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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2282

04/30/2015 Authored by Lenczewski and Halverson  
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act  
1.2 relating to taxation; individual income and corporate franchise tax; providing  
1.3 for contingent federal conformity; reducing taxes; creating a contingent federal  
1.4 conformity account; transferring and appropriating money; proposing coding for  
1.5 new law in Minnesota Statutes, chapter 290.

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

1.7 Section 1. **[290.016] CONTINGENT FEDERAL CONFORMITY; TAX YEARS**  
1.8 **2015 AND 2016.**

1.9 Subdivision 1. **Legislative purpose.** (a) The legislature intends this section to  
1.10 provide a mechanism for conforming the Minnesota individual income and corporate  
1.11 franchise taxes to federal tax legislation that Congress regularly passes after the legislature  
1.12 has adjourned and that affect a taxable year that ends before the legislature reconvenes  
1.13 in a regular legislative session. In recent years, Congress has repeatedly passed tax laws  
1.14 late in the year, often in November or December, that affect computation of the tax for  
1.15 that taxable year. Many of these changes affect computation of Minnesota tax through its  
1.16 linkage to federal taxable income or other provisions of federal law. The federal changes  
1.17 consist mainly of extending provisions that reduce revenues and that are scheduled to  
1.18 expire so that Congress can create the appearance that it is not permanently reducing the  
1.19 federal budget in enacting these provisions. Because the legislature does not reconvene in  
1.20 regular legislative session until January at the earliest under the Minnesota Constitution,  
1.21 after the end of the taxable year, and because Minnesota law is linked to federal law  
1.22 as it exists on a specific date, taxpayers and the Department of Revenue must assume  
1.23 that Minnesota law does not include the effect of these federal extenders, even though  
1.24 the legislature regularly adopts most of the federal provisions retroactively in the next  
1.25 legislative session. This situation affects the ability to determine how to comply with and

2.1 administer Minnesota income tax law, causing delay, uncertainty, and added costs for all  
2.2 concerned and making it difficult for taxpayers to do routine tax planning.

2.3 (b) The purpose of this section is to provide clear notice to the taxpayers, software  
2.4 providers, tax preparers, and the Department of Revenue as to how Minnesota law will  
2.5 treat these federal extender provisions when Congress adopts them. The mechanism is  
2.6 intended to allow for timely preparation of forms, modification of software, and a prompt  
2.7 and smooth start to the Minnesota tax filing season as the congressional action will allow,  
2.8 given that the legislature may not be in session until after the start of the filing season.  
2.9 Absent this or a similar mechanism, taxpayers and the Department of Revenue will be  
2.10 unable to determine how to compute their tax liability until the legislature can convene  
2.11 and pass a new law, which it may not be practical to do until well after the tax filing  
2.12 season has begun. This is especially true in 2016 when reconstruction of the Capitol may  
2.13 delay the reconvening of the legislature. The legislature's intent, as expressed in the  
2.14 substantive provisions of this section, is to conform to the federal extenders, including  
2.15 minor modifications of them, in order to make Minnesota tax law easier to comply with  
2.16 and administer. The legislature also recognizes that the primary effect of this situation is to  
2.17 reduce taxes and is allocating a specific dollar amount that will be used for tax reductions  
2.18 without regard to the action that congress takes.

2.19 (c) By expressing its clear intent regarding specific federal provisions and providing  
2.20 guidance as to how to treat the federal extender provisions, the legislature is exercising its  
2.21 legislative power and is not unconstitutionally delegating to congress or the commissioner  
2.22 of revenue the authority to determine Minnesota tax law. The legislature believes that this  
2.23 section is consistent with the Minnesota Supreme Court's ruling in the case of Wallace v.  
2.24 Commissioner of Taxation, 289 Minn. 220 (1971).

2.25 Subd. 2. **Contingent federal conformity account established; transfer.** (a) A  
2.26 contingent federal conformity account is established in the general fund. Money in the  
2.27 account is available for transfer to the general fund to offset the reduction in general  
2.28 fund revenues resulting from conforming Minnesota tax law to federal tax law under this  
2.29 section if Congress enacts a law that extends an eligible federal tax preference to apply to  
2.30 a taxable year beginning after December 31, 2014, and before January 1, 2017.

2.31 (b) On July 1, 2015, \$105,000,000 is transferred from the general fund to the  
2.32 contingent federal conformity account. Of this amount, \$68,000,000 is set aside to  
2.33 offset the revenue loss from conforming to eligible federal preferences for taxable years  
2.34 beginning during calendar year 2015 and \$37,000,000 for taxable years beginning during  
2.35 calendar year 2016. Any amount allocated for 2015 that is not used is carried over to 2016.

3.1 (c) Any amounts not used under paragraph (b) must be used to reduce the tax  
3.2 imposed under section 290.06, subdivision 2c. To carry out this requirement, the  
3.3 commissioner shall, in making the annual adjustment of the dollar amounts of the tax rate  
3.4 brackets under section 290.06, subdivision 2d, for taxable years beginning during 2017,  
3.5 proportionately increase each dollar amount of the 5.35 rate bracket by amounts, rounded  
3.6 to the nearest \$10 amount, sufficient to eliminate any remaining amounts in the contingent  
3.7 federal conformity account. The resulting increases in the dollar amounts are onetime  
3.8 adjustments and subsequent adjustments for taxable years beginning in calendar year 2018  
3.9 and later must be made without regard to any increases made under this subdivision.

3.10 Subd. 3. **Eligible federal tax preferences.** For purposes of this section and section  
3.11 290.01, the term "eligible federal tax preferences" means any of the following items that  
3.12 are not in effect under the Internal Revenue Code for either the taxable years beginning  
3.13 during calendar year 2015 or 2016:

3.14 (1) discharge of qualified principal residence indebtedness under subparagraph (E),  
3.15 section 108(a)(1), of the Internal Revenue Code;

3.16 (2) qualified tuition and related expenses under section 222 of the Internal Revenue  
3.17 Code;

3.18 (3) expenses of elementary and secondary school teachers under subparagraph (D),  
3.19 section 62(a)(2), of the Internal Revenue Code;

3.20 (4) mortgage insurance premiums treated as qualified residence interest under  
3.21 subparagraph (E), section 163(h)(3), of the Internal Revenue Code;

3.22 (5) the special rule for contributions of capital gain real property made for  
3.23 conservation purposes under sections 170(b)(1)(E) and 170(b)(2)(B) of the Internal  
3.24 Revenue Code;

3.25 (6) tax-free distributions from individual retirement accounts for charitable purposes  
3.26 under section 408(d)(8) of the Internal Revenue Code;

3.27 (7) classification of certain race horses as 3-year property under clauses (i) and (ii)  
3.28 of section 168(e)(3)(A) of the Internal Revenue Code;

3.29 (8) 15-year straight-line cost recovery for qualified leasehold improvements,  
3.30 qualified restaurant buildings and improvements, and qualified retail improvements under  
3.31 clauses (iv), (v), and (ix) of section 168(e)(3)(E) of the Internal Revenue Code;

3.32 (9) 7-year recovery period for motorsports entertainment complexes under section  
3.33 168(i)(15) of the Internal Revenue Code;

3.34 (10) accelerated depreciation for business property on an Indian reservation under  
3.35 section 168(j) of the Internal Revenue Code;

- 4.1 (11) enhanced deduction for contributions of food inventory under section  
4.2 170(e)(3)(C) of the Internal Revenue Code;
- 4.3 (12) election to expense mine safety equipment under section 179E of the Internal  
4.4 Revenue Code;
- 4.5 (13) special expensing rules for certain film and television productions under section  
4.6 181 of the Internal Revenue Code;
- 4.7 (14) modification of tax treatment of certain payments to controlling exempt  
4.8 organizations under subparagraph (E), section 512(b)(13), of the Internal Revenue Code;
- 4.9 (15) treatment of certain dividends of regulated investment companies under section  
4.10 871(k) of the Internal Revenue Code;
- 4.11 (16) subpart F exception for active financing income under section 953(e) of the  
4.12 Internal Revenue Code;
- 4.13 (17) temporary exclusion of 100 percent of gain on certain small business stock  
4.14 under section 1202(a) of the Internal Revenue Code;
- 4.15 (18) basis adjustment of stock of S corporations making charitable contributions of  
4.16 property under section 1367(a) of the Internal Revenue Code;
- 4.17 (19) reduction in S corporation recognition period for built-in gains tax under section  
4.18 1374(d)(7) of the Internal Revenue Code;
- 4.19 (20) special allowance for second-generation biofuel plant property under section  
4.20 168(l) of the Internal Revenue Code;
- 4.21 (21) energy efficient commercial buildings deduction under section 179D of the  
4.22 Internal Revenue Code; and
- 4.23 (22) the \$500,000 and \$2,000,000 limitations under section 179 of the Internal  
4.24 Revenue Code.
- 4.25 Subd. 4. **Designation of qualifying federal conformity items.** (a) If following  
4.26 final adjournment of the 2015 Minnesota legislature or final adjournment of the 2016  
4.27 Minnesota legislature, Congress enacts a law that extends one or more of the eligible  
4.28 federal tax preferences respectively to taxable years beginning during calendar year 2015  
4.29 or to taxable years beginning during calendar 2016, the commissioner shall prepare a list  
4.30 of qualifying federal conformity items and publish it on the Department of Revenue Web  
4.31 site within 30 days following enactment of the law. In preparing the list, the commissioner  
4.32 shall estimate the reduction in revenue resulting from allowing the eligible federal tax  
4.33 preferences, including the effect of subdivision 8, for the current and succeeding fiscal  
4.34 year only. The commissioner shall not include an item on the list of qualifying federal  
4.35 conformity items if its inclusion would cause the estimated total reduction in general fund

5.1 revenues to exceed the amount available in the contingent federal conformity account for  
5.2 transfer to the general fund for the taxable year.

5.3 (b) In determining whether there are sufficient funds in the account, the commissioner  
5.4 shall consider the provisions of subdivision 8 as the first item to include on the list of  
5.5 qualifying conformity items, and shall consider the \$500,000 and \$2,000,000 limits under  
5.6 section 179 of the Internal Revenue Code as the last item to include on the list of qualifying  
5.7 conformity items. If there are insufficient funds in the account to offset full conformity to  
5.8 section 179 deductions in the taxable year the expense is allowed for federal purposes,  
5.9 then the provisions of section 290.01, subdivisions 19a, clause (8); 19b, clause (13); 19c,  
5.10 clause (13); and 19d, clause (15), apply to determine the appropriate taxable year in which  
5.11 the section 179 expenses are allowed. If there are insufficient funds in the account to offset  
5.12 full conformity for all of the eligible federal tax preferences other than section 179, the  
5.13 commissioner shall apply the following priorities in determining which items to include:

5.14 (1) the effect of all the eligible federal tax preferences on computation of federal  
5.15 adjusted gross income and household income under chapter 290A is the first priority;

5.16 (2) the items in subdivision 3, clauses (6) to (21), in that order are the second priority;

5.17 (3) the items in subdivision 3, clauses (1) to (5), in that order are the third priority; and

5.18 (4) the effect of the federal law on computation of Minnesota tax credits is the  
5.19 last priority.

5.20 (c) In determining whether to include an eligible federal tax preference on the list  
5.21 of qualifying federal conformity items, the commissioner may include items in which  
5.22 nonmaterial changes were made in the federal law extending allowance of the eligible  
5.23 federal tax preferences as compared to the provision that was in effect for the prior federal  
5.24 taxable year. For purposes of this determination, nonmaterial changes are limited to  
5.25 changes that are estimated to increase or decrease Minnesota tax revenues by no more  
5.26 than \$1,000,000 for the affected eligible federal tax preference item.

5.27 Subd. 5. **Provisions in effect.** (a) For purposes of determining tax and credits under  
5.28 this chapter, including the taxes under sections 290.091 and 290.0921, and household  
5.29 income under chapter 290A, qualifying federal conformity items and bonus depreciation  
5.30 rules under subdivision 8 apply for the relevant taxable year and all the provisions of this  
5.31 chapter apply as if the definition of the Internal Revenue Code under section 290.01,  
5.32 subdivision 31, included the amendments to the qualifying federal conformity items.

5.33 (b) The commissioner shall administer the taxes under this chapter and refunds  
5.34 under chapter 290A as if Minnesota had conformed to the federal definitions of net  
5.35 income, adjusted gross income, and tax credits that affect computation of Minnesota taxes  
5.36 or refunds resulting from extension of the qualifying federal conformity items.

6.1 Subd. 6. **Forms preparation.** The commissioner shall prepare forms and  
6.2 instructions that reflect the qualifying federal conformity items and bonus depreciation  
6.3 rules under subdivision 8, if applicable, for taxable years 2015 and 2016 consistent with  
6.4 the provisions of this section.

6.5 Subd. 7. **Transfer to general fund.** By the first February 15 following publication  
6.6 of a list of qualifying federal conformity items, the commissioner of revenue shall  
6.7 transfer from the contingent federal conformity account an amount sufficient to offset the  
6.8 estimated reduction in general fund revenues resulting from allowing the eligible federal  
6.9 tax preferences on the list.

6.10 Subd. 8. **Bonus depreciation; 80 percent rule applies.** If following final  
6.11 adjournment of the 2015 Minnesota legislature or final adjournment of the 2016 Minnesota  
6.12 legislature, Congress enacts a law that extends application of the depreciation special  
6.13 allowances under section 168(k) of the Internal Revenue Code to taxable years beginning  
6.14 either during calendar year 2015 or 2016, the rules under section 290.01, subdivisions 19a,  
6.15 clause (7); 19b, clause (8); 19c, clause (12); and 19d, clause (14), apply to determine the  
6.16 amount of the special allowance of depreciation that applies to the relevant taxable years.

6.17 Subd. 9. **Appropriations.** Amounts sufficient to make the transfers required under  
6.18 subdivisions 2 and 7 are appropriated to the commissioner from the general fund or the  
6.19 contingent federal conformity account in the general fund, as appropriate.

6.20 Subd. 10. **Draft legislation.** For each taxable year for which the commissioner  
6.21 publishes a list of qualifying federal conformity items under this section, the commissioner  
6.22 shall provide the chairs and ranking minority members of the house of representatives and  
6.23 senate committees with jurisdiction over taxes with draft legislation that would conform  
6.24 this chapter to the qualifying federal conformity items and any other conformity items  
6.25 that the commissioner recommends be adopted. The draft legislation is intended to make  
6.26 the statutes consistent with application of the designated qualifying federal conformity  
6.27 items under this section for the convenience of members of the public. Failure to pass the  
6.28 draft legislation does not affect computation of Minnesota tax liability for the affected  
6.29 taxable years under this section.

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