Assembly Hearing Slip

(Please print plainly)

Date: 9/1/99

Bill No. Or Subject: AB 393

Kathy Markeland
(Name)

30 W. Mifflin St. Ste. 302
(Street Address or Route Number)

Madison 53703
(City & Zip Code)

Wisconsin Catholic Conference
(Representing)

Speaking *in favor:* ☑

Speaking *against:* ☐

Registering *in favor:* ☐

Registering *against:* ☐

Speaking for *information only;* Neither for nor against: ☐

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 9/1/99

Bill No. Or Subject: AB 393

Tim Houbey
(Name)

(Street Address or Route Number)

(City & Zip Code)

(Representing)

Speaking *in favor:* ☑

Speaking *against:* ☐

Registering *in favor:* ☐

Registering *against:* ☐

Speaking for *information only;* Neither for nor against: ☐

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 9/1/99

Bill No. Or Subject: AB 393

Bill Reid
(Name)

756 N. Milwaukee St #400
(Street Address or Route Number)

Milwaukee WI 53202
(City & Zip Code)

MMAC
(Representing)

Speaking *in favor:* ☐

Speaking *against:* ☐

Registering *in favor:* ☒

Registering *against:* ☐

Speaking for *information only;* Neither for nor against: ☐

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 9/1

Bill No. Or Subject: AB 393, AB 402, SB 49

Tom Ourada
(Name)

Sheri Slater-Hendrick
(Street Address or Route Number)

(City & Zip Code)

(Representing)

Speaking *in favor:* ☐

Speaking *against:* ☐

Registering *in favor:* ☐

Registering *against:* ☐

Speaking for *information only;* Neither for nor against: ☒

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Committee on Ways and Means

DATE
Moved by Ainsworth — Seconded by Goetsch
AB 393 — SB — Clearinghouse Rule
AJR — SJR
A — SR — Other
A/S Amdt
A/S Amdt — to A/S Amdt
A/S Sub Amdt
A/S Amdt — to A/S Sub Amdt
A/S Amdt — to A/S Amdt — to A/S Sub Amdt

Be recommended for:

- [x] Passage
- [ ] Introduction
- [ ] Adoption
- [ ] Rejection
- [ ] Indefinite Postponement
- [ ] Tabling
- [ ] Concurrence
- [ ] Nonconcurrence

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Mickey Lehman, chair	1			
2.	Rep. Tom Sykora, vice-chair	2			
3.	Rep. Bob Goetsch	3			
4.	Rep. Mike Huebsch	4			
5.	Rep. Frank Lasee	5			
6.	Rep. John Ainsworth	6			
7.	Rep. Suzanne Jeskewitz				
8.	Rep. Carol Owens	7			
9.	Rep. Joan Spillner	8			
10.	Rep. Wayne Wood		1		
11.	Rep. John La Fave	9			
12.	Rep. Lee Meyerhofer				
13.	Rep. Johnie Morris-Tatum	10			
14.	Rep. Jeffrey Plale	✓			
15.	Rep. Bob Turner	11			
16.	Rep. Bob Ziegelbauer		2		
	Totals				

MOTION CARRIED ☑ — MOTION FAILED ☐

s:\comclerk\rollcall.1

Assembly Committee on Ways and Means

DATE
Moved by M-T Seconded by Syk
AB 393 SB Clearinghouse Rule
AJR SJR
A SR Other
A/S Amdt
A/S Amdt to A/S Amdt
A/S Sub Amdt 1
A/S Amdt to A/S Sub Amdt
A/S Amdt to A/S Amdt to A/S Sub Amdt

Be recommended for:

- ☐ Passage
- ☐ Introduction
- ☒ Adoption
- ☐ Rejection
- ☐ Indefinite Postponement
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- ☐ Concurrence
- ☐ Nonconcurrence

	Committee Member	Aye	No	Absent	Not voting
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3.	Rep. Bob Goetsch	3			
4.	Rep. Mike Huebsch	4			
5.	Rep. Frank Lasee	5			
6.	Rep. John Ainsworth	6			
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8.	Rep. Carol Owens	7			
9.	Rep. Joan Spillner	8			
10.	Rep. Wayne Wood	9			
11.	Rep. John La Fave	10			
12.	Rep. Lee Meyerhofer				
13.	Rep. Johnie Morris-Tatum	11			
14.	Rep. Jeffrey Plale	✓			
15.	Rep. Bob Turner	12			
16.	Rep. Bob Ziegelbauer	13			
	Totals				

MOTION CARRIED ☒ MOTION FAILED ☐

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State Representative
Lee **Meyerhofer**

January 26, 2000

Representative Michael Lehman, Chair
Assembly Committee on Ways and Means
103 West, State Capitol

Dear Chairman Lehman:

I was unable to attend the January 12, 2000 meeting of the Ways and Means Committee. Please enter the following votes into the record.

AB 634
Yes on adoption of LRB 1140/1
Yes on adoption of LRB 1146/1
Yes on passage of AB 634 as amended

AB 41
Yes on passage of AB 41

AB 393
Yes on adoption of Substitute Amendment 1
Yes on passage of AB 393 as amended

AB 572
Yes on adoption of LRB 1126/1
Yes on passage of AB 572 as amended

AB 614
Yes on adoption of LRB 1127/1
Yes on passage of AB 619 as amended

Thank you for your attention to this request. Please feel free to contact me if I you have any questions.

Sincerely,

Lee P. Meyerhofer

LEE P. MEYERHOFER
State Representative
5th Assembly District

CAPITOL OFFICE: P.O. BOX 8953 ■ MADISON, WISCONSIN 53708 ■ 608-266-2418 ■ TOLL FREE 888-534-0005
HOME: 903 SHAMROCK COURT, KAUKAUNA, WI 54130 ■ (920) 766-1441 ■ E-Mail: rep.meyerhofer@legis.state.wi.us

AB393

LRB-2600/4
JK::cmh::jf

1999 - 2000 LEGISLATURE

1999 ASSEMBLY BILL 393

June 24, 1999 - Introduced by Representatives Hoven, Huebsch, Ainsworth, Spillner, Hasenohrl, Plouff, F. Lasee, Kaufert, Kelso, Plale, Jeskewitz, Albers, Goetsch, Sykora, Waukau, Gunderson and Bock, cosponsored by Senators Risser, Darling, Drzewiecki, Panzer, Schultz, Roessler, Robson, Wirch and Clausing. Referred to Committee on Ways and Means.

An Act to amend 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26 (2) (a), 71.30 (3) (f), 71.34 (1) (g), 71.45 (2) (a) 10., 71.49 (1) (f) and 77.92 (4); and to create 71.07 (5d), 71.28 (5d) and 71.47 (5d) of the statutes; relating to: income and franchise tax credits for a business to construct, equip and operate a day care center for the children of employes.

Analysis by the Legislative Reference Bureau

AB393

This bill creates an income tax and franchise tax credit for a corporation that constructs and equips a day care center or pays a day care center to care for the children of the corporation's employes during the employes' working hours. Sole proprietorships, corporations and insurers may claim the credit. Partnerships, limited liability companies and tax-option corporations compute the credit but pass it on to the partners, members and shareholders in proportion to their ownership interests.

AB393

The credit is an amount equal to 50% of the amount paid by the corporation during a taxable year to construct and equip a day care center that is owned and operated by the corporation or an amount equal to 50% of the amount paid by the corporation during a taxable year to a day care center to care for the children of the corporation's employes during the employes' working hours. A corporation may also claim a credit equal to 50% of the amount paid by the corporation to operate the corporation's day care center for a taxable year, less any amount paid by the corporation's employes to operate the corporation's day care center.

AB393

If the credit claimed by a corporation exceeds the corporation's tax liability, the state will not issue a refund check, but the corporation may carry forward any remaining credit to the next five taxable years. If a day care center that is constructed and equipped by a corporation ceases its operation within five years from the date that construction of the day care center was completed, the corporation must pay back the credit received in proportion to the period of time that the day care center operated.

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

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

AB393, s. 1

Section 1. 71.05 (6) (a) 15. of the statutes is amended to read:

AB393, s. 1 - continued

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and~~, (3s) and (5d) and not passed through by a partnership, limited liability company or tax-option corporation that has added that amount to the partnership's, company's or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

AB393, s. 2

Section 2. 71.07 (5d) of the statutes is created to read:

AB393, s. 2 - continued

71.07 (5d) **Day care center credit.** (a) In this subsection, "claimant" means a person who files a claim under this subsection.

AB393, s. 2 - continued

(b) A claimant may claim as a credit against the tax imposed under s. 71.02 any of the following:

AB393, s. 2 - continued

1. An amount equal to 50% of the amount paid or incurred by the claimant during the taxable year to construct and equip a licensed day care center under s. 48.65, that is owned and operated by the claimant, to care for the children of the

claimant's employes during the employes' working hours.

AB393, s. 2 - continued

2. An amount equal to 50% of the amount paid by the claimant to operate the claimant's day care center under subd. 1. for the taxable year, less any amount paid by the claimant's employes to operate the claimant's day care center under subd. 1. for the taxable year.

AB393, s. 2 - continued

3. An amount equal to 50% of the amount paid by the claimant during the taxable year to a licensed day care center under s. 48.65, other than a day care center under subd. 1., to provide care for the children of the claimant's employes during the employes' working hours.

AB393, s. 2 - continued

(c) The amount of the credit under this subsection shall not exceed $50,000 in a taxable year for each claimant and the total amount of the credit under this subsection for all claimants shall not exceed $1,500,000 in a fiscal year.

AB393, s. 2 - continued

(d) No credit may be allowed under this subsection unless the claimant files an application with the department of revenue before the end of the taxable year in which amounts are paid or expenses are incurred under par. (b) and includes with that application a statement from the department of health and family services that verifies that the day care center under par. (b) is licensed under s. 48.65. No credit may be allowed under this subsection after the department of revenue has awarded the total amount of the credit for all claimants under par. (c).

AB393, s. 2 - continued

(e) Section 71.28 (4) (e), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

AB393, s. 2 - continued

(f) If a credit computed under this subsection is not entirely offset against income or franchise taxes otherwise due, the unused balance may be carried forward and credited against income or franchise taxes otherwise due for the following 5 taxable years to the extent not offset by those taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry-forward credit is claimed.

AB393, s. 2 - continued

(g) Partnerships, limited liability companies and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on the amount paid or incurred under par. (b). A partnership, limited liability company or tax-option corporation shall compute the amount of credit that each of its partners, members or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

AB393, s. 2 - continued

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

AB393, s. 2 - continued

(i) Except as provided under par. (j), if the operation of a day care center under par. (b) 1. ceases within 5 years after the date on which the construction of the day care center is completed, a claimant who receives credits under par. (b) 1. and 2. for the construction and operation of such a day care center shall add to the claimant's liability for taxes imposed under s. 71.02 an amount equal to the total amount of the credits received under par. (b) 1. and 2. multiplied by the following percentage:

AB393, s. 2 - continued

1. If the operation of the day care center ceases during the first year after the date on which the construction of the day care center is completed, 100%.

AB393, s. 2 - continued

2. If the operation of the day care center ceases during the 2nd year after the date on which the construction of the day care center is completed, 80%.

AB393, s. 2 - continued

3. If the operation of the day care center ceases during the 3rd year after the date on which the construction of the day care center is completed, 60%.

AB393, s. 2 - continued

4. If the operation of the day care center ceases during the 4th year after the date on which the construction of the day care center is completed, 40%.

AB393, s. 2 - continued

5. If the operation of the day care center ceases during the 5th year after the date on which the construction of the day care center is completed, 20%.

AB393, s. 2 - continued

Pg5Ln3 (j) Paragraph (i) does not apply to a claimant whose business ceases operation
Pg5Ln4 within 5 years after the date on which the construction of the claimant's day care
Pg5Ln5 center is completed or to a claimant who presents evidence to the department of
Pg5Ln6 revenue that the majority of the claimant's employes do not want to enroll their
Pg5Ln7 children in the claimant's day care center.

AB393, s. 3

Pg5Ln8 **Section 3.** 71.08 (1) (intro.) of the statutes is amended to read:

AB393, s. 3 - continued

Pg5Ln9 71.08 (1) **Imposition.** (intro.) If the tax imposed on a natural person, married
Pg5Ln10 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
Pg5Ln11 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d),
Pg5Ln12 (6) and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~, (3) and
Pg5Ln13 (5d) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~, (3) and (5d)
Pg5Ln14 and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than
Pg5Ln15 the tax under this section, there is imposed on that natural person, married couple
Pg5Ln16 filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
Pg5Ln17 minimum tax computed as follows:

AB393, s. 4

Pg5Ln18 **Section 4.** 71.10 (4) (i) of the statutes is amended to read:

AB393, s. 4 - continued

Pg5Ln19 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
Pg5Ln20 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
Pg5Ln21 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
Pg5Ln22 71.07 (2fd), day care center credit under s. 71.07 (5d), earned income tax credit under
Pg5Ln23 s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under
Pg5Ln24 subch. X.

AB393, s. 5

Pg5Ln25 **Section 5.** 71.21 (4) of the statutes is amended to read:

AB393, s. 5 - continued

Pg6Ln1 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
Pg6Ln2 (2dj), (2dL), (2ds), (2dx) ~~and~~, (3s) and (5d) and passed through to partners shall be
Pg6Ln3 added to the partnership's income.

AB393, s. 6

Section 6. 71.26 (2) (a) of the statutes is amended to read:

AB393, s. 6 - continued

71.26 (2) (a) Corporations in general. The "net income" of a corporation means the gross income as computed under the internal revenue code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and~~, (1dx) and (5d) and not passed through by a partnership, limited liability company or tax-option corporation that has added that amount to the partnership's, limited liability company's or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other disposition of assets the gain from which would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus deductions, as computed under the internal revenue code as modified under sub. (3), plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed of in a taxable transaction during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

AB393, s. 7

Section 7. 71.28 (5d) of the statutes is created to read:

AB393, s. 7 - continued

71.28 (5d) **Day care center credit.** (a) In this subsection, "claimant" means a person who files a claim under this subsection.

AB393, s. 7 - continued

(b) A claimant may claim as a credit against the tax imposed under s. 71.23 any of the following:

AB393, s. 7 - continued

1. An amount equal to 50% of the amount paid or incurred by the claimant during the taxable year to construct and equip a licensed day care center under s. 48.65, that is owned and operated by the claimant, to care for the children of the claimant's employes during the employes' working hours.

AB393, s. 7 - continued

2. An amount equal to 50% of the amount paid by the claimant to operate the claimant's day care center under subd. 1. for the taxable year, less any amount paid by the claimant's employes to operate the claimant's day care center under subd. 1.

for the taxable year.

AB393, s. 7 - continued

3. An amount equal to 50% of the amount paid by the claimant during the taxable year to a licensed day care center under s. 48.65, other than a day care center under subd. 1., to provide care for the children of the claimant's employes during the employes' working hours.

AB393, s. 7 - continued

(c) The amount of the credit under this subsection shall not exceed $50,000 in a taxable year for each claimant, and the total amount of the credit under this subsection for all claimants shall not exceed $1,500,000 in a fiscal year.

AB393, s. 7 - continued

(d) No credit may be allowed under this subsection unless the claimant files an application with the department of revenue before the end of the taxable year in which amounts are paid or expenses are incurred under par. (b) and includes with that application a statement from the department of health and family services that verifies that the day care center under par. (b) is licensed under s. 48.65. No credit may be allowed under this subsection after the department of revenue has awarded the total amount of the credit for all claimants under par. (c).

AB393, s. 7 - continued

(e) Subsection (4) (e), as it applies to the credit under sub. (4), applies to the credit under this subsection.

AB393, s. 7 - continued

(f) If a credit computed under this subsection is not entirely offset against income or franchise taxes otherwise due, the unused balance may be carried forward and credited against income or franchise taxes otherwise due for the following 5 taxable years to the extent not offset by those taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry-forward credit is claimed.

AB393, s. 7 - continued

(g) Partnerships, limited liability companies and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on the amount paid or incurred under par. (b). A partnership, limited liability company or tax-option corporation shall compute the amount of credit that each of its partners, members or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

AB393, s. 7 - continued

(h) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

AB393, s. 7 - continued

(i) Except as provided in par. (j), if the operation of a day care center under par. (b) 1. ceases within 5 years after the date on which the construction of the day care center is completed, a claimant who receives credits under par. (b) 1. and 2. for the construction and operation of such a day care center shall add to the claimant's liability for taxes imposed under s. 71.23 an amount equal to the total amount of the credits received under par. (b) 1. and 2. multiplied by the following percentage:

AB393, s. 7 - continued

1. If the operation of the day care center ceases during the first year after the date on which the construction of the day care center is completed, 100%.

AB393, s. 7 - continued

2. If the operation of the day care center ceases during the 2nd year after the date on which the construction of the day care center is completed, 80%.

AB393, s. 7 - continued

3. If the operation of the day care center ceases during the 3rd year after the date on which the construction of the day care center is completed, 60%.

AB393, s. 7 - continued

4. If the operation of the day care center ceases during the 4th year after the date on which the construction of the day care center is completed, 40%.

AB393, s. 7 - continued

5. If the operation of the day care center ceases during the 5th year after the date on which the construction of the day care center is completed, 20%.

AB393, s. 7 - continued

(j) Paragraph (i) does not apply to a claimant whose business ceases operation within 5 years after the date on which the construction of the claimant's day care center is completed or to a claimant who presents evidence to the department of revenue that the majority of the claimant's employes do not want to enroll their children in the claimant's day care center.

AB393, s. 8

Pg9Ln14 **Section 8**. 71.30 (3) (f) of the statutes is amended to read:

AB393, s. 8 - continued

Pg9Ln15 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
Pg9Ln16 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
Pg9Ln17 s. 71.28 (2m), day care center credit under s. 71.28 (5d) and estimated tax payments
Pg9Ln18 under s. 71.29.

AB393, s. 9

Pg9Ln19 **Section 9**. 71.34 (1) (g) of the statutes is amended to read:

AB393, s. 9 - continued

Pg9Ln20 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
Pg9Ln21 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and~~, (3) and (5d)
Pg9Ln22 and passed through to shareholders.

AB393, s. 10

Pg9Ln23 **Section 10**. 71.45 (2) (a) 10. of the statutes is amended to read:

AB393, s. 10 - continued

Pg9Ln24 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
Pg9Ln25 computed under s. 71.47 (1dd) to (1dx) and (5d) and not passed through by a
Pg10Ln1 partnership, limited liability company or tax-option corporation that has added that
Pg10Ln2 amount to the partnership's, limited liability company's or tax-option corporation's
Pg10Ln3 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
Pg10Ln4 s. 71.47 (1), (3), (4) and (5).

AB393, s. 11

Pg10Ln5 **Section 11**. 71.47 (5d) of the statutes is created to read:

AB393, s. 11 - continued

Pg10Ln6 71.47 (5d) **Day care center credit.** (a) In this subsection, "claimant" means
Pg10Ln7 a person who files a claim under this subsection.

AB393, s. 11 - continued

Pg10Ln8 (b) A claimant may claim as a credit against the tax imposed under s. 71.43 any
Pg10Ln9 of the following:

AB393, s. 11 - continued

1. An amount equal to 50% of the amount paid or incurred by the claimant during the taxable year to construct and equip a licensed day care center under s. 48.65, that is owned and operated by the claimant, to care for the children of the claimant's employes during the employes' working hours.

AB393, s. 11 - continued

2. An amount equal to 50% of the amount paid by the claimant to operate the claimant's day care center under subd. 1. for the taxable year, less any amount paid by the claimant's employes to operate the claimant's day care center under subd. 1. for the taxable year.

AB393, s. 11 - continued

3. An amount equal to 50% of the amount paid by the claimant during the taxable year to a licensed day care center under s. 48.65, other than a day care center under subd. 1., to provide care for the children of the claimant's employes during the employes' working hours.

AB393, s. 11 - continued

(c) The amount of the credit under this subsection shall not exceed $50,000 in a taxable year for each claimant, and the total amount of the credit under this subsection for all claimants shall not exceed $1,500,000 in a fiscal year.

AB393, s. 11 - continued

(d) No credit may be allowed under this subsection unless the claimant files an application with the department of revenue before the end of the taxable year in which amounts are paid or expenses are incurred under par. (b) and includes with that application a statement from the department of health and family services that verifies that the day care center under par. (b) is licensed under s. 48.65. No credit may be allowed under this subsection after the department of revenue has awarded the total amount of the credit for all claimants under par. (c).

AB393, s. 11 - continued

(e) Section 71.28 (4) (e), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

AB393, s. 11 - continued

(f) If a credit computed under this subsection is not entirely offset against income or franchise taxes otherwise due, the unused balance may be carried forward and credited against income or franchise taxes otherwise due for the following 5 taxable years to the extent not offset by those taxes otherwise due in all intervening

Pg11Ln14 years between the year in which the expense was incurred and the year in which the
Pg11Ln15 carry-forward credit is claimed.

AB393, s. 11 - continued

Pg11Ln16 (g) Partnerships, limited liability companies and tax-option corporations may
Pg11Ln17 not claim the credit under this subsection, but the eligibility for, and the amount of,
Pg11Ln18 the credit are based on the amount paid or incurred under par. (b). A partnership,
Pg11Ln19 limited liability company or tax-option corporation shall compute the amount of
Pg11Ln20 credit that each of its partners, members or shareholders may claim and shall
Pg11Ln21 provide that information to each of them. Partners, members of limited liability
Pg11Ln22 companies and shareholders of tax-option corporations may claim the credit in
Pg11Ln23 proportion to their ownership interest.

AB393, s. 11 - continued

Pg11Ln24 (h) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
Pg11Ln25 applies to the credit under this subsection.

AB393, s. 11 - continued

Pg12Ln1 (i) Except as provided in par. (j), if the operation of a day care center under par.
Pg12Ln2 (b) 1. ceases within 5 years after the date on which the construction of the day care
Pg12Ln3 center is completed, a claimant who receives credits under par. (b) 1. and 2. for the
Pg12Ln4 construction and operation of such a day care center shall add to the claimant's
Pg12Ln5 liability for taxes imposed under s. 71.43 an amount equal to the total amount of the
Pg12Ln6 credits received under par. (b) 1. and 2. multiplied by the following percentage:

AB393, s. 11 - continued

Pg12Ln7 1. If the operation of the day care center ceases during the first year after the
Pg12Ln8 date on which the construction of the day care center is completed, 100%.

AB393, s. 11 - continued

Pg12Ln9 2. If the operation of the day care center ceases during the 2nd year after the
Pg12Ln10 date on which the construction of the day care center is completed, 80%.

AB393, s. 11 - continued

Pg12Ln11 3. If the operation of the day care center ceases during the 3rd year after the
Pg12Ln12 date on which the construction of the day care center is completed, 60%.

AB393, s. 11 - continued

Pg12Ln13 4. If the operation of the day care center ceases during the 4th year after the
Pg12Ln14 date on which the construction of the day care center is completed, 40%.

AB393, s. 11 - continued

5. If the operation of the day care center ceases during the 5th year after the date on which the construction of the day care center is completed, 20%.

AB393, s. 11 - continued

(j) Paragraph (i) does not apply to a claimant whose business ceases operation within 5 years after the date on which the construction of the claimant's day care center is completed or to a claimant who presents evidence to the department of revenue that the majority of the claimant's employes do not want to enroll their children in the claimant's day care center.

AB393, s. 12

Section 12. 71.49 (1) (f) of the statutes is amended to read:

AB393, s. 12 - continued

71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.47 (2m), day care center credit under s. 71.28 (5d) and estimated tax payments under s. 71.48.

AB393, s. 13

Section 13. 77.92 (4) of the statutes is amended to read:

AB393, s. 13 - continued

77.92 (4) "Net business income", with respect to a partnership, means taxable income as calculated under section 703 of the internal revenue code; plus the items of income and gain under section 702 of the internal revenue code; minus the items of loss and deduction under section 702 of the internal revenue code; plus payments treated as not made to partners under section 707 (a) of the internal revenue code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and~~, (3s) and (5d); but excluding income, gain, loss and deductions from farming. "Net business income", with respect to a natural person, estate or trust, means profit from a trade or business for federal income tax purposes and includes net income derived as an employe as defined in section 3121 (d) (3) of the internal revenue code.

AB393, s. 14

Section 14. Initial applicability.

AB393, s. 14 - continued

(1) **Day care center credit.** This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that, if this subsection takes effect after July 31, this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(End)

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701–2536
Telephone: (608) 266–1304
Fax: (608) 266–3830
Email: leg.council@legis.state.wi.us

DATE: August 30, 1999

TO: REPRESENTATIVE TIMOTHY HOVEN

FROM: William Ford, Senior Staff Attorney

SUBJECT: 1999 Assembly Bill 393, Relating to Income Tax Credits for Employer-Provided Day Care

This memorandum is in response to your request for a description of 1999 Assembly Bill 393 ("the Bill"), relating to income tax credits for employer-provided day care. The memorandum also describes Assembly Amendment 1 to the Bill.

The Bill would provide an income and franchise tax credit to an employer who provides day care services to his or her employes during their working hours. The tax credit would be available to all employers, including employers organized as corporations, sole proprietors and partnerships.

The amount of the tax credit would be:

1. An amount equal to 50% of the amount paid by the employer during the taxable year to ***construct and equip*** a day care center that is licensed under s. 48.65, Stats., and that is owned and operated by the employer, to care for the children of his or her employes during their working hours.

2. An amount equal to 50% of the amount paid by the employer to ***operate*** his or her day care center for the taxable year, minus any amount paid by his or her employes to operate the day care center.

3. An amount equal to 50% of the amount paid by an employer during the taxable year to a day care center licensed under s. 48.65 (other than a day care center owned and operated by the employer) to provide care for the children of his or her employes during their working hours.

The Bill would limit the amount of the tax credit to each claimant to no more than $50,000 in a taxable year. The total amount of the tax credit to all employers during any fiscal year would be limited to $1,500,000.

The tax credit would not be refundable, meaning that if the amount of the tax credit exceeds an employer's income tax liability, no check would be issued by the state to pay the difference. However, the Bill provides that the tax credit may be carried forward and used to offset income tax liability for up to five taxable years after the tax credit is first claimed. Under the Bill, an employer may claim the tax credit by filing an application with the Department of Revenue (DOR) before the end of the taxable year in which amounts are paid. The application is required to include a statement from the Department of Health and Family Services (DHFS) that verifies that the day care center for which the tax credit is claimed is licensed by the DHFS under s. 48.65, Stats.

The Bill authorizes the DOR to administer the tax credit program and to take any action, conduct any proceeding and proceed as it is authorized to proceed with respect to income and franchise taxes imposed under ch. 71, Stats. In addition, the Bill provides that a tax credit for day care may be claimed within four years of the date under which the tax return is due.

The Bill also provides a procedure to reclaim tax credits paid with respect to a day care center constructed and equipped if that day care center ceases operation within five years from the date that the construction of the day care center was completed. Under this provision, if the operation of the day care center ceases during the first year after the date on which construction is completed, 100% of the tax credits must be repaid; if the operation of the day care center ceases during the second year after the date on which construction of the day care center is completed, 80% of the tax credits must be repaid; if the operation of the day care center ceases during the third year after the date on which the construction of the day care center is completed, 60% of the tax credits must be repaid; if the operation of the day care center ceases during the fourth year after the date on which the construction of the day center is completed, 40% of the tax credits must be paid; and if the operation of the day care center ceases during the fifth year after the date on which the construction of the day care center is completed, 20% of the tax credits must be repaid. However, this provision does not apply to an employer whose business ceases operation within five years after the date on which the construction of his or her day care center is completed or to an employer who presents evidence to the DOR that the majority of the claimant's employes do not want to enroll their children in the claimant's day care center.

The Bill provides that the tax credit would first apply to taxable years beginning on January 1 of the year in which the Bill is enacted into law, except that if the Bill is enacted into law after July 31, the Bill would first apply to taxable years beginning on January 1 of the year following the year in which the Bill takes effect.

ASSEMBLY AMENDMENT 1

In addition to making some technical and remedial changes to the Bill, Assembly Amendment 1 would change the Bill in the following ways:

1. Clarify that an employer could claim a tax credit for day care services provided to his or her employes in a day care center owned and operated by him or her, regardless of whether the employer applied for or received a tax credit for constructing and equipping the day care center.

2. Provide that the employer's tax credit for operating a day care center is not reduced by amounts paid by his or her employes.

3. Clarify that an employer may not claim a tax credit for any amounts by which he or she has been reimbursed by his or her employes.

4. Provide a procedure under which tax credits are allocated if more tax credits are claimed than the total $1,500,000 limit for a fiscal year. Under this procedure, tax credits are allocated to qualified applicants in the order in which the applications for the tax credits are received by the DOR.

Please contact me at the Legislative Council Staff offices if I can be of further assistance.

WF:jal:wu;jal

Proposal Issue Page

For use at public hearings and any other forum of debate

Date 9-1 Proposal 393 Lead Author(s) Hoven

Pros:

Easier day care ops for workers and tax benefits for companies that establish company day care facilites.

Cons:

3m/biennium

- An ammendment -> for small companies that lose need for facility w/in 5yrs
- An amendment to allow aggregation & proportional credit

Form created by Andrew Nadan

AB 393

- Pre-certification
- Certification date application deadline march 2 of the year prior to expenditure.

- Variation on credit dependent on # of employees

New Sub

- Full-year operation to qualify. ex 10 of 12 months

- 2 cats, large & small companies 1-99 + 100 ≤

- Partnerships must apply as an entity

Definition of qualifying equipment

Waiting List

AB 393: Wisconsin Child Care Development Act

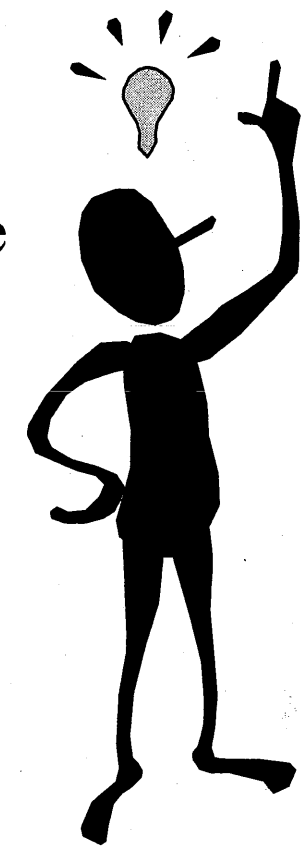
Talking Points

September 1, 1999

By: State Representative Tim Hoven

AB 393: Description and Policy Goals

- AB 389 would create an income and franchise tax credit for employers who provide child care services for their employees' children.



- The goal of AB 393 is to break down the conflict between work and child care and provide Wisconsin's working families with affordable, high-quality child care through employer incentives.

How Does the Credit Work?

- An employer can claim a credit equal to 50% of the costs to construct and equip a licensed day care center, to be owned and operated by the employer, to care for the children of their employees' children during normal business hours.

-and/or-

- An employer can claim a credit equal to 50% of the amount paid to operate the employer-owned day care center. The amount paid by the employer, and claimed under the tax credit, cannot include any co-payments made by an employee.

-or-

- An employer can claim a credit equal to 50% of the amount paid to a third-party licensed day care center to provide care for their employees' children. The amount paid by the employer, and claimed under the credit, cannot include co-payments made by an employee.

Who's Eligible?

- Corporations
- Sole Proprietorships and Partnerships
- Insurance Companies

What's the Fiscal Impact?

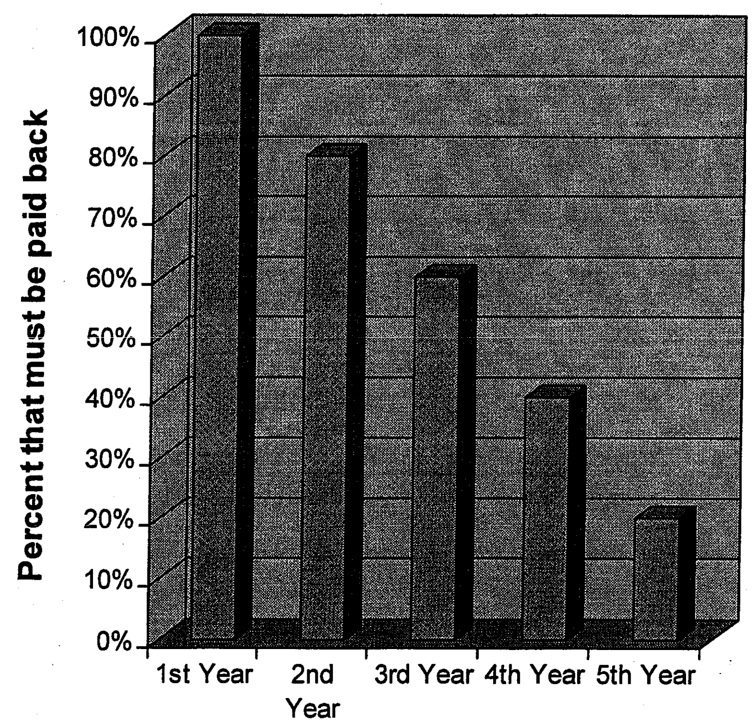
- The total amount of credits for all claimants (businesses) cannot exceed $1.5 million in a state fiscal year, or $3 million over any given biennium.

- The amount of the credit for an individual claimant cannot exceed $50,000 in a taxable year.

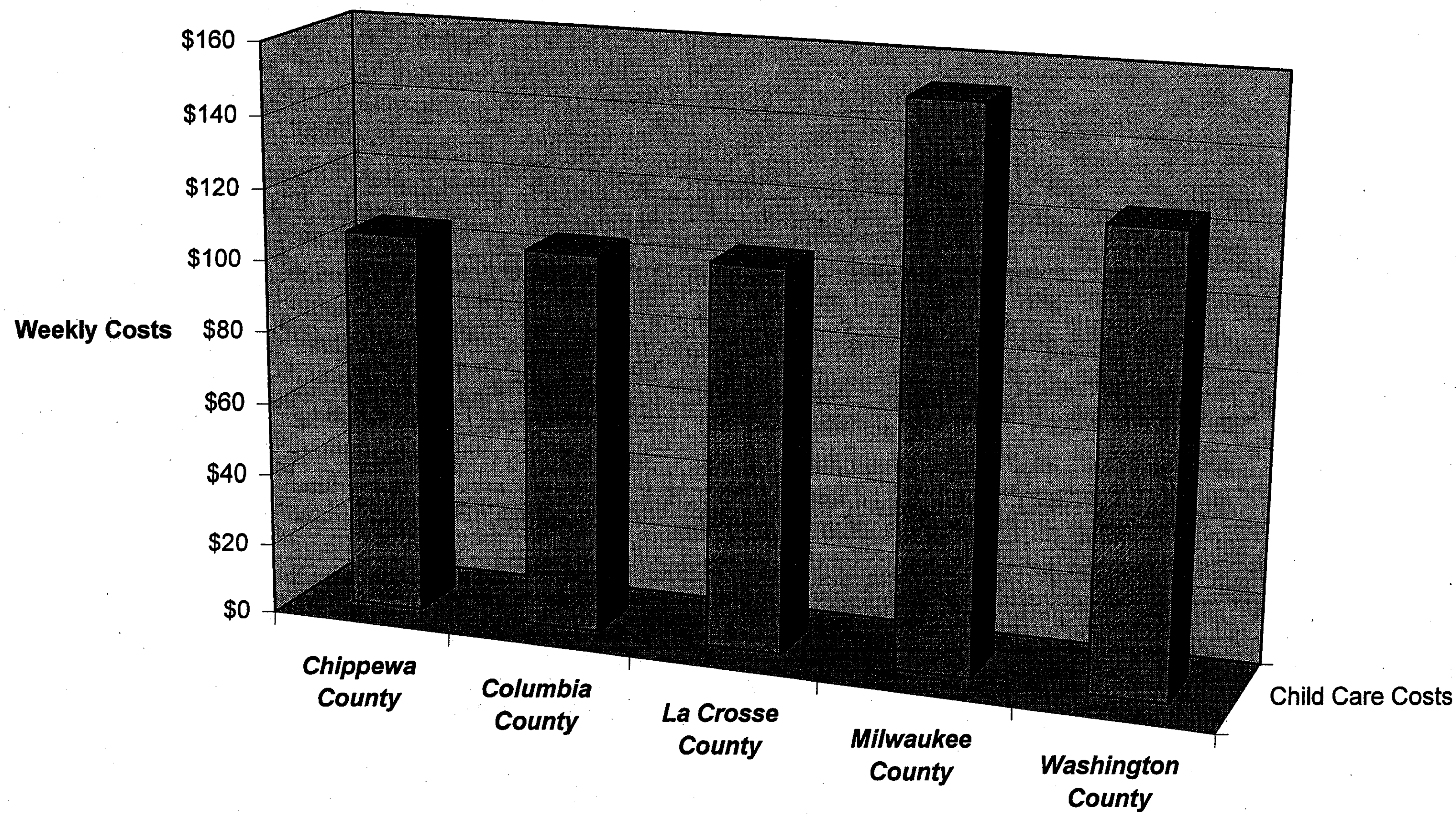
- Businesses must apply for the credit through the DOR. The Department will allocate all credits on a first come, first served basis.

The Payback Clause

- If the operation of an employer-owned day care center ceases operation within 5 years of opening, the claimant must pay back all credits received from the construction and operation of the center in the the following manner:
  - *Closed in 1st year - 100%*
  - *Closed in 2nd year - 80%*
  - *Closed in 3rd year - 60%*
  - *Closed in 4th year - 40%*
  - *Closed in 5th year - 20%*



Average Child Care Costs Per County



	Chippewa County	Columbia County	La Crosse County	Milwaukee County	Washington County
Child Care Costs	$106	$105	$106	$154	$125

Assembly Amendment 3 to AB 393: Alleviating the DOR's Concerns

DOR Concern:

AB 393 (as amended by AA 1) does not explicitly require annual filings, so claimants could apply for several years at one time, ensuring that they would get the credit each year for the foreseeable future. If this practice used up all cap authority, there would be no incentive for new day care centers to develop.

AA3:

Amended the bill so that claimants must apply for the credit on an annual basis.

DOR Concern:

AB 393 does not indicate whether credits that are allocated but not used may be reallocated to other claimants.

AA3:

Amended the bill to specify that businesses may claim the credit before they actually incur expenses associated with investments in day care services. It also stipulates that any credits that are allocated but go unused by the claimant can be reallocated to other claimants.

DOR Concern:

Language allowing recapture of the credit should a day care center "cease" operation does not provide different treatment for temporary closings. Further, the language provides an exception when the majority of a claimant's employees do not want to enroll their children in the day care center. It may be preferable to refer instead to the majority of employees with children in an age group eligible to enroll in the center.

AA3:

Amended the bill to specify that a claimant would not be required to pay back the credit per sections *71.07 (5d)(j), 71.28 (5d)(j) and 71.47 (5d)(j)* if the day care center temporarily ceases operation for not more than 30 consecutive days in a taxable year. In addition, the amendment changes the employee opt-out language, stating that the opt-out can be employed "if the majority of employees with children in an age group eligible to enroll in the center do not want to enroll their children in the claimants day care center.

DOR Concern:

The requirement that amounts paid by employees be subtracted in determination of the credit is unclear as to where the subtraction is to be made.

AA3:

Amended the bill to specify per sections 71.07 (5d)(b)2, 71.28 (5d)(b)2 and 71.47 (5d)(b)2 that the employee reimbursement be subtracted before the 50% limitation [i.e., $20,000 (employer contribution) - $10,000 (employee cont.) x 50% = $5,000].

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

August 3, 1999

MEMORANDUM

To: Representative Hoven

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **1999 AB 393** (LRB 99-2600/4)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

M E M O R A N D U M

July 29, 1999

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Yeang-Eng Braun YEB
Department of Revenue

SUBJECT: Technical Memorandum on AB 393: Income and Franchise Tax Credit for Businesses that Operate a Day Care Center

The Department has the following questions and comments regarding the bill.

1. The $1.5 million cap on total credits in secs. 71.07 (5d)(c), 71.28 (5d)(c) and 71.47 (5d)(c) may be interpreted as providing a total of $4.5 million in credit authority—$1.5 million each for claimants filing individual income tax returns (sole proprietorships and partnerships), for corporations and for insurance companies. We suggest language be revised to indicate the limit for all claimants is $1.5 million. Also, this limit is for each fiscal year, which we presume to mean the state's fiscal year.

2. Procedures for applying the caps on the credits, both the $50,000 per claimant per taxable year and the $1.5 million per fiscal year, would be useful. One example of a potential issue is multiple claims by a single taxpayer within a fiscal year. For example, if a calendar year taxpayer applied for a credit for one taxable year in December and for a credit for the subsequent taxable year in the following June, both applications would occur in a single fiscal year. Another issue is allocation of credits when total credits claimed exceed the amount of credit authority: would the credits be allocated on a first-come, first-served basis?

3. The credit for constructing or equipping a day care center in secs. 71.07 (5d)(b)1, 71.28 (5d)(b)1 and 71.47 (5d)(b)1 is for amount incurred or paid in a taxable year. Since an expense can be incurred in one year and paid in another, there is the potential for credit claims on the same expense in two different taxable years. In addition, since construction and equipping may occur in more than one year, it may be helpful to indicate whether the credit is allowed in the first year or in multiple years. ~~Also, the Department's administration of the credit would benefit from a definition of the term "equip" in these sections, indicating whether it includes expenses of an ongoing nature.~~

4. The credit for operation of a day care center in secs. 71.07 (5d)(b)2, 71.28 (5d)(b)2 and 71.47 (5d)(b)2 appears to be available only for day care centers eligible for the credit for the

costs of constructing and equipping day care centers specified in subdivision 1 of these three paragraphs. This may make the credit for operation of a day care not available either to day care centers that were constructed prior to enactment of these provisions or to day care centers that do not receive the credit for constructing or equipping a center because of the cap limiting the total amount of credit.

5. It is unclear in secs. 71.07 (5d)(b)2, 71.28 (5d)(b)2 and 71.47 (5d)(b)2 if the bill requires amounts paid by employees to be subtracted before or after the 50% credit rate is applied. For example, if the employer paid $20,000 to operate a day care center and employees paid reimbursements of $10,000 subtracted after the 50% limitation, the amount of credit would be $0 [i.e., (50% X $20,000) - $10,000]. However, if the employee reimbursement is subtracted before the 50% limitation, the credit would be $5,000 [i.e., ($20,000 -$10,000) x 50%].

6. In secs. 71.07 (5d)(b)3, 71.28 (5d)(b)3 and 71.47 (5d)(b)3, the credit for amounts paid to licensed day care centers does not have a similar reduction for amounts paid by employees. This would permit an employer to claim a credit for amounts paid for day care of employees children when the employees reimbursed the employer through payroll deductions or some other means.

7. Secs. 71.07 (5d)(d), 71.28 (5d)(d) and 71.47 (5d)(d) require a claimant to file an application with the Department before the end of the taxable year in which amounts are paid or incurred. For partnerships, tax-option corporations and limited liability companies (LLC), each partner, shareholder and member would be required to apply. Application by the partnership, tax-option corporation or LLC would be easier.

8. In provisions for recapture of the credit in secs. 71.07 (5d)(h), 71.28 (5d)(h) and 71.47 (5d)(h), if a center ceases operation, it may be useful to distinguish between temporary and permanent closings. For example, if a day care center stops operating for a month and then reopens, these provisions may require recapture of the credit. Also, the recapture language provides an exception when a majority of a claimant's employees do not want to enroll their children in the day care center. The sponsor may wish to specify that majority means a majority of employees with children in an age group eligible to enroll in the center.

If you have questions regarding this technical memorandum, please contact Pamela Walgren at 266-7817.

YEB:PW:skr
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MEMORANDUM

November 18, 1999

TO: Sherrie Gates-Hendrix

FROM: Pam Walgren

SUBJECT: Day Care Center Credit

You asked for comments on some proposed changes to AB 393, a bill to provide income and franchise tax credits to businesses that provide day care services to children of employees. I have discussed the proposed changes with Clay Seth and Marcy Stock and our consensus is as follows.

1. Random Selection of Claimants. Representative Lehman asked if we would object to a deadline date set in the statutes for applications from which the Department would randomly select applicants until the full $1.5 million in credits is allocated. We would not object to this method. However, it may increase our costs.

2. Waiting List of Excess Applicants. Representative Lehman also suggested creating a waiting list from which to reallocate credits should an applicant who was initially allocated the credits fail to actually qualify for or use the credits. The waiting list concept does create problems that could make it unusable in practice. There would be no way to know that a business which was originally allocated the credits would not be using the credits against its tax liability until it filed a return (more than a year later) or upon an audit (which could be four years later). By that time, businesses on the waiting list would have made decisions on providing child care services based on a belief that they would not be receiving credits and would probably have filed their own returns for the tax year at issue. Even if such a business would qualify for the credits in the tax year at issue, it would have to amend its returns going back to the original claim year. A better alternative would be to add whatever amount was not used in the year that it was allocated to the credit amount for the next year coming up. For example, if $100,000 in credit is denied in audit, the credit amount for the year after the audit would be $1.6 million rather than $1.5 million.

3. Allowing Two or More Business to Join Together in Qualifying for the Credit. Representative Hoven suggested adding the provisions of Assembly Amendment 2 to the redraft of the bill. This amendment would allow two or more businesses to join together to claim the maximum $50,000 in credit. The credit amount could be apportioned between them "in any manner the claimants choose." The Department would prefer to have the credit apportioned to the claimants " in proportion to expenditures." It should be noted that this change would also probably increase Department costs because of the increased difficulty in auditing returns of businesses that join together for the claims.

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cc: Eng Braun
Dennis Collier

TIM HOVEN

STATE REPRESENTATIVE • SIXTIETH ASSEMBLY DISTRICT
CHAIR: UTILITIES OVERSIGHT COMMITTEE

To: **Representative Michael Lehman, Chair – 103-W**

From: Representative Tim Hoven

Date: January 11, 2000

Re: Executive Session on Assembly Bill 393 – Childcare Income Tax Credit

As you know, on Wednesday, January 12, 2000, the Assembly Ways and Means Committee will be voting on AB 393, which would create an income and franchise tax credit for businesses that provide childcare for their employees' children. Under the legislation, Wisconsin businesses would receive a tax credit for the start-up and operational costs of a company owned and operated day care center or for subsidizing their employees' child care costs at a third-party day care center.

With childcare already one of the largest expenses for many families, and costs continuing to escalate, this legislation will help to provide Wisconsin families with affordable, high-quality childcare, but without the aid of new government spending or draconian mandates. Not only could this legislation break down the conflict between work and childcare, reducing costs for families and hopefully proliferating employer owned, on-site daycare centers, it's also my hope that it will greatly assist the working poor who do not qualify for W-2 childcare benefits.

Although the legislation is geared primarily toward families, the bill has received overwhelming support from Wisconsin's business community as well. Outside of receiving a tax credit in exchange for providing day care services, businesses would also benefit from several intangibles, such as higher employee morale, improved recruiting and retention, and increased productivity. The bill's a win-win situation for both families and businesses.

Similar initiatives recently enacted in Florida and Georgia have proved to be wildly popular. In fact, Governor Roy Barnes of Georgia made employer-sponsored child care a major component of his successful 1998 campaign.

Furthermore, AB 393 has a very reasonable price tag. The tax credit created by the bill would be capped at $1.5 million annually—only $3 million per biennium. While the fiscal impact is minimal, the benefits for Wisconsin families and the economy are immeasurable. I believe AB 393 is smart and innovative public policy, and I would ask that you give it your full consideration.

Thank you for your time and thoughtful attention to this matter.

~~Sykora~~

Credits for

equip

Operation

~~Travel~~ care at other facilities

50k limit/taxable year

1.5mil limit/year for all claims

Sub

Appl. on or b/4 March 1

Facility must be licensed

random drawing (lottery) to help
small bus be prevented from
~~being~~ being disadv as a resl
of appl after big bus

4 yr window for app?

5 yr carry forward?

D100 to protect Comp that go bankrupt or empl do not wait to utilize.

Wood Get selected 1 year, not elligible subsequent yrs until all other appl are selected.

~~Meyerhoffer~~

No deduction allowed for ~~to~~ any credit amount.