SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 4298

(SENATE AUTHORS: WEBER)

DATE	D-PG	OFFICIAL STATUS
03/28/2022	5651	Introduction and first reading Referred to Taxes

A bill for an act

relating to taxation; individual income; corporate franchise; establishing a tax credit for certain purchases of equipment and machinery used in manufacturing processes; proposing coding for new law in Minnesota Statutes, chapter 290.

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

Section 1. **[290.0688] PRODUCTIVITY INVESTMENT TAX CREDIT.**

Subdivision 1. **Definitions.** For purposes of this section, the terms in subdivisions 2 to 5 have the meanings given.

Subd. 2. **Capital lease.** "Capital lease" means a lease that meets generally accepted accounting principles.

Subd. 3. **Increased output.** "Increased output" means an increase of at least five percent in output or in the number of units produced per production line per time period.

Subd. 4. **Improved job quality.** "Improved job quality" means:

(1) an increase of at least five percent in the average wage paid by the employer to employees whose services performed are directly affected by the machinery or equipment used to determine the employer's qualified purchase costs; or

(2) an improvement of at least five percent in workplace safety as documented through participation in workforce safety and insurance safety incentive programs.

Subd. 5. **Qualified purchase costs.** (a) "Qualified purchase costs" means the costs for acquiring new and used manufacturing machinery and equipment used to upgrade or advance manufacturing processes in Minnesota that results in improved job quality or increased output. Qualified purchase costs include any items, such as computer software, that are necessary to the operation of the machinery or equipment.

(b) For machinery and equipment acquired in a transaction that includes a trade-in of other property, the qualified purchase costs include the cost of the acquired machinery or equipment item less the trade-in value of the other property.

(c) For machinery or equipment acquired under a capital lease, qualified purchase costs include the equipment costs only to the extent of the fair market value of the equipment at the inception of the lease.

(d) Qualified purchase costs do not include:

(1) replacement machinery or equipment that does not upgrade or advance a manufacturing process;

(2) delivery, training, assembly, installation costs, interest on financing, training, sales tax, and other costs incidental to the machinery or equipment purchase;

(3) optional warranties; and

(4) the amount of costs used to qualify for a credit allowed under chapter 290, other than the credit allowed under this section.

Subd. 6. **Credit allowed.** An employer is allowed a productivity investment tax credit against the tax imposed under this chapter equal to 20 percent of the amount of the employer's qualified purchase costs for the taxable year, but in no case may the credit exceed $........

Subd. 7. **Credit limited; carryover.** The credit is limited to 50 percent of the employer's liability for tax as computed under this chapter for the taxable year. If the amount of the credit determined under this subdivision for any taxable year exceeds this limitation, the excess is a productivity investment tax credit carryover to each of the succeeding ten taxable years. The entire amount of the excess unused credit for the taxable year is carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit that may be added under this paragraph must not exceed 50 percent of the taxpayer's liability for tax, less the productivity investment tax credit for the taxable year. A productivity investment tax credit carryover is not allowed for any taxable year in which a taxpayer is subject to revocation tax under subdivision 12.

Subd. 8. **Capital lease.** For equipment and machinery acquired under a capital lease, the qualified purchase costs are assigned to the taxable year in which the lease is executed.

Subd. 9. **Nonresidents and part-year residents.** For a nonresident or a part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

Subd. 10. **Pass-through entities.** Credits granted to a partnership, a limited liability company taxed as a partnership, or an S corporation are passed through to the partners, members, shareholders, or owners, respectively, pro rata to each partner, member, shareholder, or owner based on their share of the entity's assets or as specially allocated in their organizational documents or any other executed agreement, as of the last day of the taxable year.

Subd. 11. **Report required.** (a) By February 1, an employer that received a credit must submit a report to the commissioner. Each employer must submit the report for the taxable year immediately following the taxable year for which the employer claimed the credit. Reports must be made in the form required by the commissioner. The report must demonstrate and certify that the equipment and machinery used to determine the taxpayer's qualified purchase costs that were used to qualify for the credit have resulted in improved job quality or increased output. An employer that fails to file an annual report by February 1 as required under this subdivision is subject to a $100 fine.

(b) An employer that ceases all operations and becomes insolvent must file a report in the form required by the commissioner documenting its insolvency in lieu of filing the report required in paragraph (a) and is exempt from the fine for failure to file a report.

(c) An employer that fails to file an annual report by April 1 may, at the commissioner's discretion, be subject to revocation under subdivision 12.

Subd. 12. **Revocation of credit.** (a) If the commissioner determines that an employer did not improve job quality or increase output as required to be demonstrated and certified by the report in subdivision 11, any credit received by the employer is revoked and must be repaid by the employer.

(b) An employer required to repay a credit must file an amended return with the commissioner of revenue and pay any amounts required to be repaid within 30 days after becoming subject to repayment under this subdivision.

Subd. 13. **Sunset.** This section expires for taxable years beginning after December 31, ..., except that reporting requirements under subdivision 11 and revocation of credits under subdivision 12 remain in effect through .... The expiration of this section does not affect the commissioner of revenue's authority to audit or power of examination and assessment for credits claimed under this section.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2021.