

**SENATE**  
**STATE OF MINNESOTA**  
**NINETIETH SESSION**

**S.F. No. 402**

(SENATE AUTHORS: SENJEM)

DATE  
01/26/2017

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Introduction and first reading  
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act  
1.2 relating to taxation; providing an equity and opportunity in education tax credit;  
1.3 amending Minnesota Statutes 2016, sections 290.0131, by adding a subdivision;  
1.4 290.0133, by adding a subdivision; proposing coding for new law in Minnesota  
1.5 Statutes, chapter 290.

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

1.7 Section 1. Minnesota Statutes 2016, section 290.0131, is amended by adding a subdivision  
1.8 to read:

1.9 Subd. 14. **Equity and opportunity donations to qualified foundations.** The amount  
1.10 of the deduction under section 170 of the Internal Revenue Code that represents contributions  
1.11 to a qualified foundation under section 290.0693 is an addition.

1.12 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December  
1.13 31, 2017.

1.14 Sec. 2. Minnesota Statutes 2016, section 290.0133, is amended by adding a subdivision  
1.15 to read:

1.16 Subd. 15. **Equity and opportunity donations to qualified foundations.** The amount  
1.17 of the deduction under section 170 of the Internal Revenue Code that represents contributions  
1.18 to a qualified foundation under section 290.0693 is an addition.

1.19 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December  
1.20 31, 2017.

2.1 Sec. 3. **[290.0693] EQUITY AND OPPORTUNITY IN EDUCATION TAX CREDIT.**

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

2.4 (b) "Eligible student" means a student who:

2.5 (1) resides in Minnesota;

2.6 (2) is a member of a household whose total annual income during the year prior to initial  
2.7 receipt of a qualified grant, without consideration of the benefits under this program, does  
2.8 not exceed an amount equal to two times the income standard used to qualify for a  
2.9 reduced-price meal under the National School Lunch Program, as specified in United States  
2.10 Code, title 42, section 1758; and

2.11 (3) either:

2.12 (i) attended a public, nonpublic, or charter school in the semester preceding initial receipt  
2.13 of a qualified grant;

2.14 (ii) is starting school in Minnesota for the first time; or

2.15 (iii) previously received a qualified grant under this section.

2.16 (c) "Equity and opportunity in education donation" means a donation to a qualified  
2.17 foundation that makes qualified grants.

2.18 (d) "Qualified school" means a school operated in Minnesota that is either:

2.19 (1) a nonpublic elementary or secondary school in Minnesota wherein a resident may  
2.20 legally fulfill the state's compulsory attendance laws and that is not operated for profit;

2.21 (2) a charter elementary or secondary school in Minnesota that has at least 30 percent  
2.22 of its students who qualify for a reduced-price meal under the National School Lunch  
2.23 Program; or

2.24 (3) public or nonpublic preschool serving children ages 3 to 5.

2.25 (e) "Qualified foundation" means a nonprofit organization granted an exemption from  
2.26 the federal income tax described in section 501(c)(3) of the Internal Revenue Code that  
2.27 complies with the requirements of the equity and opportunity in education tax credit. Two  
2.28 or more qualified schools can form a qualified foundation.

2.29 (f) "Qualified grant" means a grant from a qualified foundation for:

2.30 (1) qualified scholarships to a qualified student for tuition to attend a qualified school;  
2.31 or

3.1 (2) a qualified charter school for use in support of the school's mission of educating  
3.2 eligible students in academics, arts, or athletics, including transportation.

3.3 (g) "Qualified scholarship" means a payment to or on behalf of the parent or guardian  
3.4 of a qualified student for payment of tuition at a qualified school. A qualified scholarship  
3.5 must not exceed an amount greater than 70 percent of the state average general education  
3.6 revenue under section 126C.10, subdivision 1, per pupil unit.

3.7 Subd. 2. **Credit allowed.** (a) An individual or corporate taxpayer is allowed a credit  
3.8 against the tax due under this chapter equal to 80 percent of the amount donated to a qualified  
3.9 foundation during the taxable year. No credit is allowed if the taxpayer designates a specific  
3.10 child as the beneficiary of the contribution.

3.11 (b) A taxpayer must provide a copy of the receipt provided by the qualified foundation  
3.12 when claiming the credit for the donation.

3.13 (c) The credit is limited to the liability for tax under this chapter, including the tax  
3.14 imposed by sections 290.0921 and 290.0922.

3.15 (d) If the amount of the credit under this subdivision for any taxable year exceeds the  
3.16 limitations under paragraph (c), the excess is a credit carryover to each of the five succeeding  
3.17 taxable years. The entire amount of the excess unused credit for the taxable year must be  
3.18 carried first to the earliest of the taxable years to which the credit may be carried. The  
3.19 amount of the unused credit that may be added under this paragraph may not exceed the  
3.20 taxpayer's liability for tax, less the credit for the taxable year. No credit may be carried to  
3.21 a taxable year more than five years after the taxable year in which the credit was earned.

3.22 Subd. 3. **Application for credit certificate.** (a) A taxpayer must apply to the  
3.23 commissioner for an equity and opportunity in education tax credit certificate.

3.24 (b) The commissioner must not issue a tax credit certificate for an amount greater than  
3.25 the limits under subdivision 2.

3.26 (c) The credit certificates under this section must be made available on a first-come,  
3.27 first-served basis until the maximum statewide credit amount of \$80,000,000 has been  
3.28 reached.

3.29 Subd. 4. **Responsibilities of qualified foundations.** (a) Each qualified foundation that  
3.30 receives donations directly from taxpayers under this section must:

3.31 (1) notify the commissioner of its intent to participate in this program and, for purposes  
3.32 of determining the maximums under subdivision 3, the type of qualified schools who receive

4.1 grants or the type of qualified schools attended by qualified students who receive qualified  
4.2 scholarships from that foundation;

4.3 (2) demonstrate to the commissioner that it has been granted an exemption from the  
4.4 federal income tax as an organization described in section 501(c)(3) of the Internal Revenue  
4.5 Code;

4.6 (3) provide a receipt or verification on a form approved by the commissioner to taxpayers  
4.7 for donations and commitments made to qualified foundations;

4.8 (4) conduct criminal background checks on all of its employees and board members and  
4.9 exclude from employment or governance any individuals that might reasonably pose a risk  
4.10 to the appropriate use of contributed funds;

4.11 (5) demonstrate its financial accountability by:

4.12 (i) submitting a financial information report for the organization that complies with  
4.13 uniform financial accounting standards established by the commissioner and conducted by  
4.14 a certified public accountant; and

4.15 (ii) having the auditor certify that the report is free of material misstatements;

4.16 (6) demonstrate its financial viability, if they are to receive donations of \$50,000 or more  
4.17 during the school year, by filing financial information with the commissioner prior to  
4.18 September 1 of each year that demonstrates the financial viability of the qualified foundation;

4.19 (7) consistent with paragraph (c), use amounts received as donations to provide qualified  
4.20 scholarships or make qualified grants within one calendar year from the September 1  
4.21 following the date of receiving the donation; and

4.22 (8) ensure that a qualified school that receives qualified grants or enrolls eligible students:

4.23 (i) complies with all health and safety laws or codes that apply to nonpublic schools;

4.24 (ii) holds a valid occupancy permit if required by its municipality;

4.25 (iii) certifies that it adheres to the provisions of United States Code, title 42, section  
4.26 1981; and

4.27 (iv) provides academic accountability to parents of students in the program by regularly  
4.28 reporting to the parents on the student's progress.

4.29 (b) A qualified foundation that receives donations directly from taxpayers under this  
4.30 program must report to the commissioner by June 1 of each year the following information  
4.31 prepared by a certified public accountant regarding its grants in the previous calendar year:

5.1 (1) the total number and total dollar amount of donations from taxpayers received during  
5.2 the previous calendar year; and

5.3 (2) the total number and total dollar amount of qualified scholarships or qualified grants  
5.4 awarded during the previous calendar year.

5.5 (c) The foundation may use up to seven percent of the amounts received as donations  
5.6 for reasonable administrative expenses, including but not limited to fund-raising, scholarship  
5.7 tracking, and reporting requirements.

5.8 (d) If the commissioner decides to bar a qualified foundation from the program for failure  
5.9 to comply with the requirements in paragraph (a), clauses (1) to (8), the qualified foundation  
5.10 must notify taxpayers who have donated to the qualified foundation in writing within 30  
5.11 days.

5.12 Subd. 5. **Responsibilities of commissioner.** (a) The commissioner must prescribe a  
5.13 standardized format for a receipt to be issued by a qualified foundation to a taxpayer to  
5.14 indicate the value of a donation received.

5.15 (b) The commissioner must prescribe a standardized format for qualified foundations  
5.16 to report the information required under subdivision 4.

5.17 (c) The commissioner must post on the department's Web site the names and addresses  
5.18 of qualified foundations and regularly update the names and addresses of any qualified  
5.19 foundations that have been barred from participating in the program.

5.20 (d) The commissioner may conduct either a financial review or audit of a qualified  
5.21 foundation upon finding evidence of fraud or intentional misreporting.

5.22 (e) The commissioner may bar a qualified foundation from participating in the program  
5.23 if the commissioner establishes that the qualified foundation has intentionally and  
5.24 substantially failed to comply with the requirements in subdivision 4. If the commissioner  
5.25 determines that a qualified foundation should be barred from the program, the commissioner  
5.26 must notify the qualified foundation within 60 days of that determination.

5.27 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December  
5.28 31, 2017.