

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4517

By Delegates Brooks, Pritt, Martin, and Petitto

[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 service100

59 The sixth full year after the qualified child-care property is
60 placed in service90

61 The seventh full year after the qualified child-care property
62 is placed in service80

63 The eighth full year after the qualified child-care property is
64 placed in service70

65 The ninth full year after the qualified child-care property is
66 placed in service60

67 The tenth full year after the qualified child-care property is
68 placed in service50

69 The eleventh full year after the qualified child-care property
70 is placed in service40

71 The twelfth full year after the qualified child-care property

72 is placed in service30

73 The thirteenth full year after the qualified child-care

74 property is placed in service20

75 The fourteenth full year after the qualified child-care

76 property is placed in service10

77 Any period after the close of the fourteenth full year after

78 the qualified child-care property is placed in service0

79 (11) (12) "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.

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

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 (g) *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:

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65 The eighth full year after the qualified child-care property is
66 placed in service70

67 The ninth full year after the qualified child-care property is
68 placed in service60

69 The tenth full year after the qualified child-care property is
70 placed in service50

71 The eleventh full year after the qualified child-care property
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75 The thirteenth full year after the qualified child-care

76 property is placed in service20

77 The fourteenth full year after the qualified child-care

78 property is placed in service10

79 Any period after the close of the fourteenth full year after

80 the qualified child-care property is placed in service0

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) *Transferrable 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.