

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 2213

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| DATE | D-PG | OFFICIAL STATUS |
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| 05/16/2015 | | Introduction and first reading Referred to Taxes |

1.1 A bill for an act
 1.2 relating to taxes; creating a Tax Expenditure Advisory Commission; providing
 1.3 for review and sunset of tax expenditures; proposing coding for new law as
 1.4 Minnesota Statutes, chapter 290D.

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

1.6 Section 1. **[290D.02] DEFINITIONS.**

1.7 Subdivision 1. **Applicability.** For purposes of this chapter, the following terms have
 1.8 the meanings given in this section unless the context clearly indicates a different meaning.

1.9 Subd. 2. **Commission.** "Commission" means the Tax Expenditure Advisory
 1.10 Commission.

1.11 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of revenue or a
 1.12 person to whom the commissioner has delegated functions.

1.13 Subd. 4. **Tax expenditure.** "Tax expenditure" has the meaning given in section
 1.14 270C.11, subdivision 6.

1.15 Subd. 5. **Tax.** "Tax" has the meaning given in section 270C.11, subdivision 6.

1.16 Sec. 2. **[290D.03] TAX EXPENDITURE ADVISORY COMMISSION.**

1.17 Subdivision 1. **Membership.** The Tax Expenditure Advisory Commission consists
 1.18 of 14 members, as follows:

1.19 (1) four senators, including the chair of the committee with jurisdiction over taxes,
 1.20 one senator appointed by the senate Subcommittee on Committees of the Committee on
 1.21 Rules and Administration, and two senators appointed by the senate minority leader;

2.1 (2) four members of the house of representatives, including the chair of the
2.2 committee with jurisdiction over taxes, one representative appointed by the speaker of the
2.3 house of representatives, and two representatives appointed by the house minority leader;

2.4 (3) six public members appointed by the governor, including at least one who is a
2.5 taxpayer eligible for the Minnesota working family tax credit, one who is an owner of a
2.6 small business as defined in section 645.445, one who is an officer or board member of a
2.7 Fortune 500 company, one who is an officer or board member of a nonprofit organization,
2.8 one who is a person with experience in economic or business development, and the
2.9 remainder shall be individuals who have a basic understanding of state tax policy,
2.10 government operations, and public services.

2.11 Subd. 2. **Terms.** Legislative members serve two-year terms expiring September 1 of
2.12 each odd-numbered year. Public members serve two-year terms expiring September 1 of
2.13 each odd-numbered year.

2.14 Subd. 3. **Limits.** Members who are not chairs of a house of representatives or senate
2.15 committee with jurisdiction over taxes are subject to the following restrictions:

2.16 (1) after an individual serves four years on the commission, the individual is not
2.17 eligible for appointment to another term or part of a term;

2.18 (2) a legislative member who serves a full term may not be appointed to an
2.19 immediately succeeding term; and

2.20 (3) a public member may not serve consecutive terms, and, for purposes of this
2.21 prohibition, a member is considered to have served a term only if the member has served
2.22 more than one-half of the term.

2.23 Subd. 4. **Appointments.** The appointing authorities shall make appointments before
2.24 September 1 of each odd-numbered year.

2.25 Subd. 5. **Legislative members.** If a legislative member ceases to be a member
2.26 of the legislative body from which the member was appointed, the member vacates
2.27 membership on the commission. If a legislative member who is a chair of a house of
2.28 representatives or senate committee with jurisdiction over taxes ceases to be a chair of that
2.29 committee, the member vacates membership on the commission.

2.30 Subd. 6. **Vacancies.** If a vacancy occurs, the authority who appointed the vacating
2.31 member shall appoint a person to serve for the remainder of the unexpired term in the
2.32 same manner as the original appointment.

2.33 Subd. 7. **Officers.** The commission shall elect a chair and vice-chair as presiding
2.34 officers from its membership. The chair and vice-chair must alternate every two years
2.35 between the two membership groups: legislators and public members. The chair and
2.36 vice-chair may not be from the same membership group.

3.1 Subd. 8. **Quorum; voting.** Eight members of the commission constitute a quorum.
3.2 A final action or recommendation may not be made unless approved by a recorded vote
3.3 of at least eight members. All other actions by the commission shall be decided by a
3.4 majority of the members present and voting.

3.5 Subd. 9. **Compensation.** Public members shall be compensated as provided
3.6 in section 15.059, subdivision 3.

3.7 Subd. 10. **Acting chair and first meeting.** The chair of the senate committee with
3.8 jurisdiction over taxes shall convene the first meeting of the commission by December
3.9 31, 2015. At the first meeting, the commission shall elect a chair and vice chair from
3.10 its membership.

3.11 Sec. 3. **[290D.04] STAFF.**

3.12 The Legislative Coordinating Commission shall provide staff and administrative
3.13 services for the commission.

3.14 Sec. 4. **[290D.06] REPORT TO COMMISSION.**

3.15 Subdivision 1. **State tax provisions.** In addition to the information provided in each
3.16 even-numbered year under section 270C.11, before September 1 of each year prior to the
3.17 first year of a regular legislative session, the commissioner shall provide a report with
3.18 the following information, where applicable, for each tax expenditure subject to review
3.19 during the following biennium:

3.20 (1) the positive and negative impacts of the expenditure on the taxpayer or taxpayers
3.21 before or after the tax expenditure;

3.22 (2) the impact of the tax expenditure on the tax incidence in the state;

3.23 (3) the economic development impacts of the preference, including the impact on
3.24 jobs, wages, and benefits;

3.25 (4) the cumulative fiscal impacts of other state and federal taxes providing benefits
3.26 to taxpayers for similar activities;

3.27 (5) the measurable impacts of the tax expenditure in meeting the goal of the
3.28 expenditure;

3.29 (6) a comparison of the tax expenditure with tax treatment of taxpayers engaged
3.30 in similar activities in neighboring states;

3.31 (7) consideration of the probable impact on overall uniformity and fairness of the
3.32 tax code; and

3.33 (8) the number of taxpayers impacted by the tax expenditure and the nature of
3.34 the impact.

4.1 Subd. 2. **Federal conformity.** The commission must also report on outstanding
4.2 federal conformity provisions considering the factors listed in subdivision 1.

4.3 **Sec. 5. [290D.07] COMMISSION DUTIES.**

4.4 Subdivision 1. **Review of tax expenditures.** Before February 1 of the first year of a
4.5 regularly scheduled legislative session, the commission shall (1) review information from
4.6 the most recent tax expenditure budget report under section 270C.11 and the additional
4.7 report under section 290D.06; (2) take public testimony; and (3) vote on recommendations
4.8 for continuation or repeal of each tax expenditure subject to review in that legislative
4.9 session.

4.10 Subd. 2. **Public hearings.** Before January 1 of the year a tax expenditure is included
4.11 in a commission report, the commission shall conduct public hearings concerning the
4.12 impact of the tax expenditure on (1) the beneficiaries; (2) the state economy; (3) its
4.13 performance in meeting its purpose; (4) its impact on the tax incidence in the state; and (5)
4.14 any other information that the commission deems relevant.

4.15 Subd. 3. **Commission report; recommendations.** By February 1 of the first year of
4.16 every regular legislative session, the commission shall present to the chairs of the senate
4.17 and house of representatives committees with jurisdiction over taxes and over finance, the
4.18 majority and minority leaders of the house of representatives and senate, the commissioner
4.19 of revenue, the commissioner of management and budget, and the governor, a report on the
4.20 tax expenditures reviewed. In the report the commission shall report its recommendations
4.21 for each tax expenditure, its findings on the demonstrated ability of each tax expenditure to
4.22 meet its stated goal, the impact on the general fund budget of retaining or abolishing the tax
4.23 expenditure, draft legislation to implement its recommendations, and any other information
4.24 that the commission deems relevant to explain its recommendation for each expenditure.

4.25 **Sec. 6. [290D.08] REQUIREMENT FOR REVIEW AND PERIODIC**
4.26 **REENACTMENT OF ALL EXISTING AND NEW TAX EXPENDITURES.**

4.27 Subdivision 1. **Review of existing tax expenditures.** The tax expenditures in statute
4.28 as of July 1, 2015, are subject to sunset review on the following schedule:

4.29 (1) all tax expenditures in chapters 168, 297A, and 297B, on December 31, 2017,
4.30 and every tenth year thereafter;

4.31 (2) all tax expenditures in chapters 295, 296A, 297D, 297E, 297F, 297G, 297H, and
4.32 297I, on December 31, 2019, and every tenth year thereafter;

4.33 (3) all tax expenditures in chapter 290, on December 31, 2021, and every tenth
4.34 year thereafter;

5.1 (4) all tax expenditures in chapters 287, 290A, 290B, 291, and 298, on December
5.2 31, 2023, and every tenth year thereafter; and

5.3 (5) all tax expenditures in chapters 88, 270, 272, 273, 290C, 469, and 473H, on
5.4 December 31, 2025, and every tenth year thereafter.

5.5 Subd. 2. **New and renewed tax expenditures.** Any legislation that creates, renews,
5.6 or continues a tax expenditure must include the following provisions:

5.7 (1) an intent statement that clearly provides the purposes for the tax expenditure and
5.8 a standard or goal against which its effectiveness can be measured; and

5.9 (2) an expiration date for the tax expenditure that may not exceed 12 years from
5.10 the day the provision takes effect and must correspond to the expiration date or review
5.11 schedule for other tax expenditures in the same tax area, as listed in subdivision 1.

5.12 Sec. 7. **[290D.09] MONITORING OF RECOMMENDATIONS.**

5.13 During each legislative session, the staff of the commission shall monitor legislation
5.14 affecting tax expenditures that have undergone sunset review and shall periodically
5.15 report to the members of the commission on proposed changes which would modify
5.16 prior recommendations of the commission.

5.17 Sec. 8. **[290D.10] CONTINUATION BY LAW.**

5.18 During the regular session in which the commission's report is received, the
5.19 legislature may enact legislation to continue a tax expenditure contained in the report
5.20 for a period not to exceed ten years. This chapter does not prohibit the legislature from
5.21 eliminating a tax expenditure on a date earlier than that provided in this chapter.