

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

As Engrossed: H2/26/25

A Bill

HOUSE BILL 1435

5 By: Representatives Achor, Bentley, Barker, A. Brown, K. Brown, Cavanaugh, Crawford, Dalby, Duke,
6 Henley, Lundstrum, J. Mayberry, McAlindon, K. Moore, Vaught
7 By: Senators J. English, Irvin, B. Davis
8

For An Act To Be Entitled

10 AN ACT TO AMEND THE LAW CONCERNING INCOME TAX CREDITS
11 RELATED TO CHILD CARE; TO AMEND THE INCOME TAX CREDIT
12 FOR EMPLOYER-PROVIDED CHILD CARE; TO PROVIDE AN
13 INCOME TAX CREDIT FOR LICENSED CHILDCARE PROVIDERS;
14 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
15

Subtitle

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18 TO AMEND THE LAW CONCERNING INCOME TAX
19 CREDITS FOR CHILD CARE; TO AMEND THE
20 INCOME TAX CREDIT FOR EMPLOYER-PROVIDED
21 CHILD CARE; TO PROVIDE AN INCOME TAX
22 CREDIT FOR LICENSED CHILDCARE PROVIDERS;
23 AND TO DECLARE AN EMERGENCY.
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 6-45-109(b), concerning certification of
28 childcare facilities by the Division of Child Care and Early Childhood
29 Education, is amended to read as follows:

30 (b) Upon certification of the childcare facilities, the division shall
31 provide a listing of all certified facilities and their certification numbers
32 to the Secretary of the Department of Finance and Administration for the
33 purpose of the income tax credit or refund provided for in §§ 26-51-502 and
34 ~~26-51-507~~.

35
36 SECTION 2. Arkansas Code § 20-78-205(d), concerning the Division of



1 *Child Care and Early Childhood Education, is amended to read as follows:*

2 *(d)(1) The Division of Child Care and Early Childhood Education shall*
3 *create and make available on ~~the~~ its website ~~of the department~~ a form and*
4 *graphical chart that concisely explains the:*

5 *(A) Minimum licensing requirements for a licensed home;*

6 *(B) Minimum licensing requirements for a licensed*
7 *childcare center;*

8 *(C) Procedure for obtaining licensure as a licensed home*
9 *or licensed childcare center;*

10 *(D) Registration requirements for a registered childcare*
11 *family home;*

12 *(E) Procedure for registering as a registered childcare*
13 *family home;*

14 *(F) Voluntary registry of daycare family homes;*

15 *(G) Procedure for registering a daycare family home with*
16 *the voluntary registry;*

17 *(H) Availability of federal or state funds, grants,*
18 *programs, or other financial assistance, including without limitation the:*

19 *(i) Community Facilities Guaranteed Loan Program;*

20 *(ii) Community Development Block Grant;*

21 *(iii) Child and Adult Care Food Program;*

22 *(iv) Child Care and Development Block Grant;*

23 *(v) Early Head Start-Child Care Partnership Grant;*

24 *(vi) Arkansas Better Chance Program; and*

25 *(vii) Arkansas Special Nutrition Program; and*

26 *(I) Availability of a federal or state tax credit or other*
27 *federal or state tax benefit, including without limitation the employer-*
28 *provided child care credit that is available to taxpayers under §§ ~~26-51-507~~*
29 *~~and~~ 26-51-508.*

30 *(2) The Division of Child Care and Early Childhood Education*
31 *shall place a form and graphical chart created in accordance with subdivision*
32 *(d)(1) of this section in a conspicuous location on ~~the~~ its website ~~of the~~*
33 *~~department~~.*

34

35 SECTION 3. Arkansas Code § 26-51-507 is repealed.

36 ~~26-51-507. Employer provided child care—As qualified under former §~~

1 ~~26-52-401—Definition.~~

2 ~~(a)—A business which qualifies for the exemption from the gross~~
 3 ~~receipts tax under former § 26-52-401(29) shall be allowed an income tax~~
 4 ~~credit of three and nine tenths percent (3.9%) of the annual salary of~~
 5 ~~employees employed exclusively in providing childcare services.~~

6 ~~(b)—If two (2) or more businesses participate in a childcare program~~
 7 ~~for their employees as provided by former § 26-52-401(29), then each business~~
 8 ~~will be allowed an income tax credit of three and nine tenths percent (3.9%)~~
 9 ~~of the annual salary of only those employees who are on the respective~~
 10 ~~business' payroll and are employed exclusively for providing childcare~~
 11 ~~services.~~

12 ~~(c)(1)—To qualify for the income tax credit, the revenue to the~~
 13 ~~business or businesses from the childcare facility cannot exceed the direct~~
 14 ~~operating costs of the facility. If, on an annual basis, the childcare~~
 15 ~~facility receives revenue which exceeds the direct operating costs of the~~
 16 ~~facility, the business or businesses will not be entitled to the income tax~~
 17 ~~credit.~~

18 ~~(2)—As used in this section, “direct operating costs” means:~~

19 ~~(A)—The cost of food and beverages provided to the~~
 20 ~~children;~~

21 ~~(B)—The cost of labor for personnel whose services are~~
 22 ~~performed exclusively on the premises of the childcare facility for the care~~
 23 ~~of the children and all related employment taxes paid by the employer; and~~

24 ~~(C)—All materials and supplies necessary to operate the~~
 25 ~~childcare facility.~~

26 ~~(d)—The income tax credit created by subsection (a) of this section~~
 27 ~~shall first be available in the taxable year following the year the business~~
 28 ~~makes payment of wages to childcare workers. To the extent that the credit is~~
 29 ~~not fully utilized in this first year, it may be carried forward for an~~
 30 ~~additional two (2) years. Any credit remaining thereafter shall expire.~~

31 ~~(e)—The income tax provisions of this section shall be in full force~~
 32 ~~and effect for all income tax years beginning on and after January 1, 1993.~~

34 SECTION 4. Arkansas Code § 26-51-508 is amended to read as follows:

35 26-51-508. Employer-provided child care —~~As qualified under § 26-52-~~
 36 ~~516 or § 26-53-132 - Definition~~ Definitions.

1 ~~(a) A business which qualifies for the refund of the gross receipts~~
2 ~~tax or compensating use tax under § 26-52-516 or § 26-53-132 shall be allowed~~
3 ~~an income tax credit of three and nine tenths percent (3.9%) of the annual~~
4 ~~salary of its employees employed exclusively in providing childcare service,~~
5 ~~or a five thousand dollar income tax credit for the first tax year the~~
6 ~~business provides its employees with a childcare facility.~~

7 ~~(b) If two (2) or more businesses participate in a childcare program~~
8 ~~for their employees as provided by § 26-52-516 or § 26-53-132, then each~~
9 ~~business will be allowed an income tax credit of three and nine tenths~~
10 ~~percent (3.9%) of the annual salary of only those employees who are on the~~
11 ~~respective business' payroll and are employed exclusively for providing~~
12 ~~childcare services. The first year's five thousand dollar credit will be~~
13 ~~prorated among the businesses based upon the percentage of the cost paid by~~
14 ~~each business for the initial construction and equipping of the childcare~~
15 ~~facility.~~

16 ~~(c)(1)(A) To qualify for the income tax credit, the revenue to the~~
17 ~~business or businesses from the childcare facility cannot exceed the direct~~
18 ~~operating costs of the facility.~~

19 ~~(B) If, on an annual basis, the business receives revenues~~
20 ~~from the operation of the childcare facility which exceed the direct~~
21 ~~operating costs of the facility, the businesses will not be entitled to the~~
22 ~~income tax credit.~~

23 ~~(2) As used in this subsection, "direct operating costs" means:~~

24 ~~(A) The cost of food and beverages provided to the~~
25 ~~children;~~

26 ~~(B) The cost of labor for personnel whose services are~~
27 ~~performed exclusively on the premises of the childcare facility for the care~~
28 ~~of the children and all related employment taxes paid by the employer; and~~

29 ~~(C) All materials and supplies necessary to operate the~~
30 ~~childcare facility.~~

31 ~~(d) The income tax credit created by subsection (a) of this section~~
32 ~~shall first be available in the taxable year following the year the business~~
33 ~~makes payment of wages to childcare workers. To the extent that the credit is~~
34 ~~not fully utilized in this first year, it may be carried forward for an~~
35 ~~additional two (2) years. Any credit remaining thereafter shall expire.~~

36 ~~(a) As used in this section:~~

1 (1) "Eligible expense" means:

2 (A) The cost of construction, renovation, expansion, or
3 repair of a childcare facility by a taxpayer to provide childcare services
4 for the employees of the taxpayer;

5 (B) A payment to a childcare facility licensed by the
6 Division of Child Care and Early Childhood Education for the provision of
7 childcare services for one (1) or more employees of the taxpayer;

8 (C) A payment to a childcare facility licensed by the
9 division to reserve childcare services for one (1) or more employees of the
10 taxpayer; and

11 (D)(i) Fifty percent (50%) of the amount contributed by an
12 employer for dependent care assistance provided to an employee of the
13 employer under a dependent care assistance program as described in 26 U.S.C.
14 § 129, as it existed on January 1, 2025.

15 (ii) The total amount of eligible expenses allowed
16 under subdivision (a)(1)(D)(i) of this section shall not exceed two thousand
17 five hundred dollars (\$2,500) per employee of the employer that benefits from
18 a dependent care assistance program during the tax year;

19 (2) "Rural area" means an area in the state that is not within
20 the boundaries of an incorporated town or a city that has a population of
21 more than twenty-five thousand (25,000) according to the most recent federal
22 decennial census; and

23 (3) "Small business" means a business that has:

24 (A) Fewer than two hundred fifty (250) employees; and

25 (B) Less than five million dollars (\$5,000,000) in yearly
26 revenue.

27 (b)(1)(A) There is allowed an income tax credit against the income
28 tax imposed by this chapter in the amount equal to the eligible expenses
29 incurred by an employer during the tax year.

30 (B) The income tax credit allowed under this section shall
31 not exceed five hundred thousand dollars (\$500,000) for an employer in a tax
32 year.

33 (2)(A) The total aggregate amount of income tax credits allowed
34 under this section for all employers shall not exceed fifteen million dollars
35 (\$15,000,000) in a calendar year.

36 (B)(i) Three million seven hundred fifty thousand dollars

1 (\$3,750,000) of the total aggregate amount of income tax credits that may be
2 allowed under subdivision (b)(2)(A) of this section shall be reserved for the
3 award of income tax credits to small businesses and employers that have their
4 primary place of business located in a rural area.

5 (ii) The remaining amount of income tax credits that
6 may be allowed under subdivision (b)(2)(A) of this section shall be awarded
7 to employers without regard to their location or size.

8 (c) The amount of the income tax credit under this section that may be
9 claimed by an employer in a tax year shall not exceed the amount of income
10 tax due by the employer.

11 (d)(1) To claim an income tax credit under this section, an employer
12 shall submit an application for the tax year to the Department of Finance and
13 Administration using the form required under subdivision (d)(2)(A) of this
14 section.

15 (2) The Department of Finance and Administration shall:

16 (A) Prepare and provide a standardized form for an
17 employer to use to apply for the income tax credit allowed under this
18 section;

19 (B) Require an employer submitting an application under
20 this section to:

21 (i) Certify that the expenses for which the employer
22 is claiming a credit under this section are eligible expenses; and

23 (ii) Provide documentation to substantiate the
24 amount of eligible expenses for which the employer is claiming a credit under
25 this section; and

26 (C)(i) Subject to the limitations stated in this section,
27 award an income tax credit under this section to an employer that submits a
28 completed application on the required form and provides the certification and
29 documentation required under this section.

30 (ii) If an applicant for an income tax credit under
31 this section fails to submit a completed application on the required form or
32 fails to provide the certification or documentation, or both, required under
33 this section, the Department of Finance and Administration shall
34 automatically deny the application.

35 (e) An employer that is exempt from taxation under 26 U.S.C. §
36 501(c)(3), as it existed on January 1, 2025, may transfer or sell an income

1 tax credit allowed under this section.

2 (f) The Department of Finance and Administration may adopt rules to
3 administer this section.

4
5 SECTION 5. Arkansas Code Title 26, Chapter 51, Subchapter 5, is
6 amended to add an additional section to read as follows:

7 26-51-518. Licensed childcare provider.

8 (a) As used in this section:

9 (1) "Eligible children" means individuals who are twelve (12)
10 years of age or younger;

11 (2) "Licensed childcare provider" means a person or facility
12 that owns or operates a childcare facility licensed by the *Division of Child*
13 *Care and Early Childhood Education*; and

14 (3) "Rural area" means an area in the state that is not within
15 the boundaries of an incorporated town or a city that has a population of
16 more than twenty-five thousand (25,000) according to the most recent federal
17 decennial census.

18 (b)(1) There is allowed an income tax credit against the income tax
19 imposed by this chapter in the amount determined under subdivision (b)(2) of
20 this section for a licensed childcare provider.

21 (2)(A) Subject to the limitations stated this section, the
22 amount of the income tax credit allowed under this section shall be
23 calculated by multiplying the average monthly number of eligible children
24 enrolled with the licensed childcare provider claiming the income tax credit
25 during the tax year by one thousand five hundred dollars (\$1,500).

26 (B) The income tax credit allowed under this section shall
27 not exceed twenty-five thousand dollars (\$25,000) for a licensed childcare
28 provider in a tax year.

29 (3)(A) The total aggregate amount of income tax credits allowed
30 under this section for all licensed childcare providers shall not exceed five
31 million dollars (\$5,000,000) in a calendar year.

32 (B)(i) One million one hundred twenty-five thousand
33 dollars (\$1,125,000) of the total aggregate amount of income tax credits that
34 may be allowed under subdivision (b)(3)(A) of this section shall be reserved
35 for the award of income tax credits to licensed childcare providers located
36 in a rural area.

1 (ii) The remaining amount of income tax credits that
2 may be allowed under subdivision (b)(3)(A) of this section shall be awarded
3 to licensed childcare providers without regard to the location of the
4 licensed childcare provider.

5 (c) The amount of the income tax credit under this section that may be
6 claimed by a licensed childcare provider in a tax year shall not exceed the
7 amount of income tax due by the licensed childcare provider.

8 (d)(1) To claim an income tax credit under this section, a licensed
9 childcare provider shall submit an application for the tax year to the
10 Department of Finance and Administration using the form required under
11 subdivision (d)(2)(A) of this section.

12 (2) The Department of Finance and Administration shall:

13 (A)(i) Prepare and provide a standardized form for a
14 licensed childcare provider to use to apply for the income tax credit allowed
15 under this section.

16 (ii) The form required under subdivision
17 (d)(2)(A)(i) of this section shall require at least the following
18 information:

19 (a) Documentation evidencing the applicant's
20 ownership of a childcare facility licensed by the division;

21 (b) The amount of income tax credit for which
22 the licensed childcare provider is submitting an application under this
23 section; and

24 (c) The average number of eligible children
25 enrolled with the licensed childcare provider submitting the application
26 during the tax year; and

27 (B)(i) Subject to the limitations stated in this section,
28 award an income tax credit under this section to a licensed childcare
29 provider that submits a completed application on the required forms and
30 provides the information required under this section.

31 (ii) If an applicant for an income tax credit under
32 this section fails to submit a completed application on the required form or
33 fails to provide the information required under this section, the Department
34 of Finance and Administration shall automatically deny the application.

35 (e) A licensed childcare provider that is exempt from taxation under
36 26 U.S.C. § 501(c)(3), as it existed on January 1, 2025, may transfer or sell

1 an income tax credit allowed under this section.

2 (f) The Department of Finance and Administration may adopt rules to
3 administer this section.

4
5 SECTION 6. EFFECTIVE DATE. Sections 1-5 of this act are effective for
6 tax years beginning on or after January 1, 2026.

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8 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly of the State of Arkansas that this act would create
10 significant changes to the state's tax laws; that taxpayers and employers
11 plan to meet their obligations on a calendar-year basis; and that this act is
12 immediately necessary to ensure the financial stability of the state, to
13 allow taxpayers and employers time to plan for and implement the changes in
14 law created by this act, and to ensure that the Department of Finance and
15 Administration has sufficient time to update its forms and software and train
16 its personnel in accordance with this act. Therefore, an emergency is
17 declared to exist, and this act being immediately necessary for the
18 preservation of the public peace, health, and safety shall become effective
19 on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,
22 the expiration of the period of time during which the Governor may veto the
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is
25 overridden, the date the last house overrides the veto.

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27 */s/Achor*
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