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## State of Minnesota

## HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **1676**

05/06/2011 Authored by Gunther and Mullery

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

02/15/2012 Adoption of Report: Pass as Amended and re-referred to Taxes

1.1 A bill for an act  
1.2 relating to economic development; creating performance rewards on fast  
1.3 investment today program; providing tax benefits; appropriating money;  
1.4 proposing coding for new law in Minnesota Statutes, chapter 469.  
1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[469.352] PERFORMANCE REWARDS ON FAST INVESTMENT**  
1.7 **TODAY (PROFIT).**

1.8 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms  
1.9 have the meanings given.

1.10 (b) "Business" means an individual, corporation, partnership, limited liability  
1.11 company, association, or other entity.

1.12 (c) "Commissioner" means the commissioner of employment and economic  
1.13 development unless stated otherwise.

1.14 (d) "New full-time equivalent position" means a position that:

1.15 (1) is created at a PROFIT business during the taxable year; and

1.16 (2) has annualized expected hours of work of at least 1,950 hours.

1.17 (e) "Performance rewards on fast investment today (PROFIT) business" means a  
1.18 business that is designated by the commissioner under subdivision 4.

1.19 (f) "Taxing authority" means a county, home rule charter or statutory city, town,  
1.20 school district, or joint powers board under section 471.59 acting on behalf of local  
1.21 government units with jurisdiction to tax in the applicable geographic area.

1.22 (g) "Wages" has the meaning given in section 290.92, subdivision 1, clause (1).

1.23 (h) "Agreement" or "business subsidy agreement" means a business subsidy  
1.24 agreement under section 116J.994 that must include but is not limited to: specification of

2.1 the duration of the agreement, job goals and a timeline for achieving those goals over the  
2.2 duration of the agreement, and construction and other investment goals and a timeline  
2.3 for achieving those goals over the duration of the agreement. The commissioner shall  
2.4 annually verify whether the terms of the agreement are being met by the participating  
2.5 PROFIT business.

2.6 Subd. 2. **PROFIT business designation; eligibility requirements.** (a) To be  
2.7 eligible for designation as a PROFIT business, a business must satisfy all of the following  
2.8 requirements:

2.9 (1) the business is engaged in at least one of the following activities as its PROFIT  
2.10 business activity in Minnesota:

2.11 (i) manufacturing;

2.12 (ii) warehousing;

2.13 (iii) distribution;

2.14 (iv) information technology;

2.15 (v) finance;

2.16 (vi) insurance; or

2.17 (vii) professional or technical services; and

2.18 (2) a business has entered into a business subsidy agreement with the commissioner  
2.19 and the appropriate local taxing authority specifying the length of the subsidy, the job  
2.20 creation goals, wage rates, and investment goals for the duration of the subsidy. An  
2.21 agreement under this subdivision must include the following minimum requirements:

2.22 (i) creation of at least ten new full-time equivalent positions within the first two  
2.23 years of designation as a PROFIT business. Positions or employees moved or relocated  
2.24 from another location of the business in Minnesota must not be included in any calculation  
2.25 or determination of job creation or new positions under this section. A business may  
2.26 not terminate, lay off, or reduce the working hours of any employee for the purpose of  
2.27 hiring an individual to satisfy job creation goals under this section. Each new full-time  
2.28 equivalent position must pay:

2.29 (A) an hourly wage of at least \$16.80 per hour for businesses located in the  
2.30 seven-county metropolitan area as defined in section 473.121, subdivision 2; or

2.31 (B) an hourly wage of at least \$13 per hour for businesses located in all other areas  
2.32 of the state; and

2.33 (ii) investment of at least \$500,000 in a construction project in the taxing authority's  
2.34 jurisdiction during the two years immediately following designation as a PROFIT  
2.35 business. For the purposes of this section, "construction project" includes a new,

3.1 expanded, or remodeled facility and an expenditure of up to \$250,000 for machinery and  
3.2 equipment for use or operation at the location of the PROFIT business.

3.3 (b) A business that is primarily engaged in making retail sales to purchasers who are  
3.4 physically present at the business location in Minnesota, lobbying, political consulting,  
3.5 leisure, hospitality, gaming, or professional services provided by attorneys, accountants,  
3.6 business consultants, physicians, or health care consultants, is not eligible for designation  
3.7 as a PROFIT business.

3.8 Subd. 3. **Local approval.** (a) Any business seeking PROFIT designation by the  
3.9 commissioner shall submit an application for approval to each taxing authority affected by  
3.10 the tax refunds provided under this section.

3.11 (b) Applications for local approval shall be made on a form and follow procedures  
3.12 and deadlines established by the commissioner.

3.13 (c) In considering an application for local approval, each taxing authority shall  
3.14 consider:

3.15 (1) the eligibility requirements under subdivision 2;

3.16 (2) potential increases in economic activity generated by the applicant in the taxing  
3.17 authority; and

3.18 (3) results of a cost-benefit analysis of the potential economic activity generated by  
3.19 the applicant and the revenue implications of potential tax refunds under this section.

3.20 (d) Local taxing authorities shall notify the commissioner, on a form established by  
3.21 the commissioner, of applications for which local approval has been granted.

3.22 Subd. 4. **Designation by the commissioner.** (a) Upon receiving notification of  
3.23 local approval under subdivision 3, the commissioner shall review the determination by  
3.24 the local taxing authorities, the subsidy agreement, and eligibility requirements under  
3.25 subdivision 2, to determine whether it is in the best interests of the state and local taxing  
3.26 area to designate a business as a PROFIT business.

3.27 (b) Prior to approving the proposed designation of a business under this subdivision,  
3.28 the commissioner shall also consider the following:

3.29 (1) the economic outlook of the industry in which the business engages;

3.30 (2) the projected sales of the business that will be generated from outside the state  
3.31 of Minnesota;

3.32 (3) how the business will build on existing regional, national, and international  
3.33 strengths to diversify the state's economy;

3.34 (4) whether the business activity would occur without public financial assistance;

3.35 (5) the effect of public financial assistance on industry competitors;

4.1 (6) the job creation and investment goals of the proposed subsidy agreement that  
4.2 exceed the minimum requirements under subdivision 2, paragraph (a), clause (2); and  
4.3 (7) any other criteria the commissioner deems necessary.

4.4 **Subd. 5. Certification for tax benefits.** (a) The commissioner must initially certify  
4.5 a PROFIT business as eligible to receive tax refunds under subdivisions 6 to 8, if the  
4.6 business has met the jobs creation and wage goals, and investment requirements of the  
4.7 agreement in the two years immediately following designation as a PROFIT business.  
4.8 The commissioner must notify the commissioner of revenue that the business is eligible  
4.9 for tax refunds under subdivisions 6 to 8. Any PROFIT business that fails to achieve  
4.10 initial certification under this paragraph is deemed ineligible for future certification under  
4.11 this subdivision.

4.12 (b) Each year after initial certification under paragraph (a), the commissioner must  
4.13 verify that a business has continued to meet the requirements of the subsidy agreement and  
4.14 certify to the commissioner of revenue that a business is eligible for the tax refunds. For  
4.15 any year after the two-year period immediately following designation, a PROFIT business  
4.16 that fails to maintain the minimum job creation goals under subdivision 2, paragraph (a),  
4.17 clause (2), is ineligible to receive tax refunds.

4.18 (c) Tax refunds under this section are available only for real and personal property  
4.19 located at, or goods or services used or consumed at, PROFIT business locations that are  
4.20 covered by the business subsidy agreement under this section and have been approved by  
4.21 the local taxing authorities and the commissioner.

4.22 **Subd. 6. Tax refunds; percentage; duration.** (a) A business that is certified under  
4.23 subdivision 5 is eligible for the following tax refunds for up to 12 years from the date of  
4.24 initial certification of eligibility by the commissioner under subdivision 5, paragraph (a):

4.25 (1) the property tax refund for certain improvements as provided in subdivision  
4.26 7; and

4.27 (2) a refund for sales and use tax and any local sales and use taxes on qualifying  
4.28 purchases as provided in subdivision 8.

4.29 (b) A refund of property, sales, and use taxes paid may be paid upon filing with the  
4.30 commissioner of revenue a claim for refund in the form and manner prescribed by the  
4.31 commissioner of revenue.

4.32 (c) The commissioner of employment and economic development shall determine  
4.33 the percentage of tax refunds that a PROFIT business may receive based on the  
4.34 performance of the business in reaching the subsidy agreement goals in the prior 12  
4.35 months. The commissioner shall certify the percentage of tax refunds to the commissioner

5.1 of revenue. No tax refund may be paid without certifications of eligibility and percentage  
5.2 of tax refunds from the commissioner of employment and economic development.

5.3 Subd. 7. **Property tax refund.** (a) The property tax imposed on the increase in tax  
5.4 capacity resulting from the value of improvements made to real property and personal  
5.5 property, classified under section 273.13, subdivision 24, and owned and operated by a  
5.6 PROFIT business, may be refunded as provided in this subdivision.

5.7 (b) For property to qualify for the refund, the occupant must be a PROFIT business.

5.8 (c) A PROFIT business is eligible for the refund beginning the first assessment year  
5.9 after the business is certified by the commissioner. To be eligible, the property must be  
5.10 occupied by July 1 of the assessment year by a PROFIT business.

5.11 (d) A PROFIT business must notify the commissioner of revenue in writing of  
5.12 eligibility under this subdivision by July 1 in order to begin receiving the refund under this  
5.13 subdivision in the following year.

5.14 (e) The refund is distributed and continues annually as long as the qualified PROFIT  
5.15 business continues to be certified as eligible under subdivision 5.

5.16 Subd. 8. **Sales and use tax refund.** (a) A PROFIT business is eligible for a refund  
5.17 of taxes paid under chapter 297A on the purchase and use of construction materials,  
5.18 services, and supplies used or consumed in, including equipment incorporated into, real  
5.19 property owned by a PROFIT business if used in the conduct of a PROFIT business  
5.20 and the purchase was made and delivery received during the duration of the PROFIT  
5.21 business designation.

5.22 (b) The refund under this subdivision applies regardless of whether the purchases are  
5.23 made by the PROFIT business or a contractor hired to perform work or provide services at  
5.24 the PROFIT business location.

5.25 (c) The tax must be refunded in the manner provided under section 297A.75.

5.26 Subd. 9. **Appropriation.** An amount sufficient to pay the refunds under subdivisions  
5.27 7 and 8 is appropriated to the commissioner of revenue from the general fund.