

**HB358 ENGROSSED**



1 HB358

2 5Z1N3M6-2

3 By Representatives Daniels, Stadthagen, Drummond, Moore (M),

4 Clarke, Hulsey, Moore (P), Boyd, Rafferty, Standridge, Lee,

5 Blackshear, Chestnut, England, Travis, Jones, Warren, Hendrix,

6 Hall, Ensler, Gray, Hassell, Lomax, Rigsby, Underwood,

7 Wadsworth, Brinyark, Faulkner, Shaver, Wilcox, Almond,

8 Collins, Wood (D), Morris, DuBose, Baker, Sells, Lovvorn,

9 Hollis, McCampbell, Sellers, Bracy

10 RFD: Ways and Means Education

11 First Read: 21-Mar-24



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to childcare and workforce development; to establish the employer tax credit, childcare provider tax credit, and nonprofit childcare provider grant; and to make legislative findings.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature hereby makes the following findings of fact and declares its intent to be as follows: Alabama is currently attracting and creating jobs and business investments at a record-setting pace. Despite historically low unemployment rates, Alabama's workforce participation rate ranked among the lowest in the country. One possible barrier to entering the workforce for some Alabamians is a lack of available, affordable, high-quality childcare. Furthermore, the grant, and any appropriations by the Legislature in furtherance thereof, serves a public purpose by conferring a direct public benefit of a reasonably general character through the promotion of public health, safety, morals, security, prosperity, contentment, and the general welfare of the community. The grant achieves this public purpose by increasing the quality of childcare to the general public,



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29 which has the effect of encouraging high-quality care and  
30 education for children and facilitating greater workforce  
31 participation throughout the state. It is the intent of the  
32 Legislature, by the passage of this legislation, to encourage  
33 more Alabamians to enter the workforce and gain employment by  
34 improving the quality and availability of childcare options  
35 for working parents. Accordingly, future efforts to extend or  
36 reauthorize this act should be preceded by consideration of  
37 the effectiveness of this legislation in achieving these  
38 policy goals. To this end, once this legislation has had a  
39 sufficient opportunity to be implemented and its effects  
40 measured, but before extending or reauthorizing this act, the  
41 Legislature should request and examine reports from: (1) the  
42 Alabama Department of Revenue, to determine the usage of the  
43 tax credits; and (2) from the Alabama Department of Labor and  
44 the Alabama Department of Commerce, to determine the impact of  
45 the tax credits on workforce participation.

46 Section 2. For the purposes of this article, the  
47 following terms have the following meanings:

48 (1) APPLICABLE TAXES. An employer's, taxpayer's, or  
49 childcare provider's, or in the case of a pass-through entity  
50 that is an employer, taxpayer, or childcare provider, such  
51 employer's, taxpayer's, or childcare provider's owners' taxes  
52 as follows:

53 a. Taxes levied in Chapter 18 of Title 40, Code of  
54 Alabama 1975.

55 b. The state portion of taxes levied in Chapter 16 of  
56 Title 40, Code of Alabama 1975.



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57 c. Taxes levied in Section 27-4A-3(a), Code of Alabama  
58 1975.

59 d. Taxes levied in Article 2 of Chapter 21 of Title 40,  
60 Code of Alabama 1975, not to include the freight line and  
61 equipment tax levied in Section 40-21-52, Code of Alabama  
62 1975.

63 (2) CHILD or CHILDREN. Individuals who are five years  
64 of age or less.

65 (3) CHILDCARE FACILITY. A facility meeting the  
66 definition found in Section 38-7-2(7), Code of Alabama 1975,  
67 that is licensed by the Department of Human Resources and is  
68 participating in the quality rating and improvement system.

69 (4) CHILDCARE PROVIDER. An Alabama taxpayer that owns a  
70 childcare facility or a nonprofit entity that owns and  
71 operates a childcare facility in Alabama.

72 (5) ELIGIBLE CHILD or ELIGIBLE CHILDREN. Children who  
73 participate in the Child Care Subsidy Program administered by  
74 the Department of Human Resources and who attend a childcare  
75 facility operated by a childcare provider.

76 (6) ELIGIBLE EXPENSES. Expenses incurred by an employer  
77 for:

78 a. The construction, renovation, expansion, or repair  
79 of a childcare facility, or for the purchase of equipment for  
80 such facility, or for the maintenance and operation thereof.

81 b. Payments made to childcare facilities or employees  
82 for the provision of childcare at childcare facilities for  
83 children of employees.

84 c. Payments made to childcare facilities to reserve



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85 services for children of employees.

86 For purposes of this definition, "childcare facility"  
87 or "childcare facilities" shall also include a facility  
88 meeting the definition found in Section 38-7-2(7), Code of  
89 Alabama 1975, that is operated, directly or indirectly, by an  
90 organization defined in Section 16-5-1(1), Code of Alabama  
91 1975.

92 (7) EMPLOYEE. A resident of this state who works on a  
93 full-time or part-time basis for an employer. An employee  
94 shall include independent contractors engaged by an employer  
95 and the owners of an employer that also work for such employer  
96 on a full-time or part-time basis. Employees whose wages,  
97 excluding any overtime or bonuses, exceeds eighty thousand  
98 dollars (\$80,000) in a calendar year are not employees for the  
99 purposes of this act.

100 (8) EMPLOYER. A for profit business lawfully operating  
101 in this state.

102 (9) EMPLOYER TAX CREDIT. A tax credit to be applied  
103 against applicable taxes for the year in which the eligible  
104 expenses are incurred by an employer, equal to the total  
105 eligible expenses incurred by the employer, up to six hundred  
106 thousand dollars (\$600,000) per year for each employer.

107 (10) FACILITY TAX CREDIT. A tax credit to be applied  
108 against applicable taxes, calculated in accordance with  
109 Section 4(a), but not exceeding twenty-five thousand dollars  
110 (\$25,000) per year for each childcare facility.

111 (11) GRANT. A grant awarded by the Department of Human  
112 Resources to nonprofit childcare providers for the purpose of



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113 funding expenses related to the construction, expansion,  
114 improvement, repair, or operation of a childcare facility or  
115 childcare facilities, so long as such expenses are made in  
116 furtherance of the childcare services offered at such  
117 childcare facility and result in increased quality of care or  
118 increased capacity for children at each applicable childcare  
119 facility.

120 (12) OWNER. A shareholder, partner, or member of a  
121 pass-through entity.

122 (13) PASS-THROUGH ENTITY. An Alabama S corporation or a  
123 subchapter K entity.

124 (14) QUALITY RATING. The rating applicable to a  
125 childcare facility under the quality rating and improvement  
126 system.

127 (15) QUALITY RATING AND IMPROVEMENT SYSTEM. A system of  
128 the Department of Human Resources known as the Alabama Quality  
129 STARS program that measures the quality of childcare  
130 facilities on a scale of one to five stars, with five stars  
131 denoting the highest level of quality.

132 (16) RURAL AREA. Any Alabama county that meets the  
133 definition of "targeted county" found in Section  
134 40-18-376.1(a)(2), Code of Alabama 1975.

135 (17) SMALL BUSINESS. An employer that has fewer than 25  
136 employees.

137 (18) STATE. The State of Alabama.

138 Section 3. (a) Effective for tax years beginning on or  
139 after January 1, 2025, and ending December 31, 2027, unless  
140 extended by an act of the Legislature, an employer may apply



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141 to the Department of Revenue for an employer tax credit to be  
142 applied against applicable taxes. The employer tax credit  
143 shall be in an amount equal to 75 percent of the eligible  
144 expenses incurred by an employer; except, in the case of a  
145 small business, the employer tax credit shall be in an amount  
146 equal to 100 percent of the eligible expenses incurred by an  
147 employer.

148 (b) For the calendar year ending December 31, 2025, the  
149 employer tax credit is limited to an aggregate amount for all  
150 employers of fifteen million dollars (\$15,000,000), which  
151 amount shall increase to seventeen million five hundred  
152 thousand dollars (\$17,500,000) for the calendar year ending  
153 December 31, 2026; and twenty million dollars (\$20,000,000)  
154 for the calendar year ending December 31, 2027.

155 (c) The Department of Revenue shall:

156 (1) Provide a standardized format for, and require  
157 completion of, a certificate to be signed by the employer  
158 applying for the employer tax credit, certifying that the  
159 expenses incurred by the employer were eligible expenses  
160 incurred to support the provision of childcare at childcare  
161 facilities for the children of employees.

162 (2) Require the employer to provide documentation to  
163 substantiate to the satisfaction of the Department of Revenue  
164 the amount of the employer tax credit applied for pursuant to  
165 this section and that the expenses incurred by the employer  
166 were eligible expenses incurred to support the provision of  
167 childcare at childcare facilities for the children of  
168 employees.



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169 (3) If the employer is a pass-through entity, require  
170 that the employer identify the identity and pro rata  
171 percentage ownership of its owners.

172 (d) The Department of Revenue shall award the tax  
173 credit to the employer after the employer provides the  
174 documentation required in subdivision (c). Failure to provide  
175 the documentation required in subdivision (c) shall result in  
176 the automatic denial of the employer tax credit.

177 Section 4. (a) Effective for tax years beginning on or  
178 after January 1, 2025, and ending December 31, 2027, unless  
179 extended by an act of the Legislature, a childcare provider  
180 may apply to the Department of Revenue for a facility tax  
181 credit to be applied against applicable taxes, in an amount  
182 equal to the average monthly number of eligible children,  
183 multiplied by a dollar amount which shall be based upon the  
184 quality rating of the childcare facility as follows:

185 (1) Five star quality rating - two thousand dollars  
186 (\$2,000) per eligible child.

187 (2) Four star quality rating - one thousand seven  
188 hundred fifty dollars (\$1,750) per eligible child.

189 (3) Three star quality rating - one thousand five  
190 hundred dollars (\$1,500) per eligible child.

191 (4) Two star quality rating - one thousand two hundred  
192 fifty dollars (\$1,250) per eligible child.

193 (5) One star quality rating - one thousand dollars  
194 (\$1,000) per eligible child.

195 (b) The facility tax credit is limited to an aggregate  
196 amount for all childcare providers of five million dollars





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197 (\$5,000,000) in a calendar year.

198 (c) The Department of Revenue shall:

199 (1) Provide a standardized format for, and require  
200 completion of, a certificate to be completed and signed by the  
201 childcare provider applying for the facility tax credit,  
202 certifying each childcare provider's ownership of applicable  
203 childcare facilities, the quality rating of each facility, and  
204 the average number of eligible children attending each  
205 facility monthly.

206 (2) Require the childcare provider to provide  
207 documentation to substantiate to the satisfaction of the  
208 Department of Revenue the amount of the facility tax credit  
209 applied for pursuant to this section, the quality rating of  
210 each applicable childcare facility, and the average number of  
211 eligible children attending each facility monthly.

212 (3) If the childcare provider is a pass-through entity,  
213 require that the childcare provider identify the identity and  
214 pro rata percentage ownership of its owners.

215 (d) The Department of Revenue shall award the facility  
216 tax credit to a childcare provider after the childcare  
217 provider provides the documentation required in subsection  
218 (c). Failure to provide the documentation required in  
219 subsection (c) shall result in the automatic denial of the  
220 childcare facility tax credit.

221 (e) The Department of Human Resources and the  
222 Department of Revenue shall enter into a Memorandum of  
223 Understanding as to the information necessary to permit the  
224 Department of Revenue to effectively administer this section.



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225           Section 5. (a) The Department of Human Resources may  
226 make grants to nonprofit childcare providers as provided in  
227 this section.

228           (b) The Department of Human Resources may establish  
229 priorities, guidelines, standards, and processes by which  
230 grants may be awarded.

231           (c) The Department of Human Resources shall require  
232 interested nonprofit childcare providers to complete  
233 applications on forms issued by the Department of Human  
234 Resources which shall include at least the following:

235           (1) Childcare Provider ID.

236           (2) Licensee's name.

237           (3) License number.

238           (4) Verification of nonprofit status.

239           (5) A certification from the applicant nonprofit  
240 childcare provider that will comply with any rules adopted by  
241 the Department of Human Resources related to the grant.

242           (d) Failure to provide the information required by the  
243 Department of Human Resources may result in the automatic  
244 denial of the grant.

245           (e) No nonprofit childcare provider shall be eligible  
246 to receive more than fifty thousand dollars (\$50,000) under  
247 this section during a single calendar year.

248           (f) The aggregate amount of funding approved pursuant  
249 to this section shall not exceed five million dollars  
250 (\$5,000,000) in a calendar year.

251           (g) The amount and all terms and conditions of each  
252 grant shall be memorialized in a grant agreement between the



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253 Department of Human Resources and the nonprofit childcare  
254 provider, which agreement shall include at least the following  
255 terms and conditions:

256 (1) The amount of the grant.

257 (2) The nonprofit childcare provider will use the grant  
258 solely in accordance with this act.

259 (3) The nonprofit childcare provider will comply with  
260 any rules adopted by the Department of Human Resources related  
261 to the grant.

262 (4) The requirement that the default of the nonprofit  
263 childcare provider, under any provision of the grant  
264 agreement, shall result in the repayment of any grant monies  
265 paid to the nonprofit childcare provider by the Department of  
266 Human Resources.

267 Section 6. (a) The Department of Human Resources and  
268 the Department of Revenue shall adopt rules as necessary, on  
269 or before January 1, 2025, for the implementation and  
270 administration of this article. Such rules shall ensure: (i)  
271 that at least 25 percent of the amounts specified in Section  
272 3(b) are reserved for awards to small businesses or employers  
273 that are headquartered in rural areas and at least 25 percent  
274 of the amounts specified in Section 4(b) are reserved for  
275 awards to childcare providers operating childcare facilities  
276 exclusively in rural areas; and that at least 25 percent of  
277 the amounts specified in Section 5(f) are reserved for awards  
278 to nonprofit childcare providers operating the applicable  
279 childcare facility in a rural area; (ii) that in the event the  
280 Department of Revenue or the Department of Human Resources



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281 does not receive applications for and thereby does not  
282 allocate the reserved tax credits and grants by the close of  
283 the second quarter of the calendar year, the funds may revert  
284 for allocations to other applications; (iii) that employer tax  
285 credits and facility tax credits shall be awarded based on the  
286 order in which they are requested by employers and childcare  
287 providers, respectively; and (iv) that the employer tax  
288 credits shall not be awarded to employers who cannot  
289 demonstrate that they prioritize the payment of eligible  
290 expenses for the benefit of employees that are eligible for  
291 earned income tax credit under the Internal Revenue Code of  
292 1986 as amended, if any.

293 (b) Employer tax credits and facility tax credits may  
294 only be claimed by an employer or childcare provider, or a  
295 taxpayer who is an owner of a pass-through entity that is an  
296 employer or childcare provider, but may not be otherwise  
297 assigned or transferred to any other taxpayer. A taxpayer who  
298 is an owner of a pass-through entity that is an employer or  
299 childcare provider may only claim the pro rata share of the  
300 employer tax credit or facility tax credit, respectively,  
301 equal to their percentage ownership of the employer or  
302 childcare provider.

303 (c) Where the applicable taxes owed by the childcare  
304 provider are less than the employer tax credit or facility tax  
305 credit received by such entities, the childcare provider shall  
306 be entitled to claim a refund for the difference but may not  
307 carry the employer tax credit or facility tax credit forward  
308 for additional tax years. In the case of owners of



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309 pass-through entities where the taxes owed by such persons are  
310 less than their pro rata share of the employer tax credit or  
311 facility tax credit received, such persons shall be entitled  
312 to claim a refund for only the pro rata share of the employer  
313 tax credit or facility tax credit such persons receive in the  
314 tax year for which the employer tax credits or facility tax  
315 credits are awarded.

316 (d) The Department of Revenue shall also prescribe the  
317 various methods by which employer tax credits or facility tax  
318 credits are to be issued to employers and childcare providers.  
319 Refunds under subsection(c) of employer tax credits and  
320 facility tax credits that are awarded against the taxes  
321 referenced in Section 2(1) of this article shall be paid out  
322 of sales tax collections made to the Education Trust Fund and  
323 set aside by the Comptroller in the Childcare Tax Credit  
324 Account created in subsection (e), in the same manner as  
325 refunds of such taxes otherwise provided by law, and there is  
326 hereby appropriated therefrom, for such purpose, so much as  
327 may be necessary to annually pay for such tax credits as  
328 provided by this article.

329 (e) There is created within the Education Trust Fund a  
330 separate account named the Childcare Tax Credit Account for  
331 the payment of any refunds under subsection(c) of employer tax  
332 credits or facility tax credits awarded against the taxes  
333 referenced in Section 2(1) of this article. The Commissioner  
334 of Revenue shall certify to the Comptroller the amount of such  
335 tax credit refunds due to childcare providers under this  
336 section and the Comptroller shall transfer into the Childcare



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337 Tax Credit Account only the amount from sales tax revenues  
338 within the Education Trust Fund that is sufficient for the  
339 Department of Revenue to use to cover the refunds for the  
340 applicable tax year. The Commissioner of Revenue shall  
341 distribute the funds in the Childcare Tax Credit Account to  
342 childcare providers pursuant to this article.

343 (f) The Alabama Department of Finance shall adopt rules  
344 to ensure that the employer tax credit and the facility tax  
345 credit, in any case, would not reduce the distribution for the  
346 Alabama Special Mental Health Trust Fund by using any  
347 unencumbered funds to ensure that the employer tax credit and  
348 the facility tax credit shall not be limited, prevented, or  
349 reduced.

350 Section 7. (a) All filings and applications made with  
351 the Department of Revenue in relation to the employer tax  
352 credit or the facility tax credit shall be made using forms  
353 adopted by the Department of Revenue. Such applications and  
354 filings shall be treated as tax returns, subject to penalties  
355 imposed by the Department of Revenue.

356 (b) All filings and applications made with the  
357 Department of Human Resources in relation to the nonprofit  
358 provider grant program shall be made using forms adopted by  
359 the Department of Human Resources.

360 (c) Nothing in this article shall be construed to  
361 constitute a guarantee or assumption by the state of any debt  
362 of any company nor to authorize the credit of the state to be  
363 given, pledged, or loaned to any company.

364 (d) Nothing in this article shall be construed to make

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365 available to any taxpayer any right to the benefits conferred  
366 by this article absent strict compliance with this article.

367 Section 8. This act shall become effective on January  
368 1, 2025.

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