

**2001 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB183)**

Received: 04/19/2001

Received By: jkreye

Wanted: 04/23/2001

Identical to LRB:

For: Tim Hoven (608) 267-2369

By/Representing: michael

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax Credits - miscellaneous  
Tax - corp. inc. and fran.

Extra Copies:

Submit via email: NO

Requester's email:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Day care credit

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**Instructions:**

See Attached

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**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>
/?	jkreye 04/19/2001	wjackson 04/20/2001					
/1	jkreye 04/23/2001	wjackson 04/23/2001	martykr 04/20/2001		lrb_docadmin 04/20/2001	lrb_docadmin 04/20/2001	
/2			martykr 04/23/2001		lrb_docadmin 04/23/2001	lrb_docadmin 04/23/2001	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

<END>

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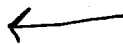
Day care credit

Instructions:

See Attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 04/19/2001	wjackson 04/20/2001	1/2 WLj 4/23	_____			
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Tom 4/23  
Ch  
Km 4/23

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1?	jkreye	/ 1/19/20	1/20	1/20			

FE Sent For:

<END>

DRAFT

MEMORANDUM

April 18, 2001

**TO:** Tom Ourada  
**FROM:** Pam Walgren  
**SUBJECT:** AB 183: Income and Franchise Tax Credit for Businesses to Construct, Equip, Provide or Operate a Day Care Center For Children of Employees

As proposed, AB 183 would provide a nonrefundable income and franchise tax credit for businesses that provide day care services for employees during work hours. The total credit is limited to \$50,000 per business, subject to a \$1.5 million total credit cap per fiscal year. Businesses would file an application before March 1 a given year for a random assignment of credits.

An alternative to the random assignment of credits would be to limit the amount of credits a business could claim and make the credit available to all claimants. It is estimated that 100 businesses would apply for the credit. The following table shows the annualized fiscal effect if 100 businesses claimed credits in the amounts shown. The Department estimates that approximately 75% of credits claimed in a year are used to offset tax liability.

	100	100	100	100
Estimated Number of Claimants	100	100	100	100
Maximum Individual Claim	\$ 20,000	\$ 30,000	\$ 40,000	\$ 50,000
Total Amount of Annual Claims	2,000,000	3,000,000	4,000,000	5,000,000
Annual Fiscal Effect (75%)	1,500,000	2,250,000	3,000,000	3,750,000

This method would provide some credit to all applicants and avoid a potential problem under the equal protection clause of the U.S. Constitution by treating similarly situated taxpayers the same.

About 20 states offer some type of credit for businesses that provide day care services. Of these, four have a total credit cap. Tennessee, Virginia, Florida and Kansas approve claims in the order they are received.

PW:skr  
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## Example of Application/Pro Ration Timing Problem

### Calendar Year Filer

Application Deadline	March 1	
Hypothetical Corporation Tax Year Start	Jan. 1	
End of Tax Year	Dec. 31	9 months
Filing Deadline (with Automatic Extension)	Oct. 15	<u>10 months</u>
Months until Required to File Return		<u>19 months</u>
Audit Schedule for Most Businesses	4 years	<u>48 months</u>
Elapsed Time Before Know if Credits Used		<u>67 months (5 years 7 months)</u>

- Under this system, unused credits are tied up for extended periods and not available for use.
- Competes with simplification goals in tax system.
- Requires taxpayers to jump through hoops to obtain the credit.
- Uncertainty in the amount of credit could impair the businesses' planning efforts.
- Proration based on application amounts encourages taxpayers to inflate claims so that would get a greater amount of credit approved. Some would cover costs, others would not, based on how much they inflate original estimates.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBs0094/7  
JK:.....  
Wlj

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2001 ASSEMBLY BILL 183

in 4-19-01

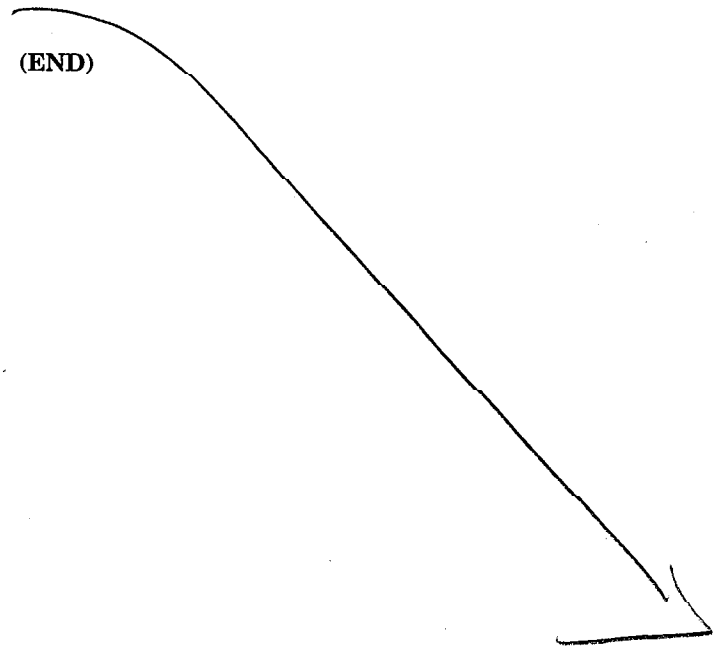
due Monday  
4-23-01  
10AM

gen

AN ACT ...; relating to: an income and franchise tax credit for a business to construct, equip, operate, or provide a day care center for the children of employees.

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

(END)



## 2001 ASSEMBLY BILL 183

March 8, 2001 - Introduced by Representatives HOVEN, PLALE, AINSWORTH, ALBERS, BALOW, BOYLE, BOCK, BERCEAU, GRONEMUS, HUEBSCH, JESKEWITZ, GUNDERSON, KREIBICH, KAUFERT, JOHNSRUD, LADWIG, F. LASEE, LEIBHAM, LIPPERT, MUSSER, MCCORMICK, MILLER, OLSEN, OWENS, OTT, PLOUFF, PETROWSKI, RHOADES, REYNOLDS, SYKORA, TOWNSEND, VRAKAS, SERATTI and WADE, cosponsored by Senators ROESSLER, RISSER, DARLING, FARROW, HUELSMAN, ROSENZWEIG, SCHULTZ and WIRCH. Referred to Committee on Ways and Means.

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.

---

### *Analysis by the Legislative Reference Bureau*

This bill creates an income tax and franchise tax credit for a business to construct, equip, operate, or provide a day care center for the children of its employees during work hours. A business may claim as a credit any of the following amounts, but not exceeding \$50,000 a year: 1) 50% of the amount the business paid to construct and equip a day care center that the business owns and operates; 2) 50% of the amount the business paid to operate its own day care center; and 3) if the business does not construct its own day care center, 50% of the amount the business paid to a day care center to provide day care to the children of its employees. The total amount of all such credits, for all businesses, will not exceed \$1,500,000 a year.

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. If a business claims a credit that exceeds its tax liability, the state will not issue a refund check, but the business may carry forward any remaining credit to subsequent taxable years.



**ASSEMBLY BILL 183**

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

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

1 SECTION 1. 71.05 (6) (a) 15<sup>↓</sup> 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)<sup>↓</sup> of the statutes is created to read:

8 71.07 (5d) DAY CARE CENTER CREDIT. (a) In this subsection:

- 9 1. "Claimant" means a person who files a claim under this subsection.
- 10 2. "Equipment" means equipment that is depreciable property for income tax  
11 or franchise tax purposes.

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

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

18 2. An amount that is equal to the amount paid by the claimant to operate the  
19 claimant's day care center, ~~as described under subd. 1.~~, for the taxable year; minus  
20 any amount paid by an employee of the claimant to reimburse the claimant for any  
21 amount paid by the claimant under this subdivision; multiplied by 50%. A claimant

## ASSEMBLY BILL 183

1 may claim and be allocated a credit under this subdivision regardless of whether the  
2 claimant has claimed or been allocated a credit under subd. 1.

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

9 (c) Except as provided in par. (d), the amount of the credit under this  
10 subsection shall not exceed ~~\$50,000~~ <sup>\$20,000</sup> in a taxable year for each claimant ~~and the total~~  
11 ~~amount of the credit for all claimants under this subsection and ss. 71.28 (5d) and~~  
12 ~~71.47 (5d) shall not exceed \$1,500,000 in a state fiscal year.~~

13 (d) 1. No credit may be allowed under this subsection unless the claimant files  
14 annually an application with the department of revenue on or before March 1 and  
15 includes with that application a statement from the department of health and family  
16 services that verifies that the day care center under par. (b) is licensed under s. 48.65.  
17 A claimant may apply for and be allocated a credit under this subsection before the  
18 claimant pays expenses under par. (b), except that, if the claimant does not pay the  
19 expenses in the taxable year related to the credit, the claimant shall not receive the  
20 credit and the department of revenue may allocate the amount of the credit to  
21 another claimant.

22 2. After March 1, the department shall allocate randomly the credits under this  
23 subsection and ss. 71.28 (5d) and 71.47 (5d). After the department has allocated the  
24 credits, the department shall compile a waiting list of claimants who were not  
25 allocated credits and shall allocate randomly any unused credits to the claimants on

ASSEMBLY BILL 183

1 the waiting list. No credit may be allowed under this subsection after the  
2 department has awarded the total amount of the credit for all claimants under par.

3 (c).

4 (d) Claimants who jointly construct, equip, or operate a licensed day care  
5 center may jointly claim the credit as provided under this subsection, ~~if the claimants~~

6 ~~file a joint application under par. (d).~~ Claimants who file a joint application and  
7 who are allocated a credit under par. (b) may apportion the amount of the credit  
8 among the joint claimants <sup>jointly claim</sup> in any manner that the joint claimants choose. The total  
9 amount of the credit for the joint claimants shall not exceed \$50,000 in a taxable year.

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

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

18 (g) A partnership, limited liability company, or tax-option corporation may  
19 claim the credit under this subsection as an entity.

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

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

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**ASSEMBLY BILL 183**

1 liability for taxes imposed under s. 71.02 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 3.** 71.10 (4) (cp) of the statutes is created to read:

21 71.10 (4) (cp) The day care center credit under s. 71.07 (5d).

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

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

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

13 SECTION 5. 71.28 (5d)<sup>1</sup> of the statutes is created to read:

14 71.28 (5d) DAY CARE CENTER CREDIT. (a) In this subsection:

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

16 2. "Equipment" means equipment that is depreciable property for income tax  
17 or franchise tax purposes.

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

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

24 2. An amount that is equal to the amount paid by the claimant to operate the  
25 claimant's day care center, ~~as described under subd. 1,~~ for the taxable year; minus

ASSEMBLY BILL 183

1 any amount paid by an employee of the claimant to reimburse the claimant for any  
2 amount paid by the claimant under this subdivision; multiplied by 50%. A claimant  
3 may claim and be allocated a credit under this subdivision regardless of whether the  
4 claimant has claimed or been allocated a credit under subd. 1.

5 3. An amount that is equal to the amount paid by the claimant during the  
6 taxable year to a licensed day care center under s. 48.65, other than a day care center  
7 as described under subd. 1., to provide care for the children of the claimant's  
8 employees during the employees' working hours; minus any amount paid by an  
9 employee of the claimant to reimburse the claimant for any amount paid by the  
10 claimant under this subdivision; multiplied by 50%.

11 (c) Except as provided in par. (d), the amount of the credit under this  
12 subsection shall not exceed ~~\$50,000~~ <sup>\$20,000</sup> in a taxable year for each claimant ~~and the total~~  
13 ~~amount of the credit for all claimants under this subsection and ss. 71.07 (5d) and~~  
14 ~~71.47 (5d) shall not exceed \$1,500,000 in a state fiscal year.~~

15 (d) 1. No credit may be allowed under this subsection unless the claimant files  
16 annually an application with the department of revenue on or before March 1 and  
17 includes with that application a statement from the department of health and family  
18 services that verifies that the day care center under par. (b) is licensed under s. 48.65.  
19 A claimant may apply for and be allocated a credit under this subsection before the  
20 claimant pays expenses under par. (b), except that, if the claimant does not pay the  
21 expenses in the taxable year related to the credit, the claimant shall not receive the  
22 credit and the department of revenue may allocate the amount of the credit to  
23 another claimant.

24 2. After March 1, the department shall allocate randomly the credits under this  
25 subsection and ss. 71.07 (5d) and 71.47 (5d). After the department has allocated the

ASSEMBLY BILL 183

SECTION 5

1 credits, the department shall compile a waiting list of claimants who were not  
 2 allocated credits and shall allocate randomly any unused credits to the claimants on  
 3 the waiting list. No credit may be allowed under this subsection after the  
 4 department has awarded the total amount of the credit for all claimants under par.  
 5 (c).

6 (d) Claimants who jointly construct, equip, or operate a licensed day care  
 7 center may jointly claim the credit as provided under this subsection, ~~if the claimants~~  
 8 ~~file a joint application under par. (d) 10~~ Claimants who file a joint application and  
 9 who are allocated a credit under par. (b) may apportion the amount of the credit  
 10 among the joint claimants in any manner that the joint claimants choose. The total  
 11 amount of the credit for the joint claimants shall not exceed \$50,000 in a taxable year.

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

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

20 (g) A partnership, limited liability company, or tax-option corporation may  
 21 claim the credit under this subsection as an entity.

22 (h) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies  
 23 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

INSERT 8-21

**ASSEMBLY BILL 183**

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. 71.23 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 6.** 71.30 (3) (dm)<sup>✓</sup> of the statutes is created to read:

23 71.30 (3) (dm) The day care center credit under s. 71.28 (5d).

24 **SECTION 7.** 71.45 (2) (a) 10.<sup>✓</sup> of the statutes is amended to read:



## ASSEMBLY BILL 183

## SECTION 7

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

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

8           71.47 (5d) DAY CARE CENTER CREDIT. (a) In this subsection:

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

10          2. "Equipment" means equipment that is depreciable property for income tax  
11          or franchise tax purposes.

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

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

18          2. An amount that is equal to the amount paid by the claimant to operate the  
19          claimant's day care center, ~~as described under subd. 1~~ for the taxable year; minus  
20          any amount paid by an employee of the claimant to reimburse the claimant for any  
21          amount paid by the claimant under this subdivision; multiplied by 50%. A claimant  
22          may claim and be allocated a credit under this subdivision regardless of whether the  
23          claimant has claimed or been allocated a credit under subd. 1.

24          3. An amount that is equal to the amount paid by the claimant during the  
25          taxable year to a licensed day care center under s. 48.65, other than a day care center

## ASSEMBLY BILL 183

1 as described under subd. 1., to provide care for the children of the claimant's  
2 employees during the employees' working hours; minus any amount paid by an  
3 employee of the claimant to reimburse the claimant for any amount paid by the  
4 claimant under this subdivision; multiplied by 50%.

5 (c) Except as provided in par. (d), the amount of the credit under this  
6 subsection shall not exceed ~~\$50,000~~ <sup>\$20,000</sup> in a taxable year for each claimant and the total  
7 amount of the credit for all claimants under this subsection and ss. 71.07 (5d) and  
8 71.28 (5d) shall not exceed \$1,500,000 in a state fiscal year.

9 (d) 1. No credit may be allowed under this subsection unless the claimant files  
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16 credit and the department of revenue may allocate the amount of the credit to  
17 another claimant.

18 2. After March 1, the department shall allocate randomly the credits under this  
19 subsection and ss. 71.07 (5d) and 71.28 (5d). After the department has allocated the  
20 credits, the department shall compile a waiting list of claimants who were not  
21 allocated credits and shall allocate randomly any unused credits to the claimants on  
22 the waiting list. No credit may be allowed under this subsection after the  
23 department has awarded the total amount of the credit for all claimants under par.

24 (e).

ASSEMBLY BILL 183

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3  
4

(d) Claimants who jointly construct, equip, or operate a licensed day care center may jointly claim the credit as provided under this subsection, ~~if the claimants file a joint application under par. (d) 1.~~ Claimants who file a joint application and who ~~are allocated~~ a credit under par. (b) may apportion the amount of the credit among the joint claimants *jointly claim* in any manner that the joint claimants choose. The total amount of the credit for the joint claimants shall not exceed \$50,000 in a taxable year.

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

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

~~(g) A partnership, limited liability company, or tax-option corporation may claim the credit under this subsection as an entity.~~

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

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

17  
18  
19  
20  
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22  
23  
24

INSERT  
12-16

**ASSEMBLY BILL 183**

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

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

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

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

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

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

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

19           71.49 (1) (dm) The day care center credit under s. 71.47 (5d).

20           **SECTION 10.** 77.92 (4) of the statutes is amended to read:

21           77.92 (4) "Net business income", with respect to a partnership, means taxable  
22 income as calculated under section 703 of the Internal Revenue Code; plus the items  
23 of income and gain under section 702 of the Internal Revenue Code, including taxable  
24 state and municipal bond interest and excluding nontaxable interest income or  
25 dividend income from federal government obligations; minus the items of loss and

**ASSEMBLY BILL 183****SECTION 10**

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

**SECTION 11. Initial applicability.**

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

16  
  
(END)

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

April 10, 2001 - Offered by Representative HOVEN.

INSERT  
4-19

1 At the locations indicated, amend the bill as follows:

2 ~~1. Page 4, line 18: delete lines 18 and 19 and substitute:~~

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

11 ~~2. Page 8, line 20: delete lines 20 and 21 and substitute:~~

12 <sup>MAC</sup>(g) Partnerships, limited liability companies, and tax-option corporations  
 13 may not claim the credit under this subsection, but the eligibility for, and the amount

INSERT  
8-21



1 of, the credit are based on their payment of expenses under par. (b). A partnership,  
 2 limited liability company, or tax-option corporation shall compute the amount of  
 3 credit that each of its partners, members, or shareholders may claim and shall  
 4 provide that information to each of them. Partners, members of limited liability  
 5 companies, and shareholders of tax-option corporations may claim the credit in  
 6 proportion to their ownership interest.

END OF INSERT 2-21

7 **3.** Page 12, line 15: delete lines 15 and 16 and substitute:

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

END

INSERT  
12-16

16

4-23-01

~~Michael - Haven~~

Michael - Haven - claimants jointly → \$20,000

ASA1 - AB 183(50094)

par.(d) change 50,000 to 20,000





ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2001 ASSEMBLY BILL 183

m 4-23-01  
TODAY

REGEN

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 ~~\$50,000~~ in a taxable year. \$20,000

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 ~~\$50,000~~ in a taxable year. \$20,000

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 ~~\$50,000~~ in a taxable year. \$20,000

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)