State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION **H. F. No. 507**

02/11/2013 Authored by Simonson, Fischer and Runbeck
The bill was read for the first time and referred to the Committee on Government Operations

A bill for an act

relating to taxes; creating a Tax Expenditure Advisory Commission; providing for review and sunset of tax expenditures; proposing coding for new law as Minnesota Statutes, chapter 290D.

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

Section 1. **[290D.01] TITLE AND PURPOSE.**

Subdivision 1. **Citation.** This chapter shall be known and cited as the "Tax Expenditure Review Act."

Subd. 2. **Purpose.** State governmental policy objectives may be achieved both by direct expenditure of governmental funds and by granting special and selective tax preferences or tax expenditures. Both direct expenditures of governmental funds and tax expenditures have an effect on the ability of state and local governments to reduce general tax rates or to increase expenditures; therefore, tax expenditures should be subject to regular review and reauthorization in a manner similar to direct expenditures.

Sec. 2. **[290D.02] DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of this chapter, the following terms have the meanings given in this section unless the context clearly indicates a different meaning.

Subd. 2. **Commission.** "Commission" means the Tax Expenditure Advisory Commission.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of revenue or a person to whom the commissioner has delegated functions.

Subd. 4. **Tax expenditure.** "Tax expenditure" has the meaning given in section 270C.11, subdivision 6.

Subd. 5. **Tax.** "Tax" has the meaning given in section 270C.11, subdivision 6.

Sec. 3. **[290D.03] TAX EXPENDITURE ADVISORY COMMISSION.**

Subdivision 1. **Membership.** The Tax Expenditure Advisory Commission consists of 12 members appointed by the governor, as follows:

(1) three senators and three members of the house of representatives, including the chairs of the house of representatives and senate committees with jurisdiction over taxes, with no more than three of the six legislators being from the same political party; and

(2) six public members, including at least one who must be a citizen representing working families, one must be a representative of a nonprofit organization, one must be a person with experience in economic or business development, and the remainder shall be individuals who have a basic understanding of state tax policy, government operations, and public services.

Subd. 2. **Terms.** Legislative members serve two-year terms expiring September 1 of each odd-numbered year. Public members serve two-year terms expiring September 1 of each odd-numbered year.

Subd. 3. **Limits.** Members who are not chairs of a house of representatives or senate committee with jurisdiction over taxes are subject to the following restrictions:

(1) after an individual serves four years on the commission, the individual is not eligible for appointment to another term or part of a term;

(2) a legislative member who serves a full term may not be appointed to an immediately succeeding term; and

(3) a public member may not serve consecutive terms, and, for purposes of this prohibition, a member is considered to have served a term only if the member has served more than one-half of the term.

Subd. 4. **Appointments.** The governor shall make appointments before September 1 of each odd-numbered year.

Subd. 5. **Legislative members.** If a legislative member ceases to be a member of the legislative body from which the member was appointed, the member vacates membership on the commission. If a legislative member who is a chair of a house of representatives or senate committee with jurisdiction over taxes ceases to be a chair of that committee, the member vacates membership on the commission.

Subd. 6. **Vacancies.** If a vacancy occurs, the governor shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

Subd. 7. **Officers.** The commission shall have a chair and vice-chair as presiding officers. The chair and vice-chair must alternate every two years between the two membership groups: legislators and public members. The chair and vice-chair may not be from the same membership group.

Subd. 8. **Quorum; voting.** Seven members of the commission constitute a quorum. A final action or recommendation may not be made unless approved by a recorded vote of at least seven members. All other actions by the commission shall be decided by a majority of the members present and voting.

Subd. 9. **Compensation.** Each member of the commission is entitled to reimbursement for actual and necessary expenses incurred in performing commission duties. Each legislative member is entitled to reimbursement from the appropriate fund of the member's respective legislative body. Each public member is entitled to reimbursement from funds appropriated to the commission.

Sec. 4. **[290D.04] STAFF.**

The commission shall employ an executive director to act as the executive head of the commission. The executive director shall employ persons necessary to carry out this chapter.

Sec. 5. **[290D.05] RULES.**

The commission shall adopt rules necessary to carry out this chapter.

Sec. 6. **[290D.06] REPORT TO COMMISSION.**

In addition to the information provided in each even-numbered year under section 270C.11, before September 1 of each year prior to the first year of a regular legislative session, the commissioner shall provide a report with the following information for each tax expenditure scheduled to expire during the following biennium:

(1) the positive and negative impacts of the expenditure on the taxpayer or taxpayers before or after the tax expenditure;

(2) the impact of the tax expenditure on the tax incidence in the state;

(3) the economic development impacts of the preference, including the impact on jobs, wages, and benefits;

(4) the cumulative fiscal impacts of other state and federal taxes providing benefits to taxpayers for similar activities;

(5) the measurable impacts of the tax expenditure in meeting the goal of the expenditure;

(6) a comparison of the tax expenditure with tax treatment of taxpayers engaged in similar activities in neighboring states; and

(7) consideration of the probable impact on overall uniformity and fairness of the tax code.

Sec. 7. **[290D.07] COMMISSION DUTIES.**

Subdivision 1. **Review of tax expenditures.** Before February 1 of the first year of a regularly scheduled legislative session, the commission shall (1) review information from the most recent tax expenditure budget report under section 270C.11 and the additional report under section 290D.06; (2) take public testimony; and (3) vote on recommendations for continuation or repeal of each tax expenditure subject to expire in that legislative session.

Subd. 2. **Public hearings.** Before January 1 of the year a tax expenditure is included in a commission report, the commission shall conduct public hearings concerning the impact of the tax expenditure on (1) the beneficiaries; (2) the state economy; (3) its performance in meeting its purpose; (4) its impact on the tax incidence in the state; and (5) any other information that the commission deems relevant.

Subd. 3. **Commission report; recommendations.** By February 1 of the first year of every regular legislative session, the commission shall present to the chairs of the senate and house of representatives committees with jurisdiction over taxes, a report on the tax expenditures reviewed. In the report the commission shall report its recommendations for each tax expenditure, its findings on the demonstrated ability of each tax expenditure to meet its stated goal, the impact on the general fund budget of retaining or abolishing the tax expenditure, and any other information that the commission deems relevant to explain its recommendation for each expenditure.

Sec. 8. **[290D.08] REQUIREMENT FOR REVIEW AND PERIODIC REENACTMENT OF ALL EXISTING AND NEW TAX EXPENDITURES.**

Subdivision 1. **Expiration of existing tax expenditures.** The tax expenditures in statute as of July 1, 2013, are subject to sunset review and expiration on the following schedule:

(1) all tax expenditures in chapters 168, 297A, and 297B, on December 31, 2015, and every tenth year thereafter;

(2) all tax expenditures in chapters 295, 296A, 297D, 297E, 297F, 297G, 297H, and 297I, on December 31, 2017, and every tenth year thereafter;

(3) all tax expenditures in chapters 290 and 298, on December 31, 2019, and every tenth year thereafter;

(4) all tax expenditures in chapters 287, 290A, 290B, 291, and 298, on December 31, 2021, and every tenth year thereafter; and

(5) all tax expenditures in chapters 88, 270, 272, 273, 290C, 469, and 473H, on December 31, 2023, and every tenth year thereafter.

Subd. 2. **New and renewed tax expenditures.** Any legislation that creates, renews, or continues a tax expenditure must include the following provisions:

(1) an intent statement that clearly provides the purposes for the tax expenditure and a standard or goal against which its effectiveness can be measured; and

(2) an expiration date for the tax expenditure that may not exceed 12 years from the day the provision takes effect and must correspond to the expiration date for other tax expenditures in the same tax area, as listed in subdivision 1.

Sec. 9. **[290D.09] MONITORING OF RECOMMENDATIONS.**

During each legislative session, the staff of the commission shall monitor legislation affecting tax expenditures that have undergone sunset review and shall periodically report to the members of the commission on proposed changes which would modify prior recommendations of the commission.

Sec. 10. **[290D.10] CONTINUATION BY LAW.**

During the regular session in which the commission's report is received, the legislature may enact legislation to continue a tax expenditure contained in the report for a period not to exceed ten years. This chapter does not prohibit the legislature from eliminating a tax expenditure on a date earlier than that provided in this chapter.

Sec. 11. **[290D.11] GIFTS AND GRANTS.**

The commission may accept gifts, grants, and donations from any organization described in section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter. All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the commission and reported in the public record of the commission with the name of the donor and purpose of the gift, grant, or donation. Money received under this section is appropriated to the commission.