

CHAPTER 4301
DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT
JOB CREATION FUND

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4301.0100 PURPOSE AND AUTHORITY.

Parts 4301.0100 to 4301.0800 provide for the administration of the job creation fund under Minnesota Statutes, section 116J.8748.

Statutory Authority: *MS s 116J.8748*

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4301.0200 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Agreement or business subsidy agreement.** "Agreement" or "business subsidy agreement" has the meaning given in Minnesota Statutes, section 116J.8748, subdivision 1, paragraph (b).

Subp. 3. **Application.** "Application" means a submittal requesting designation as a job creation fund business.

Subp. 4. **Benefit date.** "Benefit date" means the date a business is designated by the commissioner as a job creation fund business.

Subp. 5. **Benefits.** "Benefits" means a job creation award or capital investment rebate.

Subp. 6. **Capital investment.** "Capital investment" has the meaning given in Minnesota Statutes, section 116J.8748, subdivision 1, paragraph (d). Capital investment does not include costs associated with acquiring real property but does include expenditures made by a third-party business only if expenditures are reimbursed directly by the designated job creation fund business.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Department of Employment and Economic Development.

Subp. 8. **Department.** "Department" means the Minnesota Department of Employment and Economic Development.

Subp. 9. **General purpose local government or local government.** "General purpose local government" or "local government" means a statutory city, home rule charter city, town, or county.

Subp. 10. **Job creation fund business.** "Job creation fund business" means a business that is designated by the commissioner to receive benefits under the job creation fund program upon achieving job creation, retention, and capital investment goals as specified in the business subsidy agreement.

Subp. 11. **Metropolitan area.** "Metropolitan area" means the area defined in Minnesota Statutes, section 200.02, subdivision 24.

Subp. 12. **New full-time employee.**

A. "New full-time employee" has the meaning given in Minnesota Statutes, section 116J.8748, subdivision 1, paragraph (h).

B. In the case of employee turnover or voluntary leave, a full-time employee position must not be vacant for more than 90 consecutive days to be considered a new full-time employee and counted toward the full-time job creation goal.

C. New full-time employees include employees who were working 1,040 or fewer hours annually for the business prior to employment as a full-time employee.

Subp. 13. **Project.** "Project" is the location where the business will be making capital investment and hiring or retaining employees, and is the subject of the agreement.

Subp. 14. **Qualifying expenditures.** "Qualifying expenditures" means capital investment expenditures that are paid for with nongovernmental funds and are made after a business becomes designated as a job creation fund business.

Subp. 15. **Retained job.** "Retained job" has the meaning given in Minnesota Statutes, section 116J.8748, subdivision 1, paragraph (j). If the workers formerly working at another Minnesota facility will be located in a new facility, the workers at the former facility must be counted as retained. To determine the number of retained jobs, the commissioner shall use the employment period at the time of application and during the previous 12 months.

Subp. 16. **Wages.** "Wages" has the meaning given in Minnesota Statutes, section 290.92, subdivision 1, clause (1).

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4301.0300 ELIGIBILITY OF BUSINESSES.**Subpart 1. Designation requirements.**

A. To receive designation by the commissioner as a job creation fund business, a business must satisfy all of the eligibility requirements of Minnesota Statutes, section 116J.8748, subdivision 3, paragraph (a).

B. In addition to the eligibility requirements in Minnesota Statutes, section 116J.8748, subdivision 3, paragraph (a), the commissioner shall also consider the factors in Minnesota Statutes, section 116J.8748, subdivision 3, paragraph (b), and whether the business:

- (1) is able to locate the facility outside Minnesota;
- (2) will not cause a direct adverse effect on industry competitors in Minnesota by receiving financial assistance.

Subp. 2. **Ineligible projects.** Businesses ineligible for job creation fund designation include those under Minnesota Statutes, section 116J.8748, subdivision 3, paragraph (a), clause (2).

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4301.0400 APPLICATION PROCEDURES.

Subpart 1. **Submission of application.** A general purpose local government must submit application materials to the commissioner on behalf of a business applying for job creation fund designation for a project.

Subp. 2. **Application content.** The application must include the following information:

- A. description of the business including:
 - (1) business name and contact information;
 - (2) industry in which the business operates or will operate;
 - (3) company history;
 - (4) financial condition of the business demonstrated through audit reports, financial statements, or other appropriate documentation; and
 - (5) product or industry outlook;
- B. description of the project including:
 - (1) project location and local government contact information;
 - (2) a list of local, state, and national competitors and markets served;
 - (3) how the project will diversify or strengthen the state or local economy;

(4) the projected sales generated by the business at that site that will be from customers located outside Minnesota and the projected sales that will replace or substitute purchases that otherwise would be purchased from businesses located outside the state;

(5) a source and use statement showing total project costs and contributions, identifying all sources of contributions and the amounts and types of contributions from each source; and

(6) project timeline including anticipated starting and completion dates;

C. the business's current full-time positions;

D. the business's projected full-time job creation and wage levels;

E. the number of jobs to be retained and documentation of those jobs;

F. certification by the business that the project would not happen without financial assistance;

G. certification that the business will comply with Minnesota Statutes, sections 116J.871, 116J.994, and 116L.66;

H. a resolution of support for the project from the local government where the project will occur;

I. in the case of a business that proposes to move from one location to another within Minnesota due to facility or land limitations, the local government from where the business is currently located must provide a written statement to the commissioner that the local government does not object to the move;

J. a certification from the business that it will not terminate, lay off, or reduce the working hours of an employee for the purpose of hiring an individual to satisfy job creation goals; and

K. any other information requested by the commissioner deemed necessary to review an application.

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4301.0500 APPLICATION REVIEW AND NOTIFICATION.

Subpart 1. **Commissioner's review and determination.** The commissioner must accept applications at any time and designate businesses until all available funds are committed.

Subp. 2. **Criteria for designation.** A business is eligible for job creation fund designation if the commissioner determines that the project meets the eligibility requirements in part 4301.0300 and fulfills the application requirements in part 4301.0400, and is in the best interests of the state and local area. Following designation, the commissioner shall evaluate the project and award points using the economic and business rating factors in subparts 3 and 4.

Subp. 3. **Economic factors.** The economic factors include:

- A. current number of employees in the business;
- B. the number of full-time jobs to be created;
- C. the wages and voluntary benefits paid in the jobs to be created;
- D. the amount of private capital investment in the project;
- E. how the business will diversify or strengthen the state or regional economy;
- F. the overall return on investment to the state; and
- G. local economic conditions.

Subp. 4. **Business factors.** The business factors include:

- A. industry or product outlook;
- B. projected sales generated from outside Minnesota and the sales that will replace or substitute purchases made outside the state, if any;
- C. amount of local government assistance, including but not limited to tax increment financing, tax abatement, and low-interest loans;
- D. business history; and
- E. project viability including funding commitments.

Subp. 5. **Scoring.** Each project is eligible for a maximum of 100 points. The maximum benefit amount for a project is determined by dividing total points earned by 100, and applying that percentage to the maximum award. The commissioner is authorized to decrease the award if funds are not available, to offset other government assistance, or if other conditions warrant a decrease.

Subp. 6. **Time frame for benefits.** The maximum allowed time for benefits and certification is as provided in Minnesota Statutes, section 116J.8748, subdivision 4, paragraph (b). The time frame is determined by the commissioner based on the scoring in subpart 5 and the estimated length of time needed by the business to receive benefits.

Subp. 7. **Notification.** The commissioner must notify the business in writing of the approval and associated benefits or disapproval of its application.

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4301.0600 BUSINESS SUBSIDY PROVISIONS.

Subpart 1. **Requirements.** All projects are subject to the business subsidy requirements under Minnesota Statutes, section 116J.994.

Subp. 2. **Business subsidy agreement.** A designated business must execute a business subsidy agreement between the commissioner and the business before benefits may be provided. The agreement may require higher job creation, investment, or other goals to be achieved before benefits are provided. The following information, in addition to other requirements in Minnesota Statutes, section 116J.994, must be specified in the agreement:

- A. the number of full-time jobs existing at the job creation fund designated location, if applicable;
- B. estimated number of full-time jobs to be created and time frame for full-time job creation;
- C. wages to be paid for each full-time job to be created, which on an annualized basis must be at least equal to 110 percent of the federal poverty level for a family of four;
- D. estimated total capital investment to be made during the duration of the agreement;
- E. expected financial value of any Minnesota job creation fund benefits;
- F. duration of the designation; and
- G. when benefits will be provided.

Statutory Authority: *MS s 116J.8748*

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4301.0700 CERTIFICATION AND DISBURSEMENT.

Subpart 1. **Certification.** Except in the case of retention projects in subpart 2, a business is eligible for certification by the commissioner to receive benefits upon providing verification that the business has met the requirements of Minnesota Statutes, section 116J.8748, subdivision 4, paragraph (d). Once the capital investment and job creation requirements have been met, annual recertification is required to ensure that job creation or retention requirements are met.

Subp. 2. **Retained jobs projects.** If the project is a retained jobs project, a business may be certified by the commissioner to receive benefits upon receiving verification that the business has:

- A. spent at least \$25,000,000 in capital investment, including the purchase and installation of machinery and equipment; and
- B. retained at least 200 employees if the project is in the metropolitan area, or retained at least 75 employees if the project is outside the metropolitan area.

If fewer retained jobs are maintained, the benefit must be reduced according to Minnesota Statutes, section 116J.8748, subdivision 4, paragraph (d).

Subp. 3. **Capital investment rebate.** A certified job creation fund business is eligible for a rebate on the qualifying expenditures as described in Minnesota Statutes, section 116J.8748, subdivision 5. Each expenditure made by the job creation fund business submitted for a capital

investment rebate is eligible for one rebate. Expenditures may be submitted over the life of the agreement as long as the maximum rebate allocated to a job creation fund business is not exceeded.

Subp. 4. **Job creation award.** A job creation fund business is eligible for an annual award for each new full-time job created and maintained for at least one year by the business using the schedule in Minnesota Statutes, section 116J.8748, subdivision 6. Each job is eligible for an award every year during the agreement as long as the maximum award allocated to a job creation fund business is not exceeded.

Subp. 5. **Wages.** To meet eligibility for any benefits under the job creation fund program, the business must also, at a minimum, provide total compensation according to Minnesota Statutes, section 116J.8748, subdivision 4, paragraph (f), and wage requirements must be adjusted annually as provided in Minnesota Statutes, section 116J.8748, subdivision 6, paragraph (b).

Subp. 6. **Request for disbursement.** A business may request disbursement of benefits under subparts 3 and 4 at any time, but no sooner than one year after the date the commissioner designates the business and all agreement conditions for that time period are met. Job creation fund businesses seeking a disbursement must submit invoices, payroll reports, and other forms and documentation to the commissioner. The forms must include documentation and certification by the business that it is in compliance with the agreement, Minnesota Statutes, sections 116J.871 and 116L.66. Subsequent requests must be made annually on the anniversary of the first request. The submitted forms and documentation serve the purposes of the annual report required in part 4301.0800, subpart 2. A request for disbursement must be made within 90 days following the end of the agreement.

Subp. 7. **Removal from program.** Upon request from the job creation fund business, the commissioner must remove the requesting business from the program prior to the end of the contract period without penalty.

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4301.0800 REPORTS.

Subpart 1. **Progress report.** A job creation fund business must provide a progress report within six months following designation as a job creation fund business as provided in Minnesota Statutes, section 116J.8748, subdivision 4, paragraph (g). Reasonable progress on capital investment goals may be shown with evidence of building permits, contracts, or other similar actions.

Subp. 2. **Annual report.** An annual report must be submitted, based on the date of designation, to document capital investment and job creation performance by the job creation fund business. Once the first disbursement request has been submitted, subsequent annual reports should be submitted on the anniversary of the first disbursement request. The report must include, at a minimum, information on retained jobs, new full-time jobs by position, hire dates for new full-time job positions, hourly wage and benefit information, and capital investment verification. The commissioner is authorized to request verification in the form of invoices, unemployment insurance

reports, business payroll reports, and other information the commissioner requires to verify information submitted in the report.

Subp. 3. **Failure to meet goals.** A job creation fund business that has not met one-year capital investment goals or two-year job creation goals must lose job creation fund designation. The business may reapply for future designation.

Subp. 4. **Monitoring.** The commissioner is authorized to conduct on-site monitoring of the project and examine documents relevant to the project.

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