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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 123

January 16, 2007

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

March 27, 2007

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; individual income; providing that the education expense
1.3 credit and deduction apply to certain expenditures for prekindergarten expenses
1.4 and museum memberships; amending Minnesota Statutes 2006, sections 290.01,
1.5 subdivision 19b; 290.0674, subdivision 1.

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

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

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

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

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

1.17 (3) the amount paid to others, less the amount used to claim the credit allowed under
1.18 section 290.0674, and amounts used to claim the credit under section 290.067, not to
1.19 exceed \$1,625 for each qualifying child in ~~grades~~ a prekindergarten educational program
1.20 or in kindergarten to through grade 6 and \$2,500 for each qualifying child in grades 7 to
1.21 12, for tuition, textbooks, and transportation of each qualifying child in attending an
1.22 elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa,
1.23 or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory
1.24 attendance laws, which is not operated for profit, and which adheres to the provisions of
1.25 the Civil Rights Act of 1964 and chapter 363A, or for fees charged for enrollment in a

2.1 prekindergarten educational program. For the purposes of this clause, "tuition" includes
2.2 fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this
2.3 clause, "prekindergarten educational program" means:

2.4 (i) prekindergarten programs established by a school district under chapter 124D;

2.5 (ii) preschools, nursery schools, and early childhood development programs licensed
2.6 by the Department of Human Services and accredited by the National Association for the
2.7 Education of Young Children or National Early Childhood Program Accreditation;

2.8 (iii) Montessori programs affiliated with or accredited by the American Montessori
2.9 Society or American Montessori International; and

2.10 (iv) child care programs provided by family day care providers holding a current
2.11 early childhood development credential approved by the commissioner of human services.

2.12 As used in this clause, "textbooks" includes books and other instructional materials and
2.13 equipment purchased or leased for use in elementary and secondary schools in teaching
2.14 only those subjects legally and commonly taught in public elementary and secondary
2.15 schools in this state. Equipment expenses qualifying for deduction includes expenses as
2.16 defined and limited in section 290.0674, subdivision 1, clause (3). Expenses described
2.17 in section 290.0674, subdivision 1, clause (5), qualify for the deduction under this
2.18 subdivision. "Textbooks" does not include instructional books and materials used in the
2.19 teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such
2.20 tenets, doctrines, or worship, nor does it include books or materials for, or transportation
2.21 to, extracurricular activities including sporting events, musical or dramatic events,
2.22 speech activities, driver's education, or similar programs. For purposes of the subtraction
2.23 provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of
2.24 the Internal Revenue Code;

2.25 (4) income as provided under section 290.0802;

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

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

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

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

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

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

3.19 (11) the amount of compensation paid to members of the Minnesota National Guard
3.20 or other reserve components of the United States military for active service performed
3.21 in Minnesota, excluding compensation for services performed under the Active Guard
3.22 Reserve (AGR) program. For purposes of this clause, "active service" means (i) state
3.23 active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally
3.24 funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal
3.25 active service as defined in section 190.05, subdivision 5c, but "active service" excludes
3.26 services performed exclusively for purposes of basic combat training, advanced individual
3.27 training, annual training, and periodic inactive duty training; special training periodically
3.28 made available to reserve members; and service performed in accordance with section
3.29 190.08, subdivision 3;

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

3.33 (13) an amount, not to exceed \$10,000, equal to qualified expenses related to a
3.34 qualified donor's donation, while living, of one or more of the qualified donor's organs
3.35 to another person for human organ transplantation. For purposes of this clause, "organ"
3.36 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;

4.1 "human organ transplantation" means the medical procedure by which transfer of a human
4.2 organ is made from the body of one person to the body of another person; "qualified
4.3 expenses" means unreimbursed expenses for both the individual and the qualified donor
4.4 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
4.5 may be subtracted under this clause only once; and "qualified donor" means the individual
4.6 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
4.7 individual may claim the subtraction in this clause for each instance of organ donation for
4.8 transplantation during the taxable year in which the qualified expenses occur;

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

4.17 (15) to the extent included in federal taxable income, compensation paid to a
4.18 nonresident who is a service member as defined in United States Code, title 10, section
4.19 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public
4.20 Law 108-189, section 101(2); and

4.21 (16) international economic development zone income as provided under section
4.22 469.325.

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

4.25 Sec. 2. Minnesota Statutes 2006, section 290.0674, subdivision 1, is amended to read:

4.26 Subdivision 1. **Credit allowed.** An individual is allowed a credit against the
4.27 tax imposed by this chapter in an amount equal to 75 percent of the amount paid for
4.28 education-related expenses for a qualifying child in a prekindergarten educational program
4.29 or in kindergarten through grade 12. For purposes of this section, "education-related
4.30 expenses" means:

4.31 (1) fees or tuition for instruction by an instructor under section 120A.22, subdivision
4.32 10, clause (1), (2), (3), (4), or (5), or a member of the Minnesota Music Teachers
4.33 Association, and who is not a lineal ancestor or sibling of the dependent for instruction
4.34 outside the regular school day or school year, including tutoring, driver's education
4.35 offered as part of school curriculum, regardless of whether it is taken from a public or

5.1 private entity or summer camps, in grade or age appropriate curricula that supplement
5.2 curricula and instruction available during the regular school year, that assists a dependent
5.3 to improve knowledge of core curriculum areas or to expand knowledge and skills under
5.4 the required academic standards under section 120B.021, subdivision 1, and the elective
5.5 standard under section 120B.022, subdivision 1, clause (2), and that do not include the
5.6 teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such
5.7 tenets, doctrines, or worship, and fees for enrollment in a prekindergarten educational
5.8 program as defined in section 290.01, subdivision 19b, to the extent not used to claim
5.9 the credit under section 290.067;

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

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

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

5.30 (5) the amount paid by a taxpayer who has a child age 18 or younger in the
5.31 household at the end of the taxable year for membership in a museum, zoo, historical
5.32 society, or similar institution that offers educational programs for children.

5.33 For purposes of this section, "qualifying child" has the meaning given in section
5.34 32(c)(3) of the Internal Revenue Code.

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