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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



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



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



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. Employees whose wages,
105 excluding any overtime or bonuses, exceeds eighty thousand
106 dollars (\$80,000) in a calendar year are not employees for the
107 purposes of this act.

108 (8) EMPLOYER. A for profit business lawfully operating
109 in this state.

110 (9) EMPLOYER TAX CREDIT. A tax credit to be applied
111 against applicable taxes for the year in which the eligible
112 expenses are incurred by an employer, equal to the total



113 eligible expenses incurred by the employer, up to six hundred
114 thousand dollars (\$600,000) per year for each employer.

115 (10) FACILITY TAX CREDIT. A tax credit to be applied
116 against applicable taxes, calculated in accordance with
117 Section 4(a), but not exceeding twenty-five thousand dollars
118 (\$25,000) per year for each childcare facility.

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

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

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

132 (14) QUALITY RATING. The rating applicable to a
133 childcare facility under the quality rating and improvement
134 system.

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

140 (16) RURAL AREA. Any Alabama county that meets the



141 definition of "targeted county" found in Section
142 40-18-376.1(a)(2), Code of Alabama 1975.

143 (17) SMALL BUSINESS. An employer that has fewer than 25
144 employees.

145 (18) STATE. The State of Alabama.

146 Section 3. (a) Effective for tax years beginning on or
147 after January 1, 2025, and ending December 31, 2027, unless
148 extended by an act of the Legislature, an employer may apply
149 to the Department of Revenue for an employer tax credit to be
150 applied against applicable taxes. The employer tax credit
151 shall be in an amount equal to 75 percent of the eligible
152 expenses incurred by an employer; except, in the case of a
153 small business, the employer tax credit shall be in an amount
154 equal to 100 percent of the eligible expenses incurred by an
155 employer.

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

163 (c) The Department of Revenue shall:

164 (1) Provide a standardized format for, and require
165 completion of, a certificate to be signed by the employer
166 applying for the employer tax credit, certifying that the
167 expenses incurred by the employer were eligible expenses
168 incurred to support the provision of childcare at childcare



169 facilities for the children of employees.

170 (2) Require the employer to provide documentation to
171 substantiate to the satisfaction of the Department of Revenue
172 the amount of the employer tax credit applied for pursuant to
173 this section and that the expenses incurred by the employer
174 were eligible expenses incurred to support the provision of
175 childcare at childcare facilities for the children of
176 employees.

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

180 (d) The Department of Revenue shall award the tax
181 credit to the employer after the employer provides the
182 documentation required in subdivision (c). Failure to provide
183 the documentation required in subdivision (c) shall result in
184 the automatic denial of the employer tax credit.

185 Section 4. (a) Effective for tax years beginning on or
186 after January 1, 2025, and ending December 31, 2027, unless
187 extended by an act of the Legislature, a childcare provider
188 may apply to the Department of Revenue for a facility tax
189 credit to be applied against applicable taxes, in an amount
190 equal to the average monthly number of eligible children,
191 multiplied by a dollar amount which shall be based upon the
192 quality rating of the childcare facility as follows:

193 (1) Five star quality rating - two thousand dollars
194 (\$2,000) per eligible child.

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



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

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

201 (5) One star quality rating - one thousand dollars
202 (\$1,000) per eligible child.

203 (b) The facility tax credit is limited to an aggregate
204 amount for all childcare providers of five million dollars
205 (\$5,000,000) in a calendar year.

206 (c) The Department of Revenue shall:

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

214 (2) Require the childcare provider to provide
215 documentation to substantiate to the satisfaction of the
216 Department of Revenue the amount of the facility tax credit
217 applied for pursuant to this section, the quality rating of
218 each applicable childcare facility, and the average number of
219 eligible children attending each facility monthly.

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

223 (d) The Department of Revenue shall award the facility
224 tax credit to a childcare provider after the childcare



225 provider provides the documentation required in subsection
226 (c). Failure to provide the documentation required in
227 subsection (c) shall result in the automatic denial of the
228 childcare facility tax credit.

229 (e) The Department of Human Resources and the
230 Department of Revenue shall enter into a Memorandum of
231 Understanding as to the information necessary to permit the
232 Department of Revenue to effectively administer this section.

233 Section 5. (a) The Department of Human Resources may
234 make grants to nonprofit childcare providers as provided in
235 this section.

236 (b) The Department of Human Resources may establish
237 priorities, guidelines, standards, and processes by which
238 grants may be awarded.

239 (c) The Department of Human Resources shall require
240 interested nonprofit childcare providers to complete
241 applications on forms issued by the Department of Human
242 Resources which shall include at least the following:

243 (1) Childcare Provider ID.

244 (2) Licensee's name.

245 (3) License number.

246 (4) Verification of nonprofit status.

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

250 (d) Failure to provide the information required by the
251 Department of Human Resources may result in the automatic
252 denial of the grant.



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

256 (f) The aggregate amount of funding approved pursuant
257 to this section shall not exceed five million dollars
258 (\$5,000,000) in a calendar year.

259 (g) The amount and all terms and conditions of each
260 grant shall be memorialized in a grant agreement between the
261 Department of Human Resources and the nonprofit childcare
262 provider, which agreement shall include at least the following
263 terms and conditions:

264 (1) The amount of the grant.

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

267 (3) The nonprofit childcare provider will comply with
268 any rules adopted by the Department of Human Resources related
269 to the grant.

270 (4) The requirement that the default of the nonprofit
271 childcare provider, under any provision of the grant
272 agreement, shall result in the repayment of any grant monies
273 paid to the nonprofit childcare provider by the Department of
274 Human Resources.

275 Section 6. (a) The Department of Human Resources and
276 the Department of Revenue shall adopt rules as necessary, on
277 or before January 1, 2025, for the implementation and
278 administration of this article. Such rules shall ensure: (i)
279 that at least 25 percent of the amounts specified in Section
280 3(b) are reserved for awards to small businesses or employers



281 that are headquartered in rural areas and at least 25 percent
282 of the amounts specified in Section 4(b) are reserved for
283 awards to childcare providers operating childcare facilities
284 exclusively in rural areas; and that at least 25 percent of
285 the amounts specified in Section 5(f) are reserved for awards
286 to nonprofit childcare providers operating the applicable
287 childcare facility in a rural area; (ii) that in the event the
288 Department of Revenue or the Department of Human Resources
289 does not receive applications for and thereby does not
290 allocate the reserved tax credits and grants by the close of
291 the second quarter of the calendar year, the funds may revert
292 for allocations to other applications; (iii) that employer tax
293 credits and facility tax credits shall be awarded based on the
294 order in which they are requested by employers and childcare
295 providers, respectively; and (iv) that the employer tax
296 credits shall not be awarded to employers who cannot
297 demonstrate that they prioritize the payment of eligible
298 expenses for the benefit of employees that are eligible for
299 earned income tax credit under the Internal Revenue Code of
300 1986 as amended, if any.

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



309 equal to their percentage ownership of the employer or
310 childcare provider.

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

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



337 (e) There is created within the Education Trust Fund a
338 separate account named the Childcare Tax Credit Account for
339 the payment of any refunds under subsection(c) of employer tax
340 credits or facility tax credits awarded against the taxes
341 referenced in Section 2(1) of this article. The Commissioner
342 of Revenue shall certify to the Comptroller the amount of such
343 tax credit refunds due to childcare providers under this
344 section and the Comptroller shall transfer into the Childcare
345 Tax Credit Account only the amount from sales tax revenues
346 within the Education Trust Fund that is sufficient for the
347 Department of Revenue to use to cover the refunds for the
348 applicable tax year. The Commissioner of Revenue shall
349 distribute the funds in the Childcare Tax Credit Account to
350 childcare providers pursuant to this article.

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

358 Section 7. (a) All filings and applications made with
359 the Department of Revenue in relation to the employer tax
360 credit or the facility tax credit shall be made using forms
361 adopted by the Department of Revenue. Such applications and
362 filings shall be treated as tax returns, subject to penalties
363 imposed by the Department of Revenue.

364 (b) All filings and applications made with the



365 Department of Human Resources in relation to the nonprofit
366 provider grant program shall be made using forms adopted by
367 the Department of Human Resources.

368 (c) Nothing in this article shall be construed to
369 constitute a guarantee or assumption by the state of any debt
370 of any company nor to authorize the credit of the state to be
371 given, pledged, or loaned to any company.

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

375 Section 8. This act shall become effective on January
376 1, 2025.

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