

# HB0389S01 compared with HB0389

~~{Omitted text}~~ shows text that was in HB0389 but was omitted in HB0389S01

inserted text shows text that was not in HB0389 but was inserted into HB0389S01

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## Child Care Business Tax Credit

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason E. Thompson

Senate Sponsor:

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### 3 LONG TITLE

#### 4 General Description:

5 This bill enacts an income tax credit for employer-provided child care.

#### 6 Highlighted Provisions:

7 This bill:

8 ▶ enacts nonrefundable corporate and individual income tax credits for employer-provided child  
care;and

10 ▶ {~~creates a process for an employer to obtain a certificate from the Office of Child Care to  
claim the tax credit; and~~}

12 ▶ makes technical and conforming changes.

#### 11 Money Appropriated in this Bill:

12 None

#### 13 Other Special Clauses:

14 This bill provides a special effective date.

15 This bill provides retrospective operation.

17 AMENDS:

HB0389

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~~{35A-3-203, as last amended by Laws of Utah 2021, Chapters 168, 278, as last amended by Laws of Utah 2021, Chapters 168, 278}~~

**59-10-1002.2**, as last amended by Laws of Utah 2023, Chapters 460, 462, as last amended by Laws of Utah 2023, Chapters 460, 462

ENACTS:

~~{35A-3-213, Utah Code Annotated 1953, Utah Code Annotated 1953}~~

**59-7-627**, Utah Code Annotated 1953, Utah Code Annotated 1953

**59-10-1048**, Utah Code Annotated 1953, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

~~{Section 1. Section 35A-3-203 is amended to read: }~~

**35A-3-203. Functions and duties of office -- Annual report.**

The office shall:

- (1) assess critical child care needs throughout the state on an ongoing basis and focus [its] the office's activities on helping to meet the most critical needs;
- (2) provide child care subsidy services for income-eligible children through [age-12] 12 years old and for income-eligible children with disabilities through [age-18] 18 years old;
- (3) provide information:
  - (a) to employers for the development of options for child care in the work place; and
  - (b) for educating the public in obtaining quality child care;
- (4) coordinate services for quality:
  - (a) child care training;
  - (b) child care resource and referral core services; and
  - (c) training and education regarding child behavioral health interventions and competencies;
- (5) apply for, accept, or expend gifts or donations from public or private sources;
- (6) provide administrative support services to the committee;
- (7) work collaboratively with the following for the delivery of quality child care, early childhood programs, and school age programs throughout the state:
  - (a) the State Board of Education;
  - (b) the Department of Health and Human Services; and

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(c) the ~~[Division of Substance Abuse]~~ Office of Substance Use and Mental Health within the Department of Health and Human Services;

(8) research child care programs and public policy to improve the quality and accessibility of child care, early childhood programs, and school age programs in the state;

(9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved by the Child Care Advisory Committee, created in Section 35A-3-205;

(11) coordinate with the department to include in the annual written report described in Section 35A-1-109 information regarding the status of child care in Utah;~~and]~~

(12) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with state and federal law:

(a) establishing the eligibility requirements for a child care provider to receive a grant or subsidy, including for the following:

(i) providing child care for an income-eligible child who is 12 years old or younger; and

(ii) providing child care for an income-eligible child with disabilities who is 18 years old or younger; and

(b) prioritizing awards of child care grants or subsidies for income-eligible children within available funds~~[-]~~ ; and

(13) issue tax credit certificates in accordance with Section 35A-3-213.

Section 2. Section 2 is enacted to read:

### **35A-3-213. Tax credit certificate for employer-provided child care tax credit.**

(1) As used in this section:

(a) "Principal residence" means the same as that term is defined in Section 121, Internal Revenue Code.

(b) "Qualified child care expenditure" means an amount paid or incurred to:

(i) contract with a qualified child care facility to provide child care services to employees of the person applying for a tax credit certificate; or

(ii) acquire, construct, rehabilitate, or expand property:

(A) for a qualified child care facility of the person applying for a tax credit certificate;

(B) with respect to which a deduction for depreciation, or amortization in lieu of depreciation, is allowable; and

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- 83 (C) that is not part of the principal residence of the person applying for a tax credit certificate or any  
employee of the person.
- 85 (c) "Qualified child care facility" means the same as that term is defined in Section 45F, Internal  
Revenue Code, except that the facility shall be located in Utah.
- 87 (d) "Qualifying application" means an application that meets the requirement of Subsection (2).
- 89 (2)
- (a) A person that seeks to claim a tax credit under Section 59-7-627 or 59-10-1048 shall apply to the  
office for a tax credit certificate.
- 91 (b) The person shall include in the application for a tax credit certificate the following information for  
the year in which the person seeks a tax credit certificate:
- 93 (i) the person's name, address, and taxpayer identification;
- 94 (ii) the address of the qualified child care facility;
- 95 (iii) the person's qualified child care expenditures described in Subsection (1)(b)(i);
- 96 (iv) the person's qualified child care expenditures described in Subsection (1)(b)(ii); and
- 98 (v) if the person has qualified child care expenditures described in Subsection (1)(b)(ii), a signed  
statement that the qualified child care facility is not part of the principal residence of the person or  
the person's employee.
- 101 (3)
- (a) The office shall issue a tax credit certificate to a person that:
- 102 (i) the office determines submits a qualifying application; and
- 103 (ii) has qualified child care expenditures.
- 104 (b) The office shall calculate the amount on the tax credits as follows:
- 105 (i) 20% of the person's qualified child care expenditures described in Subsection (1)(b)(i); and
- 107 (ii) 50% of the person's qualified child care expenditures described in Subsection (1)(b)(ii).
- 109 (c) The tax credit certificate shall state separately the amount of each tax credit.
- 110 (d) A person that receives a tax credit certificate in accordance with this section shall retain the tax  
credit certificate for the same time period that a person is required to keep books and records under  
Section 59-1-1406.
- 113 (4) The office shall submit to the State Tax Commission an electronic list that includes:
- 114 (a) the name and identifying information of each person to which the office issues a tax credit  
certificate; and

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(b) for each person, the amount of the tax credit stated on the tax credit certificate.

Section 1. Section 1 is enacted to read:

### **59-7-627. Nonrefundable tax credits for employer-provided child care.**

(1) As used in this section:

(a) "Principal residence" means the same as that term is defined in Section 121, Internal Revenue Code.

(b) "Qualified child care expenditure" means the amount paid or incurred:

(i) for the operating costs of a qualified child care facility of the employer, including costs related to training employees, offering scholarship programs, and providing increased compensation to employees with higher levels of child care training; or

(ii) under a contract with a qualified child care facility to provide child care services to the employer's employees.

(c) "Qualified child care facility" means the same as that term is defined in Section 45F, Internal Revenue Code, except that the facility is a center based child care as that term is defined in Section 26B-2-401 and is located in the state:

(i) in a county of the first class, as classified in Section 17-50-501, within one mile of any boundary of the property on which the employer's office is located;

(ii) in a county of the second or third class, as classified in Section 17-50-501, within two miles of any boundary of the property on which the employer's office is located; or

(iii) in a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501:

(A) within the boundaries of the municipality in which the employer's office is located; or

(B) if the employer's office is located in an unincorporated portion of the county, within the boundaries of the nearest municipality.

(d) "Qualified construction expenditure" means an amount paid or incurred to acquire, construct, rehabilitate, or expand property:

(i) for a qualified child care facility of the employer;

(ii) with respect to which the employer is allowed a deduction for depreciation, or amortization in lieu of depreciation; and

(iii) that is not part of the principal residence of the employer or an employee of the employer.

(e) "Qualifying taxpayer" means a taxpayer that:

(i) is an employer; and

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(ii) qualifies for and claims the federal employer-provided child care tax credit described in Section 45F, Internal Revenue Code, for the current taxable year.

59 (2)

119 ~~{(1)}~~ (a) A qualifying taxpayer ~~{that receives a tax credit certificate in accordance with Section 35A-3-213}~~ may claim a nonrefundable tax credit equal to 20% of the ~~{amount stated on}~~ qualified construction expenditures the qualifying taxpayer incurred during the ~~{tax credit certificate for}~~ taxable year.

122 ~~{(a) {qualified child care expenditures described in Subsection 35A-3-213(1)(b)(i); and}}~~

123 ~~{(b) {qualified child care expenditures described in Subsection 35A-3-213(1)(b)(ii).}}~~

124 ~~{(2)}~~

~~{(a) {A taxpayer may not carry forward or carry back any tax credit described in Subsection (1)(a) that exceeds the taxpayer's income tax liability for the taxable year.}}~~

126 (b) A qualifying taxpayer may carry forward, to the next five taxable years, the amount of the qualifying taxpayer's tax credit described in this Subsection ~~{(1)(b)}~~ (2) that exceeds the qualifying taxpayer's income tax liability for the taxable year.

65 (3)

(a) A qualifying taxpayer may claim a nonrefundable tax credit equal to 10% of the qualified child care expenditures the qualifying taxpayer incurred during the taxable year.

68 (b) A qualifying taxpayer may not carry forward or carry back the tax credit described in this Subsection (3) that exceeds the qualifying taxpayer's income tax liability for the taxable year.

71 Section 2. Section **59-10-1002.2** is amended to read:

72 **59-10-1002.2. Apportionment of tax credits.**

131 (1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, 59-10-1028, 59-10-1042, 59-10-1043, 59-10-1044, 59-10-1046, ~~[or]~~ 59-10-1047, or 59-10-1048 may only claim an apportioned amount of the tax credit equal to:

136 (a) for a nonresident individual, the product of:

137 (i) the state income tax percentage for the nonresident individual; and

138 (ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

140 (b) for a part-year resident individual, the product of:

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- 141 (i) the state income tax percentage for the part-year resident individual; and  
142 (ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim  
but for the apportionment requirements of this section.
- 144 (2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017,  
59-10-1020, 59-10-1022, 59-10-1024, ~~[or]~~ 59-10-1028, or 59-10-1048 may only claim an  
apportioned amount of the tax credit equal to the product of:
- 147 (a) the state income tax percentage for the nonresident estate or trust; and  
148 (b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but  
for the apportionment requirements of this section.

92 Section 3. Section **3** is enacted to read:

93 **59-10-1048. Nonrefundable tax credits for employer-provider child care.**

94 (1) As used in this section:

95 (a) "Principal residence" means the same as that term is defined in Section 121, Internal Revenue Code.

97 (b) "Qualified child care expenditure" means the same as that term is defined in Section 59-7-627.

99 (c) "Qualified child care facility" means the same as that term is defined in Section 59-7-627.

101 (d) "Qualified construction expenditure" means the same as that term is defined in Section 59-7-627.

103 (e) "Qualifying claimant" means a claimant, estate, or trust that:

104 (i) is an employer; and

105 (ii) qualifies for and claims the federal employer-provided child care tax credit described in Section  
45F, Internal Revenue Code, for the current taxable year.

107 (2)

152 ~~{(1)}~~ (a) A qualifying claimant{~~, estate, or trust that receives a tax credit certificate in accordance with~~  
~~Section 35A-3-213~~} may claim a nonrefundable tax credit equal to 20% of the {~~amount stated on~~}  
qualified construction expenditures the qualifying claimant incurred during the {~~tax credit certificate~~  
~~for~~} taxable year.

110 (b) A qualifying claimant may carry forward, to the next five taxable years, the amount of the  
qualifying claimant's tax credit described in this Subsection (2) that exceeds the qualifying  
claimant's income tax liability for the taxable year.

113 (3)

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(a) A qualifying claimant may claim a nonrefundable tax credit equal to 10% of the qualified child care expenditures {described in Subsection 35A-3-213(1)(b)(i); and} the qualifying claimant incurred during the taxable year.

156 {~~(b)~~ {qualified child care expenditures described in Subsection 35A-3-213(1)(b)(ii).}}

157 {~~(2)~~ }

{~~(a)~~ (b) A qualifying claimant~~{, estate, or trust}~~ may not carry forward or carry back ~~{any}~~ the tax credit described in this Subsection ~~{(1)(a)}~~ (3) that exceeds the qualifying claimant's~~{, estate's, or trust's}~~ income tax liability for the taxable year.

160 {~~(b)~~ {A claimant, estate, or trust may carry forward, to the next five taxable years, the amount of the claimant's, estate's, or trust's tax credit described in Subsection (1)(b) that exceeds the claimant's, estate's, or trust's income tax liability for the taxable year.}}

119 Section 4. **Effective date.**

164 (1) ~~{Except as provided in Subsection (2), this}~~ This bill takes effect on ~~{January 1, 2026}~~ May 7, 2025.

165 {~~(2)~~ {The actions affecting the following sections take effect for a taxable year beginning on or after January 1, 2026:}}

167 {~~(a)~~ {Section 59-7-627; }}

168 {~~(b)~~ {Section 59-10-1002.2; and}}

169 {~~(c)~~ {Section 59-10-1048.}}

121 Section 5. **Retrospective Operation.**

This bill has retrospective operation for a taxable year beginning on or after January 1, 2025.

2-17-25 9:25 AM