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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2277

02/15/2012 Authored by Mahoney, Melin, Nelson, Thissen, Mullery and others

The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance

03/05/2012 Adoption of Report: Re-referred to the Committee on Taxes without further recommendation

1.1 A bill for an act
1.2 relating to taxation; establishing a new jobs now tax credit; appropriating money;
1.3 making changes to corporate franchise and sales and use taxes; amending
1.4 Minnesota Statutes 2010, sections 290.01, subdivision 19d; 290.17, subdivision
1.5 4; 290.21, subdivision 4; 297A.66, by adding a subdivision; proposing coding
1.6 for new law in Minnesota Statutes, chapter 290.

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

1.8 **ARTICLE 1**

1.9 **JOBS NOW TAX CREDIT**

1.10 Section 1. **[290.0693] JOBS NOW TAX CREDIT.**

1.11 Subdivision 1. Credit for new full-time employees. (a) A qualified employer who
1.12 is required to file a return under section 289A.08, subdivision 1, 2, or 3, is allowed a
1.13 credit against the tax imposed by this chapter for the net increase in qualified full-time
1.14 employees.

1.15 (b)(1) For hiring qualified full-time employees after March 30, 2012, but before
1.16 January 1, 2013, the credit is equal to \$3,000 times the net increase in full-time employees.
1.17 The net increase in full-time employees is the difference between:

1.18 (i) the total number of full-time employees employed by the employer on December
1.19 31, 2011; and

1.20 (ii) the number of full-time employees employed by the employer on December
1.21 31, 2012.

1.22 The net increase in full-time employees cannot exceed the number of qualified full-time
1.23 employees hired after March 31, 2012, but before January 1, 2013.

2.1 (2) For hiring qualified full-time employees after December 31, 2012, but before
2.2 July 1, 2013, the credit is equal to \$1,500 times the net increase in full-time employees.
2.3 The net increase in full-time employees is the difference between:

2.4 (i) the total number of full-time employees employed by the taxpayer on December
2.5 31, 2011; and

2.6 (ii) the number of full-time employees employed by the taxpayer on December
2.7 31, 2013.

2.8 The net increase in full-time employees cannot exceed the number of qualified full-time
2.9 employees hired after December 31, 2012, but before July 1, 2013.

2.10 (c) The credit may be claimed in the taxable year in which the qualified full-time
2.11 employee completes 12 consecutive months of continuous service as a full-time employee
2.12 of the qualified employer.

2.13 (d) The maximum aggregate credits allowed to a qualified employer under this
2.14 section for all taxable years is \$50,000.

2.15 (e) For members of a unitary business whose income and factors are included on a
2.16 combined income report under section 289A.08, subdivision 3, the number of full-time
2.17 employees and the maximum allowable credit are not determined at the individual
2.18 member level but are instead determined at the group level.

2.19 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have
2.20 the meanings given.

2.21 (b)(1) "Full-time employee" means an employee as defined in section 290.92,
2.22 subdivision 1 who meets the following criteria:

2.23 (i) the employee is paid wages as defined in section 290.92, subdivision 1, for at
2.24 least 1,820 hours during the 12-month period that starts on the date of hire;

2.25 (ii) the employee's wages are attributable to Minnesota under section 290.191,
2.26 subdivision 12;

2.27 (iii) the employee performs services for the employer in at least 50 weeks during the
2.28 12-month period that starts on the date of hire; and

2.29 (iv) the employee's total compensation, including benefits not mandated by law, is at
2.30 least \$25,000 for the 12-month period that starts on the date of hire.

2.31 (2) "Full-time employee" does not include:

2.32 (i) any employee who bears any of the relationships described in subparagraphs (A)
2.33 to (G) of section 152(d)(2) of the Internal Revenue Code to the employer;

2.34 (ii) if the employer is a corporation, any employee who owns, directly or indirectly,
2.35 more than 50 percent in value of the outstanding stock of the corporation, or if the
2.36 employer is an entity other than a corporation, an employee who owns, directly or

3.1 indirectly, more than 50 percent of the capital and profits interests in the entity, as
3.2 determined with the application of section 267(c) of the Internal Revenue Code; or

3.3 (iii) if the employer is an estate or trust, any employee who is a fiduciary of the estate
3.4 or trust, or is an individual who bears any of the relationships described in subparagraphs
3.5 (A) to (G) of section 152(d)(2) of the Internal Revenue Code to a grantor, beneficiary,
3.6 or fiduciary of the estate or trust.

3.7 (c) "Qualified employer" means an employer that:

3.8 (1) employed a total of five or more full-time employees on December 31, 2011; and

3.9 (2) hired one or more qualified full-time employees after March 31, 2012.

3.10 (d) "Qualified full-time employee" means a full-time employee who:

3.11 (1) has completed 12 consecutive months of service as a full-time employee for a
3.12 qualified employer;

3.13 (2) is a:

3.14 (i) qualified unemployed veteran;

3.15 (ii) qualified unemployed recent graduate; or

3.16 (iii) qualified unemployed job seeker; and

3.17 (3) is a resident of Minnesota on the date of hire.

3.18 (e) "Qualified unemployed veteran" is a person who:

3.19 (1) was in active military service in a designated area after September 11, 2001,
3.20 as defined in section 290.0677;

3.21 (2) was discharged or released from active duty at any time during the five-year
3.22 period prior to the date of hire;

3.23 (3) received unemployment compensation under state or federal law for not less than
3.24 four weeks during the one-year period prior to the date of hire; and

3.25 (4) was unemployed on the date of hire.

3.26 (f) "Qualified unemployed graduate" is a person who:

3.27 (1) in 2011 was awarded a diploma, degree, or certificate of completion for
3.28 graduating from high school, or a certificate, associate, or baccalaureate undergraduate
3.29 degree from an institution that meets the eligibility requirements under section 136A.155;

3.30 and

3.31 (2) had not had a full-time job after receiving or being awarded the degree or
3.32 certificate until the date of hire.

3.33 (g) "Qualified unemployed job seeker" means a person who on the date of hire:

3.34 (1) has been receiving unemployment compensation for at least three months; or

3.35 (2) had exhausted eligibility for unemployment compensation benefits and had not
3.36 had an intervening full-time job.

4.1 (h) "Date of hire" means the day that the qualified full-time employee begins
4.2 performing services as an employee for the qualified employer.

4.3 (i) "Construction trades employer" means a person carrying on a trade or business
4.4 described in industry code numbers 23 through 238990 of the North American Industry
4.5 Classification System.

4.6 Subd. 3. **Allocation of credits.** (a) By July 1, 2012, the commissioner shall develop
4.7 an Internet application that allows employers to apply for tentative credits. The application
4.8 must include the employer's name, tax identification number, and North American
4.9 Industry Classification System industry code, the name and date of hire of the employee,
4.10 and whether the employee is a veteran, recent graduate, or long-term unemployed person.

4.11 (b) The credit is available only to employers who apply for a tentative credit using
4.12 the application in paragraph (a) and who receive notice that their application has been
4.13 approved for a tentative credit.

4.14 (c) Employers may apply for a tentative credit no earlier than the date of hire of
4.15 each qualified full-time employee. Any employer may file more than one tentative credit
4.16 application, but no employer may apply for tentative credits for more than a total of 16
4.17 employees hired in 2012 or 33 employees hired in 2013.

4.18 (d) The commissioner shall approve applications seeking tentative credits for the
4.19 first 14,000 full-time employees based on the order in which the applications are received.

4.20 (e) The commissioner must promptly notify employers if they are eligible for a
4.21 tentative credit. The notice must state that the employer is eligible for a credit only after
4.22 the employee named in the application has worked for 12 consecutive months and all other
4.23 conditions of eligibility are met.

4.24 (f) The commissioner shall promptly publish public notice when all 14,000 tentative
4.25 credits have been applied for.

4.26 Subd. 4. **Tentative credits for construction trades employers.** (a) Any
4.27 construction trades employer may apply for a tentative credit.

4.28 (b) To remain eligible for a credit, a construction trades employer who has received
4.29 a tentative credit must renew the tentative credit by filing an application with the
4.30 commissioner no earlier than 180 days after date of hire and no more than 210 days after
4.31 date of hire. The renewal notice must state that the employee for whom the tentative credit
4.32 was originally granted is still an employee and that the employer reasonably believes that
4.33 all qualifications of eligibility for a credit will be met.

4.34 (c) Any tentative credit issued to a construction trades employer that is not renewed
4.35 within the time required for renewal is canceled. Any canceled tentative credits are
4.36 available to be reissued by the commissioner to employers under subdivision 3.

5.1 Subd. 5. **Flow-through entities.** Credits granted to a partnership, limited liability
 5.2 company taxed as a partnership, S corporation, or multiple owners of a business are passed
 5.3 through to the partners, members, shareholders, or owners, respectively, pro rata to each
 5.4 partner, member, shareholder, or owner based on their share of the entity's assets or as
 5.5 specially allocated in their organizational documents, as of the last day of the taxable year.

5.6 Subd. 6. **Refundable.** If the amount of the credit allowed under this section exceeds
 5.7 the liability for tax under this chapter, the commissioner shall refund the excess to the
 5.8 taxpayer.

5.9 Subd. 7. **Appropriation.** An amount sufficient to pay the refunds authorized by this
 5.10 section is appropriated to the commissioner from the general fund.

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

5.12 **ARTICLE 2**

5.13 **CORPORATE FRANCHISE TAX**

5.14 Section 1. Minnesota Statutes 2010, section 290.01, subdivision 19d, is amended to
 5.15 read:

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

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

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

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

5.27 (4) amounts disallowed for intangible drilling costs due to differences between
 5.28 this chapter and the Internal Revenue Code in taxable years beginning before January
 5.29 1, 1987, as follows:

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

6.1 (ii) to the extent the disallowed costs are not represented by physical property, an
6.2 amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section
6.3 290.09, subdivision 8;

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

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

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

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

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

6.18 (6) an amount for interest and expenses relating to income not taxable for federal
6.19 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and
6.20 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or
6.21 291 of the Internal Revenue Code in computing federal taxable income;

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

6.30 (8) for certified pollution control facilities placed in service in a taxable year
6.31 beginning before December 31, 1986, and for which amortization deductions were elected
6.32 under section 169 of the Internal Revenue Code of 1954, as amended through December
6.33 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes
6.34 1986, section 290.09, subdivision 7;

6.35 (9) amounts included in federal taxable income that are due to refunds of income,
6.36 excise, or franchise taxes based on net income or related minimum taxes paid by the

7.1 corporation to Minnesota, another state, a political subdivision of another state, the
7.2 District of Columbia, or a foreign country or possession of the United States to the extent
7.3 that the taxes were added to federal taxable income under section 290.01, subdivision 19c,
7.4 clause (1), in a prior taxable year;

7.5 (10) ~~80~~ 70 percent of royalties, fees, or other like income accrued or received from a
7.6 foreign operating corporation or a foreign corporation which is part of the same unitary
7.7 business as the receiving corporation, unless the income resulting from such payments or
7.8 accruals is income from sources within the United States as defined in subtitle A, chapter
7.9 1, subchapter N, part 1, of the Internal Revenue Code;

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

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

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

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

7.20 (15) for a corporation whose foreign sales corporation, as defined in section 922
7.21 of the Internal Revenue Code, constituted a foreign operating corporation during any
7.22 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,
7.23 claiming the deduction under section 290.21, subdivision 4, paragraph (c), for income
7.24 received from the foreign operating corporation, an amount equal to 1.23 multiplied by the
7.25 amount of income excluded under section 114 of the Internal Revenue Code, provided
7.26 the income is not income of a foreign operating company;

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

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

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

8.4 (19) to the extent included in federal taxable income, discharge of indebtedness
8.5 income resulting from reacquisition of business indebtedness included in federal taxable
8.6 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
8.7 to the extent that the income was included in net income in a prior year as a result of the
8.8 addition under section 290.01, subdivision 19c, clause (25).

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

8.11 Sec. 2. Minnesota Statutes 2010, section 290.17, subdivision 4, is amended to read:

8.12 Subd. 4. **Unitary business principle.** (a) If a trade or business conducted wholly
8.13 within this state or partly within and partly without this state is part of a unitary business,
8.14 the entire income of the unitary business is subject to apportionment pursuant to section
8.15 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary
8.16 business is considered to be derived from any particular source and none may be allocated
8.17 to a particular place except as provided by the applicable apportionment formula. The
8.18 provisions of this subdivision do not apply to business income subject to subdivision 5,
8.19 income of an insurance company, or income of an investment company determined under
8.20 section 290.36.

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

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

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

9.1 (e) Unity of ownership is not deemed to exist when a corporation is involved unless
9.2 that corporation is a member of a group of two or more business entities and more than 50
9.3 percent of the voting stock of each member of the group is directly or indirectly owned
9.4 by a common owner or by common owners, either corporate or noncorporate, or by one
9.5 or more of the member corporations of the group. For this purpose, the term "voting
9.6 stock" shall include membership interests of mutual insurance holding companies formed
9.7 under section 66A.40.

9.8 (f) The net income and apportionment factors under section 290.191 or 290.20 of
9.9 foreign corporations and other foreign entities which are part of a unitary business shall
9.10 not be included in the net income or the apportionment factors of the unitary business.
9.11 A foreign corporation or other foreign entity which is required to file a return under this
9.12 chapter shall file on a separate return basis. The net income and apportionment factors
9.13 under section 290.191 or 290.20 of foreign operating corporations shall not be included in
9.14 the net income or the apportionment factors of the unitary business except as provided in
9.15 paragraph (g).

9.16 (g) The adjusted net income of a foreign operating corporation shall be deemed to
9.17 be paid as a dividend on the last day of its taxable year to each shareholder thereof, in
9.18 proportion to each shareholder's ownership, with which such corporation is engaged in
9.19 a unitary business. Such deemed dividend shall be treated as a dividend under section
9.20 290.21, subdivision 4, paragraph (c).

9.21 Dividends actually paid by a foreign operating corporation to a corporate shareholder
9.22 which is a member of the same unitary business as the foreign operating corporation shall
9.23 be eliminated from the net income of the unitary business in preparing a combined report
9.24 for the unitary business. The adjusted net income of a foreign operating corporation
9.25 shall be its net income adjusted as follows:

9.26 (1) any taxes paid or accrued to a foreign country, the commonwealth of Puerto
9.27 Rico, or a United States possession or political subdivision of any of the foregoing shall
9.28 be a deduction; and

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

9.32 If a foreign operating corporation incurs a net loss, neither income nor deduction
9.33 from that corporation shall be included in determining the net income of the unitary
9.34 business.

9.35 (h) For purposes of determining the net income of a unitary business and the factors
9.36 to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there

10.1 must be included only the income and apportionment factors of domestic corporations or
10.2 other domestic entities other than foreign operating corporations that are determined to
10.3 be part of the unitary business pursuant to this subdivision, notwithstanding that foreign
10.4 corporations or other foreign entities might be included in the unitary business.

10.5 (i) Deductions for expenses, interest, or taxes otherwise allowable under this chapter
10.6 that are connected with or allocable against dividends, deemed dividends described
10.7 in paragraph (g), or royalties, fees, or other like income described in section 290.01,
10.8 subdivision 19d, clause (10), shall not be disallowed.

10.9 (j) Each corporation or other entity, except a sole proprietorship, that is part of a
10.10 unitary business must file combined reports as the commissioner determines. On the
10.11 reports, all intercompany transactions between entities included pursuant to paragraph
10.12 (h) must be eliminated and the entire net income of the unitary business determined in
10.13 accordance with this subdivision is apportioned among the entities by using each entity's
10.14 Minnesota factors for apportionment purposes in the numerators of the apportionment
10.15 formula and the total factors for apportionment purposes of all entities included pursuant
10.16 to paragraph (h) in the denominators of the apportionment formula.

10.17 (k) If a corporation has been divested from a unitary business and is included in a
10.18 combined report for a fractional part of the common accounting period of the combined
10.19 report:

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

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

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

10.26 Sec. 3. Minnesota Statutes 2010, section 290.21, subdivision 4, is amended to read:

10.27 Subd. 4. **Dividends received from another corporation.** (a)(1) Eighty percent
10.28 of dividends received by a corporation during the taxable year from another corporation,
10.29 in which the recipient owns 20 percent or more of the stock, by vote and value, not
10.30 including stock described in section 1504(a)(4) of the Internal Revenue Code when the
10.31 corporate stock with respect to which dividends are paid does not constitute the stock in
10.32 trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not
10.33 constitute property held by the taxpayer primarily for sale to customers in the ordinary
10.34 course of the taxpayer's trade or business, or when the trade or business of the taxpayer

11.1 does not consist principally of the holding of the stocks and the collection of the income
11.2 and gains therefrom; and

11.3 (2)(i) the remaining 20 percent of dividends if the dividends received are the stock in
11.4 an affiliated company transferred in an overall plan of reorganization and the dividend
11.5 is eliminated in consolidation under Treasury Department Regulation 1.1502-14(a), as
11.6 amended through December 31, 1989;

11.7 (ii) the remaining 20 percent of dividends if the dividends are received from a
11.8 corporation which is subject to tax under section 290.36 and which is a member of an
11.9 affiliated group of corporations as defined by the Internal Revenue Code and the dividend
11.10 is eliminated in consolidation under Treasury Department Regulation 1.1502-14(a), as
11.11 amended through December 31, 1989, or is deducted under an election under section
11.12 243(b) of the Internal Revenue Code; or

11.13 (iii) the remaining 20 percent of the dividends if the dividends are received from a
11.14 property and casualty insurer as defined under section 60A.60, subdivision 8, which is a
11.15 member of an affiliated group of corporations as defined by the Internal Revenue Code
11.16 and either: (A) the dividend is eliminated in consolidation under Treasury Regulation
11.17 1.1502-14(a), as amended through December 31, 1989; or (B) the dividend is deducted
11.18 under an election under section 243(b) of the Internal Revenue Code.

11.19 (b) Seventy percent of dividends received by a corporation during the taxable year
11.20 from another corporation in which the recipient owns less than 20 percent of the stock,
11.21 by vote or value, not including stock described in section 1504(a)(4) of the Internal
11.22 Revenue Code when the corporate stock with respect to which dividends are paid does not
11.23 constitute the stock in trade of the taxpayer, or does not constitute property held by the
11.24 taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or
11.25 business, or when the trade or business of the taxpayer does not consist principally of the
11.26 holding of the stocks and the collection of income and gain therefrom.

11.27 (c) 70 percent of dividends deemed to be paid from a foreign operating corporation
11.28 under section 290.17, subdivision 4, paragraph (g).

11.29 ~~(e)~~ (d) The dividend deduction provided in this subdivision shall be allowed only
11.30 with respect to dividends that are included in a corporation's Minnesota taxable net
11.31 income for the taxable year.

11.32 The dividend deduction provided in this subdivision does not apply to a dividend
11.33 from a corporation which, for the taxable year of the corporation in which the distribution
11.34 is made or for the next preceding taxable year of the corporation, is a corporation exempt
11.35 from tax under section 501 of the Internal Revenue Code.

12.1 The dividend deduction provided in this subdivision applies to the amount of
 12.2 regulated investment company dividends only to the extent determined under section
 12.3 854(b) of the Internal Revenue Code.

12.4 The dividend deduction provided in this subdivision shall not be allowed with
 12.5 respect to any dividend for which a deduction is not allowed under the provisions of
 12.6 section 246(c) of the Internal Revenue Code.

12.7 ~~(d)~~ (e) If dividends received by a corporation that does not have nexus with
 12.8 Minnesota under the provisions of Public Law 86-272 are included as income on the return
 12.9 of an affiliated corporation permitted or required to file a combined report under section
 12.10 290.17, subdivision 4, or 290.34, subdivision 2, then for purposes of this subdivision the
 12.11 determination as to whether the trade or business of the corporation consists principally
 12.12 of the holding of stocks and the collection of income and gains therefrom shall be made
 12.13 with reference to the trade or business of the affiliated corporation having a nexus with
 12.14 Minnesota.

12.15 ~~(e)~~ (f) The deduction provided by this subdivision does not apply if the dividends are
 12.16 paid by a FSC as defined in section 922 of the Internal Revenue Code.

12.17 ~~(f)~~ (g) If one or more of the members of the unitary group whose income is included
 12.18 on the combined report received a dividend, the deduction under this subdivision for
 12.19 each member of the unitary business required to file a return under this chapter is the
 12.20 product of: (1) 100 percent of the dividends received by members of the group; (2) the
 12.21 percentage allowed pursuant to paragraph (a) ~~or~~ (b), or (c); and (3) the percentage of the
 12.22 taxpayer's business income apportionable to this state for the taxable year under section
 12.23 290.191 or 290.20.

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

12.26 ARTICLE 3

12.27 SALES AND USE TAXES

12.28 Section 1. Minnesota Statutes 2010, section 297A.66, is amended by adding a
 12.29 subdivision to read:

12.30 Subd. 4a. **Solicitor.** (a) "Solicitor," for purposes of subdivision 1, paragraph (a),
 12.31 means a person, whether an independent contractor or other representative, who directly
 12.32 or indirectly solicits business for the retailer.

12.33 (b) A retailer is presumed to have a solicitor in this state if it enters into an agreement
 12.34 with a resident under which the resident, for a commission or other consideration, directly

13.1 or indirectly refers potential customers, whether by a link on an Internet Web site, or
13.2 otherwise, to the seller. This paragraph only applies if the total gross receipts from
13.3 sales to customers located in this state who were referred to the retailer by all residents
13.4 with this type of agreement with the retailer are at least \$10,000 in the 12-month period
13.5 ending on the last day of the most recent calendar quarter before the calendar quarter in
13.6 which the sale is made.

13.7 (c) The presumption under paragraph (a) may be rebutted by proof that the resident
13.8 with whom the retailer has an agreement did not engage in any solicitation in this state
13.9 on behalf of the retailer that would satisfy the nexus requirements of the United States
13.10 Constitution during the 12-month period in question. Nothing in this section shall be
13.11 construed to narrow the scope of the terms affiliate, agent, salesperson, canvasser, or other
13.12 representative for purposes of subdivision 1, paragraph (a).

13.13 (d) For purposes of this paragraph, "resident" includes an individual who is a
13.14 resident of this state, as defined in section 290.01, or a business that owns tangible
13.15 personal property located in this state or has one or more employees providing services
13.16 for it in this state.

13.17 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
13.18 June 30, 2012.

APPENDIX
Article locations in 12-4905

ARTICLE 1	JOBS NOW TAX CREDIT	Page.Ln 1.8
ARTICLE 2	CORPORATE FRANCHISE TAX	Page.Ln 5.12
ARTICLE 3	SALES AND USE TAXES	Page.Ln 12.26