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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 20

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The bill was read for the first time and referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to taxation; income; allowing a credit for contributions to prekindergarten
1.3 scholarship granting organizations; amending Minnesota Statutes 2006, section
1.4 290.01, subdivision 19c; proposing coding for new law in Minnesota Statutes,
1.5 chapter 290.

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

1.7 Section 1. Minnesota Statutes 2006, section 290.01, subdivision 19c, is amended to
1.8 read:

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

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

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

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

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

- 2.1 (5) the amount of any special deductions taken for federal income tax purposes
2.2 under sections 241 to 247 and 965 of the Internal Revenue Code;
- 2.3 (6) losses from the business of mining, as defined in section 290.05, subdivision 1,
2.4 clause (a), that are not subject to Minnesota income tax;
- 2.5 (7) the amount of any capital losses deducted for federal income tax purposes under
2.6 sections 1211 and 1212 of the Internal Revenue Code;
- 2.7 (8) the exempt foreign trade income of a foreign sales corporation under sections
2.8 921(a) and 291 of the Internal Revenue Code;
- 2.9 (9) the amount of percentage depletion deducted under sections 611 through 614 and
2.10 291 of the Internal Revenue Code;
- 2.11 (10) for certified pollution control facilities placed in service in a taxable year
2.12 beginning before December 31, 1986, and for which amortization deductions were elected
2.13 under section 169 of the Internal Revenue Code of 1954, as amended through December
2.14 31, 1985, the amount of the amortization deduction allowed in computing federal taxable
2.15 income for those facilities;
- 2.16 (11) the amount of any deemed dividend from a foreign operating corporation
2.17 determined pursuant to section 290.17, subdivision 4, paragraph (g);
- 2.18 (12) the amount of a partner's pro rata share of net income which does not flow
2.19 through to the partner because the partnership elected to pay the tax on the income under
2.20 section 6242(a)(2) of the Internal Revenue Code;
- 2.21 (13) the amount of net income excluded under section 114 of the Internal Revenue
2.22 Code;
- 2.23 (14) any increase in subpart F income, as defined in section 952(a) of the Internal
2.24 Revenue Code, for the taxable year when subpart F income is calculated without regard
2.25 to the provisions of section 103 of Public Law 109-222;
- 2.26 (15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A)
2.27 and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer
2.28 has an activity that in the taxable year generates a deduction for depreciation under
2.29 section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year
2.30 that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed
2.31 under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the
2.32 depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the
2.33 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
2.34 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
2.35 under section 168(k)(1)(A) and (k)(4)(A) is allowed;

3.1 (16) 80 percent of the amount by which the deduction allowed by section 179 of the
 3.2 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
 3.3 Revenue Code of 1986, as amended through December 31, 2003;

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

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

3.8 (19) the amount deducted under section 170 of the Internal Revenue Code that
 3.9 represents contributions to a prekindergarten scholarship granting organization for which
 3.10 a credit is claimed under section 290.0676.

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

3.13 **Sec. 2. [290.0678] CREDIT FOR CONTRIBUTIONS TO SCHOLARSHIP**
 3.14 **GRANTING ORGANIZATIONS.**

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

3.17 (b) "Statewide median family income" means median income for a four-person
 3.18 family in Minnesota used by the United States Department of Health and Human Services
 3.19 in administering the Low Income Home Energy Assistance Program, as most recently
 3.20 published in the Federal Register.

3.21 (c) A "qualified student" must be:

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

3.24 (2) a member of a household with an income less than 75 percent of the statewide
 3.25 median family income.

3.26 (d) A "qualified prekindergarten educational program" must:

3.27 (1) be one of the following:

3.28 (i) a prekindergarten program established by a school district under chapter 124D;

3.29 (ii) a preschool, nursery school, or early childhood development program licensed
 3.30 by the Department of Human Services and accredited by the National Association for the
 3.31 Education of Young Children or National Early Childhood Program Accreditation;

3.32 (iii) a Montessori program affiliated with or accredited by the American Montessori
 3.33 Society or American Montessori International; or

4.1 (iv) a child care program provided by a family day care provider holding a current
 4.2 early childhood development credential approved by the commissioner of human services;
 4.3 and

4.4 (2) accept education scholarship funds granted under this section in payment of
 4.5 tuition for a qualified student under paragraph (c) enrolled in the program.

4.6 (e) "Prekindergarten scholarship granting organization" or "preK SGO" means a
 4.7 charitable organization that is exempt from federal taxation under section 501(c)(3) of
 4.8 the Internal Revenue Code, is registered with the attorney general's office, and is certified
 4.9 by the commissioner of education as meeting the criteria of this paragraph. To qualify as
 4.10 a preK SGO, the charitable organization:

4.11 (1) must allocate at least 85 percent of its annual revenue for education scholarship
 4.12 funds to children to allow them to attend any qualified prekindergarten educational
 4.13 program of their parents' choice;

4.14 (2) must not restrict the availability of scholarships to students of one program;

4.15 (3) may not charge a fee of any kind to students under consideration for a scholarship;

4.16 (4) must require a qualified prekindergarten educational program receiving payment
 4.17 of tuition through a scholarship grant funded by contributions qualifying for the tax credit
 4.18 under subdivision 3 awarded by a preK SGO to an enrolled student of the program to
 4.19 sign an agreement that it will not use different admissions standards for a student with a
 4.20 scholarship grant from a preK SGO;

4.21 (5) must agree to annually report to the Department of Education on:

4.22 (i) the number of students awarded scholarship grants funded by contributions
 4.23 under the tax credit program;

4.24 (ii) the total amount of scholarship grant dollars awarded from contributions under
 4.25 the tax credit program;

4.26 (iii) the total number of programs attended by scholarship grant recipients;

4.27 (iv) the total amount of contributions received under the tax credit program; and

4.28 (v) the percentage of contributions received under the tax credit program that was
 4.29 provided as scholarship grants to families; and

4.30 (6) must provide the Department of Education with the same annual report that the
 4.31 organization must provide the attorney general's office under section 309.53, subdivision 1.

4.32 Subd. 2. **Commissioner of education.** The commissioner of education:

4.33 (1) must maintain a list of preK SGO's;

4.34 (2) must make the list available on the Department of Education's Web site and
 4.35 by other means;

5.1 (3) must develop an application process for preK SGO's to be recorded as qualifying
5.2 by the Department of Education under this section;

5.3 (4) may remove an organization from the list of qualifying preK SGO's, after
5.4 notifying the organization and providing an opportunity for a public hearing, for reasons
5.5 of the organization's financial mismanagement or violation of the law; and

5.6 (5) must develop a process for preK SGO's to annually report to the Department
5.7 of Education as specified in this section.

5.8 Subd. 3. **Credit allowed.** A corporation is allowed a credit against the corporate
5.9 franchise tax due under this chapter equal to 50 percent of the amount contributed to a
5.10 prekindergarten scholarship granting organization. The maximum credit allowed any
5.11 corporation in a taxable year is \$100,000. The credit may not be claimed for contributions
5.12 designated for the use of a specific student. The credit for the taxable year may not
5.13 exceed the corporation's liability for tax. The commissioner of revenue shall prescribe the
5.14 manner in which the credit may be claimed. This may include allowing the credit only as
5.15 a separately processed claim for refund.

5.16 Subd. 4. **Application for credit certificate.** A corporation shall apply to the
5.17 Department of Education for a tax credit certificate. A corporation shall receive a tax credit
5.18 certificate under this section if the preK SGO appears on the list of qualifying preK SGO's
5.19 maintained by the Department of Education. Tax credit certificates under this section shall
5.20 be made available by the Department of Education on a first-come, first-served basis until
5.21 the maximum statewide credit amount has been reached. The statewide credit maximum
5.22 amount is \$0 in fiscal year 2006 and \$3,500,000 in fiscal year 2007. A contribution by
5.23 a corporation to a preK SGO shall be made no later than 60 days following written
5.24 notification of the approval of an application. The commissioner of education shall issue
5.25 the tax credit certificate in the amount of one-half of the amount contributed to the preK
5.26 SGO after the corporation has made the contribution to the preK SGO. The commissioner
5.27 of education shall not issue a tax credit certificate for an amount greater than \$100,000.

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