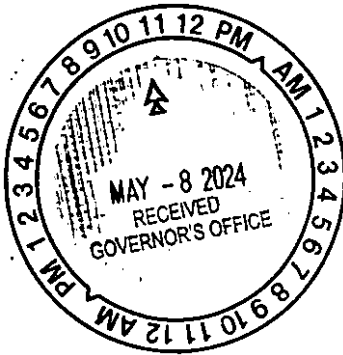




# ACT #2024 - 303

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





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



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



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.



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.



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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.



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



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





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



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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



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



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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.



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



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.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 18-Apr-24, as amended.

John Treadwell  
Clerk

Senate

07-May-24

Passed

APPROVED May 9, 2024

TIME 10:00 am

Kay Ivey  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2024-303  
Bill Num....: H-358

ENGROSSED 358

SPONSOR

Daniels

CO-SPONSORS

- |            |            |
|------------|------------|
| Kadthagen  | Gray       |
| rummond    | Hassell    |
| Moore, (M) | Lomax      |
| Markle     | Rigsby     |
| Wisey      | Underwood  |
| Moore, (P) | Wadsworth  |
| Boyd       | Brinyark   |
| McFerty    | Faulkner   |
| Handridge  | Shaver     |
| Lee        | Wilcox     |
| Wack Spear | Almond     |
| Westnuff   | Collins    |
| England    | Wood, (D)  |
| Leavis     | Morris     |
| Wines      | DuBose     |
| Warren     | Baker      |
| Ward       | Sells      |
| Wilk       | Lowborn    |
| Wolfe      | Hollis     |
| Wright     | McCampbell |
| Wright     | Sellers    |

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 358

YEAS 103 NAYS 0

JOHN TREADWELL, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. \_\_\_\_\_ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JOHN TREADWELL, Clerk

CONFERENCE COMMITTEE

House Conferees \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SENATE ACTION

DATE: 4-18 2024

RD 1 RFD FTE

This Bill was referred to the Standing Committee of the Senate on FTE and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) \_\_\_\_\_ w/sub \_\_\_\_\_ by a vote of 15 yeas 1 nays 0 abstain 0 this 1<sup>st</sup> day of May 20 24

\_\_\_\_\_, Chair

DATE: 5-2 2024

RF FAJ RD 2 CAL

DATE: \_\_\_\_\_ 20\_\_

RE-REFERRED  RE-COMMITTED

Committee \_\_\_\_\_

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 358.

YEAS 34 NAYS 0

PATRICK HARRIS,  
Secretary

FURTHER SENATE ACTION (OVER)