

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1400

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03/05/2015	568	Introduction and first reading Referred to Taxes

A bill for an act

relating to taxation; income; providing tax credits to encourage charitable contributions; establishing an endow Minnesota program; appropriating money; amending Minnesota Statutes 2014, sections 290.06, by adding a subdivision; 297I.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

Section 1. **[116J.9821] ENDOW MINNESOTA PROGRAM.**

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

(b) "Commissioner" means the commissioner of employment and economic development.

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

(1) is organized by articles of incorporation in the state of Minnesota to serve the state of Minnesota, or one or more Minnesota counties or municipalities, or is organized by articles of incorporation in the state of North Dakota or Wisconsin to serve a metropolitan statistical area that includes one or more Minnesota counties;

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

(3) supports broad-based charitable interests that benefit the residents of a defined geographic area, no larger than the state of Minnesota;

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

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

2.5 (6) complies with the Minnesota Council on Foundations' guidelines for membership
2.6 by a community foundation and subscribes to the principles of grantmaking established by
2.7 the Minnesota Council on Foundations;

2.8 (7) is certified by the national Council on Foundations to comply with national
2.9 standards for community foundations, or certifies that it intends to initiate application for
2.10 certification within one year following the end of the tax year in which it accepts its initial
2.11 endowment gift that qualifies for a tax credit under this section; and

2.12 (8) has complied with endow Minnesota certification, reporting, and data privacy
2.13 requirements under subdivisions 4 and 5.

2.14 (d) "Endowment gift" means an irrevocable contribution to a permanent endowment
2.15 held by an endow Minnesota qualified community foundation.

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

2.18 (f) "Qualified contribution" means an endowment gift of at least \$5,000 made to an
2.19 endow Minnesota community foundation for a permanent endowment fund established to
2.20 substantially benefit charitable causes in this state, and that is a charitable gift as defined in
2.21 section 170(c) of the Internal Revenue Code.

2.22 (g) "Qualified taxpayer" means an individual, estate, trust, insurance company,
2.23 or corporation.

2.24 **Subd. 2. Endow Minnesota tax credit; limitations; allocation; applications. (a)**
2.25 A qualified taxpayer is eligible for a credit equal to 25 percent of the qualified contribution
2.26 made to an endow Minnesota community foundation. The commissioner must not allocate
2.27 more than \$3,000,000 in credits for each taxable year beginning after December 31,
2.28 2015, and before January 1, 2031.

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

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

3.1 (d) The commissioner must not allocate more than \$600,000 in credits for a taxable
3.2 year for qualified contributions to a single endow Minnesota community foundation. If
3.3 the full amount of tax credits for a taxable year is not allocated by September 1 of a
3.4 calendar year, the limit on qualified contributions to a single endow Minnesota community
3.5 foundation in this paragraph does not apply to that taxable year.

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

3.9 (f) Applications for tax credits for 2016 must be made available on the department's
3.10 Web site by November 1, 2015. Applications for subsequent years must be made available
3.11 by November 1 of the preceding year.

3.12 (g) To receive a credit allocation, a qualified taxpayer must apply to the
3.13 commissioner for tax credits. Tax credits must be allocated to qualified taxpayers in
3.14 the order that the tax credit request applications are filed with the department. The
3.15 commissioner must approve or reject tax credit request applications within 15 days of
3.16 receiving the application. The contribution specified in the application must be made
3.17 within 60 days of the allocation of the credits. If the contribution is not made within 60
3.18 days, the credit allocation is canceled and available for reallocation. A qualified taxpayer
3.19 that fails to contribute as specified in the application, within 60 days of allocation of the
3.20 credits, must notify the commissioner of the failure to contribute within five business days
3.21 of the expiration of the 60-day contribution period.

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

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

4.1 must issue credit certificates for the taxable year in which the contribution was made
4.2 to the qualified taxpayer.

4.3 (j) The commissioner must notify the commissioner of revenue of credit certificates
4.4 issued under this section.

4.5 Subd. 3. **Program administration.** The commissioner may issue a request for
4.6 proposals for a program administrator. The commissioner may select an administrator
4.7 and collaborate with the administrator in operating the program in this section and in
4.8 preparing the report required in subdivision 6.

4.9 Subd. 4. **Reporting by endow Minnesota community foundations.** By February 1
4.10 of each year, each endow Minnesota community foundation that received a contribution
4.11 that qualified for a credit must submit an annual report to the commissioner. Reports must
4.12 be made in the form required by the commissioner and include information on how the
4.13 foundation used contributions that qualified for credits.

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

4.17 Subd. 6. **Biennial report to legislature.** Beginning in 2017, the commissioner
4.18 must biennially report by March 15 to the chairs and ranking minority members of the
4.19 legislative committees having jurisdiction over taxes and economic and community
4.20 development in the senate and the house of representatives, in compliance with sections
4.21 3.195 and 3.197, on the tax credits issued under this section. The report must include:

4.22 (1) information on the impact of the endow Minnesota program on promoting
4.23 development of jobs, promoting community development, increasing community
4.24 foundation endowments, and capturing generational transfer of wealth for benefit in
4.25 Minnesota communities; and

4.26 (2) any other information relevant to evaluating the effect of the credit.

4.27 Subd. 7. **Employment and economic development base adjustment.** For fiscal
4.28 years 2016 to 2041, \$50,000 is added to the base administrative appropriation to the
4.29 commissioner of employment and economic development in Laws 2013, chapter 85, article
4.30 1, section 3, subdivision 2, for the purpose of administering the endow Minnesota program
4.31 and credits under this section. The commissioner may solicit and accept contributions from
4.32 government or private entities to administer or evaluate the endow Minnesota program.

4.33 Subd. 8. **Sunset.** This section expires for taxable years beginning after December
4.34 31, 2030, except that reporting requirements under subdivisions 3 and 5 remain in effect
4.35 through 2031, and the appropriation in subdivision 6 remains in effect through fiscal
4.36 year 2013.

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

5.2 Sec. 2. Minnesota Statutes 2014, section 290.06, is amended by adding a subdivision
5.3 to read:

5.4 Subd. 37. **Endow Minnesota tax credit.** (a) For purposes of this subdivision,
5.5 the definitions in section 116J.9821 apply.

5.6 (b) A qualified taxpayer is allowed a credit against the tax imposed under
5.7 subdivisions 1 and 2c for qualified contributions made to an endow Minnesota community
5.8 foundation in the taxable year. The credit equals the amount and applies to the taxable year
5.9 indicated on the certificate provided to the qualified taxpayer under section 116J.9821,
5.10 but the maximum credit in any taxable year is \$25,000.

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

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

5.18 (e) For a corporation that is a partner in a partnership, the credit allowed for the
5.19 taxable year is limited to the lesser of: (1) the amount determined under paragraph (c) for
5.20 the taxable year; or (2) an amount, separately computed with respect to the corporation's
5.21 interest in the trade, business, or entity, equal to the amount of tax attributable to that
5.22 portion of taxable income that is allocable or apportionable to the corporation's interest
5.23 in the trade, business, or entity.

5.24 (f) If the amount of the credit determined under this subdivision for any taxable year
5.25 exceeds the limitation under paragraph (d), the excess is a credit carryover to each of the
5.26 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable
5.27 year is carried first to the earliest of the taxable years to which the credit may be carried
5.28 and then to each successive year to which the credit may be carried. The amount of the
5.29 unused credit that may be added under this paragraph is limited to the taxpayer's liability
5.30 or tax, less the credit for the taxable year.

5.31 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.32 December 31, 2015, and before January 1, 2031, except that credit carryovers are allowed
5.33 to be applied against liability through taxable years ending before January 1, 2046.

6.1 Sec. 3. Minnesota Statutes 2014, section 297I.20, is amended by adding a subdivision
6.2 to read:

6.3 Subd. 4. **Endow Minnesota tax credit.** (a) For purposes of this subdivision, the
6.4 definitions in section 116J.9821 apply.

6.5 (b) A qualified taxpayer is allowed a credit against the premiums tax imposed
6.6 under this chapter for qualified contributions made to an endow Minnesota community
6.7 foundation in the taxable year. The credit equals the amount and applies to the taxable year
6.8 indicated on the certificate provided to the qualified taxpayer under section 116J.9821,
6.9 but the maximum credit in any taxable year is \$25,000. This credit does not affect the
6.10 calculation of police and fire aid under section 69.021.

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

6.14 (d) If the amount of the credit determined under this subdivision for any taxable year
6.15 exceeds the limitation under paragraph (c), the excess is a credit carryover to each of the
6.16 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable
6.17 year is carried first to the earliest of the taxable years to which the credit may be carried,
6.18 and then to each successive year to which the credit may be carried. The amount of the
6.19 unused credit that may be added under this paragraph is limited to the taxpayer's liability
6.20 or tax, less the credit for the taxable year.

6.21 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
6.22 December 31, 2015, and before January 1, 2031, except that credit carryovers are allowed
6.23 to be applied against liability through taxable years ending before January 1, 2046.