WEST VIRGINIA LEGISLATURE
2026 REGULAR SESSION
ENROLLED
Committee Substitute
for
House Bill 4191

By Delegates Fontenelle, Hill, Fleischauer, Hott, and G. Heavrin
[Passed March 13, 2026; in effect July 1, 2026]

AN ACT to amend and reenact §11-6E1, §11-24a and §11-24b of the Code of West Virginia, 1931, as amended; and to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, all relating to providing child care tax credits; providing child care for employees tax credit; providing a refundable child care tax credit; providing child care facilities' providing a question for the electorate filing of all degree of abbreviations billed by child care providers; requiring emergency rule; subsidizing child care; providing the establishment of new businesses and special accounts; and requiring reports.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

§11-6E1. Child care for employees providing child care for employees.

(a) Definitions. – As used in this section, the term:

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

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

(3) "Division" or "Tax Division" means the West Virginia State Tax Division;

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

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

(6) "Employer sponsored child care facility" refers to a third-party licensed child care provider facility whose operational costs are financially supported by one or more employers through direct payments, contracts, or scholarships, or employer sponsored child care facilities that are financially supported by one or more employers through direct payments, contracts, or scholarships;

(7) "Premises of the employer" refers to land within the State of West Virginia and located on the workplace premises of the employer providing the child care or one of the employers providing the child care in the event that the child care property is owned jointly or operated by the taxpayer and one or more unaffiliated employers. Provided, That if such workplace premises are impracticable or otherwise unsuitable for the on-site location of such child care facility, as determined by the commissioner, such facility may be located within a reasonable distance of the premises of the employer;

(8) "Qualified child care property" means all real property, other than land, and tangible personal property purchased or acquired on or after July 1, 2026, in which qualified child care expenses are made or incurred, and which is not owned by a corporation, partnership, organization, or operation of an employer provided child care facility. Qualified child care property shall include:

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

(i) The taxpayer and other employees in the event that the child care property is owned jointly or wholly by the taxpayer and one or more employers; or

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

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

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

"Qualified child care property" means, with respect to property as to which a depletion reserve has accrued, an amount equal to the applicable depletion percentage of the aggregate costs claimed under subsection (d) of this section for all taxable years preceding the taxable year, whether or not such taxable year is open.

(10) "Recapture event" means any disposition of qualified child care property by the taxpayer, or any other event or circumstance under which property ceases to be qualified child care property with respect to the taxpayer, except for:

(A) Any transfer by reason of death;

(B) Any transfer between spouses incident to divorce;

(C) Any transaction to which Section 351(a) of the Internal Revenue Code applies;

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

(E) Any accident or casualty.

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

If the recapture event occurs within the first taxable year:

First full years after the qualified child care property is

placed in service 100

The sixth full year after the qualified child care property is

placed in service 90

The seventh full year after the qualified child care property is

placed in service 80

The eighth full year after the qualified child care property is

placed in service 70

The ninth full year after the qualified child care property is

placed in service 60

The tenth full year after the qualified child care property is

placed in service 50

The eleventh full year after the qualified child care property is

placed in service 40

The twelfth full year after the qualified child care property is

placed in service 30

The thirteenth full year after the qualified child care

property is placed in service 20

The fourteenth full year after the qualified child care

property is placed in service 10

Any period after the close of the fourteenth full year after

the qualified child care property is placed in service 0

(12) "Workplace year" means the taxable year in which a workplace event occurs with respect to qualified child care property.

(b) Credit for capital investment in child care property. – A taxpayer shall be allowed a credit against the tax imposed under this article in an amount equal to the sum of the amounts described in subsection (c) of this section with respect to each qualified child care property purchased or acquired by the taxpayer and first placed in service during a taxable year, and such credit may be claimed at a time and in the proper amount over a period of the taxable years. In the case of a qualified child care property jointly owned by two or more unaffiliated employers, each employer's credit is limited to that employer's respective investment in the qualified child care property.

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

(1) Any tax credit claimed in any taxable year and not used in such taxable year may be carried forward for three years from the close of the taxable year. The sum, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit or any succeeding taxpayer.

(2) In no event shall the amount of any such tax credit allowed under subsection (b) of this section, when combined with any such tax credit allowed under subsection (f) of this section, exceed the lesser of such credit for the taxable year or the amount by which fifty percent of the taxpayer's income tax liability as determined without regard to any other credit; and

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

(A) A description of the cost-sharing facility;

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

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

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

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

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

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

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

(I) A description of any recapture event occurring during the taxable year, a calculation of the resulting reduction in tax credits allowable, and a description of the recapture event and the amount of the resulting increase in tax for the taxpayer year.

(d) Recapture of credit. – If a recapture event occurs with respect to qualified child care property:

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

(2) Any carryover attributable to such credit pursuant to subsection (f) of subsection (c) of this section shall be reduced, but not below zero, by the recapture amount.

(3) The tax credit otherwise allowable pursuant to subsection (b) of this section for the recapture year, if any, as reduced pursuant to subsection (1) of this subsection, shall be increased by the amount of the reduction in the credit for such taxable year pursuant to subsection (1) of this subsection; and

(4) Such credit shall when combined with the credit allowed under subsection (f) of this section shall not exceed 100 percent of the amount by which fifty percent of the taxpayer's income tax liability for the taxable year as determined without regard to any other credits.

(e) Rules. – The Tax Commissioner may promulgate such interpretive, legislative and procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of this section and to implement the intent of the Legislature. The Tax Commissioner may promulgate emergency rules pursuant to the provisions of §64-3-1 of this code.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24a. Tax credit for providing child care for employees.

(a) Definitions. – As used in this section, the term:

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

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

(3) "Division" or "Tax Division" means the West Virginia State Tax Division;

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

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

(6) "Employer sponsored child care facility" refers to a third-party licensed child care provider facility whose operational costs are financially supported by one or more employers through direct payments, contracts, or scholarships, or employer sponsored child care facilities that are financially supported by one or more employers through direct payments, contracts, or scholarships;

(7) "Premises of the employer" refers to land within the State of West Virginia and located on the workplace premises of the employer providing the child care or one of the employers providing the child care in the event that the child care property is owned jointly or operated by the taxpayer and one or more unaffiliated employers. Provided, That if such workplace premises are impracticable or otherwise unsuitable for the on-site location of such child care facility, as determined by the commissioner, such facility may be located within a reasonable distance of the premises of the employer;

(8) "Qualified child care property" means all real property, other than land, and tangible personal property purchased or acquired on or after July 1, 2026, in which qualified child care expenses are made or incurred in service on or after July 1, 2026, for use exclusively in the construction, expansion, improvement, or operation of an employer provided child care facility, but only if:

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

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

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

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

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

"Qualified child care property" means, with respect to property as to which a depletion reserve has accrued, an amount equal to the applicable recapture percentage of the aggregate costs claimed under subsection (d) of this section for all taxable years preceding the recapture year, whether or not such taxable year is open.

(10) "Recapture event" refers to any disposition of qualified child care property by the taxpayer, or any other event or circumstance under which property ceases to be qualified child care property with respect to the taxpayer, except for:

(A) Any transfer by reason of death;

(B) Any transfer between spouses incident to divorce;

(C) Any transaction to which Section 351(a) of the Internal Revenue Code applies;

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

(E) Any accident or casualty.

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

If the recapture event occurs within the recapture percentage is

First full years after the qualified child care property is

placed in service 100

The sixth full year after the qualified child care property is

placed in service 90

The seventh full year after the qualified child care property is

placed in service 80

The eighth full year after the qualified child care property is

placed in service 70

The ninth full year after the qualified child care property is

placed in service 60

The tenth full year after the qualified child care property is

placed in service 50

The eleventh full year after the qualified child care property is

placed in service 40

The twelfth full year after the qualified child care property is

placed in service 30

The thirteenth full year after the qualified child care

property is placed in service 20

The fourteenth full year after the qualified child care

property is placed in service 10

Any period after the close of the fourteenth full year after

the qualified child care property is placed in service 0

(12) "Workplace year" means the taxable year in which a recapture event occurs with respect to qualified child care property.

(b) Credit for capital investment in child care property. – A taxpayer shall be allowed a credit against the tax imposed under this article in an amount equal to the sum of the amounts described in subsection (c) of this section with respect to each qualified child care property purchased or acquired by the taxpayer and first placed in service during a taxable year, and such credit may be claimed at a time and in the proper amount over a period of the taxable years. In the case of a qualified child care property jointly owned by two or more unaffiliated employers, each employer's credit is limited to that employer's respective investment in the qualified child care property.

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

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

(2) In no event shall the amount of any such tax credit allowed under subsection (b) of this section, when combined with any such tax credit allowed under subsection (f) of this section, exceed the lesser of such credit for a prior taxable year, or the amount by which fifty percent of the taxpayer's income tax liability as determined without regard to any other credits; and

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

(A) A description of the cost-facility;

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

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

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

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

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

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

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

(I) A description of any recapture event occurring during the taxable year, a calculation of the resulting reduction in tax credits allowable, and a description of the recapture event and the amount of the resulting increase in tax for the taxpayer year.

(d) Recapture of credit. – If a recapture event occurs with respect to qualified child care property:

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

(2) Any carryover attributable to such credit pursuant to subsection (f) of subsection (c) of this section shall be reduced, but not below zero, by the recapture amount.

(3) The tax credit otherwise allowable pursuant to subsection (b) of this section for the recapture year, if any, as reduced pursuant to subsection (1) of this subsection, shall be increased by the amount of the reduction in the credit for such taxable year pursuant to subsection (1) of this subsection; and

(4) The tax imposed pursuant to this article for the recapture year shall be increased by the excess of the recapture amount over the amount taken into account pursuant to subsection (4) and (5) of the subsections, as applicable.

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

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

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

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

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

(A) A description of the cost-facility;

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

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

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

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

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

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

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

(I) A description of any recapture event occurring during the taxable year, a calculation of the resulting reduction in tax credits allowable, and a description of the recapture event and the amount of the resulting increase in tax for the taxpayer year.

(d) Recapture of credit. – If a recapture event occurs with respect to qualified child care property:

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

(2) Any carryover attributable to such credit pursuant to subsection (f) of subsection (c) of this section shall be reduced, but not below zero, by the recapture amount.

(3) The tax imposed pursuant to this article for the recapture year shall be increased by the excess of the recapture amount over the amount taken into account pursuant to subsection (4) and (5) of the subsections, as applicable.

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

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

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

(2) Any tax credit claimed but not used in any taxable year may be carried forward for three years from the close of the taxable year in which the cost of operation was incurred.

(3) The sum, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit or any succeeding taxpayer.

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

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

(A) A description of the cost-facility;

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

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

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

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

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

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

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

(I) A description of any recapture event occurring during the taxable year, a calculation of the resulting reduction in tax credits allowable, and a description of the recapture event and the amount of the resulting increase in tax for the taxpayer year.

(d) Recapture of credit. – If a recapture event occurs with respect to qualified child care property:

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

(2) Any carryover attributable to such credit pursuant to subsection (f) of subsection (c) of this section shall be reduced, but not below zero, by the recapture amount.

(3) The tax credit otherwise allowable pursuant to subsection (b) of this section for the recapture year, if any, as reduced pursuant to subsection (1) of this subsection, shall be increased by the amount of the reduction in the credit for such taxable year pursuant to subsection (1) of this subsection; and

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