

A bill for an act

relating to taxation; individual income; allowing a credit for contributions for early childhood education access grants and a credit for early childhood educational expenses; requiring a report; amending Minnesota Statutes 2006, sections 119B.09, subdivision 1; 290.01, subdivisions 19b, 19c; 290.0674, subdivisions 1, 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 290.

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

Section 1. Minnesota Statutes 2006, section 119B.09, subdivision 1, is amended to read:

Subdivision 1. **General eligibility requirements for all applicants for child**

care assistance. (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

(1) have household income less than or equal to 250 percent of the federal poverty guidelines, adjusted for family size, and meet the requirements of section 119B.05; receive MFIP assistance; and are participating in employment and training services under chapter 256J or 256K; or

(2) have household income less than or equal to 175 percent of the federal poverty guidelines, adjusted for family size, at program entry and less than 250 percent of the federal poverty guidelines, adjusted for family size, at program exit.

(b) Child care services must be made available as in-kind services.

(c) All applicants for child care assistance and families currently receiving child care assistance must be assisted and required to cooperate in establishment of paternity and enforcement of child support obligations for all children in the family as a condition of program eligibility. For purposes of this section, a family is considered to meet the

requirement for cooperation when the family complies with the requirements of section 256.741.

(d) All applicants for and recipients of child care assistance under section 119B.03 who meet all eligibility requirements under this chapter but are receiving one or more early childhood education access grants under section 290.0678, subdivision 2, clause (2), must have the amount of the early childhood education access grant or grants deducted from the total amount of assistance for which the family would otherwise be eligible under this chapter.

Sec. 2. Minnesota Statutes 2006, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades ~~kindergarten~~ 1 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. For

purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over \$500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally

funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes services performed exclusively for purposes of basic combat training, advanced individual training, annual training, and periodic inactive duty training; special training periodically made available to reserve members; and service performed in accordance with section 190.08, subdivision 3;

(12) the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota;

(13) an amount, not to exceed \$10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a nonresident who is a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public Law 108-189, section 101(2); and

(16) international economic development zone income as provided under section 469.325.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 3. Minnesota Statutes 2006, section 290.01, subdivision 19c, is amended to read:

Subd. 19c. **Corporations; additions to federal taxable income.** For corporations, there shall be added to federal taxable income:

(1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes, including but not limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

(2) interest not subject to federal tax upon obligations of: the United States, its possessions, its agencies, or its instrumentalities; the state of Minnesota or any other state, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities; the District of Columbia; or Indian tribal governments;

(3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal Revenue Code;

(4) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss deduction under section 810 of the Internal Revenue Code;

(5) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 and 965 of the Internal Revenue Code;

(6) losses from the business of mining, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota income tax;

(7) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code;

(8) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code;

(9) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code;

(10) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, the amount of the amortization deduction allowed in computing federal taxable income for those facilities;

(11) the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g);

(12) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(13) the amount of net income excluded under section 114 of the Internal Revenue Code;

(14) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 103 of Public Law 109-222;

(15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

(16) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

(17) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code; ~~and~~

(18) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans; and

(19) the amount deducted under section 170 of the Internal Revenue Code that represents contributions for early childhood education access grants for which a credit is claimed under section 290.0678.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2006.

Sec. 4. Minnesota Statutes 2006, section 290.0674, subdivision 1, is amended to read:

Subdivision 1. **Credit allowed; grades 1 through 12.** (a) An individual is allowed a credit against the tax imposed by this chapter in an amount equal to 75 percent of

the amount paid for education-related expenses for a qualifying child in ~~kindergarten~~
grade 1 through grade 12. For purposes of this ~~section~~ subdivision, "education-related
expenses" means:

(1) fees or tuition for instruction by an instructor under section 120A.22, subdivision
10, clause (1), (2), (3), (4), or (5), or a member of the Minnesota Music Teachers
Association, and who is not a lineal ancestor or sibling of the dependent for instruction
outside the regular school day or school year, including tutoring, driver's education
offered as part of school curriculum, regardless of whether it is taken from a public or
private entity or summer camps, in grade or age appropriate curricula that supplement
curricula and instruction available during the regular school year, that assists a dependent
to improve knowledge of core curriculum areas or to expand knowledge and skills under
the required academic standards under section 120B.021, subdivision 1, and the elective
standard under section 120B.022, subdivision 1, clause (2), and that do not include the
teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such
tenets, doctrines, or worship;

(2) expenses for textbooks, including books and other instructional materials and
equipment purchased or leased for use in elementary and secondary schools in teaching
only those subjects legally and commonly taught in public elementary and secondary
schools in this state. "Textbooks" does not include instructional books and materials
used in the teaching of religious tenets, doctrines, or worship, the purpose of which is
to instill such tenets, doctrines, or worship, nor does it include books or materials for
extracurricular activities including sporting events, musical or dramatic events, speech
activities, driver's education, or similar programs;

(3) a maximum expense of \$200 per family for personal computer hardware,
excluding single purpose processors, and educational software that assists a dependent to
improve knowledge of core curriculum areas or to expand knowledge and skills under
the required academic standards under section 120B.021, subdivision 1, and the elective
standard under section 120B.022, subdivision 1, clause (2), purchased for use in the
taxpayer's home and not used in a trade or business regardless of whether the computer is
required by the dependent's school; and

(4) the amount paid to others for transportation of a qualifying child attending an
elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa,
or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory
attendance laws, which is not operated for profit, and which adheres to the provisions of
the Civil Rights Act of 1964 and chapter 363A.

For purposes of this section, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code.

(b) The maximum credit for grades 1 through 12 allowed under this subdivision is \$1,000 multiplied by the number of qualifying children in grades 1 through 12 in the family. The maximum credit for families with one qualifying child in grade 1 through grade 12 is reduced by \$1 for each \$4 of household income over \$33,500, and the maximum credit for families with two or more qualifying children in grade 1 through grade 12 is reduced by \$2 for each \$4 of household income over \$33,500, but in no case is the credit less than zero.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 5. Minnesota Statutes 2006, section 290.0674, is amended by adding a subdivision to read:

Subd. 1a. **Credit allowed; prekindergarten and kindergarten.** (a) An individual is allowed a credit against the tax imposed by this chapter in an amount equal to 75 percent of the amount paid for education-related expenses for a qualifying child who is younger than age seven and not yet enrolled in first grade at the start of the tax year. For purposes of this subdivision, "education-related expenses" means "education-related expenses" as defined in subdivision 1, and also:

(1) fees or tuition charged for enrollment in an all-day kindergarten;

(2) fees or tuition charged for enrollment in a qualified early childhood educational program. As used in this subdivision, "qualified early childhood educational program" has the meaning given in section 290.0678; and

(3) expenses for age-appropriate educational books, games, and computer software.

(b) The maximum credit allowed under this subdivision is \$5,000 multiplied by the number of qualifying children who are younger than age seven and not yet enrolled in first grade at the start of the tax year. The credit for qualifying children in prekindergarten and kindergarten under this subdivision is not subject to reduction.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 6. Minnesota Statutes 2006, section 290.0674, subdivision 2, is amended to read:

~~Subd. 2. **Limitations.** (a) For claimants with income not greater than \$33,500, the maximum credit allowed for a family is \$1,000 multiplied by the number of qualifying~~

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~~children in kindergarten through grade 12 in the family. The maximum credit for families with one qualifying child in kindergarten through grade 12 is reduced by \$1 for each \$4 of household income over \$33,500, and the maximum credit for families with two or more qualifying children in kindergarten through grade 12 is reduced by \$2 for each \$4 of household income over \$33,500, but in no case is the credit less than zero.~~

(a) For purposes of this section "income" has the meaning given in section 290.067, subdivision 2a. In the case of a married claimant, a credit is not allowed unless a joint income tax return is filed.

(b) For a nonresident or part-year resident, the credit determined under subdivision 1 and the maximum credit amount in paragraph (a) must be allocated using the percentage calculated in section 290.06, subdivision 2c, paragraph (e).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 7. [290.0678] CREDIT FOR CONTRIBUTIONS FOR EARLY CHILDHOOD EDUCATION ACCESS GRANTS.

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

(b) "Federal poverty guidelines" mean the poverty guidelines for the 48 contiguous states used by the United States Department of Health and Human Services as most recently published in the Federal Register.

(c) A "qualified student" must be:

(1) younger than age seven, not yet enrolled in kindergarten or first grade, and a Minnesota resident; and

(2) a member of a household with an income less than 200 percent of the federal poverty guideline for the household size.

(d) "Early childhood education access grant organization" means a charitable nonprofit organization that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, maintains funds separate from funding for other activities for the distinct purpose of providing early childhood education access grants to qualified students, and is certified by the commissioner of education as meeting the criteria of this section.

(e) A "qualified early childhood educational program" means a program included in guidelines prepared by the commissioner of education in consultation with the commissioner of human services and must accept access grants granted under this section in payment of tuition for a qualified student under paragraph (c) enrolled in the program.

Subd. 2. **Early childhood education access grant organizations.** Early childhood education access grant organizations must:

(1) accept contributions from corporations and others for use in providing early childhood education access grants and allocate at least 85 percent of annual contributions received for making early childhood education access grants to qualified students;

(2) develop a process for parents of qualified students to apply for and receive a \$5,000 early childhood education access grant, which the parents must use to enroll the student in the qualified early childhood educational program of their choice;

(3) not charge parents of qualified students a fee of any kind;

(4) not restrict the availability of access grants to students of any one qualified early childhood educational program;

(5) report annually to the commissioner of education on:

(i) the number of students awarded access grants from contributions under the tax credit program;

(ii) the total amount awarded in access grants from contributions under the tax credit program; and

(iii) the total number of early childhood educational programs attended by access grant recipients; and

(6) report annually no later than October 15 to the commissioner of education on the names of students receiving access grants for the current school year, so that the commissioner may reduce the amount of child care assistance under section 119B.03 provided to the students' families in the next calendar year as provided in section 119B.09, subdivision 1, paragraph (d).

Parents of more than one qualified student are eligible to apply for and receive an access grant for each qualified student.

Subd. 3. **Credit allowed.** A corporation is allowed a credit against the corporate franchise tax due under this chapter equal to 75 percent of the amount contributed to early childhood education access grant organizations for early childhood education access grants. The maximum credit allowed any corporation in a taxable year is \$2,500,000. The credit may not be claimed for contributions designated for the use of a specific student. The credit for the taxable year may not exceed the corporation's liability for tax. The commissioner of revenue shall prescribe the manner in which the credit may be claimed. This may include allowing the credit only as a separately processed claim for refund.

Subd. 4. **Commissioner of education.** (a) The commissioner of education must, on application, certify organizations that meet the criteria provided in this section for early childhood access grant organizations. The commissioner must maintain a list of certified

11.1 early childhood access grant organizations, and make the list available on the Department
11.2 of Education's Web site and by other means.

11.3 (b) The commissioner of education, in consultation with the commissioner of
11.4 revenue, must report annually to the committees of the legislature with jurisdiction over
11.5 early childhood education on:

11.6 (i) the total number of students awarded access grants from contributions under the
11.7 tax credit program, and summary information on the geographic distribution throughout
11.8 the state of access grant recipients;

11.9 (ii) the total amount awarded in access grants from contributions under the tax
11.10 credit program; and

11.11 (iii) the total number of early childhood educational programs attended by access
11.12 grant recipients.

11.13 Subd. 5. **Application for credit certificate.** A corporation shall apply to the
11.14 commissioner of education for a tax credit certificate. Tax credit certificates under this
11.15 section shall be made available by the commissioner of education on a first-come,
11.16 first-served basis until the maximum statewide credit amount has been reached. The
11.17 statewide credit maximum amount is \$100,000,000 in fiscal year 2008 and following
11.18 years. A contribution by a corporation to an early childhood access grant organization
11.19 must be made no later than 60 days following written notification of the approval by the
11.20 commissioner of education of the application. The commissioner of education shall issue
11.21 the tax credit certificate in the amount of 75 percent of the amount contributed to an early
11.22 childhood access grant organization after the corporation has made the contribution. The
11.23 commissioner of education shall not issue a tax credit certificate for an amount greater
11.24 than \$2,500,000.

11.25 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
11.26 December 31, 2006.