

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 4517

By Delegates Brooks, Pritt, Martin, and Petitto

[Originating in the House Committee on Health and
Human Resources; Reported on February 17, 2026]

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 (8) "Tri-Share Child Care program" refers to a program that 1/3 of the eligible child care
25 costs with respect to an eligible child that will be paid by each of the following:

26 (A) A parent or legal guardian of the child;

27 (B) A employer of the parent; and

28 (C)The state.

29 ~~(7)~~ (9) "Qualified child-care property" means all real property, other than land, and tangible
30 personal property purchased, or acquired, or financial sponsorship by an employer on or after July
31 1, 2022, or which property is first placed in service on or after July 1, 2022, for use exclusively in
32 the construction, expansion, improvement, or operation of an employer provided or employer
33 sponsored child-care facility, but only if:

34 (A) A portion of the children who use the facility are ~~primarily~~ children of employees of:

35 (i) The taxpayer and other employers in the event that the child-care property is owned or
36 sponsored jointly or severally by the taxpayer and one or more employers; or

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

39 (B) The taxpayer has not previously claimed any tax credit for the cost of operation for such
40 qualified child-care property placed in service prior to taxable years beginning on or after January
41 1, 2022.

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

45 ~~(8)~~ (10) "Recapture amount" means, with respect to property as to which a recapture event

46 has occurred, an amount equal to the applicable recapture percentage of the aggregate credits
47 claimed under subsection (d) of this section for all taxable years preceding the recapture year,
48 whether or not such credits were used.

49 ~~(9)~~ (11) "Recapture event" means any disposition of qualified child-care property by the
50 taxpayer, or any other event or circumstance under which property ceases to be qualified child-
51 care property with respect to the taxpayer, except for:

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

59 ~~(10)~~ (12) "Recapture percentage" refers to the applicable percentage set forth in the
60 following table:

61	If the recapture event occurs within-	The recapture percentage is:
62	Five full years after the qualified child-care property is	
63	placed in service	100
64	The sixth full year after the qualified child-care property is	
65	placed in service	90
66	The seventh full year after the qualified child-care property	
67	is placed in service	80
68	The eighth full year after the qualified child-care property is	
69	placed in service	70
70	The ninth full year after the qualified child-care property is	
71	placed in service	60

72 The tenth full year after the qualified child-care property is
73 placed in service50
74 The eleventh full year after the qualified child-care property
75 is placed in service40
76 The twelfth full year after the qualified child-care property
77 is placed in service30
78 The thirteenth full year after the qualified child-care
79 property is placed in service20
80 The fourteenth full year after the qualified child-care
81 property is placed in service10
82 Any period after the close of the fourteenth full year after
83 the qualified child-care property is placed in service0

84 (14) (13) "Recapture year" means the taxable year in which a recapture event occurs with
85 respect to qualified child-care property.

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

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

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

102 (2) In no event shall the amount of any such tax credit allowed under subsection (b) of this
103 section, when combined with any such tax credit allowed under subsection (e) of this section,
104 including any carryover of such credits from a prior taxable year, exceed 100 percent of the
105 taxpayer's income tax liability as determined without regard to any other credits; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

148 (2) Any such credit claimed but not used in any taxable year may be carried forward for ~~five~~
149 20 years from the close of the taxable year in which the cost of operation was incurred; and

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

154 (g) Tri-Share Child Care Program—An employer participating in the West Virginia Tri-Share
155 Program is eligible to receive a nonrefundable tax credit equal to 50 percent of the employer's
156 program contributions for the taxable year. The credit may be applied against applicable state
157 business taxes and carried forward up to five consecutive taxable years, subject to rules
158 established by the Tax Commissioner.

159 ~~(g)~~ (f) *Rules.* — The Tax Commissioner may promulgate such interpretive, legislative and
160 procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of
161 this section and to implement the intent of the Legislature. The Tax Commissioner may promulgate
162 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 (8) "Tri-Share Child Care program" refers to a program that 1/3 of the eligible child care
27 costs with respect to an eligible child that will be paid by each of the following:

28 (A) A parent or legal guardian of the child;

29 (B) A employer of the parent; and

30 (C) The state.

31 (7) (9) "Qualified child-care property" means all real property, other than land, and tangible
32 personal property purchased, or acquired, or financial sponsorship by the employer on or after
33 July 1, 2022, or which property is first placed in service on or after July 1, 2022, for use exclusively
34 in the construction, expansion, improvement, or operation of an employer provided or employer
35 sponsored child-care facility, but only if:

36 (A) The children who use the facility are ~~primarily~~ children of employees of:

37 (i) The taxpayer and other employers in the event that the child-care property is owned

38 jointly or severally by the taxpayer and one or more employers; or

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

41 (B) The taxpayer has not previously claimed any tax credit for the cost of operation for such
42 qualified child-care property placed in service prior to taxable years beginning on or after January
43 1, 2022.

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

47 ~~(8)~~ (10) "Recapture amount" means, with respect to property as to which a recapture event
48 has occurred, an amount equal to the applicable recapture percentage of the aggregate credits
49 claimed under subsection (d) of this section for all taxable years preceding the recapture year,
50 whether or not such credits were used.

51 ~~(9)~~ (11) "Recapture event" refers to any disposition of qualified child-care property by the
52 taxpayer, or any other event or circumstance under which property ceases to be qualified child-
53 care property with respect to the taxpayer, except for:

54 (A) Any transfer by reason of death;

55 (B) Any transfer between spouses or incident to divorce;

56 (C) Any transaction to which Section 381(a) of the Internal Revenue Code applies;

57 (D) Any change in the form of conducting the taxpayer's trade or business so long as the
58 property is retained in such trade or business as qualified child-care property and the taxpayer
59 retains a substantial interest in such trade or business; or

60 (E) Any accident or casualty.

61 ~~(10)~~ (12) "Recapture percentage" refers to the applicable percentage set forth in the
62 following table:

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

64	Five full years after the qualified child-care property is	
65	placed in service	100
66	The sixth full year after the qualified child-care property is	
67	placed in service	90
68	The seventh full year after the qualified child-care property	
69	is placed in service	80
70	The eighth full year after the qualified child-care property is	
71	placed in service	70
72	The ninth full year after the qualified child-care property is	
73	placed in service	60
74	The tenth full year after the qualified child-care property is	
75	placed in service	50
76	The eleventh full year after the qualified child-care property	
77	is placed in service	40
78	The twelfth full year after the qualified child-care property	
79	is placed in service	30
80	The thirteenth full year after the qualified child-care	
81	property is placed in service	20
82	The fourteenth full year after the qualified child-care	
83	property is placed in service	10
84	Any period after the close of the fourteenth full year after	
85	the qualified child-care property is placed in service	0
86	(14) (13) "Recapture year" means the taxable year in which a recapture event occurs with	
87	respect to qualified child-care property.	
88	(b) <i>Credit for capital investment in child-care property.</i> — A taxpayer shall be allowed a	
89	credit against the tax imposed under this article for the taxable year in which the taxpayer first	

90 places in service qualified child-care property or places funds towards an employer-sponsored
91 child care facility and for each of the ensuing four taxable years following such taxable year. The
92 aggregate amount of the credit shall equal ~~50~~ 100 percent of the cost of all qualified child-care
93 property purchased or acquired by the taxpayer and first placed in service during a taxable year,
94 and such credit may be claimed at a rate of 20 percent per year over a period of five taxable years.
95 In the case of a qualified child-care property jointly owned or sponsored by two or more unaffiliated
96 employers, each employer's credit is limited to that employer's respective investment in the
97 qualified child-care property.

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

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

104 (2) In no event shall the amount of any such tax credit allowed under subsection (b) of this
105 section, when combined with any such tax credit allowed under subsection (e) of this section,
106 including any carryover of such credits from a prior taxable year, exceed 100 percent of the
107 taxpayer's income tax liability as determined without regard to any other credits; and

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

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

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

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

115 (D) The amount of qualified child-care property acquired in prior taxable years and the cost

116 of such property;

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

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

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

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

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

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

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

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

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

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

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

140 (e) *Credit for operating costs.* — In addition to the tax credit provided under subsection (b)
141 of this section, a tax credit against the tax imposed under this article shall be granted to an

142 employer who provides or sponsors child care for employees. The amount of the tax credit shall be
143 equal to ~~50~~ 100 percent of the cost of operation to the employer less any amounts paid for by
144 employees during a taxable year.

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

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

150 (2) Any such credit claimed but not used in any taxable year may be carried forward for ~~five~~
151 20 years from the close of the taxable year in which the cost of operation was incurred; and

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

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

168 44(f) of this code.

169 (h) *Tri-Share Child Care Program*—An employer participating in the West Virginia Tri-
170 Share Program is eligible to receive a nonrefundable tax credit equal to 50 percent of the
171 employer’s program contributions for the taxable year. The credit may be applied against
172 applicable state business taxes and carried forward up to five consecutive taxable years, subject
173 to rules established by the Tax Commissioner.

174 ~~(h)~~ (i) Rules. — The Tax Commissioner may promulgate such interpretive, legislative and
175 procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of
176 this section and to implement the intent of the Legislature. The Tax Commissioner may promulgate
177 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.