

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1617

(SENATE AUTHORS: REST, Skoe, Eaton, Dziedzic and Koenen)

DATE	D-PG	OFFICIAL STATUS
04/18/2013	1984	Introduction and first reading Referred to Taxes

A bill for an act

relating to taxation; making changes to individual income, corporate franchise, sales and use, tobacco, estate, local, and other taxes; changing provisions of the small business investment tax credit; creating a clothing sales tax credit; establishing a technology corporate franchise tax certificate transfer program; modifying additions, subtractions, and modifications to federal taxable income; modifying the corporate franchise minimum fee; modifying definition of sale and purchase and retail sale; expanding the sales tax base; providing exemptions; modifying taxes on tobacco products; indexing rates on cigarettes; imposing a floor stocks tax; providing definition for the Minnesota taxable estate; modifying definition of qualifying property for the estate tax; modifying city aid; modifying aviation excise taxes; imposing a sports memorabilia gross receipts tax; requiring reports; appropriating money; amending Minnesota Statutes 2012, sections 16C.03, subdivision 18; 116J.8737, subdivisions 1, 2, 5, 7, 9, 12, by adding a subdivision; 270C.03, subdivision 1; 270C.56, subdivision 1; 289A.08, subdivision 3; 289A.38, by adding a subdivision; 290.01, subdivisions 19b, 19c, 19d, 29; 290.06, subdivision 1, by adding a subdivision; 290.068, subdivision 1; 290.091, subdivision 2; 290.0921, subdivisions 1, 3; 290.0922, subdivision 1; 290.095, subdivision 2; 290.17, subdivision 4; 290.191, subdivision 5; 290.21, subdivision 4; 291.005, subdivision 1; 291.03, subdivisions 1, 8, 9, 10, 11; 296A.09, subdivision 2, by adding a subdivision; 296A.17, subdivision 3, by adding a subdivision; 297A.61, subdivisions 3, 4, 10, 17a, 25, 38, 45, by adding subdivisions; 297A.62, subdivisions 1, 1a; 297A.65; 297A.66, subdivisions 1, 3, by adding a subdivision; 297A.665; 297A.668, by adding a subdivision; 297A.67, subdivision 7; 297A.68, subdivisions 2, 5, 10; 297A.70, subdivisions 2, 4, 5, 13, 14, by adding subdivisions; 297A.75, subdivisions 1, 2, 3; 297A.815, subdivision 3; 297A.82, subdivision 4, by adding a subdivision; 297F.01, subdivision 19, by adding subdivisions; 297F.05, subdivisions 1, 3, 4, by adding subdivisions; 297F.24, subdivision 1; 297F.25, subdivision 1; 298.01, subdivision 3b; 325F.781, subdivision 1; 360.531; 360.66; 469.190, by adding a subdivision; 477A.011, subdivisions 30, 34, 42, by adding subdivisions; 477A.013, subdivisions 8, 9, by adding a subdivision; 477A.03, subdivision 2a; proposing coding for new law in Minnesota Statutes, chapters 116J; 290; 291; 295; 297A; repealing Minnesota Statutes 2012, sections 16A.725; 256.9658; 290.01, subdivision 6b; 290.0921, subdivision 7; 290.171; 290.173; 290.174; 297A.61, subdivision 27; 297A.66, subdivision 4; 297A.67, subdivision 8; 297A.68, subdivisions 9, 22, 35; 477A.011, subdivisions 2a, 19, 29, 31, 32, 33, 36, 39, 40, 41, 42; 477A.013, subdivisions 11, 12; 477A.0133; 477A.0134; Minnesota Rules, part 8130.0500, subpart 2.

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

ARTICLE 1

INDIVIDUAL INCOME TAX

Section 1. Minnesota Statutes 2012, section 116J.8737, subdivision 1, is amended to read:

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

(b) "Qualified small business" means a business that has been certified by the commissioner under subdivision 2.

(c) "Qualified investor" means an investor who has been certified by the commissioner under subdivision 3.

(d) "Qualified fund" means a pooled angel investment network fund that has been certified by the commissioner under subdivision 4.

(e) "Qualified investment" means a cash investment in a qualified small business of a minimum of:

(1) \$10,000 in a calendar year by a qualified investor; or

(2) \$30,000 in a calendar year by a qualified fund.

A qualified investment must be made in exchange for common stock, a partnership or membership interest, preferred stock, debt with mandatory conversion to equity, or an equivalent ownership interest as determined by the commissioner.

(f) "Family" means a family member within the meaning of the Internal Revenue Code, section 267(c)(4).

(g) "Pass-through entity" means a corporation that for the applicable taxable year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable taxable year is not taxed as a corporation under chapter 290.

(h) "Intern" means a student of an accredited institution of higher education, or a former student who has graduated in the past six months from an accredited institution of higher education, who is employed by a qualified small business in a nonpermanent position for a duration of nine months or less that provides training and experience in the primary business activity of the business.

(i) "Qualified greater Minnesota business" means a qualified small business that is also certified by the commissioner as a qualified greater Minnesota business under subdivision 2, paragraph (h).

(j) "Liquidation event" means a conversion of qualified investment for cash, cash and other consideration, or any other form of equity or debt interest.

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

Sec. 2. Minnesota Statutes 2012, section 116J.8737, subdivision 2, is amended to read:

Subd. 2. **Certification of qualified small businesses.** (a) Businesses may apply to the commissioner for certification as a qualified small business for a calendar year. In addition, the business' application may request certification as a qualified greater Minnesota business under paragraph (h). The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$150. Application fees are deposited in the small business investment tax credit administration account in the special revenue fund. The application for certification for 2010 must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available on the department's Web site by November 1 of the preceding year.

(b) Within 30 days of receiving an application for certification under this subdivision, the commissioner must either certify the business as satisfying the conditions required of a qualified small business or a qualified greater Minnesota business, request additional information from the business, or reject the application for certification. If the commissioner requests additional information from the business, the commissioner must either certify the business or reject the application within 30 days of receiving the additional information. If the commissioner neither certifies the business nor rejects the application within 30 days of receiving the original application or within 30 days of receiving the additional information requested, whichever is later, then the application is deemed rejected, and the commissioner must refund the \$150 application fee. A business that applies for certification and is rejected may reapply.

(c) To receive certification as a qualified small business, a business must satisfy all of the following conditions:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota, and 51 percent of the business's total payroll is paid or incurred in the state;

(3) the business is engaged in, or is committed to engage in, innovation in Minnesota in one of the following as its primary business activity:

(i) using proprietary technology to add value to a product, process, or service in a qualified high-technology field;

(ii) researching or developing a proprietary product, process, or service in a qualified high-technology field; or

(iii) researching, developing, or producing a new proprietary technology for use in the fields of agriculture, tourism, forestry, mining, manufacturing, or transportation;

(4) other than the activities specifically listed in clause (3), the business is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, information technology consulting, wholesale or retail trade, leisure, hospitality, transportation, construction, ethanol production from corn, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(5) the business has fewer than 25 employees;

(6) the business must pay its employees annual wages of at least 175 percent of the federal poverty guideline for the year for a family of four and must pay its interns annual wages of at least 175 percent of the federal minimum wage used for federally covered employers, except that this requirement must be reduced proportionately for employees and interns who work less than full-time, and does not apply to an executive, officer, or member of the board of the business, or to any employee who owns, controls, or holds power to vote more than 20 percent of the outstanding securities of the business;

(7) the business has not been in operation for more than ten years;

(8) the business has not previously received private equity investments of more than \$4,000,000; ~~and~~

(9) the business is not an entity disqualified under section 80A.50, paragraph (b), clause (3); and

(10) the business has not issued securities that are traded on a public exchange.

(d) In applying the limit under paragraph (c), clause (5), the employees in all members of the unitary business, as defined in section 290.17, subdivision 4, must be included.

(e) In order for a qualified investment in a business to be eligible for tax credits, the business:

(1) the business must have applied for and received certification for the calendar year in which the investment was made prior to the date on which the qualified investment was made;

(2) must not have issued securities that are traded on a public exchange;

(3) must not issue securities that are traded on a public exchange within 180 days after the date on which the qualified investment was made; and

(4) must not have a liquidation event within 180 days after the date on which a qualified investment was made.

(f) The commissioner must maintain a list of qualified small businesses and qualified greater Minnesota businesses certified under this subdivision for the calendar year and make the list accessible to the public on the department's Web site.

(g) For purposes of this subdivision, the following terms have the meanings given:

(1) "qualified high-technology field" includes aerospace, agricultural processing, renewable energy, energy efficiency and conservation, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biotechnology, medical device products, pharmaceuticals, diagnostics, biologicals, chemistry, veterinary science, and similar fields; ~~and~~

(2) "proprietary technology" means the technical innovations that are unique and legally owned or licensed by a business and includes, without limitation, those innovations that are patented, patent pending, a subject of trade secrets, or copyrighted; and

(3) "greater Minnesota" means the area of Minnesota located outside of the metropolitan area as defined in section 473.121, subdivision 2.

(h) To receive certification as a qualified greater Minnesota business, a business must satisfy all of the requirements of paragraph (c) and must satisfy the following conditions:

(1) the business has its headquarters in greater Minnesota; and

(2) at least 51 percent of the business's employees are employed in greater Minnesota, and 51 percent of the business's total payroll is paid or incurred in greater Minnesota.

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

Sec. 3. Minnesota Statutes 2012, section 116J.8737, subdivision 5, is amended to read:

Subd. 5. **Credit allowed.** (a) A qualified investor or qualified fund is eligible for a credit equal to 25 percent of the qualified investment in a qualified small business.

Investments made by a pass-through entity qualify for a credit only if the entity is a qualified fund. The commissioner must not allocate more than \$11,000,000 in credits to qualified investors or qualified funds for taxable years beginning after December 31, 2009, and before January 1, 2011, and must not allocate more than \$12,000,000 in credits per year for taxable years beginning after December 31, 2010, and before January 1, ~~2015~~ 2013, or more than \$17,000,000 in credits per year for taxable years beginning after December 31, 2012, and before January 1, 2016. Any portion of a taxable year's credits that is not allocated by the commissioner does not cancel and may be carried forward to subsequent taxable years until all credits have been allocated.

(b) The commissioner may not allocate more than a total maximum amount in credits for a taxable year to a qualified investor for the investor's cumulative qualified investments as an individual qualified investor and as an investor in a qualified fund; for married couples filing joint returns the maximum is \$250,000, and for all other filers the maximum is \$125,000. The commissioner may not allocate more than a total of \$1,000,000 in credits over all taxable years for qualified investments in any one qualified small business.

(c) The commissioner may not allocate a credit to a qualified investor either as an individual qualified investor or as an investor in a qualified fund if the investor receives more than 50 percent of the investor's gross annual income from the qualified small business in which the qualified investment is proposed. A member of the family of an individual disqualified by this paragraph is not eligible for a credit under this section. For a married couple filing a joint return, the limitations in this paragraph apply collectively to the investor and spouse. For purposes of determining the ownership interest of an investor under this paragraph, the rules under section 267(c) and 267(e) of the Internal Revenue Code apply.

(d) Applications for tax credits for 2010 must be made available on the department's Web site by September 1, 2010, and the department must begin accepting applications by September 1, 2010. Applications for subsequent years must be made available by November 1 of the preceding year.

(e) Qualified investors and qualified funds must apply to the commissioner for tax credits. Tax credits must be allocated to qualified investors or qualified funds in the order that the tax credit request applications are filed with the department. The commissioner must approve or reject tax credit request applications within 15 days of receiving the application. The investment specified in the application must be made within 60 days of the allocation of the credits. If the investment is not made within 60 days, the credit allocation is canceled and available for reallocation. A qualified investor or qualified fund that fails to invest as specified in the application, within 60 days of allocation of the credits, must notify the commissioner of the failure to invest within five business days of the expiration of the 60-day investment period.

(f) All tax credit request applications filed with the department on the same day must be treated as having been filed contemporaneously. If two or more qualified investors or qualified funds file tax credit request applications on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day, then the credits must be allocated among the qualified investors or qualified funds who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one

qualified investor or qualified fund is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a qualified investor and the denominator of which is the total of all credit allocation claims filed on behalf of all applicants on that day, by the amount of credits that remain unallocated on that day for the taxable year.

(g) A qualified investor or qualified fund, or a qualified small business acting on their behalf, must notify the commissioner when an investment for which credits were allocated has been made, and the taxable year in which the investment was made. A qualified fund must also provide the commissioner with a statement indicating the amount invested by each investor in the qualified fund based on each investor's share of the assets of the qualified fund at the time of the qualified investment. After receiving notification that the investment was made, the commissioner must issue credit certificates for the taxable year in which the investment was made to the qualified investor or, for an investment made by a qualified fund, to each qualified investor who is an investor in the fund. The certificate must state that the credit is subject to revocation if the qualified investor or qualified fund does not hold the investment in the qualified small business for at least three years, consisting of the calendar year in which the investment was made and the two following years. The three-year holding period does not apply if:

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

(2) 80 percent or more of the assets of the qualified small business is sold before the end of the three-year period;

(3) the qualified small business is sold before the end of the three-year period; or

(4) the qualified small business's common stock begins trading on a public exchange before the end of the three-year period.

(h) The commissioner must notify the commissioner of revenue of credit certificates issued under this section.

EFFECTIVE DATE. This section is effective the day following final enactment for taxable years beginning after December 31, 2012.

Sec. 4. Minnesota Statutes 2012, section 116J.8737, is amended by adding a subdivision to read:

Subd. 5a. Promotion of credit in greater Minnesota. (a) By July 1, 2013, the commissioner shall develop a plan to increase awareness of and use of the credit for investments in greater Minnesota businesses with a target goal that a minimum of 30 percent of the credit will be awarded for those investments during the second half

of calendar year 2013 and for each full calendar year thereafter. Beginning with the legislative report due on March 15, 2014, under subdivision 9, the commissioner shall report on its plan under this subdivision and the results achieved.

(b) If the target goal of 30 percent under paragraph (a) is not achieved for the six-month period ending on December 31, 2013, the credit percentage under subdivision 5, paragraph (a), is increased to 40 percent for a qualified investment made after December 31, 2013, in a greater Minnesota business. This paragraph does not apply and the credit percentage for all qualified investments is the rate provided under subdivision 5 for any calendar year beginning after a calendar year for which the commissioner determines the 30 percent target has been satisfied. The commissioner shall timely post notification of changes in the credit rate under this paragraph on the department's Web site.

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

Sec. 5. Minnesota Statutes 2012, section 116J.8737, subdivision 7, is amended to read:

Subd. 7. **Revocation of credits.** (a) If the commissioner determines that a qualified investor or qualified fund did not meet the three-year holding period required in subdivision 5, paragraph (g), any credit allocated and certified to the investor or fund is revoked and must be repaid by the investor.

(b) If the commissioner determines that a business did not meet the employment and payroll requirements in subdivision 2, paragraph (c), clause (2), or paragraph (h), as applicable, in any of the five calendar years following the year in which an investment in the business that qualified for a tax credit under this section was made, the business must repay the following percentage of the credits allowed for qualified investments in the business:

Year following the year in which the investment was made:	Percentage of credit required to be repaid:
First	100%
Second	80%
Third	60%
Fourth	40%
Fifth	20%
Sixth and later	0

(c) The commissioner must notify the commissioner of revenue of every credit revoked and subject to full or partial repayment under this section.

(d) For the repayment of credits allowed under this section and section 290.0692, a qualified small business, qualified investor, or investor in a qualified fund must file an amended return with the commissioner of revenue and pay any amounts required to be repaid within 30 days after becoming subject to repayment under this section.

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

9.2 Sec. 6. Minnesota Statutes 2012, section 116J.8737, subdivision 9, is amended to read:

9.3 Subd. 9. **Report to legislature.** Beginning in 2011, the commissioner must
9.4 annually report by March 15 to the chairs and ranking minority members of the legislative
9.5 committees having jurisdiction over taxes and economic development in the senate and
9.6 the house of representatives, in compliance with sections 3.195 and 3.197, on the tax
9.7 credits issued under this section. The report must include:

9.8 (1) the number and amount of the credits issued;

9.9 (2) the recipients of the credits;

9.10 (3) for each qualified small business, its location, line of business, and if it received
9.11 an investment resulting in certification of tax credits;

9.12 (4) the total amount of investment in each qualified small business resulting in
9.13 certification of tax credits;

9.14 (5) for each qualified small business that received investments resulting in tax
9.15 credits, the total amount of additional investment that did not qualify for the tax credit;

9.16 (6) the number and amount of credits revoked under subdivision 7;

9.17 (7) the number and amount of credits that are no longer subject to the three-year
9.18 holding period because of the exceptions under subdivision 5, paragraph (g), clauses
9.19 (1) to (4); and

9.20 (8) the number of qualified small businesses that are women or minority-owned; and

9.21 (9) any other information relevant to evaluating the effect of these credits.

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

9.23 Sec. 7. Minnesota Statutes 2012, section 116J.8737, subdivision 12, is amended to read:

9.24 Subd. 12. **Sunset.** This section expires for taxable years beginning after December
9.25 31, ~~2014~~ 2015, except that reporting requirements under subdivision 6 and revocation
9.26 of credits under subdivision 7 remain in effect through ~~2016~~ 2017 for qualified
9.27 investors and qualified funds, and through ~~2018~~ 2019 for qualified small businesses,
9.28 reporting requirements under subdivision 9 remain in effect through ~~2019~~ 2020, and the
9.29 appropriation in subdivision 11 remains in effect through ~~2018~~ 2019.

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

9.31 Sec. 8. **[290.0683] CLOTHING SALES TAX CREDIT.**

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

(b) "Income" has the meaning given in section 290.067, subdivision 2a.

(c) "Dependent" has the meaning given in section 152 of the Internal Revenue Code.

Subd. 2. **Credit allowed.** A taxpayer is allowed a refundable credit against the tax imposed under this chapter. The credit is equal to \$60 for a married couple filing a joint return, and \$30 for all other filers, plus \$30 for the first dependent claimed on the return, \$15 for each of the second and third dependents claimed on the return, \$10 for the fourth dependent claimed on the return, and \$5 for each subsequent dependent.

Subd. 3. **Limitations.** The credit allowed in this section is reduced by \$10 for every \$1,000 of income in excess of 200 percent of the federal poverty guidelines.

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 9. **CLOTHING SALES TAX CREDIT; TAX YEAR 2013.**

For tax year 2013 only, the credit calculated under Minnesota Statutes, section 290.0683, is the credit under Minnesota Statutes, section 290.0683, subdivision 2, after limitations imposed under Minnesota Statutes, section 290.0683, subdivision 3, multiplied by one-half.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

ARTICLE 2

CORPORATE FRANCHISE TAXES

Section 1. **[116J.8738] TECHNOLOGY CORPORATE FRANCHISE TAX CERTIFICATE TRANSFER PROGRAM.**

Subdivision 1. **Program established.** The commissioner shall establish a corporate franchise tax benefit certificate transfer program to allow new or expanding emerging technology and biotechnology companies in this state with unused net operating loss carryovers under section 290.095 to surrender those tax benefits for use by other corporate franchise taxpayers in this state. The tax benefits may be used on the corporate franchise tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporate franchise taxpayer that is the recipient of the tax benefit

11.1 certificate to assist in the funding of costs incurred by the new or expanding emerging
11.2 technology and biotechnology company.

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

11.5 (b) "Biotechnology" means the continually expanding body of fundamental
11.6 knowledge about the functioning of biological systems from the macro level to the
11.7 molecular and subatomic levels, as well as novel products, services, technologies, and
11.8 subtechnologies developed as a result of insights gained from research advances that add
11.9 to that body of fundamental knowledge.

11.10 (c) "Biotechnology company" means an emerging corporation that:

11.11 (1) has its headquarters or base of operations in this state;

11.12 (2) owns, has filed for, or has a valid license to use protected, proprietary intellectual
11.13 property; and

11.14 (3) is engaged in the research, development, production, or provision of
11.15 biotechnology for the purpose of developing or providing products or processes
11.16 for specific commercial or public purposes, including, but not limited to, medical,
11.17 pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; and
11.18 environmental purposes.

11.19 (d) "Full-time employee" means a person employed by a new or expanding emerging
11.20 technology or biotechnology company for consideration for at least 35 hours per week, or
11.21 who renders any other standard of service generally accepted by custom or practice as
11.22 full-time employment and whose wages are subject to withholding as provided in section
11.23 290.92, or who is a partner of a new or expanding emerging technology or biotechnology
11.24 company who works for the partnership for at least 35 hours per week, or who renders
11.25 any other standard of service generally accepted by custom or practice as full-time
11.26 employment, and whose distributive share of income, gain, loss, or deduction, or whose
11.27 guaranteed payments, or any combination thereof, is subject to the payment of estimated
11.28 taxes, as provided in section 289A.25. To qualify as a full-time employee, an employee
11.29 must also receive from the new or expanding emerging technology or biotechnology
11.30 company, group health benefits under a health plan as defined under section 62A.011,
11.31 subdivision 3, or under a self-insured employee welfare benefit plan as defined in United
11.32 States Code, title 29, section 1002. Full-time employee excludes any person who works as
11.33 an independent contractor or on a consulting basis for the new or expanding emerging
11.34 technology or biotechnology company.

11.35 (e) "New or expanding" means a technology or biotechnology company that:

12.1 (1) on June 30 of the year in which the corporation files an application for surrender
12.2 of unused but otherwise allowable tax benefits under this section and on the date of the
12.3 exchange of the corporate franchise tax benefit certificate, has fewer than 250 employees
12.4 in the United States;

12.5 (2) on June 30 of the year in which the corporation files the application, has at least
12.6 one full-time employee working in this state if the company has been incorporated for less
12.7 than three years, has at least five full-time employees working in this state if the company
12.8 has been incorporated for more than three years but less than five years, and has at least
12.9 ten full-time employees working in this state if the company has been incorporated for
12.10 more than five years; and

12.11 (3) on the date of the exchange of the corporate franchise tax benefit certificate, the
12.12 corporation has the number of full-time employees in this state required by clause (2).

12.13 (f) "Technology company" means an emerging corporation that:

12.14 (1) has its headquarters or base of operations in this state;

12.15 (2) owns, has filed for, or has a valid license to use protected, proprietary intellectual
12.16 property; and

12.17 (3) employs some combination of the following: highly educated or trained
12.18 managers and workers, or both, employed in this state who use sophisticated scientific
12.19 research service or production equipment, processes, or knowledge to discover, develop,
12.20 test, transfer, or manufacture a product or service.

12.21 Subd. 3. **Allocation of tax benefits; annual limit.** (a) The commissioner, in
12.22 cooperation with the commissioner of revenue, shall review and approve applications by
12.23 new or expanding emerging technology and biotechnology companies in this state with
12.24 unused but otherwise allowable net operating loss carryovers under section 290.095, to
12.25 surrender those tax benefits in exchange for private financial assistance to be made by the
12.26 corporate franchise taxpayer that is the recipient of the corporate franchise tax benefit
12.27 certificate in an amount equal to at least 75 percent of the amount of the surrendered tax
12.28 benefit. The amount of the surrendered tax benefit is the amount of the net operating loss
12.29 carryover apportioned to Minnesota under the provisions of section 290.095, subdivision
12.30 3, paragraph (c), for the taxable year in which the benefit is transferred and subsequently
12.31 multiplied by the corporate franchise tax rate under section 290.06, subdivision 1.

12.32 (b) The commissioner must approve the transfer of no more than \$15,000,000 of
12.33 tax benefits in each fiscal year. If the total amount of transferable tax benefits requested
12.34 to be surrendered by approved applicants exceeds \$15,000,000 for a fiscal year, the
12.35 commissioner, in cooperation with the commissioner of revenue, must not approve the

13.1 transfer of more than \$15,000,000 for that fiscal year and shall allocate the transfer of tax
13.2 benefits by approved corporations using the following method:

13.3 (1) an eligible applicant with \$250,000 or less of transferable tax benefits is
13.4 authorized to surrender the entire amount of its transferable tax benefits;

13.5 (2) an eligible applicant with more than \$250,000 of transferable tax benefits is
13.6 authorized to surrender a minimum of \$250,000 of its transferable tax benefits; and

13.7 (3) an eligible applicant with more than \$250,000 of transferable tax benefits is
13.8 authorized to surrender additional transferable tax benefits determined by multiplying
13.9 the applicant's transferable tax benefits less the minimum transferable tax benefits that
13.10 corporation is authorized to surrender under clause (2) by a fraction, the numerator of
13.11 which is the total amount of transferable tax benefits that the commissioner is authorized
13.12 to approve less the total amount of transferable tax benefits approved under clauses (1)
13.13 and (2) and the denominator of which is the total amount of transferable tax benefits
13.14 requested to be surrendered by all eligible applicants less the total amount of transferable
13.15 tax benefits approved under clauses (1) and (2).

13.16 (c) If the total amount of transferable tax benefits that would be authorized using the
13.17 method under paragraph (b) exceeds \$15,000,000 for a fiscal year, then the commissioner,
13.18 in cooperation with the commissioner of revenue, shall limit the total amount of tax
13.19 benefits authorized to be transferred to \$15,000,000 by applying the above method on an
13.20 apportioned basis.

13.21 Subd. 4. **Qualifying tax benefits and corporations.** For purposes of this section,
13.22 transferable tax benefits include an eligible applicant's unused but otherwise allowable
13.23 carryover of net operating losses apportioned to Minnesota under the provisions of section
13.24 290.095, subdivision 3, paragraph (c), and subsequently multiplied by the corporation
13.25 franchise tax rate under section 290.06, subdivision 1. An eligible applicant's transferable
13.26 tax benefits are limited to net operating losses that the applicant requests to surrender in its
13.27 application to the authority and must not, in total, exceed the maximum amount of tax
13.28 benefits that the applicant is eligible to surrender. No application for a corporate franchise
13.29 tax benefit transfer certificate must be approved in which the new or expanding emerging
13.30 technology or biotechnology company:

13.31 (1) has demonstrated positive net operating income in any of the two previous full
13.32 years of ongoing operations as determined on its financial statements issued according to
13.33 generally accepted accounting standards endorsed by the Financial Accounting Standards
13.34 Board; or

13.35 (2) is directly or indirectly at least 50 percent owned or controlled by another
13.36 corporation that has demonstrated positive net operating income in any of the two previous

14.1 full years of ongoing operations as determined on its financial statements issued according
14.2 to generally accepted accounting standards endorsed by the Financial Accounting
14.3 Standards Board or is part of a consolidated group of affiliated corporations, as filed for
14.4 federal income tax purposes, that in the aggregate has demonstrated positive net operating
14.5 income in any of the two previous full years of ongoing operations as determined on
14.6 its combined financial statements issued according to generally accepted accounting
14.7 standards endorsed by the Financial Accounting Standards Board.

14.8 The maximum lifetime value of surrendered tax benefits that a corporation is permitted to
14.9 surrender under the program is \$4,000,000.

14.10 Subd. 5. **Recapture of tax benefits.** The commissioner, in consultation with the
14.11 commissioner of revenue, shall establish rules for the recapture of all, or a portion of,
14.12 the amount of a grant of a corporate franchise tax benefit certificate from the new or
14.13 expanding emerging technology or biotechnology company having surrendered tax
14.14 benefits under this section if the taxpayer fails to use the private financial assistance
14.15 received for the surrender of tax benefits as required by this section or fails to maintain a
14.16 headquarters or a base of operation in this state during the five years following receipt
14.17 of the private financial assistance; except if the failure to maintain a headquarters or a
14.18 base of operation in this state is due to the liquidation of the new or expanding emerging
14.19 technology or biotechnology company.

14.20 Subd. 6. **Approval of acquisition of tax benefits; purposes; required agreement.**
14.21 (a) The commissioner, in cooperation with the commissioner of revenue, shall review and
14.22 approve applications by taxpayers under the corporate franchise tax in chapter 290 to
14.23 acquire surrendered tax benefits approved under subdivision 3, which must be issued in
14.24 the form of corporate franchise tax benefit transfer certificates, in exchange for private
14.25 financial assistance to be made by the taxpayer in an amount equal to at least 75 percent
14.26 of the amount of the surrendered tax benefit of a new or expanding biotechnology
14.27 company. The commissioner must not issue a corporate franchise tax benefit transfer
14.28 certificate, unless the applicant certifies that as of the date of the exchange of the corporate
14.29 franchise tax benefit certificate it is operating as a new or expanding emerging technology
14.30 or biotechnology company and has no current intention to cease operating as a new or
14.31 expanding emerging technology or biotechnology company.

14.32 (b) The private financial assistance shall assist in funding expenses incurred
14.33 in connection with the operation of the new or expanding emerging technology or
14.34 biotechnology company in this state, including, but not limited to, the expenses of fixed
14.35 assets, such as the construction and acquisition and development of real estate, materials,
14.36 start-up, tenant fit-out, working capital, salaries, research and development expenditures,

15.1 and any other expenses determined by the commissioner to be necessary to carry out
15.2 emerging technology or biotechnology company operations in this state.

15.3 (c) The commissioner shall require a corporate franchise taxpayer that acquires
15.4 a corporate franchise tax benefit certificate to enter into a written agreement with the
15.5 new or expanding emerging technology or biotechnology company concerning the terms
15.6 and conditions of the private financial assistance made in exchange for the certificate.
15.7 The written agreement may contain terms concerning the maintenance by the new or
15.8 expanding emerging technology or biotechnology company of a headquarters or a base
15.9 of operation in this state.

15.10 **EFFECTIVE DATE.** This section is effective the day following final enactment
15.11 and applies to taxable years beginning after December 31, 2012.

15.12 Sec. 2. Minnesota Statutes 2012, section 289A.08, subdivision 3, is amended to read:

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

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

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

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

15.24 (i) Such corporation consents by filing the return as a designated member under this
15.25 clause to remit taxes, penalties, interest, or additions to tax due from the members of the
15.26 unitary business subject to tax, and receive refunds or other payments on behalf of other
15.27 members of the unitary business. The member designated under this clause is a "taxpayer"
15.28 for the purposes of this chapter and chapter 270C, and is liable for any liability imposed
15.29 on the unitary business under this chapter and chapter 290.

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

15.33 (iii) The member designated under this clause must apply for a business tax account
15.34 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, 2012.

Sec. 3. Minnesota Statutes 2012, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events,

musical or dramatic events, speech activities, driver's education, or similar programs. No deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or the qualifying child's vehicle to provide such transportation for a qualifying child. 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, under the provisions of Public Law 109-1 and Public Law 111-126;

(7) 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;

(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)~~ (14), 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)~~ (14), 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;

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

(10) 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, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause

(1); or (ii) federally funded state active service as defined in section 190.05, subdivision 5b, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(11) 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 under United States Code, title 10; or the authority of the United Nations;

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

(13) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause ~~(16)~~ (15), 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)~~ (15), 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;

(14) to the extent included in the federal taxable income of a nonresident of Minnesota, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(15) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program;

(16) 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 19a, clause (16); ~~and~~

(17) the amount of the net operating loss allowed under section 290.095, subdivision 11, paragraph (c); and

(18) in the year that the expenditures are made for railroad track maintenance, as defined in section 45G(d) of the Internal Revenue Code, in the case of a shareholder of a corporation that is an S corporation or a partner in a partnership, an amount equal to the credit awarded pursuant to section 45G(a) of the Internal Revenue Code. The subtraction shall be reduced to an amount equal to the percentage of the shareholder's or partner's share of the net income of the S corporation or partnership.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 4. Minnesota Statutes 2012, section 290.01, subdivision 19c, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

21.1 ~~(16)~~ (15) 80 percent of the amount by which the deduction allowed by section 179 of
 21.2 the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
 21.3 Revenue Code of 1986, as amended through December 31, 2003;

21.4 ~~(17)~~ (16) to the extent deducted in computing federal taxable income, the amount of
 21.5 the deduction allowable under section 199 of the Internal Revenue Code;

21.6 ~~(18)~~ (17) for taxable years beginning before January 1, 2013, the exclusion allowed
 21.7 under section 139A of the Internal Revenue Code for federal subsidies for prescription
 21.8 drug plans;

21.9 ~~(19)~~ (18) the amount of expenses disallowed under section 290.10, subdivision 2;

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

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

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

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

21.21 ~~(iv) licensing fees; and~~

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

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

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

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

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

- 22.1 ~~(ii) income from factoring transactions or discounting transactions;~~
- 22.2 ~~(iii) royalty, patent, technical, and copyright fees;~~
- 22.3 ~~(iv) licensing fees; and~~
- 22.4 ~~(v) other similar income.~~

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

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

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

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

22.20 ~~(24) (19) for taxable years beginning before January 1, 2010, the additional amount~~
 22.21 ~~allowed as a deduction for donation of computer technology and equipment under section~~
 22.22 ~~170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income; and~~

22.23 ~~(25) (20) discharge of indebtedness income resulting from reacquisition of business~~
 22.24 ~~indebtedness and deferred under section 108(i) of the Internal Revenue Code.~~

22.25 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 22.26 December 31, 2012.

22.27 Sec. 5. Minnesota Statutes 2012, section 290.01, subdivision 19d, is amended to read:

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

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

22.33 (2) the amount of salary expense not allowed for federal income tax purposes due to
 22.34 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, unless the income resulting from such payments or accruals is income from sources within the United States as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code;~~

~~(11)~~ (10) 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)~~ (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;

(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;

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

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

(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 (20); and

(19) in the year that the expenditures are made for railroad track maintenance, as defined in section 45G(d) of the Internal Revenue Code, an amount equal to the credit awarded pursuant to section 45G(a) of the Internal Revenue Code.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 6. Minnesota Statutes 2012, 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, excluding any amount surrendered under section 116J.8738;
 - (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; and
 - (iv) the exemption for operating in a biotechnology and health sciences industry zone under section 469.337.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

26.1 Sec. 7. Minnesota Statutes 2012, section 290.06, subdivision 1, is amended to read:

26.2 Subdivision 1. **Computation, corporations.** The franchise tax imposed upon
26.3 corporations shall be computed by applying to their taxable income the rate of ~~9.8~~ 9.0
26.4 percent.

26.5 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
26.6 December 31, 2012.

26.7 Sec. 8. Minnesota Statutes 2012, section 290.06, is amended by adding a subdivision
26.8 to read:

26.9 Subd. 36. **Credit; technology corporate franchise tax certificate transfer.**
26.10 A taxpayer may take a credit against the tax imposed under subdivision 1 or section
26.11 290.0921 equal to the amount of the transferable tax benefits certified to the taxpayer for
26.12 the taxable year by the commissioner of employment and economic development under
26.13 section 116J.8738. The credit can be used against the tax liability of any member of the
26.14 unitary business that is included in the combined return that is filed by the taxpayer.

26.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
26.16 December 31, 2012.

26.17 Sec. 9. Minnesota Statutes 2012, section 290.068, subdivision 1, is amended to read:

26.18 Subdivision 1. **Credit allowed.** A corporation, partners in a partnership, or
26.19 shareholders in a corporation treated as an "S" corporation under section 290.9725 are
26.20 allowed a credit against the tax computed under this chapter for the taxable year equal to:

- 26.21 (a) ten percent of the first \$2,000,000 of the excess (if any) of
26.22 (1) the qualified research expenses for the taxable year, over
26.23 (2) the base amount; and
26.24 (b) ~~2.5~~ 4.5 percent on all of such excess expenses over \$2,000,000.

26.25 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
26.26 December 31, 2012.

26.27 Sec. 10. Minnesota Statutes 2012, section 290.091, subdivision 2, is amended to read:

26.28 Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following
26.29 terms have the meanings given:

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

27.1 (1) the taxpayer's federal alternative minimum taxable income as defined in section
27.2 55(b)(2) of the Internal Revenue Code;

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

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

27.7 (ii) the medical expense deduction;

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

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

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

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

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

27.21 (6) the amount of addition required by section 290.01, subdivision 19a, clauses (7)
27.22 to (9), (12), (13), and (16) to (18);

27.23 less the sum of the amounts determined under the following:

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

27.25 (2) an overpayment of state income tax as provided by section 290.01, subdivision
27.26 19b, clause (2), to the extent included in federal alternative minimum taxable income;

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

27.31 (4) amounts subtracted from federal taxable income as provided by section 290.01,
27.32 subdivision 19b, clauses (6), (8) to (14), ~~and (16)~~, and (18); and

27.33 (5) the amount of the net operating loss allowed under section 290.095, subdivision
27.34 11, paragraph (c).

27.35 In the case of an estate or trust, alternative minimum taxable income must be
27.36 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) "Net minimum tax" means the minimum tax imposed by this section.

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 11. Minnesota Statutes 2012, section 290.0921, subdivision 1, is amended to read:

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~~ 5.3 percent of Minnesota alternative minimum taxable income; over

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 12. Minnesota Statutes 2012, section 290.0921, subdivision 3, is amended to read:

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

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

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

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

29.9 (3) The subtraction for depreciation allowed under section 290.01, subdivision
29.10 19d, clause ~~(17)~~ (16), is allowed as a depreciation deduction in determining alternative
29.11 minimum taxable income.

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

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

29.16 (6) The special rule for dividends from section 936 companies under section
29.17 56(g)(4)(C)(iii) does not apply.

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

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

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

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

29.27 (11) For purposes of calculating the tax preference for accelerated depreciation or
29.28 amortization on certain property placed in service before January 1, 1987, under section
29.29 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the
29.30 deduction allowed under section 290.01, subdivision 19e.

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

29.34 (12) For purposes of calculating the adjustment for adjusted current earnings in
29.35 section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable
29.36 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), (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.

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, 2012.

Sec. 13. Minnesota Statutes 2012, section 290.0922, subdivision 1, is amended to read:

Subdivision 1. **Imposition.** (a) In addition to the tax imposed by this chapter without regard to this section, the franchise tax imposed on a corporation required to file under section 289A.08, subdivision 3, other than a corporation treated as an "S" corporation under section 290.9725 for the taxable year includes a tax equal to the following amounts:

If the sum of the corporation's Minnesota property, payrolls, and sales or receipts is: the tax equals:

		500,000	
less than	\$	930,000	\$ 0
500,000		999,999	100
\$ 930,000 to	\$	1,869,999	\$ 190
1,000,000		4,999,999	300
\$ 1,870,000 to	\$	9,339,999	\$ 560
5,000,000		9,999,999	1,000
\$ 9,340,000 to	\$	18,679,999	\$ 1,870
10,000,000		19,999,999	2,000
\$ 18,680,000 to	\$	37,359,999	\$ 3,740
20,000,000			5,000
\$ 37,360,000 or more			\$ 9,340

(b) A tax is imposed for each taxable year on a corporation required to file a return under section 289A.12, subdivision 3, that is treated as an "S" corporation under section

290.9725 and on a partnership required to file a return under section 289A.12, subdivision 3, other than a partnership that derives over 80 percent of its income from farming. The tax imposed under this paragraph is due on or before the due date of the return for the taxpayer due under section 289A.18, subdivision 1. The commissioner shall prescribe the return to be used for payment of this tax. The tax under this paragraph is equal to the following amounts:

If the sum of the S corporation's or partnership's Minnesota property, payrolls, and sales or receipts is:

the tax equals:

		500,000	
less than	\$	<u>930,000</u>	\$ 0
500,000		999,999	100
\$ <u>930,000</u>	to	\$ <u>1,869,999</u>	\$ <u>190</u>
1,000,000		4,999,999	300
\$ <u>1,870,000</u>	to	\$ <u>9,339,999</u>	\$ <u>560</u>
5,000,000		9,999,999	1,000
\$ <u>9,340,000</u>	to	\$ <u>18,679,999</u>	\$ <u>1,870</u>
10,000,000		19,999,999	2,000
\$ <u>18,680,000</u>	to	\$ <u>37,359,999</u>	\$ <u>3,740</u>
20,000,000			5,000
\$ <u>37,360,000</u>	or more		\$ <u>9,340</u>

(c) The commissioner shall adjust the dollar amounts of both the tax and the property, payrolls, and sales or receipts thresholds in paragraphs (a) and (b) by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the year 2012 must be substituted for the year 1992. For 2014, the commissioner shall determine the percentage change from the 12 months ending on August 31, 2012, to the 12 months ending on August 31, 2013, and in each subsequent year, from the 12 months ending on August 31, 2012, to the 12 months ending on August 31 of the year preceding the taxable year. The determination of the commissioner pursuant to this subdivision is not a rule subject to the Administrative Procedure Act contained in chapter 14. The tax amounts as adjusted must be rounded to the nearest \$10 amount and the threshold amounts must be adjusted to the nearest \$10,000 amount. For tax amounts that end in \$5, the amount is rounded up to the nearest \$10 amount and for threshold amounts that end in \$5,000, the amount is rounded up to the nearest \$10,000.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 14. Minnesota Statutes 2012, section 290.095, subdivision 2, is amended to read:

Subd. 2. **Defined and limited.** (a) The term "net operating loss" as used in this section shall mean a net operating loss as defined in section 172(c) of the Internal Revenue Code, with the modifications specified in subdivision 4. The deductions provided in section 290.21 ~~and the modification provided in section 290.01, subdivision 19d, clause (10),~~ cannot be used in the determination of a net operating loss.

(b) The term "net operating loss deduction" as used in this section means the aggregate of the net operating loss carryovers to the taxable year, computed in accordance with subdivision 3. The provisions of section 172(b) of the Internal Revenue Code relating to the carryback of net operating losses, do not apply.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 15. Minnesota Statutes 2012, 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; except that the income and apportionment factors of a foreign corporation, foreign partnership, or other foreign entity, that are included in the federal taxable income, as defined in section 63 of the Internal Revenue Code as amended through the date named in section 290.01, subdivision 19, of a domestic corporation, domestic entity, or individual must be included in determining net income and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20. A foreign corporation or other foreign entity which is not part of a unitary business and 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) (g)~~ 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; except that the income and apportionment factors of a foreign corporation, foreign partnership, or other foreign entity, that is included in the federal taxable income, as defined in section 63 of the Internal Revenue Code as amended through the date named in section 290.01, subdivision 19, of a domestic corporation, domestic entity, or individual must be included in determining net income and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20.

~~(i) 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) (h)~~ 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)~~ (g) 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)~~ (g) in the denominators of the apportionment formula. All sales of the unitary business made within this state pursuant to section 290.191 or 290.20 must be included on the combined report of a corporation or other entity that is a member of the unitary business and is subject to the jurisdiction of this state to impose tax under this chapter.

~~(k) (i)~~ 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, 2012.

Sec. 16. Minnesota Statutes 2012, section 290.191, subdivision 5, is amended to read:

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

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

(1) interest;

(2) dividends;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Sales of intangible property are made within the state in which the property is used by the purchaser. If the property is used in more than one state, the sales must be apportioned to this state pro rata according to the portion of use in this state. If the

portion of use in this state cannot be determined, the sale must be excluded from both the numerator and the denominator of the sales factor. Intangible property is used in this state if the purchaser used the intangible property in the regular course of its business operations in this state.

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

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

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 17. Minnesota Statutes 2012, 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 is eliminated in consolidation under Treasury Department Regulation 1.1502-14(a), as amended through December 31, 1989;

(ii) the remaining 20 percent of dividends if the dividends are 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 and the dividend is eliminated in consolidation under Treasury Department Regulation 1.1502-14(a), as amended through December 31, 1989, or is deducted under an election under section 243(b) of the Internal Revenue Code; or

(iii) the remaining 20 percent of the dividends if the dividends are 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: (A) the dividend is eliminated in consolidation under Treasury Regulation 1.1502-14(a), as amended through December 31, 1989; or (B) the dividend is deducted under an election under section 243(b) of the Internal Revenue Code.

(b) Seventy percent of dividends received by a corporation during the taxable year from another corporation in which the recipient owns less than 20 percent of the stock, by vote or 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 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 income and gain therefrom.

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

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

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

39.8 The dividend deduction provided in this subdivision applies to the amount of
39.9 regulated investment company dividends only to the extent determined under section
39.10 854(b) of the Internal Revenue Code.

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

39.14 (d) If dividends received by a corporation that does not have nexus with Minnesota
39.15 under the provisions of Public Law 86-272 are included as income on the return of
39.16 an affiliated corporation permitted or required to file a combined report under section
39.17 290.17, subdivision 4, or 290.34, subdivision 2, then for purposes of this subdivision the
39.18 determination as to whether the trade or business of the corporation consists principally
39.19 of the holding of stocks and the collection of income and gains therefrom shall be made
39.20 with reference to the trade or business of the affiliated corporation having a nexus with
39.21 Minnesota.

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

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

39.30 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
39.31 December 31, 2012.

39.32 Sec. 18. Minnesota Statutes 2012, section 298.01, subdivision 3b, is amended to read:

39.33 Subd. 3b. **Deductions.** (a) For purposes of determining taxable income under
39.34 subdivision 3, the deductions from gross income include only those expenses necessary
39.35 to convert raw ores to marketable quality. Such expenses include costs associated with

refinement but do not include expenses such as transportation, stockpiling, marketing, or marine insurance that are incurred after marketable ores are produced, unless the expenses are included in gross income. The allowable deductions from a mine or plant that mines and produces more than one mineral, metal, or energy resource must be determined separately for the purposes of computing the deduction in section 290.01, subdivision 19c, clause (9). These deductions may be combined on one occupation tax return to arrive at the deduction from gross income for all production.

(b) The provisions of section 290.01, subdivisions 19c, clauses (6) and (9), and 19d, clauses (7) and ~~(H)~~ (10), are not used to determine taxable income.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

Sec. 19. **REPEALER.**

Minnesota Statutes 2012, sections 290.01, subdivision 6b; and 290.0921, subdivision 7, are repealed.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2012.

ARTICLE 3

SALES AND USE TAX

Section 1. Minnesota Statutes 2012, section 16C.03, subdivision 18, is amended to read:

Subd. 18. **Contracts with foreign vendors.** (a) The commissioner and other agencies to which this section applies and the legislative branch of government shall, subject to paragraph (d), cancel a contract for goods or services from a vendor or an affiliate of a vendor or suspend or debar a vendor or an affiliate of a vendor from future contracts upon notification from the commissioner of revenue that the vendor or an affiliate of the vendor has not registered to collect the sales and use tax imposed under chapter 297A on its sales in Minnesota or to a destination in Minnesota. This subdivision shall not apply to state colleges and universities, the courts, and any agency in the judicial branch of government. For purposes of this subdivision, the term "affiliate" means any person or entity that is controlled by, or is under common control of, a vendor through stock ownership or other affiliation.

(b) ~~Beginning January 1, 2006,~~ Each vendor or affiliate of a vendor selling goods or services, subject to tax under chapter 297A, to an agency or the legislature must register with the commissioner of revenue as provided in section 297A.83, and comply with all legal

requirements imposed on a person maintaining a place of business in this state, including the requirement to collect and remit sales and use tax on all taxable sales to customers in the state, and provide its Minnesota sales and use tax business identification number, upon request, to show that the vendor is registered to collect Minnesota sales or use tax.

(c) The commissioner of revenue shall periodically provide to the commissioner and the legislative branch a list of vendors who have not registered to collect Minnesota sales and use tax and who are subject to being suspended or debarred as vendors or having their contracts canceled.

(d) The provisions of this subdivision may be waived by the commissioner or the legislative branch when the vendor is the single source of such goods or services, in the event of an emergency, or when it is in the best interests of the state as determined by the commissioner in consultation with the commissioner of revenue. Such consultation is not a disclosure violation under chapter 270B.

Sec. 2. Minnesota Statutes 2012, section 297A.61, subdivision 3, is amended to read:

Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited to, each of the transactions listed in this subdivision.

(b) Sale and purchase include:

(1) any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, for a consideration in money or by exchange or barter; and

(2) the leasing of or the granting of a license to use or consume, for a consideration in money or by exchange or barter, tangible personal property, other than a manufactured home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include the production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing.

(d) Sale and purchase include the preparing for a consideration of food. Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited to, the following:

(1) prepared food sold by the retailer;

(2) soft drinks;

(3) candy;

(4) dietary supplements; and

(5) all food sold through vending machines.

(e) A sale and a purchase includes the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state.

42.1 (f) A sale and a purchase includes:

42.2 (1) the transfer for a consideration of prewritten computer software whether
42.3 delivered electronically, by load and leave, or otherwise; and

42.4 (2) the receipt of custom computer software whether delivered electronically, by
42.5 load and leave, or otherwise.

42.6 (g) A sale and a purchase includes the furnishing for a consideration of the following
42.7 services:

42.8 (1) the privilege of admission to places of amusement, exhibitions, recreational
42.9 areas, or professional athletic events, including the rental of box seats and suites at
42.10 professional athletic events, and the making available of amusement devices, tanning
42.11 facilities, reducing salons, steam baths, Turkish baths, health clubs, and spas or athletic
42.12 facilities. The term "exhibitions" includes, but is not limited to, trade shows, boat shows,
42.13 home shows, garden shows, and other similar events;

42.14 (2) lodging and related services by a hotel, rooming house, resort, campground,
42.15 motel, or trailer camp, including furnishing the guest of the facility with access to
42.16 telecommunication services, and the granting of any similar license to use real property in
42.17 a specific facility, other than the renting or leasing of it for a continuous period of 30 days
42.18 or more under an enforceable written agreement that may not be terminated without prior
42.19 notice and including accommodations intermediary services provided in connection with
42.20 other services provided under this clause;

42.21 (3) nonresidential parking services, whether on a contractual, hourly, or other
42.22 periodic basis, ~~except for parking at a meter;~~

42.23 (4) the granting of membership in a club, association, or other organization if:

42.24 (i) the club, association, or other organization makes available for the use of its
42.25 members sports and athletic facilities, without regard to whether a separate charge is
42.26 assessed for use of the facilities; and

42.27 (ii) use of the sports and athletic facility is not made available to the general public
42.28 on the same basis as it is made available to members.

42.29 Granting of membership means both onetime initiation fees and periodic membership
42.30 dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and
42.31 squash courts; basketball and volleyball facilities; running tracks; exercise equipment;
42.32 swimming pools; and other similar athletic or sports facilities;

42.33 (5) delivery of aggregate materials by a third party, excluding delivery of aggregate
42.34 material used in road construction; and delivery of concrete block by a third party if the
42.35 delivery would be subject to the sales tax if provided by the seller of the concrete block.
42.36 For purposes of this clause, "road construction" means construction of:

- 43.1 (i) public roads;
 43.2 (ii) cartways; and
 43.3 (iii) private roads in townships located outside of the seven-county metropolitan area
 43.4 up to the point of the emergency response location sign; and
 43.5 (6) services as provided in this clause:
 43.6 (i) laundry and dry cleaning services including cleaning, pressing, repairing, altering,
 43.7 and storing clothes, linen services and supply, cleaning and blocking hats, and carpet,
 43.8 drapery, upholstery, and industrial cleaning. ~~Laundry and dry cleaning services do not~~
 43.9 ~~include services provided by coin-operated facilities operated by the customer;~~
 43.10 (ii) motor vehicle washing, waxing, and cleaning services, including services
 43.11 provided by coin-operated facilities operated by the customer, and rustproofing,
 43.12 undercoating, and towing of motor vehicles;
 43.13 (iii) building and residential cleaning, maintenance, and disinfecting services and
 43.14 pest control and exterminating services;
 43.15 (iv) detective, security, burglar, fire alarm, and armored car services; ~~but not including~~
 43.16 ~~services performed within the jurisdiction they serve by off-duty licensed peace officers as~~
 43.17 ~~defined in section 626.84, subdivision 1, or services provided by a nonprofit organization~~
 43.18 ~~for monitoring and electronic surveillance of persons placed on in-home detention~~
 43.19 ~~pursuant to court order or under the direction of the Minnesota Department of Corrections;~~
 43.20 (v) pet grooming services;
 43.21 (vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting
 43.22 and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor
 43.23 plant care; tree, bush, shrub, and stump removal, ~~except when performed as part of a land~~
 43.24 ~~clearing contract as defined in section 297A.68, subdivision 40; and tree trimming for~~
 43.25 ~~public utility lines. Services performed under a construction contract for the installation of~~
 43.26 ~~shrubbery, plants, sod, trees, bushes, and similar items are not taxable;~~
 43.27 (vii) massages, except when provided by a licensed health care facility or
 43.28 professional or upon written referral from a licensed health care facility or professional for
 43.29 treatment of illness, injury, or disease; and
 43.30 (viii) the furnishing of lodging, board, and care services for animals in kennels and
 43.31 other similar arrangements, ~~but excluding veterinary and horse boarding services.~~
 43.32 ~~In applying the provisions of this chapter, the terms "tangible personal property"~~
 43.33 ~~and "retail sale" include taxable services listed in clause (6), items (i) to (vi) and (viii),~~
 43.34 ~~and the provision of these taxable services, unless specifically provided otherwise.~~
 43.35 ~~Services performed by an employee for an employer are not taxable. Services performed~~
 43.36 ~~by a partnership or association for another partnership or association are not taxable if~~

~~one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of the preceding sentence, "affiliated group of corporations" means those entities that would be classified as members of an affiliated group as defined under United States Code, title 26, section 1504, disregarding the exclusions in section 1504(b).~~

~~For purposes of clause (5), "road construction" means construction of (1) public roads, (2) cartways, and (3) private roads in townships located outside of the seven-county metropolitan area up to the point of the emergency response location sign.~~

(h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

(i) A sale and a purchase includes the furnishing for a consideration of telecommunications services, ancillary services associated with telecommunication services, ~~cable and pay~~ television services, ~~and direct satellite services~~. Telecommunication services include, but are not limited to, the following services, as defined in section 297A.669: air-to-ground radiotelephone service, mobile telecommunication service, postpaid calling service, prepaid calling service, prepaid wireless calling service, and private communication services. The services in this paragraph are taxed to the extent allowed under federal law.

(j) A sale and a purchase includes the furnishing for a consideration of installation if the installation charges would be subject to the sales tax if the installation were provided by the seller of the item being installed.

(k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer to a customer when (1) the vehicle is rented by the customer for a consideration, or (2) the motor vehicle dealer is reimbursed pursuant to a service contract as defined in section 59B.02, subdivision 11.

(l) A sale and a purchase includes the furnishing for a consideration of specified digital products or other digital products and granting the right for a consideration to use specified digital products or other digital products on a temporary or permanent basis and regardless of whether the purchaser is required to make continued payments for such right. Wherever the term "tangible personal property" is used in this chapter, other than in subdivisions 10 and 38, the provisions also apply to specified digital products, or other digital products, unless specifically provided otherwise or the context indicates otherwise.

(m) A sale and purchase includes:

(1) any service performed for the care, cleansing, beautification, or alteration of the appearance of the body, skin, nails, or hair, or in the enhancement of personal relaxation, appearance, or health, but excluding mortuary services;

(2) repair labor for:

(i) farm machinery as defined under section 297A.61, subdivision 12;

(ii) motor vehicles as defined under section 297B.01, subdivision 11, except for motor vehicles sold at wholesale auction at an auto auction facility; and

(iii) any other tangible personal property;

(3) warehousing or storage services for tangible personal property excluding storage of farm products and storage of electronic data; and

(4) the furnishing for consideration of documents prepared in connection with any legal proceeding, including a trial hearing, deposition, arbitration, or mediation.

(n) A sale and purchase includes any personal service not subject to taxation under paragraph (g), clause (6), or paragraph (m), including, but not limited to, event planning, dating services, personal shopping, personal concierge services, or personal or household organizing services, but excluding the services in section 297A.715, subdivisions 19 to 27.

(o) In applying the provisions of this chapter, the terms "tangible personal property" and "retail sale" include taxable services listed in paragraph (g), clause (6), items (i) to (vi) and (viii), and paragraphs (m) and (n), and the provision of these taxable services, unless specifically provided otherwise.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 3. Minnesota Statutes 2012, section 297A.61, subdivision 4, is amended to read:

Subd. 4. **Retail sale.** (a) A "retail sale" means:

(1) any sale, lease, or rental of tangible personal property for any purpose, other than resale, sublease, or subrent of items by the purchaser in the normal course of business as defined in subdivision 21; and

(2) any sale of a service enumerated in subdivision 3, for any purpose other than resale by the purchaser in the normal course of business as defined in subdivision 21.

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

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

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

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

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

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

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

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

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

(k) In the case of a lease, a retail sale occurs (1) when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor or (2) in the case of a lease of a motor vehicle, as defined in section 297B.01, subdivision 11, but excluding vehicles with a manufacturer's gross vehicle weight rating greater than 10,000 pounds and rentals of vehicles for not more than 28 days, at the time the lease is executed.

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

(m) A sale of a bundled transaction in which one or more of the products included in the bundle is a taxable product is a retail sale, except that if one of the products is a telecommunication service, ancillary service, Internet access, or audio or video programming service, and the seller has maintained books and records identifying through reasonable and verifiable standards the portions of the price that are attributable to the

distinct and separately identifiable products, then the products are not considered part of a bundled transaction. For purposes of this paragraph:

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

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

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

(n) A sale of motor vehicle repair paint and materials by a motor vehicle repair or body shop business is a retail sale and the sales tax is imposed on the gross receipts from the retail sale of the paint and materials. The motor vehicle repair or body shop that purchases motor vehicle repair paint and motor vehicle repair materials for resale must either:

(1) separately state each item of paint and each item of materials, and the sales price of each, on the invoice to the purchaser; or

(2) in order to calculate the sales price of the paint and materials, use a method which estimates the amount and monetary value of the paint and materials used in the repair of the motor vehicle by multiplying the number of labor hours by a rate of consideration for the paint and materials used in the repair of the motor vehicle following industry standard practices that fairly calculate the gross receipts from the retail sale of the motor vehicle repair paint and motor vehicle repair materials. An industry standard practice fairly calculates the gross receipts if the sales price of the paint and materials used or consumed in the repair of a motor vehicle equals or exceeds the purchase price paid by the motor vehicle repair or body shop business. Under clause (1), the invoice must either separately state the "paint and materials" as a single taxable item, or separately state "paint" as a taxable item and "materials" as a taxable item. This clause does not apply to wholesale transactions at an auto auction facility.

(o) A sale of specified digital products or other digital products to an end user with or without rights of permanent use and regardless of whether rights of use are conditioned upon continued payment by the purchaser is a retail sale. When a digital code has been purchased that relates to specified digital products or other digital products, the subsequent receipt of or access to the related specified digital products or other digital products is not a retail sale.

48.1 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
48.2 June 30, 2013.

48.3 Sec. 4. Minnesota Statutes 2012, section 297A.61, subdivision 10, is amended to read:

48.4 Subd. 10. **Tangible personal property.** (a) "Tangible personal property" means
48.5 personal property that can be seen, weighed, measured, felt, or touched, or that is in any
48.6 other manner perceptible to the senses. "Tangible personal property" includes, but is not
48.7 limited to, electricity, water, gas, steam, and prewritten computer software.

48.8 (b) Tangible personal property does not include:

48.9 (1) large ponderous machinery and equipment used in a business or production
48.10 activity which at common law would be considered to be real property;

48.11 (2) property which is subject to an ad valorem property tax;

48.12 (3) property described in section 272.02, subdivision 9, clauses (a) to (d); ~~and~~

48.13 (4) property described in section 272.03, subdivision 2, clauses (3) and (5); and

48.14 (5) specified digital products, or other digital products, transferred electronically,
48.15 except that prewritten computer software delivered electronically is tangible personal
48.16 property.

48.17 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
48.18 June 30, 2013.

48.19 Sec. 5. Minnesota Statutes 2012, section 297A.61, subdivision 17a, is amended to read:

48.20 Subd. 17a. **Delivered electronically.** "Delivered electronically" means delivered
48.21 to the purchaser by means other than tangible storage media and, unless the context
48.22 indicates otherwise, applies to the delivery of computer software. Computer software is
48.23 not considered delivered electronically to a purchaser simply because the purchaser has
48.24 access to the product.

48.25 **EFFECTIVE DATE.** This section is effective for sales and purchases the day
48.26 following final enactment.

48.27 Sec. 6. Minnesota Statutes 2012, section 297A.61, subdivision 25, is amended to read:

48.28 Subd. 25. **Cable Pay television service.** "Cable Pay television service" means
48.29 the transmission of video, audio, or other programming service to purchasers, and the
48.30 subscriber interaction, if any, required for the selection or use of the programming service,
48.31 regardless of whether the programming is transmitted over facilities owned or operated
48.32 by the cable service provider or over facilities owned or operated by one or more dealers

49.1 of communications services. The term includes point-to-multipoint distribution direct to
49.2 home satellite services by which programming is transmitted or broadcast by microwave
49.3 or other equipment directly to the subscriber's premises, or any similar or comparable
49.4 method of service. The term includes ~~basic, extended, premium,~~ all programming services,
49.5 including subscriptions, digital video recorders, pay-per-view, digital, and music services.

49.6 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
49.7 June 30, 2013.

49.8 Sec. 7. Minnesota Statutes 2012, section 297A.61, subdivision 38, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 8. Minnesota Statutes 2012, section 297A.61, subdivision 45, is amended to read:

Subd. 45. **Ring tone.** "Ring tone" means a digitized sound file that is downloaded onto a device and that may be used to alert the customer of a telecommunication service with respect to a communication. A ring tone does not include ring back tones or other digital audio files that are not stored on the purchaser's communication device.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

51.1 Sec. 9. Minnesota Statutes 2012, section 297A.61, is amended by adding a subdivision
51.2 to read:

51.3 Subd. 49. **Motor vehicle repair paint and motor vehicle repair materials.**

51.4 "Motor vehicle repair paint" means a substance composed of solid matter suspended in a
51.5 liquid medium and applied as a protective or decorative coating to the surface of a motor
51.6 vehicle in order to restore the motor vehicle to its original condition, and includes primer,
51.7 body paint, clear coat, and paint thinner used to paint motor vehicles, as defined in section
51.8 297B.01. "Motor vehicle repair materials" means items, other than motor vehicle repair
51.9 paint or motor vehicle parts, that become a part of a repaired motor vehicle or are consumed
51.10 in repairing the motor vehicle at retail, and include abrasives, battery water, body filler or
51.11 putty, bolts and nuts, brake fluid, buffing pads, chamois, cleaning compounds, degreasing
51.12 compounds, glaze, grease, grinding discs, hydraulic jack oil, lubricants, masking tape,
51.13 oxygen and acetylene, polishes, rags, razor blades, sandpaper, sanding discs, scuff pads,
51.14 sealer, solder, solvents, striping tape, tack cloth, thinner, waxes, and welding rods. Motor
51.15 vehicle repair materials do not include items that are not used directly on the motor vehicle,
51.16 such as floor dry that is used to clean the shop, or cleaning compounds and rags that are
51.17 used to clean tools, equipment, or the shop and are not used to clean the motor vehicle.

51.18 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
51.19 June 30, 2013.

51.20 Sec. 10. Minnesota Statutes 2012, section 297A.61, is amended by adding a
51.21 subdivision to read:

51.22 Subd. 50. **Digital audio works.** "Digital audio works" means works that result from
51.23 a fixation of a series of musical, spoken, or other sounds, that are transferred electronically.
51.24 Digital audio works includes such items as the following which may either be prerecorded
51.25 or live: songs, music, readings of books or other written materials, speeches, ring tones, or
51.26 other sound recordings. Digital audio works does not include audio greeting cards sent by
51.27 electronic mail. Unless the context provides otherwise, in this chapter digital audio works
51.28 includes the digital code, or a subscription to or access to a digital code, for receiving,
51.29 accessing, or otherwise obtaining digital audio works.

51.30 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
51.31 June 30, 2013.

51.32 Sec. 11. Minnesota Statutes 2012, section 297A.61, is amended by adding a
51.33 subdivision to read:

52.1 Subd. 51. **Digital audiovisual works.** "Digital audiovisual works" means a series
52.2 of related images which, when shown in succession, impart an impression of motion,
52.3 together with accompanying sounds, if any, that are transferred electronically. Digital
52.4 audiovisual works includes such items as motion pictures, movies, musical videos, news
52.5 and entertainment, and live events. Digital audiovisual works does not include video
52.6 greeting cards sent by electronic mail. Unless the context provides otherwise, in this
52.7 chapter digital audiovisual works includes the digital code, or a subscription to or access to
52.8 a digital code, for receiving, accessing, or otherwise obtaining digital audiovisual works.

52.9 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
52.10 June 30, 2013.

52.11 Sec. 12. Minnesota Statutes 2012, section 297A.61, is amended by adding a
52.12 subdivision to read:

52.13 Subd. 52. **Digital books.** "Digital books" means any literary works, other than
52.14 digital audiovisual works or digital audio works, expressed in words, numbers, or other
52.15 verbal or numerical symbols or indicia so long as the product is generally recognized in
52.16 the ordinary and usual sense as a "book." It includes works of fiction and nonfiction and
52.17 short stories. It does not include periodicals, magazines, newspapers, or other news or
52.18 information products, chat rooms, or weblogs. Unless the context provides otherwise, in
52.19 this chapter digital books includes the digital code, or a subscription to or access to a
52.20 digital code, for receiving, accessing, or otherwise obtaining digital books.

52.21 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
52.22 June 30, 2013.

52.23 Sec. 13. Minnesota Statutes 2012, section 297A.61, is amended by adding a
52.24 subdivision to read:

52.25 Subd. 53. **Digital code.** "Digital code" means a code which provides a purchaser
52.26 with a right to obtain one or more specified digital products or other digital products.
52.27 A digital code may be transferred electronically, such as through electronic mail, or it
52.28 may be transferred on a tangible medium, such as on a plastic card, a piece of paper or
52.29 invoice, or imprinted on another product. A digital code is not a code that represents a
52.30 stored monetary value that is deducted from a total as it is used by the purchaser, and it
52.31 is not a code that represents a redeemable card, gift card, or gift certificate that entitles
52.32 the holder to select a digital product of an indicated cash value. The end user of a digital

53.1 code is any purchaser except one who receives the contractual right to redistribute a digital
53.2 product which is the subject of the transaction.

53.3 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
53.4 June 30, 2013.

53.5 Sec. 14. Minnesota Statutes 2012, section 297A.61, is amended by adding a
53.6 subdivision to read:

53.7 Subd. 54. **Other digital products.** "Other digital products" means the following
53.8 items when transferred electronically:

53.9 (1) greeting cards;

53.10 (2) finished artwork available for reproduction, display, or similar purposes;

53.11 (3) video or electronic games;

53.12 (4) periodicals;

53.13 (5) magazines; and

53.14 (6) other news or information products, excluding newspapers.

53.15 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
53.16 June 30, 2013.

53.17 Sec. 15. Minnesota Statutes 2012, section 297A.61, is amended by adding a
53.18 subdivision to read:

53.19 Subd. 55. **Specified digital products.** "Specified digital products" means digital
53.20 audio works, digital audiovisual works, and digital books that are transferred electronically
53.21 to a customer.

53.22 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
53.23 June 30, 2013.

53.24 Sec. 16. Minnesota Statutes 2012, section 297A.61, is amended by adding a
53.25 subdivision to read:

53.26 Subd. 56. **Transferred electronically.** "Transferred electronically" means obtained
53.27 by the purchaser by means other than tangible storage media. For purposes of this
53.28 subdivision, it is not necessary that a copy of the product be physically transferred to
53.29 the purchaser. A product will be considered to have been transferred electronically to a
53.30 purchaser if the purchaser has access to the product.

54.1 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
54.2 June 30, 2013.

54.3 Sec. 17. Minnesota Statutes 2012, section 297A.61, is amended by adding a
54.4 subdivision to read:

54.5 **Subd. 57. Service.** "Service" means all activities engaged in for a fee, retainer,
54.6 commission, or other consideration, as distinguished from sales and purchases of tangible
54.7 personal property. In determining what is a service, the intended use, or the principal or
54.8 ultimate objective of the contracting parties, shall not be controlling.

54.9 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
54.10 June 30, 2013.

54.11 Sec. 18. Minnesota Statutes 2012, section 297A.62, subdivision 1, is amended to read:

54.12 Subdivision 1. **Generally.** Except as otherwise provided in subdivision 3 or in this
54.13 chapter, a sales tax of ~~6.5~~ 5.677 percent is imposed on the gross receipts from retail sales
54.14 as defined in section 297A.61, subdivision 4, made in this state or to a destination in this
54.15 state by a person who is required to have or voluntarily obtains a permit under section
54.16 297A.83, subdivision 1.

54.17 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
54.18 June 30, 2013.

54.19 Sec. 19. Minnesota Statutes 2012, section 297A.62, subdivision 1a, is amended to read:

54.20 Subd. 1a. **Constitutionally required sales tax increase.** Except as otherwise
54.21 provided in subdivision 3 or in this chapter, an additional sales tax of ~~0.375~~ 0.323 percent,
54.22 as required under the Minnesota Constitution, article XI, section 15, is imposed on the gross
54.23 receipts from retail sales as defined in section 297A.61, subdivision 4, made in this state or
54.24 to a destination in this state by a person who is required to have or voluntarily obtains a
54.25 permit under section 297A.83, subdivision 1. This additional tax expires July 1, 2034.

54.26 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
54.27 June 30, 2013.

54.28 Sec. 20. Minnesota Statutes 2012, section 297A.65, is amended to read:

54.29 **297A.65 LOTTERY TICKETS; IN LIEU TAX.**

Sales of state lottery tickets are exempt from the tax imposed under section 297A.62. The State Lottery must on or before the 20th day of each month transmit to the commissioner of revenue an amount equal to the gross receipts from the sale of lottery tickets for the previous month multiplied by the a tax rate under section 297A.62, subdivision 1 of 6.5 percent. The resulting payment is in lieu of the sales tax that otherwise would be imposed by this chapter. The commissioner shall deposit the money transmitted as provided by section 297A.94 and the money must be treated as other proceeds of the sales tax. For purposes of this section, "gross receipts" means the proceeds of the sale of tickets before deduction of a commission or other compensation paid to the vendor or retailer for selling tickets.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 21. Minnesota Statutes 2012, section 297A.66, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) ~~To the extent allowed by the United States Constitution and the laws of the United States, A~~ "retailer maintaining a place of business in this state," or a similar term, means a retailer:

(1) ~~having or~~ maintaining within this state, ~~directly or by a subsidiary or an affiliate,~~ an office, place of distribution, sales or sample room or place, warehouse, or other place of business; or

(2) ~~having~~ utilizing a representative, including, but not limited to, an ~~affiliate,~~ agent, salesperson, canvasser, or solicitor operating in this state under the authority of the retailer ~~or its subsidiary,~~ for any purpose, including the repairing, selling, delivering, installing, or soliciting of orders for the retailer's goods or services, or the leasing of tangible personal property located in this state, whether the place of business or agent, representative, ~~affiliate,~~ salesperson, canvasser, or solicitor is located in the state permanently or temporarily, or whether or not the retailer, ~~subsidiary, or affiliate~~ is authorized to do business in this state.

(b) "Destination of a sale" means the location to which the retailer makes delivery of the property sold, or causes the property to be delivered, to the purchaser of the property, or to the agent or designee of the purchaser. The delivery may be made by any means, including the United States Postal Service or a for-hire carrier.

(c) A retailer shall be presumed to be "maintaining a place of business in this state" if:

(1) any person, other than a person acting in the person's capacity as a common carrier, that has substantial nexus with this state:

(i) sells a similar line of products as the retailer and does so under the same or a similar business name;

56.1 (ii) maintains an office, distribution facility, warehouse or storage place, or similar
56.2 place of business in the state to facilitate the delivery of property or services sold by the
56.3 retailer to the retailer's customers;

56.4 (iii) uses trademarks, service marks, or trade names in the state that are substantially
56.5 the same or substantially similar to those used by the retailer;

56.6 (iv) delivers, installs, assembles, or performs maintenance services for the retailer's
56.7 customers within the state;

56.8 (v) facilitates the retailer's delivery of property to customers in the state by allowing
56.9 the retailer's customers to pick up property sold by the retailer at an office, distribution
56.10 facility, warehouse, storage space, or similar place of business maintained by the person in
56.11 the state;

56.12 (vi) conducts any other activities in the state that are significantly associated with the
56.13 retailer's ability to establish and maintain a market in the state for the retailer's sales; or

56.14 (2) any affiliated person has substantial nexus with the state.

56.15 (d) The presumptions in paragraph (c) may be rebutted by demonstrating that the
56.16 activities of the person or affiliated person in the state are not significantly associated with
56.17 the retailer's ability to establish or maintain a market in this state for the retailer's sales.

56.18 (e) "Affiliated person" means any person that is a member of the same controlled
56.19 group of corporations, as defined in section 1563(a) of the Internal Revenue Code as
56.20 the retailer, or any other entity that, notwithstanding its form of organization, bears the
56.21 same ownership relationship to the retailer as a corporation that is a member of the same
56.22 controlled group of corporations as defined in section 1563(a) of the Internal Revenue Code.

56.23 (f) "Solicitor" means a person, whether an independent contractor or other
56.24 representative, who directly or indirectly solicits business for the retailer.

56.25 (1) A retailer is presumed to have a solicitor in this state if it enters into an agreement
56.26 with one or more persons under which the person, for a commission or other consideration,
56.27 while within this state directly or indirectly refers potential customers, whether by a link
56.28 on an Internet Web site, by telemarketing, by an in-person oral presentation, or otherwise,
56.29 to the retailer, if the cumulative gross receipts from the sales by the retailer to customers in
56.30 the state who are referred to the retailer by all persons within this state with this type of an
56.31 agreement with the retailer is in excess of \$10,000 during the preceding 12 months.

56.32 (2) The presumption in clause (1) may be rebutted by submitting proof that the
56.33 persons with whom the retailer has an agreement did not engage in any activity within the
56.34 state that was significantly associated with the retailer's ability to establish or maintain
56.35 the retailer's market in the state during the preceding 12 months. Such proof may consist
56.36 of sworn written statements from all of the persons within this state with whom the

57.1 retailer has an agreement stating that they did not engage in any solicitation in this state
57.2 on behalf of the retailer during the preceding year, provided that such statements were
57.3 provided and obtained in good faith.

57.4 (3) Nothing in this section shall be construed to narrow the scope of the terms
57.5 "agent," "salesperson," "canvasser," or "other representative" for purposes of subdivision
57.6 1, paragraph (a).

57.7 Sec. 22. Minnesota Statutes 2012, section 297A.66, subdivision 3, is amended to read:

57.8 Subd. 3. **Retailer not maintaining place of business in this state.** ~~(a) To the~~
57.9 ~~extent allowed by the United States Constitution and the laws of the United States, a~~
57.10 ~~retailer making retail sales from outside this state to a destination within this state and~~
57.11 ~~not maintaining a place of business in this state shall collect sales and use taxes and remit~~
57.12 ~~them to the commissioner under section 297A.77, if the retailer engages in the regular or~~
57.13 ~~systematic soliciting of sales from potential customers in this state by:~~

57.14 ~~(1) distribution, by mail or otherwise, of catalogs, periodicals, advertising flyers, or~~
57.15 ~~other written solicitations of business to customers in this state;~~

57.16 ~~(2) display of advertisements on billboards or other outdoor advertising in this state;~~

57.17 ~~(3) advertisements in newspapers published in this state;~~

57.18 ~~(4) advertisements in trade journals or other periodicals the circulation of which is~~
57.19 ~~primarily within this state;~~

57.20 ~~(5) advertisements in a Minnesota edition of a national or regional publication or~~
57.21 ~~a limited regional edition in which this state is included as part of a broader regional or~~
57.22 ~~national publication which are not placed in other geographically defined editions of the~~
57.23 ~~same issue of the same publication;~~

57.24 ~~(6) advertisements in regional or national publications in an edition which is not~~
57.25 ~~by its contents geographically targeted to Minnesota but which is sold over the counter~~
57.26 ~~in Minnesota or by subscription to Minnesota residents;~~

57.27 ~~(7) advertisements broadcast on a radio or television station located in Minnesota; or~~

57.28 ~~(8) any other solicitation by telegraphy, telephone, computer database, cable, optic,~~
57.29 ~~microwave, or other communication system.~~

57.30 ~~This paragraph (a) must be construed without regard to the state from which~~
57.31 ~~distribution of the materials originated or in which they were prepared.~~

57.32 (b) The location within or without this state of independent vendors that provide
57.33 products or services to the retailer in connection with its solicitation of customers within this
57.34 state, including such products and services as creation of copy, printing, distribution, and
57.35 recording, is not considered in determining whether the retailer is required to collect tax.

58.1 ~~(e) A retailer not maintaining a place of business in this state is presumed, subject to~~
58.2 ~~rebuttal, to be engaged in regular solicitation within this state if it engages in any of the~~
58.3 ~~activities in paragraph (a) and:~~

58.4 ~~(1) makes 100 or more retail sales from outside this state to destinations in this state~~
58.5 ~~during a period of 12 consecutive months; or~~

58.6 ~~(2) makes ten or more retail sales totaling more than \$100,000 from outside this state~~
58.7 ~~to destinations in this state during a period of 12 consecutive months.~~

58.8 Sec. 23. Minnesota Statutes 2012, section 297A.66, is amended by adding a
58.9 subdivision to read:

58.10 Subd. 7. **Severability.** The legislature intends that the provisions of this section
58.11 are severable. If any provision contained in this bill is held invalid or unconstitutional, or
58.12 its application is held invalid or unconstitutional, that finding shall not affect the other
58.13 provisions or applications that can be given effect without the invalid or unconstitutional
58.14 provision or application.

58.15 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
58.16 June 30, 2013.

58.17 Sec. 24. Minnesota Statutes 2012, section 297A.665, is amended to read:

58.18 **297A.665 PRESUMPTION OF TAX; BURDEN OF PROOF.**

58.19 (a) For the purpose of the proper administration of this chapter and to prevent
58.20 evasion of the tax, until the contrary is established, it is presumed that:

58.21 (1) all gross receipts are subject to the tax; and

58.22 (2) all retail sales for delivery in Minnesota are for storage, use, or other consumption
58.23 in Minnesota.

58.24 (b) The burden of proving that a sale is not a taxable retail sale is on the seller.
58.25 However, a seller is relieved of liability if:

58.26 (1) the seller obtains a fully completed exemption certificate or all the relevant
58.27 information required by section 297A.72, subdivision 2, at the time of the sale or within
58.28 90 days after the date of the sale; or

58.29 (2) if the seller has not obtained a fully completed exemption certificate or all the
58.30 relevant information required by section 297A.72, subdivision 2, within the time provided
58.31 in clause (1), within 120 days after a request for substantiation by the commissioner,
58.32 the seller either:

(i) obtains in good faith a fully completed exemption certificate or all the relevant information required by section 297A.72, subdivision 2, from the purchaser; or

(ii) proves by other means that the transaction was not subject to tax;

(3) in the case of drop shipment sales, a seller engaged in drop shipping may claim a resale exemption based on an exemption certificate provided by its customer or reseller, or any other acceptable information available to the seller engaged in drop shipping evidencing qualification for a resale exemption, regardless of whether the customer or e-seller is registered to collect and remit sales and use tax in the state.

(c) Notwithstanding paragraph (b), relief from liability does not apply to a seller who:

(1) fraudulently fails to collect the tax; or

(2) solicits purchasers to participate in the unlawful claim of an exemption.

(d) A certified service provider, as defined in section 297A.995, subdivision 2, is relieved of liability under this section to the extent a seller who is its client is relieved of liability.

(e) A purchaser of tangible personal property or any items listed in section 297A.63 that are shipped or brought to Minnesota by the purchaser has the burden of proving that the property was not purchased from a retailer for storage, use, or consumption in Minnesota.

(f) If a seller claims that certain sales are exempt and does not provide the certificate, information, or proof required by paragraph (b), clause (2), within 120 days after the date of the commissioner's request for substantiation, then the exemptions claimed by the seller that required substantiation are disallowed.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 25. Minnesota Statutes 2012, section 297A.668, is amended by adding a subdivision to read:

Subd. 6a. **Multiple points of use.** (a) Notwithstanding the provisions of subdivisions 2 and 3, a business purchaser that is not a holder of a direct pay permit that purchases electronically delivered goods or services that will be concurrently available for use in more than one taxing jurisdiction may deliver to the seller in conjunction with its purchase a multiple points of use certificate disclosing this fact.

(b) Upon receipt of the multiple points of use certificate, the seller is relieved of the obligation to collect, pay, or remit the applicable tax and the purchaser is obligated to collect, pay, or remit the applicable tax on a direct pay basis.

(c) The purchaser delivering the multiple points of use certificate has sole discretion to use any reasonable but consistent and uniform method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(d) The multiple points of use certificate remains in effect for all future sales by the seller to the purchaser until it is revoked by the purchaser in writing.

(e) A holder of a direct pay permit is not required to deliver a multiple points of use certificate to the seller. A direct pay permit holder shall follow the provisions of paragraph (c) in apportioning the tax due on electronically delivered goods or services that will be concurrently available for use in more than one taxing jurisdiction.

(f) A seller is relieved of liability if:

(1) the seller obtains a fully completed multiple points of use certificate or all the relevant information required by section 297A.72, subdivision 2, at the time of the sale or within 90 days after the date of the sale; or

(2) within 120 days after a request for substantiation by the commissioner, the seller either:

(i) obtains in good faith a fully completed multiple points of use certificate or all the relevant information required by section 297A.72, subdivision 2, from the purchaser; or

(ii) proves by other means that the transaction was not subject to tax.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 26. Minnesota Statutes 2012, section 297A.67, subdivision 7, is amended to read:

Subd. 7. **Drugs; medical devices.** (a) Sales of the following drugs and medical devices for human use are exempt:

(1) prescription drugs, including over-the-counter drugs;

(2) single-use finger-pricking devices for the extraction of blood and other single-use devices and single-use diagnostic agents used in diagnosing, monitoring, or treating diabetes;

(3) insulin and medical oxygen for human use, regardless of whether prescribed or sold over the counter;

(4) prosthetic devices;

(5) durable medical equipment for home use only;

(6) mobility enhancing equipment;

(7) prescription corrective eyeglasses; and

(8) kidney dialysis equipment, including repair and replacement parts.

(b) For purposes of this subdivision:

61.1 (1) "Drug" means a compound, substance, or preparation, and any component of
61.2 a compound, substance, or preparation, other than food and food ingredients, dietary
61.3 supplements, or alcoholic beverages that is:

61.4 (i) recognized in the official United States Pharmacopoeia, official Homeopathic
61.5 Pharmacopoeia of the United States, or official National Formulary, and supplement
61.6 to any of them;

61.7 (ii) intended for use in the diagnosis, cure, mitigation, treatment, or prevention
61.8 of disease; or

61.9 (iii) intended to affect the structure or any function of the body.

61.10 (2) "Durable medical equipment" means equipment, including repair and
61.11 replacement parts, but not including mobility enhancing equipment, that:

61.12 (i) can withstand repeated use;

61.13 (ii) is primarily and customarily used to serve a medical purpose;

61.14 (iii) generally is not useful to a person in the absence of illness or injury; and

61.15 (iv) is not worn in or on the body.

61.16 For purposes of this clause, "repair and replacement parts" includes all components
61.17 or attachments used in conjunction with the durable medical equipment, but does not
61.18 include repair and replacement parts which are for single patient use only.

61.19 (3) "Mobility enhancing equipment" means equipment, including repair and
61.20 replacement parts, but not including durable medical equipment, that:

61.21 (i) is primarily and customarily used to provide or increase the ability to move from
61.22 one place to another and that is appropriate for use either in a home or a motor vehicle;

61.23 (ii) is not generally used by persons with normal mobility; and

61.24 (iii) does not include any motor vehicle or equipment on a motor vehicle normally
61.25 provided by a motor vehicle manufacturer.

61.26 ~~(4) "Over-the-counter drug" means a drug that contains a label that identifies the~~
61.27 ~~product as a drug as required by Code of Federal Regulations, title 21, section 201.66. The~~
61.28 ~~label must include a "drug facts" panel or a statement of the active ingredients with a list of~~
61.29 ~~those ingredients contained in the compound, substance, or preparation. Over-the-counter~~
61.30 ~~drugs do not include grooming and hygiene products, regardless of whether they otherwise~~
61.31 ~~meet the definition. "Grooming and hygiene products" are soaps, cleaning solutions,~~
61.32 ~~shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and sunscreens.~~

61.33 ~~(5)~~ (4) "Prescribed" and "prescription" means a direction in the form of an order,
61.34 formula, or recipe issued in any form of oral, written, electronic, or other means of
61.35 transmission by a duly licensed health care professional.

62.1 ~~(6)~~ (5) "Prosthetic device" means a replacement, corrective, or supportive device,
62.2 including repair and replacement parts, worn on or in the body to:

- 62.3 (i) artificially replace a missing portion of the body;
62.4 (ii) prevent or correct physical deformity or malfunction; or
62.5 (iii) support a weak or deformed portion of the body.

62.6 Prosthetic device does not include corrective eyeglasses.

62.7 ~~(7)~~ (6) "Kidney dialysis equipment" means equipment that:

- 62.8 (i) is used to remove waste products that build up in the blood when the kidneys are
62.9 not able to do so on their own; and
62.10 (ii) can withstand repeated use, including multiple use by a single patient,
62.11 notwithstanding the provisions of clause (2).

62.12 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
62.13 June 30, 2013.

62.14 Sec. 27. Minnesota Statutes 2012, section 297A.68, subdivision 2, is amended to read:

62.15 Subd. 2. **Materials consumed in industrial production.** (a) Materials stored, used,
62.16 or consumed in industrial production of tangible personal property intended to be sold
62.17 ultimately at retail, are exempt, whether or not the item so used becomes an ingredient
62.18 or constituent part of the property produced. Materials that qualify for this exemption
62.19 include, but are not limited to, the following:

62.20 (1) chemicals, including chemicals used for cleaning food processing machinery
62.21 and equipment;

62.22 (2) materials, including chemicals, fuels, and electricity purchased by persons
62.23 engaged in industrial production to treat waste generated as a result of the production
62.24 process;

62.25 (3) fuels, electricity, gas, and steam used or consumed in the production process,
62.26 except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt
62.27 if (i) it is in excess of the average climate control or lighting for the production area, and
62.28 (ii) it is necessary to produce that particular product;

62.29 (4) petroleum products and lubricants;

62.30 (5) packaging materials, including returnable containers used in packaging food
62.31 and beverage products;

62.32 (6) accessory tools, equipment, and other items that are separate detachable units
62.33 with an ordinary useful life of less than 12 months used in producing a direct effect upon
62.34 the product; and

(7) the following materials, tools, and equipment used in metal-casting: crucibles, thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal filters and filter boxes, degassing lances, and base blocks.

(b) This exemption does not include:

(1) machinery, equipment, implements, tools, accessories, appliances, contrivances and furniture and fixtures, except those listed in paragraph (a), clause (6); and

(2) petroleum and special fuels used in producing or generating power for propelling ready-mixed concrete trucks on the public highways of this state.

(c) Industrial production includes, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products (whether vegetable or animal), commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity, the production of road building materials, and the research, development, design, or production of computer software. Industrial production does not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process.

(d) Industrial production does not include:

(1) the furnishing of services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii), or paragraph (m) or (n); or

(2) the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products. For purposes of this paragraph, "transportation, transmission, or distribution" does not include blending of petroleum or biodiesel fuel as defined in section 239.77.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 28. Minnesota Statutes 2012, section 297A.68, subdivision 5, is amended to read:

Subd. 5. **Capital equipment.** (a) Capital equipment is exempt. Except as provided in paragraphs (e) and (f), 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.

"Capital equipment" means machinery and equipment purchased or leased, and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process of manufacturing, fabricating,

64.1 mining, or refining. Capital equipment also includes machinery and equipment
64.2 used primarily to electronically transmit results retrieved by a customer of an online
64.3 computerized data retrieval system.

64.4 (b) Capital equipment includes, but is not limited to:

64.5 (1) machinery and equipment used to operate, control, or regulate the production
64.6 equipment;

64.7 (2) machinery and equipment used for research and development, design, quality
64.8 control, and testing activities;

64.9 (3) environmental control devices that are used to maintain conditions such as
64.10 temperature, humidity, light, or air pressure when those conditions are essential to and are
64.11 part of the production process;

64.12 (4) materials and supplies used to construct and install machinery or equipment;

64.13 (5) repair and replacement parts, including accessories, whether purchased as spare
64.14 parts, repair parts, or as upgrades or modifications to machinery or equipment;

64.15 (6) materials used for foundations that support machinery or equipment;

64.16 (7) materials used to construct and install special purpose buildings used in the
64.17 production process;

64.18 (8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed
64.19 as part of the delivery process regardless if mounted on a chassis, repair parts for
64.20 ready-mixed concrete trucks, and leases of ready-mixed concrete trucks; and

64.21 (9) machinery or equipment used for research, development, design, or production
64.22 of computer software.

64.23 (c) Capital equipment does not include the following:

64.24 (1) motor vehicles taxed under chapter 297B;

64.25 (2) machinery or equipment used to receive or store raw materials;

64.26 (3) building materials, except for materials included in paragraph (b), clauses (6)
64.27 and (7);

64.28 (4) machinery or equipment used for nonproduction purposes, including, but not
64.29 limited to, the following: plant security, fire prevention, first aid, and hospital stations;
64.30 support operations or administration; pollution control; and plant cleaning, disposal of
64.31 scrap and waste, plant communications, space heating, cooling, lighting, or safety;

64.32 (5) farm machinery and aquaculture production equipment as defined by section
64.33 297A.61, subdivisions 12 and 13;

64.34 (6) machinery or equipment purchased and installed by a contractor as part of an
64.35 improvement to real property;

65.1 (7) machinery and equipment used by restaurants in the furnishing, preparing, or
65.2 serving of prepared foods as defined in section 297A.61, subdivision 31;

65.3 (8) machinery and equipment used to furnish the services listed in section 297A.61,
65.4 subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii);

65.5 (9) machinery or equipment used in the transportation, transmission, or distribution
65.6 of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines,
65.7 tanks, mains, or other means of transporting those products. This clause does not apply to
65.8 machinery or equipment used to blend petroleum or biodiesel fuel as defined in section
65.9 239.77; or

65.10 (10) any other item that is not essential to the integrated process of manufacturing,
65.11 fabricating, mining, or refining.

65.12 (d) For purposes of this subdivision:

65.13 (1) "Equipment" means independent devices or tools separate from machinery but
65.14 essential to an integrated production process, including computers and computer software,
65.15 used in operating, controlling, or regulating machinery and equipment; and any subunit or
65.16 assembly comprising a component of any machinery or accessory or attachment parts of
65.17 machinery, such as tools, dies, jigs, patterns, and molds.

65.18 (2) "Fabricating" means to make, build, create, produce, or assemble components or
65.19 property to work in a new or different manner.

65.20 (3) "Integrated production process" means a process or series of operations through
65.21 which tangible personal property is manufactured, fabricated, mined, or refined. For
65.22 purposes of this clause, (i) manufacturing begins with the removal of raw materials
65.23 from inventory and ends when the last process prior to loading for shipment has been
65.24 completed; (ii) fabricating begins with the removal from storage or inventory of the
65.25 property to be assembled, processed, altered, or modified and ends with the creation
65.26 or production of the new or changed product; (iii) mining begins with the removal of
65.27 overburden from the site of the ores, minerals, stone, peat deposit, or surface materials and
65.28 ends when the last process before stockpiling is completed; and (iv) refining begins with
65.29 the removal from inventory or storage of a natural resource and ends with the conversion
65.30 of the item to its completed form.

65.31 (4) "Machinery" means mechanical, electronic, or electrical devices, including
65.32 computers and computer software, that are purchased or constructed to be used for the
65.33 activities set forth in paragraph (a), beginning with the removal of raw materials from
65.34 inventory through completion of the product, including packaging of the product.

(5) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(6) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

(7) "Mining" means the extraction of minerals, ores, stone, or peat.

(8) "Online data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(9) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product, including the treatment of water to be sold at retail.

(11) This subdivision does not apply to telecommunications equipment as provided in subdivision 35, and does not apply to wire, cable, fiber, poles, or conduit for telecommunications services.

(e) Materials exempt under this section may be purchased without imposing and collecting the tax and without applying for a refund under section 297A.75, provided that:

(1) the purchaser employed not more than 80 full-time equivalent employees at any time during calendar year 2012; and

(2) if another business owns at least 20 percent of the purchaser, then the sum of the number of full-time equivalent employees employed by the purchaser and the number of full-time equivalent employees employed by any other business that owns at least 20 percent of the purchaser's business is not more than 80 full-time equivalent employees during calendar year 2012. This clause must be applied for each business that owns at least 20 percent of the purchaser.

(f) For the state's fiscal year 2016 and thereafter, all purchases exempt under this section may be purchased without imposing and collecting the tax and without applying for a refund under section 297A.75.

EFFECTIVE DATE. Paragraph (e) is effective for sales and purchases made after June 30, 2013, and through June 30, 2015; and paragraph (f) is effective for sales and purchases made after June 30, 2015.

Sec. 29. Minnesota Statutes 2012, section 297A.68, subdivision 10, is amended to read:

Subd. 10. **Publications; publication materials.** Tangible personal property that is used or consumed in producing any publication regularly issued at average intervals not exceeding three months is exempt, and any such publication is exempt. "Publication" includes, but is not limited to, a qualified newspaper as defined by section 331A.02, together with any supplements or enclosures. "Publication" does not include magazines and periodicals, whether sold over the counter or by subscription. Tangible personal property that is used or consumed in producing a publication does not include machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in the publication, or fuel, electricity, gas, or steam used for space heating or lighting.

Advertising contained in a publication is a nontaxable service and is exempt. Persons who publish or sell newspapers are engaging in a nontaxable service with respect to gross receipts realized from such news-gathering or news-publishing activities, including the sale of advertising.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 30. Minnesota Statutes 2012, section 297A.70, subdivision 2, is amended to read:

Subd. 2. **Sales to government.** (a) All sales, except those listed in paragraph (b), to the following governments and political subdivisions, or to the listed agencies or instrumentalities of governments and political subdivisions, are exempt:

(1) the United States and its agencies and instrumentalities;

(2) school districts, local governments, the University of Minnesota, state universities, community colleges, technical colleges, state academies, the Perpich Minnesota Center for Arts Education, and an instrumentality of a political subdivision that is accredited as an optional/special function school by the North Central Association of Colleges and Schools;

(3) hospitals and nursing homes owned and operated by political subdivisions of the state of tangible personal property and taxable services used at or by hospitals and nursing homes;

(4) the Metropolitan Council, for its purchases of vehicles and repair parts to equip operations provided for in section 473.4051;

(5) other states or political subdivisions of other states, if the sale would be exempt from taxation if it occurred in that state; and

(6) public libraries, public library systems, multicounty, multitype library systems as defined in section 134.001, county law libraries under chapter 134A, state agency libraries, the state library under section 480.09, and the Legislative Reference Library; and

~~(7) towns.~~

68.1 (b) This exemption does not apply to the sales of the following products and services:

68.2 (1) building, construction, or reconstruction materials purchased by a contractor
68.3 or a subcontractor as a part of a lump-sum contract or similar type of contract with a
68.4 guaranteed maximum price covering both labor and materials for use in the construction,
68.5 alteration, or repair of a building or facility;

68.6 (2) construction materials purchased by tax exempt entities or their contractors to
68.7 be used in constructing buildings or facilities which will not be used principally by the
68.8 tax exempt entities;

68.9 (3) the leasing of a motor vehicle as defined in section 297B.01, subdivision 11,
68.10 except for leases entered into by the United States or its agencies or instrumentalities;

68.11 (4) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause
68.12 (2), and prepared food, candy, soft drinks, and alcoholic beverages as defined in section
68.13 297A.67, subdivision 2, except for lodging, prepared food, candy, soft drinks, and alcoholic
68.14 beverages purchased directly by the United States or its agencies or instrumentalities; or

68.15 (5) goods or services purchased by a ~~town~~ local government as inputs to goods and
68.16 services that are generally provided by a private business and the purchases would be
68.17 taxable if made by a private business engaged in the same activity.

68.18 (c) As used in this subdivision, "school districts" means public school entities and
68.19 districts of every kind and nature organized under the laws of the state of Minnesota, and
68.20 any instrumentality of a school district, as defined in section 471.59.

68.21 (d) As used in this subdivision, "local governments" means cities, counties, and
68.22 townships.

68.23 ~~(d)~~ (e) As used in this subdivision, "goods or services generally provided by a private
68.24 business" include, but are not limited to, goods or services provided by liquor stores, gas
68.25 and electric utilities, golf courses, marinas, health and fitness centers, campgrounds, cafes,
68.26 and laundromats. "Goods or services generally provided by a private business" do not
68.27 include housing services, sewer and water services, wastewater treatment, ambulance and
68.28 other public safety services, correctional services, chore or homemaking services provided
68.29 to elderly or disabled individuals, or road and street maintenance or lighting.

68.30 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
68.31 June 30, 2013.

68.32 Sec. 31. Minnesota Statutes 2012, section 297A.70, subdivision 4, is amended to read:

68.33 Subd. 4. **Sales to nonprofit groups.** (a) All sales, except those listed in paragraph
68.34 (b), to the following "nonprofit organizations" are exempt:

(1) a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes if the item purchased is used in the performance of charitable, religious, or educational functions; and

(2) any senior citizen group or association of groups that:

(i) in general limits membership to persons who are either age 55 or older, or physically disabled;

(ii) is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, not including housing, no part of the net earnings of which inures to the benefit of any private shareholders; and

(iii) is an exempt organization under section 501(c) of the Internal Revenue Code.

For purposes of this subdivision, charitable purpose includes the maintenance of a cemetery owned by a religious organization.

(b) This exemption does not apply to the following sales:

(1) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility;

(2) construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities; and

(3) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), and prepared food, candy, soft drinks, and alcoholic beverages as defined in section 297A.67, subdivision 2, except wine purchased by an established religious organization for sacramental purposes or as allowed under subdivision 9a; and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 11, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 11, only if the vehicle is:

(1) a truck, as defined in section 168.002, a bus, as defined in section 168.002, or a passenger automobile, as defined in section 168.002, if the automobile is designed and used for carrying more than nine persons including the driver; and

(2) 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.

(d) A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

EFFECTIVE DATE. This section is effective retroactively for sales and purchases made after June 30, 2012.

Sec. 32. Minnesota Statutes 2012, section 297A.70, subdivision 5, is amended to read:

Subd. 5. **Veterans groups.** Sales to an organization of military service veterans or an auxiliary unit of an organization of military service veterans are exempt if:

(1) the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation under section 501(c), clause (19), of the Internal Revenue Code; and

(2) the tangible personal property is or services are for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure, or profit uses.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 33. Minnesota Statutes 2012, section 297A.70, is amended by adding a subdivision to read:

Subd. 9a. **Established religious orders.** Sales of lodging, prepared food, candy, soft drinks, and alcoholic beverages at noncatered events between an established religious order and an affiliated institution of higher education are exempt. For purposes of this subdivision, an institution of higher education is "affiliated" with an established religious order if members of the religious order are represented on the governing board of the institution of higher education and the two organizations share campus space and common facilities.

EFFECTIVE DATE. This section is effective retroactively for sales and purchases made after June 30, 2012.

Sec. 34. Minnesota Statutes 2012, section 297A.70, subdivision 13, is amended to read:

Subd. 13. **Fund-raising sales by or for nonprofit groups.** (a) The following sales by the specified organizations for fund-raising purposes are exempt, subject to the limitations listed in paragraph (b):

(1) all sales made by a nonprofit organization that exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under;

(2) all sales made by an organization that is a senior citizen group or association of groups if (i) in general it limits membership to persons age 55 or older; (ii) it is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes; and (iii) no part of its net earnings inures to the benefit of any private shareholders;

(3) the sale or use of tickets or admissions to a golf tournament held in Minnesota if the beneficiary of the tournament's net proceeds qualifies as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code; and

(4) sales of candy sold for fund-raising purposes by a nonprofit organization that provides educational and social activities primarily for young people age 18 and under.

(b) The exemptions listed in paragraph (a) are limited in the following manner:

(1) the exemption under paragraph (a), clauses (1) and (2), applies only if the gross annual receipts of the organization from fund-raising do not exceed \$10,000; and

(2) the exemption under paragraph (a), clause (1), does not apply if the sales are derived from admission charges or from activities for which the money must be deposited with the school district treasurer under section 123B.49, subdivision 2, or be recorded in the same manner as other revenues or expenditures of the school district under section 123B.49, subdivision 4.

(c) Sales of tangible personal property and services are exempt if the entire proceeds, less the necessary expenses for obtaining the property or services, will be contributed to a registered combined charitable organization described in section 43A.50, to be used exclusively for charitable, religious, or educational purposes, and the registered combined charitable organization has given its written permission for the sale. Sales that occur over a period of more than 24 days per year are not exempt under this paragraph.

(d) For purposes of this subdivision, a club, association, or other organization of elementary or secondary school students organized for the purpose of carrying on sports, educational, or other extracurricular activities is a separate organization from the school district or school for purposes of applying the \$10,000 limit.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 35. Minnesota Statutes 2012, section 297A.70, subdivision 14, is amended to read:

Subd. 14. **Fund-raising events sponsored by nonprofit groups.** (a) Sales of tangible personal property or services at, and admission charges for fund-raising events sponsored by, a nonprofit organization are exempt if:

(1) all gross receipts are recorded as such, in accordance with generally accepted accounting practices, on the books of the nonprofit organization; and

(2) the entire proceeds, less the necessary expenses for the event, will be used solely and exclusively for charitable, religious, or educational purposes. Exempt sales include the sale of prepared food, candy, and soft drinks at the fund-raising event.

(b) This exemption is limited in the following manner:

(1) it does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities;

(2) all gross receipts are taxable if the profits are not used solely and exclusively for charitable, religious, or educational purposes;

(3) it does not apply unless the organization keeps a separate accounting record, including receipts and disbursements from each fund-raising event that documents all deductions from gross receipts with receipts and other records;

(4) it does not apply to any sale made by or in the name of a nonprofit corporation as the active or passive agent of a person that is not a nonprofit corporation;

(5) all gross receipts are taxable if fund-raising events exceed 24 days per year;

(6) it does not apply to fund-raising events conducted on premises leased for more than five days but less than 30 days; and

(7) it does not apply if the risk of the event is not borne by the nonprofit organization and the benefit to the nonprofit organization is less than the total amount of the state and local tax revenues forgone by this exemption.

(c) For purposes of this subdivision, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, and senior citizens' or veterans' purposes, no part of the net earnings of which inures to the benefit of a private individual.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 36. Minnesota Statutes 2012, section 297A.70, is amended by adding a subdivision to read:

Subd. 18. Nursing homes and boarding care homes. (a) All sales, except those listed in paragraph (b), to a nursing home licensed under section 144A.02 or a boarding care home certified as a nursing facility under title 19 of the Social Security Act are exempt if the facility:

(1) is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code; and

(2) is certified to participate in the medical assistance program under title 19 of the Social Security Act, or certifies to the commissioner that it does not discharge residents due to the inability to pay.

(b) This exemption does not apply to the following sales:

(1) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility;

(2) construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities;

(3) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), and prepared food, candy, soft drinks, and alcoholic beverages as defined in section 297A.67, subdivision 2; and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 11, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 11, only if the vehicle is:

(1) a truck, as defined in section 168.002; a bus, as defined in section 168.002; or a passenger automobile, as defined in section 168.002, if the automobile is designed and used for carrying more than nine persons including the driver; and

(2) intended to be used primarily to transport tangible personal property or residents of the nursing home or boarding care home.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2013.

Sec. 37. **[297A.715] SERVICE EXEMPTIONS.**

Subdivision 1. Scope. To the extent provided in this section, the gross receipts from sales of and use of services listed in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. Agriculture and forestry support. Agriculture and forestry support services are exempt. Agriculture and forestry support services include services such as aerial dusting or spraying; soil preparation activity or crop production services such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protection services; mechanical harvesting, picking, and combining of crops, threshing, and related activities; postharvest activities, such as crop cleaning, sun-drying, shelling, fumigating,

curing, sorting, grading, packing, and cooling; breeding services for livestock and working animals; dairy herd improvement activities; livestock spraying; sheep dipping and shearing; branding; hoof trimming; and support activities related to timber production and forest protection, such as estimating timber, forest firefighting, and forest pest control.

Subd. 3. **Bank services.** Bank services, excluding safe deposit box rental, are exempt. Bank services include services such as automated teller machine services; monthly maintenance; issuing credit cards, money orders, travelers' checks, and certified checks; cashing checks, transmitting or transferring money, including wire-transfers, accepting deposits, and clearinghouse and reserve services; lending and brokerage; investments; extending credit or arranging loans; sales financing; handling stop payment orders, overdrafts, and returned deposits; providing statements of account; and accepting payment by a particular method.

Subd. 4. **Brokerage and investment counseling.** Brokerage and investment counseling services are exempt. Brokerage and investment counseling services include services such as underwriting securities issues; making markets for securities and commodities; acting as agents or brokers between buyers and sellers of securities and commodities, providing securities and commodity exchange services; and other services, such as managing portfolios of assets; providing investment advice; trust, fiduciary, and custody services; and facilitating the buying and selling of stocks, stock options, bonds, or commodity contracts.

Subd. 5. **Cemetery grounds maintenance.** Cemetery grounds maintenance services are exempt. In addition to the exemption for lawn care and related services used in the maintenance of cemetery grounds provided by section 297A.67, subdivision 25, charges for cemetery grounds maintenance services include charges for services such as opening and closing graves; constructing and installing concrete forms at grave sites; placing memorials; maintaining the irrigation system; and maintaining equipment and tools necessary for cemetery maintenance. For purposes of this exemption, "cemetery" means a cemetery for human burial.

Subd. 6. **Construction labor; real property.** Labor services for construction or improvement of real property are exempt. Labor services for construction or improvement of real property include construction work on buildings and engineering projects such as highways, bridges, and utility systems; services by building equipment contractors, such as plumbing and heating; and services by specialty trade contractors needed to complete the basic structure of buildings, such as masons, glazers, roofers, foundation cement pourers, electricians, and plumbers, whether new work, additions, alterations, or repairs. These labor services also include demolition of buildings and structures; preparation of

sites, such as under a "land clearing contract" for removal of trees, bushes, and shrubs, including the removal of roots and stumps, to develop a site, as described in section 297A.68, subdivision 40; land subdivision; and services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items.

Subd. 7. Education services. (a) Education services provided by establishments such as schools, colleges, universities, and training centers, that are primarily engaged in furnishing academic courses and associated course work, including vocational and technical training, and that provide instruction and training in a wide variety of subjects, are exempt.

(b) Educational services provided by any organization for purposes of continuing professional education or accreditation are exempt.

Subd. 8. Funeral and cremation services. Funeral and cremation services for humans are exempt. Charges for funeral and cremation services include charges for services such as preparing the dead for burial, interment, or cremation services; conducting funerals; providing facilities for wakes, visitation, and memorial services; cremation; arranging transportation for the dead; and basic services provided by funeral director and staff.

Subd. 9. Health care and medical services. Health care and medical services for humans, provided by a health care facility or health care professional, are exempt. Health care and medical services include services such as the following: dental services; services provided by medical and diagnostic laboratories; the transportation of patients; medical rescue services; services provided to hospital inpatients, including food services; outpatient services; physical therapy; psychiatric and mental health services; psychological services; vocational services provided to a patient; social work services provided to a patient; and services such as collecting, storing, and distributing blood and blood products.

Subd. 10. Insurance company commissions for policy sales. Insurance company commissions paid to an insurance agent for the service of selling an insurance policy are exempt.

Subd. 11. Mining support. Mining support services are exempt. Mining support services are those services which are required for the mining and quarrying of minerals, and for the extraction of oil and gas. Mining support services include services such as drilling; taking core samples and making geological observations at prospective sites; excavating slush pits and cellars; sinking shafts; removing overburden; tunneling; blasting; boring and testing; draining and pumping an excavation site; and such oil and gas operations as spudding in; well surveying; running, cutting, and pulling casings,

tubes, and rods; cementing and shooting wells; perforating well casings; acidizing and chemically treating wells; and cleaning out, bailing, and swabbing wells.

Subd. 12. **Public services.** Services that are provided by government for a fee are exempt. Services that are provided by government for a fee include such services as issuing, renewing, and reinstating licenses and permits; inspection and certification of property, goods, and services, operations, and standards; and various other services provided by local, regional, state, and federal government agencies or officials; except services which are specifically enumerated in this chapter as being taxable services, even though provided by government.

Subd. 13. **Transit service; student transportation.** (a) Transit services are exempt. Transit services include use of bus, light rail, and other transit systems provided using regular routes and schedules; taxi cabs or other ground transport services used primarily for transporting natural persons; and include "special transportation services" by specially equipped vehicles, as defined in section 174.29.

(b) Providing students with transportation services by school bus to and from school, college, university, and private career school is exempt; and transporting students under the Head Start Act, as defined in section 169.448, subdivision 3, is exempt. For purposes of this subdivision, a "school" is as defined in section 120A.22, subdivision 4; and "private career school" means a school licensed under section 141.25.

Subd. 14. **Real estate services.** Real estate services provided by a licensed real estate broker, licensed real estate salesperson, licensed real estate closing agent, or closing agent, as defined in chapter 82, are exempt; and real estate services provided by a licensed real estate appraiser, as defined in chapter 82B, are exempt.

Subd. 15. **Social assistance services.** (a) Social assistance services, such as the services provided by day care; babysitters; nursing homes; residential care facilities for people with intellectual and developmental disabilities, mental illness, or substance abuse problems; adoption agencies; and foster care, are exempt. Social assistance services include services such as life skills training; crisis intervention services; drug prevention services; emergency and relief services; rehabilitation counseling services; group and family support services; and assistance in daily living provided to ill, disabled, or infirm persons, such as grooming, dressing, transfer assistance, light housekeeping, preparing meals, performing errands, and providing companionship.

(b) If a service is available to the general public, the fact that the service is provided to someone who is also receiving social assistance services does not mean that the service is a social assistance service.

77.1 Subd. 16. **Storage of farm products and storage of refrigerated food.** Storage of
77.2 farm products and storage of refrigerated food, including grain elevator storage services,
77.3 are exempt.

77.4 Subd. 17. **Veterinary services.** Services of practicing veterinary medicine, as that
77.5 term is used in chapter 156, are exempt. This includes veterinary services for household
77.6 pets and for animals kept for economic reasons, including livestock, laboratory animals,
77.7 working animals, animals to be sold at retail in the normal course of business, and sport
77.8 animals.

77.9 Subd. 18. **Waste management services.** Waste management services, meaning the
77.10 collection, transportation, processing, treatment, and disposal of solid and hazardous
77.11 waste, are exempt. Waste management services include the hauling of waste materials;
77.12 operating materials recovery facilities; providing remediation services, meaning the
77.13 cleanup of contaminated buildings, mine sites, soil, or ground water; and providing septic
77.14 pumping and sewer cleaning.

77.15 Subd. 19. **Legal services.** Legal services, meaning the rendering of legal
77.16 consultation or advice to a client; appearing on behalf of a client in any hearing,
77.17 proceeding, or related deposition or discovery matter or before any judicial officer, court,
77.18 public agency, referee, magistrate, commissioner, or hearing officer; or engaging in other
77.19 activities that constitute the practice of law, are exempt, regardless of whether the legal
77.20 services are performed by a licensed attorney or any other person working on behalf of a
77.21 licensed attorney. The term legal services does not include prewritten computer software
77.22 containing legal forms, agreements, or compilations of information relating to the law that
77.23 is available for sale to the public.

77.24 Subd. 20. **Accounting services.** Accounting services, meaning services requiring
77.25 accountancy or related skills, including accounting, assurance, financial management
77.26 services, insolvency services, investment advice, are exempt, regardless of whether the
77.27 services are performed by a member of a professional accounting body or any other person
77.28 working on behalf of a member of a professional accounting body. The term accounting
77.29 services does not include prewritten computer software, such as accounting forms or tax
77.30 preparation or bookkeeping software that is available to the public.

77.31 Subd. 21. **Business and management consulting.** Business and management
77.32 consulting services are exempt. Business and management consulting services includes
77.33 providing advice on starting, managing, or operating a business or organization, and
77.34 business, organizational, and operational strategy; conducting industry, market, and
77.35 organizational research; and marketing a business, service, organization, or product.

78.1 Subd. 22. **Architectural services.** Architectural services are exempt. Architectural
78.2 services include the design and structural plan of new or existing buildings, open areas,
78.3 communities, and other artificial constructions and environments; and the supervision of
78.4 construction work, regardless of whether the services are performed by a licensed architect
78.5 or any other person working on behalf of a licensed architect.

78.6 Subd. 23. **Engineering services.** Engineering services, meaning the application of
78.7 scientific principles to design or develop structures, machines, apparatus, or manufacturing
78.8 or technological processes, are exempt, regardless of whether the service is performed
78.9 by a person licensed in a field of engineering or any other person working on behalf of
78.10 a licensed person. Engineering services include chemical, mechanical, civil, electrical,
78.11 agricultural, biological, applied, energy, industrial, petroleum, and nuclear engineering.

78.12 Subd. 24. **Information technology services.** Information technology services
78.13 are exempt. Information technology services include the study, design, development,
78.14 application, implementation, installation, administration, support, or management
78.15 of computer-based information systems; and the planning and management of the
78.16 maintenance, upgrading, and replacement of hardware and software in a computer-based
78.17 information system.

78.18 Subd. 25. **Staffing and employment search services.** Staffing and employment
78.19 search services, meaning any service that matches employers to employees, whether for
78.20 permanent or temporary placement, are exempt.

78.21 Subd. 26. **Business support services.** Business support services, including
78.22 document preparation, information processing, research and compilation of information,
78.23 billing and bookkeeping, bill paying, transcription, voice mail answering, correspondence,
78.24 and administrative services provided to a business or organization, are exempt.

78.25 Subd. 27. **Transportation services.** Transportation services for the actual
78.26 transportation of freight or property, including handling, drayage, storage, and packing are
78.27 exempt. Transportation services include services by persons not otherwise engaged in the
78.28 business of transporting freight or property for arranging transportation to customers for
78.29 freight or property.

78.30 Subd. 28. **Miscellaneous services.** The following services are exempt:

78.31 (1) coin-operated laundry facilities operated by a customer;

78.32 (2) residential parking and parking at a meter;

78.33 (3) security services performed within the jurisdiction served by off-duty licensed
78.34 peace officers as defined in section 626.84, subdivision 1;

78.35 (4) services provided by a nonprofit organization, or any organization at the direction
78.36 of a county, for monitoring and electronic surveillance of persons placed on in-home

79.1 detention pursuant to court order or under the direction of the Minnesota Department
 79.2 of Corrections;
 79.3 (5) horse boarding services;
 79.4 (6) shoe shining services;
 79.5 (7) travel agency services;
 79.6 (8) auctioneering fees; and
 79.7 (9) related-party services as follows:
 79.8 (i) services performed by an employee for an employer;
 79.9 (ii) services performed by a partnership or association for another partnership or
 79.10 association if one of the entities owns or controls more than 80 percent of the voting power
 79.11 of the equity interest in the other entity; and
 79.12 (iii) services performed between members of an affiliated group of corporations. For
 79.13 purposes of this item, "affiliated group of corporations" means those entities that would be
 79.14 classified as members of an affiliated group as defined under United States Code, title 26,
 79.15 section 1504, disregarding the exclusions in section 1504(b).

79.16 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
 79.17 June 30, 2013.

79.18 Sec. 38. Minnesota Statutes 2012, section 297A.75, subdivision 1, is amended to read:

79.19 Subdivision 1. **Tax collected.** The tax on the gross receipts from the sale of the
 79.20 following exempt items must be imposed and collected as if the sale were taxable and the
 79.21 rate under section 297A.62, subdivision 1, applied. The exempt items include:

79.22 ~~(1) capital equipment exempt under section 297A.68, subdivision 5;~~
 79.23 ~~(2) (1) building materials for an agricultural processing facility exempt under section~~
 79.24 ~~297A.71, subdivision 13;~~
 79.25 ~~(3) (2) building materials for mineral production facilities exempt under section~~
 79.26 ~~297A.71, subdivision 14;~~
 79.27 ~~(4) (3) building materials for correctional facilities under section 297A.71,~~
 79.28 ~~subdivision 3;~~
 79.29 ~~(5) (4) building materials used in a residence for disabled veterans exempt under~~
 79.30 ~~section 297A.71, subdivision 11;~~
 79.31 ~~(6) (5) elevators and building materials exempt under section 297A.71, subdivision~~
 79.32 ~~12;~~
 79.33 ~~(7) (6) building materials for the Long Lake Conservation Center exempt under~~
 79.34 ~~section 297A.71, subdivision 17;~~

80.1 ~~(8)~~ (7) materials and supplies for qualified low-income housing under section
80.2 297A.71, subdivision 23;

80.3 ~~(9)~~ (8) materials, supplies, and equipment for municipal electric utility facilities
80.4 under section 297A.71, subdivision 35;

80.5 ~~(10)~~ (9) equipment and materials used for the generation, transmission, and
80.6 distribution of electrical energy and an aerial camera package exempt under section
80.7 297A.68, subdivision 37;

80.8 ~~(11)~~ (10) commuter rail vehicle and repair parts under section 297A.70, subdivision
80.9 3, paragraph (a), clause (10);

80.10 ~~(12)~~ (11) materials, supplies, and equipment for construction or improvement of
80.11 projects and facilities under section 297A.71, subdivision 40;

80.12 ~~(13)~~ (12) materials, supplies, and equipment for construction or improvement of a
80.13 meat processing facility exempt under section 297A.71, subdivision 41;

80.14 ~~(14)~~ (13) materials, supplies, and equipment for construction, improvement, or
80.15 expansion of an aerospace defense manufacturing facility exempt under section 297A.71,
80.16 subdivision 42;

80.17 ~~(15)~~ (14) enterprise information technology equipment and computer software for
80.18 use in a qualified data center exempt under section 297A.68, subdivision 42; and

80.19 ~~(16)~~ (15) materials, supplies, and equipment for qualifying capital projects under
80.20 section 297A.71, subdivision 44.

80.21 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
80.22 June 30, 2015.

80.23 Sec. 39. Minnesota Statutes 2012, section 297A.75, subdivision 2, is amended to read:

80.24 Subd. 2. **Refund; eligible persons.** Upon application on forms prescribed by the
80.25 commissioner, a refund equal to the tax paid on the gross receipts of the exempt items
80.26 must be paid to the applicant. Only the following persons may apply for the refund:

80.27 (1) for subdivision 1, clauses (1) ~~to (3)~~ and (2), the applicant must be the purchaser;

80.28 (2) for subdivision 1, clauses ~~(4) (3)~~ and (7) (6), the applicant must be the
80.29 governmental subdivision;

80.30 (3) for subdivision 1, clause ~~(5) (4)~~ (4), the applicant must be the recipient of the
80.31 benefits provided in United States Code, title 38, chapter 21;

80.32 (4) for subdivision 1, clause ~~(6) (5)~~ (5), the applicant must be the owner of the
80.33 homestead property;

80.34 (5) for subdivision 1, clause ~~(8) (7)~~ (7), the owner of the qualified low-income housing
80.35 project;

81.1 (6) for subdivision 1, clause ~~(9)~~ (8), the applicant must be a municipal electric utility
81.2 or a joint venture of municipal electric utilities;

81.3 (7) for subdivision 1, clauses ~~(10)~~, (9), (12), (13), and (14), ~~and (15)~~, the owner
81.4 of the qualifying business; and

81.5 (8) for subdivision 1, clauses (10), (11), ~~(12)~~, and ~~(16)~~ (15), the applicant must be
81.6 the governmental entity that owns or contracts for the project or facility.

81.7 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
81.8 June 30, 2015.

81.9 Sec. 40. Minnesota Statutes 2012, section 297A.75, subdivision 3, is amended to read:

81.10 Subd. 3. **Application.** (a) The application must include sufficient information
81.11 to permit the commissioner to verify the tax paid. If the tax was paid by a contractor,
81.12 subcontractor, or builder, under subdivision 1, clause (3), (4), (5), (6), (7), (8), (9), (10),
81.13 (11), (12), (13), (14), or (15), ~~or (16)~~, the contractor, subcontractor, or builder must
81.14 furnish to the refund applicant a statement including the cost of the exempt items and the
81.15 taxes paid on the items unless otherwise specifically provided by this subdivision. The
81.16 provisions of sections 289A.40 and 289A.50 apply to refunds under this section.

81.17 (b) An applicant may not file more than two applications per calendar year for
81.18 refunds for taxes paid on capital equipment exempt under section 297A.68, subdivision 5.

81.19 (c) Total refunds for purchases of items in section 297A.71, subdivision 40, must not
81.20 exceed \$5,000,000 in fiscal years 2010 and 2011. Applications for refunds for purchases
81.21 of items in sections 297A.70, subdivision 3, paragraph (a), clause (11), and 297A.71,
81.22 subdivision 40, must not be filed until after June 30, 2009.

81.23 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
81.24 June 30, 2015.

81.25 Sec. 41. Minnesota Statutes 2012, section 297A.815, subdivision 3, is amended to read:

81.26 Subd. 3. **Motor vehicle lease sales tax revenue.** (a) For purposes of this
81.27 subdivision, "net revenue" means an amount equal to:

81.28 (1) the revenues, including interest and penalties, that would have been collected
81.29 under this section; during the fiscal year if the rate had been 6.875 percent; less

81.30 (2) in fiscal year 2011, \$30,100,000; in fiscal year 2012, \$31,100,000; and in fiscal
81.31 year 2013 and following fiscal years, \$32,000,000.

82.1 (b) On or before June 30 of each fiscal year, the commissioner of revenue shall
82.2 estimate the amount of the revenues and subtraction under paragraph (a) for the current
82.3 fiscal year.

82.4 (c) On or after July 1 of the subsequent fiscal year, the commissioner of management
82.5 and budget shall transfer the net revenue as estimated in paragraph (b) from the general
82.6 fund, as follows:

82.7 (1) 50 percent to the greater Minnesota transit account; and

82.8 (2) 50 percent to the county state-aid highway fund. Notwithstanding any other law
82.9 to the contrary, the commissioner of transportation shall allocate the funds transferred
82.10 under this clause to the counties in the metropolitan area, as defined in section 473.121,
82.11 subdivision 4, excluding the counties of Hennepin and Ramsey, so that each county shall
82.12 receive of such amount the percentage that its population, as defined in section 477A.011,
82.13 subdivision 3, estimated or established by July 15 of the year prior to the current calendar
82.14 year, bears to the total population of the counties receiving funds under this clause.

82.15 (d) For fiscal years 2010 and 2011, the amount under paragraph (a), clause (1), must
82.16 be calculated using the following percentages of the total revenues:

82.17 (1) for fiscal year 2010, 83.75 percent; and

82.18 (2) for fiscal year 2011, 93.75 percent.

82.19 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
82.20 June 30, 2013.

82.21 Sec. 42. Minnesota Statutes 2012, section 469.190, is amended by adding a subdivision
82.22 to read:

82.23 Subd. 1a. **Tax base; locally collected taxes.** A tax imposed on the gross receipts
82.24 from lodging under this section or under a special law applies to the same base as taxes
82.25 collected by the commissioner of revenue under subdivision 7 and section 270C.171.

82.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.
82.27 In enacting this section, the legislature confirms its original intent in enacting Minnesota
82.28 Statutes, section 469.190, its predecessor provisions, and any special laws authorizing
82.29 political subdivisions to impose lodging taxes, and that those taxes were and are intended
82.30 to apply to the entire consideration paid to obtain access to transient lodging, including
82.31 ancillary or related services, such as services provided by accommodation intermediaries
82.32 as defined in Minnesota Statutes, section 297A.61, and similar services. The provisions of
82.33 this section must not be interpreted to imply a narrower construction of the tax base under
82.34 lodging tax provisions of Minnesota law prior to the enactment of this section.

83.1 Sec. 43. **DULUTH LOCAL SALES TAX; RATE REDUCTION.**

83.2 Notwithstanding Minnesota Statutes, section 297A.99 or 645.021, or any ordinance,
83.3 city charter, or other provision of law, the city of Duluth shall reduce its rate of tax
83.4 authorized under Laws 1973, chapter 461, section 1, as amended by Laws 1977, chapter
83.5 438, to 0.87 percent.

83.6 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
83.7 June 30, 2013.

83.8 Sec. 44. **REVISOR'S INSTRUCTION.**

83.9 In Minnesota Rules, part 8130.9700, the revisor of statutes shall remove the last
83.10 sentence in subpart 3, item B, that reads "Use of equipment on a time-sharing basis,
83.11 where access to the equipment is only by means of remote access facilities, is not taxable
83.12 leasing of such equipment."

83.13 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
83.14 June 30, 2013.

83.15 Sec. 45. **REPEALER.**

83.16 (a) Minnesota Statutes 2012, sections 297A.61, subdivision 27; 297A.66, subdivision
83.17 4; 297A.67, subdivision 8; and 297A.68, subdivisions 9, 22, and 35, are repealed.

83.18 (b) Minnesota Rules, part 8130.0500, subpart 2, is repealed.

83.19 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
83.20 June 30, 2013.

83.21 **ARTICLE 4**

83.22 **TOBACCO**

83.23 Section 1. Minnesota Statutes 2012, section 270C.56, subdivision 1, is amended to read:

83.24 Subdivision 1. **Liability imposed.** A person who, either singly or jointly with
83.25 others, has the control of, supervision of, or responsibility for filing returns or reports,
83.26 paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or a
83.27 person who is liable under any other law, is liable for the payment of taxes arising under
83.28 chapters 295, 296A, 297A, 297F, and 297G, or sections ~~256.9658~~, 290.92, and 297E.02,
83.29 and the applicable penalties and interest on those taxes.

83.30 **EFFECTIVE DATE.** This section is effective July 1, 2013.

84.1 Sec. 2. Minnesota Statutes 2012, section 297F.01, is amended by adding a subdivision
84.2 to read:

84.3 Subd. 9b. **Little cigar.** "Little cigar" means any roll for smoking made in whole or
84.4 in part of tobacco if the product is wrapped in a substance containing tobacco other than
84.5 natural leaf tobacco, uses an integrated cellulose acetate or other similar filter, and weighs
84.6 not more than 4-1/2 pounds per thousand.

84.7 **EFFECTIVE DATE.** This section is effective July 1, 2013.

84.8 Sec. 3. Minnesota Statutes 2012, section 297F.01, is amended by adding a subdivision
84.9 to read:

84.10 Subd. 10b. **Moist snuff.** "Moist snuff" means any finely cut, ground, or powdered
84.11 smokeless tobacco that is intended to be placed or dipped in the mouth.

84.12 Sec. 4. Minnesota Statutes 2012, section 297F.01, is amended by adding a subdivision
84.13 to read:

84.14 Subd. 13a. **Premium cigar.** "Premium cigar" means any cigar that is
84.15 hand-constructed and hand-rolled, has a wrapper that is made entirely from whole tobacco
84.16 leaf, has a filler and binder that is made entirely of tobacco, except for adhesives or other
84.17 materials used to maintain size, texture, or flavor, and has a wholesale price of no less
84.18 than \$2.

84.19 **EFFECTIVE DATE.** This section is effective July 1, 2013.

84.20 Sec. 5. Minnesota Statutes 2012, section 297F.01, subdivision 19, is amended to read:

84.21 Subd. 19. **Tobacco products.** (a) "Tobacco products" means any product
84.22 containing, made, or derived from tobacco that is intended for human consumption,
84.23 whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by
84.24 any other means, or any component, part, or accessory of a tobacco product, including,
84.25 but not limited to, cigars; little cigars; cheroots; stogies; periques; granulated, plug cut,
84.26 crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug
84.27 and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings,
84.28 cuttings and sweepings of tobacco, and other kinds and forms of tobacco; but does not
84.29 include cigarettes as defined in this section. Tobacco products excludes any tobacco
84.30 product that has been approved by the United States Food and Drug Administration for
84.31 sale as a tobacco cessation product, as a tobacco dependence product, or for other medical
84.32 purposes, and is being marketed and sold solely for such an approved purpose.

85.1 (b) Except for the imposition of tax under section 297F.05, subdivisions 3 and 4,
85.2 tobacco products includes a premium cigar, as defined in subdivision 13a.

85.3 **EFFECTIVE DATE.** This section is effective July 1, 2013.

85.4 Sec. 6. Minnesota Statutes 2012, section 297F.05, subdivision 1, is amended to read:

85.5 Subdivision 1. **Rates; cigarettes.** A tax is imposed upon the sale of cigarettes in
85.6 this state, upon having cigarettes in possession in this state with intent to sell, upon any
85.7 person engaged in business as a distributor, and upon the use or storage by consumers, at
85.8 the following rates:

85.9 (1) on cigarettes weighing not more than three pounds per thousand, ~~24~~ 108.5 mills,
85.10 or 10.85 cents, on each such cigarette; and

85.11 (2) on cigarettes weighing more than three pounds per thousand, ~~48~~ 217 mills, or
85.12 21.7 cents, on each such cigarette.

85.13 **EFFECTIVE DATE.** This section is effective July 1, 2013.

85.14 Sec. 7. Minnesota Statutes 2012, section 297F.05, is amended by adding a subdivision
85.15 to read:

85.16 Subd. 1a. **Annual indexing.** (a) Each year the commissioner shall adjust the
85.17 tax rates under subdivision 1, including any adjustment made in prior years under this
85.18 subdivision, by multiplying the mill rates for the current calendar year by an adjustment
85.19 factor. The adjustment factor equals the in-lieu sales tax rate that applies to the following
85.20 calendar year divided by the in-lieu sales tax rate for the current calendar year. For
85.21 purposes of this subdivision, "in-lieu sales tax rate" means the tax rate established under
85.22 section 297F.25, subdivision 1, rounded to 1/100 of one cent per cigarette.

85.23 (b) The commissioner shall publish the resulting rate by November 1 and the rate
85.24 applies to sales made on or after January 1 of the following year.

85.25 (c) The determination of the commissioner under this subdivision is not a rule and is
85.26 not subject to the Administrative Procedure Act in chapter 14.

85.27 **EFFECTIVE DATE.** This section is effective July 1, 2013.

85.28 Sec. 8. Minnesota Statutes 2012, section 297F.05, subdivision 3, is amended to read:

85.29 Subd. 3. **Rates; tobacco products.** (a) Except as provided in subdivision 3a, a tax is
85.30 imposed upon all tobacco products in this state and upon any person engaged in business
85.31 as a distributor, at the rate of ~~35~~ 90 percent of the wholesale sales price of the tobacco
85.32 products. The tax is imposed at the time the distributor:

86.1 (1) brings, or causes to be brought, into this state from outside the state tobacco
86.2 products for sale;

86.3 (2) makes, manufactures, or fabricates tobacco products in this state for sale in
86.4 this state; or

86.5 (3) ships or transports tobacco products to retailers in this state, to be sold by those
86.6 retailers.

86.7 (b) Notwithstanding paragraph (a), a minimum tax equal to the rate imposed on a pack
86.8 of 20 cigarettes weighing not more than three pounds per thousand, as established under
86.9 subdivision 1, and adjusted by subdivision 1a, is imposed on each container of moist snuff.

86.10 For purposes of this subdivision, a "container" means the smallest consumer-size can,
86.11 package, or other container that is marketed or packaged by the manufacturer, distributor,
86.12 or retailer for separate sale to a retail purchaser.

86.13 (c) Notwithstanding paragraph (a), for little cigars, the tax on each little cigar shall
86.14 be equal to the tax imposed per cigarette under subdivision 1, clause (1), and adjusted by
86.15 subdivision 1a, and any successor provision taxing cigarettes.

86.16 **EFFECTIVE DATE.** This section is effective July 1, 2013, except the minimum
86.17 tax under paragraph (b) is effective January 1, 2014.

86.18 Sec. 9. Minnesota Statutes 2012, section 297F.05, is amended by adding a subdivision
86.19 to read:

86.20 Subd. 3a. **Rates; tobacco.** (a) A tax is imposed upon all premium cigars in this state
86.21 and upon any person engaged in business as a tobacco product distributor, at the lesser of:

86.22 (1) the rate of 70 percent of the wholesale sales price of the premium cigars; or

86.23 (2) \$3.50 per premium cigar.

86.24 (b) The tax imposed under paragraph (a) is imposed at the time the tobacco products
86.25 distributor:

86.26 (1) brings, or causes to be brought, into this state from outside the state premium
86.27 cigars for sale;

86.28 (2) makes, manufactures, or fabricates premium cigars in this state for sale in this
86.29 state; or

86.30 (3) ships or transports premium cigars to retailers in this state, to be sold by those
86.31 retailers.

86.32 **EFFECTIVE DATE.** This section is effective July 1, 2013.

86.33 Sec. 10. Minnesota Statutes 2012, section 297F.05, subdivision 4, is amended to read:

Subd. 4. **Use tax; tobacco products.** (a) Except as provided in subdivision 4a, a tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of ~~35~~ 90 percent of the cost to the consumer of the tobacco products or the minimum tax under subdivision 3, paragraph (b), whichever is greater.

(b) Notwithstanding paragraph (a), for little cigars, the tax on each little cigar shall be equal to the tax imposed per cigarette under subdivision 1, clause (1), and any successor provision taxing cigarettes.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 11. Minnesota Statutes 2012, section 297F.05, is amended by adding a subdivision to read:

Subd. 4a. **Use tax; premium cigars.** A tax is imposed upon the use or storage by consumers of all premium cigars in this state, and upon such consumers, at the lesser of:

(1) the rate of 70 percent of the cost to the consumer of the premium cigars; or

(2) \$3.50 per premium cigar.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 12. Minnesota Statutes 2012, section 297F.24, subdivision 1, is amended to read:

Subdivision 1. **Fee imposed.** (a) A fee is imposed upon the sale of nonsettlement cigarettes in this state, upon having nonsettlement cigarettes in possession in this state with intent to sell, upon any person engaged in business as a distributor, and upon the use or storage by consumers of nonsettlement cigarettes. The fee equals a rate of ~~1.75~~ 2.5 cents per cigarette.

(b) The purpose of this fee is to:

(1) ensure that manufacturers of nonsettlement cigarettes pay fees to the state that are comparable to costs attributable to the use of the cigarettes;

(2) prevent manufacturers of nonsettlement cigarettes from undermining the state's policy of discouraging underage smoking by offering nonsettlement cigarettes at prices substantially below the cigarettes of other manufacturers; and

(3) fund such other purposes as the legislature determines appropriate.

Sec. 13. Minnesota Statutes 2012, section 297F.25, subdivision 1, is amended to read:

Subdivision 1. **Imposition.** (a) A tax is imposed on distributors on the sale of cigarettes by a cigarette distributor to a retailer or cigarette subjobber for resale in this state. The tax is equal to 6.5 percent of the weighted average retail price and must be

expressed in cents per pack rounded to the nearest one-tenth of a cent. The weighted average retail price must be determined annually, with new rates published by November 1, and effective for sales on or after January 1 of the following year. The weighted average retail price must be established by surveying cigarette retailers statewide in a manner and time determined by the commissioner. The commissioner shall make an inflation adjustment in accordance with the Consumer Price Index for all urban consumers inflation indicator as published in the most recent state budget forecast. The commissioner shall use the inflation factor for the calendar year in which the new tax rate takes effect. If the survey indicates that the average retail price of cigarettes has not increased relative to the average retail price in the previous year's survey, then the commissioner shall not make an inflation adjustment. The determination of the commissioner pursuant to this subdivision is not a "rule" and is not subject to the Administrative Procedure Act contained in chapter 14. For packs of cigarettes with other than 20 cigarettes, the tax must be adjusted proportionally.

~~(b) Notwithstanding paragraph (a), and in lieu of a survey of cigarette retailers, the tax calculation of the weighted average retail price for the sales of cigarettes from August 1, 2011, through December 31, 2011, shall be calculated by: (1) increasing the average retail price per pack of 20 cigarettes from the most recent survey by the percentage change in a weighted average of the presumed legal prices for cigarettes during the year after completion of that survey, as reported and published by the Department of Commerce under section 325D.371; (2) subtracting the sales tax included in the retail price; and (3) adjusting for expected inflation. The rate must be published by May 1 and is effective for sales after July 31. If the weighted average of the presumed legal prices indicates that the average retail price of cigarettes has not increased relative to the average retail price in the most recent survey, then no inflation adjustment must be made for any period that a rate change in section 297F.05, subdivision 1, is enacted after the current effective January 1 rate and prior to the following January 1, the commissioner of revenue shall make a proportionate adjustment to the sales tax rate. For packs of cigarettes with other than 20 cigarettes, the sales tax must be adjusted proportionally.~~

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 14. Minnesota Statutes 2012, section 325F.781, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given, unless the language or context clearly provides otherwise.

(b) "Consumer" means an individual who purchases, receives, or possesses tobacco products for personal consumption and not for resale.

(c) "Delivery sale" means:

89.1 (1) a sale of tobacco products to a consumer in this state when:

89.2 (i) the purchaser submits the order for the sale by means of a telephonic or other
89.3 method of voice transmission, the mail or any other delivery service, or the Internet or
89.4 other online service; or

89.5 (ii) the tobacco products are delivered by use of the mail or other delivery service; or

89.6 (2) a sale of tobacco products that satisfies the criteria in clause (1), item (i),
89.7 regardless of whether the seller is located inside or outside of the state.

89.8 A sale of tobacco products to an individual in this state must be treated as a sale to a
89.9 consumer, unless the individual is licensed as a distributor or retailer of tobacco products.

89.10 (d) "Delivery service" means a person, including the United States Postal Service,
89.11 that is engaged in the commercial delivery of letters, packages, or other containers.

89.12 (e) "Distributor" means a person, whether located inside or outside of this state,
89.13 other than a retailer, who sells or distributes tobacco products in the state. Distributor does
89.14 not include a tobacco products manufacturer, export warehouse proprietor, or importer
89.15 with a valid permit under United States Code, title 26, section 5712 (1997), if the person
89.16 sells or distributes tobacco products in this state only to distributors who hold valid and
89.17 current licenses under the laws of a state, or to an export warehouse proprietor or another
89.18 manufacturer. Distributor does not include a common or contract carrier that is transporting
89.19 tobacco products under a proper bill of lading or freight bill that states the quantity, source,
89.20 and destination of tobacco products, or a person who ships tobacco products through this
89.21 state by common or contract carrier under a bill of lading or freight bill.

89.22 (f) "Retailer" means a person, whether located inside or outside this state, who sells
89.23 or distributes tobacco products to a consumer in this state.

89.24 (g) "Tobacco products" means:

89.25 (1) cigarettes, as defined in section 297F.01, subdivision 3; ~~and~~

89.26 (2) smokeless tobacco as defined in section 325F.76-; and

89.27 (3) premium cigars as defined in section 297F.01, subdivision 13a.

89.28 **EFFECTIVE DATE.** This section is effective July 1, 2013.

89.29 **Sec. 15. FLOOR STOCKS TAX.**

89.30 (a) A floor stocks cigarette tax is imposed on every person engaged in the business
89.31 in this state as a distributor, retailer, subjobber, vendor, manufacturer, or manufacturer's
89.32 representative of cigarettes, on the stamped cigarettes and unaffixed stamps in the person's
89.33 possession or under the person's control at 12:01 a.m. on July 1, 2013. The tax is imposed
89.34 at the following rates:

90.1 (1) on cigarettes weighing not more than three pounds per thousand, 47 mills on
90.2 each cigarette; and

90.3 (2) on cigarettes weighing more than three pounds per thousand, 94 mills on each
90.4 cigarette.

90.5 (b) Each distributor, on or before July 10, 2013, shall file a return with the
90.6 commissioner of revenue, in the form the commissioner prescribes, showing the stamped
90.7 cigarettes and unaffixed stamps on hand at 12:01 a.m. on July 1, 2013, and the amount of
90.8 tax due on the cigarettes and unaffixed stamps.

90.9 (c) Each retailer, subjobber, vendor, manufacturer, or manufacturer's representative,
90.10 on or before July 10, 2013, shall file a return with the commissioner of revenue, in the
90.11 form the commissioner prescribes, showing the cigarettes on hand at 12:01 a.m. on July 1,
90.12 2013, and the amount of tax due on the cigarettes.

90.13 (d) The tax imposed by this section is due and payable on or before September 4,
90.14 2013, and after that date bears interest at the rate of one percent per month.

90.15 **EFFECTIVE DATE.** This section is effective July 1, 2013.

90.16 Sec. 16. **TOBACCO TAX COLLECTION REPORT.**

90.17 Subdivision 1. **Report to legislature.** (a) The commissioner of revenue shall report
90.18 to the 2014 legislature on the tobacco tax collection system, including recommendations
90.19 to improve compliance under the excise tax for both cigarettes and other tobacco products.
90.20 The purpose of the report is to provide information and guidance to the legislature on
90.21 improvements to the tobacco tax collection system to:

90.22 (1) provide a unified system of collecting both the cigarette and other tobacco
90.23 taxes, regardless of category, size, or shape, that ensures the highest reasonable rates of
90.24 tax collection;

90.25 (2) discourage tax evasion; and

90.26 (3) help to prevent illegal sale of tobacco products, which may make these products
90.27 more accessible to youth.

90.28 (b) In the report, the commissioner shall:

90.29 (1) provide a detailed review of the present excise tax collection and compliance
90.30 system as it applies to both cigarettes and other tobacco products. This must include
90.31 an assessment of the levels of compliance for each category of products and the effect
90.32 of the stamping requirement on compliance for each category of products and the effect
90.33 of the stamping requirement on compliance rates for cigarettes relative to other tobacco
90.34 products. It also must identify any weaknesses in the system;

91.1 (2) survey the methods of collection and enforcement used by other states or nations,
91.2 including identifying and discussing emerging best practices that ensure tracking of both
91.3 cigarettes and other tobacco products and result in the highest rates of tax collection and
91.4 compliance. These best practices must consider high-technology alternatives, such as use
91.5 of bar codes, radio-frequency identification tags, or similar mechanisms for tracking
91.6 compliance;

91.7 (3) evaluate the adequacy and effectiveness of the existing penalties and other
91.8 sanctions for noncompliance;

91.9 (4) evaluate the adequacy of the resources allocated by the state to enforce the
91.10 tobacco tax and prevention laws; and

91.11 (5) make recommendations on implementation of a comprehensive tobacco tax
91.12 collection system for Minnesota that can be implemented by January 1, 2014, including:

91.13 (i) recommendations on the specific steps needed to institute and implement the new
91.14 system, including estimates of the state's costs of doing so and any additional personnel
91.15 requirements;

91.16 (ii) recommendations on methods to recover the cost of implementing the system
91.17 from the industry;

91.18 (iii) evaluation of the extent to which the proposed system is sufficiently flexible
91.19 and adaptable to adjust to modifications in the construction, packaging, formatting, and
91.20 marketing of tobacco products by the industry; and

91.21 (iv) recommendations to modify existing penalties or to impose new penalties or
91.22 other sanctions to ensure compliance with the system.

91.23 Subd. 2. **Due date.** The report required by subdivision 1 is due January 1, 2014.

91.24 Subd. 3. **Procedure.** The report required under this section must be made in the
91.25 manner provided under Minnesota Statutes, section 3.195. In addition, copies must be
91.26 provided to the chairs and ranking minority members of the legislative committees and
91.27 divisions with jurisdiction over taxation.

91.28 Subd. 4. **Appropriation.** (a) \$100,000 is appropriated from the general fund to the
91.29 commissioner of revenue for fiscal year 2014 for the cost of preparing the report under
91.30 subdivision 1.

91.31 (b) The appropriation under this subdivision is a onetime appropriation and is not
91.32 included in the base budget.

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

92.1 Sec. 17. **REPEALER.**92.2 Minnesota Statutes 2012, sections 16A.725; and 256.9658, are repealed.92.3 **EFFECTIVE DATE.** This section is effective July 1, 2013.92.4 **ARTICLE 5**92.5 **ESTATE**92.6 Section 1. Minnesota Statutes 2012, section 289A.38, is amended by adding a
92.7 subdivision to read:92.8 **Subd. 17. Estate tax returns; unused deceased spousal exclusion.**92.9 Notwithstanding any period of limitation in this section, after the time has expired within
92.10 which a tax may be assessed with respect to a deceased spousal unused exclusion amount,
92.11 as defined in section 291.016, subdivision 3, the commissioner may examine a return of
92.12 the deceased spouse to make determinations with respect to that amount to carry out the
92.13 purposes of section 291.016, subdivision 3.92.14 **EFFECTIVE DATE.** This section is effective for the estates of decedents dying
92.15 after June 30, 2013.

92.16 Sec. 2. Minnesota Statutes 2012, section 291.005, subdivision 1, is amended to read:

92.17 Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following
92.18 terms used in this chapter shall have the following meanings:92.19 (1) "Commissioner" means the commissioner of revenue or any person to whom the
92.20 commissioner has delegated functions under this chapter.92.21 (2) "Federal gross estate" means the gross estate of a decedent as required to be valued
92.22 and otherwise determined for federal estate tax purposes under the Internal Revenue Code.92.23 (3) "Internal Revenue Code" means the United States Internal Revenue Code of
92.24 1986, as amended through ~~April 14, 2011~~ January 3, 2013, but without regard to the
92.25 provisions of sections 501 and 901 of Public Law 107-16, as amended by Public Law
92.26 111-312, and section 301(c) of Public Law 111-312.92.27 (4) ~~"Minnesota adjusted taxable estate" means federal adjusted taxable estate as~~
92.28 ~~defined by section 2011(b)(3) of the Internal Revenue Code, plus~~92.29 ~~(i) the amount of deduction for state death taxes allowed under section 2058 of~~
92.30 ~~the Internal Revenue Code; less~~92.31 ~~(ii)(A) the value of qualified small business property under section 291.03,~~
92.32 ~~subdivision 9, and the value of qualified farm property under section 291.03, subdivision~~
92.33 ~~10, or (B) \$4,000,000, whichever is less.~~

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

93.6 ~~(6)~~ (5) "Nonresident decedent" means an individual whose domicile at the time
 93.7 of death was not in Minnesota.

93.8 ~~(7)~~ (6) "Personal representative" means the executor, administrator or other person
 93.9 appointed by the court to administer and dispose of the property of the decedent. If there
 93.10 is no executor, administrator or other person appointed, qualified, and acting within this
 93.11 state, then any person in actual or constructive possession of any property having a situs in
 93.12 this state which is included in the federal gross estate of the decedent shall be deemed
 93.13 to be a personal representative to the extent of the property and the Minnesota estate tax
 93.14 due with respect to the property.

93.15 ~~(8)~~ (7) "Resident decedent" means an individual whose domicile at the time of
 93.16 death was in Minnesota.

93.17 ~~(9)~~ (8) "Situs of property" means, with respect to:

93.18 (i) real property, the state or country in which it is located; ~~with respect to~~

93.19 (ii) tangible personal property, the state or country in which it was normally kept or
 93.20 located at the time of the decedent's death; and ~~with respect to~~

93.21 (iii) intangible personal property, the state or country in which the decedent was
 93.22 domiciled at death.

93.23 **EFFECTIVE DATE.** This section is effective for the estates of decedents dying
 93.24 after June 30, 2013.

93.25 Sec. 3. **[291.016] MINNESOTA TAXABLE ESTATE.**

93.26 Subdivision 1. **General.** For purposes of the tax under this chapter, the Minnesota
 93.27 taxable estate equals the federal taxable estate as provided under section 2051 of the Internal
 93.28 Revenue Code, without regard to whether the estate is subject to the federal estate tax:

93.29 (1) increased by the additions under subdivision 2; and

93.30 (2) reduced by the sum of:

93.31 (i) lesser of (A) the sum of the value of qualified small business property under
 93.32 section 291.03, subdivision 9, and the value of qualified farm property under section
 93.33 291.03, subdivision 10, or (B) \$4,000,000; and

93.34 (ii) the exclusion amount under subdivision 3.

94.1 Subd. 2. **Additions.** The following amounts, to the extent deducted in computing
94.2 the federal taxable estate, must be added in computing the Minnesota taxable estate:

94.3 (1) the amount of the deduction for state death taxes allowed under section 2058 of
94.4 the Internal Revenue Code; and

94.5 (2) the amount of the deduction for foreign death taxes allowed under section
94.6 2053(d) of the Internal Revenue Code.

94.7 Subd. 3. **Exclusion amount; deceased spousal unused exclusion amount.** (a)
94.8 The exclusion amount equals the sum of:

94.9 (1) \$1,000,000; and

94.10 (2) for a surviving spouse, the deceased spousal unused exclusion amount under
94.11 paragraph (b).

94.12 (b) For purposes of this subdivision, with respect to a surviving spouse of a deceased
94.13 spouse dying after June 30, 2013, the term "deceased spousal unused exclusion amount"
94.14 means the excess of:

94.15 (1) the amount under paragraph (a), clause (1), over

94.16 (2) the amount of the exclusion claimed on the Minnesota estate tax return filed for
94.17 the last deceased spouse of the surviving spouse.

94.18 A deceased spousal unused exclusion amount is not allowed to the estate of a surviving
94.19 spouse under this subdivision, unless the executor of the estate of the deceased spouse
94.20 files a Minnesota estate tax return on which the amount is claimed and elects on the return
94.21 that the amount may be so taken into account. The election, once made, is irrevocable. No
94.22 election may be made under this paragraph if the return is filed after the time prescribed
94.23 by law, including extensions, for filing the return.

94.24 **EFFECTIVE DATE.** This section is effective for decedents dying after June 30,
94.25 2013.

94.26 Sec. 4. Minnesota Statutes 2012, section 291.03, subdivision 1, is amended to read:

94.27 Subdivision 1. **Tax amount.** ~~(a) The tax imposed shall be an amount equal to the~~
94.28 ~~proportion of the maximum credit for state death taxes computed under section 2011~~
94.29 ~~of the Internal Revenue Code, but using Minnesota adjusted taxable estate instead of~~
94.30 ~~federal adjusted taxable estate, as the Minnesota gross estate bears to the value of the~~
94.31 ~~federal gross estate.~~

94.32 ~~(b) The tax determined under this subdivision must not be greater than the sum~~
94.33 ~~of the following amounts~~ be computed by applying the following schedule of rates to
94.34 the Minnesota taxable estate: (1) on the first \$5,000,000, nine percent, and (2) on all

95.1 over \$5,000,000, 17 percent and multiplied by a fraction, the numerator of which is the
 95.2 Minnesota gross estate and the denominator of which is the federal gross estate;

95.3 ~~(1) the rates and brackets under section 2001(c) of the Internal Revenue Code~~
 95.4 ~~multiplied by the sum of:~~

95.5 ~~(i) the taxable estate, as defined under section 2051 of the Internal Revenue Code; plus~~

95.6 ~~(ii) adjusted taxable gifts, as defined in section 2001(b) of the Internal Revenue~~
 95.7 ~~Code; less~~

95.8 ~~(iii) the lesser of (A) the sum of the value of qualified small business property~~
 95.9 ~~under subdivision 9, and the value of qualified farm property under subdivision 10, or~~
 95.10 ~~(B) \$4,000,000; less~~

95.11 ~~(2) the amount of tax allowed under section 2001(b)(2) of the Internal Revenue~~
 95.12 ~~Code; and less~~

95.13 ~~(3) the federal credit allowed under section 2010 of the Internal Revenue Code.~~

95.14 ~~(e) For purposes of this subdivision, "Internal Revenue Code" means the Internal~~
 95.15 ~~Revenue Code of 1986, as amended through December 31, 2000.~~

95.16 **EFFECTIVE DATE.** This section is effective for the estates of decedents dying
 95.17 after June 30, 2013.

95.18 Sec. 5. Minnesota Statutes 2012, section 291.03, subdivision 8, is amended to read:

95.19 Subd. 8. **Definitions.** (a) For purposes of this section, the following terms have the
 95.20 meanings given in this subdivision.

95.21 (b) "Family member" means a family member as defined in section 2032A(e)(2) of
 95.22 the Internal Revenue Code, or a trust whose present beneficiaries are all family members
 95.23 as defined in section 2032A(e)(2) of the Internal Revenue Code.

95.24 (c) "Qualified heir" means a family member who acquired qualified property ~~from~~
 95.25 upon the death of the decedent and satisfies the requirement under subdivision 9, clause
 95.26 ~~(6) (7),~~ or subdivision 10, clause ~~(4) (5),~~ for the property.

95.27 (d) "Qualified property" means qualified small business property under subdivision
 95.28 9 and qualified farm property under subdivision 10.

95.29 **EFFECTIVE DATE.** This section is effective retroactively for estates of decedents
 95.30 dying after June 30, 2011.

95.31 Sec. 6. Minnesota Statutes 2012, section 291.03, subdivision 9, is amended to read:

95.32 Subd. 9. **Qualified small business property.** Property satisfying all of the following
 95.33 requirements is qualified small business property:

96.1 (1) The value of the property was included in the federal adjusted taxable estate.

96.2 (2) The property consists of the assets of a trade or business or shares of stock or
96.3 other ownership interests in a corporation or other entity engaged in a trade or business.
96.4 ~~The decedent or the decedent's spouse must have materially participated in the trade or~~
96.5 ~~business within the meaning of section 469 of the Internal Revenue Code during the~~
96.6 ~~taxable year that ended before the date of the decedent's death.~~ Shares of stock in a
96.7 corporation or an ownership interest in another type of entity do not qualify under this
96.8 subdivision if the shares or ownership interests are traded on a public stock exchange at
96.9 any time during the three-year period ending on the decedent's date of death. For purposes
96.10 of this subdivision, an ownership interest includes the interest the decedent is deemed to
96.11 own under sections 2036, 2037, and 2038 of the Internal Revenue Code.

96.12 (3) During the taxable year that ended before the decedent's death, the trade or
96.13 business must not have been a passive activity within the meaning of section 469(c) of the
96.14 Internal Revenue Code, and the decedent or the decedent's spouse must have materially
96.15 participated in the trade or business within the meaning of section 469(h) of the Internal
96.16 Revenue Code, excluding section 469(h)(3) of the Internal Revenue Code and any other
96.17 provision provided by United States Department of the Treasury regulations that substitute
96.18 material participation in prior taxable years for material participation in the taxable year
96.19 that ended before the decedent's death.

96.20 (4) The gross annual sales of the trade or business were \$10,000,000 or less for the
96.21 last taxable year that ended before the date of the death of the decedent.

96.22 ~~(4)~~ (5) The property does not consist of cash or cash equivalents, publicly traded
96.23 securities, or assets not used in the operation of the trade or business. For property
96.24 consisting of shares of stock or other ownership interests in an entity, the ~~amount~~ value of
96.25 cash or cash equivalents, publicly traded securities, or assets not used in the operation of
96.26 the trade or business held by the corporation or other entity must be deducted from the
96.27 value of the property qualifying under this subdivision in proportion to the decedent's
96.28 share of ownership of the entity on the date of death.

96.29 ~~(5)~~ (6) The decedent continuously owned the property, including property the
96.30 decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue
96.31 Code, for the three-year period ending on the date of death of the decedent. In the case of
96.32 a sole proprietor, if the property replaced similar property within the three-year period,
96.33 the replacement property will be treated as having been owned for the three-year period
96.34 ending on the date of death of the decedent.

96.35 ~~(6) A family member continuously uses the property in the operation of the trade or~~
96.36 ~~business for three years following the date of death of the decedent.~~

(7) For three years following the date of death of the decedent, the trade or business is not a passive activity within the meaning of section 469(c) of the Internal Revenue Code, and a family member materially participates in the operation of the trade or business within the meaning of section 469(h) of the Internal Revenue Code, excluding section 469(h)(3) of the Internal Revenue Code and any other provision provided by United States Department of the Treasury regulations that substitute material participation in prior taxable years for material participation in the three years following the date of death of the decedent.

(8) The estate and the qualified heir elect to treat the property as qualified small business property and agree, in the form prescribed by the commissioner, to pay the recapture tax under subdivision 11, if applicable.

EFFECTIVE DATE. This section is effective retroactively for estates of decedents dying after June 30, 2011.

Sec. 7. Minnesota Statutes 2012, section 291.03, subdivision 10, is amended to read:

Subd. 10. **Qualified farm property.** Property satisfying all of the following requirements is qualified farm property:

(1) The value of the property was included in the federal adjusted taxable estate.

(2) ~~The property consists of a farm meeting the requirements of agricultural land as defined in section 500.24, subdivision 2, paragraph (g), and is owned by a person or entity that is not excluded from owning agricultural land by section 500.24, and was classified for property tax purposes as the homestead of the decedent or the decedent's spouse or both under section 273.124, and as class 2a property under section 273.13, subdivision 23.~~

(3) For property taxes payable in the taxable year of the decedent's death, the decedent's interest in the property was classified as the homestead of the decedent, the decedent's spouse, or both under section 273.124 and as class 2a property under section 273.13, subdivision 23.

(4) The decedent continuously owned the property, including property the decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue Code, for the three-year period ending on the date of death of the decedent either by ownership of the agricultural land or pursuant to holding an interest in an entity that is not excluded from owning agricultural land under section 500.24.

~~(4) A family member continuously uses the property in the operation of the trade or business~~ (5) The property is classified for property tax purposes as class 2a property under section 273.13, subdivision 23, for three years following the date of death of the decedent.

98.1 ~~(5)~~ (6) The estate and the qualified heir elect to treat the property as qualified farm
98.2 property and agree, in a form prescribed by the commissioner, to pay the recapture tax
98.3 under subdivision 11, if applicable.

98.4 **EFFECTIVE DATE.** This section is effective retroactively for estates of decedents
98.5 dying after June 30, 2011.

98.6 Sec. 8. Minnesota Statutes 2012, section 291.03, subdivision 11, is amended to read:

98.7 Subd. 11. **Recapture tax.** (a) If, within three years after the decedent's death and
98.8 before the death of the qualified heir, the qualified heir disposes of any interest in the
98.9 qualified property, other than by a disposition to a family member, or a family member
98.10 ceases to use the qualified property which was acquired or passed from the decedent
98.11 satisfy the requirement under subdivision 9, clause (7); or 10, clause (5), an additional
98.12 estate tax is imposed on the property. In the case of a sole proprietor, if the qualified heir
98.13 replaces qualified small business property excluded under subdivision 9 with similar
98.14 property, then the qualified heir will not be treated as having disposed of an interest in the
98.15 qualified property.

98.16 (b) The amount of the additional tax equals the amount of the exclusion claimed by
98.17 the estate under subdivision 8, paragraph (d), multiplied by 16 percent.

98.18 (c) The additional tax under this subdivision is due on the day which is six months
98.19 after the date of the disposition or cessation in paragraph (a).

98.20 **EFFECTIVE DATE.** This section is effective retroactively for estates of decedents
98.21 dying after June 30, 2011.

ARTICLE 6

CITY AID

98.24 Section 1. Minnesota Statutes 2012, section 477A.011, subdivision 30, is amended to
98.25 read:

98.26 Subd. 30. **Pre-1940 housing percentage.** (a) Except as provided in paragraph (b),
98.27 "pre-1940 housing percentage" for a city is 100 times the most recent ~~federal census~~ count
98.28 by the United States Bureau of the Census of all housing units in the city built before
98.29 1940, divided by the total number of all housing units in the city. Housing units includes
98.30 both occupied and vacant housing units as defined by the federal census.

98.31 (b) For the city of East Grand Forks only, "pre-1940 housing percentage" is equal
98.32 to 100 times the 1990 federal census count of all housing units in the city built before
98.33 1940, divided by the most recent counts by the United States Bureau of the Census of all

99.1 housing units in the city. Housing units includes both occupied and vacant housing units
 99.2 as defined by the federal census.

99.3 **EFFECTIVE DATE.** This section is effective for aids payable in calendar year
 99.4 2014 and thereafter.

99.5 Sec. 2. Minnesota Statutes 2012, section 477A.011, is amended by adding a
 99.6 subdivision to read:

99.7 Subd. 30a. **Percent of housing built between 1940 and 1970.** "Percent of housing
 99.8 built between 1940 and 1970" is equal to 100 times the most recent count by the United
 99.9 States Bureau of the Census of all housing units in the city built after 1939 but before
 99.10 1970, divided by the total number of all housing units in the city. Housing units includes
 99.11 both occupied and vacant housing units as defined by the federal census.

99.12 **EFFECTIVE DATE.** This section is effective for aids payable in calendar year
 99.13 2014 and thereafter.

99.14 Sec. 3. Minnesota Statutes 2012, section 477A.011, subdivision 34, is amended to read:

99.15 Subd. 34. **City revenue need.** (a) For a city with a population equal to or greater
 99.16 than ~~2,500~~ 10,000, "city revenue need" is ~~the greater of 285 or 1.15 times the sum of (1)~~
 99.17 ~~5.0734098 4.59 times the pre-1940 housing percentage; plus (2) 19.141678 times the~~
 99.18 ~~population decline percentage 0.622 times the percent of housing built between 1940 and~~
 99.19 ~~1970; plus (3) 2504.06334 times the road accidents factor 169.415 times the jobs per~~
 99.20 ~~capita; plus (4) 355.0547; minus (5) the metropolitan area factor; minus (6) 49.10638~~
 99.21 ~~times the household size 307.664.~~

99.22 (b) For a city with a population equal to or greater than 2,500 and less than 10,000,
 99.23 city revenue need is 1.15 times the sum of (1) 572.62; plus (2) 5.026 times the pre-1940
 99.24 housing percentage; minus (3) 53.768 times household size; plus (4) 14.022 times peak
 99.25 population decline.

99.26 ~~(b) (c)~~ (c) For a city with a population less than 2,500, "city revenue need" is the sum of
 99.27 ~~(1) 2.387 times the pre-1940 housing percentage; plus (2) 2.67591 times the commercial~~
 99.28 ~~industrial percentage; plus (3) 3.16042 times the population decline percentage; plus (4)~~
 99.29 ~~1.206 times the transformed population; minus (5) 62.772 410 plus 0.367 times the city's~~
 99.30 population over 100. The city revenue need under this paragraph shall not exceed 630.

99.31 ~~(e) (d)~~ For a city with a population of at least 2,500 ~~or more and a population in one~~
 99.32 ~~of the most recently available five years that was less than 2,500, "city revenue need"~~
 99.33 ~~is the sum of (1) its city revenue need calculated under paragraph (a) multiplied by its~~

transition factor; plus (2) its city revenue need calculated under the formula in paragraph (b) multiplied by the difference between one and its transition factor. For purposes of this paragraph, a city's "transition factor" is equal to 0.2 multiplied by the number of years that the city's population estimate has been 2,500 or more. This provision only applies for aids payable in calendar years 2006 to 2008 to cities with a 2002 population of less than 2,500. It applies to any city for aids payable in 2009 and thereafter but less than 3,000, the city revenue need equals (1) the transition factor times the city's revenue need calculated in paragraph (b) plus (2) 630 times the difference between one and the transition factor. For a city with a population of at least 10,000 but less than 10,500, the city revenue need equals (1) the transition factor times the city's revenue need calculated in paragraph (a) plus (2) the city's revenue need calculated under the formula in paragraph (b) times the difference between one and the transition factor. For purposes of this paragraph, "transition factor" is 0.2 percent times the amount that the city's population exceeds the minimum threshold in either of the first two sentences.

~~(d)~~ (e) The city revenue need cannot be less than zero.

(e) (f) For calendar year ~~2005~~ 2015 and subsequent years, the city revenue need for a city, as determined in paragraphs (a) to ~~(d)~~ (e), is multiplied by the ratio of the annual implicit price deflator for government consumption expenditures and gross investment for state and local governments as prepared by the United States Department of Commerce, for the most recently available year to the ~~2003~~ 2013 implicit price deflator for state and local government purchases.

EFFECTIVE DATE. This section is effective for aids payable in calendar year 2014 and thereafter.

Sec. 4. Minnesota Statutes 2012, section 477A.011, subdivision 42, is amended to read:

Subd. 42. ~~City jobs base~~ **Jobs per capita in the city.** (a) "City jobs base" for a city with a population of 5,000 or more is equal to the product of (1) \$25.20, (2) the number of jobs per capita in the city, and (3) its population. For cities with a population less than 5,000, the city jobs base is equal to zero. For a city receiving aid under subdivision 36, paragraph (k), its city jobs base is reduced by the lesser of 36 percent of the amount of aid received under that paragraph or \$1,000,000. No city's city jobs base may exceed \$4,725,000 under this paragraph.

(b) For calendar year ~~2010~~ and subsequent years, the city jobs base for a city, as determined in paragraph (a), is multiplied by the ratio of the appropriation under section 477A.03, subdivision 2a, for the year in which the aid is paid to the appropriation under that section for aids payable in 2009.

(e) ~~For purposes of this subdivision,~~ "Jobs per capita in the city" means (1) the average annual number of employees in the city based on the data from the Quarterly Census of Employment and Wages, as reported by the Department of Employment and Economic Development, for the most recent calendar year available ~~as of May 1, 2008~~ November 1 of every odd-numbered year, divided by (2) the city's population for the same calendar year as the employment data. The commissioner of the Department of Employment and Economic Development shall certify to the city the average annual number of employees for each city by ~~June 1, 2008~~ January 15 of every even-numbered year beginning with January 15, 2014. A city may challenge an estimate under this paragraph by filing its specific objection, including the names of employers that it feels may have misreported data, in writing with the commissioner by ~~June 20, 2008~~ December 1 of every odd-numbered year. The commissioner shall make every reasonable effort to address the specific objection and adjust the data as necessary. The commissioner shall certify the estimates of the annual employment to the commissioner of revenue by ~~July 15, 2008~~ January 15 of all even-numbered years, including any estimates still under objection. For aids payable in 2014, jobs per capita in the city shall be based on the annual number of employees and population for calendar year 2010 without additional review.

EFFECTIVE DATE. This section is effective for aids payable in calendar year 2014 and thereafter.

Sec. 5. Minnesota Statutes 2012, section 477A.011, is amended by adding a subdivision to read:

Subd. 44. Peak population decline. "Peak population decline" is equal to 100 times the difference between one and the ratio of the city's current population to the highest city population reported in a federal census from the 1970 census or later. Peak population decline shall not be less than zero.

EFFECTIVE DATE. This section is effective for aids payable in calendar year 2014 and thereafter.

Sec. 6. Minnesota Statutes 2012, section 477A.013, subdivision 8, is amended to read:

Subd. 8. City formula aid. (a) For aids payable in 2014 only, the formula aid for a city is equal to the sum of (1) its 2013 certified aid and (2) the product of (i) the difference between its unmet need and its 2013 certified aid, and (ii) the aid gap percentage.

(b) For aids payable in 2015 and thereafter, the formula aid for a city is equal to the sum of (1) its city jobs base, (2) its small city aid base, and (3) the need increase

102.1 ~~percentage multiplied by the average of its unmet need for the most recently available two~~
 102.2 ~~years formula aid in the previous year and (2) the product of (i) the difference between~~
 102.3 ~~its unmet need and its certified aid in the previous year under subdivision 9, and (ii)~~
 102.4 ~~the aid gap percentage.~~

102.5 No city may have a formula aid amount less than zero. The ~~need-increase~~ aid gap
 102.6 percentage must be the same for all cities.

102.7 The applicable ~~need-increase~~ aid gap percentage must be calculated by the
 102.8 Department of Revenue so that the total of the aid under subdivision 9 equals the total
 102.9 amount available for aid under section 477A.03. Data used in calculating aids to cities
 102.10 under sections 477A.011 to 477A.013 shall be the most recently available data as of
 102.11 January 1 in the year in which the aid is calculated except that the data used to compute "net
 102.12 levy" in subdivision 9 is the data most recently available at the time of the aid computation.

102.13 **EFFECTIVE DATE.** This section is effective for aids payable in calendar year
 102.14 2014 and thereafter.

102.15 Sec. 7. Minnesota Statutes 2012, section 477A.013, subdivision 9, is amended to read:

102.16 Subd. 9. **City aid distribution.** (a) In calendar year ~~2013~~ 2014 and thereafter, each
 102.17 city shall receive an aid distribution equal to the sum of (1) the city formula aid under
 102.18 subdivision 8, and (2) its ~~city aid base~~ aid adjustment under subdivision 13.

102.19 ~~(b) For aids payable in 2013 and 2014 only, the total aid in the previous year for~~
 102.20 ~~any city shall mean the amount of aid it was certified to receive for aids payable in 2012~~
 102.21 ~~under this section. For aids payable in 2015 and thereafter, the total aid in the previous~~
 102.22 ~~year for any city means the amount of aid it was certified to receive under this section in~~
 102.23 ~~the previous payable year.~~

102.24 ~~(c) For aids payable in 2010 and thereafter, the total aid for any city shall not exceed~~
 102.25 ~~the sum of (1) ten percent of the city's net levy for the year prior to the aid distribution~~
 102.26 ~~plus (2) its total aid in the previous year. For aids payable in 2009 and thereafter, the total~~
 102.27 ~~aid for any city with a population of 2,500 or more may not be less than its total aid under~~
 102.28 ~~this section in the previous year minus the lesser of \$10 multiplied by its population, or ten~~
 102.29 ~~percent of its net levy in the year prior to the aid distribution.~~

102.30 ~~(d)~~ (b) For aids payable in 2014 only, the total aid for a city may not be less than the
 102.31 amount it was certified to receive in 2013. For aids payable in ~~2010~~ 2015 and thereafter,
 102.32 the total aid for a city ~~with a population less than 2,500~~ must not be less than the amount
 102.33 it was certified to receive in the previous year minus the lesser of \$10 multiplied by its
 102.34 population, or five percent of its ~~2003 certified aid amount. For aids payable in 2009 only,~~

103.1 ~~the total aid for a city with a population less than 2,500 must not be less than what it~~
103.2 ~~received under this section in the previous year unless its total aid in calendar year 2008~~
103.3 ~~was aid under section 477A.011, subdivision 36, paragraph (s), in which case its minimum~~
103.4 ~~aid is zero~~ its net levy in the year prior to the aid distribution.

103.5 ~~(e) A city's aid loss under this section may not exceed \$300,000 in any year in~~
103.6 ~~which the total city aid appropriation under section 477A.03, subdivision 2a, is equal or~~
103.7 ~~greater than the appropriation under that subdivision in the previous year, unless the~~
103.8 ~~city has an adjustment in its city net tax capacity under the process described in section~~
103.9 ~~469.174, subdivision 28.~~

103.10 ~~(f) If a city's net tax capacity used in calculating aid under this section has decreased~~
103.11 ~~in any year by more than 25 percent from its net tax capacity in the previous year due to~~
103.12 ~~property becoming tax-exempt Indian land, the city's maximum allowed aid increase~~
103.13 ~~under paragraph (e) shall be increased by an amount equal to (1) the city's tax rate in the~~
103.14 ~~year of the aid calculation, multiplied by (2) the amount of its net tax capacity decrease~~
103.15 ~~resulting from the property becoming tax exempt.~~

103.16 **EFFECTIVE DATE.** This section is effective for aids payable in calendar year
103.17 2014 and thereafter.

103.18 Sec. 8. Minnesota Statutes 2012, section 477A.013, is amended by adding a
103.19 subdivision to read:

103.20 Subd. 13. **Certified aid adjustments.** (a) A city that received an aid base increase
103.21 under Minnesota Statutes 2012, section 477A.011, subdivision 36, paragraph (e), shall
103.22 have its total aid under subdivision 9 increased by an amount equal to \$150,000 for aids
103.23 payable in 2014 through 2018.

103.24 (b) A city that received a temporary aid increase under Minnesota Statutes 2012,
103.25 section 477A.011, subdivision 36, paragraph (m), (v), or (w), shall have its total aid under
103.26 subdivision 9 decreased by the amount of its aid base increase under those paragraphs in
103.27 calendar year 2013.

103.28 Sec. 9. Minnesota Statutes 2012, section 477A.03, subdivision 2a, is amended to read:

103.29 Subd. 2a. **Cities.** For aids payable in ~~2013~~ 2014 and thereafter, the total aid paid
103.30 under section 477A.013, subdivision 9, is ~~\$426,438,012~~ \$506,438,012.

103.31 **EFFECTIVE DATE.** This section is effective for aids payable in calendar year
103.32 2014 and thereafter.

Sec. 10. PROPERTY TAX SAVINGS REPORT.

105.1 Sec. 2. Minnesota Statutes 2012, section 296A.09, is amended by adding a subdivision
105.2 to read:

105.3 Subd. 3a. **Excise tax for certain airline companies.** Subdivision 2 does not apply
105.4 to jet fuel or special fuel purchased by an airline company that is engaged in air commerce
105.5 in this state and is required to pay air flight property tax under section 270.072. An excise
105.6 tax of five cents per gallon is imposed on fuel that is described in this subdivision.

105.7 Sec. 3. Minnesota Statutes 2012, section 296A.17, subdivision 3, is amended to read:

105.8 Subd. 3. **Refund on graduated basis.** Any person who has directly or indirectly
105.9 paid the excise tax on aviation gasoline or special fuel for aircraft use provided for by this
105.10 ~~chapter~~ under section 296A.09, subdivision 3a, shall, as to all such aviation gasoline
105.11 and special fuel received, stored, or withdrawn from storage by the person in this state
105.12 in any calendar year and not sold or otherwise disposed of to others, or intended for
105.13 sale or other disposition to others, on which such tax has been so paid, be entitled to
105.14 the following graduated reductions in such tax for that calendar year, to be obtained by
105.15 means of the following refunds:

105.16 (1) on each gallon of such aviation gasoline or special fuel up to 50,000 gallons, all
105.17 but five cents per gallon;

105.18 (2) on each gallon of such aviation gasoline or special fuel above 50,000 gallons and
105.19 not more than 150,000 gallons, all but two cents per gallon;

105.20 (3) on each gallon of such aviation gasoline or special fuel above 150,000 gallons
105.21 and not more than 200,000 gallons, all but one cent per gallon;

105.22 (4) on each gallon of such aviation gasoline or special fuel above 200,000, all but
105.23 one-half cent per gallon.

105.24 Sec. 4. Minnesota Statutes 2012, section 296A.17, is amended by adding a subdivision
105.25 to read:

105.26 Subd. 3a. **Nonrefundable excise tax.** Any person who has directly or indirectly
105.27 paid the jet fuel or special fuel tax imposed under section 296A.09, subdivision 2, is not
105.28 entitled to a tax refund under subdivision 3.

105.29 Sec. 5. Minnesota Statutes 2012, section 297A.82, subdivision 4, is amended to read:

105.30 Subd. 4. **Exemptions.** (a) The following transactions are exempt from the tax
105.31 imposed in this chapter to the extent provided.

(b) The purchase or use of aircraft previously registered in Minnesota by a corporation or partnership is exempt if the transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code.

(c) The sale to or purchase, storage, use, or consumption by a licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654 is exempt, if the aircraft is resold while the permit is in effect.

(d) Air flight equipment when sold to, or purchased, stored, used, or consumed by airline companies, as defined in section 270.071, subdivision 4, is exempt. For purposes of this subdivision, "air flight equipment" includes airplanes and parts necessary for the repair and maintenance of such air flight equipment, and flight simulators, but does not include airplanes with a gross weight of less than 30,000 pounds that are used on intermittent or irregularly timed flights.

(e) Sales of, and the storage, distribution, use, or consumption of aircraft, as defined in section 360.511 and approved by the Federal Aviation Administration, and which the seller delivers to a purchaser outside Minnesota or which, without intermediate use, is shipped or transported outside Minnesota by the purchaser are exempt, but only if the purchaser is not a resident of Minnesota and provided that the aircraft is not thereafter returned to a point within Minnesota, except in the course of interstate commerce or isolated and occasional use, and will be registered in another state or country upon its removal from Minnesota. This exemption applies even if the purchaser takes possession of the aircraft in Minnesota and uses the aircraft in the state exclusively for training purposes for a period not to exceed ten days prior to removing the aircraft from this state.

(f) The sale or purchase of the following items that relate to aircraft operated under Federal Aviation Regulations, parts 91 and 135, and associated installation charges: equipment and parts necessary for repair and maintenance of aircraft and equipment and parts to upgrade and improve aircraft.

Sec. 6. Minnesota Statutes 2012, section 297A.82, is amended by adding a subdivision to read:

Subd. 4a. **Deposit in state airports fund.** Tax revenue collected from the sale or purchase of an aircraft taxable under this chapter must be deposited in the state airports fund, established in section 360.017.

Sec. 7. Minnesota Statutes 2012, section 360.531, is amended to read:

360.531 TAXATION.

107.1 Subdivision 1. **In lieu tax.** All aircraft using the air space overlying the state of
 107.2 Minnesota or the airports thereof, except as set forth in section 360.55, shall be taxed in
 107.3 lieu of all other taxes thereon, on the basis and at the rate for the period January 1, 1966, to
 107.4 June 30, 1967, and for each fiscal year as follows.

107.5 Subd. 2. **Rate.** The tax shall be ~~at the rate of one percent of value; provided that~~
 107.6 ~~the minimum tax on an aircraft subject to the provisions of sections 360.511 to 360.67~~
 107.7 ~~shall not be less than 25 percent of the tax on said aircraft computed on its base price or~~
 107.8 ~~\$50 whichever is the higher.~~ as follows:

107.9 <u>Base Price</u>	<u>Tax</u>
107.10 <u>Under \$499,999</u>	<u>\$100</u>
107.11 <u>\$500,000 to \$999,999</u>	<u>\$200</u>
107.12 <u>\$1,000,000 to \$2,499,999</u>	<u>\$2,000</u>
107.13 <u>\$2,500,000 to \$4,999,999</u>	<u>\$4,000</u>
107.14 <u>\$5,000,000 to \$7,499,999</u>	<u>\$7,500</u>
107.15 <u>\$7,500,000 to \$9,999,999</u>	<u>\$10,000</u>
107.16 <u>\$10,000,000 to \$12,499,999</u>	<u>\$12,500</u>
107.17 <u>\$12,500,000 to \$14,999,999</u>	<u>\$15,000</u>
107.18 <u>\$15,000,000 to \$17,499,999</u>	<u>\$17,500</u>
107.19 <u>\$17,500,000 to \$19,999,999</u>	<u>\$20,000</u>
107.20 <u>\$20,000,000 to \$22,499,999</u>	<u>\$22,500</u>
107.21 <u>\$22,500,000 to \$24,999,999</u>	<u>\$25,000</u>
107.22 <u>\$25,000,000 to \$27,499,999</u>	<u>\$27,500</u>
107.23 <u>\$27,500,000 to \$29,999,999</u>	<u>\$30,000</u>
107.24 <u>\$30,000,000 to \$39,999,999</u>	<u>\$50,000</u>
107.25 <u>\$40,000,000 and over</u>	<u>\$75,000</u>

107.26 Subd. 3. **First year of life.** "First year of life" means the year the aircraft was
 107.27 manufactured.

107.28 Subd. 4. **Base price for taxation.** For the purpose of fixing a base price for taxation
 107.29 ~~from which depreciation in value at a fixed percent per annum can be counted, such, the~~
 107.30 base price is defined as follows:

107.31 (a) The base price for taxation of an aircraft shall be the manufacturer's list price.

107.32 (b) The commissioner shall have authority to fix the base value for taxation purposes
 107.33 of any aircraft of which no such similar or corresponding model has been manufactured,
 107.34 and of any rebuilt or foreign aircraft, any aircraft on which a record of the list price is not
 107.35 available, or any military aircraft converted for civilian use, using as a basis for ~~such~~
 107.36 valuation the list price of aircraft with comparable performance characteristics, and taking
 107.37 into consideration the age and condition of the aircraft.

107.38 Subd. 5. **Similarity of corresponding model.** Models shall be deemed similar if
 107.39 substantially alike and of the same make. Models shall be deemed to be corresponding

108.1 models for the purpose of taxation under sections 360.54 to 360.67 if of the same make
108.2 and having approximately the same weight and type of frame and the same style and
108.3 size of motor.

108.4 ~~Subd. 6. **Depreciation.** After the first year of aircraft life the base value for taxation~~
108.5 ~~purposes shall be reduced as follows: ten percent the second year, and 15 percent the third~~
108.6 ~~and each succeeding year thereafter, but in no event shall such tax be reduced below~~
108.7 ~~the minimum.~~

108.8 Subd. 7. **Prorating tax.** When an aircraft first becomes subject to taxation during the
108.9 period for which the tax is to be paid, the tax on it shall be for the remainder of that period,
108.10 prorated on a monthly basis of 1/12 of the annual tax for each calendar month counting the
108.11 month during which it becomes subject to the tax as the first month of such period.

108.12 Subd. 8. **Tax, fiscal year.** Every aircraft subject to the provisions of sections
108.13 360.511 to 360.67 which has at any time since April 19, 1945, used the air space overlying
108.14 the state of Minnesota or the airports thereof shall be taxed for the period from January 1,
108.15 1966, through June 30, 1967, and for each fiscal year thereafter in which it is so used. Any
108.16 aircraft which does not use the air space overlying the state of Minnesota or the airports
108.17 thereof at any time during the period of January 1, 1966, to and including June 30, 1967,
108.18 or at any time during any fiscal year thereafter shall not be subject to the tax provided by
108.19 sections 360.511 to 360.67 for such period. Rebuilt aircraft shall be subject to the tax
108.20 provided by sections 360.511 to 360.67 for that portion of the aforesaid periods remaining
108.21 after the aircraft has been rebuilt, prorated on a monthly basis.

108.22 Subd. 9. **Assessed as personal property in certain cases.** Aircraft subject to
108.23 taxation under the provisions of sections 360.54 to 360.67 shall not be assessed as personal
108.24 property and shall be subject to no tax except as provided for by these sections. Aircraft
108.25 not subject to taxation as provided in these sections, but subject to taxation as personal
108.26 property within the state of Minnesota shall be assessed and valued at 33-1/3 percent of
108.27 the market value thereof and taxed at the rate and in the manner provided by law for the
108.28 taxation of ordinary personal property. If the person against whom any tax has been levied
108.29 on the ad valorem basis because of any aircraft shall, during the calendar year for which
108.30 such ad valorem tax is levied, be also taxed under provisions of these sections, then and in
108.31 that event, upon proper showing, the commissioner of revenue shall grant to the person
108.32 against whom said ad valorem tax was levied, such reduction or abatement of net tax
108.33 capacity or taxes as was occasioned by the so-called ad valorem tax imposed. If the ad
108.34 valorem tax upon any aircraft has been assessed against a dealer in new and used aircraft,
108.35 and the tax imposed by these sections for the required period is thereafter paid by the
108.36 owner, then and in that event, upon proper showing, the commissioner of revenue, upon

109.1 the application of said dealer, shall grant to such dealer against whom said ad valorem tax
109.2 was levied such reduction or abatement of net tax capacity or taxes as was occasioned
109.3 by the so-called ad valorem tax imposed.

109.4 Sec. 8. Minnesota Statutes 2012, section 360.66, is amended to read:

109.5 **360.66 STATE AIRPORTS FUND.**

109.6 Subdivision 1. **Tax credited to fund.** The proceeds of the tax imposed on aircraft
109.7 under sections ~~360.54~~ 360.531 to 360.67 and all fees and penalties provided for therein
109.8 shall be collected by the commissioner and paid into the state treasury and credited to the
109.9 state airports fund created by other statutes of this state.

109.10 Subd. 2. **Reimbursement for expenses.** There shall be transferred by the
109.11 commissioner of management and budget each year from the state airports fund to the
109.12 general fund in the state treasury the amount expended from the latter fund for expenses of
109.13 administering the provisions of sections ~~360.54~~ 360.531 to 360.67.

109.14 Sec. 9. **REPORT.**

109.15 On or before June 30, 2016, and every four years thereafter, the commissioner of
109.16 transportation, in consultation with the commissioner of revenue, shall prepare and submit
109.17 to the chairs and ranking minority members of the senate and house of representatives
109.18 committees with jurisdiction over transportation policy and budget, a report that identifies
109.19 the amount and sources of annual revenue attributable to each type of aviation tax, along
109.20 with annual expenditures from the state airports fund, and any other transfers out of the
109.21 fund, during the previous four years. The report must include draft legislation for any
109.22 recommended statutory changes to ensure the future adequacy of the state airports fund.

109.23 Sec. 10. **EFFECTIVE DATE.**

109.24 Sections 1 to 4 are effective July 1, 2014, and apply to sales and purchases made
109.25 on or after that date. Sections 5 and 6 are effective July 1, 2013, and apply to sales and
109.26 purchases made on or after that date. Sections 7 to 9 are effective July 1, 2014, and apply
109.27 to aircraft tax due on or after that date. Section 10 is effective July 1, 2013.

109.28 **ARTICLE 8**

109.29 **MISCELLANEOUS**

109.30 Section 1. Minnesota Statutes 2012, section 270C.03, subdivision 1, is amended to read:

110.1 Subdivision 1. **Powers and duties.** The commissioner shall have and exercise
110.2 the following powers and duties:

110.3 (1) administer and enforce the assessment and collection of taxes;

110.4 (2) make determinations, corrections, and assessments with respect to taxes,
110.5 including interest, additions to taxes, and assessable penalties;

110.6 (3) use statistical or other sampling techniques consistent with generally accepted
110.7 auditing standards in examining returns or records and making assessments;

110.8 (4) investigate the tax laws of other states and countries, and formulate and submit
110.9 to the legislature such legislation as the commissioner may deem expedient to prevent
110.10 evasions of state revenue laws and to secure just and equal taxation and improvement in
110.11 the system of state revenue laws;

110.12 (5) consult and confer with the governor upon the subject of taxation, the
110.13 administration of the laws in regard thereto, and the progress of the work of the
110.14 department, and furnish the governor, from time to time, such assistance and information
110.15 as the governor may require relating to tax matters;

110.16 (6) execute and administer any agreement with the secretary of the treasury or the
110.17 Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice of the
110.18 United States or a representative of another state regarding the exchange of information
110.19 and administration of the state revenue laws;

110.20 (7) require town, city, county, and other public officers to report information as to the
110.21 collection of taxes received from licenses and other sources, and such other information
110.22 as may be needful in the work of the commissioner, in such form as the commissioner
110.23 may prescribe;

110.24 (8) authorize the use of unmarked motor vehicles to conduct seizures or criminal
110.25 investigations pursuant to the commissioner's authority;

110.26 (9) authorize the participation in audits performed by the Multistate Tax Commission.
110.27 For the purposes of chapter 270B, the Multistate Tax Commission will be considered to be
110.28 a state for the purposes of auditing corporate sales, excise, and income tax returns;

110.29 (10) maintain toll-free telephone access for taxpayer assistance for calls from
110.30 locations within the state; and

110.31 ~~(10)~~ (11) exercise other powers and authority and perform other duties required of or
110.32 imposed upon the commissioner by law.

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

110.34 Sec. 2. **[295.61] SPORTS MEMORABILIA GROSS RECEIPTS TAX.**

111.1 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
111.2 have the meanings given, unless the context clearly indicates otherwise.

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

111.4 (c) "Sale" means a transfer of title or possession of tangible personal property,
111.5 whether absolutely or conditionally.

111.6 (d) "Sports memorabilia" means items available for sale to the public that are sold
111.7 under a license granted by any professional or Collegiate Division I sports league or
111.8 association or a team that is a franchise of a professional sports league or association, an
111.9 affiliate or subsidiary of a league, association, or a team, including:

111.10 (1) one-of-a-kind items related to sports figures, teams, or events;

111.11 (2) trading cards;

111.12 (3) photographs;

111.13 (4) clothing;

111.14 (5) sports event licensed items;

111.15 (6) sports equipment; and

111.16 (7) similar items, but not food or beverage items.

111.17 (e) "Wholesale" or "sale at wholesale" means a sale to a retailer, as defined in
111.18 section 297A.61, subdivision 9, for the purpose of reselling the property to a third party.
111.19 Wholesale does not mean a sale to a wholesaler.

111.20 (f) "Wholesaler" means any person making wholesale sales of sports memorabilia
111.21 to purchasers in the state.

111.22 Subd. 2. **Imposition.** A tax is imposed on each sale at wholesale of sports
111.23 memorabilia equal to 13 percent of the gross revenues from the sale.

111.24 Subd. 3. **Quarterly returns.** Each wholesaler must file quarterly returns and make
111.25 payments by April 18 for the quarter ending March 31; July 18 for the quarter ending June
111.26 30; October 18 for the quarter ending September 30; and January 18 of the following
111.27 calendar year for the quarter ending December 31.

111.28 Subd. 4. **Compensating use tax.** If the tax is not paid under subdivision 2, a
111.29 compensating tax is imposed on possession for sale or use of sports memorabilia in the
111.30 state. The rate of tax equals the rate under subdivision 2 and must be paid by the possessor
111.31 of the items.

111.32 Subd. 5. **Administrative provisions.** Unless specifically provided otherwise by this
111.33 section, the relevant audit, assessment, refund, penalty, interest, enforcement, collection
111.34 remedies, appeal, and administrative provisions of chapters 270C and 289A apply to
111.35 taxes imposed under this section.

112.1 Subd. 6. **Disposition of revenues.** The commissioner shall deposit the revenues
112.2 from the tax in the general fund.

112.3 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
112.4 June 30, 2013.

112.5 Sec. 3. **REPEALER.**

112.6 Minnesota Statutes 2012, sections 290.171; 290.173; and 290.174, are repealed.

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

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Article locations in 13-3018

ARTICLE 1	INDIVIDUAL INCOME TAX	Page.Ln 2.2
ARTICLE 2	CORPORATE FRANCHISE TAXES	Page.Ln 10.23
ARTICLE 3	SALES AND USE TAX	Page.Ln 40.17
ARTICLE 4	TOBACCO	Page.Ln 83.21
ARTICLE 5	ESTATE	Page.Ln 92.4
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ARTICLE 8	MISCELLANEOUS	Page.Ln 109.28

16A.725 HEALTH IMPACT FUND AND FUND REIMBURSEMENTS.

Subdivision 1. **Health impact fund.** There is created in the state treasury a health impact fund to which must be credited all revenue from the health impact fee under section 256.9658 and any floor stocks fee enacted into law.

Subd. 2. **Certified tobacco expenditures.** By April 30 of each year, the commissioner of human services shall certify to the commissioner of management and budget the state share, by fund, of tobacco use attributable costs for the previous fiscal year in Minnesota health care programs, including medical assistance, general assistance medical care, and MinnesotaCare, or other applicable expenditures.

Subd. 3. **Fund reimbursements.** (a) Each fiscal year, the commissioner of management and budget shall first transfer from the health impact fund to the general fund an amount sufficient to offset the general fund cost of the certified expenditures under subdivision 2 or the balance of the fund, whichever is less.

(b) If any balance remains in the health impact fund after the transfer in paragraph (a), the commissioner of management and budget shall transfer to the health care access fund the amount sufficient to offset the health care access fund cost of the certified expenditures in subdivision 2, or the balance of the fund, whichever is less.

256.9658 TOBACCO HEALTH IMPACT FEE.

Subdivision 1. **Purpose.** A tobacco use health impact fee is imposed on and collected from cigarette distributors and tobacco products distributors to recover for the state health costs related to or caused by tobacco use and to reduce tobacco use, particularly by youths.

Subd. 2. **Definitions.** The definitions under section 297F.01 apply to this section.

Subd. 3. **Fee imposed.** (a) A fee is imposed upon the sale of cigarettes in this state, upon having cigarettes in possession in this state with intent to sell, upon any person engaged in business as a distributor, and upon the use or storage by consumers of cigarettes. The fee is imposed at the following rates:

(1) on cigarettes weighing not more than three pounds per thousand, 37.5 mills on each cigarette; and

(2) on cigarettes weighing more than three pounds per thousand, 75 mills on each cigarette.

(b) A fee is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor in an amount equal to the liability for tax under section 297F.05, subdivision 3, or on a consumer of tobacco products equal to the tax under section 297F.05, subdivision 4. Liability for the fee is in addition to the tax under section 297F.05, subdivision 3 or 4.

Subd. 4. **Payment.** A distributor must pay the fee at the same time and in the same manner as provided for payment of tax under chapter 297F.

Subd. 5. **Fee on use of unstamped cigarettes.** Any person, other than a distributor, that purchases or possesses cigarettes that have not been stamped and on which the fee imposed under this section has not been paid is liable for the fee under this section on the possession or use of those cigarettes.

Subd. 6. **Administration.** The audit, assessment, interest, appeal, refund, penalty, enforcement, administrative, and collection provisions of chapters 270C and 297F apply to the fee imposed under this section.

Subd. 7. **Cigarette stamp.** (a) The stamp in section 297F.08 must be affixed to each package and is prima facie evidence that the fee imposed by this section has been paid.

(b) Notwithstanding any other provisions of this section, the fee due on the return is based upon actual stamps purchased during the reporting period.

Subd. 8. **License revocation.** The commissioner of revenue may revoke or suspend the license of a distributor for failure to pay the fee or otherwise comply with the requirements under this section. The provisions and procedures under section 297F.04 apply to a suspension or revocation under this subdivision.

Subd. 9. **Deposit of revenues.** The commissioner of revenue shall deposit the revenues from the fee under this section in the state treasury and credit them to the health impact fund.

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;

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(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) it is not an interest charge domestic international sales corporation under sections 992, 993, 994, and 995 of the Internal Revenue Code;

(4) either (i) it has in effect a valid election under section 936 of the Internal Revenue Code; or (ii) at least 80 percent of the gross income from all sources of the corporation in the tax year is active foreign business income; and

(5) for purposes of this subdivision, active foreign business income means gross income that is (i) derived from sources without the United States, as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code; and (ii) attributable to the active conduct of a trade or business in a foreign country.

290.0921 CORPORATE ALTERNATIVE MINIMUM TAX AFTER 1989.

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.

290.171 ENACTMENT OF MULTISTATE TAX COMPACT.

The "Multistate Tax Compact" is hereby enacted into law to the extent provided in this section and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

Article I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

Article II. Definitions.

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
2. "Subdivision" means any governmental unit or special district of a state.
3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.
4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.
6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.
7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.
8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.
9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of article V of this compact shall apply only to the taxes specifically designated therein.

Article III. Elements of Income Tax Laws.

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Article IV. Division of Income.

Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

1. (a) The multistate tax commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice-chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees.

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice

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chairman, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers.

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms.

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

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3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits.

1. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

2. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident, provided that such state has adopted this article.

3. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

4. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

5. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

6. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

7. In no event shall the commission make any charge against a taxpayer for an audit.

8. As used in this article, "tax," in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Arbitration.

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever the laws of the party states or subdivisions thereof are substantially identical with the relevant provisions of this chapter, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

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4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required on account of his service to forgo the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

Article X. Entry Into Force and Withdrawal.

1. This compact shall become effective as to any other state upon its enactment. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI. Effect on Other Laws and Jurisdictions.

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax, provided that the definition of "tax" in article VIII 9 may

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apply for the purposes of that article and the commission's powers of study and recommendation pursuant to article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

290.173 MULTISTATE COMPACT ADVISORY COMMITTEE.

There is hereby established the Multistate Tax Compact Advisory Committee composed of the commissioner of revenue or the alternate member of the commission designated by the commissioner, the attorney general or a designee, and two members of the senate, appointed by the Committee on Committees, and two members of the house of representatives appointed by the speaker of the house. The chair shall be the member of the Multistate Tax Commission, representing the state of Minnesota. The committee shall meet at the call of its chair or at the request of a majority of its members, but in any event not less than three times in each year. The committee may consider any and all matters relating to recommendations of the Multistate Tax Commission and the activities of the members in representing the state of Minnesota on the commission.

290.174 INTERSTATE AUDITS.

Article VIII of the Multistate Tax Compact relating to interstate audits shall be in force in and with respect to the state of Minnesota. For purposes of chapter 270B, the Multistate Tax Commission will be considered to be a state for purposes of auditing corporate sales, excise, and income tax returns.

297A.61 DEFINITIONS.

Subd. 27. **Direct satellite service.** "Direct satellite service" means programming transmitted or broadcast by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

297A.66 JURISDICTION TO REQUIRE COLLECTION AND REMITTANCE OF TAX BY RETAILER.

Subd. 4. **Affiliated entities.** (a) An entity is an "affiliate" of the retailer for purposes of subdivision 1, paragraph (a), if:

(1) the entity uses its facilities or employees in this state to advertise, promote, or facilitate the establishment or maintenance of a market for sales of items by the retailer to purchasers in this state or for the provision of services to the retailer's purchasers in this state, such as accepting returns of purchases for the retailer, providing assistance in resolving customer complaints of the retailer, or providing other services; and

(2) the retailer and the entity are related parties.

(b) Two entities are related parties under this section if one of the entities meets at least one of the following tests with respect to the other entity:

(1) one or both entities is a corporation, and one entity and any party related to that entity in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code owns directly, indirectly, beneficially, or constructively at least 50 percent of the value of the corporation's outstanding stock;

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(2) one or both entities is a partnership, estate, or trust and any partner or beneficiary, and the partnership, estate, or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the profits, capital, stock, or value of the other entity or both entities; or

(3) an individual stockholder and the members of the stockholder's family (as defined in section 318 of the Internal Revenue Code) owns directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the value of both entities' outstanding stock.

(c) An entity is an affiliate under the provisions of this subdivision if the requirements of paragraphs (a) and (b) are met during any part of the 12-month period ending on the first day of the month before the month in which the sale was made.

297A.67 GENERAL EXEMPTIONS.

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

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

(c) Clothing does not include the following:

- (1) belt buckles sold separately;
- (2) costume masks sold separately;
- (3) patches and emblems sold separately;
- (4) sewing equipment and supplies, including but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles;
- (5) sewing materials that become part of clothing, including but not limited to, buttons, fabric, lace, thread, yarn, and zippers;
- (6) clothing accessories or equipment;
- (7) sports or recreational equipment;
- (8) protective equipment; and
- (9) fur clothing as defined in section 297A.61, subdivision 46.

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

297A.68 BUSINESS EXEMPTIONS.

Subd. 9. **Super Bowl admissions.** The granting of the privilege of admission to a world championship football game sponsored by the National Football League is exempt.

Subd. 22. **Copies of court reporter documents.** Transcripts or copies of transcripts of verbatim testimony are exempt if produced and sold by court reporters or other transcribers of legal proceedings to individuals or entities that are parties to or representatives of parties to the proceeding to which the transcript relates.

Subd. 35. **Telecommunications, cable television, and direct satellite machinery and equipment.** (a) Telecommunications, cable television, or direct satellite machinery and equipment purchased or leased for use directly by a telecommunications, cable television, or

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direct satellite service provider primarily in the provision of telecommunications, cable television, or direct satellite services that are ultimately to be sold at retail are exempt, regardless of whether purchased by the owner, a contractor, or a subcontractor.

(b) For purposes of this subdivision, "telecommunications, cable television, or direct satellite machinery and equipment" includes, but is not limited to:

(1) machinery, equipment, and fixtures utilized in receiving, initiating, amplifying, processing, transmitting, retransmitting, recording, switching, or monitoring telecommunications, cable television, or direct satellite services, such as computers, transformers, amplifiers, routers, bridges, repeaters, multiplexers, and other items performing comparable functions;

(2) machinery, equipment, and fixtures used in the transportation of telecommunications, cable television, or direct satellite services, radio transmitters and receivers, satellite equipment, microwave equipment, and other transporting media, but not wire, cable, fiber, poles, or conduit;

(3) ancillary machinery, equipment, and fixtures that regulate, control, protect, or enable the machinery in clauses (1) and (2) to accomplish its intended function, such as auxiliary power supply, test equipment, towers, heating, ventilating, and air conditioning equipment necessary to the operation of the telecommunications, cable television, or direct satellite equipment; and software necessary to the operation of the telecommunications, cable television, or direct satellite equipment; and

(4) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to qualified machinery or equipment.

477A.011 DEFINITIONS.

Subd. 2a. **Special taxing district.** "Special taxing district" means a political subdivision with the authority to levy property taxes, other than a city, county, town, or school district.

Subd. 19. **Metropolitan area.** "Metropolitan area" is the metropolitan area as defined in section 473.121, subdivision 2.

Subd. 29. **Adjusted revenue base.** "Adjusted revenue base" means revenue base as defined in subdivision 27 less the levy reported under section 275.62, subdivision 1, clause (2).

Subd. 31. **Population decline percentage.** "Population decline percentage" for a city is the percent decline in a city's population for the last ten years, based on the most recently available population estimate from the state demographer or a federal census. A city's population decline percentage cannot be less than zero.

Subd. 32. **Commercial industrial percentage.** "Commercial industrial percentage" for a city is 100 times the sum of the estimated market values of all real property in the city classified as class 3 under section 273.13, subdivision 24, excluding public utility property, to the total market value of all taxable real and personal property in the city. The market values are the amounts computed before any adjustments for fiscal disparities under section 276A.06 or 473F.08. The market values used for this subdivision are not equalized.

Subd. 33. **Transformed population.** "Transformed population" for a city is the city population raised to the .3308 power, times 30.5485.

Subd. 36. **City aid base.** (a) Except as otherwise provided in this subdivision, "city aid base" is zero.

(b) The city aid base for any city with a population less than 500 is increased by \$40,000 for aids payable in calendar year 1995 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$40,000 for aids payable in calendar year 1995 only, provided that:

(i) the average total tax capacity rate for taxes payable in 1995 exceeds 200 percent;

(ii) the city portion of the tax capacity rate exceeds 100 percent; and

(iii) its city aid base is less than \$60 per capita.

(c) The city aid base for a city is increased by \$20,000 in 1998 and thereafter and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$20,000 in calendar year 1998 only, provided that:

(i) the city has a population in 1994 of 2,500 or more;

(ii) the city is located in a county, outside of the metropolitan area, which contains a city of the first class;

(iii) the city's net tax capacity used in calculating its 1996 aid under section 477A.013 is less than \$400 per capita; and

(iv) at least four percent of the total net tax capacity, for taxes payable in 1996, of property located in the city is classified as railroad property.

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(d) The city aid base for a city is increased by \$200,000 in 1999 and thereafter and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 1999 only, provided that:

- (i) the city was incorporated as a statutory city after December 1, 1993;
- (ii) its city aid base does not exceed \$5,600; and
- (iii) the city had a population in 1996 of 5,000 or more.

(e) The city aid base for a city is increased by \$150,000 for aids payable in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$150,000 in calendar year 2000 only, provided that:

- (1) the city has a population that is greater than 1,000 and less than 2,500;
- (2) its commercial and industrial percentage for aids payable in 1999 is greater than 45 percent; and
- (3) the total market value of all commercial and industrial property in the city for assessment year 1999 is at least 15 percent less than the total market value of all commercial and industrial property in the city for assessment year 1998.

(f) The city aid base for a city is increased by \$200,000 in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 2000 only, provided that:

- (1) the city had a population in 1997 of 2,500 or more;
- (2) the net tax capacity of the city used in calculating its 1999 aid under section 477A.013 is less than \$650 per capita;
- (3) the pre-1940 housing percentage of the city used in calculating 1999 aid under section 477A.013 is greater than 12 percent;
- (4) the 1999 local government aid of the city under section 477A.013 is less than 20 percent of the amount that the formula aid of the city would have been if the need increase percentage was 100 percent; and
- (5) the city aid base of the city used in calculating aid under section 477A.013 is less than \$7 per capita.

(g) The city aid base for a city is increased by \$102,000 in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$102,000 in calendar year 2000 only, provided that:

- (1) the city has a population in 1997 of 2,000 or more;
- (2) the net tax capacity of the city used in calculating its 1999 aid under section 477A.013 is less than \$455 per capita;
- (3) the net levy of the city used in calculating 1999 aid under section 477A.013 is greater than \$195 per capita; and
- (4) the 1999 local government aid of the city under section 477A.013 is less than 38 percent of the amount that the formula aid of the city would have been if the need increase percentage was 100 percent.

(h) The city aid base for a city is increased by \$32,000 in 2001 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$32,000 in calendar year 2001 only, provided that:

- (1) the city has a population in 1998 that is greater than 200 but less than 500;
- (2) the city's revenue need used in calculating aids payable in 2000 was greater than \$200 per capita;
- (3) the city net tax capacity for the city used in calculating aids available in 2000 was equal to or less than \$200 per capita;
- (4) the city aid base of the city used in calculating aid under section 477A.013 is less than \$65 per capita; and
- (5) the city's formula aid for aids payable in 2000 was greater than zero.

(i) The city aid base for a city is increased by \$7,200 in 2001 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$7,200 in calendar year 2001 only, provided that:

- (1) the city had a population in 1998 that is greater than 200 but less than 500;
- (2) the city's commercial industrial percentage used in calculating aids payable in 2000 was less than ten percent;
- (3) more than 25 percent of the city's population was 60 years old or older according to the 1990 census;
- (4) the city aid base of the city used in calculating aid under section 477A.013 is less than \$15 per capita; and
- (5) the city's formula aid for aids payable in 2000 was greater than zero.

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(j) The city aid base for a city is increased by \$45,000 in 2001 and thereafter and by an additional \$50,000 in calendar years 2002 to 2011, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$45,000 in calendar year 2001 only, and by \$50,000 in calendar year 2002 only, provided that:

(1) the net tax capacity of the city used in calculating its 2000 aid under section 477A.013 is less than \$810 per capita;

(2) the population of the city declined more than two percent between 1988 and 1998;

(3) the net levy of the city used in calculating 2000 aid under section 477A.013 is greater than \$240 per capita; and

(4) the city received less than \$36 per capita in aid under section 477A.013, subdivision 9, for aids payable in 2000.

(k) The city aid base for a city with a population of 10,000 or more which is located outside of the seven-county metropolitan area is increased in 2002 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (b) or (c), is also increased in calendar year 2002 only, by an amount equal to the lesser of:

(1)(i) the total population of the city, as determined by the United States Bureau of the Census, in the 2000 census, (ii) minus 5,000, (iii) times 60; or

(2) \$2,500,000.

(l) The city aid base is increased by \$50,000 in 2002 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$50,000 in calendar year 2002 only, provided that:

(1) the city is located in the seven-county metropolitan area;

(2) its population in 2000 is between 10,000 and 20,000; and

(3) its commercial industrial percentage, as calculated for city aid payable in 2001, was greater than 25 percent.

(m) The city aid base for a city is increased by \$150,000 in calendar years 2002 to 2011 and by an additional \$75,000 in calendar years 2009 to 2014 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$150,000 in calendar year 2002 only and by \$75,000 in calendar year 2009 only, provided that:

(1) the city had a population of at least 3,000 but no more than 4,000 in 1999;

(2) its home county is located within the seven-county metropolitan area;

(3) its pre-1940 housing percentage is less than 15 percent; and

(4) its city net tax capacity per capita for taxes payable in 2000 is less than \$900 per capita.

(n) The city aid base for a city is increased by \$200,000 beginning in calendar year 2003 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 2003 only, provided that the city qualified for an increase in homestead and agricultural credit aid under Laws 1995, chapter 264, article 8, section 18.

(o) The city aid base for a city is increased by \$200,000 in 2004 only and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, is also increased by \$200,000 in calendar year 2004 only, if the city is the site of a nuclear dry cask storage facility.

(p) The city aid base for a city is increased by \$10,000 in 2004 and thereafter and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$10,000 in calendar year 2004 only, if the city was included in a federal major disaster designation issued on April 1, 1998, and its pre-1940 housing stock was decreased by more than 40 percent between 1990 and 2000.

(q) The city aid base for a city is increased by \$30,000 in 2009 and thereafter and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$25,000 in calendar year 2006 only if the city had a population in 2003 of at least 1,000 and has a state park for which the city provides rescue services and which comprised at least 14 percent of the total geographic area included within the city boundaries in 2000.

(r) The city aid base for a city is increased by \$80,000 in 2009 and thereafter and the minimum and maximum amount of total aid it may receive under section 477A.013, subdivision 9, is also increased by \$80,000 in calendar year 2009 only, if:

(1) as of May 1, 2006, at least 25 percent of the tax capacity of the city is proposed to be placed in trust status as tax-exempt Indian land;

(2) the placement of the land is being challenged administratively or in court; and

(3) due to the challenge, the land proposed to be placed in trust is still on the tax rolls as of May 1, 2006.

(s) The city aid base for a city is increased by \$100,000 in 2007 and thereafter and the minimum and maximum total amount of aid it may receive under this section is also increased in calendar year 2007 only, provided that:

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- (1) the city has a 2004 estimated population greater than 200 but less than 2,000;
 - (2) its city net tax capacity for aids payable in 2006 was less than \$300 per capita;
 - (3) the ratio of its pay 2005 tax levy compared to its city net tax capacity for aids payable in 2006 was greater than 110 percent; and
 - (4) it is located in a county where at least 15,000 acres of land are classified as tax-exempt Indian reservations according to the 2004 abstract of tax-exempt property.
- (t) The city aid base for a city is increased by \$30,000 in 2009 only, and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$30,000 in calendar year 2009, only if the city had a population in 2005 of less than 3,000 and the city's boundaries as of 2007 were formed by the consolidation of two cities and one township in 2002.
- (u) The city aid base for a city is increased by \$100,000 in 2009 and thereafter, and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$100,000 in calendar year 2009 only, if the city had a city net tax capacity for aids payable in 2007 of less than \$150 per capita and the city experienced flooding on March 14, 2007, that resulted in evacuation of at least 40 homes.
- (v) The city aid base for a city is increased by \$100,000 in 2009 to 2013, and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$100,000 in calendar year 2009 only, if the city:
- (1) is located outside of the Minneapolis-St. Paul standard metropolitan statistical area;
 - (2) has a 2005 population greater than 7,000 but less than 8,000; and
 - (3) has a 2005 net tax capacity per capita of less than \$500.
- (w) The city aid base is increased by \$25,000 in calendar years 2009 to 2013 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, is increased by \$25,000 in calendar year 2009 only, provided that:
- (1) the city is located in the seven-county metropolitan area;
 - (2) its population in 2006 is less than 200; and
 - (3) the percentage of its housing stock built before 1940, according to the 2000 United States Census, is greater than 40 percent.
- (x) The city aid base is increased by \$90,000 in calendar year 2009 only and the minimum and maximum total amount of aid it may receive under section 477A.013, subdivision 9, is also increased by \$90,000 in calendar year 2009 only, provided that the city is located in the seven-county metropolitan area, has a 2006 population between 5,000 and 7,000 and has a 1997 population of over 7,000.
- (y) In calendar year 2010 only, the city aid base for a city is increased by \$225,000 if it was eligible for a \$450,000 payment in calendar year 2008 under Minnesota Statutes 2006, section 477A.011, subdivision 36, paragraph (e), and the second half of the payment under that paragraph in December 2008 was canceled due to the governor's unallotment. The payment under this paragraph is not subject to any aid reductions under section 477A.0134 or any future unallotment of the city aid under section 16A.152.
- (z) In calendar year 2013 only, the total aid the city may receive under section 477A.013 is increased by \$12,000 if:
- (1) the city's 2010 population is less than 100 and its population growth between 2000 and 2010 was more than 55 percent; and
 - (2) its commercial industrial percentage as defined in subdivision 32, based on assessments for calendar year 2010, payable in 2011, is greater than 15 percent.
- Subd. 39. **Road accidents factor.** "Road accidents factor" means the average annual number of vehicular accidents occurring on public roads, streets, and alleys in the jurisdiction as reported to the commissioner of revenue by the commissioner of public safety by July 1 of the aid calculation year using the most recent three-year period for which the commissioner of public safety has complete information, divided by the jurisdiction's population.
- Subd. 40. **Metropolitan area factor.** "Metropolitan area factor" means 35.20915 for cities located in the metropolitan area.
- Subd. 41. **Small city aid base.** (a) "Small city aid base" for a city with a population less than 5,000 is equal to \$8.50 multiplied by its population. The small city aid base for all other cities is equal to zero.
- (b) For calendar year 2010 and subsequent years, the small city aid base for a city, as determined in paragraph (a), is multiplied by the ratio of the appropriation under section 477A.03, subdivision 2a, for the year in which the aid is paid to the appropriation under that section for aids payable in 2009.
- Subd. 42. **City jobs base.** (a) "City jobs base" for a city with a population of 5,000 or more is equal to the product of (1) \$25.20, (2) the number of jobs per capita in the city, and (3) its population. For cities with a population less than 5,000, the city jobs base is equal to zero.

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For a city receiving aid under subdivision 36, paragraph (k), its city jobs base is reduced by the lesser of 36 percent of the amount of aid received under that paragraph or \$1,000,000. No city's city jobs base may exceed \$4,725,000 under this paragraph.

(b) For calendar year 2010 and subsequent years, the city jobs base for a city, as determined in paragraph (a), is multiplied by the ratio of the appropriation under section 477A.03, subdivision 2a, for the year in which the aid is paid to the appropriation under that section for aids payable in 2009.

(c) For purposes of this subdivision, "jobs per capita in the city" means (1) the average annual number of employees in the city based on the data from the Quarterly Census of Employment and Wages, as reported by the Department of Employment and Economic Development, for the most recent calendar year available as of May 1, 2008, divided by (2) the city's population for the same calendar year as the employment data. The commissioner of the Department of Employment and Economic Development shall certify to the city the average annual number of employees for each city by June 1, 2008. A city may challenge an estimate under this paragraph by filing its specific objection, including the names of employers that it feels may have misreported data, in writing with the commissioner by June 20, 2008. The commissioner shall make every reasonable effort to address the specific objection and adjust the data as necessary. The commissioner shall certify the estimates of the annual employment to the commissioner of revenue by July 15, 2008, including any estimates still under objection.

477A.013 MUNICIPAL GOVERNMENT DISTRIBUTIONS.

Subd. 11. **Aid payments in 2011 and 2012.** Notwithstanding aids calculated or certified for 2011 under subdivision 9, for 2011 and 2012, each city shall receive an aid distribution under this section equal to the lesser of (1) the total amount of aid it received under this section in 2010 after the reductions under sections 477A.0133 and 477A.0134, and reduced by the amount of payments made under section 477A.011, subdivision 36, paragraphs (y) and (z), or (2) the amount it was certified to receive in 2011 under subdivision 9. In 2011 only, a city that qualifies for the aid base adjustment under section 477A.011, subdivision 36, paragraph (aa), shall receive the amount that it was certified to receive in 2011. In 2012, a city that qualifies for the aid base adjustment under section 477A.011, subdivision 36, paragraph (aa), shall receive the amount that it was certified to receive in 2011, minus the aid base adjustment provided under section 477A.011, subdivision 36, paragraph (aa).

Subd. 12. **Aid payments in 2013.** (a) Notwithstanding aids calculated for 2013 under subdivision 9, for 2013, each city with a population of 5,000 or more shall receive an aid distribution under this section equal to its aid distribution under this section in 2012.

(b) Notwithstanding aids calculated for 2013 under subdivision 9, each city with a population under 5,000 shall receive an aid distribution under this section equal to any additional city aid base authorized in calendar year 2013 under section 477A.011, subdivision 36, paragraph (z), plus the greater of (1) its aid distribution under this section in 2012 or (2) its amount that it is calculated to receive under subdivision 9.

477A.0133 2009 AND 2010 AID REDUCTIONS.

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

(b) The "2009 revenue base" for a statutory or home rule charter city is the sum of the city's certified property tax levy for taxes payable in 2009, plus the amount of local government aid under section 477A.013, subdivision 9, that the city was certified to receive in 2009, plus the amount of taconite aids under sections 298.28 and 298.282 that the city was certified to receive in 2009, including any amounts required to be placed in a special fund for distribution in a later year.

(c) The "2009 revenue base" for a county is the sum of the county's certified property tax levy for taxes payable in 2009, plus the amount of county program aid under section 477A.0124 that the county was certified to receive in 2009, plus the amount of taconite aids under sections 298.28 and 298.282 that the county was certified to receive in 2009, including any amounts required to be placed in a special fund for distribution in a later year.

(d) The "2009 revenue base" for a town is the sum of the town's certified property tax levy for taxes payable in 2009, plus the amount of aid under section 477A.013 that the town was certified to receive in 2009, plus the amount of taconite aids under sections 298.28 and 298.282 that the town was certified to receive in 2009, including any amounts required to be placed in a special fund for distribution in a later year.

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(e) "Population" means the population of the county, city, or town for 2007 based on information available to the commissioner of revenue in July 2009.

(f) "Adjusted net tax capacity" means the amount of net tax capacity for the county, city, or town, computed using equalized market values according to section 477A.011, subdivision 20, for aid payable in 2009.

(g) "Adjusted net tax capacity per capita" means the jurisdiction's adjusted net tax capacity divided by its population.

Subd. 2. **2009 aid reductions.** (a) The commissioner of revenue must compute a 2009 aid reduction amount for each county.

The aid reduction amount is zero for a county with a population of less than 5,000, and is zero for a county containing the Shooting Star Casino property that was removed from the tax rolls in 2009.

For all other counties, the aid reduction amount is equal to 1.188968672 percent of the county's 2009 revenue base.

The reduction amount is limited to the sum of the amount of county program aid under section 477A.0124 that the county was certified to receive in 2009, plus the amount of market value credit reimbursements under section 273.1384 payable to the county in 2009 before the reductions in this section.

The reduction amount is applied first to reduce the amount payable to the county in 2009 as county program aid under section 477A.013 and then, if necessary, to reduce the amount payable to the county in 2009 as market value credit reimbursements under section 273.1384.

No county's aid or reimbursements are reduced to less than zero under this section.

(b) The commissioner of revenue must compute a 2009 aid reduction amount for each city.

The aid reduction amount is zero for any city with a population of less than 1,000 that has an adjusted net tax capacity per capita amount less than the statewide average adjusted net tax capacity amount per capita for all cities. The aid reduction amount is also zero for a city located outside the seven-county metropolitan area, with a 2006 population greater than 3,500, a pre-1940 housing percentage greater than 29 percent, a commercial-industrial percentage less than nine percent, and a population decline percentage of zero based on the data used to certify the 2009 local government aid distribution under section 477A.013.

For all other cities, the aid reduction amount is equal to 3.3127634 percent of the city's 2009 revenue base.

The reduction amount is limited to the sum of the amount of local government aid under section 477A.013, subdivision 9, that the city was certified to receive in 2009, plus the amount of market value credit reimbursements under section 273.1384 payable to the city in 2009 before the reductions in this section.

The reduction amount for a city is further limited to \$22 per capita.

The reduction amount is applied first to reduce the amount payable to the city in 2009 as local government aid under section 477A.013 and then, if necessary, to reduce the amount payable to the city in 2009 as market value credit reimbursements under section 273.1384.

No city's aid or reimbursements are reduced to less than zero under this section.

(c) The commissioner of revenue must compute a 2009 aid reduction amount for each town.

The aid reduction amount is zero for any town with a population of less than 1,000 that has an adjusted net tax capacity per capita amount less than the statewide average adjusted net tax capacity amount per capita for all towns.

For all other towns, the aid reduction amount is equal to 1.735103 percent of the town's 2009 revenue base.

The reduction amount is limited to \$5 per capita.

The reduction amount is applied to reduce the amount payable to the town in 2009 as market value credit reimbursements under section 273.1384.

No town's reimbursements are reduced to less than zero under this section.

Subd. 3. **2010 aid reductions.** (a) The commissioner of revenue must compute a 2010 aid reduction amount for each county.

The aid reduction amount is zero for a county with a population of less than 5,000, and is zero for a county containing the Shooting Star Casino property that was removed from the tax rolls in 2009.

For all other counties, the aid reduction amount is equal to 2.41396687 percent of the county's 2009 revenue base.

The reduction amount is limited to the sum of the amount of county program aid under section 477A.0124 that the county was certified to receive in 2009, plus the amount of market

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value credit reimbursements under section 273.1384 payable to the county in 2009 before the reductions in this section.

The reduction amount is applied first to reduce the amount payable to the county in 2010 as county program aid under section 477A.013 and then, if necessary, to reduce the amount payable to the county in 2010 as market value credit reimbursements under section 273.1384.

No county's aid or reimbursements are reduced to less than zero under this section.

(b) The commissioner of revenue must compute a 2010 aid reduction amount for each city.

The aid reduction amount is zero for any city with a population of less than 1,000 that has an adjusted net tax capacity per capita amount less than the statewide average adjusted net tax capacity amount per capita for all cities.

For all other cities, the aid reduction amount is equal to 7.643803025 percent of the city's 2009 revenue base.

The reduction amount is limited to the sum of the amount of local government aid under section 477A.013, subdivision 9, that the city was certified to receive in 2010, plus the amount of market value credit reimbursements under section 273.1384 payable to the city in 2010 before the reductions in this section.

The reduction amount for a city is further limited to \$55 per capita.

The reduction amount is applied first to reduce the amount payable to the city in 2010 as local government aid under section 477A.013 and then, if necessary, to reduce the amount payable to the city in 2010 as market value credit reimbursements under section 273.1384.

No city's aid or reimbursements are reduced to less than zero under this section.

(c) The commissioner of revenue must compute a 2010 aid reduction amount for each town.

The aid reduction amount is zero for any town with a population of less than 1,000 that has an adjusted net tax capacity per capita amount less than the statewide average adjusted net tax capacity amount per capita for all towns.

For all other towns, the aid reduction amount is equal to 3.660798 percent of the town's 2009 revenue base.

The reduction amount is limited to \$10 per capita.

The reduction amount is applied to reduce the amount payable to the town in 2010 as market value credit reimbursements under section 273.1384.

No town's reimbursements are reduced to less than zero under this section.

477A.0134 ADDITIONAL 2010 AID AND CREDIT REDUCTIONS.

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

(b) The "2010 revenue base" for a county is the sum of the county's certified property tax levy for taxes payable in 2010, plus the amount of county program aid under section 477A.0124 that the county was certified to receive in 2010, plus the amount of taconite aids under sections 298.28 and 298.282 that the county was certified to receive in 2010 including any amounts required to be placed in a special fund for distribution in a later year.

(c) The "2010 revenue base" for a statutory or home rule charter city is the sum of the city's certified property tax levy for taxes payable in 2010, plus the amount of local government aid under section 477A.013, subdivision 9, that the city was certified to receive in 2010, plus the amount of taconite aids under sections 298.28 and 298.282 that the city was certified to receive in 2010 including any amounts required to be placed in a special fund for distribution in a later year.

Subd. 2. **2010 reductions; counties and cities.** The commissioner of revenue must compute additional 2010 aid and credit reimbursement reduction amounts for each county and city under this section, after implementing any reduction of county program aid under section 477A.0124, local government aid under section 477A.013, or market value credit reimbursements under section 273.1384, to reflect the reductions under section 477A.0133.

The additional reduction amounts under this section are limited to the sum of the amount of county program aid under section 477A.0124, local government aid under section 477A.013, and market value credit reimbursements under section 273.1384 payable to the county or city in 2010 before the reductions in this section, but after the reductions under section 477A.0133.

The reduction amount under this section is applied first to reduce the amount payable to the county or city in 2010 as market value credit reimbursements under section 273.1384, and then if necessary, to reduce the amount payable as either county program aid under section 477A.0124 in the case of a county, or local government aid under section 477A.013 in the case of a city.

No aid or reimbursement amount is reduced to less than zero under this section.

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The additional 2010 aid reduction amount for a county is equal to 1.82767 percent of the county's 2010 revenue base. The additional 2010 aid reduction amount for a city is equal to the lesser of (1) 3.4287 percent of the city's 2010 revenue base or (2) \$28 multiplied by the city's 2008 population.

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8130.0500 LICENSE TO USE.

Subp. 2. **Computer time exception.** The making available of a computer on a time-sharing basis for use by customers securing access by remote facilities shall not be considered granting of a "license to use." It shall be considered to be the providing of a nontaxable service.