

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 90

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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 and corporate franchise; allowing tax credits
 1.3 for parental leave costs; proposing coding for new law in Minnesota Statutes,
 1.4 chapter 290.

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

1.6 Section 1. **[290.0683] TAX CREDITS FOR PARENTAL LEAVE.**

1.7 Subdivision 1. **Employer tax credit for paid leave.** (a) A qualified employer is allowed
 1.8 a credit against the taxes imposed under this chapter equal to 25 percent of the amount of
 1.9 wages paid to qualifying employees during any period in which the qualifying employees
 1.10 are on parental leave. Wages are limited to wages that are subject to withholding under
 1.11 section 290.92.

1.12 (b) The credit allowed to an employer under this subdivision for a qualifying employee
 1.13 for a taxable year is limited to the lesser of:

1.14 (1) \$3,000; or

1.15 (2) 25 percent of the product of:

1.16 (i) the wages normally paid to the qualifying employee per hour, or fraction of an hour,
 1.17 for services performed for the employer; and

1.18 (ii) the number of hours, or fraction of an hour, for which parental leave is taken.

1.19 (c) For a qualifying employee who is not paid on an hourly basis, wages must be prorated
 1.20 to an hourly basis under instructions established by the commissioner.

2.1 (d) The amount of parental leave that may be taken into account for a qualifying employee
2.2 for any taxable year cannot exceed six weeks.

2.3 Subd. 2. **Employee tax credit.** (a) An eligible employee is allowed a credit against the
2.4 taxes imposed under this chapter equal to 25 percent of the eligible employee's forgone
2.5 wages for the period of the unpaid parental leave.

2.6 (b) For purposes of this subdivision, "forgone wages" means the number of weeks of
2.7 unpaid leave taken, not to exceed six weeks, multiplied by the lesser of:

2.8 (1) the greater of the total wages received by the eligible employee in the immediately
2.9 preceding taxable year or in the current taxable year, divided by 52; or

2.10 (2) \$1,000 multiplied by the index value under paragraph (e) for the county in which
2.11 the eligible employee resides when taking the unpaid leave.

2.12 (c) For purposes of this subdivision, "unpaid parental leave" or "unpaid leave" means a
2.13 period of parental leave for which an employee receives no wages or other compensation
2.14 and has no self-employment earnings.

2.15 (d) For purposes of this subdivision, "week" means a period consisting of seven
2.16 consecutive calendar days.

2.17 (e) The commissioner must determine index values for purposes of the calculations
2.18 under paragraph (b) using information on the weekly rate for the 75th percentile for infants
2.19 from the most recent child care market rate survey prepared by the commissioner of human
2.20 services under section 119B.02, subdivision 7, that is available by July 15 of the calendar
2.21 year in which the taxable year begins. The index amount for a county equals the rate for
2.22 the family child care price cluster for the county, divided by the rate for the median price
2.23 cluster. The commissioner shall publish the index values by county on the department's
2.24 website and in the instructions for the appropriate tax return and forms. The commissioner's
2.25 determination is not a rule and is not subject to the Administrative Procedure Act in chapter
2.26 14 including section 14.386.

2.27 Subd. 3. **Definitions.** (a) For purposes of this section, the following terms have the
2.28 meanings given unless the context clearly indicates otherwise.

2.29 (b) "Eligible employee" means an employee who:

2.30 (1) is not employed by a qualifying employer claiming a credit under this section;

2.31 (2) takes a period of unpaid parental leave of at least one week during the taxable year;
2.32 and

3.1 (3) was a full-time employee for a minimum of nine out of the 12 months preceding the
3.2 date at which the unpaid leave began.

3.3 (c) "Employee" has the meaning given in section 177.23.

3.4 (d) "Full-time employee" means an employee expected to work an annual average of
3.5 30 or more hours per week.

3.6 (e) "Parental leave" means leave for any purpose described in United State Code, title
3.7 29, section 2612, subsection (a), paragraph (1), subparagraph (A) or (B), whether the leave
3.8 is provided under the requirement of the federal Family and Medical Leave Act of 1993 or
3.9 by a policy of the employer. Parental leave excludes any leave provided as paid vacation
3.10 leave, personal leave, or medical or sick leave as those terms are used in United State Code,
3.11 title 29, section 2612, subsection (d), paragraph (2).

3.12 (f) "Qualified employer" means an employer who has in place a policy that provides:

3.13 (1) all qualifying full-time employees with not less than two weeks of annual paid
3.14 parental leave; and

3.15 (2) all qualifying employees who are not full-time employees with an amount of annual
3.16 paid parental leave that bears the same ratio to two weeks as:

3.17 (i) the number of hours the employee is expected to work during any week, bears to:

3.18 (ii) the number of hours an equivalent qualifying full-time employee is expected to work
3.19 during the week; and

3.20 (3) that the rate of payment under the program is not less than 100 percent of the wages
3.21 normally paid to the employee for services performed for the employer.

3.22 (g) "Qualifying employee" means an employee who has been employed by the qualified
3.23 employer for one year or more.

3.24 (h) "Tax imposed under this chapter" means the taxes imposed under sections 290.06,
3.25 290.091, and 290.0921, but excludes the fee under section 290.0922.

3.26 (i) "Wages" means wages as defined in section 290.92.

3.27 Subd. 4. **Carryover; refundability; appropriation.** (a) If the credit allowed under
3.28 subdivision 1 exceeds the tax imposed under this chapter, the excess is a credit carryover
3.29 to each of the five succeeding taxable years. The entire amount of the excess unused credit
3.30 must be carried first to the earliest taxable year to which the amount may be carried. The
3.31 unused portion of the credit must be carried to the following taxable year. No credit may

4.1 be carried to a taxable year more than five years after the taxable year in which the credit
4.2 was earned.

4.3 (b) If the credit allowed under subdivision 2 exceeds the liability for tax, the commissioner
4.4 shall pay the excess as a refund to the eligible employee. An amount sufficient to pay the
4.5 refunds required by this paragraph is appropriated from the general fund to the commissioner.

4.6 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
4.7 31, 2018, except that the credit under:

4.8 (1) subdivision 1 applies beginning for wages paid after June 30, 2019; and

4.9 (2) subdivision 2 applies beginning for unpaid leaves taken after June 30, 2019.