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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

HOUSE FILE No. 687

February 24, 2011

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The bill was read for the first time and referred to the Veterans Services Division

March 9, 2011

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 taxes; providing a refundable credit for reemployment of certain
1.3 members of the military; appropriating money; proposing coding for new law in
1.4 Minnesota Statutes, chapter 290.

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

1.6 Section 1. [290.0682] MILITARY REEMPLOYMENT CREDIT.

1.7 Subdivision 1. Credit allowed. An employer who employs fewer than 100
1.8 employees in Minnesota during the taxable year is allowed a credit against the tax imposed
1.9 under this chapter equal to \$10,000 for each eligible employee who returns to employment
1.10 during the taxable year. An employer may not claim more than one credit for any one
1.11 eligible employee in a taxable year.

1.12 Subd. 2. Definitions. (a) For purposes of this section, the following terms have
1.13 the meanings given.

1.14 (b) "Employer" means:

1.15 (1) all persons employing others and all persons acting in the interest of an
1.16 employer; and

1.17 (2) a self-employed individual, as defined in section 401(c)(1)(B) of the Internal
1.18 Revenue Code, who meets the requirements for an eligible employee, but does not include:

1.19 (i) the federal government;

1.20 (ii) the state, or any political or governmental subdivision of the state; or

1.21 (iii) the University of Minnesota.

1.22 (c) "Eligible employee" means an individual who, as a member of the Minnesota
1.23 National Guard or other reserve component of the United States armed forces, was ordered
1.24 under United States Code, title 10, into federal active service, as defined under section

2.1 190.05, subdivision 5c, for a period of 90 days or more, reported for and performed such
 2.2 federal active military service, and was separated or discharged from such service, as
 2.3 shown by the person's United States Department of Defense form DD-214 or other official
 2.4 military discharge papers. An eligible employee must also have either:

2.5 (1) been employed in a USERRA-eligible job or position at the time the individual
 2.6 was ordered into active service, and complied in every way with the requirements of
 2.7 USERRA for:

2.8 (i) providing advance written or verbal notice to the individual's civilian employer,
 2.9 prior to leaving the civilian job for military training or service, except when precluded by
 2.10 military necessity;

2.11 (ii) not exceeding the five-year cumulative limit on periods of service;

2.12 (iii) being released from military service under conditions other than dishonorable;

2.13 and

2.14 (iv) reporting back to the person's civilian job in a timely manner or submitting a
 2.15 timely application for reemployment; or

2.16 (2) in the case of a self-employed individual, resumed active management and
 2.17 operation of the individual's business.

2.18 (d) "USERRA" means the Uniformed Services Employment and Reemployment
 2.19 Rights Act of 2004, codified as United States Code, title 38, at chapter 43 (sections 4301
 2.20 through 4333).

2.21 (e) "USERRA-eligible job or position" means a job or position that is eligible for
 2.22 protection under USERRA.

2.23 Subd. 3. **Credit refundable.** If the amount of credit that an employer is eligible
 2.24 to receive under this section exceeds the liability for tax under this chapter, or if the
 2.25 employer is not subject to tax under this chapter, the commissioner shall refund the excess
 2.26 to the taxpayer.

2.27 Subd. 4. **Appropriation.** An amount sufficient to pay the refunds authorized under
 2.28 this section is appropriated to the commissioner from the general fund.

2.29 Subd. 5. **Credit revocable.** If an employer who received a credit under this section
 2.30 is at any time found in violation of USERRA reemployment requirements with regard to
 2.31 an eligible employee for whom the credit was claimed, the credit is revoked and subject
 2.32 to repayment.

2.33 Subd. 6. **Manner of claiming.** (a) The commissioner shall prescribe the manner in
 2.34 which the credit may be issued or claimed. This may include allowing the credit only as
 2.35 a separately processed claim for refund.

2.36 (b) The claim must include:

3.1 (1) information from the eligible employee's DD-214 form documenting release
3.2 from military service;

3.3 (2) disclosure that a claim meeting the requirements of the law results in payment of
3.4 a \$10,000 tax credit to the employer; and

3.5 (3) the signature of the eligible employee attesting to satisfactory return to civilian
3.6 employment.

3.7 (c) The claim must state that the employee has protections of the USERRA regarding
3.8 reemployment, irrespective of whether or not the employee chooses to sign the claim.

3.9 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
3.10 December 31, 2010.