

HB358 ENROLLED



1 HB358

2 5Z1N3M6-3

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



HB358 Enrolled

1 Enrolled, An Act,

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

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. The Legislature hereby makes the following
8 findings of fact and declares its intent to be as follows:

9 Alabama is currently attracting and creating jobs and business
10 investments at a record-setting pace. Despite historically low
11 unemployment rates, Alabama's workforce participation rate
12 ranked among the lowest in the country. One possible barrier
13 to entering the workforce for some Alabamians is a lack of
14 available, affordable, high-quality childcare. Furthermore,
15 the grant, and any appropriations by the Legislature in
16 furtherance thereof, serves a public purpose by conferring a
17 direct public benefit of a reasonably general character
18 through the promotion of public health, safety, morals,
19 security, prosperity, contentment, and the general welfare of
20 the community. The grant achieves this public purpose by
21 increasing the quality of childcare to the general public,
22 which has the effect of encouraging high-quality care and
23 education for children and facilitating greater workforce
24 participation throughout the state. It is the intent of the
25 Legislature, by the passage of this legislation, to encourage
26 more Alabamians to enter the workforce and gain employment by
27 improving the quality and availability of childcare options
28 for working parents. Accordingly, future efforts to extend or



HB358 Enrolled

29 reauthorize this act should be preceded by consideration of
30 the effectiveness of this legislation in achieving these
31 policy goals. To this end, once this legislation has had a
32 sufficient opportunity to be implemented and its effects
33 measured, but before extending or reauthorizing this act, the
34 Legislature should request and examine reports from: (1) the
35 Alabama Department of Revenue, to determine the usage of the
36 tax credits; and (2) from the Alabama Department of Labor and
37 the Alabama Department of Commerce, to determine the impact of
38 the tax credits on workforce participation.

39 Section 2. For the purposes of this article, the
40 following terms have the following meanings:

41 (1) APPLICABLE TAXES. An employer's, taxpayer's, or
42 childcare provider's, or in the case of a pass-through entity
43 that is an employer, taxpayer, or childcare provider, such
44 employer's, taxpayer's, or childcare provider's owners' taxes
45 as follows:

46 a. Taxes levied in Chapter 18 of Title 40, Code of
47 Alabama 1975.

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

50 c. Taxes levied in Section 27-4A-3(a), Code of Alabama
51 1975.

52 d. Taxes levied in Article 2 of Chapter 21 of Title 40,
53 Code of Alabama 1975, not to include the freight line and
54 equipment tax levied in Section 40-21-52, Code of Alabama
55 1975.

56 (2) CHILD or CHILDREN. Individuals who are five years



HB358 Enrolled

57 of age or less.

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

62 (4) CHILDCARE PROVIDER. An Alabama taxpayer that owns a
63 childcare facility or a nonprofit entity that owns and
64 operates a childcare facility in Alabama.

65 (5) ELIGIBLE CHILD or ELIGIBLE CHILDREN. Children who
66 participate in the Child Care Subsidy Program administered by
67 the Department of Human Resources and who attend a childcare
68 facility operated by a childcare provider.

69 (6) ELIGIBLE EXPENSES. Expenses incurred by an employer
70 for:

71 a. The construction, renovation, expansion, or repair
72 of a childcare facility, or for the purchase of equipment for
73 such facility, or for the maintenance and operation thereof.

74 b. Payments made to childcare facilities or employees
75 for the provision of childcare at childcare facilities for
76 children of employees.

77 c. Payments made to childcare facilities to reserve
78 services for children of employees.

79 For purposes of this definition, "childcare facility"
80 or "childcare facilities" shall also include a facility
81 meeting the definition found in Section 38-7-2(7), Code of
82 Alabama 1975, that is operated, directly or indirectly, by an
83 organization defined in Section 16-5-1(1), Code of Alabama
84 1975.



HB358 Enrolled

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

93 (8) EMPLOYER. A for profit business lawfully operating
94 in this state.

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

100 (10) FACILITY TAX CREDIT. A tax credit to be applied
101 against applicable taxes, calculated in accordance with
102 Section 4(a), but not exceeding twenty-five thousand dollars
103 (\$25,000) per year for each childcare facility.

104 (11) GRANT. A grant awarded by the Department of Human
105 Resources to nonprofit childcare providers for the purpose of
106 funding expenses related to the construction, expansion,
107 improvement, repair, or operation of a childcare facility or
108 childcare facilities, so long as such expenses are made in
109 furtherance of the childcare services offered at such
110 childcare facility and result in increased quality of care or
111 increased capacity for children at each applicable childcare
112 facility.



HB358 Enrolled

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

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

117 (14) QUALITY RATING. The rating applicable to a
118 childcare facility under the quality rating and improvement
119 system.

120 (15) QUALITY RATING AND IMPROVEMENT SYSTEM. A system of
121 the Department of Human Resources known as the Alabama Quality
122 STARS program that measures the quality of childcare
123 facilities on a scale of one to five stars, with five stars
124 denoting the highest level of quality.

125 (16) RURAL AREA. Any Alabama county that meets the
126 definition of "targeted county" found in Section
127 40-18-376.1(a)(2), Code of Alabama 1975.

128 (17) SMALL BUSINESS. An employer that has fewer than 25
129 employees.

130 (18) STATE. The State of Alabama.

131 Section 3. (a) Effective for tax years beginning on or
132 after January 1, 2025, and ending December 31, 2027, unless
133 extended by an act of the Legislature, an employer may apply
134 to the Department of Revenue for an employer tax credit to be
135 applied against applicable taxes. The employer tax credit
136 shall be in an amount equal to 75 percent of the eligible
137 expenses incurred by an employer; except, in the case of a
138 small business, the employer tax credit shall be in an amount
139 equal to 100 percent of the eligible expenses incurred by an
140 employer.



HB358 Enrolled

141 (b) For the calendar year ending December 31, 2025, the
142 employer tax credit is limited to an aggregate amount for all
143 employers of fifteen million dollars (\$15,000,000), which
144 amount shall increase to seventeen million five hundred
145 thousand dollars (\$17,500,000) for the calendar year ending
146 December 31, 2026; and twenty million dollars (\$20,000,000)
147 for the calendar year ending December 31, 2027.

148 (c) The Department of Revenue shall:

149 (1) Provide a standardized format for, and require
150 completion of, a certificate to be signed by the employer
151 applying for the employer tax credit, certifying that the
152 expenses incurred by the employer were eligible expenses
153 incurred to support the provision of childcare at childcare
154 facilities for the children of employees.

155 (2) Require the employer to provide documentation to
156 substantiate to the satisfaction of the Department of Revenue
157 the amount of the employer tax credit applied for pursuant to
158 this section and that the expenses incurred by the employer
159 were eligible expenses incurred to support the provision of
160 childcare at childcare facilities for the children of
161 employees.

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

165 (d) The Department of Revenue shall award the tax
166 credit to the employer after the employer provides the
167 documentation required in subdivision (c). Failure to provide
168 the documentation required in subdivision (c) shall result in



HB358 Enrolled

169 the automatic denial of the employer tax credit.

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

178 (1) Five star quality rating - two thousand dollars
179 (\$2,000) per eligible child.

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

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

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

186 (5) One star quality rating - one thousand dollars
187 (\$1,000) per eligible child.

188 (b) The facility tax credit is limited to an aggregate
189 amount for all childcare providers of five million dollars
190 (\$5,000,000) in a calendar year.

191 (c) The Department of Revenue shall:

192 (1) Provide a standardized format for, and require
193 completion of, a certificate to be completed and signed by the
194 childcare provider applying for the facility tax credit,
195 certifying each childcare provider's ownership of applicable
196 childcare facilities, the quality rating of each facility, and



HB358 Enrolled

197 the average number of eligible children attending each
198 facility monthly.

199 (2) Require the childcare provider to provide
200 documentation to substantiate to the satisfaction of the
201 Department of Revenue the amount of the facility tax credit
202 applied for pursuant to this section, the quality rating of
203 each applicable childcare facility, and the average number of
204 eligible children attending each facility monthly.

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

208 (d) The Department of Revenue shall award the facility
209 tax credit to a childcare provider after the childcare
210 provider provides the documentation required in subsection
211 (c). Failure to provide the documentation required in
212 subsection (c) shall result in the automatic denial of the
213 childcare facility tax credit.

214 (e) The Department of Human Resources and the
215 Department of Revenue shall enter into a Memorandum of
216 Understanding as to the information necessary to permit the
217 Department of Revenue to effectively administer this section.

218 Section 5. (a) The Department of Human Resources may
219 make grants to nonprofit childcare providers as provided in
220 this section.

221 (b) The Department of Human Resources may establish
222 priorities, guidelines, standards, and processes by which
223 grants may be awarded.

224 (c) The Department of Human Resources shall require



HB358 Enrolled

225 interested nonprofit childcare providers to complete
226 applications on forms issued by the Department of Human
227 Resources which shall include at least the following:

228 (1) Childcare Provider ID.

229 (2) Licensee's name.

230 (3) License number.

231 (4) Verification of nonprofit status.

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

235 (d) Failure to provide the information required by the
236 Department of Human Resources may result in the automatic
237 denial of the grant.

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

241 (f) The aggregate amount of funding approved pursuant
242 to this section shall not exceed five million dollars
243 (\$5,000,000) in a calendar year.

244 (g) The amount and all terms and conditions of each
245 grant shall be memorialized in a grant agreement between the
246 Department of Human Resources and the nonprofit childcare
247 provider, which agreement shall include at least the following
248 terms and conditions:

249 (1) The amount of the grant.

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

252 (3) The nonprofit childcare provider will comply with



HB358 Enrolled

253 any rules adopted by the Department of Human Resources related
254 to the grant.

255 (4) The requirement that the default of the nonprofit
256 childcare provider, under any provision of the grant
257 agreement, shall result in the repayment of any grant monies
258 paid to the nonprofit childcare provider by the Department of
259 Human Resources.

260 Section 6. (a) The Department of Human Resources and
261 the Department of Revenue shall adopt rules as necessary, on
262 or before January 1, 2025, for the implementation and
263 administration of this article. Such rules shall ensure: (i)
264 that at least 25 percent of the amounts specified in Section
265 3(b) are reserved for awards to small businesses or employers
266 that are headquartered in rural areas and at least 25 percent
267 of the amounts specified in Section 4(b) are reserved for
268 awards to childcare providers operating childcare facilities
269 exclusively in rural areas; and that at least 25 percent of
270 the amounts specified in Section 5(f) are reserved for awards
271 to nonprofit childcare providers operating the applicable
272 childcare facility in a rural area; (ii) that in the event the
273 Department of Revenue or the Department of Human Resources
274 does not receive applications for and thereby does not
275 allocate the reserved tax credits and grants by the close of
276 the second quarter of the calendar year, the funds may revert
277 for allocations to other applications; (iii) that employer tax
278 credits and facility tax credits shall be awarded based on the
279 order in which they are requested by employers and childcare
280 providers, respectively; and (iv) that the employer tax



HB358 Enrolled

281 credits shall not be awarded to employers who cannot
282 demonstrate that they prioritize the payment of eligible
283 expenses for the benefit of employees that are eligible for
284 earned income tax credit under the Internal Revenue Code of
285 1986 as amended, if any.

286 (b) Employer tax credits and facility tax credits may
287 only be claimed by an employer or childcare provider, or a
288 taxpayer who is an owner of a pass-through entity that is an
289 employer or childcare provider, but may not be otherwise
290 assigned or transferred to any other taxpayer. A taxpayer who
291 is an owner of a pass-through entity that is an employer or
292 childcare provider may only claim the pro rata share of the
293 employer tax credit or facility tax credit, respectively,
294 equal to their percentage ownership of the employer or
295 childcare provider.

296 (c) Where the applicable taxes owed by the childcare
297 provider are less than the employer tax credit or facility tax
298 credit received by such entities, the childcare provider shall
299 be entitled to claim a refund for the difference but may not
300 carry the employer tax credit or facility tax credit forward
301 for additional tax years. In the case of owners of
302 pass-through entities where the taxes owed by such persons are
303 less than their pro rata share of the employer tax credit or
304 facility tax credit received, such persons shall be entitled
305 to claim a refund for only the pro rata share of the employer
306 tax credit or facility tax credit such persons receive in the
307 tax year for which the employer tax credits or facility tax
308 credits are awarded.



HB358 Enrolled

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

322 (e) There is created within the Education Trust Fund a
323 separate account named the Childcare Tax Credit Account for
324 the payment of any refunds under subsection(c) of employer tax
325 credits or facility tax credits awarded against the taxes
326 referenced in Section 2(1) of this article. The Commissioner
327 of Revenue shall certify to the Comptroller the amount of such
328 tax credit refunds due to childcare providers under this
329 section and the Comptroller shall transfer into the Childcare
330 Tax Credit Account only the amount from sales tax revenues
331 within the Education Trust Fund that is sufficient for the
332 Department of Revenue to use to cover the refunds for the
333 applicable tax year. The Commissioner of Revenue shall
334 distribute the funds in the Childcare Tax Credit Account to
335 childcare providers pursuant to this article.

336 (f) The Alabama Department of Finance shall adopt rules



HB358 Enrolled

337 to ensure that the employer tax credit and the facility tax
338 credit, in any case, would not reduce the distribution for the
339 Alabama Special Mental Health Trust Fund by using any
340 unencumbered funds to ensure that the employer tax credit and
341 the facility tax credit shall not be limited, prevented, or
342 reduced.

343 Section 7. (a) All filings and applications made with
344 the Department of Revenue in relation to the employer tax
345 credit or the facility tax credit shall be made using forms
346 adopted by the Department of Revenue. Such applications and
347 filings shall be treated as tax returns, subject to penalties
348 imposed by the Department of Revenue.

349 (b) All filings and applications made with the
350 Department of Human Resources in relation to the nonprofit
351 provider grant program shall be made using forms adopted by
352 the Department of Human Resources.

353 (c) Nothing in this article shall be construed to
354 constitute a guarantee or assumption by the state of any debt
355 of any company nor to authorize the credit of the state to be
356 given, pledged, or loaned to any company.

357 (d) Nothing in this article shall be construed to make
358 available to any taxpayer any right to the benefits conferred
359 by this article absent strict compliance with this article.

360 Section 8. This act shall become effective on January
361 1, 2025.

362

