



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4875/1
KP:cdc&emw

2023 SENATE BILL 623

November 7, 2023 - Introduced by Senators FEYEN, CABRAL-GUEVARA, KNODL, QUINN and NASS, cosponsored by Representatives ARMSTRONG, HURD, BRANDTJEN, DITTRICH, EDMING, GREEN, GUNDRUM, KITCHENS, MAGNAFICI, MAXEY, MICHALSKI, MURSAU, NOVAK, O'CONNOR, PENTERMAN, RETTINGER, SCHRAA and SNYDER. Referred to Committee on Universities and Revenue.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.10 (4) (i), 71.21 (4) (a), 71.26 (2) (a) 4., 71.30
2 (3) (f), 71.34 (1k) (g), 71.45 (2) (a) 10. and 71.49 (1) (f); and **to create** 20.835 (2)
3 (et), 71.05 (6) (a) 30., 71.07 (8s), 71.21 (8), 71.26 (3) (hi), 71.28 (8s), 71.45 (2) (a)
4 25. and 71.47 (8s) of the statutes; **relating to:** creating a tax credit for employer
5 child care programs and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for businesses that operate a child care program for their employees' children. The credit is equal to the amount of capital expenditures incurred in establishing an employee child care program, the amount of certain organization and administration expenses incurred, and the amount of contributions made to a charitable organization for the purpose of establishing an employee child care program. The maximum total credit that may be claimed in a taxable year based on those capital expenditures, organization and administration expenses, and contributions is \$100,000. A person may also claim as a credit the amount of operating expenses of an employer child care program, the amount of payments made directly to a child care program in the name of and for the benefit of an employee, and the amount of certain administrative costs. The maximum total credit that may be claimed in a taxable year based on those operating expenses, direct payments, and administrative costs is \$3,000 for each child of an employee participating in the child care program. The credit under the bill is refundable, which means that if the credit exceeds the claimant's tax liability, the claimant will receive the difference as a refund check.

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For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.835 (2) (et) of the statutes is created to read:

2 20.835 (2) (et) *Employer child care program credit.* A sum sufficient to make
3 the payments under ss. 71.07 (8s) (d) 2., 71.28 (8s) (d) 2., and 71.47 (8s) (d) 2.

4 **SECTION 2.** 71.05 (6) (a) 15. of the statutes is amended to read:

5 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dm),
6 (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n), (5e), (5i), (5j),
7 (5k), (5r), (5rm), (6n), ~~(8s)~~, and (10) and not passed through by a partnership, limited
8 liability company, or tax-option corporation that has added that amount to the
9 partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or
10 71.34 (1k) (g).

11 **SECTION 3.** 71.05 (6) (a) 30. of the statutes is created to read:

12 71.05 (6) (a) 30. The amount contributed to a nonprofit entity that is deducted
13 under the Internal Revenue Code as a charitable contribution and that is used to
14 calculate a credit under s. 71.07 (8s).

15 **SECTION 4.** 71.07 (8s) of the statutes is created to read:

16 71.07 (8s) EMPLOYER CHILD CARE PROGRAM CREDIT. (a) *Definitions.* In this
17 subsection:

18 1. "Child care program" means a program in which child care services are
19 provided to the children of an employer's employees during the working hours of the
20 employees.

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1 2. “Claimant” means an employer who operates a child care program and who
2 files a claim under this subsection.

3 3. “Qualifying capital expenditures” means capital expenditures incurred in
4 establishing a child care program, including mortgage or lease payments and
5 expenditures for playground and classroom equipment, kitchen appliances, cooking
6 equipment, and real property, including improvements, located in this state.

7 (b) *Filing claims.* For taxable years beginning after December 31, 2022, subject
8 to the limitations provided in this subsection, a claimant may claim as a credit
9 against the tax imposed under s. 71.02, up to the amount of those taxes, all of the
10 following:

11 1. An amount equal to the qualifying capital expenditures incurred by the
12 claimant and the expenses incurred in organizing and administering direct
13 payments to a child care program not operated by the claimant during the first
14 taxable year those expenses are incurred. The total amount that the claimant may
15 claim as a credit under this subdivision and subd. 2. for a taxable year may not exceed
16 \$100,000.

17 2. An amount equal to the contributions made by the claimant to a nonprofit
18 entity described in section 501 (c) 3 of the Internal Revenue Code for the purpose of
19 establishing a child care program. The total amount that the claimant may claim as
20 a credit under this subdivision and subd. 1. for a taxable year may not exceed
21 \$100,000.

22 3. An amount equal to the expenses incurred by the claimant to operate a child
23 care program. The total amount that the claimant may claim as a credit under this
24 subdivision and subds. 4. and 5. for a taxable year may not exceed \$3,000 for each
25 child of an employee participating in the child care program.

SENATE BILL 623**SECTION 4**

1 4. An amount equal to the payments made by the claimant directly to a child
2 care program in the name of and for the benefit of an employee of the claimant, not
3 exceeding the amount charged to other children of like age and abilities of
4 individuals not employed by the claimant. The total amount that the claimant may
5 claim as a credit under this subdivision and subds. 3. and 5. for a taxable year may
6 not exceed \$3,000 for each child of an employee participating in the child care
7 program.

8 5. An amount equal to the administrative costs associated with payments
9 described in subd. 4., not exceeding 1 percent of those payments. The total amount
10 that the claimant may claim as a credit under this subdivision and subds. 3. and 4.
11 for a taxable year may not exceed \$3,000 for each child of an employee participating
12 in the child care program.

13 (c) *Limitations.* 1. No credit is allowed under this subsection if the child care
14 program is not in compliance with the requirements under subch. XV of ch. 48.

15 2. No credit is allowed under par. (b) 4. unless the total amount of the claimant's
16 payments to a child care program is greater than or equal to the total amount of the
17 employee's payments to the child care program.

18 3. Partnerships, limited liability companies, and tax-option corporations may
19 not claim the credit under this subsection, but the eligibility for, and the amount of,
20 the credit are based on the amounts paid by the entities under par. (b). A
21 partnership, limited liability company, or tax-option corporation shall compute the
22 amount of credit that each of its partners, members, or shareholders may claim and
23 shall provide that information to each of them. Partners, members, and
24 shareholders may claim the credit in proportion to their ownership interests.

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1 (d) *Administration*. 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
2 credit under s. 71.28 (4), applies to the credit under this subsection.

3 2. If the allowable amount of the claim under this subsection exceeds the tax
4 otherwise due under s. 71.02, the amount of the claim that is not used to offset those
5 taxes shall be certified by the department of revenue to the department of
6 administration for payment by check, share draft, or other draft drawn from the
7 appropriation under s. 20.835 (2) (et).

8 **SECTION 5.** 71.10 (4) (i) of the statutes is amended to read:

9 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
10 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
11 beyond under s. 71.613, homestead credit under subch. VIII, jobs tax credit under s.
12 71.07 (3q), business development credit under s. 71.07 (3y), research credit under s.
13 71.07 (4k) (e) 2. a., veterans and surviving spouses property tax credit under s. 71.07
14 (6e), enterprise zone jobs credit under s. 71.07 (3w), electronics and information
15 technology manufacturing zone credit under s. 71.07 (3wm), employer child care
16 program credit under s. 71.07 (8s), earned income tax credit under s. 71.07 (9e),
17 estimated tax payments under s. 71.09, and taxes withheld under subch. X.

18 **SECTION 6.** 71.21 (4) (a) of the statutes is amended to read:

19 71.21 (4) (a) The amount of the credits computed by a partnership under s.
20 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n),
21 (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), (8s), and (10) and passed through to partners
22 shall be added to the partnership's income.

23 **SECTION 7.** 71.21 (8) of the statutes is created to read:

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1 71.21 (8) A charitable deduction under the Internal Revenue Code for an
2 amount contributed to a nonprofit entity for the purpose of establishing a child care
3 program that is used to calculate the credit under s. 71.07 (8s) is not allowed.

4 **SECTION 8.** 71.26 (2) (a) 4. of the statutes is amended to read:

5 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dm),
6 (1dx), (1dy), (3g), (3h), (3n), (3q), (3t), (3w), (3wm), (3y), (5e), (5g), (5i), (5j), (5k), (5r),
7 (5rm), (6n), ~~(8s)~~, and (10) and not passed through by a partnership, limited liability
8 company, or tax-option corporation that has added that amount to the partnership's,
9 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
10 71.34 (1k) (g).

11 **SECTION 9.** 71.26 (3) (hi) of the statutes is created to read:

12 71.26 (3) (hi) Section 170 is modified so that an amount contributed to a
13 nonprofit entity for the purpose of establishing a child care program that is used to
14 calculate the credit under s. 71.28 (8s) may not be deducted as provided under the
15 Internal Revenue Code.

16 **SECTION 10.** 71.28 (8s) of the statutes is created to read:

17 71.28 (8s) EMPLOYER CHILD CARE PROGRAM CREDIT. (a) *Definitions.* In this
18 subsection:

19 1. "Child care program" has the meaning given in s. 71.07 (8s) (a) 1.

20 2. "Claimant" means an employer who operates a child care program and who
21 files a claim under this subsection.

22 3. "Qualifying capital expenditures" has the meaning given in s. 71.07 (8s) (a)

23 3.

24 (b) *Filing claims.* For taxable years beginning after December 31, 2022, subject
25 to the limitations provided in this subsection, a claimant may claim as a credit

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1 against the tax imposed under s. 71.23, up to the amount of the tax, all of the
2 following:

3 1. An amount equal to the qualifying capital expenditures incurred by the
4 claimant and the expenses incurred in organizing and administering direct
5 payments to a child care program not operated by the claimant during the first
6 taxable year those expenses are incurred. The total amount that the claimant may
7 claim as a credit under this subdivision and subd. 2. for a taxable year may not exceed
8 \$100,000.

9 2. An amount equal to the contributions made by the claimant to a nonprofit
10 entity described in section 501 (c) 3 of the Internal Revenue Code for the purpose of
11 establishing a child care program. The total amount that the claimant may claim as
12 a credit under this subdivision and subd. 1. for a taxable year may not exceed
13 \$100,000.

14 3. An amount equal to the expenses incurred by the claimant to operate a child
15 care program. The total amount that the claimant may claim as a credit under this
16 subdivision and subds. 4. and 5. for a taxable year may not exceed \$3,000 for each
17 child of an employee participating in the child care program.

18 4. An amount equal to the payments made by the claimant directly to a child
19 care program in the name of and for the benefit of an employee of the claimant, not
20 exceeding the amount charged to other children of like age and abilities of
21 individuals not employed by the claimant. The total amount that the claimant may
22 claim as a credit under this subdivision and subds. 3. and 5. for a taxable year may
23 not exceed \$3,000 for each child of an employee participating in the child care
24 program.

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1 5. An amount equal to the administrative costs associated with payments
2 described in subd. 4., not exceeding 1 percent of those payments. The total amount
3 that the claimant may claim as a credit under this subdivision and subds. 3. and 4.
4 for a taxable year may not exceed \$3,000 for each child of an employee participating
5 in the child care program.

6 (c) *Limitations.* 1. No credit is allowed under this subsection if the onsite
7 daycare facility is not in compliance with the requirements under subch. XV of ch.
8 48.

9 2. No credit is allowed under par. (b) 4. unless the total amount of the claimant's
10 payments to a child care program is greater than or equal to the total amount of the
11 employee's payments to the child care program.

12 3. Partnerships, limited liability companies, and tax-option corporations may
13 not claim the credit under this subsection, but the eligibility for, and the amount of,
14 the credit are based on the amounts paid by the entities under par. (b). A
15 partnership, limited liability company, or tax-option corporation shall compute the
16 amount of credit that each of its partners, members, or shareholders may claim and
17 shall provide that information to each of them. Partners, members, and
18 shareholders may claim the credit in proportion to their ownership interests.

19 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
20 under sub. (4), applies to the credit under this subsection.

21 2. If the allowable amount of the claim under this subsection exceeds the tax
22 otherwise due under s. 71.23, the amount of the claim that is not used to offset those
23 taxes shall be certified by the department of revenue to the department of
24 administration for payment by check, share draft, or other draft drawn from the
25 appropriation under s. 20.835 (2) (et).

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1 **SECTION 11.** 71.30 (3) (f) of the statutes is amended to read:

2 71.30 (3) (f) The total of farmland preservation credit under subch. IX, jobs
3 credit under s. 71.28 (3q), enterprise zone jobs credit under s. 71.28 (3w), electronics
4 and information technology manufacturing zone credit under s. 71.28 (3wm),
5 business development credit under s. 71.28 (3y), research credit under s. 71.28 (4) (k)
6 1., employer child care program credit under s. 71.28 (8s), and estimated tax
7 payments under s. 71.29.

8 **SECTION 12.** 71.34 (1k) (g) of the statutes is amended to read:

9 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
10 corporation under s. 71.28 (1dm), (1dx), (1dy), (3), (3g), (3h), (3n), (3q), (3t), (3w),
11 (3wm), (3y), (4), (5), (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), (8s), and (10) and passed
12 through to shareholders.

13 **SECTION 13.** 71.45 (2) (a) 10. of the statutes is amended to read:

14 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
15 computed under s. 71.47 (1dm) to (1dy), (3g), (3h), (3n), (3q), (3w), (3y), (5e), (5g), (5i),
16 (5j), (5k), (5r), (5rm), (6n), (8s), and (10) and not passed through by a partnership,
17 limited liability company, or tax-option corporation that has added that amount to
18 the partnership's, limited liability company's, or tax-option corporation's income
19 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
20 (3), (3t), (4), (4m), and (5).

21 **SECTION 14.** 71.45 (2) (a) 25. of the statutes is created to read:

22 71.45 (2) (a) 25. By adding to federal taxable income any amount used to
23 calculate the credit under s. 71.47 (8s) to the extent that amount is deducted under
24 the Internal Revenue Code as a charitable contribution.

25 **SECTION 15.** 71.47 (8s) of the statutes is created to read:

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1 71.47 (8s) EMPLOYER CHILD CARE PROGRAM CREDIT. (a) *Definitions*. In this
2 subsection:

3 1. “Child care program” has the meaning given in s. 71.07 (8s) (a) 1.

4 2. “Claimant” means an employer who operates a child care program and who
5 files a claim under this subsection.

6 3. “Qualifying capital expenditures” has the meaning given in s. 71.07 (8s) (a)

7 3.

8 (b) *Filing claims*. For taxable years beginning after December 31, 2022, subject
9 to the limitations provided in this subsection, a claimant may claim as a credit
10 against the tax imposed under s. 71.43, up to the amount of the tax, all of the
11 following:

12 1. An amount equal to the qualifying capital expenditures incurred by the
13 claimant and the expenses incurred in organizing and administering direct
14 payments to a child care program not operated by the claimant during the first
15 taxable year those expenses are incurred. The total amount that the claimant may
16 claim as a credit under this subdivision and subd. 2. for a taxable year may not exceed
17 \$100,000.

18 2. An amount equal to the contributions made by the claimant to a nonprofit
19 entity described in section 501 (c) 3 of the Internal Revenue Code for the purpose of
20 establishing a child care program. The total amount that the claimant may claim as
21 a credit under this subdivision and subd. 1. for a taxable year may not exceed
22 \$100,000.

23 3. An amount equal to the expenses incurred by the claimant to operate a child
24 care program. The total amount that the claimant may claim as a credit under this

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1 subdivision and subds. 4. and 5. for a taxable year may not exceed \$3,000 for each
2 child of an employee participating in the child care program.

3 4. An amount equal to the payments made by the claimant directly to a child
4 care program in the name of and for the benefit of an employee of the claimant, not
5 exceeding the amount charged to other children of like age and abilities of
6 individuals not employed by the claimant. The total amount that the claimant may
7 claim as a credit under this subdivision and subds. 3. and 5. for a taxable year may
8 not exceed \$3,000 for each child of an employee participating in the child care
9 program.

10 5. An amount equal to the administrative costs associated with payments
11 described in subd. 4., not exceeding 1 percent of those payments. The total amount
12 that the claimant may claim as a credit under this subdivision and subds. 3. and 4.
13 for a taxable year may not exceed \$3,000 for each child of an employee participating
14 in the child care program.

15 (c) *Limitations.* 1. No credit is allowed under this subsection if the onsite
16 daycare facility is not in compliance with the requirements under subch. XV of ch.
17 48.

18 2. No credit is allowed under par. (b) 4. unless the total amount of the claimant's
19 payments to a child care program is greater than or equal to the total amount of the
20 employee's payments to the child care program.

21 3. Partnerships, limited liability companies, and tax-option corporations may
22 not claim the credit under this subsection, but the eligibility for, and the amount of,
23 the credit are based on the amounts paid by the entities under par. (b). A
24 partnership, limited liability company, or tax-option corporation shall compute the
25 amount of credit that each of its partners, members, or shareholders may claim and

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1 shall provide that information to each of them. Partners, members, and
2 shareholders may claim the credit in proportion to their ownership interests.

3 (d) *Administration.* Section 71.28 (4) (e), (g), and (h), as it applies to the credit
4 under s. 71.28 (4), applies to the credit under this subsection.

5 2. If the allowable amount of the claim under this subsection exceeds the tax
6 otherwise due under s. 71.43, the amount of the claim that is not used to offset those
7 taxes shall be certified by the department of revenue to the department of
8 administration for payment by check, share draft, or other draft drawn from the
9 appropriation under s. 20.835 (2) (et).

10 **SECTION 16.** 71.49 (1) (f) of the statutes is amended to read:

11 71.49 (1) (f) The total of farmland preservation credit under subch. IX, jobs
12 credit under s. 71.47 (3q), enterprise zone jobs credit under s. 71.47 (3w), business
13 development credit under s. 71.47 (3y), research credit under s. 71.47 (4) (k) 1.,
14 employer child care program credit under s. 71.47 (8s), and estimated tax payments
15 under s. 71.48.

16 (END)