

1999 DRAFTING REQUEST

Bill

Received: 03/24/99

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Tim Hoven (608) 267-2369

By/Representing: Mike Welsh

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax Credits - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Create corporate tax credit for investments in child care

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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		Ⓢ 4/1					

FE Sent For:

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LEGISLATIVE REFERENCE BUREAU**BILL REQUEST FORM**

Legal Section, 5th Floor, 100 N. Hamilton St.
 (608) 266-3561

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
 Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: 23 MARCH 99	Legislator or agency requesting this draft: REP. TIM HOVEN
Name/phone number of person submitting request: REP. HOVEN	
Persons to contact for questions about this draft (names and phone numbers please): MIKE WELSH 7-2370	
Describe the problem, including any helpful examples. How do you want to solve the problem? WOULD LIKE TO CREATE A CORPORATE TAX CREDIT FOR INVESTMENTS IN CHILD CARE PROGRAMS SIMILAR TO THE ONE THEY HAVE IN PLACE IN FLORIDA. THE TAX BREAK WOULD APPLY FOR START-UP EXPENSES FOR COMPANY OPERATED FACILITIES OR FOR SUBSIDIZING THE COST OF PARENTS' CHILD CARE EXPENSES WHILE THEIR WORKING. ANY DAY CARE FACILITY INVOLVED IN THE PROGRAM MUST BE LICENSED BY THE STATE UNDER S. 48.67. ALSO, INDIVIDUAL COMPANIES WILL HAVE TO BE CAPPED AS TO HOW MUCH OF A TAX CREDIT THEY CAN TAKE PER YEAR & THE OVERALL CREDIT (FOR ALL COMPANIES) NEEDS AN ANNUAL CAP AS WELL.	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy. 71.28	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? YES NO

If yes, anyone who asks? YES NO

Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

CONSIDERING IT AS A BUDGET AMENDMENT

Is this request of higher priority than other pending request(s) you have made?

YES NO If yes, please sign your name here:

Tim Hoven

624.5107 Child care tax credits; definitions; authorization; limitations; eligibility and application requirements; administration; expiration.--

(1) DEFINITIONS.--As used in this section:

(a) "Child care facility startup costs" means expenditures for substantial renovation, equipment, including playground equipment and kitchen appliances and cooking equipment, real property, including land and improvements, and for reduction of debt, made in connection with the establishment of a child care facility as defined by s. 402.302, or any facility providing daily care to children who are mildly ill, which is located in this state on the insurer's premises and used by the employees of the insurer.

(b) "Operation of a child care facility" means operation of a child care facility as defined by s. 402.302, or any facility providing daily care to children who are mildly ill, which is located in this state within 5 miles of at least one place of business of the insurer and which is used by the employees of the insurer.

(c) "Department" means the Department of Revenue.

(d) "Executive director" means the executive director of the Department of Revenue.

(2) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

(a)1. A credit of 50 percent of the startup costs of child care facilities operated by an insurer for its employees is allowed against any tax due for a taxable year under s. 624.509 or s. 624.510. A credit against such tax is also allowed for the operation of a child care facility by an insurer for its employees, which credit is in the amount of \$50 per month for each child enrolled in the facility.

2. A credit is allowed against any tax due for a taxable year under s. 624.509 or s. 624.510 for any insurer that makes payments directly to a child care facility as defined by s. 402.302 which is licensed in accordance with s. 402.305, or to any facility providing daily care to children who are mildly ill, which payments are made in the name of and for the benefit of an employee of the insurer in this state whose child attends the child care facility during the employee's working hours. The credit shall be an amount equal to 50 percent of the amount of such child care payments.

(b) An insurer may not receive more than \$50,000 in annual tax credits for all approved child care costs that the insurer incurs in any one year.

(c) The total amount of tax credits which may be granted for all programs approved under this section and s. 220.19 is \$2 million annually.

(d) An application for tax credit under this section must be approved by the executive director.

(e) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the insurer, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by s. 624.509 or s. 624.510 for that year exceeds the credit for which the insurer is eligible in that year under this section.

(f) If an insurer receives a credit for child care facility startup costs, and the facility fails to

operate for at least 5 years, a pro rata share of the credit must be repaid, in accordance with the formula: $A = C \times (1 - (N/60))$, where:

1. "A" is the amount in dollars of the required repayment.
2. "C" is the total credits taken by the insurer for child care facility startup costs.
3. "N" is the number of months the facility was in operation.

This repayment requirement is inapplicable if the insurer goes out of business or can demonstrate to the department that its employees no longer want to have a child care facility.

(3) ELIGIBILITY REQUIREMENTS.--

(a) A child care facility with respect to which an insurer claims a child care tax credit must be a child care facility as defined by s. 402.302 and must be licensed in accordance with s. 402.305, or must be a facility providing daily care to children who are mildly ill.

(b) The services of a child care facility for which an insurer claims a child care tax credit under subparagraph (2)(a)1. must be available to all employees of the insurer or must be allocated on a first-come, first-served basis, and must be used by employees of the insurer.

(c) Child care payments for which an insurer claims a credit under subparagraph (2)(a)2. shall not exceed the amount charged by the child care facility to other children of like age and abilities of persons not employed by the insurer.

(4) APPLICATION REQUIREMENTS.--Any insurer that wishes to participate in this program must submit to the department an application for tax credit which sets forth the proposal for establishing a child care facility for the use of its employees or for payment of the cost of child care for its employees. This application must state the anticipated startup costs and the number of children to be enrolled, in the case of credit claimed under subparagraph (2)(a)1., or the number of children for whom child care costs will be paid, in the case of credit claimed under subparagraph (2)(a)2.

(5) ADMINISTRATION.--

(a) The Department of Revenue may adopt all rules pursuant to the Administrative Procedure Act to administer this section, including rules for the approval or disapproval of proposals submitted by insurers and rules to provide for cooperative arrangements between for-profit and not-for-profit entities.

(b) The executive director's decision to approve or disapprove a proposal must be in writing, and, if the proposal is approved, the decision must state the maximum credit allowable to the insurer.

(c) All approvals for the granting of the tax credit require prior verification by the Department of Children and Family Services or local licensing agency that the insurer meets the licensure requirements as defined in s. 402.302 and is currently licensed in accordance with s. 402.305, or is a facility providing daily care to children who are mildly ill.

(d) Verification of the child care provider as an approved facility must be in writing and must be attached to the credit application form submitted to the Department of Revenue.

(6) EXPIRATION.--This section expires on June 30, 2008, except that paragraph (2)(e),

which relates to carryover credits, and paragraph (2)(f), which relates to repaying tax credits in specified circumstances, do not expire on that date.

History.---s. 5, ch. 98-293.

IF YOU HAVE ANY QUESTIONS, PLEASE CALL.
6-2370

To: Joseph Kreye

From: Michael Welsh (Rep. Hoven's office)

Re: Addendum to Rep. Hoven's bill draft request to create a corporate tax credit for investments in child care programs.

The draft should look very similar to the Florida law in that it would create a child care corporate tax credit for three related costs:

- 1.) A credit of 50 percent of the start up costs of a day care facility operated by the company for it's employees.
- 2.) A credit in the amount of \$50 per month for each child enrolled in the company run facility.
- 3.) A credit of 50 percent of the amount of child care payments made to a day care facility by a company on behalf of an employee whose child attends that child care facility during the employee's working hours.

Also, the amount of the tax credit taken by an individual company shall be capped in the following manner:

- 1.) A company may not receive more than \$50,000 a year in tax credits for all approved child care costs the company incurs in an any one year.
- 2.) The total amount of tax credits which may be granted for all child care costs approved under this program may not exceed \$1.5 million annually (\$3 million total per biennium).
- 3.) If the credit granted to a company is not fully used in any one year because of insufficient tax liability on the part of the company, the unused amount may be carried over for a period not to exceed 3 years.

Furthermore, as is the case in the Florida's law, any company who wishes to participate in the program must submit an application to the DOR. The DOR shall approve or disapprove an application on a first come first serve basis until all funding (\$1.5 million annually) is exhausted.

Additionally, all day care facilities participating in the program must be licensed by the state under s. 48.67 and meet the requirements specified in s. 48.685. The DOR must receive proper verification from DHFS that a day care facility is licensed by the state.



4-1-99

LRB-2600A

RMK

JK:.....

CMH

SOON

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W.P.O.
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cover sheet

- 1 AN ACT ... relating to: income and franchise tax credits for a business to
- 2 construct, equip and operate a day care center for the children of employees.

Analysis by the Legislative Reference Bureau

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 employees during the employees' 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.

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 employees during the employees' working hours. A corporation may also claim a credit equal to \$50 a month for each child of an corporation's employe enrolled in the corporation's day care center for a taxable year.

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 three 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:

1 **SECTION 1.** 71.05 (6) ^X(a) 15. of the statutes is amended to read:

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

7 **SECTION 2.** 71.07 [✓](5d) of the statutes is created to read:

8 71.07 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, "claimant" means
9 a person who files a claim under this subsection.

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

12 1. An amount equal to 50% of the amount paid or incurred by the claimant
13 during the taxable year to construct and equip a licensed day care center under s.
14 [✓]48.65, that is owned and operated by the claimant, to care for the children of the
15 claimant's employes during the employes' working hours.

16 2. An amount equal to \$50 a month for each child of ^a~~an~~ claimant's employe
17 enrolled in the claimant's day care center under [✓]subd. 1. for the taxable year.

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

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

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

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

13 (f) If a credit computed under this subsection is not entirely offset against
 14 income or franchise taxes otherwise due, the unused balance may be carried forward
 15 and credited against income or franchise taxes otherwise due for the following 3
 16 taxable years to the extent not offset by those taxes otherwise due in all intervening
 17 years between the year in which the expense was incurred and the year in which the
 18 carry-forward credit is claimed.

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

1 companies and shareholders of tax-option corporations may claim the credit in
2 proportion to their ownership interest.

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

5 (i) If the operation of a day care center under par. (b) 1. ceases within 5 years
6 after the date on which the construction of the day care center is completed, a
7 claimant who receives credits under par. (b) 1. and 2. for the construction and
8 operation of such a day care center shall add to the claimant's liability for taxes

9 imposed under s. 71.02 ^{an amount equal to} ~~one of the following percentages of~~ ^{total} the amount of the credits
10 received under par. (b) 1. and 2. _{multiplied by the following percentage}

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

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

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

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

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

21 SECTION 3. 71.08 (1) (intro.) of the statutes is amended to read:

22 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
23 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
24 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d),
25 (6) and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and

1 (5d) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and, (3) and (5d)
 2 and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than
 3 the tax under this section, there is imposed on that natural person, married couple
 4 filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
 5 minimum tax computed as follows:

6 **SECTION 4.** 71.10 (4) [✓](i) of the statutes is amended to read:

7 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
 8 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
 9 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
 10 71.07 (2fd), day care center credit under s. 71.07 (5d), earned income tax credit under
 11 s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under
 12 subch. X.

13 **SECTION 5.** 71.21 (4) [✓] of the statutes is amended to read:

14 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
 15 (2dj), (2dL), (2ds), (2dx) and, (3s) and (5d) and passed through to partners shall be
 16 added to the partnership's income.

17 **SECTION 6.** 71.26 (2) [✓](a) of the statutes is amended to read:

18 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
 19 the gross income as computed under the internal revenue code as modified under
 20 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
 21 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed
 22 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) and, (1dx) and (5d) and not passed
 23 through by a partnership, limited liability company or tax-option corporation that
 24 has added that amount to the partnership's, limited liability company's or tax-option
 25 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from

1 the sale or other disposition of assets the gain from which would be wholly exempt
2 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at
3 a gain and minus deductions, as computed under the internal revenue code as
4 modified under sub. (3), plus or minus, as appropriate, an amount equal to the
5 difference between the federal basis and Wisconsin basis of any asset sold,
6 exchanged, abandoned or otherwise disposed of in a taxable transaction during the
7 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

8 **SECTION 7.** 71.28 (5d) of the statutes is created to read:

9 71.28 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, "claimant" means
10 a person who files a claim under this subsection.

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

13 1. An amount equal to 50% of the amount paid or incurred by the claimant
14 during the taxable year to construct and equip a licensed day care center under s.
15 48.65, that is owned and operated by the claimant, to care for the children of the
16 claimant's employes during the employes' working hours.

17 2. An amount equal to \$50 a month for each child of ~~an~~^a claimant's employe
18 enrolled in the claimant's day care center under subd. 1. for the taxable year.

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

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

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

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

10 (f) If a credit computed under this subsection is not entirely offset against
11 income or franchise taxes otherwise due, the unused balance may be carried forward
12 and credited against income or franchise taxes otherwise due for the following 3
13 taxable years to the extent not offset by those taxes otherwise due in all intervening
14 years between the year in which the expense was incurred and the year in which the
15 carry-forward credit is claimed.

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

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

1 (i) If the operation of a day care center under par. (b) 1. ceases within 5 years
 2 after the date on which the construction of the day care center is completed, a
 3 claimant who receives credits under par. (b) 1. and 2. for the construction and
 4 operation of such a day care center shall add to the claimant's liability for taxes
 5 imposed under s. 71.23 ^{an amount equal to} ~~one of the following percentages~~ ^{total} of the amount of the credits
 6 received under par. (b) 1. and 2. ^{multiplied by the following percentage}

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

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

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

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

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

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

18 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
 19 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
 20 s. 71.28 (2m), day care center credit under s. 71.28 (5d) and estimated tax payments
 21 under s. 71.29.

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

23 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
 24 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) and, (3) and (5d)
 25 and passed through to shareholders.

1 **SECTION 10.** 71.45 (2) (a) ^X10. of the statutes is amended to read:

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

8 **SECTION 11.** 71.28⁴⁷ (5d) of the statutes is created to read:

9 71.47 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, "claimant" means
10 a person who files a claim under this subsection. [✓]

11 (b) A claimant may claim as a credit against the tax imposed under s. 71.43 [✓]any
12 of the following:

13 1. An amount equal to 50% of the amount paid or incurred by the claimant
14 during the taxable year to construct and equip a licensed day care center under s.
15 48.65[✓], that is owned and operated by the claimant, to care for the children of the
16 claimant's employes during the employes' working hours.

17 2. An amount equal to \$50 a month for each child of ^u~~an~~ claimant's employe
18 enrolled in the claimant's day care center under subd. 1. for the taxable year.

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

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

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

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

10 (f) If a credit computed under this subsection is not entirely offset against
11 income or franchise taxes otherwise due, the unused balance may be carried forward
12 and credited against income or franchise taxes otherwise due for the following 3
13 taxable years to the extent not offset by those taxes otherwise due in all intervening
14 years between the year in which the expense was incurred and the year in which the
15 carry-forward credit is claimed.

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

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

1 (i) If the operation of a day care center under par. (b) 1. ceases within 5 years
 2 after the date on which the construction of the day care center is completed, a
 3 claimant who receives credits under par. (b) 1. and 2. for the construction and
 4 operation of such a day care center shall add to the claimant's liability for taxes
 5 imposed under s. 71.43 ^{an amount equal to} ~~one of the following percentages~~ ^{total} of the amount of the credits
 6 received under par. (b) 1. and 2. ^{multiplied by the following percentage}

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

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

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

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

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

17 **SECTION 12.** 71.49 (1) (f) ^X of the statutes is amended to read:

18 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47
 19 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
 20 s. 71.47 (2m), day care center credit under s. 71.28 (5d) and estimated tax payments
 21 under s. 71.48.

22 **SECTION 13.** 77.92 (4) [✓] of the statutes is amended to read:

23 77.92 (4) "Net business income", with respect to a partnership, means taxable
 24 income as calculated under section 703 of the internal revenue code; plus the items
 25 of income and gain under section 702 of the internal revenue code; minus the items

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

9 **SECTION 14. Initial applicability.**

10 (1) DAY CARE CENTER CREDIT. This act first applies to taxable years beginning
11 on January 1 of the year in which this subsection takes effect, except that if this
12 subsection takes effect after July 31 this act first applies to taxable years beginning
13 on January 1 of the year following the year in which this subsection takes effect.

14 (END)

4-13-99

Mike from Rep Floren's office

LRB 2600

↳ p 3 L19

change 3 to 5

(also p 7 L17 & p 10 L19)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2600/1

JK:cmh:km

1999 BILL

refer cod

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

Analysis by the Legislative Reference Bureau

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 employees during the employees' 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.

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 employees during the employees' working hours. A corporation may also claim a credit equal to \$50 a month for each child of an corporation's employee enrolled in the corporation's day care center for a taxable year.

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

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remaining credit to the next ~~three~~ ^{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:

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

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

7 **SECTION 2.** 71.07 (5d) of the statutes is created to read:

8 71.07 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, "claimant" means
9 a person who files a claim under this subsection.

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

12 1. An amount equal to 50% of the amount paid or incurred by the claimant
13 during the taxable year to construct and equip a licensed day care center under s.
14 48.65, that is owned and operated by the claimant, to care for the children of the
15 claimant's employes during the employes' working hours.

16 2. An amount equal to \$50 a month for each child of a claimant's employe
17 enrolled in the claimant's day care center under subd. 1. for the taxable year.

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

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

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

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

17 (f) If a credit computed under this subsection is not entirely offset against
18 income or franchise taxes otherwise due, the unused balance may be carried forward
19 and credited against income or franchise taxes otherwise due for the following ~~4~~ 5
20 taxable years to the extent not offset by those taxes otherwise due in all intervening
21 years between the year in which the expense was incurred and the year in which the
22 carry-forward credit is claimed.

23 (g) Partnerships, limited liability companies and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on the amount paid or incurred under par. (b). A partnership,

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1 limited liability company or tax-option corporation shall compute the amount of
2 credit that each of its partners, members or shareholders may claim and shall
3 provide that information to each of them. Partners, members of limited liability
4 companies and shareholders of tax-option corporations may claim the credit in
5 proportion to their ownership interest.

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

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

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

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

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

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

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

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

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

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

11 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
12 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
13 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
14 71.07 (2fd), day care center credit under s. 71.07 (5d), earned income tax credit under
15 s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under
16 subch. X.

17 **SECTION 5.** 71.21 (4) of the statutes is amended to read:

18 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
19 (2dj), (2dL), (2ds), (2dx) ~~and~~, (3s) and (5d) and passed through to partners shall be
20 added to the partnership's income.

21 **SECTION 6.** 71.26 (2) (a) of the statutes is amended to read:

22 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
23 the gross income as computed under the internal revenue code as modified under
24 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
25 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed

BILL**SECTION 6**

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

12 **SECTION 7.** 71.28 (5d) of the statutes is created to read:

13 **71.28 (5d) DAY CARE CENTER CREDIT.** (a) In this subsection, "claimant" means
14 a person who files a claim under this subsection.

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

17 1. An amount equal to 50% of the amount paid or incurred by the claimant
18 during the taxable year to construct and equip a licensed day care center under s.
19 48.65, that is owned and operated by the claimant, to care for the children of the
20 claimant's employees during the employees' working hours.

21 2. An amount equal to \$50 a month for each child of a claimant's employe
22 enrolled in the claimant's day care center under subd. 1. for the taxable year.

23 3. An amount equal to 50% of the amount paid by the claimant during the
24 taxable year to a licensed day care center under s. 48.65, other than a day care center

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1 under subd. 1., to provide care for the children of the claimant's employes during the
2 employes' working hours.

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

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

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

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

21 (g) 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 amount paid or incurred under par. (b). A partnership,
24 limited liability company or tax-option corporation shall compute the amount of
25 credit that each of its partners, members or shareholders may claim and shall

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1 provide that information to each of them. Partners, members of limited liability
2 companies and shareholders of tax-option corporations may claim the credit in
3 proportion to their ownership interest.

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

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

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

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

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

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

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

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

23 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
24 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under

BILL

1 s. 71.28 (2m), day care center credit under s. 71.28 (5d) and estimated tax payments
2 under s. 71.29.

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

4 71.34 (1) (g) An addition shall be made for credits computed by a tax–option
5 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and, (3) and (5d)~~
6 and passed through to shareholders.

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

8 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
9 computed under s. 71.47 (1dd) to (1dx) and (5d) and not passed through by a
10 partnership, limited liability company or tax–option corporation that has added that
11 amount to the partnership’s, limited liability company’s or tax–option corporation’s
12 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
13 s. 71.47 (1), (3), (4) and (5).

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

15 71.47 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, “claimant” means
16 a person who files a claim under this subsection.

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

19 1. An amount equal to 50% of the amount paid or incurred by the claimant
20 during the taxable year to construct and equip a licensed day care center under s.
21 48.65, that is owned and operated by the claimant, to care for the children of the
22 claimant’s employes during the employes’ working hours.

23 2. An amount equal to \$50 a month for each child of a claimant’s employe
24 enrolled in the claimant’s day care center under subd. 1. for the taxable year.

BILL**SECTION 11**

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

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

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

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

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

23 (g) Partnerships, limited liability companies and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on the amount paid or incurred under par. (b). A partnership,

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1 limited liability company or tax-option corporation shall compute the amount of
2 credit that each of its partners, members or shareholders may claim and shall
3 provide that information to each of them. Partners, members of limited liability
4 companies and shareholders of tax-option corporations may claim the credit in
5 proportion to their ownership interest.

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

8 (i) If the operation of a day care center under par. (b) 1. ceases within 5 years
9 after the date on which the construction of the day care center is completed, a
10 claimant who receives credits under par. (b) 1. and 2. for the construction and
11 operation of such a day care center shall add to the claimant's liability for taxes
12 imposed under s. 71.43 an amount equal to the total amount of the credits received
13 under par. (b) 1. and 2. multiplied by the following percentage:

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

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

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

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

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

24 **SECTION 12.** 71.49 (1) (f) of the statutes is amended to read:

Memo

To: Joseph Kreye

From: Rep. Tim Hoven

Date: May 4, 1999

Re: Changes to LRB 2600 – Creating a corporate tax credit for investments in child care

LRB 2600 needs to be changed in the following manner:

- ✓1. Please include language that excludes companies that construct and equip a day care center from having to pay back credits received if the day care center ceases operation within five years, if:
 - a.) the company goes out of business
 - b.) the company can reasonably prove that its employees no longer want an employer provided day care facility.

- ✓2. Please include in the language that companies who construct and equip day care centers will not receive the \$50 a month credit per child unless the corporation is subsidizing at least 50% of the cost of care in their own facility. In other words, if the company providing day care requires its employees to contribute to the cost of care, the company can not take the \$50 credit if the employee's share of the cost is more than 50% of the total cost.

I can see where this provision can cause a problem in that who decides what the cost of care is? Maybe we could come up with a formula. If the state has an official average cost of child care in Wisconsin, we could use that figure and multiple it by .75 and use that figure as the cost of company provided care (i.e., \$600 x .75 = \$450, the cost of company provided child care).

If you have any questions, please give me a call. If not, just use your own discretion.

Again, thank you for all your hard work. It is appreciated.



1999 BILL

D-N

negotiated

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

Analysis by the Legislative Reference Bureau

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 employees during the employees' 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.

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 employees during the employees' working hours. A corporation may also claim a credit equal to \$50 a month for each child of a corporation's employe enrolled in the corporation's day care center for a taxable year.

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

if the corporation pays at least 50% of the costs to care for each child of a corporation's employe

BILL

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:

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

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

7 **SECTION 2.** 71.07 (5d) of the statutes is created to read:

8 71.07 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, "claimant" means
9 a person who files a claim under this subsection.

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

12 1. An amount equal to 50% of the amount paid or incurred by the claimant
13 during the taxable year to construct and equip a licensed day care center under s.
14 48.65, that is owned and operated by the claimant, to care for the children of the
15 claimant's employes during the employes' working hours.

16 2. An amount equal to \$50 a month for each child of a claimant's employe
17 enrolled in the claimant's day care center under subd. 1. for the taxable year.

if the claimant pays at least 50% of the costs to care for each child of a claimant's employe enrolled in the claimant's day care center under subd. 1. for the taxable year

BILL

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

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

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

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

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

23 (g) Partnerships, limited liability companies and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on the amount paid or incurred under par. (b). A partnership,

BILL**SECTION 2**

1 limited liability company or tax-option corporation shall compute the amount of
 2 credit that each of its partners, members or shareholders may claim and shall
 3 provide that information to each of them. Partners, members of limited liability
 4 companies and shareholders of tax-option corporations may claim the credit in
 5 proportion to their ownership interest.

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

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

- 14 1. If the operation of the day care center ceases during the first year after the
 15 date on which the construction of the day care center is completed, 100%.
- 16 2. If the operation of the day care center ceases during the 2nd year after the
 17 date on which the construction of the day care center is completed, 80%.
- 18 3. If the operation of the day care center ceases during the 3rd year after the
 19 date on which the construction of the day care center is completed, 60%.
- 20 4. If the operation of the day care center ceases during the 4th year after the
 21 date on which the construction of the day care center is completed, 40%.
- 22 5. If the operation of the day care center ceases during the 5th year after the
 23 date on which the construction of the day care center is completed, 20%.

24

SECTION 3. 71.08 (1) (intro.) of the statutes is amended to read:

Insert 4-24

BILL

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

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

11 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
12 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
13 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
14 71.07 (2fd), day care center credit under s. 71.07 (5d), earned income tax credit under
15 s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under
16 subch. X.

17 **SECTION 5.** 71.21 (4) of the statutes is amended to read:

18 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
19 (2dj), (2dL), (2ds), (2dx) ~~and~~, (3s) and (5d) and passed through to partners shall be
20 added to the partnership's income.

21 **SECTION 6.** 71.26 (2) (a) of the statutes is amended to read:

22 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
23 the gross income as computed under the internal revenue code as modified under
24 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
25 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed

BILL

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

12 **SECTION 7.** 71.28 (5d) of the statutes is created to read:

13 **71.28 (5d) DAY CARE CENTER CREDIT.** (a) In this subsection, "claimant" means
 14 a person who files a claim under this subsection.

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

17 1. An amount equal to 50% of the amount paid or incurred by the claimant
 18 during the taxable year to construct and equip a licensed day care center under s.
 19 48.65, that is owned and operated by the claimant, to care for the children of the
 20 claimant's employes during the employes' working hours.

21 2. An amount equal to \$50 a month for each child of a claimant's employe
 22 enrolled in the claimant's day care center under subd. 1. for the taxable year.

23 3. An amount equal to 50% of the amount paid by the claimant during the
 24 taxable year to a licensed day care center under s. 48.65, other than a day care center

*if the claimant pays at least 50% of the costs to
 care for each child of a claimant's employe enrolled
 in the claimant's day care center under subd. 1. for the
 taxable year*

BILL

1 under subd. 1., to provide care for the children of the claimant's employes during the
2 employes' working hours.

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

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

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

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

21 (g) 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 amount paid or incurred under par. (b). A partnership,
24 limited liability company or tax-option corporation shall compute the amount of
25 credit that each of its partners, members or shareholders may claim and shall

BILL**SECTION 7**

1 provide that information to each of them. Partners, members of limited liability
 2 companies and shareholders of tax-option corporations may claim the credit in
 3 proportion to their ownership interest.

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

6 (i) *except as provided in par. (j),*
 the operation of a day care center under par. (b) 1. ceases within 5 years

7 after the date on which the construction of the day care center is completed, a
 8 claimant who receives credits under par. (b) 1. and 2. for the construction and
 9 operation of such a day care center shall add to the claimant's liability for taxes
 10 imposed under s. 71.23 an amount equal to the total amount of the credits received
 11 under par. (b) 1. and 2. multiplied by the following percentage:

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

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

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

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

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

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

23 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28

24 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under

Insert 4-24

BILL

1 s. 71.28 (2m), day care center credit under s. 71.28 (5d) and estimated tax payments
2 under s. 71.29.

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

4 71.34 (1) (g). An addition shall be made for credits computed by a tax-option
5 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and, (3) and (5d)~~
6 and passed through to shareholders.

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

8 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
9 computed under s. 71.47 (1dd) to (1dx) and (5d) and not passed through by a
10 partnership, limited liability company or tax-option corporation that has added that
11 amount to the partnership's, limited liability company's or tax-option corporation's
12 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
13 s. 71.47 (1), (3), (4) and (5).

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

15 71.47 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, "claimant" means
16 a person who files a claim under this subsection.

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

19 1. An amount equal to 50% of the amount paid or incurred by the claimant
20 during the taxable year to construct and equip a licensed day care center under s.
21 48.65, that is owned and operated by the claimant, to care for the children of the
22 claimant's employes during the employes' working hours.

23 2. An amount equal to \$50 a month for each child of a claimant's employe
24 enrolled in the claimant's day care center under subd. 1. for the taxable year

*, if the claimant pays at least 50% of the costs to care
for each child of a claimant's employe enrolled in
the claimant's day care center under subd. 1. for the taxable
year*

BILL**SECTION 11**

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

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

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

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

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

23 (g) Partnerships, limited liability companies and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on the amount paid or incurred under par. (b). A partnership,

BILL

1 limited liability company or tax-option corporation shall compute the amount of
2 credit that each of its partners, members or shareholders may claim and shall
3 provide that information to each of them. Partners, members of limited liability
4 companies and shareholders of tax-option corporations may claim the credit in
5 proportion to their ownership interest.

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

8 (i) ^{except as provided in par. (j), if} the operation of a day care center under par. (b) 1. ceases within 5 years
9 after the date on which the construction of the day care center is completed, a
10 claimant who receives credits under par. (b) 1. and 2. for the construction and
11 operation of such a day care center shall add to the claimant's liability for taxes
12 imposed under s. 71.43 an amount equal to the total amount of the credits received
13 under par. (b) 1. and 2. multiplied by the following percentage:

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

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

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

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

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

24

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

insert 4-24

BILL

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

5 **SECTION 13.** 77.92 (4) of the statutes is amended to read:

6 77.92 (4) “Net business income”, with respect to a partnership, means taxable
7 income as calculated under section 703 of the internal revenue code; plus the items
8 of income and gain under section 702 of the internal revenue code; minus the items
9 of loss and deduction under section 702 of the internal revenue code; plus payments
10 treated as not made to partners under section 707 (a) of the internal revenue code;
11 plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds),
12 (2dx) ~~and~~, (3s) ~~and~~ (5d); but excluding income, gain, loss and deductions from
13 farming. “Net business income”, with respect to a natural person, estate or trust,
14 means profit from a trade or business for federal income tax purposes and includes
15 net income derived as an employe as defined in section 3121 (d) (3) of the internal
16 revenue code.

17 **SECTION 14. Initial applicability.**

18 (1) DAY CARE CENTER CREDIT. This act first applies to taxable years beginning
19 on January 1 of the year in which this subsection takes effect, except that, if this
20 subsection takes effect after July 31, this act first applies to taxable years beginning
21 on January 1 of the year following the year in which this subsection takes effect.

22 (END)

Insert 4-24

(4) (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 employees do not want to enroll their children in the claimant's day care center.

(END OF INSERT)

D-N

Please review this draft ^{carefully} to ensure that it complies with your intent. It is probably not necessary to create a formula to determine the cost of child care provided by a claimant. To receive the credit under this bill, a claimant must file an application with the department of revenue (DOR).

The bill already requires that DOR determine whether a claimant is eligible for the credit.

Furthermore, DOR has the authority to create an application ^{form} which requests whatever information is necessary for DOR to make a determination.

Therefore, DOR should also be able to determine whether a claimant is paying at least 50% of the child care provided to the children of the claimant's employees.

Please contact me if you have any questions.

JK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2600/3dn

JK:cmh:mrc

May 10, 1999

Please review this draft carefully to ensure that it complies with your intent. It is probably not necessary to create a formula to determine the cost of child care provided by a claimant. To receive the credit under this bill, a claimant must file an application with the department of revenue (DOR). The bill already requires that DOR determine whether a claimant is eligible for the credit. Furthermore, DOR has the authority to create an application form which requests whatever information is necessary for DOR to make a determination. Therefore, DOR should also be able to determine whether a claimant is paying at least 50% of the child care provided to the children of the claimant's employes. Please contact me if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us

Memo

To: Joseph Kreye

From: Rep. Tim Hoven

Date: May 19, 1999

Re: Changes to LRB 2600 – Creating a corporate tax credit for investments in childcare

One more change to the bill and I think we're good to go. Please make the following change to Page 2, Lines 16 & 17 and Page 3, Lines 1 & 2 of LRB 2600 to have it read:

An amount equal to 50% of the subsidy paid by the claimant to care for the children of the claimant's employees enrolled in the claimant's day care center where the subsidy is defined as the total operating costs less any amounts paid by the employees for their children's use.



State of Wisconsin
1999 - 2000 LEGISLATURE

4
LRB-2600/3

JK:cmh:mrc

in 5-20-99

1999 BILL

refer cat

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

Analysis by the Legislative Reference Bureau

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 employees during the employees' 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.

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 employees during the employees' working hours. A corporation may also claim a credit equal to \$50 a month for each child of a corporation's employee enrolled in the corporation's day care center for a taxable year if the corporation pays at least 50% of the costs to care for each child of a corporation's employee.

→
50% of the amount paid by the corporation to operate
less any amount paid by the employees to operate the corporation's day care center

BILL

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:

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

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).

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

71.07 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, "claimant" means a person who files a claim under this subsection.

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

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 employees during the employees' working hours.

2. An amount equal to ~~\$50 a month for each child of a claimant's employee~~ enrolled in the claimant's day care center under subd. 1. for the taxable year, ~~if the~~

50% of the amount paid by the claimant to operate

BILL

less any amount paid by the

1
2

~~claimant pays at least 50% of the costs to care for each child of a claimant's employee~~
~~enrolled in~~ the claimant's day care center under subd. 1. for the taxable year.

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

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

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

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

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

BILL

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

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

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

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

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

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

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

BILL

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

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

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

9 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
10 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
11 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d),
12 (6) and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~, (3) and
13 (5d) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~, (3) and (5d)
14 and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than
15 the tax under this section, there is imposed on that natural person, married couple
16 filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
17 minimum tax computed as follows:

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

19 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
20 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
21 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
22 71.07 (2fd), day care center credit under s. 71.07 (5d), earned income tax credit under
23 s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under
24 subch. X.

25 **SECTION 5.** 71.21 (4) of the statutes is amended to read:

BILL

1 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
2 (2dj), (2dL), (2ds), (2dx) ~~and~~, (3s) and (5d) and passed through to partners shall be
3 added to the partnership's income.

4 **SECTION 6.** 71.26 (2) (a) of the statutes is amended to read:

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

20 **SECTION 7.** 71.28 (5d) of the statutes is created to read:

21 71.28 (5d) DAY CARE CENTER CREDIT. (a) In this subsection, "claimant" means
22 a person who files a claim under this subsection.

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

BILL

50% of the amount paid by the claimant to operate

1 1. An amount equal to 50% of the amount paid or incurred by the claimant
2 during the taxable year to construct and equip a licensed day care center under s.
3 48.65, that is owned and operated by the claimant, to care for the children of the
4 claimant's employes during the employes' working hours.

less any amount paid by the

5 2. An amount equal to ~~\$50~~ a month for each child of a claimant's employe
6 enrolled in the claimant's day care center under subd. 1. for the taxable year, ~~if the~~
7 claimant pays at least 50% of the costs to care for each child of a claimant's employe
8 enrolled in the claimant's day care center under subd. 1. for the taxable year.

to operate

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

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

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

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

BILL

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

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

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

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

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

BILL

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

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

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

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

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

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

15 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
16 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
17 s. 71.28 (2m), day care center credit under s. 71.28 (5d) and estimated tax payments
18 under s. 71.29.

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

20 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
21 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and~~, (3) and (5d)
22 and passed through to shareholders.

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

24 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
25 computed under s. 71.47 (1dd) to (1dx) and (5d) and not passed through by a

BILL

1 partnership, limited liability company or tax-option corporation that has added that
2 amount to the partnership's, limited liability company's or tax-option corporation's
3 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
4 s. 71.47 (1), (3), (4) and (5).

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

6 **71.47 (5d) DAY CARE CENTER CREDIT.** (a) In this subsection, "claimant" means
7 a person who files a claim under this subsection.

8 (b) A claimant may claim as a credit against the tax imposed under s. 71.43 any
9 of the following: *50% of the amount paid by the claimant to operate*

10 1. An amount equal to 50% of the amount paid or incurred by the claimant
11 during the taxable year to construct and equip a licensed day care center under s.
12 48.65, that is owned and operated by the claimant, to care for the children of the
13 claimant's employes during the employes' working hours.

14 2. An amount equal to ~~\$50 a month for each child of a claimant's employe~~
15 ~~enrolled in the claimant's day care center under subd. 1. for the taxable year, if the~~
16 ~~claimant pays at least 50% of the costs to care for each child of a claimant's employe~~
17 ~~enrolled in the claimant's day care center under subd. 1. for the taxable year.~~
less any amount paid by the
to operate

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

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

BILL

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

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

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

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

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

BILL**SECTION 11**

1 (i) Except as provided in par. (j), if the operation of a day care center under par.

2 (b) 1. ceases within 5 years after the date on which the construction of the day care

3 center is completed, a claimant who receives credits under par. (b) 1. and 2. for the

4 construction and operation of such a day care center shall add to the claimant's

5 liability for taxes imposed under s. 71.43 an amount equal to the total amount of the

6 credits received under par. (b) 1. and 2. multiplied by the following percentage:

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

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

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

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

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

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

22 **SECTION 12.** 71.49 (1) (f) of the statutes is amended to read:

23 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47
24 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under

BILL

1 s. 71.47 (2m), day care center credit under s. 71.28 (5d) and estimated tax payments
2 under s. 71.48.

3 **SECTION 13.** 77.92 (4) of the statutes is amended to read:

4 77.92 (4) “Net business income”, with respect to a partnership, means taxable
5 income as calculated under section 703 of the internal revenue code; plus the items
6 of income and gain under section 702 of the internal revenue code; minus the items
7 of loss and deduction under section 702 of the internal revenue code; plus payments
8 treated as not made to partners under section 707 (a) of the internal revenue code;
9 plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds),
10 (2dx) ~~and~~, (3s) and (5d); but excluding income, gain, loss and deductions from
11 farming. “Net business income”, with respect to a natural person, estate or trust,
12 means profit from a trade or business for federal income tax purposes and includes
13 net income derived as an employe as defined in section 3121 (d) (3) of the internal
14 revenue code.

15 **SECTION 14. Initial applicability.**

16 (1) DAY CARE CENTER CREDIT. This act first applies to taxable years beginning
17 on January 1 of the year in which this subsection takes effect, except that, if this
18 subsection takes effect after July 31, this act first applies to taxable years beginning
19 on January 1 of the year following the year in which this subsection takes effect.

20

(END)



State of Wisconsin

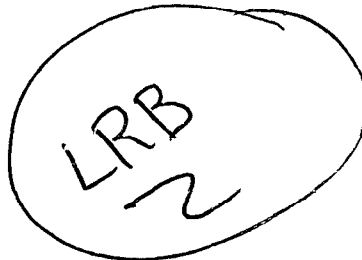
LEGISLATIVE REFERENCE BUREAU

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.

MEMORANDUM

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., $(50\% \times \$20,000) - \$10,000$]. However, if the employee reimbursement is subtracted before the 50% limitation, the credit would be \$5,000 [i.e., $(\$20,000 - \$10,000) \times 50\%$].
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
t:\fsn99-00\pw\lab393.tec