



**S.F. No. 790, as introduced - 87th Legislative Session (2011-2012) [11-2570]**

2.1 (g) "Pass-through entity" means a corporation that for the applicable taxable year is  
2.2 treated as an S corporation or a general partnership, limited partnership, limited liability  
2.3 partnership, trust, or limited liability company and which for the applicable taxable year is  
2.4 not taxed as a corporation under chapter 290.

2.5 (h) "Intern" means a student of an accredited institution of higher education, or a  
2.6 former student who has graduated in the past six months from an accredited institution  
2.7 of higher education, who is employed by a qualified small business in a nonpermanent  
2.8 position for a duration of nine months or less that provides training and experience in the  
2.9 primary business activity of the business.

2.10 Sec. 2. Minnesota Statutes 2010, section 116J.8737, subdivision 2, is amended to read:

2.11 Subd. 2. **Certification of qualified small businesses.** (a) Businesses may apply  
2.12 to the commissioner for certification as a qualified small business for a calendar year.  
2.13 The application must be in the form and be made under the procedures specified by the  
2.14 commissioner, accompanied by an application fee of \$150. Application fees are deposited  
2.15 in the small business investment tax credit administration account in the special revenue  
2.16 fund. The application for certification for 2010 must be made available on the department's  
2.17 Web site by August 1, 2010. Applications for subsequent years' certification must be made  
2.18 available on the department's Web site by November 1 of the preceding year.

2.19 (b) Within 30 days of receiving an application for certification under this subdivision,  
2.20 the commissioner must either certify the business as satisfying the conditions required of a  
2.21 qualified small business, request additional information from the business, or reject the  
2.22 application for certification. If the commissioner requests additional information from the  
2.23 business, the commissioner must either certify the business or reject the application within  
2.24 30 days of receiving the additional information. If the commissioner neither certifies the  
2.25 business nor rejects the application within 30 days of receiving the original application or  
2.26 within 30 days of receiving the additional information requested, whichever is later, then  
2.27 the application is deemed rejected, and the commissioner must refund the \$150 application  
2.28 fee. A business that applies for certification and is rejected may reapply.

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

2.30 (1) the business has its headquarters in Minnesota;

2.31 (2) at least 51 percent of the business's employees are employed in Minnesota, and  
2.32 51 percent of the business's total payroll is paid or incurred in the state;

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

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

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

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

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

3.13 (5) the business has fewer than 25 employees;

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

3.21 (7) the business has not been in operation for more than ten years;

3.22 (8) the business has not previously received private equity investments of more  
3.23 than ~~\$2,000,000~~ \$4,000,000; and

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

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

3.29 (e) In order for a qualified investment in a business to be eligible for tax credits, the  
3.30 business must have applied for and received certification for the calendar year in which  
3.31 the investment was made prior to the date on which the qualified investment was made.

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

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

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

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

4.10 Sec. 3. Minnesota Statutes 2010, section 116J.8737, subdivision 4, is amended to read:

4.11 Subd. 4. **Certification of qualified funds.** (a) A pass-through entity may apply to  
4.12 the commissioner for certification as a qualified fund for a calendar year. The application  
4.13 must be in the form and be made under the procedures specified by the commissioner,  
4.14 accompanied by an application fee of \$1,000. Application fees are deposited in the small  
4.15 business investment tax credit administration account in the special revenue fund. The  
4.16 application for certification for 2010 of qualified funds must be made available on the  
4.17 department's Web site by August 1, 2010. Applications for subsequent years' certification  
4.18 must be made available by November 1 of the preceding year.

4.19 (b) Within 30 days of receiving an application for certification under this subdivision,  
4.20 the commissioner must either certify the fund as satisfying the conditions required of a  
4.21 qualified fund, request additional information from the fund, or reject the application  
4.22 for certification. If the commissioner requests additional information from the fund,  
4.23 the commissioner must either certify the fund or reject the application within 30 days  
4.24 of receiving the additional information. If the commissioner neither certifies the fund  
4.25 nor rejects the application within 30 days of receiving the original application or within  
4.26 30 days of receiving the additional information requested, whichever is later, then the  
4.27 application is deemed rejected, and the commissioner must refund the \$1,000 application  
4.28 fee. A fund that applies for certification and is rejected may reapply.

4.29 (c) To receive certification, a fund must:

4.30 (1) invest or intend to invest in qualified small businesses;

4.31 (2) be organized as a pass-through entity; and

4.32 (3) have at least three separate investors, ~~all~~ of whom at least three whose investment  
4.33 is made in the certified business and who seek a tax credit allocation satisfy the conditions  
4.34 in subdivision 3, paragraph (c).

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5.1 (d) Investments in the fund may consist of equity investments or notes that pay  
5.2 interest or other fixed amounts, or any combination of both.

5.3 (e) In order for a qualified investment in a qualified small business to be eligible for  
5.4 tax credits, a qualified fund that makes the investment must have applied for and received  
5.5 certification for the calendar year prior to making the qualified investment.

5.6 Sec. 4. **EFFECTIVE DATE.**

5.7 Sections 1 to 3 are effective retroactively from January 1, 2011.