

SENATE  
STATE OF MINNESOTA  
NINETY-THIRD SESSION

S.F. No. 4715

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DATE  
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Introduction and first reading  
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act  
1.2 relating to taxation; individual income; expanding the dependent care credit;  
1.3 amending Minnesota Statutes 2022, section 290.0131, by adding a subdivision;  
1.4 Minnesota Statutes 2023 Supplement, section 290.067.

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

1.6 Section 1. Minnesota Statutes 2022, section 290.0131, is amended by adding a subdivision  
1.7 to read:

1.8 Subd. 21. **Dependent flexible spending accounts.** For a taxpayer who claims the credit  
1.9 under section 290.067, or for a married taxpayer filing a separate return whose spouse claims  
1.10 the credit under that section, the amount of dependent care assistance that is excluded from  
1.11 gross income under section 129 of the Internal Revenue Code is an addition.

1.12 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December  
1.13 31, 2022.

1.14 Sec. 2. Minnesota Statutes 2023 Supplement, section 290.067, is amended to read:

1.15 **290.067 DEPENDENT CARE CREDIT.**

1.16 Subdivision 1. **Definitions; credit allowed; amount of credit.** (a) For the purposes of  
1.17 this section, the following terms have the meanings given:

1.18 (1) "employment-related expenses" has the meaning given in section 21(b)(2) of the  
1.19 Internal Revenue Code; and

1.20 (2) "qualifying individual" has the meaning given in section 21(b)(1) of the Internal  
1.21 Revenue Code, except that in determining whether the child qualified as a dependent, income

2.1 received as a Minnesota family investment program grant or allowance to or on behalf of  
2.2 the child must not be taken into account in determining whether the child received more  
2.3 than half of the child's support from the taxpayer.

2.4 (b) A taxpayer may take as a credit against the tax due from the taxpayer and a spouse,  
2.5 if any, under this chapter an amount equal to the dependent care credit for which the taxpayer  
2.6 is eligible pursuant to the provisions of section 21 of the Internal Revenue Code except that  
2.7 in determining whether the child qualified as a dependent, income received as a Minnesota  
2.8 family investment program grant or allowance to or on behalf of the child must not be taken  
2.9 into account in determining whether the child received more than half of the child's support  
2.10 from the taxpayer the taxpayer's eligible dependent care expenses, as determined under  
2.11 subdivision 1a, multiplied by the taxpayer's credit percentage, as determined under  
2.12 subdivision 1b.

2.13 ~~(b) If a child who has not attained the age of six years at the close of the taxable year is~~  
2.14 ~~cared for at a licensed family day care home operated by the child's parent, the taxpayer is~~  
2.15 ~~deemed to have paid employment-related expenses. If the child is 16 months old or younger~~  
2.16 ~~at the close of the taxable year, the amount of expenses deemed to have been paid equals~~  
2.17 ~~the maximum limit for one qualified individual under section 21(c) and (d) of the Internal~~  
2.18 ~~Revenue Code. If the child is older than 16 months of age but has not attained the age of~~  
2.19 ~~six years at the close of the taxable year, the amount of expenses deemed to have been paid~~  
2.20 ~~equals the amount the licensee would charge for the care of a child of the same age for the~~  
2.21 ~~same number of hours of care.~~

2.22 (c) If a taxpayer:

2.23 (1) has a child who has not attained the age of one year at the close of the taxable year;  
2.24 and

2.25 (2) does not participate in a dependent care assistance program as defined in section 129  
2.26 of the Internal Revenue Code, in lieu of the actual employment related expenses paid for  
2.27 that child under paragraph (a) or the deemed amount under paragraph (b), the lesser of (i)  
2.28 the earned income of the taxpayer or (ii) the amount of the maximum limit for one qualified  
2.29 individual under section 21(c) and (d) of the Internal Revenue Code will be deemed to be  
2.30 the employment related expense paid for that child. The earned income limitation of section  
2.31 21(d) of the Internal Revenue Code shall not apply to this deemed amount. These deemed  
2.32 amounts apply regardless of whether any employment-related expenses have been paid.

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

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

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

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

3.9 ~~(e) (c) In the case of a nonresident, or part-year resident, the credit determined under~~  
3.10 ~~section 21 of the Internal Revenue Code this section must be allocated based on the ratio~~  
3.11 ~~by which the earned income of the claimant and the claimant's spouse from Minnesota~~  
3.12 ~~sources bears to the total earned income of the claimant and the claimant's spouse using the~~  
3.13 ~~percentage calculated in section 290.06, subdivision 2c, paragraph (e).~~

3.14 ~~(f) For residents of Minnesota, the subtractions for military pay under section 290.0132,~~  
3.15 ~~subdivisions 11 and 12, are not considered "earned income not subject to tax under this~~  
3.16 ~~chapter."~~

3.17 ~~(g) For residents of Minnesota, the exclusion of combat pay under section 112 of the~~  
3.18 ~~Internal Revenue Code is not considered "earned income not subject to tax under this~~  
3.19 ~~chapter."~~

3.20 ~~(h) For taxpayers with federal adjusted gross income in excess of \$52,230, the credit is~~  
3.21 ~~equal to the lesser of the credit otherwise calculated under this subdivision, or the amount~~  
3.22 ~~equal to \$600 minus five percent of federal adjusted gross income in excess of \$52,230 for~~  
3.23 ~~taxpayers with one qualified individual, or \$1,200 minus five percent of federal adjusted~~  
3.24 ~~gross income in excess of \$52,230 for taxpayers with two or more qualified individuals,~~  
3.25 ~~but in no case is the credit less than zero.~~

3.26 Subd. 1a. **Eligible dependent care expenses.** A taxpayer's eligible dependent care  
3.27 expenses equals the amount of employment-related expenses incurred by the taxable year,  
3.28 but is limited to:

3.29 (1) \$12,000 if there was one qualifying individual with respect to the taxpayer; or

3.30 (2) \$24,000 if there were two or more qualifying individuals with respect to the taxpayer.

3.31 Subd. 1b. **Credit percentage.** (a) The credit percentage equals 50 percent, subject to  
3.32 the reduction in paragraphs (b) and (c).

4.1 (b) A taxpayer's credit percentage is reduced by one percentage point for each \$1,000,  
4.2 or fraction thereof, by which the taxpayer's adjusted gross income exceeds \$150,000.

4.3 (c) For a married taxpayer filing a separate return, the credit percentage is the amount  
4.4 determined under paragraphs (a) and (b), except the income limit used to calculate the  
4.5 reduction under paragraph (b) must be half the amount used for other filers, after adjusting  
4.6 for inflation.

4.7 Subd. 2b. **Inflation adjustment.** The commissioner shall annually adjust the dollar  
4.8 amount of the income threshold at which the ~~maximum~~ credit percentage begins to be  
4.9 reduced under subdivision ~~1~~ 1b as provided in section 270C.22. The statutory year is taxable  
4.10 year 2019.

4.11 Subd. 2c. **Deemed expenses.** (a) If a child who has not attained the age of six years at  
4.12 the close of the taxable year is cared for at a licensed family day care home operated by the  
4.13 child's parent, the taxpayer is deemed to have paid employment-related expenses. The  
4.14 amount of expenses deemed to have been paid equals the amount the licensee would charge  
4.15 for the care of a child of the same age for the same number of hours of care.

4.16 (b) If a married couple:

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

4.18 (2) does not participate in a dependent care assistance program as defined in section 129  
4.19 of the Internal Revenue Code, in lieu of the actual employment-related expenses paid for  
4.20 that child under or the deemed amount under paragraph (a), the amount deemed to be the  
4.21 employment-related expense paid for that child equals the lesser of:

4.22 (i) the combined earned income of the couple; or

4.23 (ii) the amount of the maximum limit for one qualified individual under subdivision 1a.

4.24 (c) The earned income limitation of section 21(d) of the Internal Revenue Code shall  
4.25 not apply to this deemed amount. These deemed amounts apply regardless of whether any  
4.26 employment-related expenses have been paid.

4.27 Subd. 2d. **Identifying information required.** (a) No credit is allowed for any amount  
4.28 paid to any person unless:

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

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

5.4 (b) The rule in section 21(e)(10) of the Internal Revenue Code applies to the credit under  
5.5 this section.

5.6 Subd. 3. **Credit to be refundable.** If the amount of credit which a claimant would be  
5.7 eligible to receive pursuant to this subdivision exceeds the claimant's tax liability under  
5.8 chapter 290, the excess amount of the credit shall be refunded to the claimant by the  
5.9 commissioner of revenue. The amount needed to pay the refunds required by this section  
5.10 is appropriated to the commissioner from the general fund.

5.11 Subd. 4. **Right to file claim.** The right to file a claim under this section shall be personal  
5.12 to the claimant and shall not survive death, but such right may be exercised on behalf of a  
5.13 claimant by the claimant's legal guardian or attorney-in-fact. When a claimant dies after  
5.14 having filed a timely claim the amount thereof shall be disbursed to another member of the  
5.15 household as determined by the commissioner of revenue. If the claimant was the only  
5.16 member of a household, the claim may be paid to the claimant's personal representative,  
5.17 but if neither is appointed and qualified within two years of the filing of the claim, the  
5.18 amount of the claim shall escheat to the state.

5.19 Subd. 5. **Employment-related expenses.** For the purposes of determining  
5.20 employment-related expenses, the provisions of sections 21(d) and 21(e)(6) of the Internal  
5.21 Revenue Code apply.

5.22 Subd. 6. **Rules for married couples filing separate returns.** A married taxpayer filing  
5.23 a separate return may claim the credit under this section, but only one spouse may claim  
5.24 the credit.

5.25 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December  
5.26 31, 2022.