

SB280 INTRODUCED



1 SB280
2 PMK4GER-1
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8 RFD: Finance and Taxation Education
9 First Read: 04-Apr-24



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SYNOPSIS:

This bill creates the employer tax credit, childcare facility tax credit, and nonprofit childcare provider grant program to incentivize employers to fund childcare for their employees and to enable childcare providers to offer more readily available, affordable, high-quality childcare.

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



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29 available, affordable, high-quality childcare. Furthermore,
30 the grant, and any appropriations by the Legislature in
31 furtherance thereof, serves a public purpose by conferring a
32 direct public benefit of a reasonably general character
33 through the promotion of public health, safety, morals,
34 security, prosperity, contentment, and the general welfare of
35 the community. The grant achieves this public purpose by
36 increasing the quality of childcare to the general public,
37 which has the effect of encouraging high-quality care and
38 education for children and facilitating greater workforce
39 participation throughout the state. It is the intent of the
40 Legislature, by the passage of this legislation, to encourage
41 more Alabamians to enter the workforce and gain employment by
42 improving the quality and availability of childcare options
43 for working parents. Accordingly, future efforts to extend or
44 reauthorize this act should be preceded by consideration of
45 the effectiveness of this legislation in achieving these
46 policy goals. To this end, once this legislation has had a
47 sufficient opportunity to be implemented and its effects
48 measured, but before extending or reauthorizing this act, the
49 Legislature should request and examine reports from: (1) the
50 Alabama Department of Revenue, to determine the usage of the
51 tax credits; and (2) from the Alabama Department of Labor and
52 the Alabama Department of Commerce, to determine the impact of
53 the tax credits on workforce participation.

54 Section 2. For the purposes of this article, the
55 following terms have the following meanings:

56 (1) APPLICABLE TAXES. An employer's, taxpayer's, or



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57 childcare provider's, or in the case of a pass-through entity
58 that is an employer, taxpayer, or childcare provider, such
59 employer's, taxpayer's, or childcare provider's owners' taxes
60 as follows:

61 a. Taxes levied in Chapter 18 of Title 40, Code of
62 Alabama 1975.

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

65 c. Taxes levied in Section 27-4A-3(a), Code of Alabama
66 1975.

67 d. Taxes levied in Article 2 of Chapter 21 of Title 40,
68 Code of Alabama 1975, not to include the freight line and
69 equipment tax levied in Section 40-21-52, Code of Alabama
70 1975.

71 (2) CHILD or CHILDREN. Individuals who are five years
72 of age or less.

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

77 (4) CHILDCARE PROVIDER. An Alabama taxpayer that owns a
78 childcare facility or a nonprofit entity that owns and
79 operates a childcare facility in Alabama.

80 (5) ELIGIBLE CHILD or ELIGIBLE CHILDREN. Children who
81 participate in the Child Care Subsidy Program administered by
82 the Department of Human Resources and who attend a childcare
83 facility operated by a childcare provider.

84 (6) ELIGIBLE EXPENSES. Expenses incurred by an employer



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85 for:

86 a. The construction, renovation, expansion, or repair
87 of a childcare facility, or for the purchase of equipment for
88 such facility, or for the maintenance and operation thereof.

89 b. Payments made to childcare facilities or employees
90 for the provision of childcare at childcare facilities for
91 children of employees.

92 c. Payments made to childcare facilities to reserve
93 services for children of employees.

94 For purposes of this definition, "childcare facility"
95 or "childcare facilities" shall also include a facility
96 meeting the definition found in Section 38-7-2(7), Code of
97 Alabama 1975, that is operated, directly or indirectly, by an
98 organization defined in Section 16-5-1(1), Code of Alabama
99 1975.

100 (7) EMPLOYEE. A resident of this state who works on a
101 full-time or part-time basis for an employer. An employee
102 shall include independent contractors engaged by an employer
103 and the owners of an employer that also work for such employer
104 on a full-time or part-time basis.

105 (8) EMPLOYER. A for profit business lawfully operating
106 in this state.

107 (9) EMPLOYER TAX CREDIT. A tax credit to be applied
108 against applicable taxes for the year in which the eligible
109 expenses are incurred by an employer, equal to the total
110 eligible expenses incurred by the employer, up to one million
111 dollars (\$1,000,000) per year for each employer.

112 (10) FACILITY TAX CREDIT. A tax credit to be applied



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113 against applicable taxes, calculated in accordance with
114 Section 4(a), but not exceeding twenty-five thousand dollars
115 (\$25,000) per year for each childcare facility.

116 (11) GRANT. A grant awarded by the Department of Human
117 Resources to nonprofit childcare providers for the purpose of
118 funding expenses related to the construction, expansion,
119 improvement, repair, or operation of a childcare facility or
120 childcare facilities, so long as such expenses are made in
121 furtherance of the childcare services offered at such
122 childcare facility and result in increased quality of care or
123 increased capacity for children at each applicable childcare
124 facility.

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

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

129 (14) QUALITY RATING. The rating applicable to a
130 childcare facility under the quality rating and improvement
131 system.

132 (15) QUALITY RATING AND IMPROVEMENT SYSTEM. A system of
133 the Department of Human Resources known as the Alabama Quality
134 STARS program that measures the quality of childcare
135 facilities on a scale of one to five stars, with five stars
136 denoting the highest level of quality.

137 (16) RURAL AREA. Any Alabama county that meets the
138 definition of "targeted county" found in Section
139 40-18-376.1(a)(2), Code of Alabama 1975.

140 (17) SMALL BUSINESS. An employer that has fewer than 25



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141 employees.

142 (18) STATE. The State of Alabama.

143 Section 3. (a) Effective for tax years beginning on or
144 after January 1, 2025, and ending December 31, 2029, unless
145 extended by an act of the Legislature, an employer may apply
146 to the Department of Revenue for an employer tax credit to be
147 applied against applicable taxes.

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 twenty million dollars (\$20,000,000)
152 for the calendar year ending December 31, 2026; twenty-five
153 million dollars (\$25,000,000) for the calendar year ending
154 December 31, 2027; thirty million dollars (\$30,000,000) for
155 the calendar year ending December 31, 2028; and thirty-five
156 million dollars (\$35,000,000) for the calendar year ending
157 December 31, 2029.

158 (c) The Department of Revenue shall:

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

165 (2) Require the employer to provide documentation to
166 substantiate to the satisfaction of the Department of Revenue
167 the amount of the employer tax credit applied for pursuant to
168 this section and that the expenses incurred by the employer



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169 were eligible expenses incurred to support the provision of
170 childcare at childcare facilities for the children of
171 employees.

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

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

180 Section 4. (a) Effective for tax years beginning on or
181 after January 1, 2025, and ending December 31, 2029, unless
182 extended by an act of the Legislature, a childcare provider
183 may apply to the Department of Revenue for a facility tax
184 credit to be applied against applicable taxes, in an amount
185 equal to the average monthly number of eligible children,
186 multiplied by a dollar amount which shall be based upon the
187 quality rating of the childcare facility as follows:

188 (1) Five star quality rating - two thousand dollars
189 (\$2,000) per eligible child.

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

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

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

196 (5) One star quality rating - one thousand dollars



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197 (\$1,000) per eligible child.

198 (b) The facility tax credit is limited to an aggregate
199 amount for all childcare providers of five million dollars
200 (\$5,000,000) in a calendar year.

201 (c) The Department of Revenue shall:

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

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

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

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

224 (e) The Department of Human Resources and the



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225 Department of Revenue shall enter into a Memorandum of
226 Understanding as to the information necessary to permit the
227 Department of Revenue to effectively administer this section.

228 Section 5. (a) The Department of Human Resources may
229 make grants to nonprofit childcare providers as provided in
230 this section.

231 (b) The Department of Human Resources may establish
232 priorities, guidelines, standards, and processes by which
233 grants may be awarded.

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

238 (1) Childcare Provider ID.

239 (2) Licensee's name.

240 (3) License number.

241 (4) Verification of nonprofit status.

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

245 (d) Failure to provide the information required by the
246 Department of Human Resources may result in the automatic
247 denial of the grant.

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

251 (f) The aggregate amount of funding approved pursuant
252 to this section shall not exceed five million dollars



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253 (\$5,000,000) in a calendar year.

254 (g) The amount and all terms and conditions of each
255 grant shall be memorialized in a grant agreement between the
256 Department of Human Resources and the nonprofit childcare
257 provider, which agreement shall include at least the following
258 terms and conditions:

259 (1) The amount of the grant.

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

262 (3) The nonprofit childcare provider will comply with
263 any rules adopted by the Department of Human Resources related
264 to the grant.

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

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



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281 to nonprofit childcare providers operating the applicable
282 childcare facility in a rural area; (ii) that in the event the
283 Department of Revenue or the Department of Human Resources
284 does not receive applications for and thereby does not
285 allocate the reserved tax credits and grants by the close of
286 the second quarter of the calendar year, the funds may revert
287 for allocations to other applications; (iii) that employer tax
288 credits and facility tax credits shall be awarded based on the
289 order in which they are requested by employers and childcare
290 providers, respectively; and (iv) that the employer tax
291 credits shall not be awarded to employers who cannot
292 demonstrate that they prioritize the payment of eligible
293 expenses for the benefit of employees that are eligible for
294 earned income tax credit under the Internal Revenue Code of
295 1986 as amended, if any.

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

306 (c) Where the applicable taxes owed by the employer or
307 childcare provider are less than the employer tax credit or
308 facility tax credit received by such entities, the employer or



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309 childcare provider shall be entitled to claim a refund for the
310 difference but may not carry the employer tax credit or
311 facility tax credit forward for additional tax years. In the
312 case of owners of pass-through entities where the taxes owed
313 by such persons are less than their pro rata share of the
314 employer tax credit or facility tax credit received, such
315 persons shall be entitled to claim a refund for only the pro
316 rata share of the employer tax credit or facility tax credit
317 such persons receive in the tax year for which the employer
318 tax credits or facility tax credits are awarded.

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

332 (e) There is created within the Education Trust Fund a
333 separate account named the Childcare Tax Credit Account for
334 the payment of any refunds under subsection(c) of employer tax
335 credits or facility tax credits awarded against the taxes
336 referenced in Section 2(1) of this article. The Commissioner



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337 of Revenue shall certify to the Comptroller the amount of such
338 tax credit refunds due to employers and childcare providers
339 under this section and the Comptroller shall transfer into the
340 Childcare Tax Credit Account only the amount from sales tax
341 revenues within the Education Trust Fund that is sufficient
342 for the Department of Revenue to use to cover the refunds for
343 the applicable tax year. The Commissioner of Revenue shall
344 distribute the funds in the Childcare Tax Credit Account to
345 employers and childcare providers pursuant to this article.

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

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

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

363 (c) Nothing in this article shall be construed to
364 constitute a guarantee or assumption by the state of any debt



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365 of any company nor to authorize the credit of the state to be
366 given, pledged, or loaned to any company.

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

370 Section 8. This act shall become effective on January
371 1, 2025.