

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 2186

(SENATE AUTHORS: RELPH, Senjem, Franzen, Simonson and Eken)

DATE	D-PG	OFFICIAL STATUS
03/20/2017	1577	Introduction and first reading
		Referred to Taxes
03/27/2017	1966	Authors added Senjem; Franzen
04/06/2017	3143	Author added Simonson
03/19/2018	6793	Author added Eken

1.1 A bill for an act

1.2 relating to taxation; income; providing tax credits to encourage charitable

1.3 contributions; establishing an endow Minnesota program; requiring reports;

1.4 appropriating money; amending Minnesota Statutes 2016, sections 290.0131, by

1.5 adding a subdivision; 290.0133, by adding a subdivision; 290.06, by adding a

1.6 subdivision; 297L.20, by adding a subdivision; proposing coding for new law in

1.7 Minnesota Statutes, chapter 290.

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

1.9 Section 1. Minnesota Statutes 2016, section 290.0131, is amended by adding a subdivision

1.10 to read:

1.11 Subd. 14. **Endow Minnesota donations.** The amount of the deduction allowed under

1.12 section 170 of the Internal Revenue Code that represents donations to an endow Minnesota

1.13 community foundation under section 290.06, subdivision 37, is an addition.

1.14 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December

1.15 31, 2016.

1.16 Sec. 2. Minnesota Statutes 2016, section 290.0133, is amended by adding a subdivision

1.17 to read:

1.18 Subd. 15. **Endow Minnesota donations.** The amount of the deduction allowed under

1.19 section 170 of the Internal Revenue Code that represents donations to an endow Minnesota

1.20 community foundation under section 290.06, subdivision 37, is an addition.

1.21 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December

1.22 31, 2016.

Sec. 3. Minnesota Statutes 2016, section 290.06, is amended by adding a subdivision to read:

Subd. 37. **Endow Minnesota tax credit.** (a) For purposes of this subdivision, the definitions in section 290.0693 apply.

(b) A qualified taxpayer is allowed a credit against the tax imposed under subdivisions 1 and 2c for qualified contributions made to an endow Minnesota community foundation in the taxable year. The credit equals the amount and applies to the taxable year indicated on the certificate provided to the qualified taxpayer under section 290.0693, but the maximum credit in any taxable year is \$25,000.

(c) Each pass-through entity must provide each taxpayer a statement indicating the taxpayer's share of the credit amount certified to the pass-through entity based on its share of the pass-through entity's income in the taxable year of the qualified contribution.

(d) The credit under this subdivision is limited to the liability for tax. "Liability for tax," for purposes of this subdivision, means the tax imposed under subdivisions 1 and 2c for the taxable year, reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) For a corporation that is a partner in a partnership, the credit allowed for the taxable year is limited to the lesser of:

(1) the amount determined under paragraph (c) for the taxable year; or

(2) an amount, separately computed with respect to the corporation's interest in the trade, business, or entity, equal to the amount of tax attributable to that portion of taxable income that is allocable or apportionable to the corporation's interest in the trade, business, or entity.

(f) If the amount of the credit determined under this subdivision for any taxable year exceeds the limitation under paragraph (d), the excess is a credit carryover to each of the 15 succeeding 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 is limited to the taxpayer's liability or tax, less the credit for the taxable year.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2017, and before January 1, 2032, except that credit carryovers are allowed to be applied against liability through taxable years ending before January 1, 2047.

3.1 Sec. 4. **[290.0693] ENDOW MINNESOTA PROGRAM.**

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

3.4 (b) "Endow Minnesota community foundation" means an entity under sections 501(c)(3),
3.5 509(a)(1), and 170(b)(1)(a)(vi) of the Internal Revenue Code that is certified by the Minnesota
3.6 Council on Foundations as meeting the following requirements:

3.7 (1) is organized by articles of incorporation in the state of Minnesota and serves the state
3.8 of Minnesota, or one or more Minnesota counties or municipalities, or is organized by
3.9 articles of incorporation in the state of North Dakota or Wisconsin and serves a metropolitan
3.10 statistical area that includes one or more Minnesota counties;

3.11 (2) is comprised of permanent, component funds established by multiple separate donors;

3.12 (3) supports broad-based charitable interests;

3.13 (4) is directed by a board of directors that is comprised of community representatives
3.14 and is independent in that it is not subject to the control of another entity;

3.15 (5) actively engages in charitable activities including, but not limited to, supporting two
3.16 or more unaffiliated tax-exempt organizations through grants or other professionally accepted
3.17 means of charitable support, and serving in leadership roles on important community issues;

3.18 (6) complies with the Minnesota Council on Foundations' guidelines for membership
3.19 by a community foundation and subscribes to the principles of grantmaking established by
3.20 the Minnesota Council on Foundations, or is certified by the national Council on Foundations
3.21 to comply with national standards for community foundations; and

3.22 (7) has complied with endow Minnesota reporting and data privacy requirements under
3.23 subdivisions 4 and 5.

3.24 (c) "Endowment gift" means an irrevocable contribution to a permanent endowment
3.25 held by an endow Minnesota qualified community foundation and includes but is not limited
3.26 to designated funds established on behalf of another tax-exempt organization, unrestricted
3.27 endowment contributions, and contributions for donor-advised funds.

3.28 (d) "Metropolitan statistical area" means an area delineated by the United States Office
3.29 of Management and Budget in OMB Bulletin No. 13-01, dated February 28, 2013.

3.30 (e) "Qualified contribution" means an endowment gift of at least \$5,000 made to an
3.31 endow Minnesota community foundation for a permanent endowment fund established to

4.1 substantially benefit charitable causes in this state, and that is a charitable gift as defined
4.2 in section 170(c) of the Internal Revenue Code.

4.3 (f) "Qualified taxpayer" means an individual, estate, trust, insurance company, or
4.4 corporation.

4.5 Subd. 2. **Endow Minnesota tax credit; limitations; allocation; applications.** (a) A
4.6 qualified taxpayer is eligible for a credit equal to 25 percent of the qualified contribution
4.7 made to an endow Minnesota community foundation. The commissioner must not allocate
4.8 more than \$4,000,000 in credits for each taxable year beginning after December 31, 2017,
4.9 and before January 1, 2032.

4.10 (b) \$300,000 each taxable year is allocated to credits for qualified contributions of
4.11 \$30,000 or less. Any portion of a taxable year's credits that is reserved for qualified
4.12 contributions of \$30,000 or less that is not allocated by August 31 of the taxable years is
4.13 available for allocation to other credit applications beginning September 1.

4.14 (c) The commissioner must not allocate more than \$25,000 in credits for a taxable year
4.15 to a qualified taxpayer for the taxpayer's qualified contributions to all endow Minnesota
4.16 community foundations in the taxable year.

4.17 (d) The commissioner must not allocate more than \$750,000 in credits for a taxable year
4.18 for qualified contributions to a single endow Minnesota community foundation. If the full
4.19 amount of tax credits for a taxable year is not allocated by September 1 of a calendar year,
4.20 the limit on qualified contributions to a single endow Minnesota community foundation in
4.21 this paragraph does not apply to that taxable year.

4.22 (e) Any portion of a taxable year's credits that is not allocated by the commissioner does
4.23 not cancel and may be carried forward to subsequent taxable years until all credits have
4.24 been allocated.

4.25 (f) Applications for tax credits for 2018 must be made available on the department's
4.26 Web site by November 1, 2017. Applications for subsequent years must be made available
4.27 by November 1 of the preceding year.

4.28 (g) To receive a credit allocation, a qualified taxpayer must apply to the commissioner
4.29 for tax credits. The commissioner must begin accepting applications on January 1, and tax
4.30 credits must be allocated to qualified taxpayers in the order that the tax credit request
4.31 applications are filed with the department. The commissioner must approve or reject tax
4.32 credit request applications within 15 days of receiving the application. The contribution
4.33 specified in the application must be made within 60 days of the allocation of the credits. If

the contribution is not made within 60 days, the credit allocation is canceled and available for reallocation. A qualified taxpayer that fails to contribute as specified in the application, within 60 days of allocation of the credits, must notify the commissioner of the failure to contribute within five business days of the expiration of the 60-day contribution period.

(h) All tax credit request applications filed with the department on the same day must be treated as having been filed contemporaneously. If two or more qualified taxpayers file tax credit request applications on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day, then the credits must be allocated among the qualified taxpayers who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one qualified taxpayer is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a qualified taxpayer and the denominator of which is the total of all credit allocation claims filed on behalf of all applicants on that day, by the amount of credits that remain unallocated on that day for the taxable year.

(i) A qualified taxpayer must notify the commissioner when a contribution for which credits were allocated has been made, and the taxable year in which the contribution was made. After receiving notification that the contribution was made, the commissioner must issue credit certificates for the taxable year in which the contribution was made to the qualified taxpayer.

Subd. 3. **Program administration.** The commissioner may issue a request for proposals for a program administrator. The commissioner may select an administrator with knowledge and experience working with community foundations and collaborate with the administrator in operating the program in this section and in preparing the report required in subdivision 6.

Subd. 4. **Reporting by endow Minnesota community foundations.** By February 1 of each year, each endow Minnesota community foundation that received a contribution that qualified for a credit must submit an annual report to the commissioner. Reports must be made in the form required by the commissioner and include any information the commissioner deems necessary for preparing the report to the legislature required in subdivision 6.

Subd. 5. **Data privacy.** Data contained in an application submitted to the commissioner under subdivision 2 are nonpublic data, or private data on individuals, as defined in section 13.02, subdivision 9 or 12.

6.1 Subd. 6. **Biennial report to legislature.** Beginning in 2019, the commissioner must
6.2 biennially report by March 15 to the chairs and ranking minority members of the legislative
6.3 committees having jurisdiction over taxes and economic and community development in
6.4 the senate and the house of representatives, in compliance with sections 3.195 and 3.197,
6.5 on the tax credits issued under this section. The report must include:

6.6 (1) information about the amount of credits claimed, changes in the dollar value of
6.7 community foundation endowments, number of designated funds established to support
6.8 tax-exempt organizations other than community foundations, and changes in the dollar value
6.9 of grants made by community foundations;

6.10 (2) descriptive information about each eligible community foundation's priorities for
6.11 community and economic development as outlined in the foundation's strategic plan and
6.12 progress toward addressing those priorities in the context of growth in the foundation's
6.13 endowment stimulated by the tax credit; and

6.14 (3) any other information relevant to evaluating the effect of the credit.

6.15 The report due in 2019 must also report on the need and feasibility of expanding the tax
6.16 credit to apply to permanent endowment contributions to any tax-exempt organization
6.17 located in Minnesota.

6.18 Subd. 7. **Appropriation.** \$50,000 in fiscal year 2018 and \$50,000 in fiscal year 2019
6.19 are appropriated from the general fund to the commissioner of revenue for the purpose of
6.20 administering the endow Minnesota program and credits under this section. The commissioner
6.21 may solicit and accept contributions from government or private entities to administer or
6.22 evaluate the endow Minnesota program. The base amount for fiscal year 2032 is \$0.

6.23 Subd. 8. **Sunset.** This section expires for taxable years beginning after December 31,
6.24 2031, except that reporting requirements under subdivisions 3 and 5 remain in effect through
6.25 2032, and the appropriation in subdivision 6 remains in effect through fiscal year 2033.

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

6.27 Sec. 5. Minnesota Statutes 2016, section 297I.20, is amended by adding a subdivision to
6.28 read:

6.29 Subd. 4. **Endow Minnesota tax credit.** (a) For purposes of this subdivision, the
6.30 definitions in section 290.0693 apply.

6.31 (b) A qualified taxpayer is allowed a credit against the premiums tax imposed under this
6.32 chapter for qualified contributions made to an endow Minnesota community foundation in

7.1 the taxable year. The credit equals the amount and applies to the taxable year indicated on
7.2 the certificate provided to the qualified taxpayer under section 290.0693, but the maximum
7.3 credit in any taxable year is \$25,000. This credit does not affect the calculation of police
7.4 and fire aid under section 69.021.

7.5 (c) The credit under this subdivision is limited to the liability for tax. "Liability for tax,"
7.6 for purposes of this subdivision, means the tax imposed under this chapter for the taxable
7.7 year reduced by the sum of the nonrefundable credits allowed under this chapter.

7.8 (d) If the amount of the credit determined under this subdivision for any taxable year
7.9 exceeds the limitation under paragraph (c), the excess is a credit carryover to each of the
7.10 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable
7.11 year is carried first to the earliest of the taxable years to which the credit may be carried,
7.12 and then to each successive year to which the credit may be carried. The amount of the
7.13 unused credit that may be added under this paragraph is limited to the taxpayer's liability
7.14 or tax, less the credit for the taxable year.

7.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
7.16 31, 2017, and before January 1, 2032, except that credit carryovers are allowed to be applied
7.17 against liability through taxable years ending before January 1, 2047.