A bill for an act

relating to taxation; income; franchise; property; sales and use; providing tax incentives for businesses in green job zones; providing for certification of qualifying businesses; appropriating money; amending Minnesota Statutes 2008, sections 268.19, subdivision 1; 270B.14, subdivision 3; 270B.15; 289A.12, by adding a subdivision; 290.01, subdivisions 19b, 29; 290.06, subdivision 2c, by adding a subdivision; 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, chapter 469.

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

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 <u>and green job zones</u> as required under ~~section~~ <u>sections</u> 469.3201~~.~~<u> and 469.3701; and</u>

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

(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 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 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 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 289A.12, is amended by adding a subdivision to read:

Subd. 16. **Report of green job 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 10, 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 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 10, and is subject to the repayment provisions of section 469.369.

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

Sec. 5. 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 zone income as provided under section 469.366.

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

Sec. 6. 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 zone under section 469.367.

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

Sec. 7. 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 for taxable years beginning after December 31, 2009.

Sec. 8. Minnesota Statutes 2008, section 290.06, is amended by adding a subdivision to read:

Subd. 36. **Green job zone jobs credit.** A taxpayer that is a qualified business, as defined in section 469.360, subdivision 10, is allowed a credit as determined under section 469.368 against the tax imposed by this chapter.

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

Sec. 9. 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. <u>This section is effective for taxable years beginning after December 31, 2009.</u>

Sec. 10. 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), <u>or (18),</u> 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 for taxable years beginning after December 31, 2009.

Sec. 11. 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 for taxable years beginning after December 31, 2009.

Sec. 12. 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.

(17) Alternative minimum taxable income excludes the income from operating in a green job zone as provided under section 469.367.

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

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

Sec. 13. 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~~.~~; and

(9) an entity, if for the taxable year all of its property is located in a green job zone under section 469.360, subdivision 5, and all of its payroll is green job zone payroll under section 469.360, subdivision 6.

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

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

Sec. 14. 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 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, or (4) green job zone payroll under section 469.360, subdivision 6. 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 for taxable years beginning after December 31, 2009.

Sec. 15. Minnesota Statutes 2008, section 297A.68, is amended by adding a subdivision to read:

Subd. 42. **Green job 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 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 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 for purchases after June 30, 2009.

Sec. 16. **[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 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. **Expansion.** "Expansion" means enlargement of a business facility within a property or on contiguous property to an existing business facility.

Subd. 5. **Green job zone or zone.** "Green job zone" or "zone" means a zone designated by the commissioner under section 469.364.

Subd. 6. **Green job zone payroll factor or green job zone payroll.** "Green job zone payroll factor" or "green job zone payroll" means 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 zone; or

(2) wages or salaries paid to individuals working from offices within a green job 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. 7. **Green job zone percentage or zone percentage.** "Green job 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 zone payroll factor under subdivision 6 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

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

Subd. 8. **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 federally designated economic development district.

Subd. 9. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 10. **Qualified business.** (a) A person carrying on a trade or business at a place of business located within a green job zone is a qualified business for the purposes of sections 469.360 to 469.3693 according to paragraphs (b) to (e).

(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 a qualified business only if the business meets all of the requirements of paragraph (b), and:

(1) is predominantly engaged in 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, or, in the case of a business at a site described in section 469.361, subdivision 2, clause (3), in the manufacture of motor vehicles that have superior fuel economy to the vehicles that were manufactured at that site prior to enactment of this act;

(2) is a new facility in Minnesota, not a relocation of an existing Minnesota facility, provided that a facility at which the qualified business has increased the number of full-time employees at the place of business in the zone by at least ten percent over the level of full-time employees at a date one year prior to filing the application under section 469.362 is also considered a new 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 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.

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

Subd. 11. **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 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 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. 17. **[469.361] GREEN JOB ZONES; LIMITATIONS.**

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

Subd. 2. **Location.** A green job zone must be located in an area determined by the commissioner of employment and economic development to be:

(1) a brownfield;

(2) a parcel that contains a vacant structure that had previously contained a manufacturing facility that under the business subsidy agreement will be used for the purpose of a qualified business; or

(3) the site of a motor vehicle manufacturing plant located in a city of the first class that had at least 400 employees on the effective date of this act.

Subd. 3. **Border city development zones.** (a) The area of a green job 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 if the area is designated as a green job 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 zone.

Subd. 4. **Duration limit.** (a) The maximum duration of a zone is 12 years. 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. 18. **[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 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 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 approve an appropriation only 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 the green job zone program;

(3) whether the zone is located in an area that has access to public transportation and that has experienced a relatively high rate of unemployment; and

(4) 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. 19. **[469.363] BUSINESS SUBSIDY AGREEMENTS; REPORTS.**

Subdivision 1. **Generally.** A business subsidy agreement required under section 469.360, subdivision 10, 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 469.310 to 469.3201. 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 the green job program 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 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. 20. **[469.364] DESIGNATION OF GREEN JOB ZONES.**

Subdivision 1. **Designation schedule.** Green job 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, subject to the location requirements of sections 469.361 and 469.362.

Subd. 3. **Rulemaking exemption.** The commissioner's actions in establishing procedures and requirements and making determinations to administer sections 469.360 to 469.3693 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. 21. **[469.365] TAX INCENTIVES AVAILABLE IN ZONES.**

Qualified businesses that operate in a green job zone, individuals who invest in a qualified business that operates in a green job zone, and property located in a green job 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; and

(4) the jobs credit allowed under section 469.368.

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

Sec. 22. **[469.366] INDIVIDUAL INCOME TAX EXEMPTION.**

Subdivision 1. **Application.** An individual, estate, or trust operating a trade or business in a green job zone and an individual, estate, or trust making a qualifying investment in a qualified business operating in a green job 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 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 zone. If tangible personal property was used both inside 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 zone. If the trade or business is carried on inside and outside of 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 inside and outside of 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 7, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of the sum of the green job zone payroll and the adjusted basis of the property at the time that the property is first used in the green job 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 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 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 7, clause (1), items (i) and (ii), to use the denominators of the property and payroll factors determined under section 290.191. Upon the request of an individual, estate, or trust holding an ownership interest in the entity, the entity must certify to the owner, in writing, the green job zone percentage needed to determine the exemption.

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

Sec. 23. **[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 zone payroll and the adjusted basis of the property at the time that the property is first used in the green job zone by the corporation.

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

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

Sec. 24. **[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 green job 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 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, subdivision 2, paragraph (e), and subdivision 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 for taxable years beginning after December 31, 2009.

Sec. 25. **[469.369] REPAYMENT OF TAX BENEFITS BY BUSINESSES THAT NO LONGER OPERATE IN 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 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 297A.68, subdivision 42, paragraph (b).

Subd. 3. **Disposition of repayment.** The repayment must be paid to the state and must be deposited in the general fund. 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) 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.

(d) 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.

(e) 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.

(f) 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. 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 subdivision 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. 26. **[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).

(e) A business described in paragraph (a) that seeks 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 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).

(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. 27. **[469.3692] PROHIBITION AGAINST AMENDMENTS TO BUSINESS SUBSIDY AGREEMENT.**

Except as authorized under section 469.3691, terms of any agreement required as a condition for eligibility for benefits listed under section 469.365 must not 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. 28. **[469.3693] CERTIFICATION OF CONTINUING ELIGIBILITY FOR GREEN JOB ZONE 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 zone 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. 29. **[469.3701] STATE AUDITOR; AUDITS OF GREEN JOB ZONES AND BUSINESS SUBSIDY AGREEMENTS.**

The Office of the State Auditor may annually audit the creation and operation of all green job zones and business subsidy agreements entered into under 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.