

This Document can be made available in alternative formats upon request

State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE NO. 276

January 26, 2009 Authored by Slawik The bill was read for the first time and referred to the Committee on Taxes February 5, 2009 By motion, recalled and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to taxation; individual income; modifying the dependent care credit;
1.3 amending Minnesota Statutes 2008, sections 290.067, subdivision 2; 290.0674,
1.4 subdivision 2, by adding a subdivision; repealing Minnesota Statutes 2008,
1.5 section 290.067, subdivisions 2a, 2b.

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

1.7 Section 1. Minnesota Statutes 2008, section 290.067, subdivision 2, is amended to read:

1.8 Subd. 2. Limitations. The credit for expenses incurred for the care of each
1.9 dependent shall not exceed \$720 in any taxable year, and the total credit for all dependents
1.10 of a claimant shall not exceed \$1,440 in a taxable year. The maximum total credit shall
1.11 be reduced according to the amount of the income of the claimant and a spouse, if any,
1.12 as follows:

1.13 income up to \$18,040, \$720 maximum for one dependent, \$1,440 for all dependents;
1.14 income over \$18,040, the maximum credit for one dependent shall be reduced by
1.15 \$18 for every \$350 of additional income, \$36 for all dependents.

1.16 The commissioner shall construct and make available to taxpayers tables showing
1.17 the amount of the credit at various levels of income and expenses. The tables shall follow
1.18 the schedule contained in this subdivision, except that the commissioner may graduate the
1.19 transitions between expenses and income brackets. the dependent care credit for which
1.20 the taxpayer is eligible under the provisions of section 21 of the Internal Revenue Code,
1.21 without regard to the limitations of section 26 of the Internal Revenue Code, minus the
1.22 taxpayer's liability for federal income tax after deduction of the child tax credit. In the
1.23 case of a taxpayer eligible for a credit under the provisions of subdivision 1, paragraph
1.24 (b), or eligible for a credit as a result of income received as a Minnesota family investment
1.25 program grant or allowance not being taken into account in determining if a child qualified

2.1 as a dependent, as provided in subdivision 1, paragraph (a), the term "dependent care
 2.2 credit for which the taxpayer is eligible under the provisions of section 21 of the Internal
 2.3 Revenue Code" means the dependent care credit for which the taxpayer would be eligible
 2.4 if the taxpayer had paid the deemed expense amount as provided in subdivision 1,
 2.5 paragraph (b), or if income received as a Minnesota family investment program grant
 2.6 or allowance had not been taken into account in determining if a child qualified as a
 2.7 dependent, as provided in subdivision 1, paragraph (a). In no case may the credit under
 2.8 this section be less than zero.

2.9 For purposes of this subdivision, "liability for federal income tax" means tax as
 2.10 determined under sections 1, 2, 3, and 55 of the Internal Revenue Code, and "child tax
 2.11 credit" means the credit allowed under section 24 of the Internal Revenue Code, excluding
 2.12 the additional credit under section 24(d) of the Internal Revenue Code.

2.13 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 2.14 December 31, 2008.

2.15 Sec. 2. Minnesota Statutes 2008, section 290.0674, subdivision 2, is amended to read:

2.16 Subd. 2. **Limitations.** (a) For claimants with income not greater than \$33,500, the
 2.17 maximum credit allowed for a family is \$1,000 multiplied by the number of qualifying
 2.18 children in kindergarten through grade 12 in the family. The maximum credit for families
 2.19 with one qualifying child in kindergarten through grade 12 is reduced by \$1 for each \$4 of
 2.20 household income over \$33,500, and the maximum credit for families with two or more
 2.21 qualifying children in kindergarten through grade 12 is reduced by \$2 for each \$4 of
 2.22 household income over \$33,500, but in no case is the credit less than zero.

2.23 ~~For purposes of this section "income" has the meaning given in section 290.067,~~
 2.24 ~~subdivision 2a.~~ In the case of a married claimant, a credit is not allowed unless a joint
 2.25 income tax return is filed.

2.26 (b) For a nonresident or part-year resident, the credit determined under subdivision 1
 2.27 and the maximum credit amount in paragraph (a) must be allocated using the percentage
 2.28 calculated in section 290.06, subdivision 2c, paragraph (e).

2.29 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 2.30 December 31, 2008.

2.31 Sec. 3. Minnesota Statutes 2008, section 290.0674, is amended by adding a subdivision
 2.32 to read:

3.1 Subd. 2a. **Income.** (a) For purposes of this section, "income" means the sum of
3.2 the following:

3.3 (1) federal adjusted gross income as defined in section 62 of the Internal Revenue
3.4 Code; and

3.5 (2) the sum of the following amounts to the extent not included in clause (1):

3.6 (i) all nontaxable income;

3.7 (ii) the amount of a passive activity loss that is not disallowed as a result of section
3.8 469, paragraph (i) or (m), of the Internal Revenue Code and the amount of passive activity
3.9 loss carryover allowed under section 469(b) of the Internal Revenue Code;

3.10 (iii) an amount equal to the total of any discharge of qualified farm indebtedness
3.11 of a solvent individual excluded from gross income under section 108(g) of the Internal
3.12 Revenue Code;

3.13 (iv) cash public assistance and relief;

3.14 (v) any pension or annuity (including railroad retirement benefits, all payments
3.15 received under the federal Social Security Act, supplemental security income, and veterans
3.16 benefits), which was not exclusively funded by the claimant or spouse, or which was
3.17 funded exclusively by the claimant or spouse and which funding payments were excluded
3.18 from federal adjusted gross income in the years when the payments were made;

3.19 (vi) interest received from the federal or a state government or any instrumentality
3.20 or political subdivision thereof;

3.21 (vii) workers' compensation;

3.22 (viii) nontaxable strike benefits;

3.23 (ix) the gross amounts of payments received in the nature of disability income or
3.24 sick pay as a result of accident, sickness, or other disability, whether funded through
3.25 insurance or otherwise;

3.26 (x) a lump-sum distribution under section 402(e)(3) of the Internal Revenue Code of
3.27 1986, as amended through December 31, 1995;

3.28 (xi) contributions made by the claimant to an individual retirement account,
3.29 including a qualified voluntary employee contribution; simplified employee pension plan;
3.30 self-employed retirement plan; cash or deferred arrangement plan under section 401(k)
3.31 of the Internal Revenue Code; or deferred compensation plan under section 457 of the
3.32 Internal Revenue Code;

3.33 (xii) nontaxable scholarship or fellowship grants;

3.34 (xiii) the amount of deduction allowed under section 199 of the Internal Revenue
3.35 Code; and

4.1 (xiv) the amount of deduction allowed under section 220 or 223 of the Internal
4.2 Revenue Code.

4.3 In the case of an individual who files an income tax return on a fiscal year basis, the
4.4 term "federal adjusted gross income" means federal adjusted gross income reflected in the
4.5 fiscal year ending in the next calendar year. Federal adjusted gross income may not be
4.6 reduced by the amount of a net operating loss carryback or carryforward or a capital loss
4.7 carryback or carryforward allowed for the year.

4.8 (b) "Income" does not include:

4.9 (1) amounts excluded pursuant to the Internal Revenue Code, sections 101(a) and
4.10 102;

4.11 (2) amounts of any pension or annuity that were exclusively funded by the claimant
4.12 or spouse if the funding payments were not excluded from federal adjusted gross income
4.13 in the years when the payments were made;

4.14 (3) surplus food or other relief in kind supplied by a governmental agency;

4.15 (4) relief granted under chapter 290A;

4.16 (5) child support payments received under a temporary or final decree of dissolution
4.17 or legal separation; and

4.18 (6) restitution payments received by eligible individuals and excludable interest as
4.19 defined in section 803 of the Economic Growth and Tax Relief Reconciliation Act of
4.20 2001, Public Law 107-16.

4.21 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
4.22 December 31, 2008.

4.23 **Sec. 4. REVISOR'S INSTRUCTION.**

4.24 In subsequent editions of Minnesota statutes and supplements, the revisor of
4.25 statutes shall replace references to the income definition in 290.067, subdivision 2a, with
4.26 references to the income definition in 290.0674, subdivision 2a.

4.27 **Sec. 5. REPEALER.**

4.28 Minnesota Statutes 2008, section 290.067, subdivisions 2a and 2b, are repealed.

4.29 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
4.30 December 31, 2008.