

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3331

03/17/2016 Authored by Selcer, Halverson, Rarick, Rosenthal and Erhardt

The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act  
1.2 relating to taxation; individual income; modifying requirements for certification  
1.3 as a qualified small business; amending Minnesota Statutes 2014, section  
1.4 116J.8737, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2014, section 116J.8737, subdivision 2, is amended to  
1.7 read:

1.8 Subd. 2. **Certification of qualified small businesses.** (a) Businesses may apply  
1.9 to the commissioner for certification as a qualified small business or qualified greater  
1.10 Minnesota small business for a calendar year. The application must be in the form  
1.11 and be made under the procedures specified by the commissioner, accompanied by an  
1.12 application fee of \$150. Application fees are deposited in the small business investment  
1.13 tax credit administration account in the special revenue fund. The application for  
1.14 certification for 2010 must be made available on the department's Web site by August 1,  
1.15 2010. Applications for subsequent years' certification must be made available on the  
1.16 department's Web site by November 1 of the preceding year.

1.17 (b) Within 30 days of receiving an application for certification under this subdivision,  
1.18 the commissioner must either certify the business as satisfying the conditions required  
1.19 of a qualified small business or qualified greater Minnesota small business, request  
1.20 additional information from the business, or reject the application for certification. If  
1.21 the commissioner requests additional information from the business, the commissioner  
1.22 must either certify the business or reject the application within 30 days of receiving the  
1.23 additional information. If the commissioner neither certifies the business nor rejects  
1.24 the application within 30 days of receiving the original application or within 30 days of

receiving the additional information requested, whichever is later, then the application is deemed rejected, and the commissioner must refund the \$150 application fee. A business that applies for certification and is rejected may reapply.

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

(1) the business has its headquarters in Minnesota;

(2) at least: (i) 51 percent of the business's employees are employed in Minnesota; and; (ii) 51 percent of the business's total payroll is paid or incurred in the state; and (iii) 51 percent of the total value of all contractual agreements to which the business is a party in connection with its primary business activity is for services performed under contract in Minnesota, unless the business obtains a waiver under paragraph (i);

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

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

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

(iii) researching or developing a proprietary product, process, or service in the fields of agriculture, tourism, forestry, mining, manufacturing, or transportation; or

(iv) researching, developing, or producing a new proprietary technology for use in the fields of agriculture, tourism, forestry, mining, manufacturing, or transportation;

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

(5) the business has fewer than 25 employees;

(6) the business must pay its employees annual wages of at least 175 percent of the federal poverty guideline for the year for a family of four and must pay its interns annual wages of at least 175 percent of the federal minimum wage used for federally covered employers, except that this requirement must be reduced proportionately for employees and interns who work less than full-time, and does not apply to an executive, officer, or member of the board of the business, or to any employee who owns, controls, or holds power to vote more than 20 percent of the outstanding securities of the business;

(7) the business has (i) not been in operation for more than ten years, or (ii) not been in operation for more than 20 years if the business is engaged in the research, development, or production of medical devices or pharmaceuticals for which United States Food and Drug Administration approval is required for use in the treatment or diagnosis of a disease or condition;

(8) the business has not previously received private equity investments of more than \$4,000,000;

(9) the business is not an entity disqualified under section 80A.50, paragraph (b), clause (3); and

(10) the business has not issued securities that are traded on a public exchange.

(d) In applying the limit under paragraph (c), clause (5), the employees in all members of the unitary business, as defined in section 290.17, subdivision 4, must be included.

(e) In order for a qualified investment in a business to be eligible for tax credits:

(1) the business must have applied for and received certification for the calendar year in which the investment was made prior to the date on which the qualified investment was made;

(2) the business must not have issued securities that are traded on a public exchange;

(3) the business must not issue securities that are traded on a public exchange within 180 days after the date on which the qualified investment was made; and

(4) the business must not have a liquidation event within 180 days after the date on which the qualified investment was made.

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

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

(1) "qualified high-technology field" includes aerospace, agricultural processing, renewable energy, energy efficiency and conservation, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biotechnology, medical device products, pharmaceuticals, diagnostics, biologicals, chemistry, veterinary science, and similar fields;

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

(3) "greater Minnesota" means the area of Minnesota located outside of the metropolitan area as defined in section 473.121, subdivision 2.

4.1 (h) To receive certification as a qualified greater Minnesota business, a business must  
4.2 satisfy all of the requirements of paragraph (c) and must satisfy the following conditions:

4.3 (1) the business has its headquarters in greater Minnesota; and

4.4 (2) at least 51 percent of the business's employees are employed in greater Minnesota,  
4.5 and 51 percent of the business's total payroll is paid or incurred in greater Minnesota.

4.6 (i) The commissioner must exempt a business from the requirement under paragraph  
4.7 (c), clause (2), item (iii), if the business certifies to the commissioner that the services  
4.8 required under a contract in connection with the primary business activity cannot be  
4.9 performed in Minnesota. The business must submit the certification required under this  
4.10 paragraph every six months from the month the exemption was granted. The exemption  
4.11 allowed under this paragraph must be submitted in a form and manner prescribed by  
4.12 the commissioner.

4.13 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
4.14 December 31, 2015.