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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-FIFTH  
SESSION**

**HOUSE FILE No. 3599**

February 28, 2008

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The bill was read for the first time and referred to the Higher Education and Work Force Development Policy and Finance  
Division

March 6, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Taxes

1.1 A bill for an act  
1.2 relating to economic development; modifying provisions governing the job  
1.3 opportunity building zones program (JOBZ); modifying tax provisions relating  
1.4 to JOBZ; providing reporting requirements; providing a tax credit; allowing tax  
1.5 benefits; defining terms; amending Minnesota Statutes 2006, sections 116J.03,  
1.6 by adding a subdivision; 270B.15; 289A.12, by adding a subdivision; 290.06, by  
1.7 adding a subdivision; 469.310, subdivision 11; 469.312, subdivision 5; 469.319;  
1.8 469.3201; Minnesota Statutes 2007 Supplement, section 268.19, subdivision  
1.9 1; proposing coding for new law in Minnesota Statutes, chapters 116J; 469;  
1.10 repealing Minnesota Statutes 2006, section 469.310, subdivision 3.

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

1.12 **ARTICLE 1**  
1.13 **JOBZ REQUIREMENTS**

1.14 Section 1. Minnesota Statutes 2006, section 116J.03, is amended by adding a  
1.15 subdivision to read:

1.16 Subd. 4. Targeted rural opportunity community. "Targeted rural opportunity  
1.17 community" means a city or township in a county that either lost population from 1980  
1.18 to 2000 according to the decennial census or had an unemployment rate higher than the  
1.19 Minnesota state annual average in 2006 according to local area unemployment statistics  
1.20 published by the Department of Employment and Economic Development.

1.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.22 Sec. 2. Minnesota Statutes 2006, section 469.310, subdivision 11, is amended to read:

1.23 Subd. 11. **Qualified business.** (a) A person carrying on a trade or business at a  
1.24 place of business located within a job opportunity building zone is a qualified business

2.1 for the purposes of sections 469.310 to 469.320 according to the criteria in paragraphs  
 2.2 (b) to ~~(f)~~ (h).

2.3 (b) A person is a qualified business only on those parcels of land for which the person  
 2.4 has entered into a business subsidy agreement, as required under ~~section~~ sections 469.3102  
 2.5 and 469.313, with the appropriate local government unit in which the parcels are located.

2.6 ~~(c) Prior to execution of the business subsidy agreement, the local government~~  
 2.7 ~~unit must consider the following factors:~~

2.8 ~~(1) how wages compare to the regional industry average;~~

2.9 ~~(2) the number of jobs that will be provided relative to overall employment in the~~  
 2.10 ~~community;~~

2.11 ~~(3) the economic outlook for the industry the business will engage in;~~

2.12 ~~(4) sales that will be generated from outside the state of Minnesota;~~

2.13 ~~(5) how the business will build on existing regional strengths or diversify the~~  
 2.14 ~~regional economy;~~

2.15 ~~(6) how the business will increase capital investment in the zone; and~~

2.16 ~~(7) any other criteria the commissioner deems necessary.~~

2.17 ~~(d)~~ (c) A person that relocates a trade or business from outside a job opportunity  
 2.18 building zone into a zone is not a qualified business unless the business meets all of the  
 2.19 requirements of paragraphs (b) and (c) and:

2.20 (1) increases full-time employment in the first full year of operation within the job  
 2.21 opportunity building zone by a minimum of five jobs or 20 percent, whichever is greater,  
 2.22 measured relative to the operations that were relocated and maintains the required level of  
 2.23 employment for each year the zone designation applies; and

2.24 (2) enters a ~~binding written agreement with the commissioner~~ business subsidy  
 2.25 agreement that:

2.26 (i) pledges the business will meet the requirements of clause (1);

2.27 (ii) provides for repayment of all tax benefits enumerated under section 469.315 to  
 2.28 the business under the procedures in section 469.319, if the requirements of clause (1) are  
 2.29 not met for the taxable year or for taxes payable during the year in which the requirements  
 2.30 were not met; and

2.31 (iii) contains any other terms the commissioner determines appropriate.

2.32 (e) The commissioner may waive the requirements under paragraph (d), clause (1),  
 2.33 if the commissioner determines that the qualified business will substantially achieve  
 2.34 the factors under this subdivision.

3.1 (f) A business is not a qualified business if, at its location or locations in the zone,  
 3.2 the business is primarily engaged in making retail sales to purchasers who are physically  
 3.3 present at the business's zone location.

3.4 (g) A qualifying business must pay each employee compensation, including benefits  
 3.5 not mandated by law, that on an annualized basis is equal to at least 110 percent of the  
 3.6 federal poverty level for a family of four.

3.7 (h) A public utility, as defined in section 336B.01, is not a qualified business.

3.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.9 **Sec. 3. [469.3101] STATE REVIEW CRITERIA.**

3.10 (a) The commissioner may only approve a business subsidy agreement after  
 3.11 considering:

3.12 (1) whether the business has local or Minnesota competitors that will be significantly  
 3.13 and adversely effected by the business subsidy agreement;

3.14 (2) whether the proposed job creation, job retention, and capital investment is  
 3.15 commensurate with the estimated tax benefits provided to the business by participating  
 3.16 in JOBZ; and

3.17 (3) whether other financial assistance is available.

3.18 (b) Additionally, the commissioner may only approve a business subsidy agreement  
 3.19 after considering if without the estimated tax benefits, the business:

3.20 (1) would not have expanded or began operations within Minnesota;

3.21 (2) would not have relocated from outside the state to Minnesota; or

3.22 (3) would have moved to another state or expanded in another state rather than  
 3.23 remaining or expanding in Minnesota.

3.24 (c) The local government unit and the qualified business must provide the  
 3.25 commissioner with the information that the commissioner needs to review a business  
 3.26 subsidy agreement under paragraphs (a) and (b). The information must be in the form  
 3.27 and manner required by the commissioner.

3.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.29 **Sec. 4. [469.3102] BUSINESS SUBSIDY AGREEMENTS; REPORTS.**

3.30 Subdivision 1. **JOBZ business subsidy agreement.** A business subsidy agreement  
 3.31 required under section 469.310, subdivision 11, paragraph (b), must comply with this  
 3.32 section.

4.1 Subd. 2. **Business subsidy agreement requirements.** A business subsidy  
4.2 agreement is not effective until the commissioner has approved the agreement in writing.  
4.3 The commissioner may not approve an agreement that violates sections 116J.993 to  
4.4 116J.995 or 469.310 to 469.3201. The commissioner may not approve an agreement  
4.5 unless:

4.6 (1) the qualified business is required to create or retain a minimum number of jobs;

4.7 (2) the agreement defines "jobs" for purposes of determining compliance with wage  
4.8 and job goals as all jobs and only those jobs that constitute "employment" for purposes of  
4.9 state unemployment insurance;

4.10 (3) the qualified business is required to report all jobs created or retained because of  
4.11 JOBZ as a separate business location for purposes of section 268.044; and

4.12 (4) the qualified business agrees to provide the appropriate data practices release so  
4.13 that the commissioner of revenue and the commissioner of employment and economic  
4.14 development can monitor compliance with the terms of the agreement.

4.15 Subd. 3. **Standard agreement.** The commissioner must develop and require the  
4.16 use of a standard business subsidy agreement that imposes definitive and enforceable  
4.17 obligations on the qualified business.

4.18 Subd. 4. **Business subsidy reports.** (a) A local government unit must annually  
4.19 report to the commissioner on the progress of the qualified business in meeting the goals  
4.20 listed in the business subsidy agreement. The report must be filed with the commissioner  
4.21 within 30 days of the end of the immediately preceding yearly period for which job  
4.22 creation, job retention, or investment obligations are imposed on a business and must be  
4.23 in a form prescribed by the commissioner. The commissioner must schedule department  
4.24 compliance reviews and reporting dates under business subsidy agreements so that reports  
4.25 are due throughout the year and compliance reviews are done on a continuous basis as  
4.26 reports are filed.

4.27 (b) The commissioner must hold a qualified business out of compliance or remove  
4.28 the business from the program if the qualified business fails to provide the information  
4.29 requested by the local government unit for the report under paragraph (a) within 30 days  
4.30 of written notice that the information is overdue. This report is in lieu of the reports  
4.31 required under section 116J.994, subdivisions 7 and 8.

4.32 Subd. 5. **Public notice and hearing.** A local government unit must provide public  
4.33 notice and hearing as required under section 116J.994, subdivision 5, before approving a  
4.34 business subsidy agreement. Public notice of a proposed business subsidy agreement must  
4.35 be published in a local newspaper of general circulation. The public hearing must be held  
4.36 in a location specified by the local government unit. Notwithstanding the requirements of

5.1 section 116J.994, subdivision 5, the commissioner is not required to provide an additional  
5.2 public notice and hearing when entering into a business subsidy agreement with a local  
5.3 government unit and a qualified business.

5.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.5 Sec. 5. Minnesota Statutes 2006, section 469.312, subdivision 5, is amended to read:

5.6 Subd. 5. **Duration limit.** (a) The maximum duration of a zone is 12 years. The  
5.7 applicant may request a shorter duration. The commissioner may specify a shorter  
5.8 duration, regardless of the requested duration.

5.9 (b) The duration limit under this subdivision and the duration of the zone for  
5.10 purposes of allowance of tax incentives described in section 469.315 is extended by three  
5.11 calendar years for each parcel of property that meets the following requirements:

5.12 (1) the qualified business operates an ethanol plant, as defined in section 41A.09, on  
5.13 the site that includes the parcel; and

5.14 (2) the business subsidy agreement was executed after April 30, 2006.

5.15 (c) (1) Notwithstanding the 12-year zone limitation, all qualified businesses that sign  
5.16 a business subsidy agreement, as required under sections 469.310, subdivision 11, and  
5.17 469.313, before December 31, 2015, are entitled to claim the tax benefits for which they  
5.18 qualify under section 469.315 for the year in which the business subsidy agreement is  
5.19 signed and ten additional years.

5.20 (2) Notwithstanding the 12-year zone limitation, all qualified businesses that sign  
5.21 a business subsidy agreement, as required under sections 469.310, subdivision 11, and  
5.22 469.313, before December 31, 2015, and are located in a targeted rural opportunity  
5.23 community, as defined under section 116J.03, subdivision 4, are entitled to claim the tax  
5.24 benefits for which they qualify under section 469.315 for the year in which the business  
5.25 subsidy agreement is signed and 12 additional years.

5.26 (3) This paragraph does not apply to:

5.27 (i) any acreage designated as a job opportunity building zone for which any person  
5.28 has fully executed a business subsidy agreement before this paragraph became effective; or

5.29 (ii) any trade or business that relocated as defined in section 469.310, subdivision  
5.30 12, and received benefits under section 469.315 prior to the relocation.

5.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.32 Sec. 6. **REVISOR'S INSTRUCTION.**

6.1 The revisor of statutes shall change the term "applicant" or similar terms to "local  
 6.2 government unit" or similar terms wherever the term appears in Minnesota Statutes,  
 6.3 sections 469.310 to 469.3201 and in any other sections referring to the JOBZ program.  
 6.4 The revisor shall also make grammatical changes related to the changes in terms.

6.5 Sec. 7. **REPEALER.**

6.6 Minnesota Statutes 2006, section 469.310, subdivision 3, is repealed.

6.7 **ARTICLE 2**  
 6.8 **JOBZ TAX PROVISIONS**

6.9 Section 1. Minnesota Statutes 2006, section 469.319, is amended to read:

6.10 **469.319 REPAYMENT OF TAX BENEFITS BY BUSINESSES THAT NO**  
 6.11 **LONGER OPERATE IN A ZONE.**

6.12 Subdivision 1. **Repayment obligation.** A business must repay the ~~amount of the~~  
 6.13 ~~total tax reduction benefits~~ listed in section 469.315 ~~and any refund under section 469.318~~  
 6.14 ~~in excess of tax liability,~~ received during the two years immediately before it (1) ceased to  
 6.15 ~~operate in the zone, if the business:~~

6.16 ~~(1) received tax reductions authorized by section 469.315; and~~

6.17 ~~(2)(i) did not meet the goals specified in an agreement entered into with the applicant~~  
 6.18 ~~that states any obligation the qualified business must fulfill in order to be eligible for tax~~  
 6.19 ~~benefits. The commissioner of employment and economic development may extend for~~  
 6.20 ~~up to one year the period for meeting any goals provided in an agreement. The applicant~~  
 6.21 ~~may extend the period for meeting other goals by documenting in writing the reason~~  
 6.22 ~~for the extension and attaching a copy of the document to its next annual report to the~~  
 6.23 ~~commissioner of employment and economic development; or~~

6.24 ~~(ii) ceased to operate its facility located within the job opportunity building zone~~  
 6.25 perform a substantial level of activities described in the business subsidy agreement, or  
 6.26 (2) otherwise ceases ceased to be or is not a qualified business, other than those subject to  
 6.27 the provisions of section 469.3191.

6.28 **Subd. 1a. Repayment obligation of businesses not operating in zone.** Persons  
 6.29 that receive benefits without operating a business in a zone are subject to repayment  
 6.30 under this section if the business for which those benefits relate is subject to repayment  
 6.31 under this section. Such persons are deemed to have ceased performing in the zone on  
 6.32 the same day that the qualified business for which the benefits relate becomes subject to  
 6.33 repayment under subdivision 1.

7.1 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have  
7.2 the meanings given.

7.3 (b) "Business" means any person ~~who~~ that received tax benefits enumerated in  
7.4 section 469.315.

7.5 (c) "Commissioner" means the commissioner of revenue.

7.6 (d) "Persons that receive benefits without operating a business in a zone" means  
7.7 persons that claim benefits under section 469.316, subdivision 2 or 4, as well as persons  
7.8 that own property leased by a qualified business and eligible for benefits under section  
7.9 272.02, subdivision 64, or 297A.68, subdivision 37, paragraph (b).

7.10 Subd. 3. **Disposition of repayment.** The repayment must be paid to the state to  
7.11 the extent it represents a state tax reduction and to the county to the extent it represents a  
7.12 property tax reduction. Any amount repaid to the state must be deposited in the general  
7.13 fund. Any amount repaid to the county for the property tax exemption must be distributed  
7.14 to the ~~local governments~~ taxing authorities with authority to levy taxes in the zone in the  
7.15 same manner provided for distribution of payment of delinquent property taxes. Any  
7.16 repayment of local sales taxes must be repaid to the commissioner for distribution to the  
7.17 city or county imposing the local sales tax.

7.18 Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under  
7.19 chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must  
7.20 file an amended return with the commissioner of revenue and pay any taxes required  
7.21 to be repaid within 30 days after ~~ceasing to do business in the zone~~ becoming subject  
7.22 to repayment under this section. The amount required to be repaid is determined by  
7.23 calculating the tax for the period or periods for which repayment is required without  
7.24 regard to the exemptions and credits allowed under section 469.315.

7.25 (b) For the repayment of taxes imposed under chapter 297B, a business must pay any  
7.26 taxes required to be repaid to the motor vehicle registrar, as agent for the commissioner  
7.27 of revenue, within 30 days after ~~ceasing to do business in the zone~~ becoming subject  
7.28 to repayment under this section.

7.29 (c) For the repayment of property taxes, the county auditor shall prepare a tax  
7.30 statement for the business, applying the applicable tax extension rates for each payable  
7.31 year and provide a copy to the business and to the taxpayer of record. The business must  
7.32 pay the taxes to the county treasurer within 30 days after receipt of the tax statement.  
7.33 The business or the taxpayer of record may appeal the valuation and determination of the  
7.34 property tax to the Tax Court within 30 days after receipt of the tax statement.

7.35 (d) The provisions of chapters 270C and 289A relating to the commissioner's  
7.36 authority to audit, assess, and collect the tax and to hear appeals are applicable to the

8.1 repayment required under paragraphs (a) and (b). The commissioner may impose civil  
8.2 penalties as provided in chapter 289A, and the additional tax and penalties are subject to  
8.3 interest at the rate provided in section 270C.40, from 30 days after ~~ceasing to do business~~  
8.4 ~~in the job opportunity building zone~~ becoming subject to repayment under this section  
8.5 until the date the tax is paid.

8.6 (e) If a property tax is not repaid under paragraph (c), the county treasurer shall add  
8.7 the amount required to be repaid to the property taxes assessed against the property for  
8.8 payment in the year following the year in which the ~~treasurer discovers that the business~~  
8.9 ~~ceased to operate in the job opportunity building zone~~ auditor provided the statement  
8.10 under paragraph (c).

8.11 (f) For determining the tax required to be repaid, a ~~tax~~ reduction of a state or local  
8.12 sales or use tax is deemed to have been received on the date that the ~~tax would have~~  
8.13 ~~been due if the taxpayer had not been entitled to the exemption or on the date a refund~~  
8.14 ~~was issued for a refundable tax credit.~~ good or service was purchased or first put to a  
8.15 taxable use. In the case of an income tax or franchise tax, including the credit payable  
8.16 under section 469.318, a reduction of tax is deemed to have been received for the two  
8.17 most recent tax years that have ended prior to the date that the business became subject to  
8.18 repayment under this section. In the case of a property tax, a reduction of tax is deemed to  
8.19 have been received for the taxes payable in the year that the business became subject to  
8.20 repayment under this section and for the taxes payable in the prior year.

8.21 (g) The commissioner may assess the repayment of taxes under paragraph (d)  
8.22 any time within two years after the business ~~ceases to operate in the job opportunity~~  
8.23 ~~building zone~~ becomes subject to repayment under subdivision 1, or within any period of  
8.24 limitations for the assessment of tax under section 289A.38, whichever period is later. The  
8.25 county auditor may send the statement under paragraph (c) any time within three years  
8.26 after the business becomes subject to repayment under subdivision 1.

8.27 (h) A business is not entitled to any income tax or franchise tax benefits, including  
8.28 refundable credits, for any part of the year in which the business becomes subject to  
8.29 repayment under this section nor for any year thereafter. Property is not exempt from tax  
8.30 under section 272.02, subdivision 64, for any taxes payable in the year following the year  
8.31 in which the property became subject to repayment under this section nor for any year  
8.32 thereafter. A business is not eligible for any sales tax benefits beginning with goods  
8.33 or services purchased or first put to a taxable use on the day that the business becomes  
8.34 subject to repayment under this section.

8.35 Subd. 5. **Waiver authority.** (a) The commissioner may waive all or part of a  
8.36 repayment required under subdivision 1, if the commissioner, in consultation with

9.1 the commissioner of employment and economic development and appropriate officials  
9.2 from the local government units in which the qualified business is located, determines  
9.3 that requiring repayment of the tax is not in the best interest of the state or the local  
9.4 government units and the business ceased operating as a result of circumstances beyond  
9.5 its control including, but not limited to:

- 9.6 (1) a natural disaster;
- 9.7 (2) unforeseen industry trends; or
- 9.8 (3) loss of a major supplier or customer.

9.9 (b)(1) The commissioner shall waive repayment required under subdivision 1a if  
9.10 the commissioner has waived repayment by the operating business under subdivision 1,  
9.11 unless the person that received benefits without having to operate a business in the zone  
9.12 was a contributing factor in the qualified business becoming subject to repayment under  
9.13 subdivision 1;

9.14 (2) the commissioner shall waive the repayment required under subdivision 1a, even  
9.15 if the repayment has not been waived for the operating business if:

- 9.16 (i) the person that received benefits without having to operate a business in the zone  
9.17 and the business that operated in the zone are not related parties as defined in section  
9.18 267(b) of the Internal Revenue Code of 1986, as amended through December 31, 2007; and  
9.19 (ii) actions of the person were not a contributing factor in the qualified business  
9.20 becoming subject to repayment under subdivision 1.

9.21 Subd. 6. **Reconciliation.** Where this section is inconsistent with section 116J.994,  
9.22 subdivision 3, paragraph (e), or 6, or any other provisions of sections 116J.993 to  
9.23 116J.995, this section prevails.

9.24 **EFFECTIVE DATE.** The amendment to subdivision 4, paragraph (c), of this  
9.25 section is effective the day following final enactment. The amendment to subdivision 4,  
9.26 paragraph (f), is effective January 1, 2008, and applies to all businesses that become  
9.27 subject to this section in 2008 and thereafter. The rest of this section is effective  
9.28 retroactively from January 1, 2004, except that for violations that occur before the day  
9.29 following final enactment, this section does not apply if the business has repaid the  
9.30 benefits or the commissioner has granted a waiver.

9.31 Sec. 2. **[469.3191] BREACH OF AGREEMENTS BY BUSINESSES THAT**  
9.32 **CONTINUE TO OPERATE IN ZONE.**

9.33 (a) A "business in violation of its business subsidy agreement but not subject to  
9.34 section 469.319" means a business that is operating in violation of the business subsidy

10.1 agreement but maintains a level of operations in the zone that does not subject it to the  
10.2 repayment provisions of section 469.319, subdivision 1, clause (1).

10.3 (b) A business described in paragraph (a) that does not sign a new or amended  
10.4 business subsidy agreement, as authorized under paragraph (h), is subject to repayment  
10.5 of benefits under section 469.319 from the day that it ceases to perform in the zone a  
10.6 substantial level of activities described in the business subsidy agreement.

10.7 (c) A business described in paragraph (a) ceases being a qualified business after the  
10.8 last day that it has to meet the goals stated in the agreement.

10.9 (d) A business is not entitled to any income tax or franchise tax benefits, including  
10.10 refundable credits, for any part of the year in which the business is no longer a qualified  
10.11 business under paragraph (c), and thereafter. A business is not eligible for sales tax  
10.12 benefits beginning with goods or services purchased or put to a taxable use on the day that  
10.13 it is no longer a qualified business under paragraph (c). Property is not exempt from tax  
10.14 under section 272.02, subdivision 64, for any taxes payable in the year following the year  
10.15 in which the business is no longer a qualified business under paragraph (c), and thereafter.

10.16 (e) A business described in paragraph (a) that wants to resume eligibility for benefits  
10.17 under section 469.315 must request that the commissioner of employment and economic  
10.18 development determine the length of time that the business is ineligible for benefits. The  
10.19 commissioner shall determine the length of ineligibility by applying the proportionate  
10.20 level of performance under the agreement to the total duration of the zone as measured  
10.21 from the date that the business subsidy agreement was executed. The length of time  
10.22 must not be less than one full year for each tax benefit listed in section 469.315. The  
10.23 commissioner of employment and economic development and the appropriate local  
10.24 government officials shall consult with the commissioner of revenue to ensure that the  
10.25 period of ineligibility includes at least one full year of benefits for each tax.

10.26 (f) The length of ineligibility determined under paragraph (e) must be applied by  
10.27 reducing the zone duration for the property by the duration of the ineligibility.

10.28 (g) The zone duration of property that has been adjusted under paragraph (f) must  
10.29 not be altered again to permit the business additional benefits under section 469.315.

10.30 (h) A business described in paragraph (a) becomes eligible for benefits available  
10.31 under section 469.315 by entering into a new or amended business subsidy agreement  
10.32 with the appropriate local government unit. The new or amended agreement must cover  
10.33 a period beginning from the date of ineligibility under the original business subsidy  
10.34 agreement, through the zone duration determined by the commissioner under paragraph  
10.35 (f). No exemption of property taxes under section 272.02, subdivision 64, is available  
10.36 under the new or amended agreement for property taxes due or paid before the date of

11.1 the final execution of the new or amended agreement, but unpaid taxes due after that  
11.2 date need not be paid.

11.3 (i) A business that violates the terms of an agreement authorized under paragraph  
11.4 (h) is permanently barred from seeking benefits under section 469.315 and is subject to  
11.5 the repayment provisions under section 469.319 effective from the day that the business  
11.6 ceases to operate as a qualified business in the zone under the second agreement.

11.7 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2004.  
11.8 For violations that occur before the day following final enactment, this section does not  
11.9 apply if the business has repaid the benefits or the commissioner has granted a waiver.

11.10 **Sec. 3. [469.3192] PROHIBITION AGAINST AMENDMENTS TO BUSINESS**  
11.11 **SUBSIDY AGREEMENT.**

11.12 Except as authorized under section 469.3191, under no circumstance shall terms  
11.13 of any agreement required as a condition for eligibility for benefits listed under section  
11.14 469.315 be amended to change job creation, job retention, or wage goals included in  
11.15 the agreement.

11.16 **EFFECTIVE DATE.** This section is effective the day following final enactment  
11.17 and applies to all agreements executed before, on, or after the effective date.

11.18 **Sec. 4. [469.3193] CERTIFICATION OF CONTINUING ELIGIBILITY FOR**  
11.19 **JOBZ BENEFITS.**

11.20 (a) By December 1 of each year, every qualified business must certify to the  
11.21 commissioner of revenue, on a form prescribed by the commissioner of revenue, whether  
11.22 it is in compliance with any agreement required as a condition for eligibility for benefits  
11.23 listed under section 469.315. A business that fails to submit the certification, or any  
11.24 business, including those still operating in the zone, that submits a certification that  
11.25 the commissioner of revenue later determines materially misrepresents the business's  
11.26 compliance with the agreement, is subject to the repayment provisions under section  
11.27 469.319 from January 1 of the year in which the report is due or the date that the business  
11.28 became subject to section 469.319, whichever is earlier. Any such business is permanently  
11.29 barred from obtaining benefits under section 469.315. For purposes of this section, the bar  
11.30 applies to an entity and also applies to any individuals or entities that have an ownership  
11.31 interest of at least 20 percent of the entity.

11.32 (b) Before the sanctions under paragraph (a) apply to a business that fails to  
11.33 submit the certification, the commissioner of revenue shall send notice to the business,

12.1 demanding that the certification be submitted within 30 days and advising the business  
 12.2 of the consequences for failing to do so. The commissioner of revenue shall notify  
 12.3 the commissioner of employment and economic development and the appropriate job  
 12.4 opportunity subzone administrator whenever notice is sent to a business under this  
 12.5 paragraph.

12.6 (c) The certification required under this section is public.

12.7 (d) The commissioner of revenue shall promptly notify the commissioner of  
 12.8 employment and economic development of all businesses that certify that they are not  
 12.9 in compliance with the terms of their business subsidy agreement and all businesses  
 12.10 that fail to file the certification.

12.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.12 **ARTICLE 3**

12.13 **STATE AUDITOR AND JOBZ**

12.14 Section 1. Minnesota Statutes 2007 Supplement, section 268.19, subdivision 1, is  
 12.15 amended to read:

12.16 Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered  
 12.17 from any person under the administration of the Minnesota Unemployment Insurance Law  
 12.18 are private data on individuals or nonpublic data not on individuals as defined in section  
 12.19 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court  
 12.20 order or section 13.05. A subpoena is not considered a district court order. These data  
 12.21 may be disseminated to and used by the following agencies without the consent of the  
 12.22 subject of the data:

12.23 (1) state and federal agencies specifically authorized access to the data by state  
 12.24 or federal law;

12.25 (2) any agency of any other state or any federal agency charged with the  
 12.26 administration of an unemployment insurance program;

12.27 (3) any agency responsible for the maintenance of a system of public employment  
 12.28 offices for the purpose of assisting individuals in obtaining employment;

12.29 (4) the public authority responsible for child support in Minnesota or any other  
 12.30 state in accordance with section 256.978;

12.31 (5) human rights agencies within Minnesota that have enforcement powers;

12.32 (6) the Department of Revenue to the extent necessary for its duties under Minnesota  
 12.33 laws;

13.1 (7) public and private agencies responsible for administering publicly financed  
13.2 assistance programs for the purpose of monitoring the eligibility of the program's  
13.3 recipients;

13.4 (8) the Department of Labor and Industry and the Division of Insurance Fraud  
13.5 Prevention in the Department of Commerce for uses consistent with the administration of  
13.6 their duties under Minnesota law;

13.7 (9) local and state welfare agencies for monitoring the eligibility of the data subject  
13.8 for assistance programs, or for any employment or training program administered by those  
13.9 agencies, whether alone, in combination with another welfare agency, or in conjunction  
13.10 with the department or to monitor and evaluate the statewide Minnesota family investment  
13.11 program by providing data on recipients and former recipients of food stamps or food  
13.12 support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance  
13.13 under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

13.14 (10) local and state welfare agencies for the purpose of identifying employment,  
13.15 wages, and other information to assist in the collection of an overpayment debt in an  
13.16 assistance program;

13.17 (11) local, state, and federal law enforcement agencies for the purpose of ascertaining  
13.18 the last known address and employment location of an individual who is the subject of  
13.19 a criminal investigation;

13.20 (12) the United States Citizenship and Immigration Services has access to data on  
13.21 specific individuals and specific employers provided the specific individual or specific  
13.22 employer is the subject of an investigation by that agency;

13.23 (13) the Department of Health for the purposes of epidemiologic investigations; ~~and~~

13.24 (14) the Department of Corrections for the purpose of postconfinement employment  
13.25 tracking of individuals who had been committed to the custody of the commissioner  
13.26 of corrections; and

13.27 (15) the state auditor to the extent necessary to conduct audits of job opportunity  
13.28 building zones as required under section 469.3201.

13.29 (b) Data on individuals and employers that are collected, maintained, or used by  
13.30 the department in an investigation under section 268.182 are confidential as to data  
13.31 on individuals and protected nonpublic data not on individuals as defined in section  
13.32 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district  
13.33 court order or to a party named in a criminal proceeding, administrative or judicial, for  
13.34 preparation of a defense.

13.35 (c) Data gathered by the department in the administration of the Minnesota  
13.36 unemployment insurance program must not be made the subject or the basis for any

14.1 suit in any civil proceedings, administrative or judicial, unless the action is initiated by  
14.2 the department.

14.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.4 Sec. 2. Minnesota Statutes 2006, section 270B.15, is amended to read:

14.5 **270B.15 DISCLOSURE TO LEGISLATIVE AUDITOR AND STATE**  
14.6 **AUDITOR.**

14.7 (a) Returns and return information must be disclosed to the legislative auditor to the  
14.8 extent necessary for the legislative auditor to carry out sections 3.97 to 3.979.

14.9 (b) The commissioner must disclose return information, including the report  
14.10 required under section 289A.12, subdivision 15, to the state auditor to the extent necessary  
14.11 to conduct audits of job opportunity building zones as required under section 469.3201.

14.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.13 Sec. 3. Minnesota Statutes 2006, section 289A.12, is amended by adding a subdivision  
14.14 to read:

14.15 **Subd. 15. Report of job opportunity zone benefits; penalty for failure to file**  
14.16 **report.** (a) By October 15 of each year, every qualified business, as defined under section  
14.17 469.310, subdivision 11, must file with the commissioner, on a form prescribed by the  
14.18 commissioner, a report listing the tax benefits under section 469.315 received by the  
14.19 business for the previous year.

14.20 (b) The commissioner shall send notice to each business that fails to timely submit  
14.21 the report required under paragraph (a). The notice shall demand that the business submit  
14.22 the report within 60 days. Where good cause exists, the commissioner may extend  
14.23 the period for submitting the report as long as a request for extension is filed by the  
14.24 business before the expiration of the 60-day period. The commissioner shall notify the  
14.25 commissioner of the Department of Employment and Economic Development and the  
14.26 appropriate job opportunity subzone administrator whenever notice is sent to a business  
14.27 under this paragraph.

14.28 (c) A business that fails to submit the report as required under paragraph (b) is no  
14.29 longer a qualified business under section 469.310, subdivision 11, and is subject to the  
14.30 repayment provisions of section 469.319.

14.31 **EFFECTIVE DATE.** This section is effective beginning with reports required to be  
14.32 filed October 15, 2008.

15.1 Sec. 4. Minnesota Statutes 2006, section 469.3201, is amended to read:

15.2 **469.3201 ~~JOBZ EXPENDITURE LIMITATIONS; AUDITS STATE~~**  
 15.3 **AUDITOR; AUDITS OF JOB OPPORTUNITY BUILDING ZONES AND**  
 15.4 **BUSINESS SUBSIDY AGREEMENTS.**

15.5 The Tax Increment Financing, Investment and Finance Division of the Office of the  
 15.6 State Auditor must annually audit the creation and operation of all job opportunity building  
 15.7 zones and business subsidy agreements entered into under Minnesota Statutes, sections  
 15.8 469.310 to 469.320. To the extent necessary to perform this audit, the state auditor may  
 15.9 request from the commissioner of revenue tax return information of taxpayers who are  
 15.10 eligible to receive tax benefits authorized under section 469.315. To the extent necessary  
 15.11 to perform this audit, the state auditor may request from the commissioner of employment  
 15.12 and economic development wage detail report information required under section 268.044  
 15.13 of taxpayers eligible to receive tax benefits authorized under section 469.315.

15.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.15 **ARTICLE 4**  
 15.16 **REGIONAL EMERGING BUSINESS INVESTMENT TAX CREDIT**

15.17 Section 1. **[116J.8746] REGIONAL EMERGING BUSINESS INVESTMENT**  
 15.18 **TAX CREDIT.**

15.19 Subdivision 1. **Definitions.** For the purposes of this section, the following terms  
 15.20 have the meanings given:

15.21 (1) "Qualifying small business" means a business that:

15.22 (i) for a business with five or more employees, pays wages and benefits, measured  
 15.23 on a full-time equivalent basis, to 75 percent or more of its employees in excess of the first  
 15.24 five employees, equal to 110 percent of the federal poverty level for a family of four;

15.25 (ii) is engaged in, or is committed to engage in, biotechnology, technology,  
 15.26 manufacturing, agriculture, processing or assembling products, conducting research and  
 15.27 development, or developing a new product or business process;

15.28 (iii) is not engaged in real estate development, insurance, banking, lobbying, political  
 15.29 consulting, wholesale or retail trade, leisure, hospitality, construction, or professional  
 15.30 services provided by attorneys, accountants, business consultants, physicians, or health  
 15.31 care consultants;

15.32 (iv) has its headquarters in Minnesota;

15.33 (v) employs at least 51 percent of the business's employees in Minnesota;

15.34 (vi) has less than 100 employees;

- 16.1 (vii) has less than \$2,000,000 in annual gross sales receipts for the previous year;  
16.2 (viii) is not a subsidiary or an affiliate of a business which employs more than 100  
16.3 employees or has total gross sales receipts for the previous year of more than \$.....,  
16.4 computed by aggregating all of the employees and gross sales receipts of the business  
16.5 entities affiliated with the business;  
16.6 (ix) has not previously received more than \$2,000,000 in private equity investments;  
16.7 and  
16.8 (x) has not previously received more than \$1,000,000 in investments that have  
16.9 qualified for and received tax credits under this section; and  
16.10 (2) "regional investment fund" means a pooled investment fund that:  
16.11 (i) invests in qualifying small businesses located in the region of the state that is the  
16.12 focus of the fund;  
16.13 (ii) is organized as a limited liability company or other pass-through entity; and  
16.14 (iii) has no fewer than five separate investors, each not owning more than 25 percent  
16.15 of the outstanding ownership interests in the fund. For purposes of determining the number  
16.16 of investors and the ownership interest of an investor under this clause, the ownership  
16.17 interests of an investor include those of the investor's spouse, children, and siblings, and  
16.18 any of the investor's corporations, partnerships, and trusts in which the investor has a  
16.19 controlling equity interest or in which the investor exercises management control.  
16.20 Subd. 2. **Credit allowed.** A taxpayer is allowed a credit against the tax imposed  
16.21 under chapter 290 for qualifying investment made in the year by a qualifying regional  
16.22 investment fund. The credit equals 25 percent of the taxpayer's investment made in the  
16.23 fund, but not to exceed the lesser of:  
16.24 (1) the liability for tax under chapter 290, including the applicable alternative  
16.25 minimum tax, but excluding the minimum fee under section 290.0922; and  
16.26 (2) the amount of the certificate provided to the taxpayer by the fund under  
16.27 subdivision 4.  
16.28 Subd. 3. **Qualifying regional investment fund requirements.** (a) To be certified as  
16.29 a qualifying regional investment fund for purposes of this section, a regional investment  
16.30 fund must:  
16.31 (1) have a minimum of two-thirds of the regional investment fund's members,  
16.32 shareholders, or partners be residents of the region that is the focus of the fund; and  
16.33 (2) allocate at least 60 percent of the funds it invests, or plans to invest, to qualified  
16.34 small businesses within the region.  
16.35 (b) Investments from other regional investment funds into the qualified small  
16.36 business shall count toward the allocation in clause (2).

17.1 (c) Investments in the fund may consist of equity investments or notes that pay  
17.2 interest or other fixed amounts, or any combination of both, as the fund's governing body  
17.3 determines appropriate.

17.4 Subd. 4. **Certification of funds.** (a) Regional investment funds may apply to the  
17.5 commissioner of employment and economic development for certification as a qualified  
17.6 regional investment fund. The application must be in the form and made under the  
17.7 procedures specified by the commissioner.

17.8 (b) The commissioner may certify up to 20 funds. Certifications shall be awarded  
17.9 in the order of qualifying applications received. Of the 20 funds, the commissioner may  
17.10 certify no more than three funds that seek business investment opportunities that may  
17.11 qualify for and receive tax credits under this section in more than 15 Minnesota counties,  
17.12 no more than five funds that seek business investment opportunities that may qualify for  
17.13 and receive tax credits under this section in the metropolitan area, as defined in section  
17.14 473.121, subdivision 2, and no more than three funds that seek business investment  
17.15 opportunities that may qualify for and receive tax credits under this subdivision in the  
17.16 same region of the state.

17.17 (c) The commissioner may provide certificates entitling investors in a certified  
17.18 fund to credits under this provision of up to \$..... for each fund upon receipt of a report  
17.19 from the fund showing evidence of compliance with the agreement under subdivision 5,  
17.20 including investment in a qualifying small business. The commissioner may not issue a  
17.21 total amount of certificates for all funds of more than \$..... per year in fiscal year 2009. If  
17.22 less than \$..... a year is spent, the remaining funds may be carried over to the following  
17.23 two fiscal years. Certificates may only be issued for investments made by qualified funds  
17.24 in qualifying small businesses located in the region in which the fund operates.

17.25 Subd. 5. **Fund requirements.** The commissioner of employment and economic  
17.26 development shall enter into an agreement with each of the qualifying regional investment  
17.27 funds certified under subdivision 4. Each agreement must include a provision requiring  
17.28 the qualifying regional investment fund to report on the employment figures, wages,  
17.29 and benefits paid by the businesses in which investments are made, or are planned to  
17.30 be made, and a provision stating the specific manner in which the regional investment  
17.31 fund agrees to satisfy the requirement to allocate at least 60 percent of its investments to  
17.32 qualified small businesses within the region. The commissioner shall define "region"  
17.33 for the purposes of this section.

17.34 Subd. 6. **Limitations.** The taxpayer must claim the credit in the same tax year  
17.35 for which the fund receives the tax credit certificate under subdivision 4. The credit is  
17.36 allowed only for investments made in qualifying regional investment funds after the

18.1 fund is certified by the commissioner of employment and economic development under  
18.2 subdivision 4.

18.3 Subd. 7. **Statement of credit share.** Each fund must provide to each investor  
18.4 a statement indicating the investor's share of the credit certified to the fund under  
18.5 subdivision 4, based on the investor's pro rata investment in the fund at the time of the  
18.6 investment in the qualified small business.

18.7 Subd. 8. **Carryover.** If the amount of the credit under this section for any taxable  
18.8 year exceeds the amount reached under subdivision 2, clause (1), the excess is a credit  
18.9 carryover to each of the ten succeeding taxable years. The entire amount of the excess  
18.10 unused credit for the taxable year must be carried first to the earliest of the taxable years  
18.11 to which the credit may be carried. The amount of the unused credit that may be added  
18.12 under this paragraph may not exceed the taxpayer's liability for tax, less the credit for  
18.13 the taxable year.

18.14 Subd. 9. **False applications.** (a) A taxpayer who has received a credit under this act  
18.15 for an investment in a regional investment fund forfeits any unused credit if:

18.16 (1) the regional investment fund does not meet the conditions of subdivision 3; or

18.17 (2) the small business invested in by the fund does not meet the conditions in  
18.18 subdivision 1.

18.19 (b) Any credits taken on a tax return shall be returned to the commissioner of  
18.20 revenue as an underpayment of tax, if:

18.21 (1) the regional investment fund does not meet the conditions of subdivision 3; or

18.22 (2) the small business invested in by the fund does not meet the conditions in  
18.23 subdivision 1.

18.24 **EFFECTIVE DATE.** This section is effective July 1, 2008, for taxable years  
18.25 beginning after December 31, 2007, and only applies to investments made after the fund  
18.26 has been certified by the commissioner of employment and economic development.

18.27 Sec. 2. Minnesota Statutes 2006, section 290.06, is amended by adding a subdivision  
18.28 to read:

18.29 Subd. 34. **Regional emerging business investment tax credit.** A taxpayer is  
18.30 allowed a credit as determined under section 116J.8746 against the tax imposed by this  
18.31 chapter.

18.32 **EFFECTIVE DATE.** This section is effective July 1, 2008, for taxable years  
18.33 beginning after December 31, 2007, and only applies to investments made after the fund  
18.34 has been certified by the commissioner of employment and economic development.

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REGIONAL EMERGING BUSINESS INVESTMENT TAX CREDIT

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