

This Document can be made available  
in alternative formats upon request

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2454

02/22/2012 Authored by Lenczewski, Carlson, Knuth and Benson, J.  
The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

relating to taxation; corporate franchise; expanding the base and reducing the rate of the tax; accelerating single-sales apportionment; amending Minnesota Statutes 2010, sections 289A.08, subdivision 3; 290.01, subdivisions 5, 19d, 29, by adding a subdivision; 290.06, subdivision 1; 290.0921, subdivisions 1, 3; 290.17, subdivision 4; 290.191, subdivisions 2, 3, 5; 290.21, subdivision 4; 469.315; 469.319, subdivision 4; 469.324; 469.328, subdivision 1; 469.336; 469.340, subdivision 1; Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19c; repealing Minnesota Statutes 2010, sections 290.01, subdivision 6b; 290.06, subdivisions 24, 27, 28, 29, 30, 31, 32, 33; 290.0921, subdivision 7; 290.191, subdivision 4; 469.317; 469.318; 469.326; 469.327; 469.337; 469.338.

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

Section 1. Minnesota Statutes 2010, section 289A.08, subdivision 3, is amended to read:

Subd. 3. **Corporations.** (a) A corporation that is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, must file a return, ~~except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return.~~

(b) Members of a unitary business that are required to file a combined report on one return must designate a member of the unitary business to be responsible for tax matters, including the filing of returns, the payment of taxes, additions to tax, penalties, interest, or any other payment, and for the receipt of refunds of taxes or interest paid in excess of taxes lawfully due. The designated member must be a member of the unitary business that is filing the single combined report and either:

(1) a corporation that is subject to the taxes imposed by chapter 290; or

(2) a corporation that is not subject to the taxes imposed by chapter 290:

(i) Such corporation consents by filing the return as a designated member under this clause to remit taxes, penalties, interest, or additions to tax due from the members of the

unitary business subject to tax, and receive refunds or other payments on behalf of other members of the unitary business. The member designated under this clause is a "taxpayer" for the purposes of this chapter and chapter 270C, and is liable for any liability imposed on the unitary business under this chapter and chapter 290.

(ii) If the state does not otherwise have the jurisdiction to tax the member designated under this clause, consenting to be the designated member does not create the jurisdiction to impose tax on the designated member, other than as described in item (i).

(iii) The member designated under this clause must apply for a business tax account identification number.

(c) The commissioner shall adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report. All members of an affiliated group that are required to file a combined report must file one return on behalf of the members of the group under rules adopted by the commissioner.

(d) If a corporation claims on a return that it has paid tax in excess of the amount of taxes lawfully due, that corporation must include on that return information necessary for payment of the tax in excess of the amount lawfully due by electronic means.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011.

Sec. 2. Minnesota Statutes 2010, 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, and which reports that 20 percent or more of its income is attributable to business in the tax haven; or

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

3.4 **EFFECTIVE DATE.** This section is effective for returns filed for taxable years  
3.5 beginning after December 31, 2011.

3.6 Sec. 3. Minnesota Statutes 2010, section 290.01, is amended by adding a subdivision  
3.7 to read:

3.8 Subd. 5c. **Tax haven.** (a) "Tax haven" means the following foreign jurisdictions,  
3.9 unless the listing of the jurisdiction does not apply under paragraph (b):

- 3.10 (1) Andorra;
- 3.11 (2) Anguilla;
- 3.12 (3) Antigua and Barbuda;
- 3.13 (4) Aruba;
- 3.14 (5) Bahamas;
- 3.15 (6) Bahrain;
- 3.16 (7) Belize;
- 3.17 (8) British Virgin Islands;
- 3.18 (9) Cayman Islands;
- 3.19 (10) Cook Islands;
- 3.20 (11) Costa Rica;
- 3.21 (12) Dominica;
- 3.22 (13) Gibraltar;
- 3.23 (14) Grenada;
- 3.24 (15) Guernsey-Sark-Alderney;
- 3.25 (16) Jersey;
- 3.26 (17) Jordan;
- 3.27 (18) Lebanon;
- 3.28 (19) Liberia;
- 3.29 (20) Liechtenstein;
- 3.30 (21) Maldives;
- 3.31 (22) Marshall Islands;
- 3.32 (23) Monaco;
- 3.33 (24) Montserrat;
- 3.34 (25) Nauru;
- 3.35 (26) Netherlands Antilles;

- 4.1        (27) Niue;  
4.2        (28) Panama;  
4.3        (29) St. Kitts and Nevis;  
4.4        (30) St. Lucia;  
4.5        (31) St. Vincent and Grenadines;  
4.6        (32) Tonga;  
4.7        (33) Turks and Caicos; and  
4.8        (34) Vanuatu.

4.9        (b) A foreign jurisdiction's listing under paragraph (a) does not apply to the first  
4.10       taxable year after the United States enters into a tax treaty or other agreement with the  
4.11       foreign jurisdiction that provides for prompt, obligatory, and automatic exchange of  
4.12       information with the United States government relevant to enforcing the provisions of  
4.13       federal tax laws and the treaty or other agreement was in effect for the taxable year.

4.14       **EFFECTIVE DATE.** This section is effective for returns filed for taxable years  
4.15       beginning after December 31, 2011.

4.16       Sec. 4. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19c, is  
4.17       amended to read:

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

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

4.25       (2) interest not subject to federal tax upon obligations of: the United States, its  
4.26       possessions, its agencies, or its instrumentalities; the state of Minnesota or any other  
4.27       state, any of its political or governmental subdivisions, any of its municipalities, or any  
4.28       of its governmental agencies or instrumentalities; the District of Columbia; or Indian  
4.29       tribal governments;

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

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

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

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

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

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

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

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

~~(11) the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g). The deemed dividend shall be reduced by the amount of the addition to income required by clauses (20), (21), (22), and (23);~~

~~(12)~~ (11) 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)~~ (13) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

~~(15)~~ (14) 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)~~ (15) 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)~~ (16) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code;

~~(18)~~ (17) for taxable years beginning before January 1, 2013, the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans;

~~(19)~~ (18) the amount of expenses disallowed under section 290.10, subdivision 2;

~~(20) an amount equal to the interest and intangible expenses, losses, and costs paid, accrued, or incurred by any member of the taxpayer's unitary group to or for the benefit of a corporation that is a member of the taxpayer's unitary business group that qualifies as a foreign operating corporation. For purposes of this clause, intangible expenses and costs include:~~

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

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

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

~~(iv) licensing fees; and~~

~~(v) other similar expenses and costs.~~

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

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

~~(21) except as already included in the taxpayer's taxable income pursuant to clause (20), any interest income and income generated from intangible property received or accrued by a foreign operating corporation that is a member of the taxpayer's unitary group. For purposes of this clause, income generated from intangible property includes:~~

~~(i) income related to the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property;~~  
~~(ii) income from factoring transactions or discounting transactions;~~  
~~(iii) royalty, patent, technical, and copyright fees;~~  
~~(iv) licensing fees; and~~  
~~(v) other similar income.~~

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

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

~~(22) the dividends attributable to the income of a foreign operating corporation that is a member of the taxpayer's unitary group in an amount that is equal to the dividends paid deduction of a real estate investment trust under section 561(a) of the Internal Revenue Code for amounts paid or accrued by the real estate investment trust to the foreign operating corporation;~~

~~(23) the income of a foreign operating corporation that is a member of the taxpayer's unitary group in an amount that is equal to gains derived from the sale of real or personal property located in the United States;~~

~~(24) (19) for taxable years beginning before January 1, 2010, 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; and~~

~~(25) (20) discharge of indebtedness income resulting from reacquisition of business indebtedness and deferred under section 108(i) of the Internal Revenue Code.~~

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011.

Sec. 5. Minnesota Statutes 2010, section 290.01, subdivision 19d, is amended to read:

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

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

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

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

(4) 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



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

9.6 (8) for certified pollution control facilities placed in service in a taxable year  
9.7 beginning before December 31, 1986, and for which amortization deductions were elected  
9.8 under section 169 of the Internal Revenue Code of 1954, as amended through December  
9.9 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes  
9.10 1986, section 290.09, subdivision 7;

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

9.17 ~~(10) 80 percent of royalties, fees, or other like income accrued or received from a~~  
9.18 ~~foreign operating corporation or a foreign corporation which is part of the same unitary~~  
9.19 ~~business as the receiving corporation, unless the income resulting from such payments or~~  
9.20 ~~accruals is income from sources within the United States as defined in subtitle A, chapter~~  
9.21 ~~1, subchapter N, part 1, of the Internal Revenue Code;~~

9.22 ~~(11)~~ (10) income or gains from the business of mining as defined in section 290.05,  
9.23 subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

9.24 ~~(12)~~ (11) the amount of disability access expenditures in the taxable year which are  
9.25 not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue  
9.26 Code;

9.27 ~~(13)~~ (12) the amount of qualified research expenses not allowed for federal income  
9.28 tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent  
9.29 that the amount exceeds the amount of the credit allowed under section 290.068;

9.30 ~~(14)~~ (13) the amount of salary expenses not allowed for federal income tax purposes  
9.31 due to claiming the Indian employment credit under section 45A(a) of the Internal  
9.32 Revenue Code;

9.33 ~~(15)~~ (14) for a corporation whose foreign sales corporation, as defined in section  
9.34 922 of the Internal Revenue Code, constituted a foreign operating corporation during any  
9.35 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,  
9.36 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;

~~(16)~~ (15) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

~~(17)~~ (16) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause ~~(15)~~ (14), 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)~~ (14). The resulting delayed depreciation cannot be less than zero;

~~(18)~~ (17) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause ~~(16)~~ (15), an amount equal to one-fifth of the amount of the addition; and

~~(19)~~ (18) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under ~~section 290.01~~, subdivision 19c, clause ~~(25)~~ (20).

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011.

Sec. 6. Minnesota Statutes 2010, 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~~;~~

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

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

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

11.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
11.2 December 31, 2011.

11.3 Sec. 7. Minnesota Statutes 2010, section 290.06, subdivision 1, is amended to read:

11.4 Subdivision 1. **Computation, corporations.** The franchise tax imposed upon  
11.5 corporations shall be computed by applying to their taxable income the rate of ~~9.8~~ 8.3  
11.6 percent.

11.7 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
11.8 December 31, 2011.

11.9 Sec. 8. Minnesota Statutes 2010, section 290.0921, subdivision 1, is amended to read:

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

11.13 (1) ~~5.8~~ five percent of Minnesota alternative minimum taxable income; over

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

11.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
11.17 December 31, 2011.

11.18 Sec. 9. Minnesota Statutes 2010, section 290.0921, subdivision 3, is amended to read:

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

11.26 (1) For purposes of the depreciation adjustments under section 56(a)(1) and  
11.27 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in  
11.28 service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal  
11.29 income tax purposes, including any modification made in a taxable year under section  
11.30 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7,  
11.31 paragraph (c).

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

12.5 (2) The portion of the depreciation deduction allowed for federal income tax  
12.6 purposes under section 168(k) of the Internal Revenue Code that is required as an addition  
12.7 under section 290.01, subdivision 19c, clause ~~(15)~~ (14), is disallowed in determining  
12.8 alternative minimum taxable income.

12.9 (3) The subtraction for depreciation allowed under section 290.01, subdivision 19d,  
12.10 clause (17), is allowed as a depreciation deduction in determining alternative minimum  
12.11 taxable income.

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

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

12.16 (6) The special rule for dividends from section 936 companies under section  
12.17 56(g)(4)(C)(iii) does not apply.

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

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

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

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

12.27 (11) For purposes of calculating the tax preference for accelerated depreciation or  
12.28 amortization on certain property placed in service before January 1, 1987, under section  
12.29 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the  
12.30 deduction allowed under section 290.01, subdivision 19e.

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

12.34 (12) For purposes of calculating the adjustment for adjusted current earnings in  
12.35 section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable  
12.36 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), or (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.01, subdivision 19d, clause (9), ~~or (iii) the amount of royalties, fees or other like income subtracted as provided in section 290.01, subdivision 19d, clause (10).~~

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

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

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

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

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011.

Sec. 10. Minnesota Statutes 2010, 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).~~ The provisions of this paragraph are not severable from the provisions of section 290.01, subdivision 5, clauses (4) to (6); if any of those provisions are found to be unconstitutional, the provisions of this paragraph are void for the respective taxable years.

~~(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:~~

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

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

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

15.10 ~~(h)~~ (g) For purposes of determining the net income of a unitary business and the  
 15.11 factors to be used in the apportionment of net income pursuant to section 290.191 or  
 15.12 290.20, there must be included only the income and apportionment factors of domestic  
 15.13 corporations or other domestic entities ~~other than foreign operating corporations~~ that are  
 15.14 determined to be part of the unitary business pursuant to this subdivision, notwithstanding  
 15.15 that foreign corporations or other foreign entities might be included in the unitary  
 15.16 business, except that foreign corporations or other foreign entities that are included on a  
 15.17 federal income tax return must be included on the combined report. Income of a foreign  
 15.18 partnership or other foreign entity treated as a partnership included in federal taxable  
 15.19 income, as defined in section 63 of the Internal Revenue Code of 1986, as amended  
 15.20 through the date named in section 290.01, subdivision 19, and the proportionate amount of  
 15.21 apportionment factors, must be included in the combined report.

15.22 ~~(i)~~ (h) Deductions for expenses, interest, or taxes otherwise allowable under  
 15.23 this chapter that are connected with or allocable against dividends, ~~deemed dividends~~  
 15.24 ~~described in paragraph (g), or royalties, fees, or other like income described in section~~  
 15.25 ~~290.01, subdivision 19d, clause (10), shall not be disallowed.~~

15.26 ~~(j)~~ (i) Each corporation or other entity, except a sole proprietorship, that is part of  
 15.27 a unitary business must file combined reports as the commissioner determines. On the  
 15.28 reports, all intercompany transactions between entities included pursuant to paragraph  
 15.29 ~~(h)~~ (g) must be eliminated and the entire net income of the unitary business determined in  
 15.30 accordance with this subdivision is apportioned among the entities by using each entity's  
 15.31 Minnesota factors for apportionment purposes in the numerators of the apportionment  
 15.32 formula and the total factors for apportionment purposes of all entities included pursuant  
 15.33 to paragraph ~~(h)~~ (g) in the denominators of the apportionment formula. All sales of the  
 15.34 unitary business made within Minnesota pursuant to section 290.191 or 290.20 must be  
 15.35 included on the separate combined report of a corporation that is a member of the unitary  
 15.36 business and is subject to the jurisdiction of this state to impose tax under this chapter.

~~(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 returns filed for taxable years beginning after December 31, 2011.

Sec. 11. Minnesota Statutes 2010, section 290.191, subdivision 2, is amended to read:

Subd. 2. **Apportionment formula of general application.** ~~(a)~~ Except for those trades or businesses required to use a different formula under subdivision 3 or section 290.36, and for those trades or businesses that receive permission to use some other method under section 290.20 or under subdivision 4, a trade or business required to apportion its net income must apportion its income to this state on the basis of the ~~percentage obtained by taking the sum of:~~

~~(1) the percent for the sales factor under paragraph (b) of the percentage which the sales made within this state in connection with the 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;~~

~~(2) the percent for the property factor under paragraph (b) of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and~~

~~(3) the percent for the payroll factor under paragraph (b) of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.~~

~~(b) For purposes of paragraph (a) and subdivision 3, the following percentages apply for the taxable years specified:~~

<del>Taxable years beginning during calendar year</del>	<del>Sales factor percent</del>	<del>Property factor percent</del>	<del>Payroll factor percent</del>
<del>2007</del>	<del>78</del>	<del>11</del>	<del>11</del>
<del>2008</del>	<del>81</del>	<del>9.5</del>	<del>9.5</del>



17.1	2009	84	8	8
17.2	2010	87	6.5	6.5
17.3	2011	90	5	5
17.4	2012	93	3.5	3.5
17.5	2013	96	2	2
17.6	2014 and later calendar years	100	0	0

17.7 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
 17.8 December 31, 2011.

17.9 Sec. 12. Minnesota Statutes 2010, section 290.191, subdivision 3, is amended to read:

17.10 Subd. 3. **Apportionment formula for financial institutions.** Except for an  
 17.11 investment company required to apportion its income under section 290.36, a financial  
 17.12 institution that is required to apportion its net income must apportion its net income to this  
 17.13 state on the basis of the percentage ~~obtained by taking the sum of:~~

17.14 ~~(1) the percent for the sales factor under subdivision 2, paragraph (b), of the~~  
 17.15 ~~percentage which the receipts from within this state in connection with the trade or~~  
 17.16 ~~business during the tax period are of the total receipts in connection with the trade or~~  
 17.17 ~~business during the tax period, from wherever derived;~~

17.18 ~~(2) the percent for the property factor under subdivision 2, paragraph (b), of the~~  
 17.19 ~~percentage which the sum of the total tangible property used by the taxpayer in this~~  
 17.20 ~~state and the intangible property owned by the taxpayer and attributed to this state in~~  
 17.21 ~~connection with the trade or business during the tax period is of the sum of the total~~  
 17.22 ~~tangible property, wherever located, used by the taxpayer and the intangible property~~  
 17.23 ~~owned by the taxpayer and attributed to all states in connection with the trade or business~~  
 17.24 ~~during the tax period; and~~

17.25 ~~(3) the percent for the payroll factor under subdivision 2, paragraph (b), of the~~  
 17.26 ~~percentage which the taxpayer's total payrolls paid or incurred in this state or paid in~~  
 17.27 ~~respect to labor performed in this state in connection with the trade or business during~~  
 17.28 ~~the tax period are of the taxpayer's total payrolls paid or incurred in connection with~~  
 17.29 ~~the trade or business during the tax period.~~

17.30 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
 17.31 December 31, 2011.

17.32 Sec. 13. Minnesota Statutes 2010, section 290.191, subdivision 5, is amended to read:

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

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

18.4 (1) interest;

18.5 (2) dividends;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19.31 (j) Receipts from the performance of services must be attributed to the state where  
19.32 the services are received. For the purposes of this section, receipts from the performance  
19.33 of services provided to a corporation, partnership, or trust may only be attributed to a state  
19.34 where it has a fixed place of doing business. If the state where the services are received is  
19.35 not readily determinable or is a state where the corporation, partnership, or trust receiving  
19.36 the service does not have a fixed place of doing business, the services shall be deemed

to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed.

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

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011.

Sec. 14. Minnesota Statutes 2010, section 290.21, subdivision 4, is amended to read:

Subd. 4. **Dividends received from another corporation.** (a)(1) Eighty percent of dividends received by a corporation during the taxable year from another corporation, in which the recipient owns 20 percent or more of the stock, by vote and value, not including stock described in section 1504(a)(4) of the Internal Revenue Code when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom; and

(2)(i) the remaining 20 percent of dividends if the dividends received are the stock in an affiliated company transferred in an overall plan of reorganization and the dividend

21.1 is eliminated in consolidation under Treasury Department Regulation 1.1502-14(a), as  
21.2 amended through December 31, 1989;

21.3 (ii) the remaining 20 percent of dividends if the dividends are received from a  
21.4 corporation which is subject to tax under section 290.36 and which is a member of an  
21.5 affiliated group of corporations as defined by the Internal Revenue Code and the dividend  
21.6 is eliminated in consolidation under Treasury Department Regulation 1.1502-14(a), as  
21.7 amended through December 31, 1989, or is deducted under an election under section  
21.8 243(b) of the Internal Revenue Code; or

21.9 (iii) the remaining 20 percent of the dividends if the dividends are received from a  
21.10 property and casualty insurer as defined under section 60A.60, subdivision 8, which is a  
21.11 member of an affiliated group of corporations as defined by the Internal Revenue Code  
21.12 and either: (A) the dividend is eliminated in consolidation under Treasury Regulation  
21.13 1.1502-14(a), as amended through December 31, 1989; or (B) the dividend is deducted  
21.14 under an election under section 243(b) of the Internal Revenue Code.

21.15 (b) Seventy percent of dividends received by a corporation during the taxable year  
21.16 from another corporation in which the recipient owns less than 20 percent of the stock,  
21.17 by vote or value, not including stock described in section 1504(a)(4) of the Internal  
21.18 Revenue Code when the corporate stock with respect to which dividends are paid does not  
21.19 constitute the stock in trade of the taxpayer, or does not constitute property held by the  
21.20 taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or  
21.21 business, or when the trade or business of the taxpayer does not consist principally of the  
21.22 holding of the stocks and the collection of income and gain therefrom.

21.23 (c) The dividend deduction provided in this subdivision shall be allowed only with  
21.24 respect to dividends that are included in a corporation's Minnesota taxable net income  
21.25 for the taxable year.

21.26 The dividend deduction provided in this subdivision does not apply to a dividend  
21.27 from a corporation which, for the taxable year of the corporation in which the distribution  
21.28 is made or for the next preceding taxable year of the corporation, is a corporation exempt  
21.29 from tax under section 501 of the Internal Revenue Code.

21.30 The dividend deduction provided in this subdivision does not apply to a dividend  
21.31 received from a real estate investment trust, as defined in section 856 of the Internal  
21.32 Revenue Code.

21.33 The dividend deduction provided in this subdivision applies to the amount of  
21.34 regulated investment company dividends only to the extent determined under section  
21.35 854(b) of the Internal Revenue Code.

22.1 The dividend deduction provided in this subdivision shall not be allowed with  
 22.2 respect to any dividend for which a deduction is not allowed under the provisions of  
 22.3 section 246(c) of the Internal Revenue Code.

22.4 (d) If dividends received by a corporation that does not have nexus with Minnesota  
 22.5 under the provisions of Public Law 86-272 are included as income on the return of  
 22.6 an affiliated corporation permitted or required to file a combined report under section  
 22.7 290.17, subdivision 4, or 290.34, subdivision 2, then for purposes of this subdivision the  
 22.8 determination as to whether the trade or business of the corporation consists principally  
 22.9 of the holding of stocks and the collection of income and gains therefrom shall be made  
 22.10 with reference to the trade or business of the affiliated corporation having a nexus with  
 22.11 Minnesota.

22.12 (e) The deduction provided by this subdivision does not apply if the dividends are  
 22.13 paid by a FSC as defined in section 922 of the Internal Revenue Code.

22.14 (f) If one or more of the members of the unitary group whose income is included on  
 22.15 the combined report received a dividend, the deduction under this subdivision for each  
 22.16 member of the unitary business required to file a return under this chapter is the product  
 22.17 of: (1) 100 percent of the dividends received by members of the group; (2) the percentage  
 22.18 allowed pursuant to paragraph (a) or (b); and (3) the percentage of the taxpayer's business  
 22.19 income apportionable to this state for the taxable year under section 290.191 or 290.20.

22.20 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
 22.21 December 31, 2011.

22.22 Sec. 15. Minnesota Statutes 2010, section 469.315, is amended to read:

22.23 **469.315 TAX INCENTIVES AVAILABLE IN ZONES.**

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

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

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

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

22.31 ~~(4)~~ (3) exemption from the state sales tax on motor vehicles and any local sales tax  
 22.32 on motor vehicles as provided under section 297B.03;

22.33 ~~(5)~~ (4) exemption from the property tax as provided in section 272.02, subdivision  
 22.34 64; and

23.1 ~~(6) (5) exemption from the wind energy production tax under section 272.029,~~  
23.2 ~~subdivision 7, and~~  
23.3 ~~(7) the jobs credit allowed under section 469.318, except that a qualified business~~  
23.4 ~~located in a create automotive recovery zone is not eligible for the credit under section~~  
23.5 ~~469.318 but is eligible for the credit under section 469.3181.~~

23.6 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
23.7 December 31, 2011.

23.8 Sec. 16. Minnesota Statutes 2010, section 469.319, subdivision 4, is amended to read:

23.9 Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under  
23.10 chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must  
23.11 file an amended return with the commissioner of revenue and pay any taxes required  
23.12 to be repaid within 30 days after becoming subject to repayment under this section.  
23.13 The amount required to be repaid is determined by calculating the tax for the period or  
23.14 periods for which repayment is required without regard to the exemptions and credits  
23.15 allowed under section 469.315.

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

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

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

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

(f) For determining the tax required to be repaid, a reduction of a state or local sales or use tax is deemed to have been received on the date that the good or service was purchased or first put to a taxable use. In the case of an income tax or franchise tax, ~~including the credit payable under section 469.318,~~ a reduction of tax is deemed to have been received for the two most recent tax years that have ended prior to the date that the business became subject to repayment under this section. In the case of a property tax, a reduction of tax is deemed to have been received for the taxes payable in the year that the business became subject to repayment under this section and for the taxes payable in the prior year.

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

(h) A business is not entitled to any income tax or franchise tax benefits, including refundable credits, for any part of the year in which the business becomes subject to repayment under this section nor for any year thereafter. Property is not exempt from tax under section 272.02, subdivision 64, for any taxes payable in the year following the year in which the property became subject to repayment under this section nor for any year thereafter. A business is not eligible for any sales tax benefits beginning with goods or services purchased or first put to a taxable use on the day that the business becomes subject to repayment under this section.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011.

Sec. 17. Minnesota Statutes 2010, section 469.324, is amended to read:

**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;~~



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

25.3 ~~(4)~~ (3) exemption from the property tax as provided in section 272.02, subdivision  
25.4 68; ~~and~~

25.5 ~~(5) the jobs credit allowed under section 469.327.~~

25.6 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
25.7 December 31, 2011.

25.8 Sec. 18. Minnesota Statutes 2010, section 469.328, subdivision 1, is amended to read:

25.9 Subdivision 1. **Repayment obligation.** A person must repay the amount of the tax  
25.10 reduction received under section 469.324, subdivision 1, clauses (1) to (5), ~~or credit~~  
25.11 ~~received under section 469.327~~, during the two years immediately before it ceased to  
25.12 operate in the zone as a qualified business, if the person ceased to operate its facility  
25.13 located within the zone, ceased to be in compliance with the terms of the business subsidy  
25.14 agreement, or otherwise ceases to be or is not a qualified business.

25.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
25.16 December 31, 2011.

25.17 Sec. 19. Minnesota Statutes 2010, section 469.336, is amended to read:

25.18 **469.336 TAX INCENTIVES AVAILABLE IN ZONES.**

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

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

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

25.26 ~~(3)~~ (2) research and development credits as provided under section 469.339;

25.27 ~~(4) jobs credits as provided under section 469.338.~~

25.28 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
25.29 December 31, 2011.

25.30 Sec. 20. Minnesota Statutes 2010, section 469.340, subdivision 1, is amended to read:

Subdivision 1. **Repayment obligation.** A business must repay the amount of the tax reduction listed in section 469.336 and any ~~refunds~~ refund under ~~sections 469.338 and section 469.339~~ in excess of tax liability, received during the two years immediately before it ceased to operate in the zone, if the business:

(1) received tax reductions authorized by section 469.336; and

(2)(i) did not meet the goals specified in an agreement entered into with the applicant that states any obligation the qualified business must fulfill in order to be eligible for tax benefits. The commissioner of employment and economic development may extend for up to one year the period for meeting any goals provided in an agreement. The applicant may extend the period for meeting other goals by documenting in writing the reason for the extension and attaching a copy of the document to its next annual report to the commissioner of employment and economic development; or

(ii) ceased to operate its facility located within the biotechnology and health sciences industry zone or otherwise ceases to be or is not a qualified business.

Sec. 21. **REPEALER.**

Minnesota Statutes 2010, sections 290.01, subdivision 6b; 290.06, subdivisions 24, 27, 28, 29, 30, 31, 32, and 33; 290.0921, subdivision 7; 290.191, subdivision 4; 469.317; 469.318; 469.326; 469.327; 469.337; and 469.338, are repealed.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011.