

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1193

(SENATE AUTHORS: **HOFFMAN, Johnson and Scalze**)

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03/07/2013	691	Introduction and first reading Referred to Taxes

A bill for an act

relating to taxation; corporate franchise tax; allowing a technology transfer program for new or expanding biotechnology companies; amending Minnesota Statutes 2012, sections 290.01, subdivisions 19d, 29; 290.06, by adding a subdivision; 290.0921, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

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

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

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

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

(c) "Biotechnology company" means a corporation that:

2.1 (1) has its headquarters or base of operations and at least one-half of its full-time
2.2 employees in this state;

2.3 (2) owns, has filed for, or has a valid license to use protected, proprietary intellectual
2.4 property;

2.5 (3) is engaged in the research, development, production, or provision of
2.6 biotechnology to develop or provide products or processes for specific commercial or
2.7 public purposes, including, but not limited to, medical, medical device, pharmaceutical,
2.8 nutritional, and other health-related purposes, agricultural purposes, and environmental
2.9 purposes; and

2.10 (4) has received, at least, \$2,500,000 of private investments, whether in the form of
2.11 equity or debt.

2.12 (d) "Full-time employee" means a person who is:

2.13 (1) employed by a new or expanding biotechnology company for consideration for
2.14 at least 35 hours a week, or who renders any other standard of service generally accepted
2.15 by custom or practice as full-time employment and whose wages paid by the company are
2.16 subject to withholding as provided in section 290.92; or

2.17 (2) a partner of a new or expanding biotechnology company who works for the
2.18 partnership for at least 35 hours a week, or who renders any other standard of service
2.19 generally accepted by custom or practice as full-time employment, and whose distributive
2.20 share of income, gain, loss, or deduction, or whose guaranteed payments, or any
2.21 combination thereof, is subject to the payment of estimated taxes, as provided in section
2.22 289A.25.

2.23 To qualify as a full-time employee, an employee must also receive from the new or
2.24 expanding biotechnology company group health benefits under a health plan as defined
2.25 under section 62A.011, subdivision 3, or under a self-insured employee welfare benefit
2.26 plan as defined in United States Code, title 29, section 1002. Full-time employee excludes
2.27 any person who works as an independent contractor or on a consulting basis for the new or
2.28 expanding biotechnology company.

2.29 (e) "Maximum annual credit limit" means the following amount of tax benefits for
2.30 the specified fiscal years:

2.31 (1) for fiscal year 2014, \$10,000,000;

2.32 (2) for fiscal year 2015, \$15,000,000;

2.33 (3) for fiscal years 2016 and 2017, \$30,000,000; and

2.34 (4) for fiscal years 2018 and 2019, \$60,000,000.

2.35 (f) "New or expanding" refers to a biotechnology company that satisfies the
2.36 following conditions:

- 3.1 (1) the corporation has fewer than 250 employees in the United States:
- 3.2 (i) on June 30 of the year in which the corporation files an application for surrender
- 3.3 of unused but otherwise allowable tax benefits under this section; and
- 3.4 (ii) on the date of the exchange of the corporate franchise tax benefit certificate;
- 3.5 (2) on the later of the dates in clause (1), the business, whether as part of the
- 3.6 corporation or another entity, has not been in operation for more than ten years;
- 3.7 (3) on June 30 of the year in which the corporation files the application, the
- 3.8 corporation has at least:
- 3.9 (i) one full-time employee working in this state if the company has been incorporated
- 3.10 for less than three years;
- 3.11 (ii) five full-time employees working in this state if the company has been
- 3.12 incorporated for more than three years but less than five years; or
- 3.13 (iii) ten full-time employees working in this state if the company has been
- 3.14 incorporated for more than five years; and
- 3.15 (4) on the date of the exchange of the corporate franchise tax benefit certificate, the
- 3.16 corporation has the number of full-time employees in this state required by clause (3).
- 3.17 Subd. 3. **Allocation of tax benefits; annual limit.** (a) The commissioner, in
- 3.18 cooperation with the commissioner of revenue, shall review and approve applications
- 3.19 by new or expanding biotechnology companies in this state with unused but otherwise
- 3.20 allowable net operating loss carryovers under section 290.095 to surrender those tax
- 3.21 benefits in exchange for private financial assistance to be made by the corporate franchise
- 3.22 taxpayer that is the recipient of the corporate franchise tax benefit certificate in an amount
- 3.23 equal to at least 75 percent of the amount of the surrendered tax benefit. The amount of
- 3.24 the surrendered tax benefit is the amount of the net operating loss carryover apportioned to
- 3.25 Minnesota under the provisions of section 290.095, subdivision 3, paragraph (c), and then
- 3.26 multiplied by the corporate franchise tax rate under section 290.06, subdivision 1.
- 3.27 (b) The commissioner must approve the transfer of no more than the maximum
- 3.28 annual credit limit in each fiscal year. If the total amount of transferable tax benefits
- 3.29 requested to be surrendered by approved applicants exceeds the maximum annual credit
- 3.30 limit for a fiscal year, the commissioner, in cooperation with the commissioner of revenue,
- 3.31 must not approve the transfer of more than the maximum annual credit limit for that fiscal
- 3.32 year and shall allocate the transfer of tax benefits by approved corporations using the
- 3.33 following method:
- 3.34 (1) an eligible applicant with \$250,000 or less of transferable tax benefits may
- 3.35 surrender the entire amount of its transferable tax benefits;

4.1 (2) an eligible applicant with more than \$250,000 of transferable tax benefits may
4.2 surrender a minimum of \$250,000 of its transferable tax benefits; and

4.3 (3) an eligible applicant with more than \$250,000 of transferable tax benefits may
4.4 surrender additional transferable tax benefits determined by multiplying the applicant's
4.5 transferable tax benefits less the minimum transferable tax benefits that corporation is
4.6 authorized to surrender under clause (2) by a fraction, the numerator of which is the total
4.7 amount of transferable tax benefits that the commissioner is authorized to approve less
4.8 the total amount of transferable tax benefits approved under clauses (1) and (2), and the
4.9 denominator of which is the total amount of transferable tax benefits requested to be
4.10 surrendered by all eligible applicants less the total amount of transferable tax benefits
4.11 approved under clauses (1) and (2).

4.12 (c) If the total amount of transferable tax benefits that would be authorized using the
4.13 method under paragraph (b) exceeds the maximum annual credit limit for a fiscal year,
4.14 then the commissioner, in cooperation with the commissioner of revenue, shall limit the
4.15 total amount of tax benefits authorized to be transferred to the maximum annual credit
4.16 limit by applying the above method on an apportioned basis.

4.17 Subd. 4. **Qualifying tax benefits and corporations.** (a) For purposes of this
4.18 section, transferable tax benefits include an eligible applicant's unused but otherwise
4.19 allowable carryover of net operating losses apportioned to Minnesota under the provisions
4.20 of section 290.095, subdivision 3, paragraph (c), and then multiplied by the corporate
4.21 franchise tax rate under section 290.06, subdivision 1. An eligible applicant's transferable
4.22 tax benefits are limited to net operating losses that the applicant requests to surrender in its
4.23 application to the authority and must not, in total, exceed the maximum amount of tax
4.24 benefits that the applicant is eligible to surrender.

4.25 (b) The commissioner must not approve any application for a corporate franchise tax
4.26 benefit transfer certificate in which the new or expanding biotechnology company:

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

4.31 (2) is at least 50 percent owned or controlled, directly or indirectly, by another
4.32 corporation that has demonstrated positive net operating income in any of the two previous
4.33 full years of ongoing operations as determined on its financial statements issued according
4.34 to generally accepted accounting standards endorsed by the Financial Accounting
4.35 Standards Board, or is part of a consolidated group of affiliated corporations, as filed for
4.36 federal income tax purposes, that in the aggregate has demonstrated positive net operating

5.1 income in any of the two previous full years of ongoing operations as determined on
5.2 its combined financial statements issued according to generally accepted accounting
5.3 standards endorsed by the Financial Accounting Standards Board.

5.4 (c) The maximum lifetime value of surrendered tax benefits that a corporation is
5.5 permitted to surrender under the program is \$15,000,000.

5.6 Subd. 5. **Recapture of tax benefits.** The commissioner, in consultation with
5.7 the commissioner of revenue, shall develop a standard form agreement that each new
5.8 or expanding biotechnology company must enter into as a condition of qualifying to
5.9 surrender tax benefits under this section. The agreement must provide for the recapture of
5.10 all, or a portion of, the amount of a grant of a corporate franchise tax benefit certificate
5.11 from the new or expanding biotechnology company under this section if the taxpayer
5.12 fails to use the private financial assistance received for the surrender of tax benefits as
5.13 required by this section or fails to maintain a headquarters or a base of operation in this
5.14 state during the five years following receipt of the private financial assistance, except if
5.15 the failure to maintain a headquarters or a base of operation in this state is due to the
5.16 liquidation of the new or expanding biotechnology company, other than as a result of
5.17 a merger or acquisition of the company.

5.18 Subd. 6. **Approval of acquisition of tax benefits; purposes; required agreement.**

5.19 (a) The commissioner, in cooperation with the commissioner of revenue, shall review and
5.20 approve applications by taxpayers under the corporate franchise tax in chapter 290 to
5.21 acquire surrendered tax benefits approved under subdivision 3, which must be issued in
5.22 the form of corporate franchise tax benefit transfer certificates, in exchange for private
5.23 financial assistance to be made by the taxpayer in an amount equal to at least 75 percent of
5.24 the amount of the surrendered tax benefit. The commissioner must not issue a corporate
5.25 franchise tax benefit transfer certificate unless the applicant certifies that, as of the date of
5.26 the exchange of the corporate franchise tax benefit certificate, it is operating as a new or
5.27 expanding biotechnology company and has no intention to cease operating in this state.

5.28 (b) The private financial assistance must be used for expenses incurred in connection
5.29 with the operation of the new or expanding biotechnology company in this state, including,
5.30 but not limited to, the expenses of fixed assets, such as the construction and acquisition
5.31 and development of real estate, materials, start-up, tenant fit-out, working capital, salaries,
5.32 research and development expenditures, and any other expenses determined by the
5.33 commissioner to be necessary to carry out biotechnology company operations in this state.

5.34 (c) The commissioner shall require a corporate franchise taxpayer that acquires
5.35 a corporate franchise tax benefit certificate to enter into a written agreement with the
5.36 new or expanding biotechnology company concerning the terms and conditions of the

6.1 private financial assistance made in exchange for the certificate. The written agreement
6.2 may contain terms concerning the maintenance by the new or expanding biotechnology
6.3 company of a headquarters or a base of operation in this state.

6.4 Subd. 7. **Program evaluation.** (a) No later than December 31, 2016, the
6.5 commissioner of revenue, after consultation with the commissioners of management and
6.6 budget and employment and economic development, shall contract with a qualified outside
6.7 entity or individual to evaluate the effects of the program on the Minnesota economy.
6.8 The contractor must not be associated with, employed by, or have contracts with the
6.9 entities involved in or associated with the biotechnology industry that benefits from the
6.10 program. The program evaluation must be completed by January 2018, and provided to
6.11 the chairs and ranking minority members of the legislative committees having jurisdiction
6.12 over taxes and economic development in the senate and the house of representatives, in
6.13 compliance with sections 3.195 and 3.197. The program evaluation must include, in
6.14 addition to any other matters the commissioner of revenue considers relevant to evaluating
6.15 the effectiveness of the tax benefit, analysis of:

6.16 (1) the amount of economic activity, including the number of jobs and the wages of
6.17 those jobs, generated by emerging biotechnology companies that received investments
6.18 that qualified for the tax benefit;

6.19 (2) the incremental change in Minnesota state and local taxes paid as a result of
6.20 the tax benefit; and

6.21 (3) the net benefit to the Minnesota economy of the tax benefit relative to alternative
6.22 uses of the resources, such as increasing the research and development credit or reducing
6.23 the corporate franchise tax rate.

6.24 (b) To the extent necessary to complete the program evaluation, the consultant
6.25 or consultants may request from the commissioner of revenue tax return information
6.26 of taxpayers who surrender tax benefits under the program. To the extent necessary to
6.27 complete the program evaluation, the consultant or consultants may request from the
6.28 commissioner of employment and economic development applications for certification
6.29 and annual reports made by qualified small businesses, qualified investors, and qualified
6.30 funds. The consultant or consultants may not disclose or release any data received under
6.31 this section except as permitted for a government entity under chapter 13. The consultant
6.32 or consultants are subject to the penalties and remedies provided in law for violation
6.33 of that chapter.

6.34 Subd. 8. **Sunset.** This section expires effective following the allocation for fiscal
6.35 year 2019.

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

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

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

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

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

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

7.15 (4) amounts disallowed for intangible drilling costs due to differences between
7.16 this chapter and the Internal Revenue Code in taxable years beginning before January
7.17 1, 1987, as follows:

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

7.21 (ii) to the extent the disallowed costs are not represented by physical property, an
7.22 amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section
7.23 290.09, subdivision 8;

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

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

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

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

7.34 (iv) for capital losses incurred in taxable years beginning before January 1, 1987,
7.35 a capital loss carryover to each of the five taxable years succeeding the loss year to the

8.1 extent such loss was not used in a prior taxable year and subject to the provisions of
8.2 Minnesota Statutes 1986, section 290.16, shall be allowed;

8.3 (6) an amount for interest and expenses relating to income not taxable for federal
8.4 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and
8.5 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or
8.6 291 of the Internal Revenue Code in computing federal taxable income;

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

8.15 (8) for certified pollution control facilities placed in service in a taxable year
8.16 beginning before December 31, 1986, and for which amortization deductions were elected
8.17 under section 169 of the Internal Revenue Code of 1954, as amended through December
8.18 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes
8.19 1986, section 290.09, subdivision 7;

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

8.26 (10) 80 percent of royalties, fees, or other like income accrued or received from a
8.27 foreign operating corporation or a foreign corporation which is part of the same unitary
8.28 business as the receiving corporation, unless the income resulting from such payments or
8.29 accruals is income from sources within the United States as defined in subtitle A, chapter
8.30 1, subchapter N, part 1, of the Internal Revenue Code;

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

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

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

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

9.6 (15) for a corporation whose foreign sales corporation, as defined in section 922
9.7 of the Internal Revenue Code, constituted a foreign operating corporation during any
9.8 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,
9.9 claiming the deduction under section 290.21, subdivision 4, for income received from
9.10 the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of
9.11 income excluded under section 114 of the Internal Revenue Code, provided the income is
9.12 not income of a foreign operating company;

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

9.16 (17) in each of the five tax years immediately following the tax year in which an
9.17 addition is required under subdivision 19c, clause (15), an amount equal to one-fifth of
9.18 the delayed depreciation. For purposes of this clause, "delayed depreciation" means the
9.19 amount of the addition made by the taxpayer under subdivision 19c, clause (15). The
9.20 resulting delayed depreciation cannot be less than zero;

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

9.24 (19) to the extent included in federal taxable income, discharge of indebtedness
9.25 income resulting from reacquisition of business indebtedness included in federal taxable
9.26 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
9.27 to the extent that the income was included in net income in a prior year as a result of the
9.28 addition under section 290.01, subdivision 19c, clause (25); ~~and~~

9.29 (20) to the extent included in federal taxable income, amounts received in return for
9.30 surrendering tax benefits under section 116J.8738.

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

9.33 Sec. 3. Minnesota Statutes 2012, section 290.01, subdivision 29, is amended to read:

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

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

- 10.1 (2) for corporations, the taxable net income less
- 10.2 (i) the net operating loss deduction under section 290.095, excluding any amount
- 10.3 surrendered under section 116J.8738;
- 10.4 (ii) the dividends received deduction under section 290.21, subdivision 4;
- 10.5 (iii) the exemption for operating in a job opportunity building zone under section
- 10.6 469.317; and
- 10.7 (iv) the exemption for operating in a biotechnology and health sciences industry
- 10.8 zone under section 469.337.

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

10.10 December 31, 2012.

10.11 Sec. 4. Minnesota Statutes 2012, section 290.06, is amended by adding a subdivision

10.12 to read:

10.13 **Subd. 37. Credit; technology corporate franchise tax certificate transfer.**

10.14 A taxpayer may take a credit against the tax imposed under subdivision 1 or section

10.15 290.0921 equal to the amount of the transferable tax benefits certified to the taxpayer for

10.16 the taxable year by the commissioner of employment and economic development under

10.17 section 116J.8738. This credit is allowed against the liability for tax of any member of the

10.18 unitary business that is included in the combined report of the taxpayer.

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

10.20 December 31, 2012.

10.21 Sec. 5. Minnesota Statutes 2012, section 290.0921, subdivision 3, is amended to read:

10.22 **Subd. 3. Alternative minimum taxable income.** "Alternative minimum taxable

10.23 income" is Minnesota net income as defined in section 290.01, subdivision 19, and

10.24 includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e),

10.25 (f), and (h) of the Internal Revenue Code. If a corporation files a separate company

10.26 Minnesota tax return, the minimum tax must be computed on a separate company basis.

10.27 If a corporation is part of a tax group filing a unitary return, the minimum tax must be

10.28 computed on a unitary basis. The following adjustments must be made.

10.29 (1) For purposes of the depreciation adjustments under section 56(a)(1) and

10.30 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in

10.31 service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal

10.32 income tax purposes, including any modification made in a taxable year under section

11.1 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7,
11.2 paragraph (c).

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

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

11.11 (3) The subtraction for depreciation allowed under section 290.01, subdivision 19d,
11.12 clause (17), is allowed as a depreciation deduction in determining alternative minimum
11.13 taxable income.

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

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

11.18 (6) The special rule for dividends from section 936 companies under section
11.19 56(g)(4)(C)(iii) does not apply.

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

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

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

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

11.29 (11) For purposes of calculating the tax preference for accelerated depreciation or
11.30 amortization on certain property placed in service before January 1, 1987, under section
11.31 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the
11.32 deduction allowed under section 290.01, subdivision 19e.

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

12.1 (12) For purposes of calculating the adjustment for adjusted current earnings in
12.2 section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable
12.3 income" as it is used in section 56(g) of the Internal Revenue Code, means alternative
12.4 minimum taxable income as defined in this subdivision, determined without regard to the
12.5 adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

12.6 (13) For purposes of determining the amount of adjusted current earnings under
12.7 section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section
12.8 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend
12.9 gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the
12.10 amount of refunds of income, excise, or franchise taxes subtracted as provided in section
12.11 290.01, subdivision 19d, clause (9), or (iii) the amount of royalties, fees or other like
12.12 income subtracted as provided in section 290.01, subdivision 19d, clause (10).

12.13 (14) Alternative minimum taxable income excludes the income from operating in a
12.14 job opportunity building zone as provided under section 469.317.

12.15 (15) Alternative minimum taxable income excludes the income from operating in a
12.16 biotechnology and health sciences industry zone as provided under section 469.337.

12.17 (16) The subtraction under section 290.01, subdivision 19d, paragraph (20), for
12.18 amounts received in return for surrendering tax benefits, is allowed in determining
12.19 alternative minimum taxable income.

12.20 Items of tax preference must not be reduced below zero as a result of the
12.21 modifications in this subdivision.

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