportunity building zone as defined in section 469.360.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property in a green job opportunity building zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.360. This exemption applies regardless of whether the purchases are made by the business or a contractor.

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 18. **[469.360] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 469.360 to 469.3693, the following terms have the meanings given.

Subd. 2. **Applicant.** "Applicant" means a local government unit or units applying for designation of an area as a green job opportunity building zone or a joint powers board, established under section 471.59, acting on behalf of two or more local government units.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 4. **Green job opportunity building zone, green JOBZ, or zone.** "Green job opportunity building zone," "green JOBZ," or "zone" means a zone designated by the commissioner under section 469.364.

Subd. 5. **Green job opportunity building zone payroll factor.** "Green job opportunity building zone payroll factor" or "green job opportunity building zone payroll" is that portion of the payroll factor under section 290.191 that represents:

(1) wages or salaries paid to an individual for services performed in a green job opportunity building zone; or

(2) wages or salaries paid to individuals working from offices within a green job opportunity building zone if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone. However, in no case does zone payroll include wages paid for work performed outside the zone of an employee who performs more than ten percent of total services for the employer outside the zone.

Subd. 6. **Green job opportunity building zone percentage or zone percentage.** "Green job opportunity building zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

(i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year over the property factor numerator determined under section 290.191, plus

(ii) the ratio of the taxpayer's green job opportunity building zone payroll factor under subdivision 5 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

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

Subd. 7. **Local government unit.** "Local government unit" means a statutory or home rule charter city, county, town, Iron Range resources and rehabilitation agency, regional development commission, or a federally designated economic development district.

Subd. 8. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 9. **Qualified business.** (a) A person carrying on a trade or business at a place of business located within a green job opportunity building zone is a qualified business for the purposes of sections 469.360 to 469.3693 according to the criteria in paragraphs (b) to (f).

(b) A person is a qualified business only on those parcels of land for which the person has entered into a business subsidy agreement approved by the commissioner, as required under section 469.363, with the appropriate local government unit in which the parcels are located.

(c) A person is not a qualified business unless the business meets all of the requirements of paragraph (b) and either meets the green economy definition specified in section 116J.437 or:

(1) is predominantly engaged in one or more of the following industry sectors:

(i) green products: businesses related to the manufacture of products, used by the building, transport, consumer products and industrial products sectors, that reduce environmental impact and increase the efficiency of the use of resources such as energy, water, and materials;

(ii) renewable energy: businesses related to the production of energy from natural resources such as solar, wind, hydropower, geothermal, biomass (including but not limited to animal waste and crop waste) and biofuels (including but not limited to ethanol and biodiesel), as well as from waste heat recovery and from the use of biomass for energy production including cogeneration;

(iii) green services: businesses that provide services that help other businesses or consumers utilize green products and technologies, build energy infrastructure, recycle, and manage waste; or

(iv) environmental conservation: businesses related to the conservation of energy, air, water, and land, including air emissions control, environmental monitoring and compliance, water conservation, wastewater treatment, land management (including but not limited to prairie), natural pesticides, aquaculture, and organic farming;

(2) is a new facility in Minnesota, not a relocation of an existing Minnesota facility; and

(3) enters a business subsidy agreement that:

(i) provides for repayment of all tax benefits enumerated under section 469.365 to the business under the procedures in section 469.369, if the requirements of this subdivision are not met for the taxable year or for taxes payable during the year in which the requirements were not met; and

(ii) contains any other terms the commissioner determines appropriate.

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

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

(f) A qualifying business must pay prevailing wage for construction, installation, remodeling, and repair as required by section 116J.871.

Subd. 10. **Relocation.** (a) "Relocation" means that the trade or business:

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

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

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

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

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

Sec. 19. **[469.361] GREEN JOB OPPORTUNITY BUILDING ZONES; LIMITATIONS.**

Subdivision. 1. **Zones.** The area of a green job opportunity building zone must consist of defined property boundaries specified in the business subsidy agreement.

Subd. 2. **Location.** A green job opportunity building zone may be located anywhere in Minnesota.

Subd. 3. **Border city development zones.** (a) The area of a green job opportunity building zone must not include the area of a border city development zone designated under section 469.1731. The city must remove property from a border city development zone contingent upon the area being designated as a green job opportunity building zone. Before removing a parcel of property from a border city development zone, the city must obtain the written consent to the removal from each recipient that is located on the parcel and receives incentives under the border city development zone. Consent of any other property owner or taxpayer in the border city development zone is not required.

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

Subd. 4. **Duration limit.** (a) The maximum duration of a zone is 12 years. The local government unit may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration, in order to ensure that benefits to the state outweigh the costs.

(b) The commissioner may not approve any business subsidy agreements after December 31, 2015.

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

Sec. 20. **[469.362] APPLICATION FOR DESIGNATION.**

Subdivision 1. **Eligibility.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a green job opportunity building zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units.

Subd. 2. **Application.** In order to receive designation for a green job opportunity building zone, a local government unit must submit an application to the commissioner in the form and manner designated by the commissioner.

Subd. 3. **State review criteria.** (a) The commissioner may only approve an application after considering:

(1) whether the business has local or Minnesota competitors that will be significantly and adversely effected by the business subsidy agreement;

(2) whether the proposed job creation, job retention, and capital investment is commensurate with the estimated tax benefits provided to the business by participating in green JOBZ; and

(3) whether other financial assistance is available.

(b) Additionally, the commissioner may only approve a business subsidy agreement after considering if without the estimated tax benefits, the business:

(1) would not have begun operations within Minnesota;

(2) would not have relocated from outside the state to Minnesota;

(3) would have moved to another state or expanded in another state rather than remaining or expanding in Minnesota; or

(4) would not have opened a new facility in Minnesota.

(c) The local government unit and the qualified business must provide the commissioner with the information that the commissioner needs to review a business subsidy agreement under paragraphs (a) and (b). The information must be in the form and manner required by the commissioner.

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

Sec. 21. **[469.363] BUSINESS SUBSIDY AGREEMENTS; REPORTS.**

Subdivision 1. **Green JOBZ business subsidy agreement.** A business subsidy agreement required under section 469.360, subdivision 9, paragraph (c), clause (3), must comply with this section.

Subd. 2. **Business subsidy agreement requirements.** A business subsidy agreement is not effective until the commissioner has approved the agreement in writing. The commissioner may not approve an agreement that violates sections 116J.993 to 116J.995 or 469.360 to 469.3701. The commissioner may not approve an agreement unless:

(1) the qualified business is required to create or retain a minimum number of jobs;

(2) the agreement defines "jobs" for purposes of determining compliance with wage and job goals as all jobs that constitute "employment" for purposes of state unemployment insurance;

(3) the qualified business is required to report all jobs created or retained because of green JOBZ as a separate business location for purposes of section 268.044; and

(4) the qualified business agrees to provide the appropriate data practices release so that the commissioner of revenue and the commissioner of employment and economic development can monitor compliance with the terms of the agreement.

Subd. 3. **Standard agreement.** The commissioner must develop and require the use of a standard business subsidy agreement that imposes definitive and enforceable obligations on the qualified business.

Subd. 4. **Business subsidy reports.** (a) A local government unit must report to the commissioner on the two-year anniversary date of the business subsidy agreement on the progress of the qualified business in meeting the goals listed in the business subsidy agreement.

(b) A local government unit must annually report to the commissioner on the progress of the qualified business in meeting the goals listed in the business subsidy agreement as required under section 116J.994, subdivisions 7 and 8.

(c) The commissioner must hold a qualified business out of compliance or remove the business from the program if the qualified business fails to provide the information requested by the local government unit for the report under paragraph (a) within 30 days of written notice that the information is overdue.

Subd. 5. **Public notice and hearing.** A local government unit must provide public notice and hearing as required under section 116J.994, subdivision 5, before approving a business subsidy agreement. Public notice of a proposed business subsidy agreement must be published in a local newspaper of general circulation. The public hearing must be held in a location specified by the local government unit. Notwithstanding the requirements of section 116J.994, subdivision 5, the commissioner is not required to provide an additional public notice and hearing when entering into a business subsidy agreement with a local government unit and a qualified business.

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

Sec. 22. **[469.364] DESIGNATION OF GREEN JOB OPPORTUNITY BUILDING ZONES.**

Subdivision 1. **Designation schedule.** Green job opportunity building zones are designated continuously upon approval of an application by the commissioner. The duration of the zone, as defined in section 469.361, subdivision 4, starts from the date the commissioner approves the business subsidy agreement.

Subd. 2. **Geographic distribution.** The commissioner shall have as a goal the geographic distribution of zones around the state.

Subd. 3. **Rulemaking exemption.** The commissioner's actions in establishing procedures, requirements, and making determinations to administer sections 469.360 to 469.3693 are not a rule for purposes of chapter 14 and are not subject to the Administrative Procedure Act contained in chapter 14 and are not subject to section 14.386.

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

Sec. 23. **[469.365] TAX INCENTIVES AVAILABLE IN ZONES.**

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

(1) exemption from individual income taxes as provided under section 469.366;

(2) exemption from corporate franchise taxes as provided under section 469.367;

(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 42;

(4) exemption from the property tax as provided in section 272.02, subdivision 90;

(5) exemption from the wind energy production tax under section 272.029, subdivision 7; and

(6) the jobs credit allowed under section 469.368.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 24. **[469.366] INDIVIDUAL INCOME TAX EXEMPTION.**

Subdivision 1. **Application.** An individual, estate, or trust operating a trade or business in a green job opportunity building zone, and an individual, estate, or trust making a qualifying investment in a qualified business operating in a green job opportunity building zone qualifies for the exemptions from taxes imposed under chapter 290, as provided in this section. The exemptions provided under this section apply only to the extent that the income otherwise would be taxable under chapter 290. Subtractions under this section from federal taxable income, alternative minimum taxable income, or any other base subject to tax are limited to the amount that otherwise would be included in the tax base absent the exemption under this section. This section applies only to taxable years beginning during the duration of the green job opportunity building zone.

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

Subd. 3. **Business income.** An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified business in a green job opportunity building zone. If the trade or business is carried on within and without the zone and the individual is not a resident of Minnesota, or the taxpayer is an estate or trust, the exemption must be apportioned based on the zone percentage and the relocation payroll percentage for the taxable year. If the trade or business is carried on within and without the zone and the individual is a resident of Minnesota, the exemption must be apportioned based on the zone percentage and the relocation payroll percentage for the taxable year, except the ratios under section 469.360, subdivision 6, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of the sum of the green job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the green job opportunity building zone by the business.

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

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

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

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

(b) A qualified business meets the requirements of paragraph (a), clause (3), if it is a corporation, an S corporation, or a partnership, and for the taxable year its green job opportunity building zone percentage exceeds 25 percent. For purposes of paragraph (a), clause (3), the zone percentage must be calculated by modifying the ratios under section 469.360, subdivision 6, clause (1), items (i) and (ii), to use the denominators of the property and payroll factors determined under section 290.191. Upon the request of an individual, estate, or trust holding an ownership interest in the entity, the entity must certify to the owner, in writing, the green job opportunity building zone percentage needed to determine the exemption.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 25. **[469.367] CORPORATE FRANCHISE TAX EXEMPTION.**

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

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

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

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee or by exempting the entity under section 290.0922, subdivision 2, clause (9).

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 26. **[469.368] GREEN JOBS CREDIT.**

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

(1) zone payroll for the taxable year; minus

(2) the current inflation adjusted job opportunity zone wage threshold determined annually by the Department of Revenue as defined in section 469.318, subdivision 1, clause (2), and subdivision 3, multiplied by the number of full-time equivalent employees that the qualified business employs in the green job opportunity building zone for the taxable year.

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

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

(c) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds the ceiling calculated in section 469.318, subdivisions 2, paragraph (e), and 3.

Subd. 3. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 4. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 27. **[469.369] REPAYMENT OF TAX BENEFITS BY BUSINESSES THAT NO LONGER OPERATE IN A ZONE.**

Subdivision 1. **Repayment obligation.** A business must repay the total tax benefits listed in section 469.365 received during the two years immediately before it (1) ceased to perform a substantial level of activities described in the business subsidy agreement, or (2) otherwise ceased to be a qualified business, other than those subject to the provisions of section 469.3691.

Subd. 1a. **Repayment obligation of businesses not operating in zone.** Persons that receive benefits without operating a business in a zone are subject to repayment under this section if the business for which those benefits relate is subject to repayment under this section. Such persons are deemed to have ceased performing in the zone on the same day that the qualified business for which the benefits relate becomes subject to repayment under subdivision 1.

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

(b) "Business" means any person that received tax benefits enumerated in section 469.365.

(c) "Commissioner" means the commissioner of revenue.

(d) "Persons that receive benefits without operating a business in a zone" means persons that claim benefits under section 469.366, subdivision 2 or 4, as well as persons that own property leased by a qualified business and are eligible for benefits under section 272.02, subdivision 90, or 297A.68, subdivision 42, paragraph (b).

Subd. 3. **Disposition of repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the taxing authorities with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales taxes must be repaid to the commissioner for distribution to the city or county imposing the local sales tax.

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 file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after becoming subject to repayment under this section. The amount required to be repaid is determined by calculating the tax for the period or periods for which repayment is required without regard to the exemptions and credits allowed under section 469.365.

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

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

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

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

(f) For determining the tax required to be repaid, a reduction of a state or local sales or use tax is deemed to have been received on the date that the good or service was purchased or first put to a taxable use. In the case of an income tax or franchise tax, including the credit payable under section 469.368, a reduction of tax is deemed to have been received for the two most recent tax years that have ended prior to the date that the business became subject to repayment under this section. In the case of a property tax, a reduction of tax is deemed to have been received for the taxes payable in the year that the business became subject to repayment under this section and for the taxes payable in the prior year.

(g) The commissioner may assess the repayment of taxes under paragraph (d) any time within two years after the business becomes subject to repayment under subdivision 1, or within any period of limitations for the assessment of tax under section 289A.38, whichever period is later. The county auditor may send the statement under paragraph (c) any time within three years after the business becomes subject to repayment under subdivision 1.

(h) A business is not entitled to any income tax or franchise tax benefits, including refundable credits, for any part of the year in which the business becomes subject to repayment under this section nor for any year thereafter. Property is not exempt from tax under section 272.02, subdivision 90, for any taxes payable in the year following the year in which the property became subject to repayment under this section nor for any year thereafter. A business is not eligible for any sales tax benefits beginning with goods or services purchased or first put to a taxable use on the day that the business becomes subject to repayment under this section.

Subd. 5. **Waiver authority.** (a) The commissioner may waive all or part of a repayment required under subdivision 1, if the commissioner, in consultation with the commissioner of employment and economic development and appropriate officials from the local government units in which the qualified business is located, determines that requiring repayment of the tax is not in the best interest of the state or the local government units and the business ceased operating as a result of circumstances beyond its control including, but not limited to:

(1) a natural disaster;

(2) unforeseen industry trends; or

(3) loss of a major supplier or customer.

(b)(1) The commissioner shall waive repayment required under subdivision 1a if the commissioner has waived repayment by the operating business under subdivision 1, unless the person that received benefits without having to operate a business in the zone was a contributing factor in the qualified business becoming subject to repayment under subdivision 1;

(2) the commissioner shall waive the repayment required under subdivision 1a, even if the repayment has not been waived for the operating business if:

(i) the person that received benefits without having to operate a business in the zone and the business that operated in the zone are not related parties as defined in section 267(b) of the Internal Revenue Code of 1986, as amended through December 31, 2007; and

(ii) actions of the person were not a contributing factor in the qualified business becoming subject to repayment under subdivision 1.

Subd. 6. **Reconciliation.** Where this section is inconsistent with section 116J.994, subdivision 3, paragraph (e), or 6, or any other provisions of sections 116J.993 to 116J.995, this section prevails.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 28. **[469.3691] BREACH OF AGREEMENTS BY BUSINESSES THAT CONTINUE TO OPERATE IN ZONE.**

(a) A "business in violation of its business subsidy agreement but not subject to section 469.369" means a business that is operating in violation of the business subsidy agreement but maintains a level of operations in the zone that does not subject it to the repayment provisions of section 469.369, subdivision 1.

(b) A business described in paragraph (a) that does not sign a new or amended business subsidy agreement, as authorized under paragraph (h), is subject to repayment of benefits under section 469.369 from the day that it ceases to perform in the zone a substantial level of activities described in the business subsidy agreement.

(c) A business described in paragraph (a) ceases being a qualified business after the last day that it has to meet the goals stated in the agreement. The commissioner may extend for up to one year the period for meeting any goals provided in an agreement.

(d) A business is not entitled to any income tax or franchise tax benefits, including refundable credits, for any part of the year in which the business is no longer a qualified business under paragraph (c), and thereafter. A business is not eligible for sales tax benefits beginning with goods or services purchased or put to a taxable use on the day that it is no longer a qualified business under paragraph (c). Property is not exempt from tax under section 272.02, subdivision 90, for any taxes payable in the year following the year in which the business is no longer a qualified business under paragraph (c), and thereafter.

(e) A business described in paragraph (a) that wants to resume eligibility for benefits under section 469.365 must request that the commissioner of employment and economic development determine the length of time that the business is ineligible for benefits. The commissioner shall determine the length of ineligibility by applying the proportionate level of performance under the agreement to the total duration of the zone as measured from the date that the business subsidy agreement was executed. The length of time must not be less than one full year for each tax benefit listed in section 469.365. The commissioner of employment and economic development and the appropriate local government officials shall consult with the commissioner of revenue to ensure that the period of ineligibility includes at least one full year of benefits for each tax.

(f) The length of ineligibility determined under paragraph (e) must be applied by reducing the zone duration for the property by the duration of the ineligibility.

(g) The zone duration of property that has been adjusted under paragraph (f) must not be altered again to permit the business additional benefits under section 469.365.

(h) A business described in paragraph (a) becomes eligible for benefits available under section 469.365 by entering into a new or amended business subsidy agreement, to be approved by the commissioner, with the appropriate local government unit. The new or amended agreement must cover a period beginning from the date of ineligibility under the original business subsidy agreement, through the zone duration determined by the commissioner under paragraph (f). No exemption of property taxes under section 272.02, subdivision 90, is available under the new or amended agreement for property taxes due or paid before the date of the final execution of the new or amended agreement, but unpaid taxes due after that date need not be paid.

(i) A business that violates the terms of an agreement authorized under paragraph (h) is permanently barred from seeking benefits under section 469.365 and is subject to the repayment provisions under section 469.369 effective from the day that the business ceases to operate as a qualified business in the zone under the second agreement.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 29. **[469.3692] PROHIBITION AGAINST AMENDMENTS TO BUSINESS SUBSIDY AGREEMENT.**

Except as authorized under section 469.3691, under no circumstance shall terms of any agreement required as a condition for eligibility for benefits listed under section 469.365 be amended to change job creation, job retention, or wage goals included in the agreement.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 30. **[469.3693] CERTIFICATION OF CONTINUING ELIGIBILITY FOR GREEN JOBZ BENEFITS.**

(a) By October 15 of each year, every qualified business must certify to the commissioner of revenue, on a form prescribed by the commissioner of revenue, whether it is in compliance with any agreement required as a condition for eligibility for benefits listed under section 469.365. A business that fails to submit the certification, or any business, including those still operating in the zone, that submits a certification that the commissioner of revenue later determines materially misrepresents the business's compliance with the agreement, is subject to the repayment provisions under section 469.369 from January 1 of the year in which the report is due or the date that the business became subject to section 469.369, whichever is earlier. Any such business is permanently barred from obtaining benefits under section 469.365. For purposes of this section, the bar applies to an entity and also applies to any individuals or entities that have an ownership interest of at least 20 percent of the entity.

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 31. **[469.3701] STATE AUDITOR; AUDITS OF GREEN JOB OPPORTUNITY BUILDING ZONES AND BUSINESS SUBSIDY AGREEMENTS.**

The Office of the State Auditor may annually audit the creation and operation of all green job opportunity building zones and business subsidy agreements entered into under Minnesota Statutes, sections 469.360 to 469.3693. To the extent necessary to perform this audit, the state auditor may request from the commissioner of revenue tax return information of taxpayers who are eligible to receive tax benefits authorized under section 469.365. To the extent necessary to perform this audit, the state auditor may request from the commissioner of employment and economic development wage detail report information required under section 268.044 of taxpayers eligible to receive tax benefits authorized under section 469.365.

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

ARTICLE 2
MINNESOTA SMALL BUSINESS INVESTMENT COMPANY CREDIT

Section 1. **[116J.8735] MINNESOTA SMALL BUSINESS INVESTMENT COMPANY CREDIT.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Affiliate" means:

(1) a person who, directly or indirectly, beneficially owns, controls, or holds power to vote 15 percent or more of the outstanding voting securities or other voting ownership interests of a Minnesota small business investment company or insurance company;

(2) a person, 15 percent or more of whose outstanding voting securities or other voting ownership interests are directly or indirectly beneficially owned, controlled, or held with power to vote by a Minnesota small business investment company or insurance company;

(3) a person who, directly or indirectly, controls, is controlled by, or is under common control with a Minnesota small business investment company or insurance company;

(4) a partnership or limited liability company in which a Minnesota small business investment company or insurance company is a general partner, member, or managing member; or

(5) a person who is an officer, director, employee, or agent of a Minnesota small business investment company or insurance company, or an immediate family member of an officer, director, employee, or agent.

Notwithstanding this subdivision, an investment by a certified investor in a Minnesota small business investment company pursuant to an allocation of premium tax credits under this section does not cause that Minnesota small business investment company to become an affiliate of that certified investor.

(c) "Allocation date" means the date on which credits under section 297I.23 are allocated to the investors of a Minnesota small business investment company under this section.

(d) "Designated capital" means an amount of money that:

(1) is invested by a certified investor in a Minnesota small business investment company; and

(2) fully funds the purchase price of either or both certified investor's equity interest in a Minnesota small business investment company or a qualified debt instrument issued by a Minnesota small business investment company.

(e) "Minnesota small business investment company" means a partnership, corporation, trust, or limited liability company, organized on a for-profit basis, that:

(1) has its principal office located or is headquartered in Minnesota;

(2) has as its primary business activity the investment of cash in qualified businesses and qualified green businesses; and

(3) is certified by the Department of Employment and Economic Development as meeting the criteria in this section.

(f) "Certified investor" means any insurer as defined in section 60A.02, subdivision 4, that contributes designated capital pursuant to this section.

(g) "Person" means a natural person or entity, including, but not limited to, a corporation, general or limited partnership, trust, or limited liability company.

(h) (1) "Qualified business" means a business that is independently owned and operated and the business:

(i) is headquartered in this state, its principal business operations are located in this state, and at least 51 percent of its employees are employed in this state;

(ii) has no more than 100 employees;

(iii) is not a subsidiary or an affiliate of a business which employs more than 100 employees, computed by aggregating all of the employees of the business entities affiliated with the business;

(iv) is predominantly engaged in biotechnology, technology, manufacturing, processing or assembling products, conducting research and development, or developing a new product or business process;

(v) is not predominantly engaged in:

(A) professional services provided by accountants, doctors, or lawyers;

(B) banking or lending;

(C) real estate development;

(D) insurance;

(E) oil and gas exploration;

(F) political consulting or lobbying;

(G) direct gambling activities; or

(H) making loans to or investments in Minnesota small business investment companies or affiliates;

(vi) is not a franchise of and has not been organized by a Minnesota small business investment company or an affiliate of a Minnesota small business investment company, and has no financial relationship with a Minnesota small business investment company or any affiliate of a Minnesota small business investment company prior to a Minnesota small business investment company's first qualified investment in the business and will not have any relationship after the initial qualified investment other than as created by that investment and any subsequent investments in the business made by a Minnesota small business investment company or its affiliates; and

(vii) if the business has five or more employees, measured on a full-time equivalent basis, provides:

(A) wages and benefits to 75 percent or more of its employees in excess of the first five employees, equal to or greater than 175 percent of the federal poverty level for a family of four; and

(B) wages and benefits to the remaining 25 percent or fewer of its employees in excess of the first five employees, equal to or greater than 110 percent of the federal poverty level for a family of four.

(2) "Qualified green business" means a business that satisfies all of the requirements of clause (1), with the exception of item (iv), and is predominantly engaged in one or more of the following industry sectors:

(i) green products: businesses related to the manufacture of products used by the building, transport, consumer products, and industrial products sectors, that reduce environmental impact and increase the efficiency of the use of resources such as energy, water, and materials;

(ii) renewable energy: businesses related to the production of energy from natural resources such as solar, wind, hydropower, geothermal, biomass (including but not limited to animal waste and crop waste), and biofuels (including but not limited to ethanol and biodiesel), as well as from waste heat recovery and from the use of biomass for energy production, including cogeneration;

(iii) green services: businesses that provide services that help other businesses or consumers utilize green products and technologies, build energy infrastructure, recycle, and manage waste; or

(iv) environmental conservation: businesses related to the conservation of energy, air, water, and land, including air emissions control, environmental monitoring and compliance, water conservation, wastewater treatment, land management (including but not limited to prairie), natural pesticides, aquaculture, and organic farming.

(3) A business classified as a qualified business or a qualified green business at the time of the first qualified investment in the business will remain classified as a qualified business or a qualified green business and may receive continuing qualified investments from any Minnesota small business investment company.

Continuing investments must be qualified investments even though the business may not meet the definition of a qualified business or a qualified green business at the time of such continuing investments, except the business shall not be eligible to receive further qualified investments, if it has:

(i) relocated its headquarters or principal business operations outside of this state; or

(ii) not expended substantially all of its prior qualified investments to establish and support its Minnesota operations, except for advertising, promotions, and sales purposes, which may be conducted outside of Minnesota.

(i) "Qualified debt instrument" means a debt instrument issued by a Minnesota small business investment company, at par value or a premium, with an original maturity date of at least three years from the date of issuance, a repayment schedule which is not faster than a level principal amortization over four years, provided that the payments, whether of principal, interest, or a combination of principal and interest, must not exceed, in any one year, one-fourth of Minnesota small business capital invested by the debt holder in a Minnesota small business investment company, on the debt instrument unless the qualified debt instrument or the issuer of the qualified debt instrument is in default with respect to the terms of the investment and must be rated within the top three rating categories of a rating agency that has been designated as a nationally recognized statistical rating agency by the United States Securities and Exchange Commission.

(j) "Qualified distribution" means any distribution or payment not made to a certified investor or affiliate of a certified investor by a Minnesota small business investment company in connection with the following:

(1) reasonable costs and expenses of forming, syndicating, and organizing the Minnesota small business investment company, including reasonable and necessary fees paid for professional services, including, but not limited to, legal and accounting services related to the formation of a Minnesota small business investment company, and the costs of financing and insuring the obligations of a Minnesota small business investment company;

(2) reasonable costs and expenses of managing and operating a Minnesota small business investment company, including any management fee, which in the aggregate must not exceed two percent of designated capital;

(3) reasonable and necessary fees in accordance with industry custom for professional services, including, but not limited to, legal and accounting services related to the operation of a Minnesota small business investment company, not including any lobbying or governmental relations;

(4) any increase or projected increase in federal or state taxes, including penalties and related interest of the equity owners of a Minnesota small business investment company resulting from the earnings or other tax liability of a Minnesota small business investment company to the extent that the increase is related to the ownership, management, or operation of a Minnesota small business investment company; or

(5) payments to debt holders of a Minnesota small business investment company may be made without restriction with respect to repayments of principal and interest on indebtedness owed to them by a Minnesota small business investment company, including indebtedness of the Minnesota small business investment company on which certified investors earned tax credits. A debt holder that is also a certified investor or equity holder of a Minnesota small business investment company may receive payments with respect to the debt without any restriction whatsoever.

(k) "Qualified investment" means the investment of money by a Minnesota small business investment company in qualified businesses or qualified green businesses, with at least 50 percent of the investments to be made in qualified green businesses, subject to determination by the department made pursuant to subdivision 5, paragraph (b). The investment must be for the purchase of any debt, debt participation, equity, or hybrid security, of any nature and description whatsoever, including a debt instrument or security that has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants. Any qualified investment in the form of a debt instrument, including those owned through debt participations, must have a final stated maturity of at least two years from the date of issuance and a repayment schedule that is no faster than level principal amortization over two years, however, this does not prohibit the qualified business or the qualified green business from voluntarily prepaying a qualified investment at any time, or a Minnesota small business investment company from exercising any of its rights as a creditor, including the acceleration of the debt owned upon a default by the qualified business or the qualified green business under the terms of the debt instrument or upon the acquisition, merger, or sale of all or substantially all of the assets of the qualified business.

(l) "Qualified underserved area business" means a business that otherwise would meet the criteria of a qualified business or a qualified green business, but is located:

(1) outside the metropolitan area, as defined by section 473.121, subdivision 2; or

(2) in a low-income community of Minnesota as defined in section 45D(e) of the Internal Revenue Code.

(m) "State premium tax liability" means liability incurred by an insurance company under the provisions of section 297I.05.

(n) "Qualified seed fund" means a qualifying regional investment fund certified by the department under section 116J.8737, a regional investment fund designated by the department, or a business incubator program established at the University of Minnesota.

Subd. 2. **Certification.** (a) The commissioner must provide a standardized format for applying for the small business investment credit under section 297I.23.

(b) An applicant is required to:

(1) file an application with the department;

(2) pay a nonrefundable application fee of $7,500 to the department at the time of filing the application. Fees are appropriated to the commissioner for personnel and administrative expenses related to administering the program;

(3) submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than 35 days before the application date that states whether the applicant has an equity capitalization of $500,000 or more in the form of unencumbered cash, marketable securities, or other liquid assets; and

(4) have at least two principals or persons, at least one of whom is located in and a resident of Minnesota, employed to manage the funds each of whom have a minimum

of five years of money management experience in the venture capital or small business investment industry.

(c) The department may certify partnerships, corporations, trusts, or limited liability companies, organized on a for-profit basis, which submit an application to be designated as a Minnesota small business investment company if the applicant is located, headquartered, and licensed or registered to conduct business in Minnesota, has as its primary business activity the investment of cash in qualified businesses and qualified green businesses, and meets the other criteria set forth in this section.

(d) The department must review the organizational documents of each applicant for certification and the business history of each applicant, determine whether the applicant has satisfied the requirements of this section, and determine whether the officers and the board of directors, general partners, trustees, managers, or members are trustworthy and are thoroughly acquainted with the requirements of this section.

(e) Within 60 days after the receipt of an application, the department must issue the certification or refuse the certification and communicate in detail to the applicant the grounds for refusal, including suggestions for the removal of the grounds.

(f) The department must begin accepting applications to become a Minnesota small business investment company as defined under section 116J.8735, subdivision 1, paragraph (e) by September 30, 2009.

Subd. 3. **Requirements.** (a) An insurance company or affiliate of an insurance company must not, directly or indirectly:

(1) beneficially own, whether through rights, options, convertible interest, or otherwise, 15 percent or more of the voting securities or other voting ownership interest of a Minnesota small business investment company;

(2) manage a Minnesota small business investment company; or

(3) control the direction of investments for a Minnesota small business investment company.

(b) A Minnesota small business investment company may obtain one or more guaranties, indemnities, bonds, insurance policies, or other payment undertakings for the benefit of its certified investors from any entity, except that in no case can more than one certified investor of a Minnesota small business investment company on an aggregate basis with all affiliates of the certified investor be entitled to provide the guaranties, indemnities, bonds, insurance policies, or other payment undertakings in favor of the certified investors of a Minnesota small business investment company and its affiliates in this state.

(c) This subdivision does not preclude a certified investor, insurance company, or other party from exercising its legal rights and remedies, including, without limitation, interim management of a Minnesota small business investment company, in the event that a Minnesota small business investment company is in default of its statutory obligations or its contractual obligations to the certified investor, insurance company, or other party, or from monitoring a Minnesota small business investment company to ensure its compliance with this section or disallowing any investments that have not been approved by the department.

(d) The department may contract with an independent third party to review, investigate, and certify that the applications comply with the provisions of this section.

Subd. 4. **Aggregate limitations on investment credits; allocation.** (a) The aggregate amount of investment tax credits to be allocated to all participating investors of Minnesota small business investment companies under this section shall not exceed $38,000,000. No Minnesota small business investment company, on an aggregate basis with its affiliates, may file credit allocation claims that exceed 25 percent of the total credits to be allocated.

(b) Credits must be allocated to certified investors in the order that the credit allocation claims are filed with the department. All credit allocation claims filed with the department on the same day must be treated as having been filed contemporaneously. Any credit allocation claims filed with the department prior to the credit allocation claim filing date will be deemed to have been filed on the initial credit allocation claim filing date. The department will set the initial credit allocation claim filing date to be within 150 days after the department begins to accept applications.

(c) In the event that two or more Minnesota small business investment companies file credit allocation claims with the department on behalf of their respective certified investors on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day, then the credits shall be allocated among the certified investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one certified investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a certified investor and the denominator of which is the total of all credit allocation claims filed on behalf of all certified investors on that day, by the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day.

(d) Within 20 business days after the department receives a credit allocation claim filed by a Minnesota small business investment company on behalf of one or more of its certified investors, the department must notify the Minnesota small business investment company of the amount of credits allocated to each of the certified investors of that

Minnesota small business investment company. In the event a Minnesota small business investment company does not receive aggregate investments of designated capital equaling the amount of credits allocated to its certified investors within ten business days of the Minnesota small business investment company's receipt of notice of allocation, it shall notify the department on or before the next business day and that portion of the credits allocated to the certified investors of the Minnesota small business investment company in excess of the amount of designated capital invested in the Minnesota small business investment company by that date shall be forfeited. The department may then reallocate those forfeited credits among the certified investors of the other Minnesota small business investment companies on a pro rata basis with respect to the credit allocation claims filed on behalf of the certified investors. The commissioner is authorized to levy a fine of not more than $50,000 on any certified investor that does not invest the full amount of designated capital allocated by the department to the investor in accordance with the credit allocation claim filed on its behalf.

(e) No participating investor, on an aggregate basis, may file an allocation claim for more than 25 percent of the maximum amount of investment tax credits authorized under this subdivision, regardless of whether the claim is made in connection with one or more Minnesota small business investment companies.

Subd. 5. **Requirements for continuance of certification.** (a) To continue to be eligible for certification, a Minnesota small business investment company must make qualified investments as follows:

(1) within two years after the allocation date, an amount equal to at least 35 percent of the designated capital allocable to a Minnesota small business investment company must be placed in qualified investments; and

(2) within three years after the allocation date, an amount equal to at least 50 percent of the designated capital allocable to a Minnesota small business investment company must be placed in qualified investments;

(3) within five years after the allocation date, an amount equal to at least 65 percent of the designated capital allocable to a Minnesota small business investment company must be placed in qualified investments; and

(4) within ten years after the allocation date, an amount equal to at least 100 percent of the designated capital allocable to a Minnesota small business investment company must be placed in qualified investments.

The aggregate cumulative amount of all qualified investments made by a Minnesota small business investment company from an allocation date must be considered in the calculation of these percentage requirements.

(b) Prior to making a proposed qualified investment in a specific business, a Minnesota small business investment company must request from the department a written determination that the proposed investment will qualify as a qualified investment in a qualified business. The department shall notify a Minnesota small business investment company within 20 business days from the receipt of a request of its determination and an explanation of the determination. If the department determines that the proposed investment does not meet the definition of a qualified investment, a qualified business, or a qualified green business, the department may nevertheless consider the proposed investment a qualified investment or the business a qualified business or qualified green business, if the department determines that the proposed investment will further state economic development.

(c) All designated capital not placed in qualified investments by the Minnesota small business investment company may be held or invested in the manner the Minnesota small business investment company, in its discretion, deems appropriate. The proceeds of all designated capital returned to a Minnesota small business investment company after being originally placed in qualified investments may be placed again in qualified investments and counts toward any requirement of this section with respect to placing designated capital in qualified investments.

(d) If, within four years after its allocation date, a Minnesota small business investment company has not placed at least 60 percent of the designated capital allocable to it in qualified investments, the Minnesota small business investment company is no longer permitted to receive management fees.

(e) If, within six years after its allocation date, a Minnesota small business investment company has not placed at least 100 percent of the designated capital allocable to it in qualified investments, the Minnesota small business investment company is no longer permitted to receive management fees.

(f) A Minnesota small business investment company must not make a qualified investment without the specific approval of the department if after the Minnesota small business investment company's qualified investment, on an aggregate basis with its affiliates, would own more than 49 percent of the common equity or voting interests of the qualified business. Nothing in this subdivision precludes a Minnesota small business investment company from exercising any right or remedy upon a default by the qualified business pursuant to an investment contract or antidilution or preemptive rights it may have been granted in connection with an initial qualified investment that can be exercised upon an investment in the business by a party other than the Minnesota small business investment company or an affiliate of the Minnesota small business investment company.

(g) A Minnesota small business investment company must not invest where investment would cause the company's total qualified investment outstanding with respect to the qualified business receiving the investment to exceed 15 percent of the total designated capital of the Minnesota small business investment company at the time of the investment.

(h) The aggregate cumulative amount of all qualified investments made by a Minnesota small business investment company will be considered in the calculation of the percentage requirements under this section. The following must not be considered in any percentage calculations under this section:

(1) commitment fees, closing fees, or other similar fees, excluding reimbursement of out-of-pocket expenses including legal fees and accounting fees, in excess of one percent of the Minnesota small business investment company's investment in the qualified business; or

(2) license fees, royalties, or similar charges.

Subd. 6. **Minnesota small business investment company reporting requirements.** (a) Each Minnesota small business investment company must report the following to the department:

(1) within ten business days after the receipt of designated capital:

(i) the name of each certified investor from which the designated capital was received, including the certified investor's insurance tax identification number;

(ii) the amount of each certified investor's investment of designated capital; and

(iii) the date on which the designated capital was received;

(2) on an annual basis, on or before January 31 of each year:

(i) the amount of the Minnesota small business investment company's designated capital at the end of the immediately preceding taxable year;

(ii) whether or not the Minnesota small business investment company has invested more than 15 percent of its total designated capital in any one business;

(iii) all qualified investments that the Minnesota small business investment company has made in the previous taxable year, including the number of employees and the average annual wage per employee of each qualified business or qualified green business in which it has made investments at the time of the investment and as of December 1 of the preceding taxable year; and

(iv) for any qualified business or qualified green business where the Minnesota small business investment company no longer has an investment, the Minnesota small business investment company must provide employment and wage figures for that company as of the last day before the investment was terminated;

(3) other information that the department may reasonably request that will help the department ascertain the impact of the Minnesota small business investment companies both directly and indirectly on the economy of the state of Minnesota, including, but not limited to, the number of jobs created, average annual wages paid by qualified businesses, or qualified green businesses that have received qualified investments;

(4) annual audited financial statements, which must include the opinion of an independent certified public accountant, within 90 days of the close of its fiscal year; and

(5) an "agreed upon procedures report" or equivalent regarding the operations of the Minnesota small business investment company.

(b) A Minnesota small business investment company must pay to the department an annual, nonrefundable certification fee of $5,000 on or before April 1, or $10,000 if later. Fees are appropriated to the commissioner for personnel and administrative expenses related to administering the program. No fee is required within six months of the date a Minnesota small business investment company is first certified by the department.

(c) Upon receiving notification and documentation by a Minnesota small business investment company that it has satisfied the requirements of subdivision 5, paragraph (a), clauses (1), (2), (3), or (4), and that it has invested the percentage of its designated capital as delineated by subdivision 5, paragraph (a), the department shall notify a Minnesota small business investment company that it has or has not met the requirement of subdivision 5, paragraph (a), within 60 business days.

Subd. 7. **Distributions.** (a) A Minnesota small business investment company may make qualified distributions at any time. In order for a Minnesota small business investment company to make a distribution other than a qualified distribution to its equity holders, the aggregate cumulative amount of all qualified investments of the Minnesota small business investment company must equal or exceed 100 percent of its designated capital, and of those investments, an amount equal to or exceeding 25 percent must have been invested in qualified underserved area businesses.

(b) A business is deemed to have relocated its principal business operations outside Minnesota, unless it maintains its headquarters or the primary workplace of more than 50 percent of the employees within the state. In the event that a business in which a qualified investment is made relocates its principal business operations to another state, either during an investment or within four years of the time of any investment, whichever is greater, the cumulative amount of qualified investments made by a Minnesota small business investment company must be reduced by the amount of the qualified investment, unless:

(1) the Minnesota small business investment company invests an amount at least equal to the investment of designated capital in the relocated business in a qualified

business or a qualified green business located in Minnesota within six months of the relocation; or

(2) the business demonstrates that it has returned its principal business operations to Minnesota within three months of the relocation.

(c) A Minnesota small business investment company must pay to a qualified seed fund an amount equal to five percent of all distributions to the equity holders of a Minnesota small business investment company, other than qualified distributions and distributions of all equity contributed to a Minnesota small business investment company by the equity holders. A Minnesota small business investment company must make all payments required under this paragraph concurrently with distributions to its equity owners. Nothing contained in this paragraph affects qualified distributions.

Subd. 8. **Audit; state participation.** (a) Cumulative distributions from a Minnesota small business investment company to its certified investors and equity holders, other than qualified distributions, in excess of the Minnesota small business investment company's original certified capital and any additional capital contributions to the Minnesota small business investment company may be audited by a nationally recognized certified public accounting firm, at the expense of the Minnesota small business investment company, if the department directs such audit be conducted. The audit shall determine whether aggregate cumulative distributions from the Minnesota small business investment company to all certified investors and equity holders, other than qualified distributions, have equaled the sum of the Minnesota small business investment company's original certified capital and any additional capital contributions to the Minnesota small business investment company.

(b) If at the time of any distribution made by the Minnesota small business investment company, the distribution taken together with all other distributions made by the Minnesota small business investment company, other than qualified distributions, exceeds in aggregate the sum of the Minnesota small business investment company's original certified capital and any other capital contributions to the Minnesota small business investment company, as determined by the audit, the Minnesota small business investment company shall pay to the department ten percent of the portion of the distribution in excess of that amount. Payments are appropriated to the commissioner for personnel and administrative expenses related to administering the program and other programs related to encouraging investments in small emerging businesses in the state. Payments to the department by a Minnesota small business investment company under this paragraph shall not exceed the aggregate amount of tax credits used by all certified investors in the Minnesota small business investment company.

Subd. 9. **Decertification.** (a) The department shall conduct an annual review of each Minnesota small business investment company to determine if a Minnesota small business investment company is abiding by the requirements of certification, to advise the Minnesota small business investment company as to the eligibility status of its qualified investments, and to ensure that no investment has been made in violation of this section. The cost of the annual review must be paid by each Minnesota small business investment company according to a reasonable fee schedule adopted by the department.

(b) Any material violation of this section is grounds for decertification of a Minnesota small business investment company and the recapture of tax credits previously taken and the forfeiture of future tax credits to be claimed under section 297I.23.

(c) Once a Minnesota small business investment company has invested an amount cumulatively equal to 100 percent of its designated capital in qualified investments and has met all other requirements under this section, the Minnesota small business investment company is no longer subject to regulation by the department or the reporting requirements under subdivision 5. Upon receiving documented certification by a Minnesota small business investment company that it has invested an amount equal to 100 percent of its designated capital, the department shall notify a Minnesota small business investment company within 60 business days that it has or has not met the requirements with a reason for the determination if it has not.

(d) The department must send written notice of a decertification to the commissioner of revenue and to the address of each certified investor whose tax credit has been subject to recapture or forfeiture, using the address shown on the last filing submitted to the department.

Subd. 10. **Revocation of certification.** The department may revoke the certification of a Minnesota small business investment company if any material representation to the department in connection with the application process proves to have been falsely made, if the application materially violates any requirements established by the department under this section, the small business investment company fails to file an annual report, or the small business investment company files an annual report that contains material misrepresentations.

Subd. 11. **Registration requirements.** All investments for which tax credits are allowable under this section must be registered or specifically exempt from registration.

Subd. 12. **Reporting.** The department shall prepare an annual report which includes:

(1) the number of Minnesota small business investment companies holding designated capital;

(2) the amount of designated capital invested in each Minnesota small business investment company;

(3) the cumulative amount that each Minnesota small business investment company has invested as of January 1, 2010, and the cumulative total each year thereafter;

(4) the cumulative amount that the investments of each Minnesota small business investment company have leveraged in terms of capital invested by other sources of capital in qualified businesses at the same time or subsequent to investments made by a Minnesota small business investment company in those businesses;

(5) the total amount of credits granted under this section for each year the credits have been awarded;

(6) the performance of each Minnesota small business investment company with regard to the requirements for continued certification;

(7) the classification of the companies in which each Minnesota small business investment company has invested according to industrial sector and size of company;

(8) the total gross number of jobs and their average wage created by investments made by each Minnesota small business investment company using designated capital and the number of jobs retained;

(9) the location of the companies in which each Minnesota small business investment company has invested;

(10) the total amount invested in qualified seed funds, the number of small businesses that received financial assistance from these organizations, and the number of jobs created and retained by those businesses;

(11) those Minnesota small business investment companies that have been decertified, or have had their certification revoked, including the reasons for decertification or revocation; and

(12) other related information necessary to evaluate the effect of this section on economic development.

Subd. 13. **Rules.** The commissioner's actions in establishing procedures and requirements and in making determinations and certifications to administer this section are not a rule for purposes of chapter 14, are not subject to the Administrative Procedure Act contained in chapter 14, and are not subject to section 14.386.

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

Sec. 2. **[297I.23] MINNESOTA SMALL BUSINESS INVESTMENT COMPANY CREDIT.**

Subdivision 1. **Credit allowed.** (a) A certified investor as defined under section 116J.8735, subdivision 1, is allowed a credit against the tax imposed in section 297I.05 equal to 60 percent of the certified investor's qualified investment of designated capital. Twenty-five percent of the total credit must be claimed in each consecutive year beginning with the third year after the qualified investment.

(b) The credit for the taxable year must not exceed the liability for tax under section 297I.05. If the amount of the credit determined under this section for any taxable year exceeds the liability for tax under section 297I.05 for that year, the excess shall be an investment credit carryover to each of the succeeding taxable years and must be carried forward to each succeeding taxable year until the entire carryforward credit has been credited against the insurance company's liability for tax under section 297I.05.

(c) A certified investor claiming a credit under this section is not required to pay any additional retaliatory tax levied as a result of claiming the credit.

Subd. 2. **Repayment of tax benefits received.** (a) Decertification of a Minnesota small business investment company, or revocation of certification under section 116J.8735, subdivision 9, will result in the disallowance to certified investors of any credits for that tax year or future tax years and the certified investor will be required to repay any credits claimed for the previous year. Repayment must be made within 60 days of the decertification or of the revocation of certification.

(b) The provisions of chapters 270C and 297I relating to audit, assessment, refund, collection, and appeals are applicable to credits claimed and repayments required under this section. The commissioner may impose civil penalties as provided in section 297I.85, and additional tax and penalties are subject to interest at the rate provided in section 270C.40 from the date payment was due.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

ARTICLE 3
JOB GROWTH INVESTMENT TAX CREDIT

Section 1. **[116J.8737] JOB GROWTH INVESTMENT TAX CREDIT.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Qualifying small business" means a business that:

(1) is engaged in, or is committed to engage in, biotechnology, technology, manufacturing, agriculture, processing or assembling products, conducting research and development, or developing a new product or business process;

(2) is not engaged in real estate development, insurance, banking, lobbying, political consulting, wholesale or retail trade, leisure, hospitality, construction, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(3) has its headquarters in Minnesota;

(4) employs at least 51 percent of the business's employees in Minnesota;

(5) has less than 100 employees;

(6) has less than $2,000,000 in annual gross sales receipts for the previous year;

(7) is not a subsidiary or an affiliate of a business which employs more than 100 employees or has total gross sales receipts for the previous year of more than $2,000,000, computed by aggregating all of the employees and gross sales receipts of the business entities affiliated with the business;

(8) has not previously received more than $2,000,000 in private equity investments;

(9) has not previously received more than $500,000 in investments that have qualified for and received tax credits under this section; and

(10) for a business with five or more employees, measured on a full-time equivalent basis:

(i) provides wages and benefits to at least 75 percent of its employees in excess of the first five employees, equal to or greater than 175 percent of the federal poverty level for a family of four; and

(ii) provides wages and benefits to its employees in excess of the first five employees, equal to or greater than 110 percent of the federal poverty level for a family of four.

(c) "Qualifying green job small business" means a business that satisfies all of the requirements of paragraph (b), except clause (1), and is predominantly engaged in one or more of the following industry sectors:

(1) green products: businesses related to the manufacture of products used by the building, transport, consumer products, and industrial products sectors, that reduce environmental impact and increase the efficiency of the use of resources such as energy, water, and materials;

(2) renewable energy: businesses related to the production of energy from natural resources such as solar, wind, hydropower, geothermal, biomass (including but not limited to animal waste and crop waste), and biofuels (including but not limited to ethanol and

biodiesel), as well as from waste heat recovery and from the use of biomass for energy production including cogeneration;

(3) green services: businesses that provide services that help other businesses or consumers utilize green products and technologies, build energy infrastructure, recycle, and manage waste; or

(4) environmental conservation: businesses related to the conservation of energy, air, water, and land, including air emissions control, environmental monitoring and compliance, water conservation, wastewater treatment, land management (including but not limited to prairie), natural pesticides, aquaculture, and organic farming.

(d) "Regional investment fund" means a pooled investment fund that:

(1) invests in qualifying small businesses;

(2) invests in qualifying green job small businesses;

(3) is organized as a limited liability company or other pass-through entity; and

(4) has no fewer than five separate investors, each of whom is a qualified taxpayer, as defined in paragraph (e), and owns no more than 20 percent of the outstanding ownership interests in the fund.

For purposes of determining the number of investors and the ownership interests of an investor under this clause, the ownership interests of an investor include those of the investor's spouse, children, or siblings, and any corporation, limited liability company, partnership, or trust in which the investor has a controlling equity interest or in which the investor exercises management control.

(e) "Qualified taxpayer" means:

(1) an accredited investor, within the meaning of Regulation D of the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.501(a), whether part of a pass-through entity or not, who:

(i) does not own, control, or hold power to vote 20 percent or more of the outstanding securities of the qualifying small business or the qualifying green job small business in which the eligible investment is proposed; or

(ii) does not receive more than 50 percent of the gross annual income from the qualifying small business or the qualifying green job small business in which the eligible investment is proposed.

(2) A member of the immediate family of a taxpayer disqualified by this subdivision is not eligible for a credit under this section. For purposes of this subdivision, "immediate family" means the taxpayer's spouse, parent, sibling, or child, or the spouse of any person listed in this paragraph.

Subd. 2. **Credit allowed, holding period, limitations, and carryover.** (a) A qualified taxpayer is allowed a credit against the tax imposed under chapter 290 for investments made in a qualified regional investment fund, a qualifying small business, or a qualifying green job small business. The credit equals 25 percent of the qualified taxpayer's investment in the business, but not to exceed the lesser of:

(1) the liability for tax under chapter 290, including the applicable alternative minimum tax, but excluding the minimum fee under section 290.0922, and:

(2)(i) the amount of the certificate provided to the taxpayer under subdivision 4, paragraph (c); or

(ii) the amount of the certificate provided to the qualified individual investor under subdivision 6, paragraph (d).

(b) No taxpayer may receive more than $100,000 in provisional credits under this section in any one year.

(c) A qualified taxpayer must claim the credit in the third tax year after which the investment in the qualified regional investment fund, the qualifying small business, or the qualifying green job small business was made. The credit is allowed only for investments made in:

(1) a qualified regional investment fund that remains invested for at least three years and that are made after the fund has been certified by the commissioner under subdivision 4;

(2) a qualifying small business that remains invested for at least three years and that are made after the qualified individual investor has been certified by the commissioner under subdivision 6; or

(3) a qualifying green job small business that remains invested for at least three years and that are made after the qualified individual investor has been certified by the commissioner under subdivision 6.

(d) The three-year investment holding period required by paragraph (c) does not apply if:

(1) the investment by the qualified regional investment fund or the qualified individual investor becomes worthless before the end of the three-year period; or

(2) the qualifying small business or qualifying green job small business is sold before the end of the three-year period.

(e) If the amount of the credit under this subdivision for any taxable year exceeds the limitations under paragraph (a), the excess is a credit carryover to each of the ten succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried. The amount of the unused credit that may be added under this paragraph may not exceed the taxpayer's liability for tax less the credit for the taxable year.

Subd. 3. **Qualified regional investment fund; requirements.** (a) To be certified as a qualified regional investment fund for the purposes of this section, a regional investment fund must:

(1) have a minimum of two-thirds of the regional investment fund's members, shareholders, or partners be residents of the region that is the focus of the fund;

(2) allocate at least 60 percent of the funds it invests to qualifying small businesses or to qualifying green job small businesses within its region of focus; and

(3) allocate at least 50 percent of the funds it invests to qualifying green job small businesses.

(b) The allocations in paragraph (a), clauses (2) and (3), need not be exclusive.

(c) Investments from other qualified regional investment funds into the qualifying small businesses or qualifying green job small businesses that are the recipients of the qualified regional investment fund's investment shall count toward the allocations in paragraph (a), clauses (2) and (3).

(d) Investments in the fund may consist of equity investments or notes that pay interest or other fixed amounts, or any combination of both, as the fund's governing body determines appropriate.

Subd. 4. **Certification of funds.** (a) Regional investment funds may apply to the commissioner for certification as a qualified regional investment fund. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of $1,250. Fees are appropriated to the commissioner for personnel and administrative expenses related to administering the program.

(b) The commissioner may certify up to 20 regional investment funds per year. Certifications shall be awarded in the order of the qualifying applications received, subject to the following limitations:

(1) the commissioner may certify no more than three regional investment funds per year that seek business investment opportunities that may qualify for and receive tax credits under this section in more than 15 Minnesota counties; and

(2) the commissioner may certify no more than five regional investment funds per year that seek business investment opportunities that may qualify for and receive tax credits under this section in the metropolitan area, as defined in section 473.121, subdivision 2.

(c) The commissioner shall provide provisional credit certificates to investors in a qualified regional fund to credits under this section, in proportion to the investment of the investor in the fund and upon a showing by the fund of an investment in a qualifying small business or qualifying green job small business, of no more than $500,000 per fund per year. The commissioner may not issue a total of more than $2,000,000 per year in provisional credit certificates to fund investors in fiscal years 2010, 2011, 2012, and 2013.

(d) The commissioner shall provide a final credit certificate to investors in the fund upon a showing by the fund that the holding requirements of subdivision 2, paragraph (b), have been met and that the investors in the fund are otherwise eligible for the credit.

Subd. 5. **Fund requirements.** The commissioner shall enter into an agreement with each of the qualified regional investment funds certified under subdivision 4. Each agreement must include a provision requiring the qualified regional investment fund to annually report on the employment figures and wages and benefits paid by the businesses in which investments are made and a provision stating the specific manner in which the qualified regional investment fund will comply or is complying with the allocation requirements under subdivision 3, paragraph (a), clauses (2) and (3).

Subd. 6. **Certification of individual investors.** (a) Qualified taxpayers may apply to the commissioner of employment and economic development for certification as a qualified individual investor. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of $250. Fees are appropriated to the commissioner for personnel and administrative expenses related to administering the program.

(b) The commissioner may certify up to 40 qualified individual investors per year. Certifications shall be awarded in the order of qualifying applications received, however the commissioner may certify no more than ten qualified individual investors per year that seek business investment opportunities that may qualify for and receive tax credits under this section in the metropolitan area, as defined in section 473.121, subdivision 2.

(c) The commissioner shall provide provisional credit certificates to qualified individual investors, upon a showing by the qualified individual investor of investments of at least $25,000 in qualifying small businesses or qualifying green job small businesses; at least one-half of the investments made by the investor must be in qualifying green job businesses. The commissioner may not issue more than $100,000 in provisional credit certificates per qualified individual investor per year. The commissioner may not issue a total of more than $1,000,000 per year in provisional credit certificates to qualified individual investors in fiscal years 2010, 2011, 2012, and 2013.

(d) The commissioner shall provide a final credit certificate to the qualified individual investor upon a showing by the investor that the holding requirements of subdivision 2, paragraph (c), have been met and that the investor is otherwise eligible for the credit.

Subd. 7. **Qualified individual investor requirements.** The commissioner shall enter into an agreement with each qualified individual investor certified under subdivision 6. Each agreement must include a provision requiring the qualified individual investor to annually report on the employment figures and wages and benefits paid by the businesses in which investments are made and a provision stating the specific manner in which the qualified individual investor will comply or is complying with the allocation requirements under subdivision 6, paragraph (c).

Subd. 8. **Rulemaking.** The commissioner's actions in establishing procedures and requirements and in making determinations and certifications to administer this section are not a rule for purposes of chapter 14, are not subject to the Administrative Procedures Act contained in chapter 14, and are not subject to section 14.386.

EFFECTIVE DATE. This section is effective July 1, 2009, for taxable years beginning after December 31, 2008, and only applies to investments made after the qualified regional investment fund or qualified individual investor has been certified by the commissioner of economic development.

Sec. 2. Minnesota Statutes 2008, section 290.06, is amended by adding a subdivision to read:

Subd. 36. **Job growth investment tax credit.** A taxpayer is allowed a credit as determined under section 116J.8737 against the tax imposed by this chapter. Notwithstanding the certification eligibility issued by the commissioner of the Department of Employment and Economic Development under section 116J.8737, the commissioner may utilize any audit and examination powers under chapters 270C or 289A to the extent necessary to verify that the taxpayer is eligible for the credit and to assess for the amount of any improperly claimed credit.

EFFECTIVE DATE. This section is effective July 1, 2009, for taxable years beginning after December 31, 2008, and only applies to investments made after the qualified regional investment fund or qualified individual investor has been certified by the commissioner of employment and economic development.

ARTICLE 4
BIOMETHANE ENERGY

Section 1. Minnesota Statutes 2008, section 216B.241, is amended by adding a subdivision to read:

Subd. 5b. **Qualifying biomethane energy project.** A natural gas utility may include in its conservation plan programs for the installation of qualifying biomethane energy projects as defined by section 216B.2411 to the extent of the spending allowed for generation projects by section 216B.2411. The cost-effectiveness of a qualifying biomethane energy project may be determined by a different standard than for other energy conservation improvements under this section if the commissioner determines it is in the public interest to do so to encourage biomethane energy projects. Energy savings from qualifying biomethane energy projects may not be counted toward the minimum energy-savings goal of at least one percent for energy conservation improvements required under subdivision 1c, but may, if the conservation plan is approved:

(1) be counted toward energy savings above that minimum percentage; and

(2) be considered when establishing performance incentives under subdivision 2c.

Sec. 2. Minnesota Statutes 2008, section 216B.2411, is amended to read:

216B.2411 DISTRIBUTED ENERGY RESOURCES.

Subdivision 1. **Generation projects.** (a) Any municipality or rural electric association providing electric service and subject to section 216B.241 may, and each public utility may, use five percent of the total amount to be spent on energy conservation improvements under section 216B.241, on:

(1) projects in Minnesota to construct an electric generating facility that utilizes eligible renewable energy sources as defined in subdivision 2, such as methane or other combustible gases derived from the processing of plant or animal wastes, biomass fuels such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as its primary fuel source;

(2) projects in Minnesota to install a distributed generation facility of ten megawatts or less of interconnected capacity that is fueled by natural gas, renewable fuels, or another similarly clean fuel; ~~or~~

(3) projects in Minnesota to install a qualifying solar energy project as defined in subdivision 2~~.~~; or

(4) projects in Minnesota to install a qualifying biomethane energy project as defined in subdivision 2.

(b) For public utilities, as defined under section 216B.02, subdivision 4, projects under this section must be considered energy conservation improvements as defined in section 216B.241. For cooperative electric associations and municipal utilities, projects under this section must be considered load-management activities described in section 216B.241, subdivision 1.

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision and section 216B.241, subdivision 1, have the meanings given them.

(b) "Eligible renewable energy sources" means fuels and technologies to generate electricity through the use of any of the resources listed in section 216B.1691, subdivision 1, paragraph (a), except that the incineration of wastewater sludge is not an eligible renewable energy source, "biomass" has the meaning provided under paragraph (c), and "solar" must be from a qualified solar energy project as defined in paragraph (d).

(c) "Biomass" includes:

(1) methane or other combustible gases derived from the processing of plant or animal material;

(2) alternative fuels derived from soybean and other agricultural plant oils or animal fats;

(3) combustion of barley hulls, corn, soy-based products, or other agricultural products;

(4) wood residue from the wood products industry in Minnesota or other wood products such as short-rotation woody or fibrous agricultural crops;

(5) landfill gas;

(6) the predominantly organic components of wastewater effluent, sludge, or related ~~byproducts~~ by-products from publicly owned treatment works; and

(7) mixed municipal solid waste, and refuse-derived fuel from mixed municipal solid waste.

(d) "Qualifying biomethane energy project" means a project in which biomethane conditioned for use in a natural gas utility distribution system is used. Biomethane conditioned for use in a natural gas utility distribution system is biogas produced through anaerobic digestion of biomass, which is cleaned and purified into biomethane that meets natural gas utility quality specifications.

~~(d)~~ (e) "Qualifying solar energy project" means a qualifying solar thermal project or qualifying solar electric project.

~~(e)~~ (f) "Qualifying solar thermal project" means a flat plate or evacuated tube that meets the requirements of section 216C.25 with a fixed orientation that collects the sun's radiant energy and transfers it to a storage medium for distribution as energy to heat or cool air or water, but does not include equipment used to heat water at a residential property (1) for domestic use if less than one-half of the energy used for that purpose is derived from the sun or (2) for use in a hot tub or swimming pool.

~~(f)~~ (g) "Qualifying solar electric project" means solar electric equipment that meets the requirements of section 216C.25 with a total peak generating capacity of ~~100~~ 200 kilowatts or less used for generating electricity primarily for use in a residential property or small business to reduce the effective electric load for that residence or small business.

~~(g)~~ (h) "Residential property" means the principal residence of a homeowner at the time the solar equipment is placed in service.

~~(h)~~ (i) "Small business" has the meaning given to it in section 645.445.

Subd. 3. **Other provisions.** (a) Electricity generated by a facility constructed with funds provided under this section and using an eligible renewable energy source may be counted toward the renewable energy objectives in section 216B.1691, subject to the provisions of that section.

(b) Two or more entities may pool resources under this section to provide assistance jointly to proposed eligible renewable energy projects. The entities shall negotiate and agree among themselves for allocation of benefits associated with a project, such as the ability to count energy generated by a project toward a utility's renewable energy objectives under section 216B.1691. The entities shall provide a summary of the allocation of benefits to the commissioner. A utility may spend funds under this section for projects in Minnesota that are outside the service territory of the utility.

APPENDIX
Article locations in 09-1779