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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 1963

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

1.1 A bill for an act
1.2 relating to taxation; providing an income tax credit for donations to qualified
1.3 scholarship-granting organizations; amending Minnesota Statutes 2006, section
1.4 290.01, subdivisions 19a, 19c; proposing coding for new law in Minnesota
1.5 Statutes, 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 19a, is amended to
1.8 read:

1.9 Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and
1.10 trusts, there shall be added to federal taxable income:

1.11 (1)(i) interest income on obligations of any state other than Minnesota or a political
1.12 or governmental subdivision, municipality, or governmental agency or instrumentality
1.13 of any state other than Minnesota exempt from federal income taxes under the Internal
1.14 Revenue Code or any other federal statute; and

1.15 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue
1.16 Code, except the portion of the exempt-interest dividends derived from interest income
1.17 on obligations of the state of Minnesota or its political or governmental subdivisions,
1.18 municipalities, governmental agencies or instrumentalities, but only if the portion of the
1.19 exempt-interest dividends from such Minnesota sources paid to all shareholders represents
1.20 95 percent or more of the exempt-interest dividends that are paid by the regulated
1.21 investment company as defined in section 851(a) of the Internal Revenue Code, or the
1.22 fund of the regulated investment company as defined in section 851(g) of the Internal
1.23 Revenue Code, making the payment; and

2.1 (iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal
2.2 government described in section 7871(c) of the Internal Revenue Code shall be treated as
2.3 interest income on obligations of the state in which the tribe is located;

2.4 (2) the amount of income or sales and use taxes paid or accrued within the taxable
2.5 year under this chapter and the amount of taxes based on net income paid or sales and use
2.6 taxes paid to any other state or to any province or territory of Canada, to the extent allowed
2.7 as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not
2.8 be more than the amount by which the itemized deductions as allowed under section 63(d)
2.9 of the Internal Revenue Code exceeds the amount of the standard deduction as defined
2.10 in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the
2.11 disallowance of itemized deductions under section 68 of the Internal Revenue Code of
2.12 1986, income or sales and use tax is the last itemized deduction disallowed;

2.13 (3) the capital gain amount of a lump sum distribution to which the special tax under
2.14 section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

2.15 (4) the amount of income taxes paid or accrued within the taxable year under this
2.16 chapter and taxes based on net income paid to any other state or any province or territory
2.17 of Canada, to the extent allowed as a deduction in determining federal adjusted gross
2.18 income. For the purpose of this paragraph, income taxes do not include the taxes imposed
2.19 by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

2.20 (5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10
2.21 other than expenses or interest used in computing net interest income for the subtraction
2.22 allowed under subdivision 19b, clause (1);

2.23 (6) the amount of a partner's pro rata share of net income which does not flow
2.24 through to the partner because the partnership elected to pay the tax on the income under
2.25 section 6242(a)(2) of the Internal Revenue Code;

2.26 (7) 80 percent of the depreciation deduction allowed under section 168(k) of the
2.27 Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that
2.28 in the taxable year generates a deduction for depreciation under section 168(k) and the
2.29 activity generates a loss for the taxable year that the taxpayer is not allowed to claim for
2.30 the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is
2.31 limited to excess of the depreciation claimed by the activity under section 168(k) over the
2.32 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
2.33 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
2.34 under section 168(k) is allowed;

3.1 (8) 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 (9) 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 (10) the exclusion allowed under section 139A of the Internal Revenue Code for
 3.7 federal subsidies for prescription drug plans; and

3.8 (11) the amount of the deduction under section 170 of the Internal Revenue Code
 3.9 that represents contributions to a qualified scholarship-granting organization under section
 3.10 290.0678.

3.11 Sec. 2. Minnesota Statutes 2006, section 290.01, subdivision 19c, is amended to read:

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

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

3.19 (2) interest not subject to federal tax upon obligations of: the United States, its
 3.20 possessions, its agencies, or its instrumentalities; the state of Minnesota or any other
 3.21 state, any of its political or governmental subdivisions, any of its municipalities, or any
 3.22 of its governmental agencies or instrumentalities; the District of Columbia; or Indian
 3.23 tribal governments;

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

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

3.29 (5) the amount of any special deductions taken for federal income tax purposes
 3.30 under sections 241 to 247 and 965 of the Internal Revenue Code;

3.31 (6) losses from the business of mining, as defined in section 290.05, subdivision 1,
 3.32 clause (a), that are not subject to Minnesota income tax;

3.33 (7) the amount of any capital losses deducted for federal income tax purposes under
 3.34 sections 1211 and 1212 of the Internal Revenue Code;

4.1 (8) the exempt foreign trade income of a foreign sales corporation under sections
4.2 921(a) and 291 of the Internal Revenue Code;

4.3 (9) the amount of percentage depletion deducted under sections 611 through 614 and
4.4 291 of the Internal Revenue Code;

4.5 (10) for certified pollution control facilities placed in service in a taxable year
4.6 beginning before December 31, 1986, and for which amortization deductions were elected
4.7 under section 169 of the Internal Revenue Code of 1954, as amended through December
4.8 31, 1985, the amount of the amortization deduction allowed in computing federal taxable
4.9 income for those facilities;

4.10 (11) the amount of any deemed dividend from a foreign operating corporation
4.11 determined pursuant to section 290.17, subdivision 4, paragraph (g);

4.12 (12) the amount of a partner's pro rata share of net income which does not flow
4.13 through to the partner because the partnership elected to pay the tax on the income under
4.14 section 6242(a)(2) of the Internal Revenue Code;

4.15 (13) the amount of net income excluded under section 114 of the Internal Revenue
4.16 Code;

4.17 (14) any increase in subpart F income, as defined in section 952(a) of the Internal
4.18 Revenue Code, for the taxable year when subpart F income is calculated without regard
4.19 to the provisions of section 103 of Public Law 109-222;

4.20 (15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A)
4.21 and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer
4.22 has an activity that in the taxable year generates a deduction for depreciation under
4.23 section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year
4.24 that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed
4.25 under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the
4.26 depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the
4.27 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
4.28 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
4.29 under section 168(k)(1)(A) and (k)(4)(A) is allowed;

4.30 (16) 80 percent of the amount by which the deduction allowed by section 179 of the
4.31 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
4.32 Revenue Code of 1986, as amended through December 31, 2003;

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

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

5.1 (19) the amount of the deduction under section 170 of the Internal Revenue Code
5.2 that represents contributions to a qualified scholarship-granting organization under section
5.3 290.0678.

5.4 **Sec. 3. [290.0678] EQUITY AND OPPORTUNITY IN EDUCATION**
5.5 **SCHOLARSHIP TAX CREDIT.**

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

5.8 (b) "Program" means the equity and opportunity in education scholarship tax credit
5.9 program.

5.10 (c) "Eligible student" means a student who:

5.11 (1) is a member of a household whose total annual income during the year, without
5.12 consideration of the educational scholarship under this program, does not exceed an
5.13 amount equal to two times the income standard used to qualify for a reduced price meal
5.14 under the National School Lunch Program established under United States Code, title 42,
5.15 section 1751, et seq. Once a student receives a scholarship under this program, the student
5.16 remains eligible regardless of household income until the student graduates high school,
5.17 leaves high school, or reaches 21 years of age, whichever occurs first;

5.18 (2) was eligible to attend a public school in the preceding semester or is starting
5.19 school in Minnesota for the first time; and

5.20 (3) resides in Minnesota while receiving an educational scholarship.

5.21 (d) "Low-income eligible student" means a student who qualifies for a reduced price
5.22 meal under the National School Lunch Program established under United States Code,
5.23 title 42, section 1751, et seq.

5.24 (e) "Educational scholarships" means grants to eligible students to cover all or part
5.25 of the tuition and fees at a qualified school, including transportation to a public school
5.26 outside of an eligible student's resident school district.

5.27 (f) "Qualified school" means a school operated in Minnesota that is either a public
5.28 elementary or secondary school outside an eligible student's resident school district or a
5.29 nonpublic elementary or secondary school in Minnesota wherein a resident may legally
5.30 fulfill the state's compulsory attendance laws, which is not operated for profit, and which
5.31 adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. Qualified
5.32 schools must comply with all state laws that apply to a nonpublic school regarding
5.33 criminal background checks and exclude from employment any individuals not permitted
5.34 under state law to work in a nonpublic school.

6.1 (g) "Parent" includes a guardian, custodian, or other person with authority to act on
6.2 behalf of the child.

6.3 (h) "Scholarship-granting organization" means a nonprofit organization that
6.4 complies with the requirements of this program and provides educational scholarships to
6.5 eligible students attending a qualified school of their parents' choice.

6.6 Subd. 2. **Credit allowed.** (a) An individual or corporate taxpayer is allowed a credit
6.7 against the tax due under this chapter equal to ... percent of the amount contributed to
6.8 a qualified scholarship-granting organization. The maximum credit allowed is \$.....
6.9 for married joint filers, \$..... for all other individual filers, and \$..... for all corporate
6.10 filers. A taxpayer must provide a copy of the receipt provided by the scholarship-granting
6.11 organization when claiming the credit.

6.12 (b) The maximum amount of the credit must be annually adjusted for inflation. The
6.13 commissioner shall make the inflation adjustments in accordance with section 1(f) of the
6.14 Internal Revenue Code, except that for the purposes of this subdivision, the percentage
6.15 increase must be determined from the year starting September 1, 2006, and ending August
6.16 31, 2007, as the base year for adjusting for inflation for the tax year beginning after
6.17 December 31, 2007. The determination of the commissioner under this subdivision is not
6.18 a rule under the Administrative Procedure Act.

6.19 Subd. 3. **Responsibilities of scholarship-granting organizations.** (a) Each
6.20 scholarship-granting organization shall:

6.21 (1) notify the commissioner of its intent to provide educational scholarships to
6.22 students attending qualified schools;

6.23 (2) demonstrate to the commissioner that it has been granted exemption from the
6.24 federal income tax as an organization described in section 501(c)(3) of the Internal
6.25 Revenue Code;

6.26 (3) provide a receipt on a form approved by the commissioner to taxpayers for
6.27 donations for scholarships made to the organization;

6.28 (4) ensure that at least 85 percent of its revenue from donations for scholarships is
6.29 spent on educational scholarships;

6.30 (5) annually spend a portion of its expenditures on scholarships for low-income
6.31 eligible students equal to the percentage of low-income eligible students in the county
6.32 where the scholarship-granting organization expends the majority of its scholarships;

6.33 (6) distribute periodic scholarship payments as checks made out to a student's parent
6.34 or guardian and mailed to the qualified school where the student is enrolled. The parent or
6.35 guardian must endorse the check before it can be deposited;

7.1 (7) conduct criminal background checks on all of its employees and board members
7.2 and exclude from employment or governance any individuals that might reasonably pose a
7.3 risk to the appropriate use of contributed funds;

7.4 (8) ensure that scholarships are portable during the school year and can be used at
7.5 any qualified school that accepts the eligible student according to a parent's wishes. If
7.6 a student moves to a new qualified school during a school year, the scholarship amount
7.7 may be prorated;

7.8 (9) demonstrate its financial accountability by:

7.9 (i) submitting a financial information report for the organization that complies with
7.10 uniform financial accounting standards established by the commissioner and conducted by
7.11 a certified public accountant; and

7.12 (ii) having the auditor certify that the report is free of material misstatements;

7.13 (10) demonstrate its financial viability, if they are to receive donations of \$50,000 or
7.14 more during the school year, by:

7.15 (i) filing with the commissioner prior to the start of the school year a surety
7.16 bond payable to the state of Minnesota in an amount equal to the aggregate amount of
7.17 contributions expected to be received during the school year; or

7.18 (ii) filing with the commissioner prior to September 1 of each year financial
7.19 information that demonstrates the financial viability of the scholarship granting
7.20 organization.

7.21 (b) Each scholarship-granting organization shall ensure that participating schools
7.22 that accept its scholarship students will:

7.23 (1) comply with all health and safety laws or codes that apply to nonpublic schools;

7.24 (2) hold a valid occupancy permit if required by its municipality;

7.25 (3) certify that it will not discriminate in admissions on the basis of race, color,
7.26 national origin, religion, or disability; and

7.27 (4) provide academic accountability to parents of the students in the program by
7.28 regularly reporting to the parent on the student's progress.

7.29 (c) Scholarship-granting organizations shall not provide educational scholarships for
7.30 students to attend any school with paid staff or board members, or relatives thereof, in
7.31 common with the scholarship-granting support organization.

7.32 (d) A scholarship-granting organization shall not provide an educational scholarship
7.33 as a quid pro quo for a taxpayer contributing to any scholarship-granting organization
7.34 where a specific student is designated the beneficiary of the scholarship.

8.1 (e) A scholarship-granting organization shall report to the commissioner by June 1
8.2 of each year the following information prepared by a certified public accountant regarding
8.3 its grants in the previous calendar year:

8.4 (1) the name and address of the student support organization;

8.5 (2) the total number and total dollar amount of contributions received during the
8.6 previous calendar year; and

8.7 (3) the total number and total dollar amount of educational scholarships awarded
8.8 during the previous calendar year, the total number and total dollar amount of educational
8.9 scholarships awarded during the previous year to students qualifying for the National
8.10 School Lunch Program, and the percentage of first time recipients of educational
8.11 scholarships who were continuously enrolled in a public school during the previous year.

8.12 (f) If the commissioner decides to bar a scholarship-granting organization from the
8.13 program for failure to comply with the requirements above, the scholarship-granting
8.14 organization shall notify in writing affected students and their parents of this decision
8.15 within 30 days.

8.16 Subd. 4. **Responsibilities of the commissioner.** (a) The commissioner shall
8.17 prescribe a standardized format for a receipt to be issued by a scholarship-granting
8.18 organization to a taxpayer to indicate the value of a contribution received.

8.19 (b) The commissioner shall prescribe a standardized format for scholarship-granting
8.20 organizations to report the information required under subdivision 3.

8.21 (c) The commissioner shall cause to be posted on the department's Web site the
8.22 names and addresses of eligible scholarship-granting organizations and regularly update
8.23 the names and addresses of any scholarship-granting organizations that have been barred
8.24 from participating in the program.

8.25 (d) The commissioner may conduct either a financial review or audit of a
8.26 scholarship-granting organization upon finding evidence of fraud or intentional
8.27 misreporting.

8.28 (e) The commissioner may bar a scholarship-granting organization from participating
8.29 in the program if the commissioner establishes that the scholarship-granting organization
8.30 has intentionally and substantially failed to comply with the requirements in subdivision 3.
8.31 If the commissioner determines that a scholarship-granting organization should be barred
8.32 from the program, the commissioner must notify the scholarship-granting organization
8.33 within 60 days of that determination.

8.34 Subd. 5. **Evaluation of the equity and opportunity in education scholarship tax**
8.35 credit program. (a) The legislature may authorize the legislative auditor to perform a

9.1 study of the program or to contract with one or more qualified researchers who have
9.2 previous experience evaluating school choice programs to conduct a study of the program.

9.3 (b) The study must assess the following criteria:

9.4 (1) the level of parental satisfaction with the program;

9.5 (2) the level of participating students' satisfaction with the program;

9.6 (3) the impact of the program and the resulting change in use of nonpublic schools
9.7 on the resident school districts, public school students, and quality of life in a community;

9.8 (4) the impact of the program on public and nonpublic school capacity, availability,
9.9 and quality; and

9.10 (5) participating students' academic performance and graduation rates in comparison
9.11 to students who applied for a scholarship under this program but did not receive one
9.12 because of random selection.

9.13 (c) The researchers who conduct the study must:

9.14 (1) apply appropriate analytical and behavioral science methodologies to ensure
9.15 public confidence in the study;

9.16 (2) protect the identity of participating schools and students by, among other things,
9.17 keeping anonymous all disaggregated data other than that for the categories of grade
9.18 level, gender, and race and ethnicity; and

9.19 (3) provide the legislature with a final copy of the evaluation of the program.

9.20 (d) The relevant public and participating nonpublic schools shall cooperate with the
9.21 research effort by providing student assessment results and any other data necessary to
9.22 complete this study.

9.23 (e) The legislative auditor may accept grants to assist in funding this study.

9.24 (f) The study may cover a period of up to 13 years. The legislature may require
9.25 periodic reports from the researchers. After publishing their results, the researchers shall
9.26 make their data and methodology available for public review while complying with the
9.27 requirements of United States Code, title 20, section 1232g.

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