

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3382

FISCAL
NOTE

By Delegate Young

[Introduced February 13, 2023; Referred to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §11-29-1 and §11-29-2, all related to setting the standards for and providing for
3 a childcare tax credit.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. CHILD CARE TAX CREDIT.

§11-29-1. Reduction to tax due; certain childcare expenses.

1 (a) There shall be a credit from the tax imposed by this chapter for child care expenses for
2 which a resident individual is eligible pursuant to the federal income tax credit provided by Internal
3 Revenue Code Section 21 for the same taxable year. The credit shall be calculated using the
4 following percentages:

5 (1) If the resident individual's federal adjusted gross income is equal to or less than
6 \$25,000, the credit shall be calculated based on the federal tax credit before it is reduced by the
7 amount of the individual's federal income tax and be equal to the following amounts for the
8 following tax years:

9 (A) For tax years beginning after December 31, 2006, 50 percent of the unreduced federal
10 credit.

11 (B) For the individuals provided for by §11-29-1 of this code, the West Virginia credit shall
12 be allowed without regard to whether they claimed such federal credit.

13 (2) If the resident individual's federal adjusted gross income is greater than \$25,000 and
14 less than or equal to \$35,000, the credit shall be equal to 30 percent of the federal credit for
15 childcare expenses claimed on the resident individual's federal tax return.

16 (3) If the resident individual's federal adjusted gross income is greater than t\$35,000 and
17 less than or equal to \$60,000, the credit shall be equal to 10 percent of the federal credit for
18 childcare expenses claimed on the resident individual's federal tax return.

19 (4) If the resident individual's federal adjusted gross income is greater than \$60,000, the
20 credit shall be equal to the lesser of \$25 or 10 percent of the federal credit for childcare expenses

21 claimed on the resident individual's federal tax return.

22 (b)(1) If the credit against West Virginia income tax for resident individuals whose federal
23 adjusted gross income is equal to or less than \$25,000 exceeds the amount of such individual's
24 tax liability for the taxable year, then such excess tax credit shall constitute an overpayment, as
25 defined in §11-10-14, and the Tax Commissioner shall make a refund of such overpayment from
26 the current collections of the taxes imposed under §11-10-1 et seq. of this code.

27 (2) If the credit against West Virginia income tax for resident individuals whose federal
28 adjusted gross income is greater than \$25,000 exceeds the amount of such individual's tax liability
29 for the taxable period, then such excess tax credit may be carried forward as a credit against any
30 subsequent tax liability of such individual imposed by for a period not exceeding five years.

§11-29-2. Childcare expense tax credit.

1 (a) There shall be a credit against West Virginia individual income tax for childcare
2 expenses in addition to the credit provided for such expenses in §11-29-1 of this code. Such credit
3 shall be based upon the credit provided for such expenses in §11-29-1 of this code and shall be
4 based upon the quality rating of the childcare facility which the child attends as follows:

| <u>Accreditation Rating of Child Care Facility</u> | <u>Percentage of the credit in §11-29-1</u> |
|--|---|
| <u>Tier III</u> | <u>200%</u> |
| <u>Tier II</u> | <u>150%</u> |
| <u>Tier I</u> | <u>100%</u> |

5 (b) Parents with multiple children shall calculate the credit of each child separately. If a
6 single child receives services in more than one childcare facility in a single year, the facility with the
7 highest quality rating shall be used to calculate the credit.

8 (c) The credit shall be refundable or shall be carried forward as provided for in §11-29-1 of

9 this code.

NOTE: The purpose of this bill is to set the standards for and provide for a childcare tax credit.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.