HB358 ENGROSSED



- 1 HB358
- 2 5Z1N3M6-2
- 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



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5	A BILL
6	TO BE ENTITLED
7	AN ACT
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9	Relating to childcare and workforce development; to
10	establish the employer tax credit, childcare provider tax
11	credit, and nonprofit childcare provider grant; and to make
12	legislative findings.
13	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
14	Section 1. The Legislature hereby makes the following
15	findings of fact and declares its intent to be as follows:
16	Alabama is currently attracting and creating jobs and business
17	investments at a record-setting pace. Despite historically low
18	unemployment rates, Alabama's workforce participation rate
19	ranked among the lowest in the country. One possible barrier
20	to entering the workforce for some Alabamians is a lack of
21	available, affordable, high-quality childcare. Furthermore,
22	the grant, and any appropriations by the Legislature in
23	furtherance thereof, serves a public purpose by conferring a
24	direct public benefit of a reasonably general character
25	through the promotion of public health, safety, morals,
26	security, prosperity, contentment, and the general welfare of

the community. The grant achieves this public purpose by

increasing the quality of childcare to the general public,

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- 29 which has the effect of encouraging high-quality care and 30 education for children and facilitating greater workforce 31 participation throughout the state. It is the intent of the 32 Legislature, by the passage of this legislation, to encourage 33 more Alabamians to enter the workforce and gain employment by improving the quality and availability of childcare options 34 35 for working parents. Accordingly, future efforts to extend or 36 reauthorize this act should be preceded by consideration of 37 the effectiveness of this legislation in achieving these policy goals. To this end, once this legislation has had a 38 39 sufficient opportunity to be implemented and its effects measured, but before extending or reauthorizing this act, the 40 Legislature should request and examine reports from: (1) the 41 42 Alabama Department of Revenue, to determine the usage of the 43 tax credits; and (2) from the Alabama Department of Labor and the Alabama Department of Commerce, to determine the impact of 44 45 the tax credits on workforce participation.
- Section 2. For the purposes of this article, the following terms have the following meanings:
- (1) APPLICABLE TAXES. An employer's, taxpayer's, or
 childcare provider's, or in the case of a pass-through entity
 that is an employer, taxpayer, or childcare provider, such
 employer's, taxpayer's, or childcare provider's owners' taxes
 as follows:
- 53 a. Taxes levied in Chapter 18 of Title 40, Code of 54 Alabama 1975.
- 55 b. The state portion of taxes levied in Chapter 16 of 56 Title 40, Code of Alabama 1975.



- 57 c. Taxes levied in Section 27-4A-3(a), Code of Alabama
- 58 1975.
- d. Taxes levied in Article 2 of Chapter 21 of Title 40,
- 60 Code of Alabama 1975, not to include the freight line and
- 61 equipment tax levied in Section 40-21-52, Code of Alabama
- 62 1975.
- 63 (2) CHILD or CHILDREN. Individuals who are five years
- of age or less.
- 65 (3) CHILDCARE FACILITY. A facility meeting the
- definition found in Section 38-7-2(7), Code of Alabama 1975,
- 67 that is licensed by the Department of Human Resources and is
- 68 participating in the quality rating and improvement system.
- 69 (4) CHILDCARE PROVIDER. An Alabama taxpayer that owns a
- 70 childcare facility or a nonprofit entity that owns and
- 71 operates a childcare facility in Alabama.
- 72 (5) ELIGIBLE CHILD or ELIGIBLE CHILDREN. Children who
- 73 participate in the Child Care Subsidy Program administered by
- 74 the Department of Human Resources and who attend a childcare
- 75 facility operated by a childcare provider.
- 76 (6) ELIGIBLE EXPENSES. Expenses incurred by an employer
- 77 for:
- 78 a. The construction, renovation, expansion, or repair
- of a childcare facility, or for the purchase of equipment for
- 80 such facility, or for the maintenance and operation thereof.
- b. Payments made to childcare facilities or employees
- 82 for the provision of childcare at childcare facilities for
- 83 children of employees.
- c. Payments made to childcare facilities to reserve



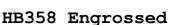
85 services for children of employees.

For purposes of this definition, "childcare facility" or "childcare facilities" shall also include a facility meeting the definition found in Section 38-7-2(7), Code of Alabama 1975, that is operated, directly or indirectly, by an organization defined in Section 16-5-1(1), Code of Alabama 1975.

- (7) 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, exceeds eighty thousand dollars (\$80,000) in a calendar year are not employees for the purposes of this act.
- 100 (8) EMPLOYER. A for profit business lawfully operating 101 in this state.
 - (9) 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.
- 107 (10) FACILITY TAX CREDIT. A tax credit to be applied
 108 against applicable taxes, calculated in accordance with
 109 Section 4(a), but not exceeding twenty-five thousand dollars
 110 (\$25,000) per year for each childcare facility.
- 111 (11) GRANT. A grant awarded by the Department of Human 112 Resources to nonprofit childcare providers for the purpose of



- 113 funding expenses related to the construction, expansion,
- improvement, repair, or operation of a childcare facility or
- 115 childcare facilities, so long as such expenses are made in
- 116 furtherance of the childcare services offered at such
- 117 childcare facility and result in increased quality of care or
- increased capacity for children at each applicable childcare
- 119 facility.
- 120 (12) OWNER. A shareholder, partner, or member of a
- 121 pass-through entity.
- 122 (13) PASS-THROUGH ENTITY. An Alabama S corporation or a
- 123 subchapter K entity.
- 124 (14) QUALITY RATING. The rating applicable to a
- 125 childcare facility under the quality rating and improvement
- 126 system.
- 127 (15) QUALITY RATING AND IMPROVEMENT SYSTEM. A system of
- 128 the Department of Human Resources known as the Alabama Quality
- 129 STARS program that measures the quality of childcare
- 130 facilities on a scale of one to five stars, with five stars
- 131 denoting the highest level of quality.
- 132 (16) RURAL AREA. Any Alabama county that meets the
- 133 definition of "targeted county" found in Section
- 134 40-18-376.1(a)(2), Code of Alabama 1975.
- 135 (17) SMALL BUSINESS. An employer that has fewer than 25
- employees.
- 137 (18) STATE. The State of Alabama.
- 138 Section 3. (a) Effective for tax years beginning on or
- 139 after January 1, 2025, and ending December 31, 2027, unless
- extended by an act of the Legislature, an employer may apply





- to the Department of Revenue for an employer tax credit to be applied against applicable taxes. The employer tax credit shall be in an amount equal to 75 percent of the eligible expenses incurred by an employer; except, in the case of a small business, the employer tax credit shall be in an amount equal 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 childcare at childcare

 facilities for the children 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 childcare at childcare facilities for the children of employees.



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

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

177 Section 4. (a) Effective for tax years beginning on or after January 1, 2025, and ending December 31, 2027, unless 178 179 extended by an act of the Legislature, a childcare provider may apply to the Department of Revenue for a facility tax 180 181 credit to be applied against applicable taxes, in an amount 182 equal to the average monthly number of eligible children, 183 multiplied by a dollar amount which shall be based upon the quality rating of the childcare facility as follows: 184

- 185 (1) Five star quality rating two thousand dollars (\$2,000) per eligible child.
- 187 (2) Four star quality rating one thousand seven 188 hundred fifty dollars (\$1,750) per eligible child.
- 189 (3) Three star quality rating one thousand five 190 hundred dollars (\$1,500) per eligible child.
- 191 (4) Two star quality rating one thousand two hundred 192 fifty dollars (\$1,250) per eligible child.
- 193 (5) One star quality rating one thousand dollars
 194 (\$1,000) per eligible child.
- 195 (b) The facility tax credit is limited to an aggregate
 196 amount for all childcare providers of five million dollars



- 197 (\$5,000,000) in a calendar year.
- 198 (c) The Department of Revenue shall:
- (1) Provide a standardized format for, and require

 completion of, a certificate to be completed and signed by the

 childcare provider applying for the facility tax credit,

 certifying each childcare provider's ownership of applicable

 childcare facilities, the quality rating of each facility, and

 the average number of eligible children attending each

 facility monthly.
- 206 (2) Require the childcare provider to provide
 207 documentation to substantiate to the satisfaction of the
 208 Department of Revenue the amount of the facility tax credit
 209 applied for pursuant to this section, the quality rating of
 210 each applicable childcare facility, and the average number of
 211 eligible children attending each facility monthly.
- 212 (3) If the childcare provider is a pass-through entity, 213 require that the childcare provider identify the identity and 214 pro rata percentage ownership of its owners.
- 215 (d) The Department of Revenue shall award the facility
 216 tax credit to a childcare provider after the childcare
 217 provider provides the documentation required in subsection
 218 (c). Failure to provide the documentation required in
 219 subsection (c) shall result in the automatic denial of the
 220 childcare facility tax credit.
- (e) The Department of Human Resources and the
 Department of Revenue shall enter into a Memorandum of
 Understanding as to the information necessary to permit the
 Department of Revenue to effectively administer this section.



- Section 5. (a) The Department of Human Resources may
 make grants to nonprofit childcare providers as provided in
 this section.
- (b) The Department of Human Resources may establish priorities, guidelines, standards, and processes by which grants may be awarded.
- 231 (c) The Department of Human Resources shall require
 232 interested nonprofit childcare providers to complete
 233 applications on forms issued by the Department of Human
 234 Resources which shall include at least the following:
 - (1) Childcare Provider ID.
- 236 (2) Licensee's name.

- 237 (3) License number.
- 238 (4) Verification of nonprofit status.
- (5) A certification from the applicant nonprofit
 childcare provider that will comply with any rules adopted by
 the Department of Human Resources related to the grant.
- 242 (d) Failure to provide the information required by the 243 Department of Human Resources may result in the automatic 244 denial of the grant.
- (e) No nonprofit childcare provider shall be eligible to receive more than fifty thousand dollars (\$50,000) under this section during a single calendar year.
- 248 (f) The aggregate amount of funding approved pursuant 249 to this section shall not exceed five million dollars 250 (\$5,000,000) in a calendar year.
- 251 (g) The amount and all terms and conditions of each 252 grant shall be memorialized in a grant agreement between the



- 253 Department of Human Resources and the nonprofit childcare 254 provider, which agreement shall include at least the following
- 255 terms and conditions:

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- 256 (1) The amount of the grant.
- 257 (2) The nonprofit childcare provider will use the grant 258 solely in accordance with this act.
- 259 (3) The nonprofit childcare provider will comply with 260 any rules adopted by the Department of Human Resources related 261 to the grant.
- 262 (4) The requirement that the default of the nonprofit 263 childcare provider, under any provision of the grant 264 agreement, shall result in the repayment of any grant monies 265 paid to the nonprofit childcare provider by the Department of 266 Human Resources.

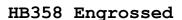
267 Section 6. (a) The Department of Human Resources and 268 the Department of Revenue shall adopt rules as necessary, on 269 or before January 1, 2025, for the implementation and 270 administration of this article. Such rules shall ensure: (i) that at least 25 percent of the amounts specified in Section 271 272 3(b) are reserved for awards to small businesses or employers 273 that are headquartered in rural areas and at least 25 percent 274 of the amounts specified in Section 4(b) are reserved for 275 awards to childcare providers operating childcare facilities 276 exclusively in rural areas; and that at least 25 percent of 277 the amounts specified in Section 5(f) are reserved for awards 278 to nonprofit childcare providers operating the applicable childcare facility in a rural area; (ii) that in the event the 279 Department of Revenue or the Department of Human Resources





does not receive applications for and thereby does not allocate the reserved tax credits and grants by the close of the second quarter of the calendar year, the funds may revert for allocations to other applications; (iii) that employer tax credits and facility tax credits shall be awarded based on the order in which they are requested by employers and childcare providers, respectively; and (iv) that the employer tax credits shall not be awarded to employers who cannot demonstrate that they prioritize the payment of eligible expenses for the benefit of employees that are eligible for earned income tax credit under the Internal Revenue Code of 1986 as amended, if any.

- (b) Employer tax credits and facility tax credits may only be claimed by an employer or childcare provider, or a taxpayer who is an owner of a pass-through entity that is an employer or childcare provider, but may not be otherwise assigned or transferred to any other taxpayer. A taxpayer who is an owner of a pass-through entity that is an employer or childcare provider may only claim the pro rata share of the employer tax credit or facility tax credit, respectively, equal to their percentage ownership of the employer or childcare provider.
- (c) Where the applicable taxes owed by the childcare provider are less than the employer tax credit or facility tax credit received by such entities, the childcare provider shall be entitled to claim a refund for the difference but may not carry the employer tax credit or facility tax credit forward for additional tax years. In the case of owners of





pass-through entities where the taxes owed by such persons are less than their pro rata share of the employer tax credit or facility tax credit received, such persons shall be entitled to claim a refund for only the pro rata share of the employer tax credit or facility tax credit such persons receive in the tax year for which the employer tax credits or facility tax credits are awarded.

- (d) The Department of Revenue shall also prescribe the various methods by which employer tax credits or facility tax credits are to be issued to employers and childcare providers. Refunds under subsection(c) of employer tax credits and facility tax credits that are awarded against the taxes referenced in Section 2(1) of this article shall be paid out of sales tax collections made to the Education Trust Fund and set aside by the Comptroller in the Childcare Tax Credit Account created in subsection (e), in the same manner as refunds of such taxes otherwise provided by law, and there is hereby appropriated therefrom, for such purpose, so much as may be necessary to annually pay for such tax credits as provided by this article.
- (e) There is created within the Education Trust Fund a separate account named the Childcare Tax Credit Account for the payment of any refunds under subsection(c) of employer tax credits or facility tax credits awarded against the taxes referenced in Section 2(1) of this article. The Commissioner of Revenue shall certify to the Comptroller the amount of such tax credit refunds due to childcare providers under this section and the Comptroller shall transfer into the Childcare



Tax Credit Account only the amount from sales tax revenues
within the Education Trust Fund that is sufficient for the
Department of Revenue to use to cover the refunds for the
applicable tax year. The Commissioner of Revenue shall
distribute the funds in the Childcare Tax Credit Account to
childcare providers pursuant to this article.

- (f) The Alabama Department of Finance shall adopt rules to ensure that the employer tax credit and the facility tax credit, in any case, would not reduce the distribution for the Alabama Special Mental Health Trust Fund by using any unencumbered funds to ensure that the employer tax credit and the facility tax credit shall not be limited, prevented, or reduced.
- Section 7. (a) All filings and applications made with the Department of Revenue in relation to the employer tax credit or the facility tax credit shall be made using forms adopted by the Department of Revenue. Such applications and filings shall be treated as tax returns, subject to penalties imposed by the Department of Revenue.
- (b) All filings and applications made with the

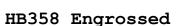
 Department of Human Resources in relation to the nonprofit

 provider grant program shall be made using forms adopted by

 the Department of Human Resources.
- 360 (c) Nothing in this article shall be construed to
 361 constitute a guarantee or assumption by the state of any debt
 362 of any company nor to authorize the credit of the state to be
 363 given, pledged, or loaned to any company.
 - (d) Nothing in this article shall be construed to make



365	available to any taxpayer any right to the benefits conferred
366	by this article absent strict compliance with this article.
367	Section 8. This act shall become effective on January
368	1, 2025.
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371 372 373 House of Representatives 374 Read for the first time and referred21-Mar-24 to the House of Representatives 375 committee on Ways and Means 376 377 Education 378 on the calendar: 380 381 0 amendments 382 383 as amended 384 Yeas 103 385 386 Nays 0 Abstains 0 387 388 389 390 John Treadwell Clerk 391 392