A bill for an act

relating to taxation; changing accelerated sales tax, cigarette and tobacco tax, and liquor tax liability; creating Surplus Lines Association of Minnesota; changing the rent percentage for purposes of property tax refund; abolishing political contribution refund; creating a tax debtor matching system; requiring certain tax withholding by contractors; changing income apportionment; providing income tax subtractions for certain retirement pay for service in the armed forces and for certain compensation for active duty performed in the state; modifying taxation of foreign operating corporations; providing a regional investment credit; providing a direct sales tax exemption for small businesses; providing income tax additions; changing the computation of unrefunded gas tax on all-terrain vehicles; reducing the general sales and use tax rate; modifying definition of retail sale and other sales and use tax definitions; modifying job opportunity building zone duration limits; imposing levy limits; providing tax base adjustments; providing transition aid for certain local governments; conforming to certain changes in the Internal Revenue Code; appropriating money; amending Minnesota Statutes 2006, sections 60A.196; 116J.03, by adding a subdivision; 270A.03, subdivision 7; 270B.085, by adding a subdivision; 275.70, subdivision 5, by adding a subdivision; 275.71, subdivisions 1, 2, 4, 5; 289A.02, subdivision 7; 289A.20, subdivision 4; 289A.50, subdivision 1; 289A.60, subdivision 15; 290.01, subdivisions 6, 6b, 19a, 19c, 19d; 290.06, subdivision 2c, by adding a subdivision; 290.091, subdivision 2; 290.191, subdivisions 5, 6; 290.92, by adding a subdivision; 290A.03, subdivisions 11, 13; 291.005, subdivision 1; 296A.18, subdivision 4; 297A.61, subdivision 4, by adding subdivisions; 297A.63, subdivision 1; 297A.67, subdivision 8; 297B.02, subdivision 1; 297F.09, subdivision 10; 297G.09, subdivision 9; 469.312, subdivision 5; Minnesota Statutes 2007 Supplement, sections 290.01, subdivisions 19, 19b, 31; 290A.03, subdivision 15; 297A.62, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 13B; 60A; 116J; repealing Minnesota Statutes 2006, sections 10A.322, subdivision 4; 290.06, subdivision 23; 295.60.

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

Section 1. **[13B.07] TAX DEBTOR DATA MATCHES.**

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Account" means demand deposit account, checking account, negotiable order of withdrawal account, savings account, time deposit account, money market mutual fund account, or certificate of deposit account, and any funds or property held by a financial institution, as defined in paragraph (e).

(b) "Account information" means the type of account, the account number, whether the account is singly or jointly owned, and in the case of jointly owned accounts the name and address of the nondebtor account owner if available.

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

(d) "Debtor" means a person whose property is subject to a tax lien and a notice of lien has been filed by the commissioner as provided by section 270C.63, subdivision 2.

(e) "Financial institution" means any of the following that do business in this state:

(1) federal or state commercial banks and federal or state savings banks, including savings and loan associations and cooperative banks;

(2) federal and state chartered credit unions;

(3) benefit associations;

(4) life insurance companies;

(5) safe deposit companies;

(6) money market mutual funds; or

(7) a similar entity that holds property or maintains accounts reflecting property belonging to others.

(f) "Person" means a person as defined in section 270C.01, subdivision 6.

Subd. 2. **Data match system established.** The commissioner shall establish a process for the comparison of account information data held by financial institutions with the Department of Revenue's database of debtors. The commissioner shall inform the financial industry of the requirements of this section and the means by which financial institutions can comply.

Subd. 3. **Duty to provide data.** Within 30 days of a request by the commissioner, a financial institution shall provide to the commissioner the name, address, and account information for each debtor who maintains an account at the financial institution. The commissioner may request from a financial institution the data concerning any debtor not more than four times a year.

Subd. 4. **Method to provide data.** The commissioner must provide an electronic list of debtors to the financial institution that includes debtors' name, address, and if an individual, the last four digits of the Social Security number. The financial institution must compare that data to the data maintained at the financial institution to identify which of the listed debtors maintains an account at the financial institution.

Subd. 5. **Means to provide data.** A financial institution must provide the required data in encrypted form by secure electronic means authorized by the commissioner.

Subd. 6. **Access to data.** (a) With regard to data on debtors provided by the commissioner to a financial institution under subdivision 4, the financial institution shall retain the reported information only until the financial institution's database is compared against the commissioner's database. Data that does not pertain to an account holder at the financial institution must be immediately destroyed, and no retention or publication of that data shall be made by the financial institution. None of the data provided by the commissioner may be used for solicitation or other commercial purposes by the financial institutions or other commercial entities.

(b) All account information provided by a financial institution that pertains to a debtor listed in the commissioner's database must be incorporated into the commissioner's database. Access to that data is governed by chapters 13 and 270B. Notwithstanding section 16D.06, data collected pursuant to this section is available for the collection of delinquent taxes only and is not available for other debt collection activities undertaken by the state.

Subd. 7. **Fees.** A financial institution may charge and collect a fee from the commissioner for providing account information to the commissioner. The commissioner may pay a financial institution up to $150 each quarter. The commissioner shall develop procedures for the financial institutions to charge and collect the fee. Payment of the fee is limited by the amount of the appropriation for this purpose. If the appropriation is insufficient, or if fund availability in the fourth quarter would allow payments for actual costs in excess of $150, the commissioner shall prorate the available funds among the financial institutions that have submitted a claim for the fee. No financial institution shall charge or collect a fee that exceeds its actual costs of complying with this section.

Subd. 8. **Failure to respond to request for information.** The commissioner shall send a written notice of noncompliance to a financial institution that fails to respond to a first written request for information under this section. The notice must be sent by certified mail and must explain the requirements of this section and advise the financial institution of the penalty for noncompliance. A financial institution that receives a second notice of noncompliance is subject to a civil penalty of $1,000 for its failure to comply. A financial institution that continues to fail to comply with this section is subject to a civil penalty of $5,000 for the third and each subsequent failure to comply. These penalties are imposed and collected under section 270C.33, subdivision 4, paragraph (a), clause (5).

Subd. 9. **Confidentiality.** A financial institution furnishing a report to the commissioner under this section is prohibited from disclosing to a debtor that the name of the debtor has been received from or furnished to the commissioner.

Subd. 10. **Immunity.** A financial institution that provides or reasonably attempts to provide information to the commissioner in compliance with this section is not liable to any person for disclosing the information or for taking any other action in good faith as authorized by this section.

Subd. 11. **Civil action for unauthorized disclosure by financial institution.** (a) An account holder may bring a civil action in district court against a financial institution for unauthorized disclosure of data received from the commissioner under subdivision 4. A financial institution found to have violated this subdivision shall be liable as provided in paragraph (b) or (c).

(b) Any financial institution that willfully and maliciously discloses data received from the commissioner under subdivision 4 is liable to that account holder in an amount equal to the sum of:

(1) any actual damages sustained by the account holder as a result of the disclosure; and

(2) in the case of any successful action to enforce any liability under this subdivision, the costs of the action taken plus reasonable attorney fees as determined by the court.

(c) Any financial institution that negligently discloses data received from the commissioner under subdivision 4 is liable to that account holder in an amount equal to any actual damages sustained by the account holder as a result of the disclosure.

(d) A financial institution shall not be held liable in any action brought under this subdivision if the financial institution shows, by a preponderance of evidence, that the disclosure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any error.

Subd. 12. **Financial institution data match and payment of fees and administrative costs.** $250,000 is appropriated annually from the general fund to the commissioner of revenue to make payments to financial institutions in exchange for performing data matches between account information held by financial institutions and the commissioner's database of tax debtors as authorized by section 13B.07, subdivision 7. $110,000 is appropriated annually from the general fund to the commissioner of revenue for the costs of administering the data match system under section 13B.07.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 2. Minnesota Statutes 2006, section 60A.196, is amended to read:

60A.196 DEFINITIONS.

Unless the context otherwise requires, the following terms have the meanings given them for the purposes of sections 60A.195 to 60A.209:

(a) "Surplus lines insurance" means insurance placed with an insurer permitted to transact the business of insurance in this state only pursuant to sections 60A.195 to 60A.209.

(b) "Eligible surplus lines insurer" means an insurer recognized as eligible to write insurance business under sections 60A.195 to 60A.209 but not licensed by any other Minnesota law to transact the business of insurance.

(c) "Ineligible surplus lines insurer" means an insurer not recognized as an eligible surplus lines insurer pursuant to sections 60A.195 to 60A.209 and not licensed by any other Minnesota law to transact the business of insurance. "Ineligible surplus lines insurer" includes a risk retention group as defined under the Liability Risk Retention Act, Public Law 99-563.

(d) "Surplus lines licensee" or "licensee" means a person licensed under sections 60A.195 to 60A.209 to place insurance with an eligible or ineligible surplus lines insurer.

(e) "Association" means an association registered under section 60A.208.

(f) "Alien insurer" means any insurer which is incorporated or otherwise organized outside of the United States.

(g) "Insurance laws" means chapters 60 to 79 inclusive.

(h) "Stamping" means electronically assigning a unique identifying number that is specific to a submitted policy, contract, or insurance document.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to policies written or renewed on or after that date.

Sec. 3. **[60A.2085] SURPLUS LINES ASSOCIATION OF MINNESOTA.**

Subdivision 1. **Association created; duties.** There is hereby created a nonprofit association to be known as the Surplus Lines Association of Minnesota. All surplus lines licensees are members of this association. Section 60A.208, subdivision 5, does not apply to the provisions of this section. The association shall perform its functions under the plan of operation established under subdivision 3 and must exercise its powers through a board of directors established under subdivision 2. The association shall be authorized and have the duty to:

(1) receive, record, and stamp all surplus lines insurance documents that surplus lines licensees are required to file with the association;

(2) prepare and deliver monthly to the commissioners of revenue and commerce a report regarding surplus lines business. The report must include a list of all the business procured during the preceding month, in the form the commissioners prescribe;

(3) educate its members regarding the surplus lines law of this state including insurance tax responsibilities and the rules and regulations of the commissioners of revenue and commerce relative to surplus lines insurance;

(4) communicate with organizations of agents, brokers, and admitted insurers with respect to the proper use of the surplus lines market;

(5) employ and retain persons necessary to carry out the duties of the association;

(6) borrow money necessary to effect the purposes of the association;

(7) enter contracts necessary to effect the purposes of the association;

(8) provide other services to its members that are incidental or related to the purposes of the association; and

(9) take other actions reasonably required to implement the provisions of this section.

Subd. 2. **Board of directors.** (a) The commissioner shall appoint an interim board of five directors within 30 days of enactment of this section. The interim board must:

(1) establish a plan of operation within 60 days after the appointment of the interim board;

(2) create a stamping office that is operational no later than December 31, 2008; and

(3) conduct an election for a board of directors by the membership after December 31, 2008, and no later than one year after the appointment of the interim board.

(b) Once the responsibilities of the interim board in paragraph (a) are fulfilled, the association shall function through a board of directors composed of the following:

(1) one director appointed by the commissioner of revenue;

(2) one director appointed by the commissioner of commerce; and

(3) at least five but no more than seven directors elected by the members. The elected directors must be members of the association.

Directors may serve until their successors are appointed or elected and their terms are completed as outlined in the plan of operation.

Subd. 3. **Plan of operation.** (a) The plan of operation shall provide for the formation, operation, and governance of the association. The plan of operation must provide for the election of a board of directors by the members of the association. The board of directors shall elect officers as provided for in the plan of operation. The plan of operation shall establish the manner of voting and may weigh each member's vote to reflect the annual surplus lines insurance premium written by the member. Members employed by the same or affiliated employers may consolidate their premiums written and delegate an individual officer or partner to represent the member in the exercise of association affairs, including service on the board of directors.

(b) The plan of operation shall provide for an independent audit once each year of all the books and records of the association and a report of such independent audit shall be made to the board of directors, the commissioner of revenue, and the commissioner of commerce, with a copy made available to each member to review at the association office.

(c) The plan of operation and any amendments to the plan of operation shall be submitted to the commissioner and shall be effective upon approval in writing by the commissioner. The association and all members shall comply with the plan of operation or any amendments to it. Failure to comply with the plan of operation or any amendments shall constitute a violation for which the commissioner may issue an order requiring discontinuance of the violation.

(d) If the interim board of directors fails to submit a suitable plan of operation within 60 days following the creation of the interim board, or if at any time thereafter the association fails to submit required amendments to the plan, the commissioner may submit to the association a plan of operation or amendments to the plan, which the association must follow. The plan of operation or amendments submitted by the commissioner shall continue in force until amended by the commissioner or superseded by a plan of operation or amendment submitted by the association and approved by the commissioner. A plan of operation or an amendment submitted by the commissioner constitutes an order of the commissioner.

Subd. 4. **Reporting requirement.** The association shall file with the commissioner:

(1) a copy of its plan of operation and any amendments to it;

(2) a current list of its members revised at least annually; and

(3) the name and address of a member of the board residing in this state upon whom notices or orders of the commissioner or processes issued at the direction of the commissioner may be served.

Subd. 5. **Examination.** The commissioner shall, at such times as deemed necessary, make or cause to be made an examination of the association. The officers, managers, agents, and employees of the association may be examined at any time, under oath, and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. The commissioner shall furnish a copy of the examination report to the association. If the commissioner finds the association to be in violation of this section, the commissioner may issue an order requiring the discontinuance of the violation.

Subd. 6. **Immunity.** There shall be no liability on the part of and no causes of action of any nature shall arise against the association, its directors, officers, agents, or employees for any action taken or omitted by them in the performance of their powers and duties under this section, absent gross negligence or willful misconduct.

Subd. 7. **Stamping fee.** The services performed by the association shall be funded by a stamping fee assessed for each premium-bearing document submitted to the association. The stamping fee shall be established by the board of directors of the association from time to time. The stamping fee shall be paid by the insured to the surplus lines licensee and remitted electronically to the association by the surplus lines licensee.

Subd. 8. **Data classification.** Unless otherwise classified by statute, a temporary classification under section 13.06, or federal law, information obtained by the commissioner from the association is public, except that any data identifying insureds is private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to policies written or renewed on or after that date.

Sec. 4. **[60A.2086] LICENSEE'S DUTY TO SUBMIT DOCUMENTS; PENALTY.**

Subdivision 1. **Submission of documents to the Surplus Lines Association of Minnesota; certification.** (a) A surplus lines licensee shall submit every insurance policy or contract issued under the licensee's license to the Surplus Lines Association of Minnesota for recording and stamping. The submission and stamping must be effected through electronic means. The submission must include:

(1) the name of the insured;

(2) a description and location of the insured property or risk;

(3) the amount insured;

(4) the gross premiums charged or returned;

(5) the name of the surplus lines insurer from whom coverage has been procured;

(6) the kind or kinds of insurance procured; and

(7) the amount of premium subject to tax.

(b) The submission of insurance policies or contracts to the Surplus Lines Association of Minnesota constitutes a certification by the surplus lines licensee, or by the insurance producer who presented the risk to the surplus lines licensee for placement as a surplus lines risk, that the insurance policies or contracts were procured in accordance with sections 60A.195 to 60A.209.

Subd. 2. **Stamping requirement; penalty.** (a) It shall be unlawful for an insurance agent, broker, or surplus lines licensee to deliver in this state any surplus lines insurance policy or contract unless the insurance document is stamped by the association. A licensee's failure to comply with the requirements of this subdivision shall not affect the validity of the coverage.

(b) Any insurance agent, broker, or surplus lines licensee who delivers in this state any insurance policy or contract that has not been stamped by the association shall be subject to a penalty payable to the commissioner as follows:

(1) $50 for delivery of the first unstamped policy;

(2) $250 for delivery of a second unstamped policy; and

(3) $1,000 per policy for delivery of any additional unstamped policies.

EFFECTIVE DATE. This section is effective January 1, 2009, and applies to policies written or renewed after December 31, 2008.

Sec. 5. Minnesota Statutes 2006, section 116J.03, is amended by adding a subdivision to read:

Subd. 4. **Targeted rural opportunity community.** "Targeted rural opportunity community" means a city or township in a county that either lost population from 1980 to 2000 according to the decennial census or had an unemployment rate higher than the Minnesota state annual average in 2006 according to local area unemployment statistics published by the Department of Employment and Economic Development.

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

Sec. 6. **[116J.8746] REGIONAL EMERGING BUSINESS INVESTMENT TAX CREDIT.**

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

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

(i) for a business with five or more employees, pays wages and benefits, measured on a full-time equivalent basis, to 75 percent or more of its employees in excess of the first five employees, equal to 110 percent of the federal poverty level for a family of four;

(ii) 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;

(iii) 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;

(iv) has its headquarters in Minnesota;

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

(vi) has less than 100 employees;

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

(viii) 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;

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

(x) has not previously received more than $1,000,000 in investments that have qualified for and received tax credits under this section; and

(2) "regional investment fund" means a pooled investment fund that:

(i) invests in qualifying small businesses located in the region of the state that is the focus of the fund;

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

(iii) has no fewer than five separate investors, each not owning more than 25 percent of the outstanding ownership interests in the fund. For purposes of determining the number of investors and the ownership interest of an investor under this clause, the ownership interests of an investor include those of the investor's spouse, children, and siblings, and any of the investor's corporations, partnerships, and trusts in which the investor has a controlling equity interest or in which the investor exercises management control.

Subd. 2. **Credit allowed.** A taxpayer is allowed a credit against the tax imposed under chapter 290 for qualifying investment made in the year by a qualifying regional investment fund. The credit equals 25 percent of the taxpayer's investment made in the fund, 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) the amount of the certificate provided to the taxpayer by the fund under subdivision 4.

Subd. 3. **Qualifying regional investment fund requirements.** (a) To be certified as a qualifying regional investment fund for 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; and

(2) allocate at least 60 percent of the funds it invests, or plans to invest, to qualified small businesses within the region.

(b) Investments from other regional investment funds into the qualified small business shall count toward the allocation in paragraph (a), clause (2).

(c) 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 of employment and economic development for certification as a qualified regional investment fund. The application must be in the form and made under the procedures specified by the commissioner.

(b) The commissioner may certify up to 20 funds. Certifications shall be awarded in the order of qualifying applications received. Of the 20 funds, the commissioner may certify no more than three funds that seek business investment opportunities that may qualify for and receive tax credits under this section in more than 15 Minnesota counties, no more than five funds 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, and no more than three funds that seek business investment opportunities that may qualify for and receive tax credits under this subdivision in the same region of the state.

(c) The commissioner may provide certificates entitling investors in a certified fund to credits under this provision of up to $600,000 for each fund upon receipt of a report from the fund showing evidence of compliance with the agreement under subdivision 5, including investment in a qualifying small business. The commissioner may not issue a total amount of certificates for all funds of more than $3,000,000 in fiscal year 2009. If less than $3,000,000 of certificates are issued, the remaining funds may be carried over to the following two fiscal years. Certificates may only be issued for investments made by qualified funds in qualifying small businesses located in the region in which the fund operates.

Subd. 5. **Fund requirements.** The commissioner of employment and economic development shall enter into an agreement with each of the qualifying regional investment funds certified under subdivision 4. Each agreement must include a provision requiring the qualifying regional investment fund to report on the employment figures, wages, and benefits paid by the businesses in which investments are made, or are planned to be made, and a provision stating the specific manner in which the regional investment fund agrees to satisfy the requirement to allocate at least 60 percent of its investments to qualified small businesses within the region. The commissioner shall define "region" for the purposes of this section.

Subd. 6. **Limitations.** The taxpayer must claim the credit in the same tax year for which the fund receives the tax credit certificate under subdivision 4. The credit is allowed only for investments made in qualifying regional investment funds after the fund is certified by the commissioner of employment and economic development under subdivision 4.

Subd. 7. **Statement of credit share.** Each fund must provide to each investor a statement indicating the investor's share of the credit certified to the fund under subdivision 4, based on the investor's pro rata investment in the fund at the time of the investment in the qualified small business.

Subd. 8. **Carryover.** If the amount of the credit under this section for any taxable year exceeds the amount reached under subdivision 2, clause (1), 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. 9. **False applications.** (a) A taxpayer who has received a credit under this act for an investment in a regional investment fund forfeits any unused credit if:

(1) the regional investment fund does not meet the conditions of subdivision 3; or

(2) the small business invested in by the fund does not meet the conditions in subdivision 1.

(b) Any credits taken on a tax return shall be returned to the commissioner of revenue as an underpayment of tax, if:

(1) the regional investment fund does not meet the conditions of subdivision 3; or

(2) the small business invested in by the fund does not meet the conditions in subdivision 1.

EFFECTIVE DATE. This section is effective July 1, 2008, for taxable years beginning after December 31, 2007, and only applies to investments made after the fund has been certified by the commissioner of employment and economic development.

Sec. 7. Minnesota Statutes 2006, section 270A.03, subdivision 7, is amended to read:

Subd. 7. **Refund.** "Refund" means an individual income tax refund ~~or political contribution refund~~, pursuant to chapter 290, or a property tax credit or refund, pursuant to chapter 290A, or a sustainable forest tax payment to a claimant under chapter 290C.

For purposes of this chapter, lottery prizes, as set forth in section 349A.08, subdivision 8, and amounts granted to persons by the legislature on the recommendation of the joint senate-house of representatives Subcommittee on Claims shall be treated as refunds.

In the case of a joint property tax refund payable to spouses under chapter 290A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total income determined under section 290A.03, subdivision 3. In the case of a joint income tax refund under chapter 289A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total taxable income determined under section 290.01, subdivision 29. The commissioner shall remit the entire refund to the claimant agency, which shall, upon the request of the spouse who does not owe the debt, determine the amount of the refund belonging to that spouse and refund the amount to that spouse. For court fines, fees, and surcharges and court-ordered restitution under section 611A.04, subdivision 2, the notice provided by the commissioner of revenue under section 270A.07, subdivision 2, paragraph (b), serves as the appropriate legal notice to the spouse who does not owe the debt.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2008.

Sec. 8. Minnesota Statutes 2006, section 270B.085, is amended by adding a subdivision to read:

Subd. 4. **Data matching program for collection of tax debts.** The commissioner may disclose the name, last known address, and Social Security number of taxpayers who owe delinquent state taxes for the purpose of administering the tax debt data matching program with financial institutions under section 13B.07.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 9. Minnesota Statutes 2006, section 275.70, subdivision 5, is amended to read:

Subd. 5. **Special levies.** "Special levies" means those portions of ad valorem taxes levied by a local governmental unit for the following purposes or in the following manner:

(1) to pay the costs of the principal and interest on bonded indebtedness or to reimburse for the amount of liquor store revenues used to pay the principal and interest due on municipal liquor store bonds in the year preceding the year for which the levy limit is calculated;

(2) to pay the costs of principal and interest on certificates of indebtedness issued for any corporate purpose except for the following:

(i) tax anticipation or aid anticipation certificates of indebtedness;

(ii) certificates of indebtedness issued under sections 298.28 and 298.282;

(iii) certificates of indebtedness used to fund current expenses or to pay the costs of extraordinary expenditures that result from a public emergency; or

(iv) certificates of indebtedness used to fund an insufficiency in tax receipts or an insufficiency in other revenue sources;

(3) to provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(4) to fund payments made to the Minnesota State Armory Building Commission under section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(5) property taxes approved by voters which are levied against the referendum market value as provided under section 275.61;

(6) to fund matching requirements needed to qualify for federal or state grants or programs to the extent that either (i) the matching requirement exceeds the matching requirement in calendar year ~~2001~~ 2008, or (ii) it is a new matching requirement that did not exist prior to ~~2002~~ 2009;

(7) to pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes, in accordance with standards formulated by the Emergency Services Division of the state Department of Public Safety, as allowed by the commissioner of revenue under section 275.74, subdivision 2;

(8) pay amounts required to correct an error in the levy certified to the county auditor by a city or county in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.70 to 275.74 in the preceding levy year;

(9) to pay an abatement under section 469.1815;

(10) to pay any costs attributable to increases in the employer contribution rates under chapter 353 that are effective after June 30, ~~2001~~ 2008;

(11) to pay the operating or maintenance costs of a county jail as authorized in section 641.01 or 641.262, or of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), to the extent that the county can demonstrate to the commissioner of revenue that the amount has been included in the county budget as a direct result of a rule, minimum requirement, minimum standard, or directive of the Department of Corrections, or to pay the operating or maintenance costs of a regional jail as authorized in section 641.262. For purposes of this clause, a district court order is not a rule, minimum requirement, minimum standard, or directive of the Department of Corrections. If the county utilizes this special levy, except to pay operating or maintenance costs of a new regional jail facility under sections 641.262 to 641.264 which will not replace an existing jail facility, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.71, shall be deducted from the levy limit base under section 275.71, subdivision 2, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(12) to pay for operation of a lake improvement district, as authorized under section 103B.555. If the county utilizes this special levy, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.71 shall be deducted from the levy limit base under section 275.71, subdivision 2, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(13) to repay a state or federal loan used to fund the direct or indirect required spending by the local government due to a state or federal transportation project or other state or federal capital project. This authority may only be used if the project is not a local government initiative;

(14) to pay for court administration costs as required under section 273.1398, subdivision 4b, less the ~~(i)~~ county's share of transferred fines and fees collected by the district courts in the county ~~for~~ in the prior calendar year ~~2001 and (ii) the aid amount certified to be paid to the county in 2004 under section 273.1398, subdivision 4c; however, for taxes levied to pay for these costs in the year in which the court financing is transferred to the state, the amount under this clause is limited to the amount of aid the county is certified to receive under section 273.1398, subdivision 4a~~;

(15) to fund a police or firefighters relief association as required under section 69.77 to the extent that the required amount exceeds the amount levied for this purpose in ~~2001~~ the prior year;

(16) for purposes of a storm sewer improvement district under section 444.20; and

(17) to pay for the maintenance and support of a city or county society for the prevention of cruelty to animals under section 343.11. If the city or county uses this special levy, any amount levied by the city or county in the previous levy year for the purposes specified in this clause and included in the city's or county's previous year's levy limit computed under section 275.71, must be deducted from the levy limit base under section 275.71, subdivision 2, in determining the city's or county's current year levy limit.

EFFECTIVE DATE. This section is effective for taxes payable in 2009 and thereafter.

Sec. 10. Minnesota Statutes 2006, section 275.70, is amended by adding a subdivision to read:

Subd. 7. **Levy year.** A reference in sections 275.70 to 275.74 to a "levy year," or a year in which taxes are levied, refers to the year in which property tax levies are certified under section 275.07 for taxes payable in the following year.

EFFECTIVE DATE. This section is effective for taxes payable in 2009 and thereafter.

Sec. 11. Minnesota Statutes 2006, section 275.71, subdivision 1, is amended to read:

Subdivision 1. **Limit on levies.** Notwithstanding any other provision of law or municipal charter to the contrary which authorize ad valorem taxes in excess of the limits established by sections 275.70 to 275.74, the provisions of ~~this section~~ sections 275.70 to 275.74 apply to local governmental units for all purposes other than those for which special levies and special assessments are made.

EFFECTIVE DATE. This section is effective for taxes payable in 2009 and thereafter.

Sec. 12. Minnesota Statutes 2006, section 275.71, subdivision 2, is amended to read:

Subd. 2. **Levy limit base.** The levy limit base for a local governmental unit for taxes levied in ~~2003~~ 2008 and thereafter is equal to ~~its adjusted levy limit base in the previous year,~~ the amount it levied in the prior year subject to any adjustments under section 275.72~~, plus any aid amounts received in 2003 under section 273.138 or 273.166,~~

~~minus the difference between its levy limit under subdivision 5 for taxes levied in 2002 and the amount it actually levied under that subdivision in that year, and certified property tax replacement aid payable in 2003 under section 174.242~~ less the amounts it levied in the prior year as special levies. For taxes levied in 2008 only, the amount of the reduction for special levies may include amounts that could have been levied as special levies.

EFFECTIVE DATE. This section is effective for taxes payable in 2009 and thereafter.

Sec. 13. Minnesota Statutes 2006, section 275.71, subdivision 4, is amended to read:

Subd. 4. **Adjusted levy limit base.** ~~(a)~~ For taxes levied in ~~2003~~ 2008 and thereafter, the adjusted levy limit base for a local government unit is equal to the levy limit base computed under ~~subdivisions~~ subdivision 2 ~~and 3~~ or section 275.72, ~~reduced by 40 percent of the difference between (1) the sum of 2003 certified aid payments, under sections 273.138, 273.1398 except for amounts certified under subdivision 4a, paragraph (b), 273.166, 477A.011 to 477A.03, 477A.06, and 477A.07, before any reduction under Laws 2003, First Special Session chapter 21, articles 5 and 6, and (2) the sum of the aids paid in 2004 under those same sections, after any reductions in 2004 under Laws 2003, First Special Session chapter 21, articles 5 and 6.~~

~~(b) For taxes levied in 2003 only, the adjusted levy limit base is increased by 60 percent of the difference between a jurisdiction's market value credit in 2003 before any reductions under Laws 2003, First Special Session chapter 21, articles 5 and 6, and its market value credit in 2004 after reductions in Laws 2003, First Special Session chapter 21, articles 5 and 6.~~ for that government unit for the same levy year, multiplied by the sum of 100 percent plus:

(1) the percentage increase in the number of households, if any, for the most recent 12-month period for which data is available; and

(2) the lesser of (i) three percent or (ii) the percentage growth in the implicit price deflator.

EFFECTIVE DATE. This section is effective for taxes payable in 2009 and thereafter.

Sec. 14. Minnesota Statutes 2006, section 275.71, subdivision 5, is amended to read:

Subd. 5. **Property tax levy limit.** For taxes levied in ~~2003~~ 2008 and thereafter, the property tax levy limit for a local governmental unit is equal to its adjusted levy limit base determined under subdivision 4 plus any additional levy authorized under section 275.73, which is levied against net tax capacity~~, reduced by the sum of (i) the total amount of aids and reimbursements that the local governmental unit is certified to receive under sections 477A.011 to 477A.014, except for the increases in city aid bases in calendar year 2002 under section 477A.011, subdivision 36, paragraphs (l), (n), and (o), (ii) homestead and agricultural aids it is certified to receive under section 273.1398, (iii) taconite aids under sections 298.28 and 298.282 including any aid which was required to be placed in a special fund for expenditure in the next succeeding year, (iv) temporary court aid under section 273.1398, subdivision 4a, and (v) estimated payments to the local governmental unit under section 272.029, adjusted for any error in estimation in the preceding year~~.

EFFECTIVE DATE. This section is effective for taxes payable in 2009 and thereafter.

Sec. 15. Minnesota Statutes 2006, section 289A.02, subdivision 7, is amended to read:

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~May 18, 2006~~ February 13, 2008.

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

Sec. 16. Minnesota Statutes 2006, section 289A.20, subdivision 4, is amended to read:

Subd. 4. **Sales and use tax.** (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the taxable event occurred, or following another reporting period as the commissioner prescribes or as allowed under section 289A.18, subdivision 4, paragraph (f) or (g), except that use taxes due on an annual use tax return as provided under section 289A.11, subdivision 1, are payable by April 15 following the close of the calendar year.

(b) A vendor having a liability of $120,000 or more during a fiscal year ending June 30 must remit the June liability for the next year in the following manner:

(1) Two business days before June 30 of the year, the vendor must remit ~~78~~ 85 percent of the estimated June liability to the commissioner.

(2) On or before August 20 of the year, the vendor must pay any additional amount of tax not remitted in June.

(c) A vendor having a liability of:

(1) $20,000 or more in the fiscal year ending June 30, 2005; or

(2) $10,000 or more in the fiscal year ending June 30, 2006, and fiscal years thereafter,

must remit all liabilities on returns due for periods beginning in the subsequent calendar year by electronic means on or before the 20th day of the month following the month in which the taxable event occurred, or on or before the 20th day of the month following the month in which the sale is reported under section 289A.18, subdivision 4, except for ~~78~~ 85 percent of the estimated June liability, which is due two business days before June 30. The remaining amount of the June liability is due on August 20.

EFFECTIVE DATE. This section is effective for sales tax payments in June 2009 and thereafter.

Sec. 17. Minnesota Statutes 2006, section 289A.50, subdivision 1, is amended to read:

Subdivision 1. **General right to refund.** (a) Subject to the requirements of this section and section 289A.40, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return, or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds $1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than $1, the commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding, estimated taxes, or dependent care exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment. ~~The refund allowed by section 290.06, subdivision 23, is also considered an overpayment.~~ The requirements of section 270C.33 do not apply to the refunding of such an overpayment shown on the original return filed by a taxpayer.

(e) If the entertainment tax withheld at the source exceeds by $1 or more the taxes, penalties, and interest reported in the return of the entertainment entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than $1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions made after June 30, 2008.

Sec. 18. Minnesota Statutes 2006, section 289A.60, subdivision 15, is amended to read:

Subd. 15. **Accelerated payment of June sales tax liability; penalty for underpayment.** For payments made after December 31, ~~2006~~ 2008, if a vendor is required by law to submit an estimation of June sales tax liabilities and ~~78~~ 85 percent payment by a certain date, the vendor shall pay a penalty equal to ten percent of the amount of actual June liability required to be paid in June less the amount remitted in June. The penalty must not be imposed, however, if the amount remitted in June equals the lesser of ~~78~~ 85 percent of the preceding May's liability or ~~78~~ 85 percent of the average monthly liability for the previous calendar year.

EFFECTIVE DATE. This section is effective for sales tax payments in June 2009 and thereafter.

Sec. 19. Minnesota Statutes 2006, section 290.01, subdivision 6, is amended to read:

Subd. 6. **Taxpayer.** The term "taxpayer" means any person or corporation subject to a tax imposed by this chapter. ~~For purposes of section 290.06, subdivision 23, the term "taxpayer" means an individual eligible to vote in Minnesota under section 201.014.~~

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions made after June 30, 2008.

Sec. 20. Minnesota Statutes 2006, section 290.01, subdivision 6b, is amended to read:

Subd. 6b. **Foreign operating corporation.** The term "foreign operating corporation," when applied to a corporation, means a domestic corporation with the following characteristics:

(1) it is part of a unitary business at least one member of which is taxable in this state;

(2) it is not a foreign sales corporation under section 922 of the Internal Revenue Code, as amended through December 31, 1999, for the taxable year;

(3) either (i) ~~the average of the percentages of its property and payrolls, including the pro rata share of its unitary partnerships' property and payrolls, assigned to locations outside the United States, where the United States includes the District of Columbia and excludes the commonwealth of Puerto Rico and possessions of the United States, as determined under section 290.191 or 290.20, is 80 percent or more; or (ii)~~ it has in effect a valid election under section 936 of the Internal Revenue Code; or (ii) at least 80 percent of the gross income from all sources of the corporation in the tax year is active foreign business income; and

(4) ~~it has $1,000,000 of payroll and $2,000,000 of property, as determined under section 290.191 or 290.20, that are located outside the United States. If the domestic corporation does not have payroll as determined under section 290.191 or 290.20, but it or its partnerships have paid $1,000,000 for work, performed directly for the domestic corporation or the partnerships, outside the United States, then paragraph (3)(i) shall not require payrolls to be included in the average calculation~~ for purposes of this subdivision, active foreign business income means gross income that is (i) derived from sources without the United States, as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code; and (ii) attributable to the active conduct of a trade or business in a foreign country.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 21. Minnesota Statutes 2007 Supplement, section 290.01, subdivision 19, is amended to read:

Subd. 19. **Net income.** The term "net income" means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating the federal effective dates of changes to the Internal Revenue Code and any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

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

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

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

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

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

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

The Internal Revenue Code of 1986, as amended through ~~May 18, 2006~~ February 13, 2008, shall be in effect for taxable years beginning after December 31, 1996~~, and before January 1, 2006, and for taxable years beginning after December 31, 2006. The Internal Revenue Code of 1986, as amended through December 31, 2006, is in effect for taxable years beginning after December 31, 2005, and before January 1, 2007~~.

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

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

Sec. 22. Minnesota Statutes 2006, section 290.01, subdivision 19a, is amended to read:

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

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

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

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

(2) the amount of income or sales and use taxes paid or accrued within the taxable year under this chapter and the amount of taxes based on net income paid or sales and use taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income or sales and use tax is the last itemized deduction disallowed;

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

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

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

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

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

amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed;

(8) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

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

(10) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans~~.~~;

(11) the amount deducted for qualified tuition and related expenses under section 222 of the Internal Revenue Code, to the extent deducted from gross income; and

(12) the amount deducted for certain expenses of elementary and secondary school teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted from gross income.

EFFECTIVE DATE. This section is retroactively effective for taxable years beginning after December 31, 2006.

Sec. 23. Minnesota Statutes 2007 Supplement, 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); or (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 services performed exclusively for purposes of basic combat training, advanced individual training, annual training, and periodic inactive duty training; special training periodically made available to reserve members; and service performed in accordance with section 190.08, subdivision 3~~;

~~(12) 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;~~

~~(13)~~ (12) an amount, not to exceed $10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

~~(14)~~ (13) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 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)~~ (14) to the extent included in federal taxable income, compensation paid to ~~a nonresident who is~~ a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public Law 108-189, section 101(2); ~~and~~

~~(16)~~ (15) international economic development zone income as provided under section 469.325~~.~~; and

(16) to the extent included in federal taxable income, a percentage of compensation received from a pension or other retirement pay from the government for service in the armed forces of the United States. For taxable years beginning after December 31, 2008, and before January 1, 2010, the percentage is 25 percent up to a maximum subtraction of $7,500; for taxable years beginning after December 31, 2009, and before January 1, 2011, the percentage is 50 percent up to a maximum subtraction of $15,000; for taxable years beginning after December 31, 2010, and before January 1, 2012, the percentage is 75 percent up to a maximum subtraction of $22,500; and for taxable years beginning after December 31, 2011, the percentage is 100 percent up to a maximum subtraction of $30,000.

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2008, except the change in clause (11) to the extent it applies to training conducted outside of Minnesota is retroactive to taxable years beginning after December 31, 2004.

Sec. 24. Minnesota Statutes 2006, section 290.01, subdivision 19c, is amended to read:

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

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

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

of its governmental agencies or instrumentalities; the District of Columbia; or Indian tribal governments;

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

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

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

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

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

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

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

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

(11) the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g). The deemed dividend shall be reduced by the amount of the addition to income required by clauses (19), (20), (21), and (22);

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

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

(14) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 103 of Public Law 109-222;

(15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer

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

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

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

(18) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans;

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

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

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

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

(iv) licensing fees; and

(v) other similar expenses and costs.

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

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

(20) except as already included in the taxpayer's taxable income pursuant to clause (19), any interest income and income generated from intangible property received or accrued by a foreign operating corporation that is a member of the taxpayer's unitary group. For purposes of this clause, income generated from intangible property includes:

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

(ii) income from factoring transactions or discounting transactions;

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

(iv) licensing fees; and

(v) other similar income.

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

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

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

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 25. Minnesota Statutes 2006, section 290.01, subdivision 19d, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (11), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction

must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

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

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

(10) ~~80~~ 90 percent of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation, unless the income resulting from such payments or accruals is income from sources within the United States as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code;

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

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

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

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

(15) the amount of any refund of environmental taxes paid under section 59A of the Internal Revenue Code;

(16) 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;

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

(18) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 614 of Public Law 107-147;

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

(20) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of the amount of the addition.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 26. Minnesota Statutes 2007 Supplement, section 290.01, subdivision 31, is amended to read:

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, ~~for taxable years beginning before January 1, 2006, and after December 31, 2006,~~ "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~May 18, 2006; and for taxable years beginning after December 31, 2005, and before January 1, 2007, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2006~~ February 13, 2008.

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

Sec. 27. Minnesota Statutes 2006, 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), ~~and~~ (9), <u>(11), and (12),</u> 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), (11), (13), (14), (15), and (16), 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), ~~and~~ (9), (11), and (12), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9), (10), (11), (13), (14), (15), and (16).

EFFECTIVE DATE. This section is effective retroactively for taxable years beginning after December 31, 2006.

Sec. 28. Minnesota Statutes 2006, section 290.06, is amended by adding a subdivision to read:

Subd. 34. **Regional emerging business investment tax credit.** A taxpayer is allowed a credit as determined under section 116J.8746 against the tax imposed by this chapter.

EFFECTIVE DATE. This section is effective July 1, 2008, for taxable years beginning after December 31, 2007, and only applies to investments made after the fund has been certified by the commissioner of employment and economic development.

Sec. 29. Minnesota Statutes 2006, 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:

(A) for taxable years beginning before January 1, 2006, to the extent that the deduction exceeds 1.0 percent of adjusted gross income;

(B) for taxable years beginning after December 31, 2005, to the full extent of the deduction.

For purposes of this clause, "adjusted gross income" has the meaning given in section 62 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), (8), ~~and~~ (9), (10), (11), and (12);

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 (9) to (16).

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 retroactively effective for taxable years beginning after December 31, 2006.

Sec. 30. Minnesota Statutes 2006, section 290.191, subdivision 5, is amended to read:

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

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

(1) interest;

(2) dividends;

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

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

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

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

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

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

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

(e) Sales made by or through a corporation that is qualified as a domestic international sales corporation under section 992 of the Internal Revenue Code are not considered to have been made within this state.

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

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

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

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

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

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

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

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

(j) Receipts from the performance of services must be attributed to the state where the services are received. For the purposes of this section, receipts from the performance of services provided to a corporation, partnership, or trust may only be attributed to a state where it has a fixed place of doing business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust receiving the service does not have a fixed place of doing business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed.

(k) For the purposes of this subdivision and subdivision 6, paragraph (l), receipts from management, distribution, or administrative services performed by a corporation or trust for a fund of a corporation or trust regulated under United States Code, title 15, sections 80a-1 through 80a-64, must be attributed to the state where the shareholder of the fund resides. Under this paragraph, receipts for services attributed to shareholders are determined on the basis of the ratio of: (1) the average of the outstanding shares in the fund owned by shareholders residing within Minnesota at the beginning and end of each year; and (2) the average of the total number of outstanding shares in the fund at the beginning and end of each year. Residence of the shareholder, in the case of an individual, is determined by the mailing address furnished by the shareholder to the fund. Residence of the shareholder, when the shares are held by an insurance company as a depositor for the insurance company policyholders, is the mailing address of the policyholders. In the case of an insurance company holding the shares as a depositor for the insurance company policyholders, if the mailing address of the policyholders cannot be determined by the taxpayer, the receipts must be excluded from both the numerator and denominator. Residence of other shareholders is the mailing address of the shareholder.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 31. Minnesota Statutes 2006, section 290.191, subdivision 6, is amended to read:

Subd. 6. **Determination of receipts factor for financial institutions.** (a) For purposes of this section, the rules in this subdivision and ~~subdivision~~ subdivisions 5, paragraph (k), and 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the taxpayer's trade or business.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock, bonds, and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property, including both finance leases and true leases, must be attributed to this state if the property is located in this state. Receipts from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the numerator of the receipts factor to the extent that the property is used in this state. The extent of the use of moving property is determined as follows:

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

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

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

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

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by real or tangible personal property that are made to residents of this state, whether at a place of business, by traveling loan officer, by mail, by telephone or other electronic means, must be attributed to this state.

(h) Interest income and other receipts from commercial loans and installment obligations that are unsecured by real or tangible personal property or secured by intangible property must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the office of the borrower from which the application would be made in the regular course of business is located. If this cannot be determined, the transaction is disregarded in the apportionment formula.

(i) Interest income and other receipts from a participating financial institution's portion of participation and syndication loans must be attributed under paragraphs (e) to (h). A participation loan is an arrangement in which a lender makes a loan to a borrower and then sells, assigns, or otherwise transfers all or a part of the loan to a purchasing financial institution. A syndication loan is a loan transaction involving multiple financial institutions in which all the lenders are named as parties to the loan documentation, are known to the borrower, and have privity of contract with the borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the services are received. For the purposes of this section, services provided to a corporation, partnership, or trust must be attributed to a state where it has a fixed place of doing business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust does not have a fixed place of doing business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities and from money market instruments must be apportioned to this state based on the ratio that total deposits from this state, its residents, including any business with an office or other place of business in this state, its political subdivisions, agencies, and instrumentalities bear to the total deposits from all states, their residents, their political subdivisions, agencies, and instrumentalities. In the case of an unregulated financial institution subject to this section, these receipts are apportioned to this state based on the ratio that its gross business income, excluding such receipts, earned from sources within this state bears to gross business income, excluding such receipts, earned from sources within all states. For purposes of this subdivision, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities must be attributed to this state, whether or not the deposits are accepted or maintained by the taxpayer at locations within this state.

(o) A financial institution's interest in property described in section 290.015, subdivision 3, paragraph (b), is included in the receipts factor in the same manner as assets in the nature of securities or money market instruments are included in paragraph (n).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 32. Minnesota Statutes 2006, section 290.92, is amended by adding a subdivision to read:

Subd. 31. **Payments to persons who are not employees.** (a) For purposes of this subdivision, "contractor" means a person carrying on a trade or business described in industry code numbers 23 through 238990 of the North American Industry Classification System.

(b) A contractor who makes payments to an individual, carrying on a trade or business described in paragraph (a) as a sole proprietorship, must deduct and withhold two percent of the payment as Minnesota withholding tax when the amount the contractor paid to that individual during the calendar year exceeds $600.

(c) A payment subject to withholding under this subdivision must be treated as if the payment were a wage paid by an employer to an employee. The requirements in the definitions of "employee" and "employer" in subdivision 1 relating to geographic location apply in determining whether withholding tax applies under this subdivision, but without regard to whether the contractor or the individual otherwise satisfy the definition of an employer or an employee. Each recipient of a payment subject to withholding under this subdivision must furnish the contractor with a statement of the recipient's name, address, and Social Security account number.

EFFECTIVE DATE. This section is effective for payments made after December 31, 2008.

Sec. 33. Minnesota Statutes 2006, section 290A.03, subdivision 11, is amended to read:

Subd. 11. **Rent constituting property taxes.** "Rent constituting property taxes" means ~~19~~ 16 percent of the gross rent actually paid in cash, or its equivalent, or the portion of rent paid in lieu of property taxes, in any calendar year by a claimant for the right of occupancy of the claimant's Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this chapter by the claimant.

EFFECTIVE DATE. This section is effective for refunds based on rent paid in 2008 and thereafter.

Sec. 34. Minnesota Statutes 2006, section 290A.03, subdivision 13, is amended to read:

Subd. 13. **Property taxes payable.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead after deductions made under sections 273.135, 273.1384, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year, and after any refund claimed and allowable under section 290A.04, subdivision 2h, that is first payable in the year that the property tax is payable. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 273.125, subdivision 8, and for homesteads which are park trailers taxed as manufactured homes under section 168.012, subdivision 9, "property taxes payable" shall also include ~~19~~ 16 percent of the gross rent paid in the preceding year for the site on which the homestead is located. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.124, on or before December 15 of the assessment year to which the "property taxes payable" relate; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made on or before December 15 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

<u>**EFFECTIVE DATE.** This section is effective for refunds based on gross rent paid in 2008 and thereafter.</u>

Sec. 35. Minnesota Statutes 2007 Supplement, section 290A.03, subdivision 15, is amended to read:

Subd. 15. **Internal Revenue Code.** ~~For taxable years beginning before January 1, 2006, and after December 31, 2006,~~ "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~May 18, 2006; and for taxable years beginning after December 31, 2005, and before January 1, 2007, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2006~~ <u>February 13, 2008</u>.

<u>**EFFECTIVE DATE.** This section is effective for property tax refunds based on property taxes payable on or after December 31, 2007, and rent paid on or after December 31, 2006.</u>

Sec. 36. Minnesota Statutes 2006, section 291.005, subdivision 1, is amended to read:

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

(1) "Federal gross estate" means the gross estate of a decedent as valued and otherwise determined for federal estate tax purposes by federal taxing authorities pursuant to the provisions of the Internal Revenue Code.

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

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

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

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

(6) "Situs of property" means, with respect to real property, the state or country in which it is located; with respect to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; and with respect to intangible personal property, the state or country in which the decedent was domiciled at death.

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

(8) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended through ~~May 18, 2006~~ February 13, 2008.

(9) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as defined by section 2011(b)(3) of the Internal Revenue Code, increased by the amount of deduction for state death taxes allowed under section 2058 of the Internal Revenue Code.

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

Sec. 37. Minnesota Statutes 2006, section 296A.18, subdivision 4, is amended to read:

Subd. 4. **All-terrain vehicle.** Approximately ~~0.15~~ 0.27 of one percent of all gasoline received in or produced or brought into this state, except gasoline used for aviation purposes, is being used for the operation of all-terrain vehicles in this state, and of the total revenue derived from the imposition of the gasoline fuel tax, ~~0.15~~ 0.27 of one percent is the amount of tax on fuel used in all-terrain vehicles operated in this state.

EFFECTIVE DATE. This section is effective for revenue received after June 30, 2008.

Sec. 38. Minnesota Statutes 2006, section 297A.61, subdivision 4, is amended to read:

Subd. 4. **Retail sale.** (a) A "retail sale" means any sale, lease, or rental for any purpose, other than resale, sublease, or subrent of items by the purchaser in the normal course of business as defined in subdivision 21.

(b) A sale of property used by the owner only by leasing it to others or by holding it in an effort to lease it, and put to no use by the owner other than resale after the lease or effort to lease, is a sale of property for resale.

(c) A sale of master computer software that is purchased and used to make copies for sale or lease is a sale of property for resale.

(d) A sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.

(e) A sale of carpeting, linoleum, or similar floor covering to a person who provides for installation of the floor covering is a retail sale and not a sale for resale since a sale of floor covering which includes installation is a contract for the improvement of real property.

(f) A sale of shrubbery, plants, sod, trees, and similar items to a person who provides for installation of the items is a retail sale and not a sale for resale since a sale of shrubbery, plants, sod, trees, and similar items that includes installation is a contract for the improvement of real property.

(g) A sale of tangible personal property that is awarded as prizes is a retail sale and is not considered a sale of property for resale.

(h) A sale of tangible personal property utilized or employed in the furnishing or providing of services under subdivision 3, paragraph (g), clause (1), including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(i) A sale of tangible personal property used in conducting lawful gambling under chapter 349 or the State Lottery under chapter 349A, including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(j) A sale of machines, equipment, or devices that are used to furnish, provide, or dispense goods or services, including, but not limited to, coin-operated devices, is a retail sale and is not considered a sale of property for resale.

(k) In the case of a lease, a retail sale occurs (1) when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor or (2) in the case of a lease of a motor vehicle, as defined in section 297B.01, subdivision 5, but excluding vehicles with a manufacturer's gross vehicle weight rating greater than 10,000 pounds and rentals of vehicles for not more than 28 days, at the time the lease is executed.

(l) In the case of a conditional sales contract, a retail sale occurs upon the transfer of title or possession of the tangible personal property.

(m) A sale of a bundled transaction in which one or more of the products included in the bundle is a taxable product is a retail sale, except that if one of the products is a telecommunication service, ancillary service, Internet access, or audio or video programming service, and the seller has maintained books and records identifying through reasonable and verifiable standards the portions of the price that are attributable to the distinct and separately identifiable products, then the products are not considered part of a bundled transaction. For purposes of this paragraph:

(1) the books and records maintained by the seller must be maintained in the regular course of business, and do not include books and records created and maintained by the seller primarily for tax purposes;

(2) books and records maintained in the regular course of business include, but are not limited to, financial statements, general ledgers, invoicing and billing systems and reports, and reports for regulatory tariffs and other regulatory matters; and

(3) books and records are maintained primarily for tax purposes when the books and records identify taxable and nontaxable portions of the price, but the seller maintains other books and records that identify different prices attributable to the distinct products included in the same bundled transaction.

EFFECTIVE DATE. This section is effective retroactively for sales and purchases made after December 31, 2007.

Sec. 39. Minnesota Statutes 2006, section 297A.61, is amended by adding a subdivision to read:

Subd. 38. **Bundled transaction.** (a) "Bundled transaction" means the retail sale of two or more products when the products are otherwise distinct and identifiable, and the products are sold for one nonitemized price. As used in this subdivision, "product" includes tangible personal property, services, intangibles, and digital goods, but does not include real property or services to real property. A bundled transaction does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

(b) For purposes of this subdivision, "distinct and identifiable" products does not include:

(1) packaging and other materials, such as containers, boxes, sacks, bags, and bottles, wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale. Examples of packaging that are incidental or immaterial include grocery sacks, shoe boxes, dry cleaning garment bags, and express delivery envelopes and boxes;

(2) a promotional product provided free of charge with the required purchase of another product. A promotional product is provided free of charge if the sales price of another product, which is required to be purchased in order to receive the promotional product, does not vary depending on the inclusion of the promotional product; and

(3) items included in the definition of sales price.

(c) For purposes of this subdivision, the term "one nonitemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(d) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is:

(1) the retail sale of tangible personal property and a service and the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(2) the retail sale of services if one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

(3) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis; or

(4) the retail sale of exempt tangible personal property and taxable tangible personal property if:

(i) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies; and

(ii) the seller's purchase price or sales price of the taxable tangible personal property is 50 percent or less of the total purchase price or sales price of the bundled tangible personal property. Sellers must not use a combination of the purchase price and sales price of the tangible personal property when making the 50 percent determination for a transaction.

(e) For purposes of this subdivision, "purchase price" means the measure subject to use tax on purchases made by the seller, and "de minimis" means that the seller's purchase price or sales price of the taxable products is ten percent or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers must not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis.

EFFECTIVE DATE. This section is effective retroactively for sales and purchases made after December 31, 2007.

Sec. 40. Minnesota Statutes 2006, section 297A.61, is amended by adding a subdivision to read:

Subd. 39. **Fur clothing.** "Fur clothing" means human wearing apparel that is required by the Federal Fur Products Labeling Act, United States Code, title 15, section 69, to be labeled as a fur product, and the value of the fur components in the product is more than three times the value of the next most valuable tangible component. For purposes of this subdivision, "fur" means any animal skin or part of an animal skin with hair, fleece, or fur fibers attached to it, either in its raw or processed state, but does not include animal skins that have been converted into leather or suede, or from which the hair, fleece, or fur fiber has been completely removed in processing the skins.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2008.

Sec. 41. Minnesota Statutes 2007 Supplement, section 297A.62, subdivision 1, is amended to read:

Subdivision 1. **Generally.** Except as otherwise provided in subdivision 3 or in this chapter, a sales tax of ~~6.5~~ 6.375 percent is imposed on the gross receipts from retail sales as defined in section 297A.61, subdivision 4, made in this state or to a destination in this state by a person who is required to have or voluntarily obtains a permit under section 297A.83, subdivision 1.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2008.

Sec. 42. Minnesota Statutes 2006, section 297A.63, subdivision 1, is amended to read:

Subdivision 1. **Use of tangible personal property or taxable services.** (a) For the privilege of using, storing, distributing, or consuming in Minnesota tangible personal property or taxable services purchased for use, storage, distribution, or consumption in this state, a use tax is imposed on a person in Minnesota. The tax is imposed on the purchase price of retail sales of the tangible personal property or taxable services at the rate of tax imposed under section 297A.62. A person that purchases property from a Minnesota retailer and returns the tangible personal property to a point within Minnesota, except in the course of interstate commerce, after it was delivered outside of Minnesota, is subject to the use tax.

(b) No tax is imposed under paragraph (a) if the tax imposed by section 297A.62 was paid on the sales price of the tangible personal property or taxable services.

(c) No tax is imposed under paragraph (a) if the purchase meets the requirements for exemption under section 297A.67, subdivision 21.

(d) When a transaction otherwise meets the definition of a bundled transaction, but is not a bundled transaction under section 297A.61, subdivision 38, paragraph (d), and the seller's purchase price of the taxable product or taxable tangible personal property is equal to or greater than $100, then use tax is imposed on the purchase price of the taxable product or taxable personal property. For purposes of this paragraph, "purchase price" means the measure subject to use tax on purchases made by the seller.

EFFECTIVE DATE. This section is effective retroactively for sales and purchases made after December 31, 2007.

Sec. 43. Minnesota Statutes 2006, section 297A.67, subdivision 8, is amended to read:

Subd. 8. **Clothing.** (a) Clothing is exempt. For purposes of this subdivision, "clothing" means all human wearing apparel suitable for general use.

(b) Clothing includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

(c) Clothing does not include the following:

(1) belt buckles sold separately;

(2) costume masks sold separately;

(3) patches and emblems sold separately;

(4) sewing equipment and supplies, including but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles;

(5) sewing materials that become part of clothing, including but not limited to, buttons, fabric, lace, thread, yarn, and zippers;

(6) clothing accessories or equipment;

(7) sports or recreational equipment; and

(8) protective equipment.

Clothing also does not include ~~apparel made from fur if a uniform definition of "apparel made from fur" is developed by the member states of the Streamlined Sales and Use Tax Agreement~~ "fur clothing" as defined in section 297A.61, subdivision 39.

For purposes of this subdivision, "clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. Clothing accessories and equipment include, but are not limited to, briefcases; cosmetics; hair notions, including barrettes, hair bows, and hairnets; handbags; handkerchiefs; jewelry; nonprescription sunglasses; umbrellas; wallets; watches; and wigs and hairpieces. "Sports or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. Sports and recreational equipment includes, but is not limited to, ballet and tap shoes; cleated or spiked athletic shoes; gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf gloves; goggles; hand and elbow guards; life preservers and vests; mouth guards; roller and ice skates; shin guards; shoulder pads; ski boots; waders; and wetsuits and fins. "Protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. Protective equipment includes, but is not limited to, breathing masks; clean room apparel and equipment; ear and hearing protectors; face shields; finger guards; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welders gloves and masks.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2008.

Sec. 44. Minnesota Statutes 2006, section 297B.02, subdivision 1, is amended to read:

Subdivision 1. **Rate.** There is imposed an excise tax at the rate ~~provided in chapter 297A~~ of 6.5 percent on the purchase price of any motor vehicle purchased or acquired, either in or outside of the state of Minnesota, which is required to be registered under the laws of this state.

The excise tax is also imposed on the purchase price of motor vehicles purchased or acquired on Indian reservations when the tribal council has entered into a sales tax on motor vehicles refund agreement with the state of Minnesota.

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

Sec. 45. Minnesota Statutes 2006, section 297F.09, subdivision 10, is amended to read:

Subd. 10. **Accelerated tax payment; cigarette or tobacco products distributor.** A cigarette or tobacco products distributor having a liability of $120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the distributor shall remit the actual May liability and ~~78~~ 85 percent of the estimated June liability to the commissioner and file the return in the form and manner prescribed by the commissioner.

(b) On or before August 18 of the year, the distributor shall submit a return showing the actual June liability and pay any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June, less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of:

(1) ~~78~~ 85 percent of the actual June liability; or

(2) ~~78~~ 85 percent of the preceding May's liability.

EFFECTIVE DATE. This section is effective for tax payments in June 2009 and thereafter.

Sec. 46. Minnesota Statutes 2006, section 297G.09, subdivision 9, is amended to read:

Subd. 9. **Accelerated tax payment; penalty.** A person liable for tax under this chapter having a liability of $120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the taxpayer shall remit the actual May liability and ~~78~~ 85 percent of the estimated June liability to the commissioner and file the return in the form and manner prescribed by the commissioner.

(b) On or before August 18 of the year, the taxpayer shall submit a return showing the actual June liability and pay any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of:

(1) ~~78~~ 85 percent of the actual June liability; or

(2) ~~78~~ 85 percent of the preceding May liability.

EFFECTIVE DATE. This section is effective for tax payments in June 2009 and thereafter.

Sec. 47. Minnesota Statutes 2006, section 469.312, subdivision 5, is amended to read:

Subd. 5. **Duration limit.** (a) The maximum duration of a zone is 12 years. The applicant may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration.

(b) The duration limit under this subdivision and the duration of the zone for purposes of allowance of tax incentives described in section 469.315 is extended by three calendar years for each parcel of property that meets the following requirements:

(1) the qualified business operates an ethanol plant, as defined in section 41A.09, on the site that includes the parcel; and

(2) the business subsidy agreement was executed after April 30, 2006.

(c) (1) Notwithstanding the 12-year zone limitation, all qualified businesses that sign a business subsidy agreement, as required under sections 469.310, subdivision 11, and 469.313, before December 31, 2015, are entitled to claim the tax benefits for which they qualify under section 469.315 for the year in which the business subsidy agreement is signed and ten additional years.

(2) Notwithstanding the 12-year zone limitation, all qualified businesses that sign a business subsidy agreement, as required under sections 469.310, subdivision 11, and 469.313, before December 31, 2015, and are located in a targeted rural opportunity community, as defined under section 116J.03, subdivision 4, are entitled to claim the tax benefits for which they qualify under section 469.315 for the year in which the business subsidy agreement is signed and 12 additional years.

(3) This paragraph does not apply to:

(i) any acreage designated as a job opportunity building zone for which any person has fully executed a business subsidy agreement before this paragraph became effective; or

(ii) any trade or business that relocated as defined in section 469.310, subdivision 12, and received benefits under section 469.315 prior to the relocation.

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

Sec. 48. **FUR TAX PAYMENTS.**

(a) Furriers must file the annual return, required by Minnesota Statutes, section 295.60, subdivision 5, which otherwise would be due March 15, 2009, by September 15, 2008.

(b) If a furrier is required by Minnesota Statutes, section 295.60, subdivision 3, to make installments of quarterly estimates, then the furrier shall make the last installment by July 15, 2008.

EFFECTIVE DATE. This section is effective July 1, 2008, for sales and purchases made prior to July 1, 2008.

Sec. 49. **TRANSITION AID FOR COUNTIES, CITIES, AND TOWNS.**

Subdivision 1. **Definitions.** (a) When used in this section, the following terms have the meanings indicated in this subdivision.

(b) "Local unit" means a county, a home rule charter or statutory city, or a town; provided that the local unit has not, as of July 1, 2008, entered into an agreement pursuant to section 469.1813, subdivision 1, clause (2), item (vii). To receive transition aid under this section, a local unit must not enter into such an agreement for either taxes payable in 2009 or 2010, and must annually certify to the commissioner of revenue that it has not entered into such an agreement. The certifications must be executed after July 1 in 2008 and 2009 and be received by the commissioner on or before July 13 in 2008 and 2009.

(c) "Net tax capacity" means the total net tax capacity of all taxable properties within the local unit's taxing jurisdiction for taxes payable in 2008. Net tax capacity must be determined by the commissioner of revenue based on information and data available to the commissioner as of July 1, 2008.

(d) "Adjusted net tax capacity" means the local unit's net tax capacity for taxes payable in 2008, excluding the phase-in provisions of Minnesota Rules, part 8100.0800. Adjusted net tax capacity must be determined by the commissioner of revenue based on information and data available to the commissioner as of July 1, 2008.

(e) "Net tax capacity differential" means the positive difference, if any, by which the local unit's net tax capacity exceeds its adjusted net tax capacity.

(f) "Baseline revenue" means the sum of the local unit's: (1) property tax levy amounts certified under section 275.07 for taxes payable in 2008, including levies extended against net tax capacity and levies extended against referendum market value; (2) city aid amounts under section 477A.013 that were certified in 2007 for payment in 2008; and (3) county aid amounts under section 477A.0124 that were certified in 2007 for payment in 2008. Baseline revenue must be determined by the commissioner of revenue based on information and data available to the commissioner as of July 1, 2008.

(g) "Adjusted revenue" means the local unit's baseline revenue computed as if: (1) local tax rates did not change; but, (2) the phase-in provisions of Minnesota Rules, part 8100.0800, were not effective for taxes payable in 2008. Adjusted revenue must be determined by the commissioner of revenue in cooperation with the commissioner of education based on information and data available as of July 1, 2008.

(h) "Revenue differential" means the positive difference, if any, by which the local unit's baseline revenue exceeds its adjusted revenue.

Subd. 2. **Aid eligibility; payment.** (a) If the net tax capacity differential of the local unit exceeds five percent of its net tax capacity, the local unit is eligible for transition aid computed under paragraphs (b) and (c).

(b) Transition aid under this section for an eligible local unit equals the product of: (1) the positive amount, if any, by which the revenue differential of the local unit exceeds five percent of its baseline revenues; and (2) 50 percent for aid payable in 2009, and 100 percent for aid payable in 2010.

(c) The commissioner of revenue shall compute the amount of transition aid payable to each local unit under this section. On or before August 1, 2008, the commissioner shall certify the amount of transition aid computed for payment in 2009 and 2010 for each recipient local unit. The commissioner shall pay transition aid to local units annually at the times provided in section 477A.015.

Subd. 3. **Appropriation.** An amount sufficient to pay transition aid under this section in 2009 and 2010 is appropriated to the commissioner of revenue from the general fund.

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

Sec. 50. **TAX BASE ADJUSTMENTS FOR CALCULATION OF SCHOOL DISTRICT LEVY LIMITATIONS.**

(a) For purposes of calculating the aid and levy share of equalized school revenue under Minnesota Statutes, chapters 122A to 126C for fiscal years 2010 and 2011 only, the commissioner of revenue shall make an adjustment to the adjusted net tax capacity and referendum market value of school districts according to paragraphs (b) and (c).

(b) Adjusted net tax capacity for calendar years 2007 and 2008 as defined by section 126C.01, subdivision 2, shall be computed by the commissioner of revenue as if the phase-in provisions of Minnesota Rules, part 8100.0800, were effective one year earlier.

(c) Referendum market value for calendar years 2007 and 2008 as defined by section 126C.01, subdivision 3, shall be computed by the commissioner of revenue as if the phase-in provisions of Minnesota Rules, part 8100.0800, were effective one year earlier.

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

Sec. 51. **TAX BASE ADJUSTMENTS FOR CALCULATION OF COUNTY AND CITY AIDS.**

For purposes of calculating aid for cities under section 477A.013, and for counties under section 477A.0124, for payment in 2009 and 2010 only, the commissioner of revenue shall adjust the adjusted net tax capacity of cities and counties as required in this paragraph. Adjusted net tax capacity and city net tax capacity for calendar years 2007 and 2008 as defined in sections 477A.011 and 477A.0124 shall be computed by the commissioner of revenue as if the phase-in provisions of Minnesota Rules, part 8100.0800, were effective one year earlier.

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

Sec. 52. **PURPOSE AND EFFECT.**

It is the intent of the legislature that the provisions of sections 20, 24, and 25 must not be construed as supplanting any existing Minnesota law.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 53. **REPEALER.**

Minnesota Statutes 2006, sections 10A.322, subdivision 4; 290.06, subdivision 23; and 295.60, are repealed.

EFFECTIVE DATE. The repeal of Minnesota Statutes 2006, section 10A.322, subdivision 4, is effective June 30, 2008. The repeal of Minnesota Statutes 2006, section

290.06, subdivision 23, is effective for refund claims based on contributions made after June 30, 2008. The repeal of Minnesota Statutes, section 295.60, is effective for sales and purchases made after June 30, 2008.

10A.322 SPENDING LIMIT AGREEMENTS.

Subd. 4. **Refund receipt forms; penalty.** The board must make available to a political party on request and to any candidate for whom an agreement under this section is effective, a supply of official refund receipt forms that state in boldface type that (1) a contributor who is given a receipt form is eligible to claim a refund as provided in section 290.06, subdivision 23, and (2) if the contribution is to a candidate, that the candidate has signed an agreement to limit campaign expenditures as provided in this section. The forms must provide duplicate copies of the receipt to be attached to the contributor's claim. A candidate who does not sign an agreement under this section and who willfully issues an official refund receipt form or a facsimile of one to any of the candidate's contributors is guilty of a misdemeanor.

290.06 RATES OF TAX; CREDITS.

Subd. 23. **Refund of contributions to political parties and candidates.** (a) A taxpayer may claim a refund equal to the amount of the taxpayer's contributions made in the calendar year to candidates and to a political party. The maximum refund for an individual must not exceed $50 and for a married couple, filing jointly, must not exceed $100. A refund of a contribution is allowed only if the taxpayer files a form required by the commissioner and attaches to the form a copy of an official refund receipt form issued by the candidate or party and signed by the candidate, the treasurer of the candidate's principal campaign committee, or the chair or treasurer of the party unit, after the contribution was received. The receipt forms must be numbered, and the data on the receipt that are not public must be made available to the campaign finance and public disclosure board upon its request. A claim must be filed with the commissioner no sooner than January 1 of the calendar year in which the contribution was made and no later than April 15 of the calendar year following the calendar year in which the contribution was made. A taxpayer may file only one claim per calendar year. Amounts paid by the commissioner after June 15 of the calendar year following the calendar year in which the contribution was made must include interest at the rate specified in section 270C.405.

(b) No refund is allowed under this subdivision for a contribution to a candidate unless the candidate:

(1) has signed an agreement to limit campaign expenditures as provided in section 10A.322;

(2) is seeking an office for which voluntary spending limits are specified in section 10A.25; and

(3) has designated a principal campaign committee.

This subdivision does not limit the campaign expenditures of a candidate who does not sign an agreement but accepts a contribution for which the contributor improperly claims a refund.

(c) For purposes of this subdivision, "political party" means a major political party as defined in section 200.02, subdivision 7, or a minor political party qualifying for inclusion on the income tax or property tax refund form under section 10A.31, subdivision 3a.

A "major party" or "minor party" includes the aggregate of that party's organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts.

"Candidate" means a candidate as defined in section 10A.01, subdivision 10, except a candidate for judicial office.

"Contribution" means a gift of money.

(d) The commissioner shall make copies of the form available to the public and candidates upon request.

(e) The following data collected or maintained by the commissioner under this subdivision are private: the identities of individuals claiming a refund, the identities of candidates to whom those individuals have made contributions, and the amount of each contribution.

(f) The commissioner shall report to the campaign finance and public disclosure board by each August 1 a summary showing the total number and aggregate amount of political contribution refunds made on behalf of each candidate and each political party. These data are public.

(g) The amount necessary to pay claims for the refund provided in this section is appropriated from the general fund to the commissioner of revenue.

(h) For a taxpayer who files a claim for refund via the Internet or other electronic means, the commissioner may accept the number on the official receipt as documentation that a contribution was made rather than the actual receipt as required by paragraph (a).

295.60 SPECIAL FUR CLOTHING TAX.

Subdivision 1. **Imposition.** If clothing made of fur is not subject to the sales tax under chapter 297A, a tax is imposed on each furrier equal to 6.5 percent of gross revenues from retail sales in Minnesota of clothing made from fur.

Subd. 1a. **Use tax; credit for taxes paid.** (a) A person that receives fur clothing for use or storage in Minnesota, other than from a furrier that paid the tax under subdivision 1, is subject to tax at the rate imposed under subdivision 1. Liability for the tax is incurred when the person has possession of the fur clothing in Minnesota. The tax must be remitted to the commissioner in the manner prescribed by subdivision 3.

(b) A person that has paid taxes to another jurisdiction on the same transaction and is subject to tax under this section is entitled to a credit for the tax legally due and paid to another jurisdiction to the extent of the lesser of (1) the tax actually paid to the other jurisdiction, or (2) the amount of tax imposed by Minnesota on the transaction subject to tax in the other jurisdiction.

Subd. 1b. **Tax collection required.** A furrier with nexus in Minnesota, who is not subject to tax under subdivision 1, is required to collect the tax imposed under subdivision 1a from the purchaser of the clothing made from fur and give the purchaser a receipt for the tax paid. The tax collected must be remitted to the commissioner in the manner prescribed by subdivision 3.

Subd. 1c. **Taxes paid to another jurisdiction; credit.** A furrier that has paid taxes to another jurisdiction measured by gross revenue and is subject to tax under this section on the same gross revenues is entitled to a credit for the tax legally due and paid to another jurisdiction to the extent of the lesser of (1) the tax actually paid to the other jurisdiction, or (2) the amount of tax imposed by Minnesota on the gross revenues subject to tax in the other taxing jurisdictions.

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

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

(c) "Furrier" means a retailer that sells clothing made of fur.

(d) "Clothing made of fur" means articles of clothing made of fur on the hide or pelt, and articles of clothing of which such fur is the component material of chief value, but only if such value is more than three times the value of the next most valuable material.

(e) "Retail sale" has the meaning given in section 297A.61, subdivision 4.

(f) "Delivered outside of Minnesota" means fur clothing which the furrier delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not returned to a point within Minnesota, except in the course of interstate commerce.

Subd. 2a. **Exemptions.** Payments received by a furrier for clothing made of fur delivered outside of Minnesota are exempt from gross revenues subject to the fur clothing tax.

Subd. 3. **Payment.** (a) Each furrier shall make estimated payments of the taxes for the calendar year in quarterly installments to the commissioner by April 15, July 15, October 15, and January 15 of the following calendar year.

(b) Estimated tax payments are not required if:

(1) the tax for the current calendar year is less than $500; or

(2) the tax for the previous calendar year is less than $500, if the taxpayer had a tax liability and was doing business the entire year.

(c) Underpayment of estimated installments bear interest at the rate specified in section 270C.40, from the due date of the payment until paid or until the due date of the annual return, whichever comes first. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) the tax for the actual gross revenues received during the quarter, or (2) one-quarter of the total tax for the previous calendar year if the taxpayer had a tax liability and was doing business the entire year.

Subd. 4. **Electronic funds transfer payments.** A taxpayer with an aggregate tax liability of $120,000 or more during a fiscal year ending June 30 must remit all liabilities by electronic means.

Subd. 5. **Annual return.** The taxpayer must file an annual return reconciling the estimated payments by March 15 of the following calendar year.

Subd. 6. **Form of returns.** The estimated payments and annual return must contain the information and be in the form prescribed by the commissioner.

Subd. 7. **Application of other chapters.** Unless specifically provided otherwise by this section, the interest, criminal penalties, and refunds provisions in chapter 289A, the civil penalty provisions applicable to withholding and sales taxes under section 289A.60, and the audit, assessment, appeal, collection, enforcement, and administrative provisions of chapters 270C and 289A, apply to taxes imposed under this section.

Subd. 8. **Interest on overpayments.** Interest must be paid on an overpayment refunded or credited to the taxpayer from the date of payment of the tax until the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the due date of the return or the date of actual payment of the tax, whichever is later.

Subd. 9. **Deposit of revenues.** The commissioner shall deposit all revenues, including penalties and interest, derived from the tax imposed by this section in the general fund.