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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE NO. **2070**

March 13, 2007

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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; income taxes; equalizing the dependent care credit for  
1.3 licensed family day care providers; amending Minnesota Statutes 2006, section  
1.4 290.067, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2006, section 290.067, subdivision 1, is amended to read:

1.7 Subdivision 1. **Amount of credit.** (a) A taxpayer may take as a credit against the  
1.8 tax due from the taxpayer and a spouse, if any, under this chapter an amount equal to the  
1.9 dependent care credit for which the taxpayer is eligible pursuant to the provisions of  
1.10 section 21 of the Internal Revenue Code subject to the limitations provided in subdivision  
1.11 2 except that in determining whether the child qualified as a dependent, income received  
1.12 as a Minnesota family investment program grant or allowance to or on behalf of the child  
1.13 must not be taken into account in determining whether the child received more than half  
1.14 of the child's support from the taxpayer, and the provisions of section 32(b)(1)(D) of  
1.15 the Internal Revenue Code do not apply.

1.16 (b) If a child who has not attained the age of ~~six~~ 13 years at the close of the taxable  
1.17 year is cared for at a licensed family day care home operated by the child's parent, the  
1.18 taxpayer is deemed to have paid employment-related expenses. If the child is 16 months  
1.19 old or younger at the close of the taxable year, the amount of expenses deemed to have  
1.20 been paid equals the maximum limit for one qualified individual under section 21(c) and  
1.21 (d) of the Internal Revenue Code. If the child is older than 16 months of age but has not  
1.22 attained the age of ~~six~~ 13 years at the close of the taxable year, the amount of expenses  
1.23 deemed to have been paid equals the amount the licensee would charge for the care of a  
1.24 child of the same age for the same number of hours of care.

2.1 (c) If a married couple:

2.2 (1) has a child who has not attained the age of one year at the close of the taxable  
2.3 year;

2.4 (2) files a joint tax return for the taxable year; and

2.5 (3) does not participate in a dependent care assistance program as defined in section  
2.6 129 of the Internal Revenue Code, in lieu of the actual employment related expenses paid  
2.7 for that child under paragraph (a) or the deemed amount under paragraph (b), the lesser of  
2.8 (i) the combined earned income of the couple or (ii) the amount of the maximum limit for  
2.9 one qualified individual under section 21(c) and (d) of the Internal Revenue Code will  
2.10 be deemed to be the employment related expense paid for that child. The earned income  
2.11 limitation of section 21(d) of the Internal Revenue Code shall not apply to this deemed  
2.12 amount. These deemed amounts apply regardless of whether any employment-related  
2.13 expenses have been paid.

2.14 (d) If the taxpayer is not required and does not file a federal individual income tax  
2.15 return for the tax year, no credit is allowed for any amount paid to any person unless:

2.16 (1) the name, address, and taxpayer identification number of the person are included  
2.17 on the return claiming the credit; or

2.18 (2) if the person is an organization described in section 501(c)(3) of the Internal  
2.19 Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code,  
2.20 the name and address of the person are included on the return claiming the credit.

2.21 In the case of a failure to provide the information required under the preceding sentence,  
2.22 the preceding sentence does not apply if it is shown that the taxpayer exercised due  
2.23 diligence in attempting to provide the information required.

2.24 In the case of a nonresident, part-year resident, or a person who has earned income  
2.25 not subject to tax under this chapter including earned income excluded pursuant to section  
2.26 290.01, subdivision 19b, clause (10) or (16), the credit determined under section 21 of the  
2.27 Internal Revenue Code must be allocated based on the ratio by which the earned income  
2.28 of the claimant and the claimant's spouse from Minnesota sources bears to the total earned  
2.29 income of the claimant and the claimant's spouse.

2.30 For residents of Minnesota, the subtractions for military pay under section 290.01,  
2.31 subdivision 19b, clauses (11) and (12), are not considered "earned income not subject to  
2.32 tax under this chapter."

2.33 For residents of Minnesota, the exclusion of combat pay under section 112 of the  
2.34 Internal Revenue Code is not considered "earned income not subject to tax under this  
2.35 chapter."

- 3.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
- 3.2 December 31, 2006.