

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4517**

By Delegates Brooks, Pritt, and Martin

[Introduced January 19, 2026; referred to the  
Committee on Health and Human Resources then  
Finance]

1 A BILL to amend and reenact §11-21-97 and §11-24-44 of the Code of West Virginia, as amended,  
2 relating to maximizing utility and accessibility of West Virginia's child care tax credit for  
3 employers by extending this credit to employer-sponsored daycare facilities accessible to  
4 the work site in addition to on-site, fully employer-provided day cares.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-97. Tax credit for employers providing child care for employees.**

1 (a) *Definitions.* — As used in this section, the term:

2 (1) "Commissioner" or "Tax Commissioner" are used interchangeably herein and mean the

3 Tax Commissioner of the State of West Virginia, or his or her delegate;

4 (2) "Cost of operation" means reasonable direct operational costs incurred by an employer

5 as a result of providing employer provided or employer sponsored child-care facilities: *Provided,*

6 That the term cost of operation shall exclude the cost of any property that is qualified child-care

7 property.

8 (3) "Department" or "Tax Department" means the West Virginia State Tax Department.

9 (4) "Employer" means any employer upon whom an income tax is imposed by this article.

10 (5) "Employer provided" refers to child care offered on the premises of the employer.

11 (6) "Premises of the employer" refers to any location within the State of West Virginia and

12 located on the workplace premises of the employer providing the child care or one of the

13 employers providing the child care in the event that the child care property is owned jointly or

14 severally by the taxpayer and one or more unaffiliated employers: *Provided,* That if such

15 workplace premises are impracticable or otherwise unsuitable for the on-site location of such

16 child-care facility, as determined by the commissioner, such facility may be located ~~within a~~

17 ~~reasonable distance of the premises of the employer, an area reasonably accessible to the~~

18 employer's workforce.

19 (7) "Employer-sponsored" refers to licensed child care services provided by a third party

20     whose facility or operational costs are financially supported by one or more employers through  
21     direct payments, contracts, or subsidies.

22           Employer-sponsored child care may be located anywhere within the State of West Virginia  
23     and shall not be subject to proximity or employee usage thresholds.

24           (7) (8) "Qualified child-care property" means all real property, other than land, and tangible  
25     personal property purchased, or acquired, or financial sponsorship by an employer on or after July  
26     1, 2022, or which property is first placed in service on or after July 1, 2022, for use exclusively in  
27     the construction, expansion, improvement, or operation of an employer provided or employer  
28     sponsored child-care facility, but only if:

29           (A) A portion of the children who use the facility are primarily children of employees of:  
30           (i) The taxpayer and other employers in the event that the child-care property is owned or  
31     sponsored jointly or severally by the taxpayer and one or more employers; or

32           (ii) A corporation that is a member of the taxpayer's "affiliated group" within the meaning of  
33     section 1504(a) of the Internal Revenue Code; and

34           (B) The taxpayer has not previously claimed any tax credit for the cost of operation for such  
35     qualified child-care property placed in service prior to taxable years beginning on or after January  
36     1, 2022.

37           Qualified child-care property includes, but is not limited to, amounts expended on building,  
38     improvements, and building improvements and furniture, fixtures, and equipment directly related  
39     to the operation of child-care property as defined in this section.

40           (8) (9) "Recapture amount" means, with respect to property as to which a recapture event  
41     has occurred, an amount equal to the applicable recapture percentage of the aggregate credits  
42     claimed under subsection (d) of this section for all taxable years preceding the recapture year,  
43     whether or not such credits were used.

44           (9) (10) "Recapture event" means any disposition of qualified child-care property by the  
45     taxpayer, or any other event or circumstance under which property ceases to be qualified child-

46 care property with respect to the taxpayer, except for:  
47 (A) Any transfer by reason of death;  
48 (B) Any transfer between spouses or incident to divorce;  
49 (C) Any transaction to which Section 381(a) of the Internal Revenue Code applies;  
50 (D) Any change in the form of conducting the taxpayer's trade or business so long as the  
51 property is retained in such trade or business as qualified child-care property and the taxpayer  
52 retains a substantial interest in such trade or business; or  
53 (E) Any accident or casualty.

54 (10) (11) "Recapture percentage" refers to the applicable percentage set forth in the  
55 following table:

56 If the recapture event occurs within-The recapture percentage is:

57 Five full years after the qualified child-care property is	
58 placed in service .....	100
59 The sixth full year after the qualified child-care property is	
60 placed in service .....	90
61 The seventh full year after the qualified child-care property	
62 is placed in service .....	80
63 The eighth full year after the qualified child-care property is	
64 placed in service .....	70
65 The ninth full year after the qualified child-care property is	
66 placed in service .....	60
67 The tenth full year after the qualified child-care property is	
68 placed in service .....	50
69 The eleventh full year after the qualified child-care property	
70 is placed in service .....	40
71 The twelfth full year after the qualified child-care property	

72	is placed in service .....	30
73	The thirteenth full year after the qualified child-care	
74	property is placed in service .....	20
75	The fourteenth full year after the qualified child-care	
76	property is placed in service .....	10
77	Any period after the close of the fourteenth full year after	
78	the qualified child-care property is placed in service .....	0
79	(11) <u>(12)</u> "Recapture year" means the taxable year in which a recapture event occurs with	
80	respect to qualified child-care property.	

81       (b) *Credit for capital investment in child-care property.* — A taxpayer shall be allowed a  
82 credit against the tax imposed under this article for the taxable year in which the taxpayer first  
83 places in service qualified child-care property or places funds toward an employer sponsored child  
84 care facility and for each of the ensuing four taxable years following such taxable year. The  
85 aggregate amount of the credit shall equal 50 percent of the cost of all qualified child-care property  
86 purchased or acquired by the taxpayer and first placed in service during a taxable year, and such  
87 credit may be claimed at a rate of 20 percent per year over a period of five taxable years. In the  
88 case of a qualified child-care property jointly owned or sponsored by two or more unaffiliated  
89 employers, each employer's credit is limited to that employer's respective investment in the  
90 qualified child-care property.

91       (c) *Limitations on Capital Investment Credit.* — The tax credit allowable under subsection  
92 (b) of this section shall be subject to the following conditions and limitations:

93       (1) Any such credit claimed in any taxable year but not used in such taxable year may be  
94 carried forward for ~~three~~20 years from the close of such taxable year. The sale, merger,  
95 acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit in any  
96 succeeding taxpayer;

97       (2) In no event shall the amount of any such tax credit allowed under subsection (b) of this

98 section, when combined with any such tax credit allowed under subsection (e) of this section,  
99 including any carryover of such credits from a prior taxable year, exceed 100 percent of the  
100 taxpayer's income tax liability as determined without regard to any other credits; and

101 (3) For every year in which a taxpayer claims such credit, the taxpayer shall attach a  
102 schedule to the taxpayer's West Virginia income tax return setting forth the following information  
103 with respect to such tax credit:

104 (A) A description of the child-care facility;

105 (B) The amount of qualified child-care property acquired during the taxable year and the  
106 cost of such property;

107 (C) The amount of tax credit claimed for the taxable year;

108 (D) The amount of qualified child-care property acquired in prior taxable years and the cost  
109 of such property;

110 (E) Any tax credit utilized by the taxpayer in prior taxable years;

111 (F) The amount of tax credit carried over from prior years;

112 (G) The amount of tax credit utilized by the taxpayer in the current taxable year;

113 (H) The amount of tax credit to be carried forward to subsequent tax years; and

114 (I) A description of any recapture event occurring during the taxable year, a calculation of  
115 the resulting reduction in tax credits allowable for the recapture year and future taxable years, and  
116 a calculation of the resulting increase in tax for the recapture year.

117 (d) *Recapture of credit.* — If a recapture event occurs with respect to qualified child-care  
118 property:

119 (1) The credit otherwise allowable under subsection (b) of this section with respect to such  
120 property for the recapture year and all subsequent taxable years shall be reduced by the  
121 applicable recapture percentage; and

122 (2) All credits previously claimed with respect to such property under subsection (b) of this  
123 section shall be recaptured as follows:

124 (A) Any carryover attributable to such credits pursuant to subdivision (1), subsection (c) of  
125 this section shall be reduced, but not below zero, by the recapture amount;

126 (B) The tax credit otherwise allowable pursuant to subsection (b) of this section for the  
127 recapture year, if any, as reduced pursuant to subdivision (1) of this subsection, shall be further  
128 reduced, but not below zero, by the excess of the recapture amount over the amount taken into  
129 account pursuant to paragraph (A) of this subdivision; and

130 (C) The tax imposed pursuant to this article for the recapture year shall be increased by the  
131 excess of the recapture amount over the amounts taken into account pursuant to paragraphs (A)  
132 and (B) of this subdivision, as applicable.

138 (f) *Limitations on credit for operating costs.*— The tax credit allowed under subsection (e)  
139 of this section shall be subject to the following conditions and limitations:

140 (1) Such credit shall when combined with the credit allowed under subsection (b) of this  
141 section shall not exceed 100 percent of the amount of the taxpayer's income tax liability for the  
142 taxable year as determined without regard to any other credits;

143 (2) Any such credit claimed but not used in any taxable year may be carried forward for five  
144 20 years from the close of the taxable year in which the cost of operation was incurred; and

145 (3) The employer shall certify to the department the names of the employees, the name of  
146 the child-care provider, and such other information as may be required by the department to  
147 ensure that credits are granted only to employers who provide or sponsor approved child care  
148 pursuant to this section.

149 (a) *Rules.* — The Tax Commissioner may promulgate such interpretive, legislative and

150 procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of  
151 this section and to implement the intent of the Legislature. The Tax Commissioner may promulgate  
152 emergency rules pursuant to the provisions of §29A-3-15 of this code.

**ARTICLE 24. CORPORATION NET INCOME TAX.**

**§11-24-44. Tax credit for employers providing child care for employees.**

1 (a) *Definition.* — As used in this section, the term:

2 (1) "Commissioner" or "Tax Commissioner" are used interchangeably herein and mean the  
3 Tax Commissioner of the State of West Virginia, or his or her delegate;

4 (2) "Cost of operation" means reasonable direct operational costs incurred by an employer  
5 as a result of providing employer provided or employer sponsored child-care facilities; provided,  
6 however, that the term cost of operation shall exclude the cost of any property that is qualified  
7 child-care property.

8 (3) "Department" or "Tax Department" means the West Virginia State Tax Department.

9 (4) "Employer" means any employer upon whom an income tax is imposed by this article or  
10 any employer organized as a nonprofit corporation under Internal Revenue Code § 501(c)(3) or §  
11 501(c)(6) that is exempt from the tax imposed by this article pursuant to §11-24-5 of this code.

12 (5) "Employer provided" refers to child care offered on the premises of the employer.

13 (6) "Premises of the employer" refers to any location within the State of West Virginia and  
14 located on the workplace premises of the employer providing the child care or one of the  
15 employers providing the child care in the event that the child-care property is owned jointly or  
16 severally by the taxpayer and one or more unaffiliated employers: *Provided*, That if such  
17 workplace premises are impracticable or otherwise unsuitable for the on-site location of such  
18 child-care facility, as determined by the commissioner, such facility may be located ~~within a~~  
19 ~~reasonable distance of the premises of the employer within an area reasonably accessible to the~~  
20 employer's workforce.

21 (7) "Employer-sponsored" refers to licensed child care services provided by a third party

22       whose facility or operational costs are financially supported by one or more employers through  
23       direct payments, contracts, or subsidies. Employer-sponsored child care may be located  
24       anywhere within the State of West Virginia and shall not be subject to proximity or employee  
25       usage thresholds.

26           (7) (8) "Qualified child-care property" means all real property, other than land, and tangible  
27       personal property purchased, or acquired, or financial sponsorship by the employer on or after  
28       July 1, 2022, or which property is first placed in service on or after July 1, 2022, for use exclusively  
29       in the construction, expansion, improvement, or operation of an employer provided or employer  
30       sponsored child-care facility, but only if:

31           (A) The children who use the facility are primarily children of employees of:  
32            (i) The taxpayer and other employers in the event that the child-care property is owned  
33       jointly or severally by the taxpayer and one or more employers; or  
34            (ii) A corporation that is a member of the taxpayer's "affiliated group" within the meaning of  
35       Section 1504(a) of the Internal Revenue Code; and

36           (B) The taxpayer has not previously claimed any tax credit for the cost of operation for such  
37       qualified child-care property placed in service prior to taxable years beginning on or after January  
38       1, 2022.

39           Qualified child-care property includes, but is not limited to, amounts expended on building,  
40       improvements, and building improvements and furniture, fixtures, and equipment directly related  
41       to the operation of child-care property as defined in this section.

42           (8) (9) "Recapture amount" means, with respect to property as to which a recapture event  
43       has occurred, an amount equal to the applicable recapture percentage of the aggregate credits  
44       claimed under subsection (d) of this section for all taxable years preceding the recapture year,  
45       whether or not such credits were used.

46           (9) (10) "Recapture event" refers to any disposition of qualified child-care property by the  
47       taxpayer, or any other event or circumstance under which property ceases to be qualified child-

48 care property with respect to the taxpayer, except for:  
49 (A) Any transfer by reason of death;  
50 (B) Any transfer between spouses or incident to divorce;  
51 (C) Any transaction to which Section 381(a) of the Internal Revenue Code applies;  
52 (D) Any change in the form of conducting the taxpayer's trade or business so long as the  
53 property is retained in such trade or business as qualified child-care property and the taxpayer  
54 retains a substantial interest in such trade or business; or  
55 (E) Any accident or casualty.

56 (10) (11) "Recapture percentage" refers to the applicable percentage set forth in the  
57 following table:

58 If the recapture event occurs within-The recapture percentage is:

59 Five full years after the qualified child-care property is	
60 placed in service .....	100
61 The sixth full year after the qualified child-care property is	
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63 The seventh full year after the qualified child-care property	
64 is placed in service .....	80
65 The eighth full year after the qualified child-care property is	
66 placed in service .....	70
67 The ninth full year after the qualified child-care property is	
68 placed in service .....	60
69 The tenth full year after the qualified child-care property is	
70 placed in service .....	50
71 The eleventh full year after the qualified child-care property	
72 is placed in service .....	40
73 The twelfth full year after the qualified child-care property	

74                   is placed in service .....30  
75                   The thirteenth full year after the qualified child-care  
76                   property is placed in service .....20  
77                   The fourteenth full year after the qualified child-care  
78                   property is placed in service .....10  
79                   Any period after the close of the fourteenth full year after  
80                   the qualified child-care property is placed in service .....0  
81                   (11) (12) "Recapture year" means the taxable year in which a recapture event occurs with  
82                   respect to qualified child-care property.

83                   (b) *Credit for capital investment in child-care property.* — A taxpayer shall be allowed a  
84                   credit against the tax imposed under this article for the taxable year in which the taxpayer first  
85                   places in service qualified child-care property or places funds towards an employer-sponsored  
86                   child care facility and for each of the ensuing four taxable years following such taxable year. The  
87                   aggregate amount of the credit shall equal 50 100 percent of the cost of all qualified child-care  
88                   property purchased or acquired by the taxpayer and first placed in service during a taxable year,  
89                   and such credit may be claimed at a rate of 20 percent per year over a period of five taxable years.  
90                   In the case of a qualified child-care property jointly owned or sponsored by two or more unaffiliated  
91                   employers, each employer's credit is limited to that employer's respective investment in the  
92                   qualified child-care property.

93                   (c) *Limitations on capital investment credit.* — The tax credit allowable under subsection  
94                   (b) of this section shall be subject to the following conditions and limitations:

95                   (1) Any such credit claimed in any taxable year but not used in such taxable year may be  
96                   carried forward for three 20 years from the close of such taxable year. The sale, merger,  
97                   acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit in any  
98                   succeeding taxpayer;

99                   (2) In no event shall the amount of any such tax credit allowed under subsection (b) of this

100 section, when combined with any such tax credit allowed under subsection (e) of this section,  
101 including any carryover of such credits from a prior taxable year, exceed 100 percent of the  
102 taxpayer's income tax liability as determined without regard to any other credits; and

103 (3) For every year in which a taxpayer claims such credit, the taxpayer shall attach a  
104 schedule to the taxpayer's West Virginia income tax return setting forth the following information  
105 with respect to such tax credit:

106 (A) A description of the child-care facility;

107 (B) The amount of qualified child-care property acquired during the taxable year and the  
108 cost of such property;

109 (C) The amount of tax credit claimed for the taxable year;

110 (D) The amount of qualified child-care property acquired in prior taxable years and the cost  
111 of such property;

112 (E) Any tax credit utilized by the taxpayer in prior taxable years;

113 (F) The amount of tax credit carried over from prior years;

114 (G) The amount of tax credit utilized by the taxpayer in the current taxable year;

115 (H) The amount of tax credit to be carried forward to subsequent tax years; and

116 (I) A description of any recapture event occurring during the taxable year, a calculation of  
117 the resulting reduction in tax credits allowable for the recapture year and future taxable years, and  
118 a calculation of the resulting increase in tax for the recapture year.

119 (d) *Recapture of credit.* — If a recapture event occurs with respect to qualified child-care  
120 property:

121 (1) The credit otherwise allowable under subsection (b) of this section with respect to such  
122 property for the recapture year and all subsequent taxable years shall be reduced by the  
123 applicable recapture percentage; and

124 (2) All credits previously claimed with respect to such property under subsection (b) of this  
125 section shall be recaptured as follows:

126 (A) Any carryover attributable to such credits pursuant to subdivision (1) of subsection (c)  
127 of this section shall be reduced, but not below zero, by the recapture amount;

128 (B) The tax credit otherwise allowable pursuant to subsection (b) of this section for the  
129 recapture year, if any, as reduced pursuant to subdivision (1) of this subsection, shall be further  
130 reduced, but not below zero, by the excess of the recapture amount over the amount taken into  
131 account pursuant to paragraph (A) of this subdivision; and

132 (C) The tax imposed pursuant to this article for the recapture year shall be increased by the  
133 excess of the recapture amount over the amounts taken into account pursuant to paragraphs (A)  
134 and (B) of this subdivision, as applicable.

135 (e) *Credit for operating costs.* — In addition to the tax credit provided under subsection (b)  
136 of this section, a tax credit against the tax imposed under this article shall be granted to an  
137 employer who provides or sponsors child care for employees. The amount of the tax credit shall be  
138 equal to 50 100 percent of the cost of operation to the employer less any amounts paid for by  
139 employees during a taxable year.

140 (f) *Limitations on credit for operating costs.* — The tax credit allowed under subsection (e)  
141 of this section shall be subject to the following conditions and limitations:

142 (1) Such credit shall when combined with the credit allowed under subsection (b) of this  
143 section shall not exceed 100 percent of the amount of the taxpayer's income tax liability for the  
144 taxable year as determined without regard to any other credits;

145 (2) Any such credit claimed but not used in any taxable year may be carried forward for five  
146 20 years from the close of the taxable year in which the cost of operation was incurred; and

147 (3) The employer shall certify to the department the names of the employees, the name of  
148 the child-care provider, and such other information as may be required by the department to  
149 ensure that credits are granted only to employers who provide or sponsor approved child care  
150 pursuant to this section.

151 (g) *Transferable credit available to non-profit corporations.* — In the case of non-profit

152 corporations organized under Internal Revenue Code §501(c)(3) or §501(c)(6), which are exempt  
153 from tax under this article pursuant to §11-24-5 of this code, a credit in the amount calculated  
154 under the provisions of this section shall be available as a transferrable credit that may be  
155 transferred, sold, or assigned to any other taxpayer to be applied against the tax owed under this  
156 article. Pursuant to rules promulgated by the Tax Department, a non-profit corporation applicant  
157 shall provide a schedule to the Tax Department with all information required under §11-24-44(c)(3)  
158 of this code. The Tax Department shall within 90 days certify the amount of transferrable credit  
159 available to be transferred, sold, or assigned to another taxpayer. Any transferee, purchaser, or  
160 assignee of non-profit corporation credits certified to a non-profit corporation under this section  
161 takes the transferred, purchased, or assigned credits subject to any limitations placed on the  
162 amount of credit taken in a given year by §11-24-44(b), §11-24-44(c), §11-24-44(e), and §11-24-  
163 44(f) of this code.

164 (h) *Rules.* — The Tax Commissioner may promulgate such interpretive, legislative and  
165 procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of  
166 this section and to implement the intent of the Legislature. The Tax Commissioner may promulgate  
167 emergency rules pursuant to the provisions of §29A-3-15 of this code.

NOTE: The purpose of this bill is to maximize utility and accessibility of West Virginia's child care tax credit for employers.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.