

HB390 INTRODUCED



1 HB390
2 11YTALL-1
3 By Representative Daniels
4 RFD: Ways and Means Education
5 First Read: 05-Feb-26



SYNOPSIS:

Current law provides for an employer tax credit for certain expenses incurred by an employer to support the provision of child care for children of employees.

This bill would allow expenses for adult day care services to be included in this tax credit program.

A BILL
TO BE ENTITLED
AN ACT

Relating to income taxes; to extend the current employer tax credit to include adult day care services.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-18-541 and 40-18-542, Code of Alabama 1975, are amended as follows:

"§40-18-541

For the purposes of this article, the following terms have the following meanings:

(1) ADULT DAY CARE FACILITY. A facility that provides a program of care for a portion of a 24-hour day in a protective setting for eligible adults 18 years of age and older.

(2) ADULT DAY CARE PROVIDER. An Alabama taxpayer that



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owns an adult day care facility or a nonprofit entity that owns and operates an adult daycare facility in this state.

~~(1)~~ (3) APPLICABLE TAXES. An employer's, taxpayer's, adult day care provider's or child care provider's, or in the case of a pass-through entity that is an employer, taxpayer, adult day care provider, or child care provider, such employer's, taxpayer's, adult day care provider's or child care provider's owners' taxes as follows:

a. Taxes levied in Chapter 18 of Title 40.

b. The state portion of taxes levied in Chapter 16 of Title 40.

c. Taxes levied in Section 27-4A-3(a).

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

~~(2)~~ (4) CHILD or CHILDREN. Individuals who are five years of age or less.

~~(3)~~ (5) CHILD CARE FACILITY. A facility meeting the definition found in Section 38-7-2(7), which is licensed by the Department of Human Resources and is participating in the quality rating and improvement system.

~~(4)~~ (6) CHILD CARE PROVIDER. An Alabama taxpayer that owns a child care facility or a nonprofit entity that owns and operates a child care facility in this state.

(7) ELIGIBLE ADULT. Any individual that meets all of the following conditions:

a. A dependent of an employee.

b. Is eighteen years of age or older.



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c. Due to age, disability, cognitive impairment, chronic health condition, or the need for supervision, requires support or services that can be appropriately provided in an adult day care setting.

~~(5)~~ (8) ELIGIBLE CHILD or ELIGIBLE CHILDREN. Children who participate in the Child Care Subsidy Program administered by the Department of Human Resources and who attend a child care facility operated by a child care provider.

~~(6)~~ (9) ELIGIBLE EXPENSES. a. Expenses incurred by an employer for:

1. The construction, renovation, expansion, or repair of a child care facility, or for the purchase of equipment for such facility, or for the maintenance and operation thereof.

2. Payments made to child care facilities or employees for the provision of child care at child care facilities for children of employees.

3. Payments made to child care facilities to reserve services for children of employees.

4. Payments made to adult day care providers or employees for the provision of adult day care at adult day care facilities for dependent adults of employees.

5. Payments made to adult day care facilities to reserve services for dependent adults of employees.

b. For purposes of this definition, "child care facility" or "child care facilities" shall also include a facility meeting the definition found in Section 38-7-2(7), which is operated, directly or indirectly, by a public institution of higher education as defined in Section 16-5-1.



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~~(7)~~ (10) EMPLOYEE. A resident of this state who works on a full-time or part-time basis for an employer. An employee shall include independent contractors engaged by an employer and the owners of an employer that also work for such employer on a full-time or part-time basis. Employees whose wages, excluding any overtime or bonuses, exceed eighty thousand dollars (\$80,000) in a calendar year are not employees for the purposes of this article.

~~(8)~~ (11) EMPLOYER. A for_-profit business lawfully operating in this state.

~~(9)~~ (12) EMPLOYER TAX CREDIT. A tax credit to be applied against applicable taxes for the year in which the eligible expenses are incurred by an employer, equal to the total eligible expenses incurred by the employer, up to six hundred thousand dollars (\$600,000) per year for each employer.

~~(10)~~ (13) FACILITY TAX CREDIT. A tax credit to be applied against applicable taxes, calculated in accordance with Section 40-18-543(a), but not exceeding twenty-five thousand dollars (\$25,000) per year for each child care facility.

~~(11)~~ (14) GRANT. A grant awarded by the Department of Human Resources to nonprofit child care providers for the purpose of funding expenses related to the construction, expansion, improvement, repair, or operation of a child care facility or child care facilities, so long as such expenses are made in furtherance of the child care services offered at such child care facility and result in increased quality of care or increased capacity for children at each applicable



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113 child care facility.

114 ~~(12)~~ (15) OWNER. A shareholder, partner, or member of a
115 pass-through entity.

116 ~~(13)~~ (16) PASS-THROUGH ENTITY. An Alabama S corporation
117 or a subchapter K entity.

118 ~~(14)~~ (17) QUALITY RATING. The rating applicable to a
119 child care facility under the quality rating and improvement
120 system.

121 ~~(15)~~ (18) QUALITY RATING AND IMPROVEMENT SYSTEM. A
122 system of the Department of Human Resources known as the
123 Alabama Quality STARS program that measures the quality of
124 child care facilities on a scale of one to five stars, with
125 five stars denoting the highest level of quality.

126 ~~(16)~~ (19) RURAL AREA. Any Alabama county that meets the
127 definition of "targeted county" found in Section
128 40-18-376.1(a)(2).

129 ~~(17)~~ (20) SMALL BUSINESS. An employer that has fewer
130 than 25 employees.

131 ~~(18)~~ (21) STATE. The State of Alabama.

132 "§40-18-542

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



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to 100 percent of the eligible expenses incurred by an employer.

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

(c) The Department of Revenue shall:

(1) Provide a standardized format for, and require completion of, a certificate to be signed by the employer applying for the employer tax credit certifying that the expenses incurred by the employer were eligible expenses incurred to support the provision of child care at child care facilities for the children of employees, or to support the provision of adult day care at adult day care facilities for the dependent adults of employees.

(2) Require the employer to provide documentation to substantiate to the satisfaction of the Department of Revenue the amount of the employer tax credit applied for pursuant to this section and that the expenses incurred by the employer were eligible expenses incurred to support the provision of child care at child care facilities for the children of employees, or to support the provision of adult day care at adult day care facilities for the dependent adults of employees.

(3) If the employer is a pass-through entity, require



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169 that the employer identify the identity and pro rata
170 percentage ownership of its owners.

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

176 Section 2. This act shall become effective on January
177 1, 2027.