



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4875/1  
KP:cdc&emw

## 2023 SENATE BILL 623

November 7, 2023 - Introduced by Senators FEYEN, CABRAL-GUEVARA, KNODL, QUINN and NASS, cosponsored by Representatives ARMSTRONG, HURD, BRANDTJEN, DITTRICH, EDMING, GREEN, GUNDRUM, KITCHENS, MAGNAFICI, MAXEY, MICHALSKI, MURSAU, NOVAK, O'CONNOR, PENTERMAN, RETTINGER, SCHRAA and SNYDER. Referred to Committee on Universities and Revenue.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.10 (4) (i), 71.21 (4) (a), 71.26 (2) (a) 4., 71.30  
2 (3) (f), 71.34 (1k) (g), 71.45 (2) (a) 10. and 71.49 (1) (f); and **to create** 20.835 (2)  
3 (et), 71.05 (6) (a) 30., 71.07 (8s), 71.21 (8), 71.26 (3) (hi), 71.28 (8s), 71.45 (2) (a)  
4 25. and 71.47 (8s) of the statutes; **relating to:** creating a tax credit for employer  
5 child care programs and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit for businesses that operate a child care program for their employees' children. The credit is equal to the amount of capital expenditures incurred in establishing an employee child care program, the amount of certain organization and administration expenses incurred, and the amount of contributions made to a charitable organization for the purpose of establishing an employee child care program. The maximum total credit that may be claimed in a taxable year based on those capital expenditures, organization and administration expenses, and contributions is \$100,000. A person may also claim as a credit the amount of operating expenses of an employer child care program, the amount of payments made directly to a child care program in the name of and for the benefit of an employee, and the amount of certain administrative costs. The maximum total credit that may be claimed in a taxable year based on those operating expenses, direct payments, and administrative costs is \$3,000 for each child of an employee participating in the child care program. The credit under the bill is refundable, which means that if the credit exceeds the claimant's tax liability, the claimant will receive the difference as a refund check.

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

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

1           **SECTION 1.** 20.835 (2) (et) of the statutes is created to read:

2           20.835 (2) (et) *Employer child care program credit.* A sum sufficient to make  
3 the payments under ss. 71.07 (8s) (d) 2., 71.28 (8s) (d) 2., and 71.47 (8s) (d) 2.

4           **SECTION 2.** 71.05 (6) (a) 15. of the statutes is amended to read:

5           71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dm),  
6 (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n), (5e), (5i), (5j),  
7 (5k), (5r), (5rm), (6n), ~~(8s)~~, and (10) and not passed through by a partnership, limited  
8 liability company, or tax-option corporation that has added that amount to the  
9 partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or  
10 71.34 (1k) (g).

11           **SECTION 3.** 71.05 (6) (a) 30. of the statutes is created to read:

12           71.05 (6) (a) 30. The amount contributed to a nonprofit entity that is deducted  
13 under the Internal Revenue Code as a charitable contribution and that is used to  
14 calculate a credit under s. 71.07 (8s).

15           **SECTION 4.** 71.07 (8s) of the statutes is created to read:

16           71.07 (8s) EMPLOYER CHILD CARE PROGRAM CREDIT. (a) *Definitions.* In this  
17 subsection:

18           1. "Child care program" means a program in which child care services are  
19 provided to the children of an employer's employees during the working hours of the  
20 employees.

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1           2. “Claimant” means an employer who operates a child care program and who  
2 files a claim under this subsection.

3           3. “Qualifying capital expenditures” means capital expenditures incurred in  
4 establishing a child care program, including mortgage or lease payments and  
5 expenditures for playground and classroom equipment, kitchen appliances, cooking  
6 equipment, and real property, including improvements, located in this state.

7           (b) *Filing claims.* For taxable years beginning after December 31, 2022, subject  
8 to the limitations provided in this subsection, a claimant may claim as a credit  
9 against the tax imposed under s. 71.02, up to the amount of those taxes, all of the  
10 following:

11           1. An amount equal to the qualifying capital expenditures incurred by the  
12 claimant and the expenses incurred in organizing and administering direct  
13 payments to a child care program not operated by the claimant during the first  
14 taxable year those expenses are incurred. The total amount that the claimant may  
15 claim as a credit under this subdivision and subd. 2. for a taxable year may not exceed  
16 \$100,000.

17           2. An amount equal to the contributions made by the claimant to a nonprofit  
18 entity described in section 501 (c) 3 of the Internal Revenue Code for the purpose of  
19 establishing a child care program. The total amount that the claimant may claim as  
20 a credit under this subdivision and subd. 1. for a taxable year may not exceed  
21 \$100,000.

22           3. An amount equal to the expenses incurred by the claimant to operate a child  
23 care program. The total amount that the claimant may claim as a credit under this  
24 subdivision and subds. 4. and 5. for a taxable year may not exceed \$3,000 for each  
25 child of an employee participating in the child care program.

**SENATE BILL 623****SECTION 4**

1           4. An amount equal to the payments made by the claimant directly to a child  
2 care program in the name of and for the benefit of an employee of the claimant, not  
3 exceeding the amount charged to other children of like age and abilities of  
4 individuals not employed by the claimant. The total amount that the claimant may  
5 claim as a credit under this subdivision and subds. 3. and 5. for a taxable year may  
6 not exceed \$3,000 for each child of an employee participating in the child care  
7 program.

8           5. An amount equal to the administrative costs associated with payments  
9 described in subd. 4., not exceeding 1 percent of those payments. The total amount  
10 that the claimant may claim as a credit under this subdivision and subds. 3. and 4.  
11 for a taxable year may not exceed \$3,000 for each child of an employee participating  
12 in the child care program.

13           (c) *Limitations.* 1. No credit is allowed under this subsection if the child care  
14 program is not in compliance with the requirements under subch. XV of ch. 48.

15           2. No credit is allowed under par. (b) 4. unless the total amount of the claimant's  
16 payments to a child care program is greater than or equal to the total amount of the  
17 employee's payments to the child care program.

18           3. Partnerships, limited liability companies, and tax-option corporations may  
19 not claim the credit under this subsection, but the eligibility for, and the amount of,  
20 the credit are based on the amounts paid by the entities under par. (b). A  
21 partnership, limited liability company, or tax-option corporation shall compute the  
22 amount of credit that each of its partners, members, or shareholders may claim and  
23 shall provide that information to each of them. Partners, members, and  
24 shareholders may claim the credit in proportion to their ownership interests.

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1 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
2 credit under s. 71.28 (4), applies to the credit under this subsection.

3 2. If the allowable amount of the claim under this subsection exceeds the tax  
4 otherwise due under s. 71.02, the amount of the claim that is not used to offset those  
5 taxes shall be certified by the department of revenue to the department of  
6 administration for payment by check, share draft, or other draft drawn from the  
7 appropriation under s. 20.835 (2) (et).

8 **SECTION 5.** 71.10 (4) (i) of the statutes is amended to read:

9 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland  
10 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and  
11 beyond under s. 71.613, homestead credit under subch. VIII, jobs tax credit under s.  
12 71.07 (3q), business development credit under s. 71.07 (3y), research credit under s.  
13 71.07 (4k) (e) 2. a., veterans and surviving spouses property tax credit under s. 71.07  
14 (6e), enterprise zone jobs credit under s. 71.07 (3w), electronics and information  
15 technology manufacturing zone credit under s. 71.07 (3wm), employer child care  
16 program credit under s. 71.07 (8s), earned income tax credit under s. 71.07 (9e),  
17 estimated tax payments under s. 71.09, and taxes withheld under subch. X.

18 **SECTION 6.** 71.21 (4) (a) of the statutes is amended to read:

19 71.21 (4) (a) The amount of the credits computed by a partnership under s.  
20 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n),  
21 (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), (8s), and (10) and passed through to partners  
22 shall be added to the partnership's income.

23 **SECTION 7.** 71.21 (8) of the statutes is created to read:

**SENATE BILL 623****SECTION 7**

1           71.21 (8) A charitable deduction under the Internal Revenue Code for an  
2 amount contributed to a nonprofit entity for the purpose of establishing a child care  
3 program that is used to calculate the credit under s. 71.07 (8s) is not allowed.

4           **SECTION 8.** 71.26 (2) (a) 4. of the statutes is amended to read:

5           71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dm),  
6 (1dx), (1dy), (3g), (3h), (3n), (3q), (3t), (3w), (3wm), (3y), (5e), (5g), (5i), (5j), (5k), (5r),  
7 (5rm), (6n), ~~(8s)~~, and (10) and not passed through by a partnership, limited liability  
8 company, or tax-option corporation that has added that amount to the partnership's,  
9 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or  
10 71.34 (1k) (g).

11           **SECTION 9.** 71.26 (3) (hi) of the statutes is created to read:

12           71.26 (3) (hi) Section 170 is modified so that an amount contributed to a  
13 nonprofit entity for the purpose of establishing a child care program that is used to  
14 calculate the credit under s. 71.28 (8s) may not be deducted as provided under the  
15 Internal Revenue Code.

16           **SECTION 10.** 71.28 (8s) of the statutes is created to read:

17           71.28 (8s) EMPLOYER CHILD CARE PROGRAM CREDIT. (a) *Definitions.* In this  
18 subsection:

19           1. "Child care program" has the meaning given in s. 71.07 (8s) (a) 1.

20           2. "Claimant" means an employer who operates a child care program and who  
21 files a claim under this subsection.

22           3. "Qualifying capital expenditures" has the meaning given in s. 71.07 (8s) (a)

23           3.

24           (b) *Filing claims.* For taxable years beginning after December 31, 2022, subject  
25 to the limitations provided in this subsection, a claimant may claim as a credit

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1 against the tax imposed under s. 71.23, up to the amount of the tax, all of the  
2 following:

3 1. An amount equal to the qualifying capital expenditures incurred by the  
4 claimant and the expenses incurred in organizing and administering direct  
5 payments to a child care program not operated by the claimant during the first  
6 taxable year those expenses are incurred. The total amount that the claimant may  
7 claim as a credit under this subdivision and subd. 2. for a taxable year may not exceed  
8 \$100,000.

9 2. An amount equal to the contributions made by the claimant to a nonprofit  
10 entity described in section 501 (c) 3 of the Internal Revenue Code for the purpose of  
11 establishing a child care program. The total amount that the claimant may claim as  
12 a credit under this subdivision and subd. 1. for a taxable year may not exceed  
13 \$100,000.

14 3. An amount equal to the expenses incurred by the claimant to operate a child  
15 care program. The total amount that the claimant may claim as a credit under this  
16 subdivision and subds. 4. and 5. for a taxable year may not exceed \$3,000 for each  
17 child of an employee participating in the child care program.

18 4. An amount equal to the payments made by the claimant directly to a child  
19 care program in the name of and for the benefit of an employee of the claimant, not  
20 exceeding the amount charged to other children of like age and abilities of  
21 individuals not employed by the claimant. The total amount that the claimant may  
22 claim as a credit under this subdivision and subds. 3. and 5. for a taxable year may  
23 not exceed \$3,000 for each child of an employee participating in the child care  
24 program.

**SENATE BILL 623****SECTION 10**

1           5. An amount equal to the administrative costs associated with payments  
2 described in subd. 4., not exceeding 1 percent of those payments. The total amount  
3 that the claimant may claim as a credit under this subdivision and subds. 3. and 4.  
4 for a taxable year may not exceed \$3,000 for each child of an employee participating  
5 in the child care program.

6           (c) *Limitations.* 1. No credit is allowed under this subsection if the onsite  
7 daycare facility is not in compliance with the requirements under subch. XV of ch.  
8 48.

9           2. No credit is allowed under par. (b) 4. unless the total amount of the claimant's  
10 payments to a child care program is greater than or equal to the total amount of the  
11 employee's payments to the child care program.

12           3. Partnerships, limited liability companies, and tax-option corporations may  
13 not claim the credit under this subsection, but the eligibility for, and the amount of,  
14 the credit are based on the amounts paid by the entities under par. (b). A  
15 partnership, limited liability company, or tax-option corporation shall compute the  
16 amount of credit that each of its partners, members, or shareholders may claim and  
17 shall provide that information to each of them. Partners, members, and  
18 shareholders may claim the credit in proportion to their ownership interests.

19           (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit  
20 under sub. (4), applies to the credit under this subsection.

21           2. If the allowable amount of the claim under this subsection exceeds the tax  
22 otherwise due under s. 71.23, the amount of the claim that is not used to offset those  
23 taxes shall be certified by the department of revenue to the department of  
24 administration for payment by check, share draft, or other draft drawn from the  
25 appropriation under s. 20.835 (2) (et).



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1           **SECTION 11.** 71.30 (3) (f) of the statutes is amended to read:

2           71.30 (3) (f) The total of farmland preservation credit under subch. IX, jobs  
3 credit under s. 71.28 (3q), enterprise zone jobs credit under s. 71.28 (3w), electronics  
4 and information technology manufacturing zone credit under s. 71.28 (3wm),  
5 business development credit under s. 71.28 (3y), research credit under s. 71.28 (4) (k)  
6 1., employer child care program credit under s. 71.28 (8s), and estimated tax  
7 payments under s. 71.29.

8           **SECTION 12.** 71.34 (1k) (g) of the statutes is amended to read:

9           71.34 (1k) (g) An addition shall be made for credits computed by a tax-option  
10 corporation under s. 71.28 (1dm), (1dx), (1dy), (3), (3g), (3h), (3n), (3q), (3t), (3w),  
11 (3wm), (3y), (4), (5), (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), (8s), and (10) and passed  
12 through to shareholders.

13           **SECTION 13.** 71.45 (2) (a) 10. of the statutes is amended to read:

14           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
15 computed under s. 71.47 (1dm) to (1dy), (3g), (3h), (3n), (3q), (3w), (3y), (5e), (5g), (5i),  
16 (5j), (5k), (5r), (5rm), (6n), (8s), and (10) and not passed through by a partnership,  
17 limited liability company, or tax-option corporation that has added that amount to  
18 the partnership's, limited liability company's, or tax-option corporation's income  
19 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47  
20 (3), (3t), (4), (4m), and (5).

21           **SECTION 14.** 71.45 (2) (a) 25. of the statutes is created to read:

22           71.45 (2) (a) 25. By adding to federal taxable income any amount used to  
23 calculate the credit under s. 71.47 (8s) to the extent that amount is deducted under  
24 the Internal Revenue Code as a charitable contribution.

25           **SECTION 15.** 71.47 (8s) of the statutes is created to read:

**SENATE BILL 623****SECTION 15**

1           71.47 (8s) EMPLOYER CHILD CARE PROGRAM CREDIT. (a) *Definitions*. In this  
2 subsection:

3           1. “Child care program” has the meaning given in s. 71.07 (8s) (a) 1.

4           2. “Claimant” means an employer who operates a child care program and who  
5 files a claim under this subsection.

6           3. “Qualifying capital expenditures” has the meaning given in s. 71.07 (8s) (a)

7 3.

8           (b) *Filing claims*. For taxable years beginning after December 31, 2022, subject  
9 to the limitations provided in this subsection, a claimant may claim as a credit  
10 against the tax imposed under s. 71.43, up to the amount of the tax, all of the  
11 following:

12           1. An amount equal to the qualifying capital expenditures incurred by the  
13 claimant and the expenses incurred in organizing and administering direct  
14 payments to a child care program not operated by the claimant during the first  
15 taxable year those expenses are incurred. The total amount that the claimant may  
16 claim as a credit under this subdivision and subd. 2. for a taxable year may not exceed  
17 \$100,000.

18           2. An amount equal to the contributions made by the claimant to a nonprofit  
19 entity described in section 501 (c) 3 of the Internal Revenue Code for the purpose of  
20 establishing a child care program. The total amount that the claimant may claim as  
21 a credit under this subdivision and subd. 1. for a taxable year may not exceed  
22 \$100,000.

23           3. An amount equal to the expenses incurred by the claimant to operate a child  
24 care program. The total amount that the claimant may claim as a credit under this

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1 subdivision and subds. 4. and 5. for a taxable year may not exceed \$3,000 for each  
2 child of an employee participating in the child care program.

3 4. An amount equal to the payments made by the claimant directly to a child  
4 care program in the name of and for the benefit of an employee of the claimant, not  
5 exceeding the amount charged to other children of like age and abilities of  
6 individuals not employed by the claimant. The total amount that the claimant may  
7 claim as a credit under this subdivision and subds. 3. and 5. for a taxable year may  
8 not exceed \$3,000 for each child of an employee participating in the child care  
9 program.

10 5. An amount equal to the administrative costs associated with payments  
11 described in subd. 4., not exceeding 1 percent of those payments. The total amount  
12 that the claimant may claim as a credit under this subdivision and subds. 3. and 4.  
13 for a taxable year may not exceed \$3,000 for each child of an employee participating  
14 in the child care program.

15 (c) *Limitations.* 1. No credit is allowed under this subsection if the onsite  
16 daycare facility is not in compliance with the requirements under subch. XV of ch.  
17 48.

18 2. No credit is allowed under par. (b) 4. unless the total amount of the claimant's  
19 payments to a child care program is greater than or equal to the total amount of the  
20 employee's payments to the child care program.

21 3. Partnerships, limited liability companies, and tax-option corporations may  
22 not claim the credit under this subsection, but the eligibility for, and the amount of,  
23 the credit are based on the amounts paid by the entities under par. (b). A  
24 partnership, limited liability company, or tax-option corporation shall compute the  
25 amount of credit that each of its partners, members, or shareholders may claim and

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1 shall provide that information to each of them. Partners, members, and  
2 shareholders may claim the credit in proportion to their ownership interests.

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

5 2. If the allowable amount of the claim under this subsection exceeds the tax  
6 otherwise due under s. 71.43, the amount of the claim that is not used to offset those  
7 taxes shall be certified by the department of revenue to the department of  
8 administration for payment by check, share draft, or other draft drawn from the  
9 appropriation under s. 20.835 (2) (et).

10 **SECTION 16.** 71.49 (1) (f) of the statutes is amended to read:

11 71.49 (1) (f) The total of farmland preservation credit under subch. IX, jobs  
12 credit under s. 71.47 (3q), enterprise zone jobs credit under s. 71.47 (3w), business  
13 development credit under s. 71.47 (3y), research credit under s. 71.47 (4) (k) 1.,  
14 employer child care program credit under s. 71.47 (8s), and estimated tax payments  
15 under s. 71.48.

16 (END)