**CORPORATE FRANCHISE TAX**
**Credit for Transfer of**
**Unused NOL Deductions**

March 14, 2012

| | Yes | No |
|---|---|---|
| **DOR Administrative Costs/Savings** | X | |

Department of Revenue
Analysis of S.F 2390 (Chamberlain) 1st Engrossment

| | Fund Impact | | | |
|---|---|---|---|---|
| | **F.Y. 2012** | **F.Y. 2013** | **F.Y. 2014** | **F.Y. 2015** |
| | (000's) | | | |
| General Fund | $0 | ($60,000) | ($60,000) | ($60,000) |

Effective beginning with tax year 2012.

## EXPLANATION OF THE BILL

**Current Law:** Minnesota law prohibits a corporation from selling its Minnesota net operating loss (NOL) carryovers to another corporation.

**Proposed Law:** This bill would allow qualifying emerging technology and biotechnology corporations to transfer or sell Minnesota NOL carryovers under the corporate franchise tax to other corporations. At a minimum the selling price of the NOL carryover must have a value equal to 75% of its full value. Biotechnology is defined as knowledge, products, and technology related to biological systems. A technology or biotechnology company must use the proceeds from the sale of its NOL carryovers to finance its Minnesota operations.

Corporations that purchase NOL carryovers would claim a separate tax credit for the value of the tax benefits of their purchased NOL carryover deductions.

To qualify, the selling or transferring corporation must have its headquarters or base of operations in Minnesota and have fewer than 250 full-time employees. It must not have had positive operating income for financial reporting purposes in the two previous years. Other requirements are listed in the bill.

In order to sell NOL carryovers, a qualifying company must apply to and obtain approval from the Department Employment and Economic Development. For each qualifying company, the cumulative total of tax benefits transferred is limited to $15 million. The total annual amount of the tax benefits that may be transferred in any fiscal year is limited to $60 million.

## REVENUE ANALYSIS DETAIL

- It was assumed that the maximum credit of $60 million per tax year would be claimed.
- The fiscal effect of activity in a tax year reduces collections in the following fiscal year.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

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