A bill for an act

relating to taxation; modifying the treatment of foreign income and operations under the corporation franchise tax; authorizing grants; eliminating foreign operating corporations; defining tax havens; taxing certain development subsidies; reducing the corporate franchise tax rate; repealing the job opportunity building zone, the international economic development zone, and biotechnology and health sciences industry zone programs; repealing the airline industry job credit, the research credit, and the bovine testing credit; repealing the corporate alternative minimum tax; eliminating property tax exemptions for certain airport property; appropriating money; amending Minnesota Statutes 2006, sections 275.025, subdivisions 1, 2; 290.01, subdivisions 5, 19c, as amended, 19d, as amended, 29, by adding subdivisions; 290.06, subdivisions 1, 2c, as amended; 290.067, subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2; 290.0922, subdivision 3; 290.17, subdivision 4; 297B.03; Minnesota Statutes 2007 Supplement, section 290.01, subdivision 19b, as amended; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 2006, sections 272.02, subdivision 83; 290.01, subdivision 6b; 290.06, subdivisions 29, 30, 31, 32, 33; 290.068; 290.0921; 290.191, subdivision 4; 297A.68, subdivisions 37, 38, 41; 469.311; 469.312; 469.313; 469.314; 469.315; 469.316; 469.317; 469.318; 469.3201; 469.321, subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10; 469.3215; 469.322; 469.323; 469.324; 469.325; 469.326; 469.327; 469.328; 469.329; 469.330; 469.331; 469.332; 469.333, subdivision 1; 469.337; 469.338; 469.339; Minnesota Statutes 2007 Supplement, sections 272.02, subdivision 64; 469.321, subdivision 1; 469.333, subdivision 2; 469.334; 469.335; 469.336; Laws 2005, First Special Session chapter 3, article 10, section 23, as amended.

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

Section 1. **[116J.576] JOB OPPORTUNITY BUILDING ZONES PHASEOUT; GRANT AUTHORITY.**

Subdivision 1. **Voiding of business subsidy agreements.** (a) Effective 30 days after enactment of this act, a party to a business subsidy agreement, which it entered to become a qualified business under section 469.310, subdivision 11, may elect to void the agreement, beginning for obligations under the agreement that apply to periods after July

1, 2008, or after the effective date of its election, whichever is later. The tax incentives provided under the job opportunity building zone program remain available as otherwise provided by the effective dates of this act.

(b) A business that has accepted a grant under subdivision 3 may not void its business subsidy agreement.

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

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

(c) "Tax incentives" means the tax incentives under the job opportunity building zone program, as listed in section 469.315.

(d) "Zone" means a job opportunity building zone, designated under section 469.314.

(e) "Zone payroll" has the meaning given in section 469.310, subdivision 8.

Subd. 3. **Grants.** (a) The commissioner may make grants, upon application by qualified businesses under the job opportunity building zone program, to mitigate or to partially compensate for the effects of the repeal of the tax incentives of the job opportunity building zone program. In determining whether to award a grant and in setting the amount of the grant, the commissioner may take into account the following factors:

(1) the present value of the applicant business's tax incentives that were eliminated as a result of this act;

(2) the evidence that the business would not have invested in, expanded, or located its zone business facilities in Minnesota if the tax incentives had not been provided;

(3) reliable estimates or projections of reduced profits of the applicant business, whether from higher taxes following the repeal of tax incentives, other higher costs, or lower revenues, resulting from locating in the zone, as compared with a location outside of Minnesota at which the business considered locating the facility qualifying for the tax incentives;

(4) the number of additional full-time equivalent employees that the business created as a result of locating or expanding in the zone;

(5) the performance by the business under its business subsidy agreement;

(6) the likelihood that the business will cease operations in the zone unless it receives a grant;

(7) the hardship imposed on the business as a result of repeal of the tax incentives; and

(8) whether a grant is necessary to retain the business in an area with substantial economic distress, measured by high unemployment, low income, declining tax base, or similar factors.

(b) The commissioner shall not pay a grant to a business that meets one or more of the following conditions:

(1) the business has voided its obligations under the business subsidy agreement under subdivision 1;

(2) the commissioner has reason to believe the business would have invested, expanded, or located in the zone or at another location in Minnesota, excluding the metropolitan area, as defined in section 473.121, whether or not the tax incentives provided under the job opportunity building zone program were available; or

(3) the business is in substantial violation of its business subsidy agreement.

(c) The commissioner shall not make a grant to a business in excess of the smallest of the following amounts:

(1) the present value of the applicant business's tax incentives that were eliminated as a result of this act;

(2) the present value of the 20 percent of the summation of the business's estimated zone payroll factors for calendar years 2009 through 2015; or

(3) $25,000 for each additional full-time equivalent employee of the business who was hired as a result of the business's location or expansion in the zone.

Subd. 4. **Applications; timing of payments.** (a) The commissioner shall specify the form, procedures, required information, and timing for applications by businesses for the grants under subdivision 3. These actions are not a rule under and are exempt from the requirements of chapter 14, the Administrative Procedures Act.

(b) The commissioner shall pay the grants in two equal installments on August 1, 2009 and August 1, 2010.

(c) The commissioner's determinations of the eligibility for and the amount of the grant are final and are not subject to judicial review. The grants are intended to mitigate the effects of or to partially compensate businesses for the state's exercise of its constitutional power to repeal the tax incentives, but are not a legal entitlement of a business.

Subd. 5. **Appropriation.** (a) $10,000,000 is appropriated from the general fund for fiscal year 2010 to the commissioner to make grants under this section.

(b) If the commissioner determines the appropriation under paragraph (a) is insufficient to fully fund the grants under this section, the commissioner may certify to the commissioner of revenue the additional amount needed by September 15, 2009. The commissioner of revenue shall add the amount certified to the levy under section 275.025

to be spread on commercial-industrial tax capacity for taxes payable in 2010. The amount of revenues attributable to the levy is appropriated to the commissioner to make grants under this section.

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

Sec. 2. Minnesota Statutes 2006, section 275.025, subdivision 1, is amended to read:

Subdivision 1. **Levy amount.** The state general levy is levied against commercial-industrial property and seasonal residential recreational property, as defined in this section. The state general levy base amount is $592,000,000 for taxes payable in 2002. For taxes payable in subsequent years, the levy base amount is increased each year by multiplying the levy base amount for the prior year by the sum of one plus the rate of increase, if any, in the implicit price deflator for government consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysts of the United States Department of Commerce for the 12-month period ending March 31 of the year prior to the year the taxes are payable. The tax under this section is not treated as a local tax rate under section 469.177 and is not the levy of a governmental unit under chapters 276A and 473F.

In setting the rate, the commissioner shall exclude the tax capacity of property described in section 473.625 from the tax base. The commissioner shall increase or decrease the preliminary or final rate for a year as necessary to account for errors and tax base changes that affected a preliminary or final rate for either of the two preceding years. Adjustments are allowed to the extent that the necessary information is available to the commissioner at the time the rates for a year must be certified, and for the following reasons:

(1) an erroneous report of taxable value by a local official;

(2) an erroneous calculation by the commissioner; and

(3) an increase or decrease in taxable value for commercial-industrial or seasonal residential recreational property reported on the abstracts of tax lists submitted under section 275.29 that was not reported on the abstracts of assessment submitted under section 270C.89 for the same year.

The commissioner may, but need not, make adjustments if the total difference in the tax levied for the year would be less than $100,000.

EFFECTIVE DATE. This section is effective beginning for property taxes payable in 2009.

Sec. 3. Minnesota Statutes 2006, section 275.025, subdivision 2, is amended to read:

Subd. 2. **Commercial-industrial tax capacity.** For the purposes of this section, "commercial-industrial tax capacity" means the tax capacity of all taxable property classified as class 3 or class 5(1) under section 273.13, except for electric generation attached machinery under class 3 ~~and property described in section 473.625~~. County commercial-industrial tax capacity amounts are not adjusted for the captured net tax capacity of a tax increment financing district under section 469.177, subdivision 2, the net tax capacity of transmission lines deducted from a local government's total net tax capacity under section 273.425, or fiscal disparities contribution and distribution net tax capacities under chapter 276A or 473F.

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

Sec. 4. Minnesota Statutes 2006, section 290.01, subdivision 5, is amended to read:

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

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

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

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

(4) which is incorporated in a tax haven;

(5) which is engaged in activity in a tax haven sufficient for the tax haven to impose a net income tax under United States constitutional standards and section 290.015; or

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

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

Sec. 5. Minnesota Statutes 2006, section 290.01, is amended by adding a subdivision to read:

Subd. 5c. **Tax haven.** (a) "Tax haven" means a foreign jurisdiction designated under this subdivision.

(b) The commissioner may designate a foreign jurisdiction as a tax haven by revenue notice if the jurisdiction has:

(1) no or a nominal effective tax on income of a corporation; and

(2) corporate, business, bank, or tax secrecy rules or practices that, in the judgment of the commissioner, unreasonably restrict the ability of the United States, and thereby the state of Minnesota, to obtain information relevant to the enforcement of taxes on corporations based on net income. These rules or practices may be either formal laws, regulations, or rules or be informal government and business practices that have the effect of inhibiting access by law enforcement and tax administration authorities.

(c) The following foreign jurisdictions are deemed to be tax havens, unless the commissioner, by revenue notice, revokes the listing of a jurisdiction:

(1) Anguilla;

(2) Antigua and Barbuda;

(3) Aruba;

(4) Bahamas;

(5) Barbados;

(6) Belize;

(7) Bermuda;

(8) British Virgin Islands;

(9) Cayman Islands;

(10) Cook Islands;

(11) Dominica;

(12) Gibraltar;

(13) Grenada;

(14) Guernsey-Sark-Alderney;

(15) Isle of Man;

(16) Jersey;

(17) Latvia;

(18) Liechtenstein;

(19) Luxembourg;

(20) Nauru;

(21) Netherlands Antilles;

(22) Panama;

(23) Samoa;

(24) Saint Kitts and Nevis;

(25) Saint Lucia;

(26) Saint Vincent and Grenadines;

(27) Turks and Caicos; and

(28) Vanuatu.

(d) The commissioner shall revoke a foreign jurisdiction's listing under paragraph (b) or (c), as applicable, if the United States enters into a tax treaty or other agreement with the foreign jurisdiction that provides for prompt, obligatory, and automatic exchange of information with the United States government relevant to enforcing the provisions of federal tax laws and the treaty or other agreement was in effect for the taxable year.

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

Sec. 6. Minnesota Statutes 2007 Supplement, section 290.01, subdivision 19b, as amended by Laws 2008, chapter 154, article 3, section 3, 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)~~ (8) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause ~~(15)~~ (13), 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)~~ (13), 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)~~ (9) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes 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)~~ (10) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

~~(13)~~ (11) 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)~~ (12) 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)~~ (14), 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)~~ (14), 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; and

~~(15)~~ (13) 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) international economic development zone income as provided under section 469.325~~.

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

Sec. 7. Minnesota Statutes 2006, section 290.01, subdivision 19c, as amended by Laws 2008, chapter 154, article 4, section 4, 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);~~

~~(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)~~ (12) 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)~~ (13) 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)~~ (14) 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)~~ (15) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code;

~~(18)~~ (16) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans; and

~~(19)~~ (17) for taxable years beginning after December 31, 2006, and before January 1, 2008, the additional amount allowed as a deduction for donation of computer technology

and equipment under section 170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008, except the repeal of clauses (11) and (14) is effective for taxable years beginning after December 31, 2007.

Sec. 8. Minnesota Statutes 2006, section 290.01, subdivision 19d, as amended by Laws 2008, chapter 154, article 11, section 12, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(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)~~ (11) 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)~~ (12) 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)~~ (13) 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) 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;~~

~~(16)~~ (14) 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;

~~(17) 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 103 of Public Law 109-222;~~

~~(16)~~ (15) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause ~~(15)~~ (13), 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)~~ (13). The resulting delayed depreciation cannot be less than zero; and

~~(17)~~ (16) 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, 2008, provided that for taxable years beginning after December 31, 2007, and before January 1, 2008, the subtraction under clause (10) is not allowed to foreign operating corporations and is limited to income paid to the corporation by a foreign corporation that is part of the unitary business for the use of or privilege of using outside of the United States patents, copyrights, secret processes and formulas, good will,

know-how, trademarks, trade brands, franchises, and other like property and is further limited to the extent those items are included in the corporation's federal taxable income for the taxable year.

Sec. 9. Minnesota Statutes 2006, section 290.01, subdivision 29, is amended to read:

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

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

(2) for corporations, the taxable net income less

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

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

(iii) ~~the exemption for operating in a job opportunity building zone under section 469.317;~~ Minnesota development subsidies.

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

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 10. Minnesota Statutes 2006, section 290.01, is amended by adding a subdivision to read:

Subd. 33. **Minnesota development subsidies.** "Minnesota development subsidies" means the amount deducted by the taxpayer in computing federal taxable income for the taxable year, as property taxes, business expenses or otherwise, that is attributable to property taxes paid by the taxpayer, either directly or indirectly through a lease or otherwise, on property located in a tax increment financing district, as defined in section 469.174, or that receives an abatement under sections 469.1813 to 469.1815, if the owner of the property or a related party entered into a development agreement with the authority or political subdivision or derived a benefit from the abatement. A benefit of an abatement includes direct payments and access or use of public improvements financed with the abatement.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 11. Minnesota Statutes 2006, section 290.06, subdivision 1, is amended to read:

Subdivision 1. **Computation, corporations.** The franchise tax imposed upon corporations shall be computed by applying to their taxable income the rate of ~~9.8~~ 8.8 percent.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 12. Minnesota Statutes 2006, section 290.06, subdivision 2c, as amended by Laws 2008, chapter 154, article 4, section 6, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (11), and (12) and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), and the subtractions under section 290.01, subdivision 19b, clauses (9), ~~(10), (14), (15)~~ (12), and ~~(16)~~ (13), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (11), and (12) and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9), ~~(10), (14), (15)~~ (12), and ~~(16)~~ (13).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 13. Minnesota Statutes 2006, section 290.067, subdivision 1, is amended to read:

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

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

age of six years at the close of the taxable year, the amount of expenses deemed to have been paid equals the amount the licensee would charge for the care of a child of the same age for the same number of hours of care.

(c) If a married couple:

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 14. Minnesota Statutes 2006, section 290.0671, subdivision 1, is amended to read:

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

(b) For individuals with no qualifying children, the credit equals 1.9125 percent of the first $4,620 of earned income. The credit is reduced by 1.9125 percent of earned income or adjusted gross income, whichever is greater, in excess of $5,770, but in no case is the credit less than zero.

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

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

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

(f) For a person who was a resident for the entire tax year and has earned income not subject to tax under this chapter~~, including income excluded under section 290.01, subdivision 19b, clause (10) or (16)~~, the credit must be allocated based on the ratio of federal adjusted gross income reduced by the earned income not subject to tax under this chapter over federal adjusted gross income. For purposes of this paragraph, the subtractions for military pay under section 290.01, subdivision 19b, clauses (11) and (12), are not considered "earned income not subject to tax under this chapter."

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

(g) For tax years beginning after December 31, 2001, and before December 31, 2004, the $5,770 in paragraph (b), the $15,080 in paragraph (c), and the $17,890 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by $1,000 for married taxpayers filing joint returns.

(h) For tax years beginning after December 31, 2004, and before December 31, 2007, the $5,770 in paragraph (b), the $15,080 in paragraph (c), and the $17,890 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by $2,000 for married taxpayers filing joint returns.

(i) For tax years beginning after December 31, 2007, and before December 31, 2010, the $5,770 in paragraph (b), the $15,080 in paragraph (c), and the $17,890 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by $3,000 for married taxpayers filing joint returns. For tax years beginning after December 31, 2008, the $3,000 is adjusted annually for inflation under subdivision 7.

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 15. 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);

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)~~ (13).

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

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

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

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

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 16. Minnesota Statutes 2006, section 290.0922, subdivision 3, is amended to read:

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

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

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 17. Minnesota Statutes 2006, section 290.17, subdivision 4, is amended to read:

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

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

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

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

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

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

chapter shall file on a separate return basis. ~~The net income and apportionment factors under section 290.191 or 290.20 of foreign operating corporations shall not be included in the net income or the apportionment factors of the unitary business except as provided in paragraph (g).~~

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

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

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

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

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

~~(h)~~ For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there must be included only the income and apportionment factors of domestic corporations or other domestic entities ~~other than foreign operating corporations~~ that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that foreign corporations or other foreign entities might be included in the unitary business.

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

~~(j)~~ (i) Each corporation or other entity, except a sole proprietorship, that is part of a unitary business must file combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph

(h) must be eliminated and the entire net income of the unitary business determined in accordance with this subdivision is apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all entities included pursuant to paragraph (h) in the denominators of the apportionment formula.

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

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

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

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

Sec. 18. Minnesota Statutes 2006, section 297B.03, is amended to read:

297B.03 EXEMPTIONS.

There is specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

(1) purchase or use, including use under a lease purchase agreement or installment sales contract made pursuant to section 465.71, of any motor vehicle by the United States and its agencies and instrumentalities and by any person described in and subject to the conditions provided in section 297A.67, subdivision 11;

(2) purchase or use of any motor vehicle by any person who was a resident of another state or country at the time of the purchase and who subsequently becomes a resident of Minnesota, provided the purchase occurred more than 60 days prior to the date such person began residing in the state of Minnesota and the motor vehicle was registered in the person's name in the other state or country;

(3) purchase or use of any motor vehicle by any person making a valid election to be taxed under the provisions of section 297A.90;

(4) purchase or use of any motor vehicle previously registered in the state of Minnesota when such transfer constitutes a transfer within the meaning of section 118, 331, 332, 336, 337, 338, 351, 355, 368, 721, 731, 1031, 1033, or 1563(a) of the Internal Revenue Code of 1986, as amended through December 31, 1999;

(5) purchase or use of any vehicle owned by a resident of another state and leased to a Minnesota-based private or for-hire carrier for regular use in the transportation of persons or property in interstate commerce provided the vehicle is titled in the state of the owner or secured party, and that state does not impose a sales tax or sales tax on motor vehicles used in interstate commerce;

(6) purchase or use of a motor vehicle by a private nonprofit or public educational institution for use as an instructional aid in automotive training programs operated by the institution. "Automotive training programs" includes motor vehicle body and mechanical repair courses but does not include driver education programs;

(7) purchase of a motor vehicle for use as an ambulance by an ambulance service licensed under section 144E.10;

(8) purchase of a motor vehicle by or for a public library, as defined in section 134.001, subdivision 2, as a bookmobile or library delivery vehicle;

(9) purchase of a ready-mixed concrete truck;

(10) purchase or use of a motor vehicle by a town for use exclusively for road maintenance, including snowplows and dump trucks, but not including automobiles, vans, or pickup trucks;

(11) purchase or use of a motor vehicle by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, except a public school, university, or library, but only if the vehicle is:

(i) a truck, as defined in section 168.011, a bus, as defined in section 168.011, or a passenger automobile, as defined in section 168.011, if the automobile is designed and used for carrying more than nine persons including the driver; and

(ii) intended to be used primarily to transport tangible personal property or individuals, other than employees, to whom the organization provides service in performing its charitable, religious, or educational purpose; and

(12) purchase of a motor vehicle for use by a transit provider exclusively to provide transit service is exempt if the transit provider is either (i) receiving financial assistance or reimbursement under section 174.24 or 473.384, or (ii) operating under section 174.29, 473.388, or 473.405~~;~~.

~~(13) purchase or use of a motor vehicle by a qualified business, as defined in section 469.310, located in a job opportunity building zone, if the motor vehicle is principally garaged in the job opportunity building zone and is primarily used as part of or in direct support of the person's operations carried on in the job opportunity building zone. The exemption under this clause applies to sales, if the purchase was made and delivery~~

~~received during the duration of the job opportunity building zone. The exemption under this clause also applies to any local sales and use tax.~~

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

Sec. 19. **REPEALER.**

(a) Minnesota Statutes 2006, sections 272.02, subdivision 83; 290.01, subdivision 6b; 290.06, subdivisions 29, 30, 31, 32, and 33; 290.068; 290.0921; 290.191, subdivision 4; 297A.68, subdivisions 37, 38, and 41; 469.311; 469.312; 469.313; 469.314; 469.315; 469.316; 469.317; 469.318; 469.3201; 469.321, subdivisions 2, 3, 4, 5, 6, 7, 8, 9, and 10; 469.3215; 469.322; 469.323; 469.324; 469.325; 469.326; 469.327; 469.328; 469.329; 469.330; 469.331; 469.332; 469.333, subdivision 1; 469.337; 469.338; and 469.339, are repealed.

(b) Minnesota Statutes 2007 Supplement, sections 272.02, subdivision 64; 469.321, subdivision 1; 469.333, subdivision 2; 469.334; 469.335; and 469.336, are repealed.

(c) Laws 2005, First Special Session chapter 3, article 10, section 23, as amended by Laws 2006, chapter 259, article 13, section 16, as amended by Laws 2008, chapter 154, article 9, section 20, is repealed.

EFFECTIVE DATE. The provisions of this section relating to income and corporate franchise tax are effective for taxable years beginning after December 31, 2008, except the repeal of Minnesota Statutes, section 290.01, subdivision 6b, is effective for taxable years beginning after December 31, 2007, and except that the repeal of Minnesota Statutes, section 290.0921, subdivision 8, is effective for taxable years beginning after December 31, 2010; the provisions relating to sales taxation are effective for sales and purchases made after September 30, 2008, but do not apply to binding written contracts entered into before that date if the sale or purchase is completed by March 31, 2009; and the provisions affecting property taxes are effective beginning for taxes payable in 2010.

272.02 EXEMPT PROPERTY.

Subd. 64. **Job opportunity building zone property.** (a) Improvements to real property, and personal property, classified under section 273.13, subdivision 24, and located within a job opportunity building zone, designated under section 469.314, are exempt from ad valorem taxes levied under chapter 275.

(b) Improvements to real property, and tangible personal property, of an agricultural production facility located within an agricultural processing facility zone, designated under section 469.314, is exempt from ad valorem taxes levied under chapter 275.

(c) For property to qualify for exemption under paragraph (a), the occupant must be a qualified business, as defined in section 469.310.

(d) The exemption applies beginning for the first assessment year after designation of the job opportunity building zone by the commissioner of employment and economic development. The exemption applies to each assessment year that begins during the duration of the job opportunity building zone. To be exempt, the property must be occupied by July 1 of the assessment year by a qualified business that has signed the business subsidy agreement and relocation agreement, if required, by July 1 of the assessment year. This exemption does not apply to:

(1) the levy under section 475.61 or similar levy provisions under any other law to pay general obligation bonds; or

(2) other school district levies included in the debt service levy of the district under section 123B.55.

Subd. 83. **International economic development zone property.** (a) Improvements to real property, and personal property, classified under section 273.13, subdivision 24, and located within the international economic development zone designated under section 469.322, are exempt from ad valorem taxes levied under chapter 275, if the improvements are:

(1) part of a regional distribution center as defined in section 469.321; or

(2) occupied by a qualified business as defined in section 469.321, that uses the improvements primarily in freight forwarding operations.

(b) The exemption applies to each assessment year that begins during the duration of the international economic development zone. To be exempt under paragraph (a), clause (2), the property must be occupied by July 1 of the assessment year by a qualified business that has signed the business subsidy agreement by July 1 of the assessment year.

290.01 DEFINITIONS.

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)(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; 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.

290.06 RATES OF TAX; CREDITS.

Subd. 29. **Job opportunity building zone job credit.** A taxpayer that is a qualified business, as defined in section 469.310, subdivision 11, is allowed a credit as determined under section 469.318 against the tax imposed by this chapter.

Subd. 30. **Biotechnology and health science industry zone job credit.** A taxpayer that is a qualified business, as defined in section 469.330, subdivision 11, is allowed a credit

as determined under section 469.338 against the franchise tax imposed under section 290.06, subdivision 1, or the alternative minimum tax imposed under section 290.0921.

Subd. 31. **Biotechnology and health science industry zone research and development credit.** A taxpayer that is a qualified business, as defined in section 469.330, subdivision 11, is allowed a credit as determined under section 469.339 against the franchise tax imposed under section 290.06, subdivision 1, or the alternative minimum tax imposed under section 290.0921.

Subd. 32. **International economic development zone job credit.** A taxpayer that is a qualified business, as defined in section 469.321, subdivision 6, is allowed a credit as determined under section 469.327 against the tax imposed by this chapter.

Subd. 33. **Bovine testing credit.** (a) An owner of cattle in Minnesota may take a credit against the tax due under this chapter for an amount equal to one-half the expenses incurred during the taxable year to conduct tuberculosis testing on those cattle.

(b) If the amount of credit which the taxpayer is eligible to receive under this subdivision exceeds the taxpayer's tax liability under this chapter, the commissioner of revenue shall refund the excess to the taxpayer.

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

290.068 CREDIT FOR INCREASING RESEARCH ACTIVITIES.

Subdivision 1. **Credit allowed.** A corporation, other than a corporation treated as an "S" corporation under section 290.9725, is allowed a credit against the portion of the franchise tax computed under section 290.06, subdivision 1, for the taxable year equal to:

(a) 5 percent of the first $2,000,000 of the excess (if any) of

(1) the qualified research expenses for the taxable year, over

(2) the base amount; and

(b) 2.5 percent on all of such excess expenses over $2,000,000.

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

(a) "Qualified research expenses" means (i) qualified research expenses and basic research payments as defined in section 41(b) and (e) of the Internal Revenue Code, except it does not include expenses incurred for qualified research or basic research conducted outside the state of Minnesota pursuant to section 41(d) and (e) of the Internal Revenue Code; and (ii) contributions to a nonprofit corporation established and operated pursuant to the provisions of chapter 317A for the purpose of promoting the establishment and expansion of business in this state, provided the contributions are invested by the nonprofit corporation for the purpose of providing funds for small, technologically innovative enterprises in Minnesota during the early stages of their development.

(b) "Qualified research" means qualified research as defined in section 41(d) of the Internal Revenue Code, except that the term does not include qualified research conducted outside the state of Minnesota.

(c) "Base amount" means base amount as defined in section 41(c) of the Internal Revenue Code, except that the average annual gross receipts must be calculated using Minnesota sales or receipts under section 290.191 and the definitions contained in clauses (a) and (b) shall apply.

Subd. 3. **Limitation; carryover.** (a)(1) The credit for the taxable year shall not exceed the liability for tax. "Liability for tax" for purposes of this section means the tax imposed under this chapter for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

(2) In the case of a corporation which is a partner in a partnership, the credit allowed for the taxable year shall not exceed the lesser of the amount determined under clause (1) for the taxable year or an amount (separately computed with respect to the corporation's interest in the trade or business or entity) equal to the amount of tax attributable to that portion of taxable income which is allocable or apportionable to the corporation's interest in the trade or business or entity.

(b) If the amount of the credit determined under this section for any taxable year exceeds the limitation under clause (a), the excess shall be a research credit carryover to each of the 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable year shall be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit which may be added under this clause shall not exceed the taxpayer's liability for tax less the research credit for the taxable year.

Subd. 4. **Partnerships.** In the case of partnerships the credit shall be allocated in the same manner provided by section 41(f)(2) of the Internal Revenue Code.

Subd. 5. **Adjustments; acquisitions and dispositions.** If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base amount are adjusted in the same manner provided by section 41(f)(3) of the Internal Revenue Code.

290.0921 CORPORATE ALTERNATIVE MINIMUM TAX AFTER 1989.

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

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

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

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

(b) "Alternative minimum taxable net income" is alternative minimum taxable income,

(1) less the exemption amount, and

(2) apportioned or allocated to Minnesota under section 290.17, 290.191, or 290.20.

(c) The "exemption amount" is $40,000, reduced, but not below zero, by 25 percent of the excess of alternative minimum taxable income over $150,000.

(d) "Minnesota alternative minimum taxable income" is alternative minimum taxable net income, less the deductions for alternative tax net operating loss under subdivision 4; and dividends received under subdivision 6. The sum of the deductions under this paragraph may not exceed 90 percent of alternative minimum taxable net income. This limitation does not apply to:

(1) a deduction for dividends paid to or received from a corporation which is subject to tax under section 290.36 and which is a member of an affiliated group of corporations as defined by the Internal Revenue Code; or

(2) a deduction for dividends received from a property and casualty insurer as defined under section 60A.60, subdivision 8, which is a member of an affiliated group of corporations as defined by the Internal Revenue Code and either: (i) the dividend is eliminated in consolidation under Treasury Regulation 1.1502-14(a), as amended through December 31, 1989; or (ii) the dividend is deducted under an election under section 243(b) of the Internal Revenue Code.

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

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

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

(2) The portion of the depreciation deduction allowed for federal income tax purposes under section 168(k) of the Internal Revenue Code that is required as an addition under section 290.01, subdivision 19c, clause (16), is disallowed in determining alternative minimum taxable income.

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

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

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

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

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

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

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

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

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

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

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

(13) For purposes of determining the amount of adjusted current earnings under section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.01, subdivision 19d, clause (10), or (iii) the amount of royalties, fees or other like income subtracted as provided in section 290.01, subdivision 19d, clause (11).

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

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

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

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

Subd. 3a. **Exemptions.** The following entities are exempt from the tax imposed by this section:

(1) cooperatives taxable under subchapter T of the Internal Revenue Code or organized under chapter 308 or a similar law of another state;

(2) corporations subject to tax under section 60A.15, subdivision 1;

(3) real estate investment trusts;

(4) regulated investment companies or a fund thereof;

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

(6) small corporations exempt from the federal alternative minimum tax under section 55(e) of the Internal Revenue Code.

Subd. 4. **Alternative tax net operating loss.** (a) An alternative tax net operating loss deduction is allowed from alternative minimum taxable net income equal to the net operating loss deduction allowable for the taxable year under section 290.095 with the following modifications:

(1) The amount of the net operating loss deduction must not exceed 90 percent of alternative minimum taxable net income.

(2) In determining the amount of the net operating loss deduction (i) the net operating loss under section 290.095 must be adjusted as provided in paragraph (b), and (ii) for taxable years beginning after December 31, 1989, section 290.095, subdivision 3, must be applied by substituting "90 percent of alternative minimum taxable net income" for "taxable net income."

(b) The following adjustments must be made to the alternative tax net operating loss deduction under paragraph (a):

(1) For a loss year beginning after December 31, 1989, the net operating loss for each year under section 290.095 must be (i) determined with the adjustments provided in sections 56 and 58 of the Internal Revenue Code, as modified by subdivision 3 and (ii) reduced by the items of tax preference for the year determined under section 57 of the Internal Revenue Code, as modified by subdivision 3.

(2) For a loss year beginning before January 1, 1990, the amount of the net operating loss that may be carried over to taxable years beginning after December 31, 1989, equals the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1989.

Subd. 6. **Dividends received.** (a) A deduction is allowed from alternative minimum taxable net income equal to the deduction for dividends received under section 290.21, subdivision 4, for purposes of calculating taxable income under section 290.01, subdivision 29.

(b) The amount of the deduction must not exceed 90 percent of alternative minimum taxable net income.

This limitation does not apply to:

(1) dividends paid to or received from a corporation which is subject to tax under section 290.36 and which is a member of an affiliated group of corporations as defined by the Internal Revenue Code; or

(2) dividends received from a property and casualty insurer as defined under section 60A.60, subdivision 8, which is a member of an affiliated group of corporations as defined by the Internal Revenue Code and either: (i) the dividend is eliminated in consolidation under Treasury Regulation 1.1502-14(a), as amended through December 31, 1989; or (ii) the dividend is deducted under an election under section 243(b) of the Internal Revenue Code.

Subd. 7. **Foreign operating companies.** The income and deductions related to foreign operating companies, as defined in section 290.01, subdivision 6b, that are used to calculate Minnesota alternative minimum taxable income, are limited to the amounts included for purposes of calculating taxable income under section 290.01, subdivision 29.

Subd. 8. **Carryover credit.** (a) A corporation is allowed a credit against qualified regular tax for qualified alternative minimum tax previously paid. The credit is allowable only if the corporation has no tax liability under this section for the taxable year and if the corporation has an alternative minimum tax credit carryover from a previous year. The credit allowable in a taxable year equals the lesser of

(1) the excess of the qualified regular tax for the taxable year over the amount computed under subdivision 1, clause (1), for the taxable year or

(2) the carryover credit to the taxable year.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Qualified alternative minimum tax" equals the amount determined under subdivision 1 for the taxable year.

(2) "Qualified regular tax" means the tax imposed under section 290.06, subdivision 1.

(c) The qualified alternative minimum tax for a taxable year is an alternative minimum tax credit carryover to each of the taxable years succeeding the taxable year. The entire amount of the credit must be carried to the earliest taxable year to which the amount may be carried. Any unused portion of the credit must be carried to the following taxable year. No credit may be carried to a taxable year in which alternative minimum tax was paid.

(d) An acquiring corporation may carry over this credit from a transferor or distributor corporation in a corporate acquisition. The provisions of section 381 of the Internal Revenue Code apply in determining the amount of the carryover, if any.

290.191 APPORTIONMENT OF NET INCOME.

Subd. 4. **Apportionment formula for certain mail order businesses.** If the business of a corporation, partnership, or proprietorship consists exclusively of the selling of tangible personal property and services at retail, as defined in section 297A.61, subdivision 4, paragraph (a), in response to orders received by United States mail, telephone, facsimile, or other electronic media, and 99 percent of the taxpayer's property and payroll is within Minnesota, then the taxpayer may apportion net income to Minnesota based solely upon the percentage that the sales made within this state in connection with its trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period. Property and payroll factors are disregarded. In determining eligibility for this subdivision:

(1) the sale not in the ordinary course of business of tangible or intangible assets used in conducting business activities must be disregarded; and

(2) property and payroll at a distribution center outside of Minnesota are disregarded if the sole activity at the distribution center is the filling of orders, and no solicitation of orders occurs at the distribution center.

297A.68 BUSINESS EXEMPTIONS.

Subd. 37. **Job opportunity building zones.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.310, are exempt if the property or services are primarily used or consumed in a job opportunity building zone designated under section 469.314. For purposes of this subdivision, an aerial camera package, including any camera, computer, and navigation device contained in the package, that is used in an aircraft that is operated under a Federal Aviation Administration Restricted Airworthiness Certificate according to Code of Federal Regulations, title 14, part 21, section 21.25(b)(3), relating to aerial surveying, and that is based, maintained, and dispatched from a job opportunity building zone, qualifies as primarily used or consumed in a job opportunity building zone if the imagery acquired from the aerial camera package is returned to the job opportunity building zone for processing. The exemption for an aerial camera package is limited as provided in this subdivision and the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75. The total amount of the aerial camera package exemption refunded for all taxpayers for all fiscal years is limited to $50,000 in taxes.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property in a job opportunity building zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.310. This exemption applies regardless of whether the purchases are made by the business or a contractor.

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

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

(e) Notwithstanding the restriction in paragraph (a), which requires items purchased to be primarily used or consumed in the zone, purchases by a qualified business that is an electrical cooperative located in Meeker County of equipment and materials used for the generation, transmission, and distribution of electrical energy are exempt under this subdivision, except that:

(1) the exemption for materials and equipment used or consumed outside the zone must not exceed $200,000 in taxes for all taxpayers for all fiscal years; and

(2) no sales and use tax exemption is allowed for equipment purchased for resale.

For purposes of this paragraph, the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 38. **Biotechnology and health sciences industry zone.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.330, are exempt if the property or services are primarily used or consumed in a biotechnology and health sciences industry zone designated under section 469.334.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property in a biotechnology and health sciences industry zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.330. This exemption applies regardless of whether the purchases are made by the business or a contractor.

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

(d)(1) The tax on sales of goods or services exempted under this subdivision are imposed and collected as if the applicable rate under section 297A.62 applied. Upon application by the purchaser, on forms prescribed by the commissioner, a refund equal to the tax paid must be paid to the purchaser. The application must include sufficient information to permit the commissioner to verify the sales tax paid and the eligibility of the claimant to receive the credit. No more than two applications for refunds may be filed under this subdivision in a calendar year. The provisions of section 289A.40 apply to the refunds payable under this subdivision.

(2) The amount required to make the refunds is annually appropriated to the commissioner of revenue.

(3) The aggregate amount refunded to a qualified business must not exceed the amount allocated to the qualified business under section 469.335.

(e) This subdivision applies only to sales made during the duration of the designation of the zone.

Subd. 41. **International economic development zones.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.321, are exempt if the property or services are primarily used or consumed in the international economic development zone designated under section 469.322. This exemption applies only if the purchase is made and delivery received after the business signed the business subsidy agreement required under chapter 469.

(b) Purchase and use of construction materials, supplies, and equipment incorporated into the construction of improvements to real property in the international economic development zone are exempt if the improvements after completion of construction are to be used as a regional distribution center as defined in section 469.321 or otherwise used in the conduct of freight forwarding activities of a qualified business as defined in section 469.321. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to a local sales and use tax, regardless of whether the local tax is imposed on sales taxable under this chapter or in another law, ordinance, or charter provision.

(d) The exemptions in this section apply to sales and purchases made after the date of final zone designation under section 469.322, paragraph (c), and before the expiration of the zone under section 469.322, paragraph (d).

(e) For purchases made for improvements to real property to be occupied by a business that has not signed a business subsidy agreement at the time of the purchase, the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75. The taxpayer must attach to the claim for refund information sufficient for the commissioner to be able to determine that the improvements are being occupied by a business that has signed a business subsidy agreement.

469.311 DEVELOPMENT PLAN.

(a) An applicant for designation of a job opportunity building zone must adopt a written development plan for the zone before submitting the application to the commissioner.

(b) The development plan must contain, at least, the following:

(1) a map of the proposed zone that indicates the geographic boundaries of the zone, the total area, and present use and conditions generally of the land and structures within those boundaries;

(2) evidence of community support and commitment from local government, local workforce investment boards, school districts, and other education institutions, business groups, and the public;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

(4) current social, economic, and demographic characteristics of the proposed zone and anticipated improvements in education, health, human services, and employment if the zone is created;

(5) a description of anticipated activity in the zone and each subzone, including, but not limited to, industrial use, industrial site reuse, commercial or retail use, and residential use; and

(6) any other information required by the commissioner.

469.312 JOB OPPORTUNITY BUILDING ZONES; LIMITATIONS.

Subdivision 1. **Maximum size.** A job opportunity building zone may not exceed 5,000 acres. For a zone designated as an agricultural processing facility zone, the zone also may not exceed the size of a site necessary for the agricultural processing facility, including ancillary operations and space for expansion in the reasonably foreseeable future.

Subd. 2. **Subzones.** The area of a job opportunity building zone may consist of one or more noncontiguous areas or subzones.

Subd. 3. **Outside metropolitan area.** The area of a job opportunity building zone must be located outside of the metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 4. **Border city development zones.** (a) The area of a job opportunity building zone may not include the area of a border city development zone designated under section 469.1731. The city may remove property from a border city development zone contingent upon the area being designated as a job opportunity building zone. Before removing a parcel of property from a border city development zone, the city must obtain the written consent to the removal from each recipient that is located on the parcel and receives incentives under the border city development zone. Consent of any other property owner or taxpayer in the border city development zone is not required.

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

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.

469.313 APPLICATION FOR DESIGNATION.

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a job opportunity building zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of a job opportunity building zone.

Subd. 2. **Application content.** The application must include:

(1) a development plan meeting the requirements of section 469.311;

(2) the proposed duration of the zone, not to exceed 12 years;

(3) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local tax exemptions provided under section 469.315;

(4) if the proposed zone includes area in a border city development zone, written consent to removal of the property from the border city development zone to the extent required by section 469.312, subdivision 4;

(5) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and

(6) supporting evidence to allow the commissioner to evaluate the application under the criteria in section 469.314.

469.314 DESIGNATION OF JOB OPPORTUNITY BUILDING ZONES.

Subdivision 1. **Commissioner to designate.** (a) The commissioner, in consultation with the commissioner of revenue, shall designate not more than ten job opportunity building zones. In making the designations, the commissioner shall consider need and likelihood of success to yield the most economic development and revitalization of economically distressed rural areas of Minnesota.

(b) In addition to the designations under paragraph (a), the commissioner may, in consultation with the commissioners of agriculture and revenue, designate up to five agricultural processing facility zones.

(c) The commissioner may, upon designation of a zone, modify the development plan, including the boundaries of the zone or subzones, if in the commissioner's opinion a modified plan would better meet the objectives of the job opportunity building zone program. The commissioner shall notify the applicant of the modification and provide a statement of the reasons for the modifications.

Subd. 2. **Need indicators.** (a) In evaluating applications to determine the need for designation of a job opportunity building zone, the commissioner shall consider the following factors as indicators of need:

(1) the percentage of the population that is below 200 percent of the poverty rate, compared with the state as a whole;

(2) the extent to which the area's average weekly wage is significantly lower than the state average weekly wage;

(3) the amount of property in or near the proposed zone that is deteriorated or underutilized;

(4) the extent to which the median sale price of housing units in the area is below the state median;

(5) the extent to which the median household income of the area is lower than the state median household income;

(6) the extent to which the area experienced a population loss during the 20-year period ending the year before the application is made;

(7) the extent to which an area has experienced sudden or severe job loss as a result of closing of businesses or other employers;

(8) the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics;

(9) the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development; and

(10) the extent to which the business startup or expansion rates are significantly lower than the respective rate for the state.

(b) In applying the need indicators, the best available data should be used. If reported data are not available for the proposed zone, data for the smallest area that is available and includes the area of the proposed zone may be used. The commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

Subd. 3. **Success indicators.** In determining the likelihood of success of a proposed zone, the commissioner shall consider:

(1) the strength and viability of the proposed development goals, objectives, and strategies in the development plan;

(2) whether the development plan is creative and innovative in comparison to other applications;

(3) local public and private commitment to development of the proposed zone and the potential cooperation of surrounding communities;

(4) existing resources available to the proposed zone;

(5) how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;

(6) how the regulatory burden will be eased for businesses operating in the proposed zone;

(7) proposals to establish and link job creation and job training; and

(8) the extent to which the development is directed at encouraging and that designation of the zone is likely to result in the creation of high-paying jobs.

Subd. 4. **Designation schedule.** (a) The schedule in paragraphs (b) to (f) applies to the designation of job opportunity building zones.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

(f) The commissioner may reserve one or more of the ten authorized zones for a second round of designations in calendar year 2004. If the commissioner chooses to reserve designations for this purpose, the commissioner shall establish the schedule for the second round of designations, notwithstanding the dates in paragraphs (c), (d), and (e). The commissioner shall allow a period of at least 90 days for submission of applications after notification of the second round. A zone designated in the second round takes effect on January 1, 2005.

Subd. 5. **Geographic distribution.** The commissioner shall have as a goal the geographic distribution of zones around the state.

Subd. 6. **Rulemaking exemption.** The commissioner's actions in establishing procedures, requirements, and making determinations to administer sections 469.310 to 469.320 are not a rule for purposes of chapter 14 and are not subject to the Administrative Procedure Act contained in chapter 14 and are not subject to section 14.386.

469.315 TAX INCENTIVES AVAILABLE IN ZONES.

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

(1) exemption from individual income taxes as provided under section 469.316;

(2) exemption from corporate franchise taxes as provided under section 469.317;

(3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 37;

(4) exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under section 297B.03;

(5) exemption from the property tax as provided in section 272.02, subdivision 64;

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

(7) the jobs credit allowed under section 469.318.

469.316 INDIVIDUAL INCOME TAX EXEMPTION.

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

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

Subd. 3. **Business income.** An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified business in a job opportunity building zone. If the trade or business is carried on within and without the zone and the individual is not a resident of Minnesota, or the taxpayer is an estate or trust, the exemption must be apportioned based on the zone percentage and the relocation payroll percentage for the taxable year. If the trade or business is carried on within and without the zone and the individual is a resident of Minnesota, the exemption must be apportioned based on the zone percentage and the relocation payroll percentage for the taxable year, except the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of the sum of the job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the business.

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

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

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

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

(b) A qualified business meets the requirements of paragraph (a), clause (3), if it is a corporation, an S corporation, or a partnership, and for the taxable year its job opportunity building zone percentage exceeds 25 percent. For purposes of paragraph (a), clause (3), the zone percentage must be calculated by modifying the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), to use the denominators of the property and payroll factors

determined under section 290.191. Upon the request of an individual, estate, or trust holding an ownership interest in the entity, the entity must certify to the owner, in writing, the job opportunity building zone percentage needed to determine the exemption.

469.317 CORPORATE FRANCHISE TAX EXEMPTION.

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

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

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

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee or by exempting the entity under section 290.0922, subdivision 2, clause (7).

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

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

469.318 JOBS CREDIT.

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

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) $30,000 multiplied by (the number of full-time equivalent employees that the qualified business employs in the job opportunity building zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero).

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

(b) "Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the zone designation took effect.

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

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds $100,000.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2004, the dollar amounts in subdivision 1, clause (2), and subdivision 2, paragraph (e), are annually adjusted for inflation. The commissioner of revenue shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 5. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

469.3201 JOBZ EXPENDITURE LIMITATIONS; AUDITS.

The Tax Increment Financing, Investment and Finance Division of the Office of the State Auditor must annually audit the creation and operation of all job opportunity building zones and business subsidy agreements entered into under Minnesota Statutes, sections 469.310 to 469.320.

469.321 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.321 to 469.329, the following terms have the meanings given.

Subd. 2. **Foreign trade zone.** "Foreign trade zone" means a foreign trade zone designated pursuant to United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a to 81u, or a subzone authorized by the foreign trade zone.

Subd. 3. **Foreign trade zone authority.** "Foreign trade zone authority" means the Greater Metropolitan Foreign Trade Zone Commission number 119, a joint powers authority created by the county of Hennepin, the cities of Minneapolis and Bloomington, and the Metropolitan Airports Commission, under the authority of section 469.059, 469.101, or 471.59, and includes any other political subdivisions that enter into the authority after its creation, as well as the county in which the zone is located. Notwithstanding section 471.59, the members of the authority are not required to have separate authority to establish or operate a foreign trade zone.

Subd. 4. **International economic development zone or zone.** An "international economic development zone" or "zone" is a zone so designated under section 469.322.

Subd. 5. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 6. **Qualified business.** "Qualified business" means a person who has signed a business subsidy agreement as required under sections 116J.993 to 116J.995 and 469.323, subdivision 4, carrying on a trade or business at a place of business located within the international economic development zone that is:

(1)(i) engaged in the furtherance of international export or import of goods as a freight forwarder; and (ii) certified by the foreign trade zone authority as a trade or business that furthers the purpose of developing international distribution capacity and capability; or

(2) the owner or operator of a regional distribution center.

Subd. 7. **Regional distribution center.** A "regional distribution center" is a distribution center developed within a foreign trade zone. The regional distribution center must have as its primary purpose, the facilitation of the gathering of freight for the purpose of centralizing the functions necessary for the shipment of freight in international commerce, including, but not limited to, security and customs functions.

Subd. 8. **International economic development zone percentage or zone percentage.** "International economic development zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

(i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year which is land, buildings, machinery and equipment, inventories, and other tangible personal property that is a regional distribution center or is used in the furtherance of the taxpayer's freight forwarding operations over the property factor numerator determined under section 290.191, plus

(ii) the ratio of the taxpayer's international economic development zone payroll factor under subdivision 9 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

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

Subd. 9. **International economic development zone payroll factor or international economic development zone payroll.** "International economic development zone payroll factor" or "international economic development zone payroll" is that portion of the payroll factor under section 290.191 used to operate a regional distribution center, or used in the furtherance of the taxpayer's freight forwarding operations that represents:

(1) wages or salaries paid to an individual for services performed in the international economic development zone; or

(2) wages or salaries paid to individuals working from offices within the international economic development zone, if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone. However, in no case

does zone payroll include wages paid for work performed outside the zone of an employee who performs more than ten percent of total services for the employer outside the zone.

Subd. 10. **Freight forwarder.** "Freight forwarder" is a business that, for compensation, ensures that goods produced or sold by another business move from point of origin to point of destination.

469.3215 APPLICATION FOR DESIGNATION.

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as an international economic development zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of an international economic development zone.

Subd. 2. **Application content.** (a) The application must include:

(1) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local tax exemptions provided under section 469.315;

(2) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and

(3) supporting evidence to allow the authority to evaluate the application.

(b) Applications must be submitted to the authority no later than December 31, 2005.

469.322 DESIGNATION OF INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.

(a) An area designated as a foreign trade zone may be designated by the foreign trade zone authority as an international economic development zone if within the zone a regional distribution center is being developed pursuant to section 469.323. The zone must consist of contiguous area of not less than 500 acres and not more than 1,000 acres. The designation authority under this section is limited to one zone.

(b) In making the designation, the foreign trade zone authority, in consultation with the Minnesota Department of Transportation and the Metropolitan Council, shall consider access to major transportation routes, consistency with current state transportation and air cargo planning, adequacy of the size of the site, access to airport facilities, present and future capacity at the designated airport, the capability to meet integrated present and future air cargo, security, and inspection services, and access to other infrastructure and financial incentives. The border of the international economic development zone must be no more than 60 miles distant or 90 minutes drive time from the border of the Minneapolis-St. Paul International Airport.

(c) Before final designation of the zone, the foreign trade zone authority, in consultation with the applicant, must conduct a transportation impact study based on the regional model and utilizing traffic forecasting and assignments. The results must be used to evaluate the effects of the proposed use on the transportation system and identify any needed improvements. If the site is in the metropolitan area the study must also evaluate the effect of the transportation impacts on the Metropolitan Transportation System plan as well as the comprehensive plans of the municipalities that would be affected. The authority shall provide copies of the study to the legislature under section 3.195 and to the chairs of the committees with jurisdiction over transportation and economic development. The applicant must pay the cost of the study.

(d) Final zone designation must be made by June 30, 2008.

(e) Duration of the zone is a 12-year period beginning on January 1, 2010.

469.323 FOREIGN TRADE ZONE AUTHORITY POWERS.

Subdivision 1. **Development of regional distribution center.** The foreign trade zone authority is responsible for creating and implementing a development plan for the regional distribution center. The regional distribution center must be developed with the purpose of expanding, on a regional basis, international distribution capacity and capability. The foreign trade zone authority shall consult only with municipalities that have indicated to the authority an interest in locating the international economic development zone within their boundaries, as well as interested businesses, potential financiers, and appropriate state and federal agencies.

Subd. 2. **Business plan.** Before designation of an international economic development zone under section 469.322, the governing body of the foreign trade zone authority shall prepare

a business plan. The findings of the business plan shall be presented to the legislature pursuant to section 3.195. Copies of the business plan shall be provided to the chairs of committees with jurisdiction over transportation and economic development. The plan must include an analysis of the economic feasibility of the regional distribution center once it becomes operational and of the operations of freight forwarders and other businesses that choose to locate within the boundaries of the zone. The analysis must provide profitability models that:

(1) include the benefits of the incentives;

(2) estimate the amount of time needed to achieve profitability; and

(3) analyze the length of time incentives will be necessary to the economic viability of the regional distribution center.

If the governing body of the foreign trade authority determines that the models do not establish the economic feasibility of the project, the regional distribution center does not meet the development requirements of this section and section 469.322.

Subd. 3. **Port authority powers.** The governing body of the foreign trade zone authority may establish a port authority that has the same powers as a port authority established under section 469.049. If the foreign trade zone authority establishes a port authority, the governing body of the foreign trade zone authority may exercise all powers granted to a city by sections 469.048 to 469.068 within the area of the international economic development zone, except it may not impose or request imposition of a property tax levy under section 469.053 by any city.

Subd. 4. **Business subsidy law.** Tax exemptions and job credits provided under this section are business subsidies and the foreign trade zone authority is the local government agency for the purpose of sections 116J.871 and 116J.993 to 116J.995.

469.324 TAX INCENTIVES IN INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.

Qualified businesses that operate in an international economic development zone, individuals who invest in a regional distribution center or qualified businesses that operate in an international economic development zone, and property located in an international economic development zone qualify for:

(1) exemption from individual income taxes as provided under section 469.325;

(2) exemption from corporate franchise taxes as provided under section 469.326;

(3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 41;

(4) exemption from the property tax as provided in section 272.02, subdivision 68; and

(5) the jobs credit allowed under section 469.327.

469.325 INDIVIDUAL INCOME TAX EXEMPTION.

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

Subd. 2. **Business income.** An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified business in the international economic development zone. If the trade or business is carried on within and outside of the zone and the individual is not a resident of Minnesota, the exemption must be apportioned based on the zone percentage for the taxable year. If the trade or business is carried on within or outside of the zone and the individual is a resident of Minnesota, the exemption must be apportioned based on the zone percentage for the taxable year, except the ratios under section 469.321, subdivision 8, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of the sum of the international economic development zone payroll and the adjusted basis of the property at the time that the property is first used in the international economic development zone by the business.

469.326 CORPORATE FRANCHISE TAX EXEMPTION.

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

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

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

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee or by exempting the entity under section 290.0922, subdivision 2, clause (8).

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

(c) This section applies only to tax years beginning during the duration of the international economic development zone.

469.327 JOBS CREDIT.

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

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) $30,000 multiplied by the number of full-time equivalent employees that the qualified business employs in the international economic development zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero.

(b) This section applies only to tax years beginning during the duration of the international economic development zone.

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

(b) "Base year" means the taxable year beginning during the calendar year immediately preceding the calendar year in which the duration of the zone begins under section 469.322, paragraph (d).

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

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds $70,000.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2010, the dollar amounts in subdivisions 1, paragraph (a), clause (2); and 2, paragraph (e), are annually adjusted for inflation. The commissioner of revenue shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 5. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

469.328 REPAYMENT OF TAX BENEFITS.

Subdivision 1. **Repayment obligation.** A person must repay the amount of the tax reduction received under section 469.324, subdivision 1, clauses (1) to (5), or credit received under section 469.327, during the two years immediately before it ceased to operate in the zone as a qualified business, if the person ceased to operate its facility located within the zone, ceased to

be in compliance with the terms of the business subsidy agreement, or otherwise ceases to be or is not a qualified business.

Subd. 2. **Disposition of repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the local governments with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales or use taxes must be repaid to the jurisdiction imposing the local sales or use tax.

Subd. 3. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a person must file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after ceasing to be a qualified business. The amount required to be repaid is determined by calculating the tax for the period for which repayment is required without regard to the tax reductions and credits allowed under section 469.324.

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

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

(d) If a property tax is not repaid under paragraph (c), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the treasurer discovers that the person ceased to operate in the international economic development zone.

(e) For determining the tax required to be repaid, a tax reduction is deemed to have been received on the date that the tax would have been due if the person had not been entitled to the tax reduction.

(f) The commissioner of revenue may assess the repayment of taxes under paragraph (d) at any time within two years after the person ceases to be a qualified business, or within any period of limitations for the assessment of tax under section 289A.38, whichever is later.

Subd. 4. **Waiver authority.** The commissioner of revenue may waive all or part of a repayment, if, in consultation with the foreign trade zone authority and appropriate officials from the state and local government units, including the commissioner of employment and economic development, determines that requiring repayment of the tax is not in the best interest of the state or local government and the business ceased operating as a result of circumstances beyond its control, including, but not limited to:

(1) a natural disaster;

(2) unforeseen industry trends; or

(3) loss of a major supplier or customer.

469.329 REPORTING REQUIREMENTS.

(a) An applicant receiving designation of an international economic development zone under section 469.322 must annually report to the commissioner of employment and economic development on its progress in meeting the zone performance goals under the business plan for the zone and the applicant's compliance with the business subsidy law under sections 116J.993 to 116J.995.

(b) The commissioner must report on its Web site information on (1) the estimated amount of the tax expenditures for the zone, (2) the business subsidy agreements with qualified businesses in the zone, (3) the estimated number of new jobs created in the zone and investment made, and (4) other information similar to the information that the commissioner reports on the job opportunity building zone program on the department's Web site.

469.330 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.330 to 469.341, the following terms have the meanings given.

Subd. 2. **Applicant.** "Applicant" means a local government unit or units applying for designation of an area as a biotechnology and health sciences industry zone or a joint powers board, established under section 471.59, acting on behalf of two or more local government units.

Subd. 3. **Biotechnology and health sciences industry facility.** "Biotechnology and health sciences industry facility" means one or more facilities or operations involved in:

(1) researching, developing, and/or manufacturing a biotechnology product or service or a biotechnology-related health sciences product or service;

(2) researching, developing, and/or manufacturing a biotechnology medical device product or service or a biotechnology-related medical device product or service; or

(3) promoting, supplying, or servicing a facility or operation involved in clause (1) or (2), if the business derives more than 50 percent of its gross receipts from those activities.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 5. **Development plan.** "Development plan" means a plan meeting the requirements of section 469.331.

Subd. 6. **Biotechnology and health sciences industry zone or zone.** "Biotechnology and health sciences industry zone" or "zone" means a zone designated by the commissioner under section 469.334.

Subd. 7. **Biotechnology and health sciences industry zone percentage or zone percentage.** "Biotechnology and health sciences industry zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

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

(ii) the ratio of the taxpayer's biotechnology and health sciences industry zone payroll factor under subdivision 8 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

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

Subd. 8. **Biotechnology and health sciences industry zone payroll factor.** "Biotechnology and health sciences industry zone payroll factor" or "biotechnology and health sciences industry zone payroll" is that portion of the payroll factor under section 290.191 that represents:

(1) wages or salaries paid to an individual for services performed for a qualified business in a biotechnology and health sciences industry zone; or

(2) wages or salaries paid to individuals working from offices of a qualified business within a biotechnology and health sciences industry zone if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone.

Subd. 9. **Local government unit.** "Local government unit" means a statutory or home rule charter city, county, town, or school district.

Subd. 10. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 11. **Qualified business.** (a) "Qualified business" means a person carrying on a trade or business at a biotechnology and health sciences industry facility located within a biotechnology and health sciences industry zone. A person is a qualified business only on those parcels of land for which it has entered into a business subsidy agreement, as required under section 469.333, with the appropriate local government unit in which the parcels are located.

(b) A person that relocates a biotechnology and health sciences industry facility from outside a biotechnology and health sciences industry zone into a zone is not a qualified business, unless the business:

(1)(i) increases full-time employment in the first full year of operation within the biotechnology and health sciences industry zone by at least 20 percent measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; or

(ii) makes a capital investment in the property located within a zone equivalent to ten percent of the gross revenues of operation that were relocated in the immediately preceding taxable year; and

(2) enters a binding written agreement with the commissioner that:

(i) pledges the business will meet the requirements of clause (1);

(ii) provides for repayment of all tax benefits enumerated under section 469.336 to the business under the procedures in section 469.340, if the requirements of clause (1) are not met; and

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

Subd. 12. **Relocates.** (a) "Relocates" means that the trade or business:

(1) ceases one or more operations or functions at another location in Minnesota and begins performing substantially the same operations or functions at a location in a biotechnology and health sciences industry zone; or

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

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

469.331 DEVELOPMENT PLAN.

(a) An applicant for designation of a biotechnology and health sciences industry zone must adopt a written development plan for the zone before submitting the application to the commissioner.

(b) The development plan must contain, at least, the following:

(1) a map of the proposed zone that indicates the geographic boundaries of the zone, the total area, and present use and conditions generally of the land and structures within those boundaries;

(2) evidence of community support and commitment from local government, local workforce investment boards, school districts, and other education institutions, business groups, and the public;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

(4) current social, economic, and demographic characteristics of the proposed zone and anticipated improvements in education, health, human services, and employment if the zone is created;

(5) a description of anticipated activity in the zone and each subzone, including, but not limited to, industrial use and industrial site reuse;

(6) a description of the tax exemptions under section 469.336 to be provided to each qualifying business based on a development agreement between the applicant and each qualified business. The development agreement must also state any obligations the qualified business must fulfill in order to be eligible for tax benefits; and

(7) any other information required by the commissioner.

469.332 ZONE LIMITS.

Subdivision 1. **Maximum size.** A biotechnology and health sciences industry zone may not exceed 5,000 acres.

Subd. 2. **Subzones.** The area of a biotechnology and health sciences industry zone may consist of one or more noncontiguous areas or subzones.

Subd. 3. **Duration limit.** 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.

469.333 APPLICATION FOR DESIGNATION.

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a biotechnology and health sciences industry zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of a biotechnology and health sciences industry zone.

Subd. 2. **Application content.** The application must include:

(1) a development plan meeting the requirements of section 469.331;

(2) the proposed duration of the zone, not to exceed 12 years;

(3) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local sales and use tax exemptions provided under section 469.336;

(4) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and

(5) supporting evidence to allow the commissioner to evaluate the application under the criteria in section 469.334.

469.334 DESIGNATION OF ZONE.

Subdivision 1. **Commissioner to designate.** (a) The commissioner, in consultation with the commissioner of revenue and the director of the Office of Strategic and Long-Range Planning, may designate biotechnology and health sciences industry zones. Priority must be given to applicants with a development plan that links a higher education/research institution with a biotechnology and health sciences industry facility.

(b) The commissioner may consult with the applicant prior to the designation of the zone. The commissioner may modify the development plan, including the boundaries of the zone or subzones, if in the commissioner's opinion a modified plan would better meet the objectives of the biotechnology and health sciences industry zone program. The commissioner shall notify the applicant of the modifications and provide a statement of the reasons for the modifications.

Subd. 2. **Need indicators.** (a) In evaluating applications to determine the need for designation of a biotechnology and health sciences industry zone, the commissioner shall consider the following factors as indicators of need:

(1) the extent to which land in proximity to a significant scientific research institution could be developed as a higher and better use for biotechnology and health sciences industry facilities;

(2) the amount of property in or near the zone that is deteriorated or underutilized; and

(3) the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics.

(b) The commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

Subd. 3. **Success indicators.** In determining the likelihood of success of a proposed zone, the commissioner shall consider:

(1) applicants that show a viable link between a higher education/research institution, the biotechnology and/or medical devices business sectors, and one or more units of local government with a development plan;

(2) the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development;

(3) the strength and viability of the proposed development goals, objectives, and strategies in the development plan;

(4) whether the development plan is creative and innovative in comparison to other applications;

(5) local public and private commitment to development of a biotechnology and health sciences industry facility or facilities in the proposed zone and the potential cooperation of surrounding communities;

(6) existing resources available to the proposed zone;

(7) how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;

(8) how the regulatory burden will be eased for biotechnology and health sciences industry facilities located in the proposed zone;

(9) proposals to establish and link job creation and job training in the biotechnology and health sciences industry with research/educational institutions; and

(10) the extent to which the development is directed at encouraging, and that designation of the zone is likely to result in, the creation of high-paying jobs.

Subd. 4. **Designation schedule.** (a) The schedule in paragraphs (b) to (e) applies to the designation of the first biotechnology and health sciences industry zone.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

(f) Additional zones may be designated in later years, only after the commissioner of employment and economic development has established criteria for expanding the number of zones. The criteria must limit designating a new zone to a community that has adequate resources and infrastructure to support bioindustry, including postsecondary institutions, strong health care systems, and existing bioscience companies. It must also require that a new zone be located on a transportation corridor.

469.335 APPLICATION FOR TAX BENEFITS.

(a) To claim a tax credit or exemption against a state tax under section 469.336, a business must apply to the commissioner for a tax credit certificate. As a condition of its application, the business must agree to furnish information to the commissioner that is sufficient to verify the eligibility for any credits or exemptions claimed. The total amount of the state tax credits and exemptions allowed for the specified period may not exceed the amount of the tax credit certificates provided by the commissioner to the business. The commissioner must verify to the commissioner of revenue the amount of tax exemptions or credits for which each business is eligible.

(b) A tax credit certificate issued under this section may specify the particular tax exemptions or credits against a state tax that the qualified business is eligible to claim under section 469.336, and the amount of each exemption or credit allowed.

(c) The commissioner may issue $1,000,000 of tax credits or exemptions in fiscal year 2004. Any tax credits or exemptions not awarded in fiscal year 2004 may be awarded in fiscal year 2005.

(d) A qualified business must use the tax credits or tax exemptions granted under this section by the later of the end of the state fiscal year or the taxpayer's tax year in which the credits or exemptions are granted.

469.336 TAX INCENTIVES AVAILABLE IN ZONES.

Qualified businesses that operate in a biotechnology and health sciences industry zone, individuals who invest in a qualified business that operates in a biotechnology and health sciences industry zone, and property of a qualified business located in a biotechnology and health sciences industry zone qualify for:

(1) exemption from corporate franchise taxes as provided under section 469.337;

(2) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 38;

(3) research and development credits as provided under section 469.339;

(4) jobs credits as provided under section 469.338.

469.337 CORPORATE FRANCHISE TAX EXEMPTION.

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

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

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

(3) for purposes of the minimum fee under section 290.0922, by excluding zone property and payroll from the computations of the fee. The qualified business is exempt from the minimum fee if all of its property is located in the zone and all of its payroll is zone payroll.

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

(c) No reduction in tax is allowed in excess of the amount allocated under section 469.335.

469.338 JOBS CREDIT.

Subdivision 1. **Credit allowed.** A qualified business is allowed a credit against the taxes imposed under chapter 290.

The credit equals seven percent of the:

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) $30,000 multiplied by the number of full-time equivalent employee positions that the qualified business employs in the biotechnology and health sciences industry zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero.

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

(b) "Base year" means the taxable year beginning during the calendar year in which the commissioner designated the zone.

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

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2004, the dollar amount in subdivision 1, clause (2), is annually adjusted for inflation. The commissioner of revenue shall adjust the amount by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit calculated under this section and allocated to the qualified business under section 469.335 exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

469.339 CREDIT FOR MORE RESEARCH IN ZONE.

Subdivision 1. **Credit allowed.** A corporation, other than a corporation treated as an "S" corporation under section 290.9725, is allowed a credit against the portion of the franchise tax computed under section 290.06, subdivision 1, for the taxable year equal to:

(1) five percent of the first $2,000,000 of the excess (if any) of (i) the qualified research expenses for the taxable year, over (ii) the base amount; and

(2) 2.5 percent of all such excess expenses over $2,000,000.

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

(b) "Qualified research expenses" means qualified research expenses and basic research payments as defined in section 41(b) and (e) of the Internal Revenue Code.

(c) "Qualified research" means activities in the fields of biotechnology or health sciences that are "qualified research" as defined in section 41(d) of the Internal Revenue Code, except that the term does not include qualified research conducted outside the biotechnology and health sciences industry zone.

(d) "Base amount" means base amount as defined in section 41(c) of the Internal Revenue Code, except that the average annual gross receipts must be calculated using Minnesota sales or receipts under section 290.191 and the definitions contained in paragraphs (b) and (c) apply.

(e) "Liability for tax" for purposes of this section means the tax imposed under this chapter for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

Subd. 3. **Refundable credit.** If the credit determined under this section and allocated to the taxpayer under section 469.335 for the taxable year exceeds the taxpayer's liability for tax for the year, the commissioner shall refund the difference to the taxpayer.

Subd. 4. **Partnerships.** For partnerships, the credit is allocated in the same manner provided by section 41(f)(2) of the Internal Revenue Code.

Subd. 5. **Adjustments; acquisitions and dispositions.** If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base amount are adjusted in the same manner provided by section 41(f)(3) of the Internal Revenue Code.

Subd. 6. **Interaction; regular research credit.** Any amount used to calculate a credit under this section may not be used to generate a credit under section 290.068.

Laws 2005, First Special Session chapter 3, article 10, section 23, as amended by Laws 2006, chapter 259, article 13, section 16

Sec. 23. **GRANTS TO QUALIFYING BUSINESSES.**

$750,000 is appropriated in fiscal year 2006 from the general fund to the commissioner of employment and economic development to be distributed to the foreign trade zone authority to provide grants to qualified businesses as determined by the authority, subject to Minnesota Statutes, sections 116J.993 to 116J.995, to provide incentives for the businesses to locate their operations in an international economic development zone. If the money is not distributed during fiscal year 2006, it remains available for distribution under this section during fiscal year 2007.