

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 3001

(SENATE AUTHORS: REST)

DATE	D-PG	OFFICIAL STATUS
03/21/2016	5152	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
03/24/2016	5264	Withdrawn and re-referred to Judiciary
03/30/2016		Comm report: To pass as amended and re-refer to Jobs, Agriculture and Rural Development

A bill for an act

1.1 relating to economic development; making various policy changes; modifying
1.2 agency programs; modifying the commissioner's promotional authority;
1.3 protecting the commissioner and employees from subpoena; modifying
1.4 workforce development outcomes; creating the Workforce Development
1.5 Board; amending Minnesota Statutes 2014, sections 116J.035, subdivision
1.6 1a; 116J.8738, subdivision 2; 116J.8747, by adding a subdivision; Minnesota
1.7 Statutes 2015 Supplement, sections 116J.8738, subdivision 3; 116L.98,
1.8 subdivision 3; proposing coding for new law in Minnesota Statutes, chapters
1.9 116L; 268A; repealing Minnesota Statutes 2014, section 116L.665.
1.10

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

ARTICLE 1

ECONOMIC DEVELOPMENT PROGRAMS

1.14 Section 1. Minnesota Statutes 2014, section 116J.8738, subdivision 2, is amended to
1.15 read:

1.16 Subd. 2. **Qualified business.** (a) A business is a qualified business if it satisfies the
1.17 requirement of this paragraph and is not disqualified under the provisions of paragraph

1.18 (b). To qualify, the business must:

1.19 ~~(1) have operated its trade or business in a city or cities in greater Minnesota for at~~
1.20 ~~least one year before applying under subdivision 3;~~

1.21 ~~(2)~~ (1) pay or agree to pay in the future each employee compensation, including
1.22 benefits not mandated by law, that on an annualized basis equal at least 120 percent of the
1.23 federal poverty level for a family of four;

1.24 ~~(3)~~ (2) plan and agree to expand its employment in ~~one or more cities in~~ greater
1.25 Minnesota by the minimum number of employees required under subdivision 3, paragraph
1.26 (c); and

2.1 ~~(4)~~ (3) have received certification from the commissioner under subdivision 3 that
2.2 it is a qualified business.

2.3 (b) A business is not a qualified business if it is either:

2.4 (1) primarily engaged in making retail sales to purchasers who are physically present
2.5 at the business's location or locations in greater Minnesota;

2.6 (2) a public utility, as defined in section 336B.01; or

2.7 (3) primarily engaged in lobbying; gambling; entertainment; professional sports;
2.8 political consulting; leisure; hospitality; or professional services provided by attorneys,
2.9 accountants, business consultants, physicians, or health care consultants.

2.10 ~~(e) The requirements in paragraph (a) that the business's operations and expansion~~
2.11 ~~be located in a city do not apply to an agricultural processing facility.~~

2.12 Sec. 2. Minnesota Statutes 2015 Supplement, section 116J.8738, subdivision 3, is
2.13 amended to read:

2.14 Subd. 3. **Certification of qualified business.** (a) A business may apply to
2.15 the commissioner for certification as a qualified business under this section. The
2.16 commissioner shall specify the form of the application, the manner and times for applying,
2.17 and the information required to be included in the application. The commissioner may
2.18 impose an application fee in an amount sufficient to defray the commissioner's cost of
2.19 processing certifications. Application fees are deposited in the greater Minnesota business
2.20 expansion administration account in the special revenue fund. A business must file a copy
2.21 of its application with the chief clerical officer of the city at the same time it applies to
2.22 the commissioner. ~~For an agricultural processing facility~~ a business located outside the
2.23 boundaries of a city, the business must file a copy of the application with the county auditor.

2.24 (b) The commissioner shall certify each business as a qualified business that:

2.25 (1) satisfies the requirements of subdivision 2;

2.26 (2) the commissioner determines would not expand its operations in greater
2.27 Minnesota without the tax incentives available under subdivision 4; and

2.28 (3) enters a business subsidy agreement with the commissioner that pledges to
2.29 satisfy the minimum expansion requirements of paragraph (c) within three years or less
2.30 following execution of the agreement.

2.31 The commissioner must act on an application within 90 days after its filing. Failure
2.32 by the commissioner to take action within the 90-day period is deemed approval of the
2.33 application.

3.1 (c) The business must increase the number of full-time equivalent employees
 3.2 in greater Minnesota from the time the business subsidy agreement is executed by two
 3.3 employees or ten percent, whichever is greater.

3.4 (d) The city, or a county for ~~an agricultural processing facility~~ a business located
 3.5 outside the boundaries of a city, in which the business proposes to expand its operations
 3.6 may file comments supporting or opposing the application with the commissioner. The
 3.7 comments must be filed within 30 days after receipt by the city or county of the application
 3.8 and may include a notice of any contribution the city or county intends to make to
 3.9 encourage or support the business expansion, such as the use of tax increment financing,
 3.10 property tax abatement, additional city or county services, or other financial assistance.

3.11 (e) Certification of a qualified business is effective for the seven-year period
 3.12 beginning on the first day of the calendar month immediately following the date that the
 3.13 commissioner informs the business of the award of the benefit.

3.14 ARTICLE 2

3.15 PROMOTIONAL AUTHORITY

3.16 Section 1. Minnesota Statutes 2014, section 116J.035, subdivision 1a, is amended to
 3.17 read:

3.18 Subd. 1a. **Promotional contracts.** In order to best carry out duties and
 3.19 responsibilities and to serve the people of the state in the promotion of tourism, trade,
 3.20 and economic development, the commissioner may engage in programs and projects,
 3.21 including solicitations and proposals for programs and projects, jointly with a private
 3.22 person, firm, corporation or association ~~and~~. The commissioner may enter into contracts
 3.23 under terms to be mutually agreed upon to carry out such these programs and projects not
 3.24 including acquisition of land or buildings. Contracts may be negotiated and are not subject
 3.25 to the provisions of chapter 16C relating to competitive bidding.

3.26 ARTICLE 3

3.27 SUBPOENAS

3.28 Section 1. [268A.031] COMMISSIONER AND EMPLOYEES NOT SUBJECT
 3.29 TO SUBPOENA.

3.30 The commissioner and employees of the department shall not be subject to subpoena
 3.31 for purposes of providing testimony regarding any client served under this chapter.

4.1 **ARTICLE 4**

4.2 **WORKFORCE DEVELOPMENT PROGRAM OUTCOMES**

4.3 Section 1. Minnesota Statutes 2015 Supplement, section 116L.98, subdivision 3, is
4.4 amended to read:

4.5 Subd. 3. **Uniform outcome report card; reporting by commissioner.** (a) By
4.6 December 31 of each even-numbered year, the commissioner must report to the chairs
4.7 and ranking minority members of the committees of the house of representatives and the
4.8 senate having jurisdiction over economic development and workforce policy and finance
4.9 the following information separately for each of the previous two fiscal or calendar years,
4.10 for each program subject to the requirements of subdivision 1:

4.11 (1) the total number of participants enrolled;

4.12 (2) the median pre-enrollment wages based on participant wages for the second
4.13 through the fifth calendar quarters immediately preceding the quarter of enrollment
4.14 excluding those with zero income;

4.15 (3) the total number of participants with zero income in the second through fifth
4.16 calendar quarters immediately preceding the quarter of enrollment;

4.17 (4) the total number of participants enrolled in training;

4.18 (5) the total number of participants enrolled in training by occupational group;

4.19 (6) the total number of participants that exited the program and the average
4.20 enrollment duration of participants that have exited the program during the year;

4.21 (7) the total number of exited participants who completed training;

4.22 (8) the total number of exited participants who attained a credential;

4.23 (9) the total number of participants employed during three consecutive quarters
4.24 immediately following the quarter of exit, by industry;

4.25 (10) the median wages of participants employed during ~~three~~ four consecutive
4.26 quarters immediately following the quarter of exit;

4.27 (11) the total number of participants employed during eight consecutive quarters
4.28 immediately following the quarter of exit, by industry;

4.29 (12) the median wages of participants employed during eight consecutive quarters
4.30 immediately following the quarter of exit;

4.31 (13) the total cost of the program;

4.32 (14) the total cost of the program per participant;

4.33 (15) the cost per credential received by a participant; and

4.34 (16) the administrative cost of the program.

5.1 (b) The report to the legislature must contain participant information by education
 5.2 level, race and ethnicity, gender, and geography, and a comparison of exited participants
 5.3 who completed training and those who did not.

5.4 (c) The requirements of this section apply to programs administered directly by the
 5.5 commissioner or administered by other organizations under a grant made by the department.

5.6 ARTICLE 5

5.7 PAY FOR PERFORMANCE GRANTS

5.8 Section 1. Minnesota Statutes 2014, section 116J.8747, is amended by adding a
 5.9 subdivision to read:

5.10 Subd. 5. Grant administration authority. The state agency administering grants
 5.11 under this section may offer exemption from sections 16A.28, subdivision 6, and 16B.98,
 5.12 subdivision 7.

5.13 ARTICLE 6

5.14 WORKFORCE INNOVATION AND OPPORTUNITY ACT UPDATES

5.15 Section 1. [116L.6651] WORKFORCE DEVELOPMENT BOARD.

5.16 Subdivision 1. Creation; duties. The governor's Workforce Development Board
 5.17 is created under the authority of the Workforce Innovation and Opportunity Act, United
 5.18 States Code, title 29, section 3111. The Workforce Development Board serves as
 5.19 Minnesota's state workforce development board for the purposes of the federal Workforce
 5.20 Innovation and Opportunity Act and must perform the duties under that act.

5.21 Subd. 2. Membership. (a) The board is composed of 41 voting members and
 5.22 14 nonvoting members representing businesses, labor organizations, community-based
 5.23 organizations, state agencies, and education. Membership terms, compensation of
 5.24 members, and removal of members are governed by section 15.059.

5.25 (b) No person shall serve as a member of more than one category described in
 5.26 paragraph (a).

5.27 (c) Voting members shall consist of the following:

5.28 (1) the governor or the governor's designee;

5.29 (2) one member of the house of representatives appointed by the speaker of the
 5.30 house and one member of the senate appointed by the majority leader of the senate;

5.31 (3) 21 representatives of businesses in the state appointed by the governor who:

5.32 (i) are owners of businesses, chief executives or operating officers of businesses, or
 5.33 other business executives or employers with optimum policy-making or hiring authority,

6.1 and who, in addition, may be members of a local board under United States Code, title 29,
6.2 section 3122(b)(2)(A)(i);

6.3 (ii) represent businesses, including small businesses, or organizations representing
6.4 businesses that provide employment opportunities that, at a minimum, include
6.5 high-quality, work-relevant training and development in in-demand industry sectors or
6.6 occupations in the state; and

6.7 (iii) are appointed from individuals nominated by state business organizations and
6.8 business trade associations;

6.9 (4) commissioners of the state agencies with primary responsibility for core
6.10 programs and other one stop partners identified within the state plan including:

6.11 (i) the Department of Employment and Economic Development;

6.12 (ii) Adult Basic Education through the Department of Education; and

6.13 (iii) the Department of Human Services; and

6.14 (5) other voting members appointed by the governor, including:

6.15 (i) two chief elected officials, collectively representing cities and counties;

6.16 (ii) six representatives of labor organizations, including:

6.17 (A) representatives of labor organizations who have been nominated by state labor
6.18 federations; and

6.19 (B) a member of a labor organization or a training director from a joint labor
6.20 and management apprenticeship program, or if no joint program exists in the state, a
6.21 representative of an apprenticeship program in the state;

6.22 (iii) two representatives of community-based organizations that have demonstrated
6.23 experience and expertise in addressing the employment, training, or education needs of
6.24 individuals with barriers to employment, including organizations that serve veterans or that
6.25 provide or support competitive, integrated employment for individuals with disabilities; and

6.26 (iv) four officials responsible for education programs in the state, including chief
6.27 executive officers of community colleges and other institutions of higher education,
6.28 including:

6.29 (A) chancellor, Minnesota State Colleges and Universities;

6.30 (B) president, University of Minnesota;

6.31 (C) president, private postsecondary; and

6.32 (D) representative of career and technical education.

6.33 (d) The 14 nonvoting members of the board shall be appointed by the governor and
6.34 consist of one of each of the following:

6.35 (1) a representative of Adult Basic Education;

6.36 (2) a representative of public libraries;

- 7.1 (3) a representative of Women's Economic Security Act;
7.2 (4) the chair of the Minnesota Workforce Council Association;
7.3 (5) the commissioner of the Department of Labor and Industry;
7.4 (6) the commissioner of the Office of Higher Education;
7.5 (7) the commissioner of the Department of Corrections;
7.6 (8) the commissioner of Management and Budget;
7.7 (9) two representatives of community-based organizations;
7.8 (10) a district superintendent of a public school district;
7.9 (11) a representative of school-based service learning;
7.10 (12) the minority leader of the house of representatives; and
7.11 (13) the minority leader of the senate.

7.12 Subd. 4. **Board meetings.** (a) The board shall hold regular in-person meetings at
7.13 least quarterly and as often as necessary to perform the duties outlined in the statement of
7.14 authority and bylaws. Meetings shall be called by the chair. Special meetings may be called
7.15 as needed. Notices of all meetings shall be made at least 48 hours prior to the meeting date.

7.16 (b) The chairperson shall approve an agenda for each meeting. Members shall
7.17 submit a written request for consideration of an agenda item no less than 24 hours in
7.18 advance of the meeting. Members of the public may submit a written request within 48
7.19 hours of a meeting in order to be considered for inclusion on the agenda. Those members
7.20 of the public in attendance at any meeting of the board may address the board only with
7.21 the approval or at the request of the chair.

7.22 (c) All meeting notices must be posted on the board's Web site. All meetings of the
7.23 board and committees must be open to the public. The board must make available to
7.24 the public, on a regular basis through electronic means and open meetings, information
7.25 regarding the activities of the board, information regarding membership and, on request,
7.26 minutes of formal meetings of the board.

7.27 (d) For the purpose of conducting business before the board at a duly called meeting,
7.28 a simple majority of the membership, excluding any vacancies, shall constitute a quorum.

7.29 Subd. 5. **Executive committee duties.** The executive committee must, in
7.30 cooperation with the operations committee and with advice and input of local workforce
7.31 boards and other stakeholders as appropriate, develop performance standards for the
7.32 state workforce centers. By January 15, 2017, and each odd-numbered year thereafter,
7.33 the executive committee shall submit a report to the senate and house of representatives
7.34 committees with jurisdiction over workforce development programs regarding the
7.35 performance and outcomes of the workforce centers. The report must provide

8.1 recommendations regarding workforce center funding levels and sources, program
8.2 changes, and administrative changes.

8.3 Subd. 6. **Staffing.** The Department of Employment and Economic Development
8.4 must provide staff to the board necessary to carry out the duties of the board. The board
8.5 may ask for assistance from other units of state government as it requires in order to
8.6 fulfill its duties and responsibilities.

8.7 Subd. 7. **Funding.** The commissioner shall develop recommendations on a funding
8.8 formula for allocating Workforce Innovation and Opportunity Act funds to the board with
8.9 a minimum allocation of \$350,000 per year.

8.10 Sec. 2. **REPEALER.**

8.11 Minnesota Statutes 2014, section 116L.665, is repealed.

APPENDIX
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116L.665 WORKFORCE DEVELOPMENT COUNCIL.

Subdivision 1. **Creation.** The governor's Workforce Development Council is created under the authority of the Workforce Investment Act, United States Code, title 29, section 2801, et seq. Local workforce development councils are authorized under the Workforce Investment Act. The governor's Workforce Development Council serves as Minnesota's Workforce Investment Board for the purposes of the federal Workforce Investment Act.

Subd. 2. **Membership.** The governor's Workforce Development Council is composed of 31 members appointed by the governor. The members may be removed pursuant to section 15.059. In selecting the representatives of the council, the governor shall ensure that 50 percent of the members come from nominations provided by local workforce councils. Local education representatives shall come from nominations provided by local education to employment partnerships. The 31 members shall represent the following sectors:

(a) State agencies: the following individuals shall serve on the council:

(1) commissioner of the Minnesota Department of Employment and Economic Development;

(2) commissioner of the Minnesota Department of Education; and

(3) commissioner of the Minnesota Department of Human Services.

(b) Business and industry: six individuals shall represent the business and industry sectors of Minnesota.

(c) Organized labor: six individuals shall represent labor organizations of Minnesota.

(d) Community-based organizations: four individuals shall represent community-based organizations of Minnesota. Community-based organizations are defined by the Workforce Investment Act as private nonprofit organizations that are representative of communities or significant segments of communities and that have demonstrated expertise and effectiveness in the field of workforce investment and may include entities that provide job training services, serve youth, serve individuals with disabilities, serve displaced homemakers, union-related organizations, employer-related nonprofit organizations, and organizations serving nonreservation Indians and tribal governments.

(e) Education: six individuals shall represent the education sector of Minnesota as follows:

(1) one individual shall represent local public secondary education;

(2) one individual shall have expertise in design and implementation of school-based service-learning;

(3) one individual shall represent leadership of the University of Minnesota;

(4) one individual shall represent secondary/postsecondary vocational institutions;

(5) the chancellor of the Board of Trustees of the Minnesota State Colleges and Universities; and

(6) one individual shall have expertise in agricultural education.

(f) Other: two individuals shall represent other constituencies including:

(1) units of local government; and

(2) applicable state or local programs.

The speaker and the minority leader of the house of representatives shall each appoint a representative to serve as an ex officio member of the council. The majority and minority leaders of the senate shall each appoint a senator to serve as an ex officio member of the council.

The governor shall appoint one individual representing public libraries, one individual with expertise in assisting women in obtaining employment in high-wage, high-demand, nontraditional occupations, and one individual representing adult basic education programs to serve as nonvoting advisors to the council.

(g) Appointment: each member shall be appointed for a term of three years from the first day of January or July immediately following their appointment. Elected officials shall forfeit their appointment if they cease to serve in elected office.

(h) Members of the council are compensated as provided in section 15.059, subdivision 3.

Subd. 2a. **Council meetings.** (a) If compliance with section 13D.02 is impractical, the Governor's Workforce Development Council may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the council participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the council can hear clearly all discussion and testimony and all votes of members of the council and, if needed, receive those services required by sections 15.44 and 15.441;

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(3) at least one member of the council is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the council participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, the council, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The council may require the person making such a connection to pay for documented marginal costs that the council incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the council shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

Subd. 3. Purpose; duties. The governor's Workforce Development Council shall replace the governor's Job Training Council and assume all of its requirements, duties, and responsibilities under the Workforce Investment Act. Additionally, the Workforce Development Council shall assume the following duties and responsibilities:

(a) Review the provision of services and the use of funds and resources under applicable federal human resource programs and advise the governor on methods of coordinating the provision of services and the use of funds and resources consistent with the laws and regulations governing the programs. For purposes of this section, applicable federal and state human resource programs mean the:

(1) Workforce Investment Act, United States Code, title 29, section 2911, et seq.;

(2) Carl D. Perkins Vocational and Applied Technology Education Act, United States Code, title 20, section 2301, et seq.;

(3) Adult Education Act, United States Code, title 20, section 1201, et seq.;

(4) Wagner-Peyser Act, United States Code, title 29, section 49;

(5) Personal Responsibility and Work Opportunities Act of 1996 (TANF);

(6) Food Stamp Act of 1977, United States Code, title 7, section 6(d)(4), Food Stamp Employment and Training Program, United States Code, title 7, section 2015(d)(4); and

(7) programs defined in section 116L.19, subdivision 5.

Additional federal and state programs and resources can be included within the scope of the council's duties if recommended by the governor after consultation with the council.

(b) Review federal, state, and local education, postsecondary, job skills training, and youth employment programs, and make recommendations to the governor and the legislature for establishing an integrated seamless system for providing education and work skills development services to learners and workers of all ages.

(c) Advise the governor on the development and implementation of statewide and local performance standards and measures relating to applicable federal human resource programs and the coordination of performance standards and measures among programs.

(d) Promote education and employment transitions programs and knowledge and skills of entrepreneurship among employers, workers, youth, and educators, and encourage employers to provide meaningful work-based learning opportunities.

(e) Evaluate and identify exemplary education and employment transitions programs and provide technical assistance to local partnerships to replicate the programs throughout the state.

(f) Advise the governor on methods to evaluate applicable federal human resource programs.

(g) Sponsor appropriate studies to identify human investment needs in Minnesota and recommend to the governor goals and methods for meeting those needs.

(h) Recommend to the governor goals and methods for the development and coordination of a human resource system in Minnesota.

(i) Examine federal and state laws, rules, and regulations to assess whether they present barriers to achieving the development of a coordinated human resource system.

(j) Recommend to the governor and to the federal government changes in state or federal laws, rules, or regulations concerning employment and training programs that present barriers to achieving the development of a coordinated human resource system.

(k) Recommend to the governor and to the federal government waivers of laws and regulations to promote coordinated service delivery.

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(l) Sponsor appropriate studies and prepare and recommend to the governor a strategic plan which details methods for meeting Minnesota's human investment needs and for developing and coordinating a state human resource system.

(m) Provide the commissioner of employment and economic development and the committees of the legislature with responsibility for economic development with recommendations provided to the governor under this subdivision.

(n) In consultation with local workforce councils and the Department of Employment and Economic Development, develop an ongoing process to identify and address local gaps in workforce services.

Subd. 4. **Executive committee duties.** The executive committee must, with advice and input of local workforce councils and other stakeholders as appropriate, develop performance standards for the state workforce centers. By January 15, 2002, and each odd-numbered year thereafter, the executive committee shall submit a report to the senate and house of representatives committees with jurisdiction over workforce development programs regarding the performance and outcomes of the workforce centers. The report must provide recommendations regarding workforce center funding levels and sources, program changes, and administrative changes.

Subd. 5. **Subcommittees.** The chair of the Workforce Development Council may establish subcommittees in order to carry out the duties and responsibilities of the council.

Subd. 6. **Staffing.** The Department of Employment and Economic Development must provide staff, including but not limited to professional, technical, and clerical staff necessary to perform the duties assigned to the Minnesota Workforce Development Council. All staff report to the commissioner. The council may ask for assistance from other units of state government as it requires in order to fulfill its duties and responsibilities.

Subd. 7. **Expiration.** The council expires if there is no federal funding for the human resource programs within the scope of the council's duties.

Subd. 8. **Funding.** The commissioner shall develop recommendations on a funding formula for allocating Workforce Investment Act funds to the council with a minimum allocation of \$350,000 per year. The commissioner shall report the funding formula recommendations to the legislature by January 15, 2011.