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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 32

01/10/2013 Authored by Erickson, S.,
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; restructuring the individual income tax;
1.3 eliminating subtractions, applying a single tax rate, modifying the working
1.4 family credit, and repealing the alternative minimum tax and various credits;
1.5 amending Minnesota Statutes 2012, sections 290.01, subdivisions 19a, 19b;
1.6 290.06, subdivision 2c; 290.0671, subdivision 1; 290.091, subdivision 6;
1.7 repealing Minnesota Statutes 2012, sections 290.067, subdivisions 1, 2, 2a, 2b, 3,
1.8 4; 290.0672; 290.0674; 290.0675, subdivisions 1, 2, 3, 4; 290.0679; 290.0802;
1.9 290.091, subdivisions 1, 2, 3, 4, 5, 6.

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

1.11 Section 1. Minnesota Statutes 2012, section 290.01, subdivision 19a, is amended to read:

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

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

1.18 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue
1.19 Code, except:

1.20 (A) the portion of the exempt-interest dividends exempt from state taxation under
1.21 the laws of the United States; and

1.22 (B) the portion of the exempt-interest dividends derived from interest income
1.23 on obligations of the state of Minnesota or its political or governmental subdivisions,
1.24 municipalities, governmental agencies or instrumentalities, but only if the portion of the
1.25 exempt-interest dividends from such Minnesota sources paid to all shareholders represents
1.26 95 percent or more of the exempt-interest dividends, including any dividends exempt

2.1 under subitem (A), that are paid by the regulated investment company as defined in section
2.2 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as
2.3 defined in section 851(g) of the Internal Revenue Code, making the payment; and

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

2.7 (2) the amount of ~~income, sales and use, motor vehicle sales, or excise taxes paid or~~
2.8 ~~accrued within the taxable year under this chapter and the amount of taxes based on net~~
2.9 ~~income paid, sales and use, motor vehicle sales, or excise taxes paid to any other state~~
2.10 ~~or to any province or territory of Canada~~ itemized deductions, to the extent allowed as a
2.11 ~~deduction~~ deductions under section 63(d) of the Internal Revenue Code, but the addition
2.12 may not be more than the amount by which the itemized deductions as allowed under
2.13 section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction
2.14 as defined in section 63(c) of the Internal Revenue Code, disregarding the amounts
2.15 allowed under sections 63(c)(1)(C) and 63(c)(1)(E) of the Internal Revenue Code, minus
2.16 any addition that would have been required under clause ~~(21)~~ (20) if the taxpayer had
2.17 claimed the standard deduction. ~~For the purpose of this paragraph, the disallowance of~~
2.18 ~~itemized deductions under section 68 of the Internal Revenue Code of 1986, income, sales~~
2.19 ~~and use, motor vehicle sales, or excise taxes are the last itemized deductions disallowed;~~

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

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

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

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

2.33 (7) 80 percent of the depreciation deduction allowed under section 168(k) of the
2.34 Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that
2.35 in the taxable year generates a deduction for depreciation under section 168(k) and the
2.36 activity generates a loss for the taxable year that the taxpayer is not allowed to claim for

3.1 the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is
3.2 limited to excess of the depreciation claimed by the activity under section 168(k) over the
3.3 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
3.4 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
3.5 under section 168(k) is allowed;

3.6 (8) 80 percent of the amount by which the deduction allowed by section 179 of the
3.7 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
3.8 Revenue Code of 1986, as amended through December 31, 2003;

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

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

3.13 (11) the amount of expenses disallowed under section 290.10, subdivision 2;

3.14 (12) for taxable years beginning before January 1, 2010, the amount deducted for
3.15 qualified tuition and related expenses under section 222 of the Internal Revenue Code, to
3.16 the extent deducted from gross income;

3.17 (13) for taxable years beginning before January 1, 2010, the amount deducted for
3.18 certain expenses of elementary and secondary school teachers under section 62(a)(2)(D)
3.19 of the Internal Revenue Code, to the extent deducted from gross income;

3.20 (14) the additional standard deduction for property taxes payable that is allowable
3.21 under section 63(c)(1)(C) of the Internal Revenue Code;

3.22 (15) the additional standard deduction for qualified motor vehicle sales taxes
3.23 allowable under section 63(c)(1)(E) of the Internal Revenue Code;

3.24 (16) discharge of indebtedness income resulting from reacquisition of business
3.25 indebtedness and deferred under section 108(i) of the Internal Revenue Code;

3.26 (17) the amount of unemployment compensation exempt from tax under section
3.27 85(c) of the Internal Revenue Code;

3.28 (18) changes to federal taxable income attributable to a net operating loss that the
3.29 taxpayer elected to carry back for more than two years for federal purposes but for which
3.30 the losses can be carried back for only two years under section 290.095, subdivision
3.31 11, paragraph (c);

3.32 ~~(19) to the extent included in the computation of federal taxable income in taxable~~
3.33 ~~years beginning after December 31, 2010, the amount of disallowed itemized deductions,~~
3.34 ~~but the amount of disallowed itemized deductions plus the addition required under clause~~
3.35 ~~(2) may not be more than the amount by which the itemized deductions as allowed under~~
3.36 ~~section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction~~

4.1 as defined in section 63(e) of the Internal Revenue Code, disregarding the amounts
4.2 allowed under sections 63(e)(1)(C) and 63(e)(1)(E) of the Internal Revenue Code, and
4.3 reduced by any addition that would have been required under clause (21) if the taxpayer
4.4 had claimed the standard deduction:

4.5 (i) the amount of disallowed itemized deductions is equal to the lesser of:

4.6 (A) three percent of the excess of the taxpayer's federal adjusted gross income
4.7 over the applicable amount; or

4.8 (B) 80 percent of the amount of the itemized deductions otherwise allowable to the
4.9 taxpayer under the Internal Revenue Code for the taxable year;

4.10 (ii) the term "applicable amount" means \$100,000, or \$50,000 in the case of a
4.11 married individual filing a separate return. Each dollar amount shall be increased by
4.12 an amount equal to:

4.13 (A) such dollar amount, multiplied by

4.14 (B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal
4.15 Revenue Code for the calendar year in which the taxable year begins, by substituting
4.16 "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof;

4.17 (iii) the term "itemized deductions" does not include:

4.18 (A) the deduction for medical expenses under section 213 of the Internal Revenue
4.19 Code;

4.20 (B) any deduction for investment interest as defined in section 163(d) of the Internal
4.21 Revenue Code; and

4.22 (C) the deduction under section 165(a) of the Internal Revenue Code for casualty or
4.23 theft losses described in paragraph (2) or (3) of section 165(e) of the Internal Revenue
4.24 Code or for losses described in section 165(d) of the Internal Revenue Code;

4.25 (20) (19) to the extent included in federal taxable income in taxable years beginning
4.26 after December 31, 2010, the amount of disallowed personal exemptions for taxpayers
4.27 with federal adjusted gross income over the threshold amount:

4.28 (i) the disallowed personal exemption amount is equal to the dollar amount of the
4.29 personal exemptions claimed by the taxpayer in the computation of federal taxable income
4.30 multiplied by the applicable percentage;

4.31 (ii) "applicable percentage" means two percentage points for each \$2,500 (or
4.32 fraction thereof) by which the taxpayer's federal adjusted gross income for the taxable
4.33 year exceeds the threshold amount. In the case of a married individual filing a separate
4.34 return, the preceding sentence shall be applied by substituting "\$1,250" for "\$2,500." In
4.35 no event shall the applicable percentage exceed 100 percent;

4.36 (iii) the term "threshold amount" means:

- 5.1 (A) \$150,000 in the case of a joint return or a surviving spouse;
- 5.2 (B) \$125,000 in the case of a head of a household;
- 5.3 (C) \$100,000 in the case of an individual who is not married and who is not a
- 5.4 surviving spouse or head of a household; and
- 5.5 (D) \$75,000 in the case of a married individual filing a separate return; and
- 5.6 (iv) the thresholds shall be increased by an amount equal to:
- 5.7 (A) such dollar amount, multiplied by
- 5.8 (B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal
- 5.9 Revenue Code for the calendar year in which the taxable year begins, by substituting
- 5.10 "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof; and
- 5.11 ~~(21)~~ (20) to the extent deducted in the computation of federal taxable income,
- 5.12 for taxable years beginning after December 31, 2010, and before January 1, 2013, the
- 5.13 difference between the standard deduction allowed under section 63(c) of the Internal
- 5.14 Revenue Code and the standard deduction allowed for 2011 and 2012 under the Internal
- 5.15 Revenue Code as amended through December 1, 2010;₂
- 5.16 (21) the amount deducted for moving expenses under section 62(a)(15) of the
- 5.17 Internal Revenue Code, to the extent deducted from gross income; and
- 5.18 (22) the amount deducted for interest on education loans under section 62(a)(17) of
- 5.19 the Internal Revenue Code, to the extent deducted from gross income.

5.20 **EFFECTIVE DATE.** This section is effective for taxable years beginning after

5.21 December 31, 2012.

5.22 Sec. 2. Minnesota Statutes 2012, section 290.01, subdivision 19b, is amended to read:

5.23 Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates,

5.24 and trusts, there shall be subtracted from federal taxable income:

5.25 (1) net interest income on obligations of any authority, commission, or

5.26 instrumentality of the United States to the extent includable in taxable income for federal

5.27 income tax purposes but exempt from state income tax under the laws of the United States;

5.28 (2) if included in federal taxable income, the amount of any overpayment of income

5.29 tax to Minnesota or to any other state, for any previous taxable year, whether the amount

5.30 is received as a refund or as a credit to another taxable year's income tax liability;

5.31 ~~(3) the amount paid to others, less the amount used to claim the credit allowed under~~

5.32 ~~section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten~~

5.33 ~~to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and~~

5.34 ~~transportation of each qualifying child in attending an elementary or secondary school~~

5.35 ~~situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a~~

6.1 resident of this state may legally fulfill the state's compulsory attendance laws, which
 6.2 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
 6.3 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
 6.4 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
 6.5 "textbooks" includes books and other instructional materials and equipment purchased
 6.6 or leased for use in elementary and secondary schools in teaching only those subjects
 6.7 legally and commonly taught in public elementary and secondary schools in this state.
 6.8 Equipment expenses qualifying for deduction includes expenses as defined and limited in
 6.9 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
 6.10 books and materials used in the teaching of religious tenets, doctrines, or worship, the
 6.11 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
 6.12 or materials for, or transportation to, extracurricular activities including sporting events,
 6.13 musical or dramatic events, speech activities, driver's education, or similar programs. No
 6.14 deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or
 6.15 the qualifying child's vehicle to provide such transportation for a qualifying child. For
 6.16 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
 6.17 given in section 32(e)(3) of the Internal Revenue Code;

6.18 (4) income as provided under section 290.0802;

6.19 (5) (3) to the extent included in federal adjusted gross income, income realized on
 6.20 disposition of property exempt from tax under section 290.491;

6.21 (6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E)
 6.22 of the Internal Revenue Code in determining federal taxable income by an individual
 6.23 who does not itemize deductions for federal income tax purposes for the taxable year, an
 6.24 amount equal to 50 percent of the excess of charitable contributions over \$500 allowable
 6.25 as a deduction for the taxable year under section 170(a) of the Internal Revenue Code,
 6.26 under the provisions of Public Law 109-1 and Public Law 111-126;

6.27 (7) for individuals who are allowed a federal foreign tax credit for taxes that do not
 6.28 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
 6.29 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
 6.30 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
 6.31 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
 6.32 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
 6.33 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
 6.34 the extent they exceed the federal foreign tax credit;

6.35 (8) (4) in each of the five tax years immediately following the tax year in which an
 6.36 addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a

7.1 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
 7.2 delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount
 7.3 of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c,
 7.4 clause (15), in the case of a shareholder of an S corporation, minus the positive value of
 7.5 any net operating loss under section 172 of the Internal Revenue Code generated for the
 7.6 tax year of the addition. The resulting delayed depreciation cannot be less than zero;

7.7 ~~(9) (5) job opportunity building zone income as provided under section 469.316;~~

7.8 ~~(10) to the extent included in federal taxable income, the amount of compensation~~
 7.9 ~~paid to members of the Minnesota National Guard or other reserve components of the~~
 7.10 ~~United States military for active service, excluding compensation for services performed~~
 7.11 ~~under the Active Guard Reserve (AGR) program. For purposes of this clause, "active~~
 7.12 ~~service" means (i) state active service as defined in section 190.05, subdivision 5a, clause~~
 7.13 ~~(1); or (ii) federally funded state active service as defined in section 190.05, subdivision~~
 7.14 ~~5b, but "active service" excludes service performed in accordance with section 190.08,~~
 7.15 ~~subdivision 3;~~

7.16 ~~(11) to the extent included in federal taxable income, the amount of compensation~~
 7.17 ~~paid to Minnesota residents who are members of the armed forces of the United States~~
 7.18 ~~or United Nations for active duty performed under United States Code, title 10; or the~~
 7.19 ~~authority of the United Nations;~~

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

7.32 ~~(13) (6) in each of the five tax years immediately following the tax year in which an~~
 7.33 ~~addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a~~
 7.34 ~~shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the~~
 7.35 ~~addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the~~
 7.36 ~~case of a shareholder of a corporation that is an S corporation, minus the positive value of~~

8.1 any net operating loss under section 172 of the Internal Revenue Code generated for the
 8.2 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
 8.3 subtraction is not allowed under this clause;

8.4 ~~(14)~~ (7) to the extent included in the federal taxable income of a nonresident of
 8.5 Minnesota, compensation paid to a service member as defined in United States Code, title
 8.6 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief
 8.7 Act, Public Law 108-189, section 101(2);

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

8.12 ~~(16)~~ (8) to the extent included in federal taxable income, discharge of indebtedness
 8.13 income resulting from reacquisition of business indebtedness included in federal taxable
 8.14 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
 8.15 to the extent that the income was included in net income in a prior year as a result of the
 8.16 addition under section 290.01, subdivision 19a, clause (16); and

8.17 ~~(17)~~ (9) the amount of the net operating loss allowed under section 290.095,
 8.18 subdivision 11, paragraph (c).

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

8.21 Sec. 3. Minnesota Statutes 2012, section 290.06, subdivision 2c, is amended to read:

8.22 Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income
 8.23 taxes imposed by this chapter upon married individuals filing joint returns ~~and~~ surviving
 8.24 spouses as defined in section 2(a) of the Internal Revenue Code, married individuals
 8.25 filing separate returns, estates, trusts, unmarried individuals, and unmarried individuals
 8.26 qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code
 8.27 must be computed by applying to their taxable net income the following schedule of rates:
 8.28 the rate of 5.96 percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9.23 (1) the numerator is the individual's Minnesota source federal adjusted gross income
 9.24 as defined in section 62 of the Internal Revenue Code and increased by the additions
 9.25 required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12),
 9.26 (13), and (16) to (18), and reduced by the Minnesota assignable portion of the subtraction
 9.27 for United States government interest under section 290.01, subdivision 19b, clause (1),
 9.28 and the subtractions under section 290.01, subdivision 19b, clauses ~~(8), (9), (13), (14),~~
 9.29 ~~(16), and (17)~~ (4) to (9), after applying the allocation and assignability provisions of
 9.30 section 290.081, clause (a), or 290.17; and

9.31 (2) the denominator is the individual's federal adjusted gross income as defined in
 9.32 section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in
 9.33 section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), (13), and (16) to
 9.34 (18), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1);
 9.35 ~~(8), (9), (13), (14), (16), and (17)~~ and (4) to (9).

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

10.3 Sec. 4. Minnesota Statutes 2012, section 290.0671, subdivision 1, is amended to read:

10.4 Subdivision 1. **Credit allowed.** (a) An individual is allowed a credit against the tax
 10.5 imposed by this chapter equal to a percentage of earned income. To receive a credit, a
 10.6 taxpayer must be 25 percent of the credit for which the individual is eligible for a credit
 10.7 under section 32 of the Internal Revenue Code.

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

10.12 (c) ~~For individuals with one qualifying child, the credit equals 8.5 percent of the first~~
 10.13 ~~\$6,920 of earned income and 8.5 percent of earned income over \$12,080 but less than~~
 10.14 ~~\$13,450. The credit is reduced by 5.73 percent of earned income or adjusted gross income,~~
 10.15 ~~whichever is greater, in excess of \$15,080, but in no case is the credit less than zero.~~

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

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

10.22 (f) (c) For a person who was a resident for the entire tax year and has earned income
 10.23 not subject to tax under this chapter, including income excluded under section 290.01,
 10.24 subdivision 19b, clause ~~(9)~~ (5), the credit must be allocated based on the ratio of federal
 10.25 adjusted gross income reduced by the earned income not subject to tax under this chapter
 10.26 over federal adjusted gross income. ~~For purposes of this paragraph, the subtractions~~
 10.27 ~~for military pay under section 290.01, subdivision 19b, clauses (10) and (11), are not~~
 10.28 ~~considered "earned income not subject to tax under this chapter."~~

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

10.32 (g) ~~For tax years beginning after December 31, 2007, and before December 31,~~
 10.33 ~~2010, the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in~~
 10.34 ~~paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by~~
 10.35 ~~\$3,000 for married taxpayers filing joint returns. For tax years beginning after December~~

11.1 ~~31, 2008, the commissioner shall annually adjust the \$3,000 by the percentage determined~~
 11.2 ~~pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in~~
 11.3 ~~section 1(f)(3)(B), the word "2007" shall be substituted for the word "1992." For 2009,~~
 11.4 ~~the commissioner shall then determine the percent change from the 12 months ending on~~
 11.5 ~~August 31, 2007, to the 12 months ending on August 31, 2008, and in each subsequent~~
 11.6 ~~year, from the 12 months ending on August 31, 2007, to the 12 months ending on August~~
 11.7 ~~31 of the year preceding the taxable year. The earned income thresholds as adjusted~~
 11.8 ~~for inflation must be rounded to the nearest \$10. If the amount ends in \$5, the amount~~
 11.9 ~~is rounded up to the nearest \$10. The determination of the commissioner under this~~
 11.10 ~~subdivision is not a rule under the Administrative Procedure Act.~~

11.11 ~~(h) For tax years beginning after December 31, 2010, and before January 1, 2012,~~
 11.12 ~~the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in paragraph~~
 11.13 ~~(d), after being adjusted for inflation under subdivision 7, are each increased by \$5,000 for~~
 11.14 ~~married taxpayers filing joint returns. For tax years beginning after December 31, 2010,~~
 11.15 ~~and before January 1, 2012, the commissioner shall annually adjust the \$5,000 by the~~
 11.16 ~~percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue~~
 11.17 ~~Code, except that in section 1(f)(3)(B), the word "2008" shall be substituted for the word~~
 11.18 ~~"1992." For 2011, the commissioner shall then determine the percent change from the 12~~
 11.19 ~~months ending on August 31, 2008, to the 12 months ending on August 31, 2010. The~~
 11.20 ~~earned income thresholds as adjusted for inflation must be rounded to the nearest \$10. If the~~
 11.21 ~~amount ends in \$5, the amount is rounded up to the nearest \$10. The determination of the~~
 11.22 ~~commissioner under this subdivision is not a rule under the Administrative Procedure Act.~~

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

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

11.29 Sec. 5. Minnesota Statutes 2012, section 290.091, subdivision 6, is amended to read:

11.30 **Subd. 6. Credit for prior years' liability.** (a) A credit is allowed against the tax
 11.31 imposed by this chapter on individuals, trusts, and estates equal to the minimum tax
 11.32 credit for the taxable year. The minimum tax credit equals the adjusted net minimum
 11.33 tax for taxable years beginning after December 31, 1988, reduced by the minimum tax
 11.34 credits allowed in a prior taxable year. The credit may not exceed the excess (if any) for
 11.35 the taxable year of

- 12.1 (1) the regular tax, over
- 12.2 (2) the greater of (i) the tentative alternative minimum tax, or (ii) zero.
- 12.3 (b) The adjusted net minimum tax for a taxable year equals the lesser of the net
- 12.4 minimum tax or the excess (if any) of
- 12.5 (1) the tentative minimum tax, over
- 12.6 (2) 6.4 percent of the sum of
- 12.7 (i) adjusted gross income as defined in section 62 of the Internal Revenue Code,
- 12.8 (ii) interest income as defined in section 290.01, subdivision 19a, clause (1),
- 12.9 (iii) interest on specified private activity bonds, as defined in section 57(a)(5) of the
- 12.10 Internal Revenue Code, to the extent not included under clause (ii),
- 12.11 (iv) depletion as defined in section 57(a)(1), determined without regard to the last
- 12.12 sentence of paragraph (1), of the Internal Revenue Code, less
- 12.13 (v) the deductions allowed in computing alternative minimum taxable income
- 12.14 provided in subdivision 2, paragraph (a), clause (2) of the first series of clauses and clauses
- 12.15 (1), (2), and (3) of the second series of clauses, and
- 12.16 (vi) the exemption amount determined under subdivision 3.

12.17 In the case of an individual who is not a Minnesota resident for the entire year,

12.18 adjusted net minimum tax must be multiplied by the fraction defined in section 290.06,

12.19 subdivision 2c, paragraph (e). In the case of a trust or estate, adjusted net minimum tax

12.20 must be multiplied by the fraction defined under subdivision 4, paragraph (b).

12.21 (c) For tax years beginning after December 31, 2012, and before January 1, 2015, a

12.22 credit is allowed against the tax imposed by this chapter on individuals, trusts, and estates

12.23 equal to the minimum tax credit for the taxable year. The minimum tax credit equals the

12.24 adjusted net minimum tax for taxable years beginning after December 31, 1988, and

12.25 before January 1, 2013, reduced by the minimum tax credits allowed in a prior taxable

12.26 year. The credit may not exceed the tax imposed by this chapter after the allowance of the

12.27 credits in section 290.06, subdivisions 22, 22a, 28, 29, 30, and 31.

12.28 **EFFECTIVE DATE.** This section is effective for taxable years beginning after

12.29 December 31, 2012.

12.30 **Sec. 6. REVISOR'S INSTRUCTION.**

12.31 (a) The revisor of statutes shall identify and correct internal cross-references affected

12.32 by the amendments in sections 1, 2, and 3. The revisor may make changes necessary to

12.33 correct the punctuation, grammar, or structure of the remaining text and preserve its

12.34 meaning.

13.1 (b) The revisor of statutes shall identify and correct internal cross-references to
13.2 sections that are affected by section 7. The revisor may make changes necessary to correct
13.3 the punctuation, grammar, or structure of the remaining text and preserve its meaning.

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

13.5 Sec. 7. **REPEALER.**

13.6 (a) Minnesota Statutes 2012, sections 290.067, subdivisions 1, 2, 2a, 2b, 3, and 4;
13.7 290.0672; 290.0674; 290.0675, subdivisions 1, 2, 3, and 4; 290.0679; 290.0802; and
13.8 290.091, subdivisions 1, 3, 4, and 5, are repealed.

13.9 (b) Minnesota Statutes 2012, section 290.091, subdivisions 2 and 6, are repealed.

13.10 **EFFECTIVE DATE.** Paragraph (a) is effective for taxable years beginning after
13.11 December 31, 2012, and paragraph (b) is effective for taxable years beginning after
13.12 December 31, 2014.

290.067 DEPENDENT CARE CREDIT.

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

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

(c) If a married couple:

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

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

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

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

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

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

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

In the case of a nonresident, part-year resident, or a person who has earned income not subject to tax under this chapter including earned income excluded pursuant to section 290.01, subdivision 19b, clause (9), the credit determined under section 21 of the Internal Revenue Code must be allocated based on the ratio by which the earned income of the claimant and the claimant's spouse from Minnesota sources bears to the total earned income of the claimant and the claimant's spouse.

For residents of Minnesota, the subtractions for military pay under section 290.01, subdivision 19b, clauses (10) and (11), are not considered "earned income not subject to tax under this chapter."

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

Subd. 2. **Limitations.** The credit for expenses incurred for the care of each dependent shall not exceed \$720 in any taxable year, and the total credit for all dependents of a claimant shall not exceed \$1,440 in a taxable year. The maximum total credit shall be reduced according to the amount of the income of the claimant and a spouse, if any, as follows:

income up to \$18,040, \$720 maximum for one dependent, \$1,440 for all dependents;

income over \$18,040, the maximum credit for one dependent shall be reduced by \$18 for every \$350 of additional income, \$36 for all dependents.

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

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Subd. 2a. **Income.** (a) For purposes of this section, "income" means the sum of the following:

- (1) federal adjusted gross income as defined in section 62 of the Internal Revenue Code;
- and
- (2) the sum of the following amounts to the extent not included in clause (1):
 - (i) all nontaxable income;
 - (ii) the amount of a passive activity loss that is not disallowed as a result of section 469, paragraph (i) or (m) of the Internal Revenue Code and the amount of passive activity loss carryover allowed under section 469(b) of the Internal Revenue Code;
 - (iii) an amount equal to the total of any discharge of qualified farm indebtedness of a solvent individual excluded from gross income under section 108(g) of the Internal Revenue Code;
 - (iv) cash public assistance and relief;
 - (v) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, supplemental security income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;
 - (vi) interest received from the federal or a state government or any instrumentality or political subdivision thereof;
 - (vii) workers' compensation;
 - (viii) nontaxable strike benefits;
 - (ix) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;
 - (x) a lump-sum distribution under section 402(e)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1995;
 - (xi) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code; or deferred compensation plan under section 457 of the Internal Revenue Code;
 - (xii) nontaxable scholarship or fellowship grants;
 - (xiii) the amount of deduction allowed under section 199 of the Internal Revenue Code;
 - (xiv) the amount of deduction allowed under section 220 or 223 of the Internal Revenue Code;
 - (xv) the amount of tuition expenses required to be added to income under section 290.01, subdivision 19a, clause (12);
 - (xvi) the amount deducted for certain expenses of elementary and secondary school teachers under section 62(a)(2)(D) of the Internal Revenue Code; and
 - (xvii) unemployment compensation.

In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" means federal adjusted gross income reflected in the fiscal year ending in the next calendar year. Federal adjusted gross income may not be reduced by the amount of a net operating loss carryback or carryforward or a capital loss carryback or carryforward allowed for the year.

- (b) "Income" does not include:
 - (1) amounts excluded pursuant to the Internal Revenue Code, sections 101(a) and 102;
 - (2) amounts of any pension or annuity that were exclusively funded by the claimant or spouse if the funding payments were not excluded from federal adjusted gross income in the years when the payments were made;
 - (3) surplus food or other relief in kind supplied by a governmental agency;
 - (4) relief granted under chapter 290A;
 - (5) child support payments received under a temporary or final decree of dissolution or legal separation; and
 - (6) restitution payments received by eligible individuals and excludable interest as defined in section 803 of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16.

Subd. 2b. **Inflation adjustment.** The commissioner shall adjust the dollar amount of the income threshold at which the maximum credit begins to be reduced under subdivision 2 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 word "1999" shall be substituted for the word "1992." For 2001, the commissioner shall then determine the percent change from the 12 months ending on August 31, 1999, to the 12 months ending on August 31, 2000, and in each subsequent year, from the 12 months ending on August 31, 1999, to the 12 months ending on August 31 of the year

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preceding the taxable year. The determination of the commissioner pursuant to this subdivision must not be considered a "rule" and is not subject to the Administrative Procedure Act contained in chapter 14. The threshold amount as adjusted must be rounded to the nearest \$10 amount. If the amount ends in \$5, the amount is rounded up to the nearest \$10 amount.

Subd. 3. **Credit to be refundable.** If the amount of credit which a claimant would be eligible to receive pursuant to this subdivision exceeds the claimant's tax liability under chapter 290, the excess amount of the credit shall be refunded to the claimant by the commissioner of revenue.

Subd. 4. **Right to file claim.** The right to file a claim under this section shall be personal to the claimant and shall not survive death, but such right may be exercised on behalf of a claimant by the claimant's legal guardian or attorney-in-fact. When a claimant dies after having filed a timely claim the amount thereof shall be disbursed to another member of the household as determined by the commissioner of revenue. If the claimant was the only member of a household, the claim may be paid to the claimant's personal representative, but if neither is appointed and qualified within two years of the filing of the claim, the amount of the claim shall escheat to the state.

290.0672 LONG-TERM CARE INSURANCE CREDIT.

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

(b) "Long-term care insurance" means a policy that:

(1) qualifies for a deduction under section 213 of the Internal Revenue Code, disregarding the 7.5 percent income test; or meets the requirements given in section 62A.46; or provides similar coverage issued under the laws of another jurisdiction; and

(2) has a lifetime long-term care benefit limit of not less than \$100,000; and

(3) has been offered in compliance with the inflation protection requirements of section 62S.23.

(c) "Qualified beneficiary" means the taxpayer or the taxpayer's spouse.

(d) "Premiums deducted in determining federal taxable income" means the lesser of (1) long-term care insurance premiums that qualify as deductions under section 213 of the Internal Revenue Code; and (2) the total amount deductible for medical care under section 213 of the Internal Revenue Code.

Subd. 2. **Credit.** A taxpayer is allowed a credit against the tax imposed by this chapter for long-term care insurance policy premiums paid during the tax year. The credit for each policy equals 25 percent of premiums paid to the extent not deducted in determining federal taxable income. A taxpayer may claim a credit for only one policy for each qualified beneficiary. A maximum of \$100 applies to each qualified beneficiary. The maximum total credit allowed per year is \$200 for married couples filing joint returns and \$100 for all other filers. For a nonresident or part-year resident, the credit determined under this section must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

290.0674 MINNESOTA EDUCATION CREDIT.

Subdivision 1. **Credit allowed.** An individual is allowed a credit against the tax imposed by this chapter in an amount equal to 75 percent of the amount paid for education-related expenses for a qualifying child in kindergarten through grade 12. For purposes of this section, "education-related expenses" means:

(1) fees or tuition for instruction by an instructor under section 120A.22, subdivision 10, clause (1), (2), (3), (4), or (5), or a member of the Minnesota Music Teachers Association, and who is not a lineal ancestor or sibling of the dependent for instruction outside the regular school day or school year, including tutoring, driver's education offered as part of school curriculum, regardless of whether it is taken from a public or private entity or summer camps, in grade or age appropriate curricula that supplement curricula and instruction available during the regular school year, that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the required academic standards under section 120B.021, subdivision 1, and the elective standard under section 120B.022, subdivision 1, clause (2), and that do not include the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship;

(2) expenses for textbooks, including 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. "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,

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nor does it include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs;

(3) a maximum expense of \$200 per family for personal computer hardware, excluding single purpose processors, and educational software that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the required academic standards under section 120B.021, subdivision 1, and the elective standard under section 120B.022, subdivision 1, clause (2), purchased for use in the taxpayer's home and not used in a trade or business regardless of whether the computer is required by the dependent's school; and

(4) the amount paid to others for transportation of a qualifying child 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 purposes of this section, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code.

Subd. 2. **Limitations.** (a) For claimants with income not greater than \$33,500, the maximum credit allowed for a family is \$1,000 multiplied by the number of qualifying children in kindergarten through grade 12 in the family. The maximum credit for families with one qualifying child in kindergarten through grade 12 is reduced by \$1 for each \$4 of household income over \$33,500, and the maximum credit for families with two or more qualifying children in kindergarten through grade 12 is reduced by \$2 for each \$4 of household income over \$33,500, but in no case is the credit less than zero.

For purposes of this section "income" has the meaning given in section 290.067, subdivision 2a. In the case of a married claimant, a credit is not allowed unless a joint income tax return is filed.

(b) For a nonresident or part-year resident, the credit determined under subdivision 1 and the maximum credit amount in paragraph (a) must be allocated using the percentage calculated in section 290.06, subdivision 2c, paragraph (e).

Subd. 3. **Reduction by alternative minimum tax liability.** The amount of the credit allowed must be reduced by the amount of the taxpayer's liability under section 290.091, determined before the credit allowed by this section is subtracted from regular tax liability.

Subd. 4. **Credit to be refundable.** If the amount of credit that the claimant is eligible to receive under this section exceeds the claimant's tax liability under this chapter, the commissioner shall refund the excess to the claimant.

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

290.0675 MARRIAGE PENALTY CREDIT.

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

(b) "Earned income" means the sum of the following, to the extent included in Minnesota taxable income:

(1) earned income as defined in section 32(c)(2) of the Internal Revenue Code;

(2) income received from a retirement pension, profit-sharing, stock bonus, or annuity plan; and

(3) Social Security benefits as defined in section 86(d)(1) of the Internal Revenue Code.

(c) "Taxable income" means net income as defined in section 290.01, subdivision 19.

(d) "Earned income of lesser-earning spouse" means the earned income of the spouse with the lesser amount of earned income as defined in paragraph (b) for the taxable year minus the sum of (i) the amount for one exemption under section 151(d) of the Internal Revenue Code and (ii) one-half the amount of the standard deduction under section 63(c)(2)(A) and (4) of the Internal Revenue Code minus one-half of any addition required under section 290.01, subdivision 19a, clause (21), and one-half of the addition that would have been required under section 290.01, subdivision 19a, clause (21), if the taxpayer had claimed the standard deduction.

Subd. 2. **Credit allowed.** A married couple filing a joint return is allowed a credit against the tax imposed under section 290.06.

Subd. 3. **Credit amount.** The credit amount is the difference between the tax on the couple's joint Minnesota taxable income under the rates and income levels in section 290.06, subdivision 2c, paragraph (a), as adjusted for the taxable year by section 290.06, subdivision 2d, and the sum of the tax under the rates and income levels of section 290.06, subdivision 2c, paragraph (b), as adjusted for the taxable year by section 290.06, subdivision 2d, on the earned income of the

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lesser-earning spouse, and the tax under the rates and income levels of section 290.06, subdivision 2c, paragraph (b), as adjusted for the taxable year by section 290.06, subdivision 2d, on the couple's joint Minnesota taxable income, minus the earned income of the lesser-earning spouse.

The commissioner of revenue shall prepare and make available to taxpayers a comprehensive table showing the credit under this section at brackets of earnings of the lesser-earning spouse and joint taxable income. The brackets of earnings shall not be more than \$2,000.

Subd. 4. **Nonresidents and part-year residents.** For a nonresident or part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

290.0679 ASSIGNMENT OF REFUND.

Subdivision 1. **Definitions.** (a) "Qualifying taxpayer" means a resident who has a child in kindergarten through grade 12 in the current tax year and who met the income requirements under section 290.0674, subdivision 2, for receiving the education credit in the tax year preceding the assignment of the taxpayer's refund.

(b) "Education credit" means the credit allowed under section 290.0674.

(c) "Refund" means an individual income tax refund.

(d) "Financial institution" means a state or federally chartered bank, savings bank, savings association, or credit union.

(e) "Qualifying organization" means a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

(f) "Assignee" means a financial institution or qualifying organization that is entitled to receive payment of a refund assigned under this section.

Subd. 2. **Conditions for assignment.** A qualifying taxpayer may assign all or part of an anticipated refund for the current and future taxable years to a financial institution or a qualifying organization. A financial institution or qualifying organization accepting assignment must pay the amount secured by the assignment to a third-party vendor. The commissioner of education shall, upon request from a third-party vendor, certify that the vendor's products and services qualify for the education credit. A denial of a certification is subject to the contested case procedure under chapter 14. A financial institution or qualifying organization that accepts assignments under this section must verify as part of the assignment documentation that the product or service to be provided by the third-party vendor has been certified by the commissioner of education as qualifying for the education credit. The amount assigned for the current and future taxable years may not exceed the maximum allowable education credit for the current taxable year. Both the taxpayer and spouse must consent to the assignment of a refund from a joint return.

Subd. 3. **Consent for disclosure.** When the taxpayer applies to the financial institution or the qualifying organization for a loan to be secured by the assignment under subdivision 2, the taxpayer must sign a written consent on a form prescribed by the commissioner. The consent must authorize the commissioner to disclose to the financial institution or qualifying organization the total amount of state taxes owed or revenue recapture claims filed under chapter 270A against the taxpayer, and the total amount of outstanding assignments made by the taxpayer under this section. For a refund from a joint return, the consent must also authorize the disclosure of taxes, revenue recapture claims, and assignments relating to the taxpayer's spouse, and must be signed by the spouse. The financial institution or qualifying organization may request that the taxpayer provide a copy of the taxpayer's previous year's income tax return, if any, and may assist the taxpayer in requesting a copy of the previous year's return from the commissioner.

Subd. 4. **Consumer disclosure.** (a) A third-party vendor that receives payment of the amount secured by an assignment must comply with the requirements of this subdivision.

(b) The third-party vendor must disclose to the taxpayer, in plain language:

(1) the cost of each product or service for which the third-party vendor separately charges the taxpayer;

(2) any fees charged to the taxpayer for tax preparation services; and

(3) for qualifying low-income taxpayers, information on the availability of free tax preparation services.

(c) The third-party vendor must provide to the taxpayer executed copies of any documents signed by the taxpayer.

Subd. 5. **Filing of assignment.** The commissioner shall prescribe the form of and manner for filing an assignment of a refund under this section.

Subd. 6. **Effect of assignment.** The taxpayer may not revoke an assignment after it has been filed. The assignee must notify the commissioner if the loan secured by the assignment has been

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paid in full, in which case the assignment is canceled. An assignment is in effect until the amount assigned is refunded in full to the assignee, or until the assignee cancels the assignment.

Subd. 7. **Payment of refund.** When a refund assigned under this section is issued by the commissioner, the proceeds of the refund, as defined in subdivision 1, paragraph (c), must be distributed in the following order:

(1) to satisfy any delinquent tax obligations of the taxpayer which are owed to the commissioner;

(2) to claimant agencies to satisfy any revenue recapture claims filed against the taxpayer, in the order of priority of the claims set forth in section 270A.10;

(3) to assignees to satisfy assignments under this section, based on the order in time in which the commissioner received the assignments; and

(4) to the taxpayer.

Subd. 8. **Legal action.** If there is a dispute between the taxpayer and the assignee after the commissioner has remitted the taxpayer's refund to the assignee, the taxpayer's only remedy is to bring an action against the assignee in court to recover the refund. The action must be brought within two years after the commissioner remits the refund to the assignee. The commissioner may not be a party to the proceeding.

Subd. 9. **Assignments private data.** Information regarding assignments under this section is classified as private data on individuals.

290.0802 SUBTRACTION FOR THE ELDERLY AND DISABLED.

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

(a) "Adjusted gross income" means federal adjusted gross income as used in section 22(d) of the Internal Revenue Code for the taxable year, plus a lump-sum distribution as defined in section 402(e)(3) of the Internal Revenue Code, and less any pension, annuity, or disability benefits included in federal gross income but not subject to state taxation other than the subtraction allowed under section 290.01, subdivision 19b, clause (4).

(b) "Disability income" means disability income as defined in section 22(c)(2)(B)(iii) of the Internal Revenue Code.

(c) "Nontaxable retirement and disability benefits" means the amount of pension, annuity, or disability benefits that would be included in the reduction under section 22(c)(3) of the Internal Revenue Code and pension, annuity, or disability benefits included in federal gross income but not subject to state taxation.

(d) "Qualified individual" means a qualified individual as defined in section 22(b) of the Internal Revenue Code.

Subd. 2. **Subtraction.** (a) A qualified individual is allowed a subtraction from federal taxable income of the individual's subtraction base amount. The excess of the subtraction base amount over the taxable net income computed without regard to the subtraction for the elderly or disabled under section 290.01, subdivision 19b, clause (4), may be used to reduce the amount of a lump sum distribution subject to tax under section 290.032.

(b)(1) The initial subtraction base amount equals

(i) \$12,000 for a married taxpayer filing a joint return if a spouse is a qualified individual,

(ii) \$9,600 for a single taxpayer, and

(iii) \$6,000 for a married taxpayer filing a separate federal return.

(2) The qualified individual's initial subtraction base amount, then, must be reduced by the sum of nontaxable retirement and disability benefits and one-half of the amount of adjusted gross income in excess of the following thresholds:

(i) \$18,000 for a married taxpayer filing a joint return if both spouses are qualified individuals,

(ii) \$14,500 for a single taxpayer or for a married couple filing a joint return if only one spouse is a qualified individual, and

(iii) \$9,000 for a married taxpayer filing a separate federal return.

(3) In the case of a qualified individual who is under the age of 65, the maximum amount of the subtraction base may not exceed the taxpayer's disability income.

(4) The resulting amount is the subtraction base amount.

Subd. 3. **Restrictions; married couples.** Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable

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year, the subtraction under subdivision 2 is allowable only if the taxpayers file joint federal and state income tax returns for the taxable year.

290.091 ALTERNATIVE MINIMUM TAX ON PREFERENCE ITEMS.

Subdivision 1. **Imposition of tax.** In addition to all other taxes imposed by this chapter a tax is imposed on individuals, estates, and trusts equal to the excess (if any) of

(a) an amount equal to 6.4 percent of alternative minimum taxable income after subtracting the exemption amount, over

(b) the regular tax for the taxable year.

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

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

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

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

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

(ii) the medical expense deduction;

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

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

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

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

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

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

less the sum of the amounts determined under the following:

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

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

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

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

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

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

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

(c) "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.

Subd. 3. **Exemption amount.** (a) For purposes of computing the alternative minimum tax, the exemption amount is, for taxable years beginning after December 31, 2005, \$60,000 for married couples filing joint returns, \$30,000 for married individuals filing separate returns, estates, and trusts, and \$45,000 for unmarried individuals.

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(b) The exemption amount determined under this subdivision is subject to the phase out under section 55(d)(3) of the Internal Revenue Code, except that alternative minimum taxable income as determined under this section must be substituted in the computation of the phase out.

(c) For taxable years beginning after December 31, 2006, the exemption amount under paragraph (a), clause (2), must be adjusted for inflation. The commissioner shall adjust the exemption amount 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 word "2005" shall be substituted for the word "1992." For 2007, the commissioner shall then determine the percent change from the 12 months ending on August 31, 2005, to the 12 months ending on August 31, 2006, and in each subsequent year, from the 12 months ending on August 31, 2005, to the 12 months ending on August 31 of the year preceding the taxable year. The exemption amount as adjusted must be rounded to the nearest \$10. If the amount ends in \$5, it must be rounded up to the nearest \$10 amount. The determination of the commissioner under this subdivision is not a rule under the Administrative Procedure Act.

Subd. 4. Part year residents; estates and trusts. (a) An individual who is not a Minnesota resident for the entire year must compute alternative minimum tax liability using a regular tax liability determined under section 290.06, subdivision 2c, paragraph (e), without regard to the provision for allocation to Minnesota. The resulting alternative minimum tax liability must be multiplied by the fraction defined in section 290.06, subdivision 2c, paragraph (e).

(b) In the case of an estate or trust, the alternative minimum tax liability must be computed by multiplying alternative minimum taxable income and the exemption amount by a fraction, the numerator of which is the amount of the taxpayer's alternative minimum taxable income allocated to this state pursuant to the provisions of sections 290.17 to 290.20, and the denominator of which is the taxpayer's total alternative minimum taxable income.

Subd. 5. Tax benefit rule. The tax benefit rule contained in section 59(g) of the Internal Revenue Code applies to the computation of the tax under this section only to the extent that it determines if there is an item of tax preference for purposes of subdivision 2, clause (a)(1).

Subd. 6. Credit for prior years' liability. (a) A credit is allowed against the tax imposed by this chapter on individuals, trusts, and estates equal to the minimum tax credit for the taxable year. The minimum tax credit equals the adjusted net minimum tax for taxable years beginning after December 31, 1988, reduced by the minimum tax credits allowed in a prior taxable year. The credit may not exceed the excess (if any) for the taxable year of

- (1) the regular tax, over
- (2) the greater of (i) the tentative alternative minimum tax, or (ii) zero.

(b) The adjusted net minimum tax for a taxable year equals the lesser of the net minimum tax or the excess (if any) of

- (1) the tentative minimum tax, over
- (2) 6.4 percent of the sum of
 - (i) adjusted gross income as defined in section 62 of the Internal Revenue Code,
 - (ii) interest income as defined in section 290.01, subdivision 19a, clause (1),
 - (iii) interest on specified private activity bonds, as defined in section 57(a)(5) of the Internal Revenue Code, to the extent not included under clause (ii),
 - (iv) depletion as defined in section 57(a)(1), determined without regard to the last sentence of paragraph (1), of the Internal Revenue Code, less
 - (v) the deductions allowed in computing alternative minimum taxable income provided in subdivision 2, paragraph (a), clause (2) of the first series of clauses and clauses (1), (2), and (3) of the second series of clauses, and
 - (vi) the exemption amount determined under subdivision 3.

In the case of an individual who is not a Minnesota resident for the entire year, adjusted net minimum tax must be multiplied by the fraction defined in section 290.06, subdivision 2c, paragraph (e). In the case of a trust or estate, adjusted net minimum tax must be multiplied by the fraction defined under subdivision 4, paragraph (b).