

1.1 A bill for an act

1.2 relating to taxation; providing an investment tax credit; requiring reports;
1.3 amending Minnesota Statutes 2008, section 13.4967, by adding a subdivision;
1.4 proposing coding for new law in Minnesota Statutes, chapters 116J; 290.

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

1.6 Sec. 1. Minnesota Statutes 2008, section 13.4967, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 8. **SMALL BUSINESS INVESTMENT TAX CREDIT.** Data related to
1.9 small business investment tax credit certifications and certification of qualified small
1.10 businesses, qualified investors, and qualified funds, is classified in section 116J.8737.

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

1.12 Section 2. **[116J.8737] SMALL BUSINESS INVESTMENT TAX CREDIT.**

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

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

1.17 (c) (1) "Qualified investor" means an investor who has been certified by the
1.18 commissioner under subdivision 3.

1.19 (d)(1) "Qualified fund" means a pooled angel investment network fund that has been
1.20 certified by the commissioner under subdivision 4.

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

1.23 (1) \$10,000 in a calendar year by a qualified investor; or

2.1 (2) \$30,000 in a calendar year by a qualified fund.

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

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

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

2.11 Subd. 2. **Certification of qualified small businesses.** (a) Businesses may apply
2.12 to the commissioner for certification as a qualified small business for a calendar year.
2.13 The application must be in the form and be made under the procedures specified by
2.14 the commissioner, accompanied by an application fee of \$150. The application for
2.15 certification for 2010 must be made available on the department's Web site by August 1,
2.16 2010. Applications for subsequent years' certification must be made available on the
2.17 department's Web site by November 1 of the preceding year. Application fees collected
2.18 are appropriated to the commissioner to be used for personnel and administrative expenses
2.19 related to administering the program.

2.20 (b) Within 30 days of receiving an application for certification under this subdivision,
2.21 the commissioner must either certify the business as satisfying the conditions required of a
2.22 qualified small business, request additional information from the business, or reject the
2.23 application for certification. If the commissioner requests additional information from the
2.24 business, the commissioner must either certify the business or reject the application within
2.25 30 days of receiving the additional information. If the commissioner neither certifies the
2.26 business nor rejects the application within 30 days of receiving the original application or
2.27 within 30 days of receiving the additional information requested, whichever is later, then
2.28 the application is deemed rejected, and the commissioner must refund the \$150 application
2.29 fee. A business that applies for certification and is rejected may re-apply.

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

2.31 (1) the business has its headquarters in Minnesota;

2.32 (2) at least 51 percent of the business's employees are employed in Minnesota, and
2.33 51 percent of the business's total payroll is paid or incurred in the state;

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

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

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

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

3.7 (iv) qualified green manufacturing;

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

3.14 (5) the business has fewer than 100 employees;

3.15 (6) the business must pay its employees annual wages of at least 175 percent of the
3.16 federal poverty guideline for the year for a family of four, except that this requirement
3.17 must be reduced proportionately for employees who work less than full-time, and does not
3.18 apply to any employee who owns, controls, or holds power to vote more than 20 percent
3.19 of the outstanding securities of the business;

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

3.21 (8) the business had less than \$2 million in annual gross sales receipts for the
3.22 previous year.

3.23 (d) In applying the limits under paragraph (c), clauses (5) and (8), the employees
3.24 and gross sales receipts, in all members of the unitary business, as defined in section
3.25 290.17, subdivision 4, must be included.

3.26 (e) In order for a qualified investment in a business to be eligible for tax credits, the
3.27 business must have applied for and received certification for the calendar year in which
3.28 the investment was made prior to the date on which the qualified investment was made.

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

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

3.33 (1) "Qualified high-technology field" includes aerospace, agricultural
3.34 processing, alternative energy, environmental engineering, food technology, cellulosic
3.35 ethanol, information technology, materials science technology, nanotechnology,

4.1 telecommunications, biotechnology, medical device products, pharmaceuticals,
4.2 diagnostics, biologicals, veterinary science, and similar fields.

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

4.6 (3) "Qualified green manufacturing" means a business whose business activity
4.7 is production of products, processes, methods, technologies, or services, excluding
4.8 consulting, intended to do one or more of the following:

4.9 (i) increase the use of energy from renewable sources, as defined in section
4.10 216B.1691;

4.11 (ii) increase the energy efficiency of the electric utility-producing infrastructure
4.12 system or to increase energy conservation related to electricity or other utility use, as
4.13 provided in sections 216B.2401 and 216B.241;

4.14 (iii) reduce greenhouse gas emissions, as defined in section 216H.01, subdivision 2,
4.15 or to mitigate greenhouse gas emissions or other waste products through, but not limited
4.16 to, carbon capture, storage, or sequestration;

4.17 (iv) monitor, protect, restore, and preserve the quality of surface waters; and

4.18 (v) expand use of biofuels, including expanding the feasibility or reducing the cost
4.19 of producing biofuels or the types of equipment, machinery, and vehicles that can use
4.20 biofuels.

4.21 Subd. 3. **Certification of qualified investors.** (a) Investors may apply to the
4.22 commissioner for certification as a qualified investor for a taxable year. The application
4.23 must be in the form and be made under the procedures specified by the commissioner,
4.24 accompanied by an application fee of \$350. The application for certification for 2010
4.25 must be made available on the department's Web site by August 1, 2010. Applications for
4.26 subsequent years' certification must be made available on the department's Web site by
4.27 November 1 of the preceding year. Application fees are appropriated to the commissioner
4.28 for personnel and administrative expenses related to administering the program.

4.29 (b) Within 30 days of receiving an application for certification under this subdivision,
4.30 the commissioner must either certify the investor as satisfying the conditions required
4.31 of a qualified investor, request additional information from the investor, or reject the
4.32 application for certification. If the commissioner requests additional information from the
4.33 investor, the commissioner must either certify the investor or reject the application within
4.34 30 days of receiving the additional information. If the commissioner neither certifies the
4.35 investor nor rejects the application within 30 days of receiving the original application or
4.36 within 30 days of receiving the additional information requested, whichever is later, then

5.1 the application is deemed rejected, and the commissioner must refund the \$350 application
5.2 fee. An investor who applies for certification and is rejected may re-apply.

5.3 (c) To receive certification, an investor must satisfy all of the following conditions:

5.4 (1) is an accredited investor, within the meaning of Regulation D of the Securities
5.5 and Exchange Commission, Code of Federal Regulations, title 17, section 230.501(a); and

5.6 (2) does not receive more than 50 percent of the investor's gross annual income from
5.7 the qualified small business in which the eligible investment is proposed.

5.8 (d) A member of the family of an individual disqualified by this subdivision is not
5.9 eligible for a credit under this section. For a married couple filing a joint return, the
5.10 limitations in paragraph (c) apply collectively to the investor and spouse.

5.11 (e) For purposes of determining the ownership interest of an investor under paragraph
5.12 (c), the rules under section 267(c) and 267(e) of the Internal Revenue Code apply.

5.13 (f) In order for a qualified investment in a qualified small business to be eligible for
5.14 tax credits, a qualified investor who makes the investment must have applied for and
5.15 received certification for the calendar year prior to making the qualified investment.

5.16 Subd. 4. **Certification of qualified funds.** (a) A pass-through entity may apply to
5.17 the commissioner for certification as a qualified fund for a calendar year. The application
5.18 must be in the form and be made under the procedures specified by the commissioner,
5.19 accompanied by an application fee of \$1,000. The application for certification for 2010 of
5.20 qualified funds must be made available on the department's Web site by August 1, 2010.
5.21 Applications for subsequent years' certification must be made available by November 1 of
5.22 the preceding year. Application fees collected are appropriated to the commissioner to be
5.23 used for personnel and administrative expenses related to administering the program.

5.24 (b) Within 30 days of receiving an application for certification under this subdivision,
5.25 the commissioner must either certify the fund as satisfying the conditions required of a
5.26 qualified fund, request additional information from the fund, or reject the application
5.27 for certification. If the commissioner requests additional information from the fund,
5.28 the commissioner must either certify the fund or reject the application within 30 days
5.29 of receiving the additional information. If the commissioner neither certifies the fund
5.30 nor rejects the application within 30 days of receiving the original application or within
5.31 30 days of receiving the additional information requested, whichever is later, then the
5.32 application is deemed rejected, and the commissioner must refund the \$1,000 application
5.33 fee. A fund that applies for certification and is rejected may re-apply.

5.34 (c) To receive certification, a fund must:

5.35 (1) invest in qualified small businesses;

5.36 (2) be organized as a pass-through entity; and

6.1 (3) have at least three separate investors, all of whom are qualified investors.

6.2 (d) Investments in the fund may consist of equity investments or notes that pay
6.3 interest or other fixed amounts, or any combination of both.

6.4 (e) In order for a qualified investment in a qualified small business to be eligible for
6.5 tax credits, a qualified fund that makes the investment must have applied for and received
6.6 certification for the calendar year prior to making the qualified investment.

6.7 Subd. 5. **Credit allowed.** (a) A qualified investor or qualified fund is eligible for
6.8 a credit equal to 25 percent of the qualified investment in a qualified small business.
6.9 Investments made by a pass-through entity qualify for a credit only if the entity is
6.10 a qualified fund. The commissioner may not allocate more than a total \$125,000 in
6.11 credits for a taxable year to a qualified investor for the investor's cumulative qualified
6.12 investments as an individual qualified investor and as an investor in a qualified fund. The
6.13 commissioner may not allocate more than a total of \$1,000,000 in credits for qualified
6.14 investments in any one qualified small business. In the first calendar year in which credits
6.15 are allocated for investments in a qualified small business, and for one subsequent calendar
6.16 year, the commissioner must not allocate credits for investments in the qualified small
6.17 business if doing so would result in qualified investors and qualified funds owning, in
6.18 aggregate, more than 49 percent of the qualified small business. The commissioner must
6.19 not allocate more than \$2,500,000 in credits to qualified taxpayers or qualified funds for
6.20 taxable years beginning after December 31, 2009, and before January 1, 2011, and must
6.21 not allocate more than \$5,000,000 in credits per year for taxable years beginning after
6.22 December 31, 2010. Any portion of a taxable year's credits that is not allocated by the
6.23 commissioner does not cancel and may be carried forward to subsequent taxable years
6.24 until all credits have been allocated. Applications for tax credits for 2010 must be made
6.25 available on the department's Web site by September 1, 2010, and the department must
6.26 begin accepting applications by September 1, 2010. Applications for subsequent years
6.27 must be made available by November 1 of the preceding year.

6.28 (b) Qualified investors and qualified funds must apply to the commissioner for tax
6.29 credits. Tax credits must be allocated to qualified investors or qualified funds in the order
6.30 that the tax credit request applications are filed with the department. The commissioner
6.31 must approve or reject tax credit request applications within 15 days of receiving the
6.32 application. The investment specified in the application must be made within 60 days of
6.33 the allocation of the credits. If the investment is not made within 60 days, the credit
6.34 allocation is canceled and available for re-allocation. A qualified investor or qualified
6.35 fund that fails to invest as specified in the application, within 60 days of allocation of the

7.1 credits, must notify the commissioner of the failure to invest within five business days of
7.2 the expiration of the 60-day investment period.

7.3 (c) All tax credit request applications filed with the department on the same day must
7.4 be treated as having been filed contemporaneously. If two or more qualified investors or
7.5 qualified funds file tax credit request applications on the same day, and the aggregate
7.6 amount of credit allocation claims exceeds the aggregate limit of credits under this section
7.7 or the lesser amount of credits that remain unallocated on that day, then the credits must
7.8 be allocated among the qualified investors or qualified funds who filed on that day on a
7.9 pro rata basis with respect to the amounts claimed. The pro rata allocation for any one
7.10 qualified investor or qualified fund is the product obtained by multiplying a fraction,
7.11 the numerator of which is the amount of the credit allocation claim filed on behalf of
7.12 a qualified investor and the denominator of which is the total of all credit allocation
7.13 claims filed on behalf of all applicants on that day, by the amount of credits that remain
7.14 unallocated on that day for the taxable year.

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

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

7.30 (2) 80 percent or more of the assets of the qualified small business is sold before
7.31 the end of the three-year period;

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

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

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

8.1 Subd. 6. **Annual reports.** (a) By February 1 of each year each qualified small
8.2 business, qualified investor, and qualified fund must submit an annual report and pay
8.3 a filing fee of \$100 if required under this subdivision. Each qualified investor and
8.4 qualified fund must submit reports for three years following each year in which it made
8.5 an investment that qualified for a credit, and each qualified small business must submit
8.6 reports for five years following the year in which it received an investment qualifying for
8.7 a credit. Reports must be made in the form required by the commissioner. All filing fees
8.8 collected are appropriated to the commissioner for personnel and administrative expense
8.9 related to administering the program.

8.10 (b) A report from a qualified small business must certify that the business satisfies
8.11 the following requirements:

8.12 (1) the business has its headquarters in Minnesota;

8.13 (2) at least 51 percent of the business's employees are employed in Minnesota, and
8.14 51 percent of the business's total payroll is paid or incurred in the state;

8.15 (3) that the business is engaged in, or is committed to engage in, innovation in
8.16 Minnesota as defined under subdivision 2; and

8.17 (4) that the business meets the payroll requirements in subdivision 2, paragraph
8.18 (c), clause (6).

8.19 (c) Reports from qualified investors must certify that the investor satisfies the
8.20 following requirements:

8.21 (1) the investor continues to meet the requirements of subdivision 3; and

8.22 (2) that the investor continues to remain invested in the qualified small business as
8.23 required by subdivision 5, paragraph (d).

8.24 (d) Reports from qualified funds must certify that the fund satisfies the following
8.25 requirements:

8.26 (1) each investor in the qualified fund continues to meet the requirements of
8.27 subdivision 4; and

8.28 (2) that the qualified fund continues to remain invested in the qualified small
8.29 business as required by subdivision 5, paragraph (d).

8.30 (e) A qualified small business, qualified investor, or qualified fund that fails to file an
8.31 annual report as required under this subdivision is subject to a \$500 fine.

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

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

9.6 <u>Year following the year in which the investment</u>	9.6 <u>Percentage of credit required to be</u>
9.7 <u>was made:</u>	9.7 <u>repaid:</u>
9.8 <u>First</u>	9.8 <u>100%</u>
9.9 <u>Second</u>	9.9 <u>80%</u>
9.10 <u>Third</u>	9.10 <u>60%</u>
9.11 <u>Fourth</u>	9.11 <u>40%</u>
9.12 <u>Fifth</u>	9.12 <u>20%</u>
9.13 <u>Sixth and later</u>	9.13 <u>0</u>

9.14 (c) The amount of the credits required to be repaid under paragraph (b) is reduced
 9.15 by seven percent of the excess of

9.16 (i) compensation paid by the qualified business in the taxable year in which the
 9.17 credit was allowed and any following taxable years, over

9.18 (ii) compensation paid by the qualified business in the taxable year before the
 9.19 taxable year in which the credit was allowed.

9.20 For purposes of this paragraph "compensation" means amounts paid by the qualified
 9.21 business to employees or others for personal services rendered, to the extent allowed as a
 9.22 trade or business expense deduction under section 162(a) of the Internal Revenue Code.

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

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

9.29 **Subd. 8. Data privacy.** (a) Data contained in an application submitted to the
 9.30 commissioner under subdivision 2, 3, or 4 of this section is nonpublic data, as defined in
 9.31 section 13.02, subdivision 9, except that the following data items are public:

9.32 (i) the name of a qualified small business upon approval of the application and
 9.33 certification by the commissioner under subdivision 2;

9.34 (ii) the name of a qualified investor upon approval of the application and certification
 9.35 by the commissioner under subdivision 3;

9.36 (iii) the name of a qualified fund upon approval of the application and certification
 9.37 by the commissioner under subdivision 4; and

10.1 (iv) for credit certificates issued under subdivision 5, the amount of the credit
10.2 certificate issued, amount of the qualifying investment, the name of the qualifying investor
10.3 or qualifying fund that received the certificate, and the name of the qualifying small
10.4 business in which the qualifying investment was made.

10.5 (b) The following data, including data classified as nonpublic, must be provided to
10.6 the consultant for use in conducting the program evaluation under subdivision 11:

10.7 (i) the commissioner of employment and economic development shall provide data
10.8 contained in an application for certification received from a qualified small business,
10.9 qualified investor, or qualified fund, and any annual reporting information received on an
10.10 qualified small business, qualified investor, or qualified fund; and

10.11 (ii) the commissioner of revenue shall provide data contained in any applicable tax
10.12 returns of a qualified small business, qualified investor, or qualified fund.

10.13 Subd. 9. **Rulemaking.** The commissioner's actions in establishing procedures and
10.14 requirements and in making determinations and certifications to administer this section are
10.15 not a rule for purposes of chapter 14, are not subject to the Administrative Procedure Act
10.16 contained in chapter 14, and are not subject to section 14.386.

10.17 Subd. 10. **Report to legislature.** Beginning in 2011, the commissioner must
10.18 annually report by March 15 to the chairs of the committees having jurisdiction over taxes
10.19 and economic development in the senate and the house of representatives, in compliance
10.20 with Minnesota Statutes, sections 3.195 and 3.197, on the tax credits issued under this
10.21 section. The report must include:

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

10.23 (2) the recipients of the credits;

10.24 (3) the number and type of each business certified as a qualified small business;

10.25 (4) the total amount of investment in each qualified small business resulting in
10.26 certification of tax credits; and

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

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

10.30 (7) the number and amount of credits that are no longer subject to the three-year
10.31 holding period because of the exceptions under subdivision 5, paragraph (d), clauses
10.32 (1) to (4); and

10.33 (8) any other information relevant to evaluating the effect of these credits.

10.34 Subd. 11. **Program evaluation.** The commissioner of revenue, after consultation
10.35 with the commissioners of management and budget and employment and economic
10.36 development, shall contract with a qualified outside entity or individual to evaluate the

11.1 effects of the small business investment tax credit on the Minnesota economy. The
11.2 contractor must not be associated with, employed by, or have contracts with the entities
11.3 involved in or associated with the venture capital, angel investment, life science, or high
11.4 technology industries. The program evaluation must be completed by January 2014 and
11.5 must include, in addition to any other matters the commissioner considers relevant to
11.6 evaluating the effectiveness of the credit, analysis of:

11.7 (1) the effect of the credit on the level of equity investment in qualified small
11.8 businesses in Minnesota, including investments by angel investors, venture capital firms,
11.9 and other sources of equity capital for startup businesses;

11.10 (2) the effect of the credit, if any, on investment in firms other than qualified small
11.11 businesses;

11.12 (3) the amount of economic activity generated by qualified small businesses that
11.13 received investments that qualified for the credit;

11.14 (4) the incremental change in Minnesota state and local taxes paid as a result of
11.15 the allowance of the credit; and

11.16 (5) the net benefit to the Minnesota economy of allowance of the credit relative to
11.17 alternative uses of the resources, such as increasing the research and development credit
11.18 or reducing the corporate franchise tax rate.

11.19 (b) \$100,000 is appropriated to the commissioner of revenue from the general fund
11.20 for fiscal year 2013 for the purposes of this evaluation. Any unspent amount of this
11.21 appropriation carries over to fiscal year 2014. The allocation of the credit in subdivision 5
11.22 for taxable year 2013 is reduced by \$100,000. This appropriation may be used to hire a
11.23 consultant or consultants to prepare all or part of the study.

11.24 (c) To the extent necessary to complete the program evaluation, and as provided
11.25 in subdivision 8, the consultant or consultants may request from the commissioner of
11.26 revenue tax return information of taxpayers who are qualified small businesses, qualified
11.27 investors, and qualified funds. To the extent necessary to complete the program evaluation,
11.28 the consultant or consultants may request from the commissioner of employment and
11.29 economic development applications for certification and annual reports made by qualified
11.30 small businesses, qualified investors, and qualified funds.

11.31 The consultant or consultants may not disclose or release any data received under
11.32 this section except as permitted for a government entity under chapter 13, and is subject to
11.33 the penalties and remedies provided in law for violation of that chapter.

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

11.35 Sec. 2. **[290.0692] SMALL BUSINESS INVESTMENT CREDIT.**

12.1 Subdivision 1. **Definitions.** For purposes of this section, terms defined in section
12.2 116J.8737 have the meaning given in that section.

12.3 Subdivision 2. **Credit allowed.** A qualified investor is allowed a credit against
12.4 the tax imposed under this chapter for qualified investments made in a qualified small
12.5 business for the taxable year. The credit equals the amount and applies to the taxable year
12.6 indicated on the certificate provided to the qualified investor under section 116J.8737, but
12.7 the maximum credit in any taxable year is \$250,000 for a married couple filing a joint
12.8 return, and \$125,000 for all other claimants.

12.9 Subd. 3. **Proportional credits.** Each pass-through entity must provide each
12.10 investor a statement indicating the investor's share of the credit amount certified to the
12.11 pass-through entity based on its share of the pass-through entity's capital assets at the
12.12 time of the qualified investment.

12.13 Subd. 4. **Credit refundable.** If the amount of the credit under this section for any
12.14 taxable year exceeds the claimant's liability for tax under this chapter, the commissioner
12.15 shall refund the excess to the claimant. An amount sufficient to pay the refunds required
12.16 by this section is appropriated to the commissioner from the general fund.

12.17 Subd. 5. **Audit powers.** Notwithstanding the certification eligibility issued by the
12.18 commissioner of employment and economic development under section 116J.8737, the
12.19 commissioner may utilize any audit and examination powers under chapters 270C or
12.20 289A to the extent necessary to verify that the taxpayer is eligible for the credit and to
12.21 assess for the amount of any improperly claimed credit.

12.22 **EFFECTIVE DATE.** This section is effective for investments made after July
12.23 1, 2010, for taxable years beginning after December 31, 2009, and only applies to
12.24 investments made after the qualified investor or fund making the investment and the
12.25 qualified small business receiving the investment have been certified by the commissioner
12.26 of employment and economic development.