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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-SEVENTH SESSION

**H. F. No. 2480**

02/23/2012 Authored by Winkler, Thissen, Hortman, Greiling, Hornstein and others  
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 the financing and operation of state government; income and corporate  
1.3 franchise taxation; eliminating the preferences for foreign source income;  
1.4 repealing the subtraction for foreign royalties; expanding the definition of  
1.5 domestic corporations to include certain foreign corporations incorporated  
1.6 or doing business in tax havens; modifying JOBZ tax benefits; reducing the  
1.7 corporate franchise tax rates; modifying the apportionment of income; repealing  
1.8 foreign operating corporations; repealing the special apportionment formula for  
1.9 certain mail order businesses; repaying the school aid payment and property tax  
1.10 recognition shifts; amending Minnesota Statutes 2010, sections 127A.45, by  
1.11 adding a subdivision; 289A.08, subdivision 3; 290.01, subdivisions 5, 19d, 29,  
1.12 by adding a subdivision; 290.17, subdivision 4; 290.191, subdivisions 2, 3, 5;  
1.13 469.315; 469.319, subdivision 4; Minnesota Statutes 2011 Supplement, sections  
1.14 123B.75, subdivision 5; 290.01, subdivision 19c; repealing Minnesota Statutes  
1.15 2010, sections 290.01, subdivision 6b; 290.06, subdivision 29; 290.0921,  
1.16 subdivision 7; 290.191, subdivision 4; 469.317; 469.318.

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

1.18 **ARTICLE 1**

1.19 **CORPORATE TAX REFORM**

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

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

1.25 (b) Members of a unitary business that are required to file a combined report on one  
1.26 return must designate a member of the unitary business to be responsible for tax matters,  
1.27 including the filing of returns, the payment of taxes, additions to tax, penalties, interest,  
1.28 or any other payment, and for the receipt of refunds of taxes or interest paid in excess of

2.1 taxes lawfully due. The designated member must be a member of the unitary business that  
 2.2 is filing the single combined report and either:

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

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

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

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

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

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

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

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

2.25 Sec. 2. Minnesota Statutes 2010, section 290.01, subdivision 5, is amended to read:

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

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

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

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

2.35 (4) which is incorporated in a tax haven;

3.1 (5) which is engaged in activity in a tax haven sufficient for the tax haven to impose  
3.2 a net income tax under United States constitutional standards and section 290.015, and  
3.3 which reports that 20 percent or more of its income is attributable to business in the tax  
3.4 haven; or

3.5 (6) which has the average of its property, payroll, and sales factors, as defined under  
3.6 section 290.191, within the 50 states of the United States and the District of Columbia, of  
3.7 20 percent or more.

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

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

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

3.14 (1) Andorra;

3.15 (2) Anguilla;

3.16 (3) Antigua and Barbuda;

3.17 (4) Aruba;

3.18 (5) Bahamas;

3.19 (6) Bahrain;

3.20 (7) Belize;

3.21 (8) British Virgin Islands;

3.22 (9) Cayman Islands;

3.23 (10) Cook Islands;

3.24 (11) Costa Rica;

3.25 (12) Dominica;

3.26 (13) Gibraltar;

3.27 (14) Grenada;

3.28 (15) Guernsey-Sark-Alderney;

3.29 (16) Jersey;

3.30 (17) Jordan;

3.31 (18) Lebanon;

3.32 (19) Liberia;

3.33 (20) Liechtenstein;

3.34 (21) Maldives;

3.35 (22) Marshall Islands;

- 4.1           (23) Monaco;  
 4.2           (24) Montserrat;  
 4.3           (25) Nauru;  
 4.4           (26) Netherlands Antilles;  
 4.5           (27) Niue;  
 4.6           (28) Panama;  
 4.7           (29) St. Kitts and Nevis;  
 4.8           (30) St. Lucia;  
 4.9           (31) St. Vincent and Grenadines;  
 4.10          (32) Tonga;  
 4.11          (33) Turks and Caicos; and  
 4.12          (34) Vanuatu.

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

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

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

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

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

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

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

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

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

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

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

5.10 (8) the exempt foreign trade income of a foreign sales corporation under sections  
 5.11 921(a) and 291 of the Internal Revenue Code;

5.12 (9) the amount of percentage depletion deducted under sections 611 through 614 and  
 5.13 291 of the Internal Revenue Code;

5.14 (10) for certified pollution control facilities placed in service in a taxable year  
 5.15 beginning before December 31, 1986, and for which amortization deductions were elected  
 5.16 under section 169 of the Internal Revenue Code of 1954, as amended through December  
 5.17 31, 1985, the amount of the amortization deduction allowed in computing federal taxable  
 5.18 income for those facilities;

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

5.23 ~~(12)~~ (11) the amount of a partner's pro rata share of net income which does not flow  
 5.24 through to the partner because the partnership elected to pay the tax on the income under  
 5.25 section 6242(a)(2) of the Internal Revenue Code;

5.26 ~~(13)~~ (12) the amount of net income excluded under section 114 of the Internal  
 5.27 Revenue Code;

5.28 ~~(14)~~ (13) any increase in subpart F income, as defined in section 952(a) of the  
 5.29 Internal Revenue Code, for the taxable year when subpart F income is calculated without  
 5.30 regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

5.31 ~~(15)~~ (14) 80 percent of the depreciation deduction allowed under section  
 5.32 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if  
 5.33 the taxpayer has an activity that in the taxable year generates a deduction for depreciation  
 5.34 under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable  
 5.35 year that the taxpayer is not allowed to claim for the taxable year, "the depreciation  
 5.36 allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess

6.1 of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A)  
 6.2 over the amount of the loss from the activity that is not allowed in the taxable year. In  
 6.3 succeeding taxable years when the losses not allowed in the taxable year are allowed, the  
 6.4 depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

6.5 ~~(16)~~ (15) 80 percent of the amount by which the deduction allowed by section 179 of  
 6.6 the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal  
 6.7 Revenue Code of 1986, as amended through December 31, 2003;

6.8 ~~(17)~~ (16) to the extent deducted in computing federal taxable income, the amount of  
 6.9 the deduction allowable under section 199 of the Internal Revenue Code;

6.10 ~~(18)~~ (17) for taxable years beginning before January 1, 2013, the exclusion allowed  
 6.11 under section 139A of the Internal Revenue Code for federal subsidies for prescription  
 6.12 drug plans;

6.13 ~~(19)~~ (18) the amount of expenses disallowed under section 290.10, subdivision 2;

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

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

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

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

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

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

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

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

6.35 ~~(21)~~ ~~except as already included in the taxpayer's taxable income pursuant to clause~~  
 6.36 ~~(20), any interest income and income generated from intangible property received or~~

7.1 ~~accrued by a foreign operating corporation that is a member of the taxpayer's unitary~~  
 7.2 ~~group. For purposes of this clause, income generated from intangible property includes:~~  
 7.3 ~~(i) income related to the direct or indirect acquisition, use, maintenance or~~  
 7.4 ~~management, ownership, sale, exchange, or any other disposition of intangible property;~~  
 7.5 ~~(ii) income from factoring transactions or discounting transactions;~~  
 7.6 ~~(iii) royalty, patent, technical, and copyright fees;~~  
 7.7 ~~(iv) licensing fees; and~~  
 7.8 ~~(v) other similar income.~~

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

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

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

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

7.24 ~~(24) (19) for taxable years beginning before January 1, 2010, the additional amount~~  
 7.25 ~~allowed as a deduction for donation of computer technology and equipment under section~~  
 7.26 ~~170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income; and~~

7.27 ~~(25) (20) discharge of indebtedness income resulting from reacquisition of business~~  
 7.28 ~~indebtedness and deferred under section 108(i) of the Internal Revenue Code.~~

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

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

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

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

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

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

8.9 (4) amounts disallowed for intangible drilling costs due to differences between  
8.10 this chapter and the Internal Revenue Code in taxable years beginning before January  
8.11 1, 1987, as follows:

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

8.15 (ii) to the extent the disallowed costs are not represented by physical property, an  
8.16 amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section  
8.17 290.09, subdivision 8;

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

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

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

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

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

8.32 (6) an amount for interest and expenses relating to income not taxable for federal  
8.33 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and  
8.34 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or  
8.35 291 of the Internal Revenue Code in computing federal taxable income;



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

9.9 (8) for certified pollution control facilities placed in service in a taxable year  
 9.10 beginning before December 31, 1986, and for which amortization deductions were elected  
 9.11 under section 169 of the Internal Revenue Code of 1954, as amended through December  
 9.12 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes  
 9.13 1986, section 290.09, subdivision 7;

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

9.20 ~~(10) 80 percent of royalties, fees, or other like income accrued or received from a~~  
 9.21 ~~foreign operating corporation or a foreign corporation which is part of the same unitary~~  
 9.22 ~~business as the receiving corporation, unless the income resulting from such payments or~~  
 9.23 ~~accruals is income from sources within the United States as defined in subtitle A, chapter~~  
 9.24 ~~1, subchapter N, part 1, of the Internal Revenue Code;~~

9.25 ~~(11)~~ (10) income or gains from the business of mining as defined in section 290.05,  
 9.26 subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

9.27 ~~(12)~~ (11) the amount of disability access expenditures in the taxable year which are  
 9.28 not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue  
 9.29 Code;

9.30 ~~(13)~~ (12) the amount of qualified research expenses not allowed for federal income  
 9.31 tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent  
 9.32 that the amount exceeds the amount of the credit allowed under section 290.068;

9.33 ~~(14)~~ (13) the amount of salary expenses not allowed for federal income tax purposes  
 9.34 due to claiming the Indian employment credit under section 45A(a) of the Internal  
 9.35 Revenue Code;

10.1 ~~(15)~~ (14) for a corporation whose foreign sales corporation, as defined in section  
 10.2 922 of the Internal Revenue Code, constituted a foreign operating corporation during any  
 10.3 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,  
 10.4 claiming the deduction under section 290.21, subdivision 4, for income received from  
 10.5 the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of  
 10.6 income excluded under section 114 of the Internal Revenue Code, provided the income is  
 10.7 not income of a foreign operating company;

10.8 ~~(16)~~ (15) any decrease in subpart F income, as defined in section 952(a) of the  
 10.9 Internal Revenue Code, for the taxable year when subpart F income is calculated without  
 10.10 regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

10.11 ~~(17)~~ (16) in each of the five tax years immediately following the tax year in which an  
 10.12 addition is required under subdivision 19c, clause ~~(15)~~ (14), an amount equal to one-fifth  
 10.13 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the  
 10.14 amount of the addition made by the taxpayer under subdivision 19c, clause ~~(15)~~ (14). The  
 10.15 resulting delayed depreciation cannot be less than zero;

10.16 ~~(18)~~ (17) in each of the five tax years immediately following the tax year in which an  
 10.17 addition is required under subdivision 19c, clause ~~(16)~~ (15), an amount equal to one-fifth  
 10.18 of the amount of the addition; and

10.19 ~~(19)~~ (18) to the extent included in federal taxable income, discharge of indebtedness  
 10.20 income resulting from reacquisition of business indebtedness included in federal taxable  
 10.21 income under section 108(i) of the Internal Revenue Code. This subtraction applies only  
 10.22 to the extent that the income was included in net income in a prior year as a result of the  
 10.23 addition under ~~section 290.01~~, subdivision 19c, clause ~~(25)~~ (20).

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

10.26 Sec. 6. Minnesota Statutes 2010, section 290.01, subdivision 29, is amended to read:

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

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

10.29 (2) for corporations, the taxable net income less:

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

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

10.32 (iii) ~~the exemption for operating in a job opportunity building zone under section~~  
 10.33 ~~469.317;~~

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

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

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

11.5 Sec. 7. Minnesota Statutes 2010, section 290.17, subdivision 4, is amended to read:

11.6 Subd. 4. **Unitary business principle.** (a) If a trade or business conducted wholly  
 11.7 within this state or partly within and partly without this state is part of a unitary business,  
 11.8 the entire income of the unitary business is subject to apportionment pursuant to section  
 11.9 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary  
 11.10 business is considered to be derived from any particular source and none may be allocated  
 11.11 to a particular place except as provided by the applicable apportionment formula. The  
 11.12 provisions of this subdivision do not apply to business income subject to subdivision 5,  
 11.13 income of an insurance company, or income of an investment company determined under  
 11.14 section 290.36.

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

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

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

11.30 (e) Unity of ownership is not deemed to exist when a corporation is involved unless  
 11.31 that corporation is a member of a group of two or more business entities and more than 50  
 11.32 percent of the voting stock of each member of the group is directly or indirectly owned  
 11.33 by a common owner or by common owners, either corporate or noncorporate, or by one  
 11.34 or more of the member corporations of the group. For this purpose, the term "voting

12.1 stock" shall include membership interests of mutual insurance holding companies formed  
12.2 under section 66A.40.

12.3 (f) The net income and apportionment factors under section 290.191 or 290.20 of  
12.4 foreign corporations and other foreign entities which are part of a unitary business shall  
12.5 not be included in the net income or the apportionment factors of the unitary business.  
12.6 A foreign corporation or other foreign entity which is required to file a return under this  
12.7 chapter shall file on a separate return basis. ~~The net income and apportionment factors~~  
12.8 ~~under section 290.191 or 290.20 of foreign operating corporations shall not be included in~~  
12.9 ~~the net income or the apportionment factors of the unitary business except as provided in~~  
12.10 ~~paragraph (g).~~ The provisions of this paragraph are not severable from the provisions of  
12.11 section 290.01, subdivision 5, clauses (4) to (6); if any of those provisions are found to be  
12.12 unconstitutional, the provisions of this paragraph are void for the respective taxable years.

12.13 ~~(g) The adjusted net income of a foreign operating corporation shall be deemed to~~  
12.14 ~~be paid as a dividend on the last day of its taxable year to each shareholder thereof, in~~  
12.15 ~~proportion to each shareholder's ownership, with which such corporation is engaged in~~  
12.16 ~~a unitary business. Such deemed dividend shall be treated as a dividend under section~~  
12.17 ~~290.21, subdivision 4.~~

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

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

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

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

12.32 ~~(h)~~ (g) For purposes of determining the net income of a unitary business and the  
12.33 factors to be used in the apportionment of net income pursuant to section 290.191 or  
12.34 290.20, there must be included only the income and apportionment factors of domestic  
12.35 corporations or other domestic entities ~~other than foreign operating corporations~~ that are  
12.36 determined to be part of the unitary business pursuant to this subdivision, notwithstanding

13.1 that foreign corporations or other foreign entities might be included in the unitary  
 13.2 business, except that foreign corporations or other foreign entities that are included on a  
 13.3 federal income tax return must be included on the combined report. Income of a foreign  
 13.4 partnership or other foreign entity treated as a partnership included in federal taxable  
 13.5 income, as defined in section 63 of the Internal Revenue Code of 1986, as amended  
 13.6 through the date named in section 290.01, subdivision 19, and the proportionate amount of  
 13.7 apportionment factors, must be included in the combined report.

13.8 ~~(h)~~ (h) Deductions for expenses, interest, or taxes otherwise allowable under  
 13.9 this chapter that are connected with or allocable against dividends, ~~deemed dividends~~  
 13.10 ~~described in paragraph (g), or royalties, fees, or other like income described in section~~  
 13.11 ~~290.01, subdivision 19d, clause (10),~~ shall not be disallowed.

13.12 ~~(i)~~ (i) Each corporation or other entity, except a sole proprietorship, that is part of  
 13.13 a unitary business must file combined reports as the commissioner determines. On the  
 13.14 reports, all intercompany transactions between entities included pursuant to paragraph  
 13.15 ~~(h)~~ (g) must be eliminated and the entire net income of the unitary business determined in  
 13.16 accordance with this subdivision is apportioned among the entities by using each entity's  
 13.17 Minnesota factors for apportionment purposes in the numerators of the apportionment  
 13.18 formula and the total factors for apportionment purposes of all entities included pursuant  
 13.19 to paragraph ~~(h)~~ (g) in the denominators of the apportionment formula. All sales of the  
 13.20 unitary business made within Minnesota pursuant to section 290.191 or 290.20 must be  
 13.21 included on the separate combined report of a corporation that is a member of the unitary  
 13.22 business and is subject to the jurisdiction of this state to impose tax under this chapter.

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

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

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

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

13.32 Sec. 8. Minnesota Statutes 2010, section 290.191, subdivision 2, is amended to read:

13.33 Subd. 2. **Apportionment formula of general application.** ~~(a)~~ Except for those  
 13.34 trades or businesses required to use a different formula under subdivision 3 or section  
 13.35 290.36, and for those trades or businesses that receive permission to use some other

14.1 method under section 290.20 ~~or under subdivision 4~~, a trade or business required to  
 14.2 apportion its net income must apportion its income to this state on the basis of the  
 14.3 percentage obtained by taking the sum of the following percentages and dividing by three:

14.4 (1) ~~the percent for the sales factor under paragraph (b)~~ of the percentage which  
 14.5 the sales made within this state in connection with the trade or business during the tax  
 14.6 period are of the total sales wherever made in connection with the trade or business during  
 14.7 the tax period;

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

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

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

14.19 <del>Taxable years beginning</del>	14.20 <del>Sales factor</del>	14.21 <del>Property factor</del>	14.22 <del>Payroll factor</del>
14.23 <del>during calendar year</del>	14.24 <del>percent</del>	14.25 <del>percent</del>	14.26 <del>percent</del>
14.27 2007	78	11	11
14.28 2008	81	9.5	9.5
14.29 2009	84	8	8
14.30 2010	87	6.5	6.5
14.31 2011	90	5	5
14.32 2012	93	3.5	3.5
14.33 2013	96	2	2
14.34 2014 and later calendar years	100	0	0

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

14.31 Sec. 9. Minnesota Statutes 2010, section 290.191, subdivision 3, is amended to read:

14.32 Subd. 3. **Apportionment formula for financial institutions.** Except for an  
 14.33 investment company required to apportion its income under section 290.36, a financial  
 14.34 institution that is required to apportion its net income must apportion its net income to  
 14.35 this state on the basis of the percentage obtained by taking the sum of the following  
 14.36 percentages and dividing by three:

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

15.5 ~~(2) the percent for the property factor under subdivision 2, paragraph (b), of the~~  
 15.6 percentage which the sum of the total tangible property used by the taxpayer in this  
 15.7 state and the intangible property owned by the taxpayer and attributed to this state in  
 15.8 connection with the trade or business during the tax period is of the sum of the total  
 15.9 tangible property, wherever located, used by the taxpayer and the intangible property  
 15.10 owned by the taxpayer and attributed to all states in connection with the trade or business  
 15.11 during the tax period; and

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

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

15.19 Sec. 10. Minnesota Statutes 2010, section 290.191, subdivision 5, is amended to read:

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

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

15.25 (1) interest;

15.26 (2) dividends;

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

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

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

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

15.34 (b) Sales of tangible personal property are made within this state if the property is  
 15.35 received by a purchaser at a point within this state, and the taxpayer is taxable in this state,

16.1 regardless of the f.o.b. point, other conditions of the sale, or the ultimate destination  
16.2 of the property.

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

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

16.10 ~~(e) Sales made by or through a corporation that is qualified as a domestic~~  
16.11 ~~international sales corporation under section 992 of the Internal Revenue Code are not~~  
16.12 ~~considered to have been made within this state.~~ Notwithstanding paragraphs (b) to (d),  
16.13 sales of tangible personal property are in this state if the property is shipped from an office,  
16.14 store, warehouse, factory, or other place of storage in this state and the purchaser is the  
16.15 United States government or the taxpayer is not taxable in the state of the purchaser.

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

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

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

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

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

16.34 (4) The extent that a vessel, mobile equipment, or other mobile property is used in  
16.35 the state is determined by multiplying the receipts from the lease or rental of the property



17.1 by a fraction, the numerator of which is the number of days during the taxable year the  
17.2 property was in this state and the denominator of which is the total days in the taxable year.

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

17.14 (i) Sales of intangible property are made within the state in which the property is  
17.15 used by the purchaser. If the property is used in more than one state, the sales must be  
17.16 apportioned to this state pro rata according to the portion of use in this state. If the  
17.17 portion of use in this state cannot be determined, the sale must be excluded from both the  
17.18 numerator and the denominator of the sales factor. Intangible property is used in this  
17.19 state if the purchaser used the intangible property in the regular course of its business  
17.20 operations in this state.

17.21 (j) Receipts from the performance of services must be attributed to the state where  
17.22 the services are received. For the purposes of this section, receipts from the performance  
17.23 of services provided to a corporation, partnership, or trust may only be attributed to a state  
17.24 where it has a fixed place of doing business. If the state where the services are received is  
17.25 not readily determinable or is a state where the corporation, partnership, or trust receiving  
17.26 the service does not have a fixed place of doing business, the services shall be deemed  
17.27 to be received at the location of the office of the customer from which the services were  
17.28 ordered in the regular course of the customer's trade or business. If the ordering office  
17.29 cannot be determined, the services shall be deemed to be received at the office of the  
17.30 customer to which the services are billed. If the taxpayer is not taxable in the state of the  
17.31 purchaser, the sale is attributable to this state if the greater proportion of the service is  
17.32 performed in this state.

17.33 (k) For the purposes of this subdivision and subdivision 6, paragraph (l), receipts  
17.34 from management, distribution, or administrative services performed by a corporation  
17.35 or trust for a fund of a corporation or trust regulated under United States Code, title 15,  
17.36 sections 80a-1 through 80a-64, must be attributed to the state where the shareholder of

18.1 the fund resides. Under this paragraph, receipts for services attributed to shareholders are  
 18.2 determined on the basis of the ratio of: (1) the average of the outstanding shares in the  
 18.3 fund owned by shareholders residing within Minnesota at the beginning and end of each  
 18.4 year; and (2) the average of the total number of outstanding shares in the fund at the  
 18.5 beginning and end of each year. Residence of the shareholder, in the case of an individual,  
 18.6 is determined by the mailing address furnished by the shareholder to the fund. Residence  
 18.7 of the shareholder, when the shares are held by an insurance company as a depositor for  
 18.8 the insurance company policyholders, is the mailing address of the policyholders. In  
 18.9 the case of an insurance company holding the shares as a depositor for the insurance  
 18.10 company policyholders, if the mailing address of the policyholders cannot be determined  
 18.11 by the taxpayer, the receipts must be excluded from both the numerator and denominator.  
 18.12 Residence of other shareholders is the mailing address of the shareholder.

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

18.15 Sec. 11. Minnesota Statutes 2010, section 469.315, is amended to read:

18.16 **469.315 TAX INCENTIVES AVAILABLE IN ZONES.**

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

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

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

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

18.24 ~~(4)~~ (3) exemption from the state sales tax on motor vehicles and any local sales tax  
 18.25 on motor vehicles as provided under section 297B.03;

18.26 ~~(5)~~ (4) exemption from the property tax as provided in section 272.02, subdivision  
 18.27 64; and

18.28 ~~(6)~~ (5) exemption from the wind energy production tax under section 272.029,  
 18.29 subdivision 7; and

18.30 ~~(7) the jobs credit allowed under section 469.318, except that a qualified business~~  
 18.31 ~~located in a create automotive recovery zone is not eligible for the credit under section~~  
 18.32 ~~469.318 but is eligible for the credit under section 469.3181.~~

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

19.1 Sec. 12. Minnesota Statutes 2010, section 469.319, subdivision 4, is amended to read:

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

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

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

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

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

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

20.1 (g) The commissioner may assess the repayment of taxes under paragraph (d) any  
 20.2 time within two years after the business becomes subject to repayment under subdivision  
 20.3 1, or within any period of limitations for the assessment of tax under section 289A.38,  
 20.4 whichever period is later. The county auditor may send the statement under paragraph  
 20.5 (c) any time within three years after the business becomes subject to repayment under  
 20.6 subdivision 1.

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

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

20.17 Sec. 13. **REPEALER.**

20.18 Minnesota Statutes 2010, sections 290.01, subdivision 6b; 290.06, subdivision 29;  
 20.19 290.0921, subdivision 7; 290.191, subdivision 4; 469.317; and 469.318, are repealed.

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

## 20.22 ARTICLE 2

### 20.23 SCHOOL SHIFT REQUIREMENTS

20.24 Section 1. Minnesota Statutes 2011 Supplement, section 123B.75, subdivision 5, is  
 20.25 amended to read:

20.26 Subd. 5. **Levy recognition.** ~~(a) For fiscal years 2009 and 2010, in June of each~~  
 20.27 ~~year, the school district must recognize as revenue, in the fund for which the levy was~~  
 20.28 ~~made, the lesser of:~~

20.29 ~~(1) the sum of May, June, and July school district tax settlement revenue received in~~  
 20.30 ~~that calendar year, plus general education aid according to section 126C.13, subdivision~~  
 20.31 ~~4, received in July and August of that calendar year; or~~

20.32 ~~(2) the sum of:~~

21.1 ~~(i) 31 percent of the referendum levy certified according to section 126C.17, in~~  
 21.2 ~~calendar year 2000; and~~

21.3 ~~(ii) the entire amount of the levy certified in the prior calendar year according to~~  
 21.4 ~~section 124D.86, subdivision 4, for school districts receiving revenue under sections~~  
 21.5 ~~124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, paragraph~~  
 21.6 ~~(a), and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48,~~  
 21.7 ~~subdivision 6; plus~~

21.8 ~~(iii) zero percent of the amount of the levy certified in the prior calendar year for the~~  
 21.9 ~~school district's general and community service funds, plus or minus auditor's adjustments,~~  
 21.10 ~~not including the levy portions that are assumed by the state, that remains after subtracting~~  
 21.11 ~~the referendum levy certified according to section 126C.17 and the amount recognized~~  
 21.12 ~~according to item (ii).~~

21.13 ~~(b)~~ (a) For fiscal year 2011 and later years, in June of each year, the school district  
 21.14 must recognize as revenue, in the fund for which the levy was made, the lesser of:

21.15 (1) the sum of May, June, and July school district tax settlement revenue received in  
 21.16 that calendar year, plus general education aid according to section 126C.13, subdivision  
 21.17 4, received in July and August of that calendar year; or

21.18 (2) the sum of:

21.19 (i) the greater of 48.6 percent of the referendum levy certified according to section  
 21.20 126C.17 in the prior calendar year, or 31 percent of the referendum levy certified  
 21.21 according to section 126C.17 in calendar year 2000; plus

21.22 (ii) the entire amount of the levy certified in the prior calendar year according to  
 21.23 section 124D.4531, 124D.86, subdivision 4, for school districts receiving revenue under  
 21.24 sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2,  
 21.25 paragraph (a), and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; and 126C.48,  
 21.26 subdivision 6; plus

21.27 (iii) 48.6 percent of the amount of the levy certified in the prior calendar year for the  
 21.28 school district's general and community service funds, plus or minus auditor's adjustments,  
 21.29 that remains after subtracting the referendum levy certified according to section 126C.17  
 21.30 and the amount recognized according to item (ii).

21.31 (b) The levy recognition percentage under paragraph (a), clause (2), must be lowered  
 21.32 to the nearest one-tenth of a percentage allowed by the amount of the certified revenue  
 21.33 remaining after the application of revenue under section 127A.45, subdivision 17, until  
 21.34 such time as the levy recognition percentage is lowered to zero.

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

22.1 Sec. 2. Minnesota Statutes 2010, section 127A.45, is amended by adding a subdivision  
22.2 to read:

22.3 Subd. 18. **Shift repayment.** On July 1 of each year, the commissioner of revenue  
22.4 must certify to the commissioner of education the estimated amount of revenue raised  
22.5 under article 1 during the current calendar year. The commissioner of education must  
22.6 increase the aid payment percentage under subdivision 2 to the lesser of 90 or the amount  
22.7 funded by the certified revenue amount. Once the aid payment percentage is restored  
22.8 to 90, any additional certified revenue amount must be used to lower the property tax  
22.9 recognition shift under section 123B.75, subdivision 5.

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