

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 183**

April 24, 2001 – Offered by Representative HOVEN.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.26 (2) (a), 71.45 (2) (a) 10. and 77.92 (4);
2 **and to create** 71.07 (5d), 71.10 (4) (cp), 71.28 (5d), 71.30 (3) (dm), 71.47 (5d) and
3 71.49 (1) (dm) of the statutes; **relating to:** an income and franchise tax credit
4 for a business to construct, equip, operate, or provide a day care center for the
5 children of employees.

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

6 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:
7 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and (3s), and (5d)~~ and not passed through by a
9 partnership, limited liability company or tax-option corporation that has added that
10 amount to the partnership's, company's or tax-option corporation's income under s.
11 71.21 (4) or 71.34 (1) (g).

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

1 71.07 **(5d)** DAY CARE CENTER CREDIT. (a) In this subsection:

2 1. “Claimant” means a person who files a claim under this subsection.

3 2. “Equipment” means equipment that is depreciable property for income tax
4 or franchise tax purposes.

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

7 1. An amount equal to 50% of the amount paid by the claimant during the
8 taxable year to construct, and to purchase equipment for the use at, a licensed day
9 care center under s. 48.65 that is owned and operated by the claimant to care for the
10 children of the claimant’s employees during the employees’ working hours.

11 2. An amount that is equal to the amount paid by the claimant to operate the
12 claimant’s day care center for the taxable year; minus any amount paid by an
13 employee of the claimant to reimburse the claimant for any amount paid by the
14 claimant under this subdivision; multiplied by 50%. A claimant may claim and be
15 allocated a credit under this subdivision regardless of whether the claimant has
16 claimed or been allocated a credit under subd. 1.

17 3. An amount that is equal to the amount paid by the claimant during the
18 taxable year to a licensed day care center under s. 48.65, other than a day care center
19 as described under subd. 1., to provide care for the children of the claimant’s
20 employees during the employees’ working hours; minus any amount paid by an
21 employee of the claimant to reimburse the claimant for any amount paid by the
22 claimant under this subdivision; multiplied by 50%.

23 (c) Except as provided in par. (d), the amount of the credit under this subsection
24 shall not exceed \$20,000 in a taxable year for each claimant.

1 (d) Claimants who jointly construct, equip, or operate a licensed day care center
2 may jointly claim the credit as provided under this subsection. Claimants who jointly
3 claim a credit under par. (b) may apportion the amount of the credit among the joint
4 claimants in any manner that the joint claimants choose. The total amount of the
5 credit for the joint claimants shall not exceed \$20,000 in a taxable year.

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

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

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

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

24 (i) Except as provided under par. (j), if the operation of a day care center under
25 par. (b) 1. ceases within 5 years after the date on which the construction of the day

1 care center is completed, a claimant who receives credits under par. (b) 1. and 2. for
2 the construction and operation of such a day care center shall add to the claimant's
3 liability for taxes imposed under s. 71.02 an amount equal to the total amount of the
4 credits received under par. (b) 1. and 2. multiplied by the following percentage:

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

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

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

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

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

15 (j) Paragraph (i) does not apply to a claimant whose business ceases operation
16 within 5 years after the date on which the construction of the claimant's day care
17 center is completed; or whose day care center ceases operation for not more than 30
18 consecutive days in a taxable year; or who presents evidence to the department of
19 revenue that the majority of the claimant's employees with children who are eligible
20 to enroll in the claimant's day care center do not want to enroll their children in the
21 claimant's day care center.

22 **SECTION 3.** 71.10 (4) (cp) of the statutes is created to read:

23 71.10 (4) (cp) The day care center credit under s. 71.07 (5d).

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

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

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

17 71.28 **(5d)** DAY CARE CENTER CREDIT. (a) In this subsection:

18 1. “Claimant” means a person who files a claim under this subsection.

19 2. “Equipment” means equipment that is depreciable property for income tax
20 or franchise tax purposes.

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

23 1. An amount equal to 50% of the amount paid by the claimant during the
24 taxable year to construct, and to purchase equipment for the use at, a licensed day

1 care center under s. 48.65 that is owned and operated by the claimant to care for the
2 children of the claimant's employees during the employees' working hours.

3 2. An amount that is equal to the amount paid by the claimant to operate the
4 claimant's day care center for the taxable year; minus any amount paid by an
5 employee of the claimant to reimburse the claimant for any amount paid by the
6 claimant under this subdivision; multiplied by 50%. A claimant may claim and be
7 allocated a credit under this subdivision regardless of whether the claimant has
8 claimed or been allocated a credit under subd. 1.

9 3. An amount that is equal to 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 as described under subd. 1., to provide care for the children of the claimant's
12 employees during the employees' working hours; minus any amount paid by an
13 employee of the claimant to reimburse the claimant for any amount paid by the
14 claimant under this subdivision; multiplied by 50%.

15 (c) Except as provided in par. (d), the amount of the credit under this subsection
16 shall not exceed \$20,000 in a taxable year for each claimant.

17 (d) Claimants who jointly construct, equip, or operate a licensed day care center
18 may jointly claim the credit as provided under this subsection. Claimants who jointly
19 claim a credit under par. (b) may apportion the amount of the credit among the joint
20 claimants in any manner that the joint claimants choose. The total amount of the
21 credit for the joint claimants shall not exceed \$20,000 in a taxable year.

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

24 (f) If a credit computed under this subsection is not entirely offset against
25 income or franchise taxes otherwise due, the unused balance may be carried forward

1 and credited against income or franchise taxes otherwise due for the following 5
2 taxable years to the extent not offset by those taxes otherwise due in all intervening
3 years between the year in which the expense was paid and the year in which the
4 carry-forward credit is claimed.

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

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

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

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

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

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

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

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

7 (j) Paragraph (i) does not apply to a claimant whose business ceases operation
8 within 5 years after the date on which the construction of the claimant's day care
9 center is completed; or whose day care center ceases operation for not more than 30
10 consecutive days in a taxable year; or who presents evidence to the department of
11 revenue that the majority of the claimant's employees with children who are eligible
12 to enroll in the claimant's day care center do not want to enroll their children in the
13 claimant's day care center.

14 **SECTION 6.** 71.30 (3) (dm) of the statutes is created to read:

15 71.30 **(3)** (dm) The day care center credit under s. 71.28 (5d).

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

17 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
18 computed under s. 71.47 (1dd) to (1dx) and (5d) and not passed through by a
19 partnership, limited liability company or tax-option corporation that has added that
20 amount to the partnership's, limited liability company's or tax-option corporation's
21 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
22 s. 71.47 (1), (3), (4) and (5).

23 **SECTION 8.** 71.47 (5d) of the statutes is created to read:

24 71.47 **(5d)** DAY CARE CENTER CREDIT. (a) In this subsection:

25 1. "Claimant" means a person who files a claim under this subsection.

1 2. “Equipment” means equipment that is depreciable property for income tax
2 or franchise tax purposes.

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

5 1. An amount equal to 50% of the amount paid by the claimant during the
6 taxable year to construct, and to purchase equipment for the use at, a licensed day
7 care center under s. 48.65 that is owned and operated by the claimant to care for the
8 children of the claimant’s employees during the employees’ working hours.

9 2. An amount that is equal to the amount paid by the claimant to operate the
10 claimant’s day care center for the taxable year; minus any amount paid by an
11 employee of the claimant to reimburse the claimant for any amount paid by the
12 claimant under this subdivision; multiplied by 50%. A claimant may claim and be
13 allocated a credit under this subdivision regardless of whether the claimant has
14 claimed or been allocated a credit under subd. 1.

15 3. An amount that is equal to the amount paid by the claimant during the
16 taxable year to a licensed day care center under s. 48.65, other than a day care center
17 as described under subd. 1., to provide care for the children of the claimant’s
18 employees during the employees’ working hours; minus any amount paid by an
19 employee of the claimant to reimburse the claimant for any amount paid by the
20 claimant under this subdivision; multiplied by 50%.

21 (c) Except as provided in par. (d), the amount of the credit under this subsection
22 shall not exceed \$20,000 in a taxable year for each claimant.

23 (d) Claimants who jointly construct, equip, or operate a licensed day care center
24 may jointly claim the credit as provided under this subsection. Claimants who jointly
25 claim a credit under par. (b) may apportion the amount of the credit among the joint

1 claimants in any manner that the joint claimants choose. The total amount of the
2 credit for the joint claimants shall not exceed \$20,000 in a taxable year.

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

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

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

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

21 (i) Except as provided under par. (j), if the operation of a day care center under
22 par. (b) 1. ceases within 5 years after the date on which the construction of the day
23 care center is completed, a claimant who receives credits under par. (b) 1. and 2. for
24 the construction and operation of such a day care center shall add to the claimant's

1 liability for taxes imposed under s. 71.43 an amount equal to the total amount of the
2 credits received under par. (b) 1. and 2. multiplied by the following percentage:

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

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

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

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

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

13 (j) Paragraph (i) does not apply to a claimant whose business ceases operation
14 within 5 years after the date on which the construction of the claimant's day care
15 center is completed; or whose day care center ceases operation for not more than 30
16 consecutive days in a taxable year; or who presents evidence to the department of
17 revenue that the majority of the claimant's employees with children who are eligible
18 to enroll in the claimant's day care center do not want to enroll their children in the
19 claimant's day care center.

20 **SECTION 9.** 71.49 (1) (dm) of the statutes is created to read:

21 71.49 (1) (dm) The day care center credit under s. 71.47 (5d).

22 **SECTION 10.** 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, including taxable

1 state and municipal bond interest and excluding nontaxable interest income or
2 dividend income from federal government obligations; minus the items of loss and
3 deduction under section 702 of the Internal Revenue Code, except items that are not
4 deductible under s. 71.21; plus guaranteed payments to partners under section 707
5 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
6 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and~~ (3s) and (5d); and plus or minus, as
7 appropriate, transitional adjustments, depreciation differences and basis
8 differences under s. 71.05 (13), (15), (16), (17) and (19); but excluding income, gain,
9 loss and deductions from farming. “Net business income”, with respect to a natural
10 person, estate or trust, means profit from a trade or business for federal income tax
11 purposes and includes net income derived as an employee as defined in section 3121
12 (d) (3) of the Internal Revenue Code.

13 **SECTION 11. Initial applicability.**

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

18 (END)