

# HB381 INTRODUCED



1 HB381  
2 9IHNBMP-1  
3 By Representative Ingram  
4 RFD: Ways and Means Education  
5 First Read: 21-Mar-24



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SYNOPSIS:

Under existing law, credits against state imposed taxes are provided to employers for providing certain benefits to employees.

This bill would provide a tax credit for employers in an amount corresponding to costs incurred for childcare provided to children of employees.

This bill would provide a tax credit for owners of childcare facilities in an amount corresponding to the number of children attending and the quality of the facility as determined by the Department of Human Resources.

This bill would also require the Department of Revenue to adopt rules and procedures to implement these tax credits.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to workforce development; to provide a tax credit to employers for costs incurred for childcare for employees' children; to provide a tax credit to owners of childcare facilities under certain circumstances; and to



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29 provide rules and procedures to be adopted by the Department  
30 of Revenue to administer these tax credits.

31 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

32 Section 1. The Legislature hereby makes the following  
33 findings and declares its intent as follows:

34 (1) Alabama is currently attracting and creating jobs  
35 and business investments at a record-setting pace. Despite  
36 historically low unemployment rates, Alabama's workforce  
37 participation rate ranked among the lowest in the country.

38 (2) One possible barrier to entering the workforce for  
39 some Alabamians is a lack of available, affordable, and  
40 high-quality childcare. It is the intent of the Legislature,  
41 by the passage of this act, to encourage more Alabamians to  
42 enter the workforce and gain employment by improving the  
43 quality and availability of childcare options for working  
44 parents.

45 (3) Accordingly, future efforts to extend or  
46 reauthorize this act should be preceded by consideration of  
47 its effectiveness in achieving these goals. To this end, once  
48 this act has had a sufficient opportunity to be implemented  
49 and its effects measured, but before extending or  
50 reauthorizing this act, the Legislature should request and  
51 examine reports from the Alabama Department of Revenue, to  
52 determine the usage of the tax credits, and the Alabama  
53 Department of Labor and the Alabama Department of Commerce, to  
54 determine the impact of the tax credits on workforce  
55 participation.

56 Section 2. For purposes of this act, the following



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57 terms have the following meanings:

58 (1) APPLICABLE TAXES. All of the following taxes that  
59 an employer or childcare provider or, in the case of a  
60 pass-through entity that is an employer or childcare provider,  
61 the entity's owner, is subject to:

62 a. Taxes levied pursuant to Chapter 18 of Title 40,  
63 Code of Alabama 1975.

64 b. The state portion of the taxes levied pursuant to  
65 Chapter 16 of Title 40, Code of Alabama 1975.

66 c. Taxes levied pursuant to Section 27-4A-3, Code of  
67 Alabama 1975.

68 d. Taxes levied pursuant to Article 2 of Chapter 21 of  
69 Title 40, Code of Alabama 1975.

70 (2) CHILD or CHILDREN. Individuals who are five years  
71 of age or less.

72 (3) CHILDCARE FACILITY. A facility, as the term is  
73 defined by Section 38-7-2, Code of Alabama 1975, that is  
74 licensed by the Department of Human Resources and participates  
75 in the quality rating improvement system.

76 (4) CHILDCARE PROVIDER. A taxpayer that owns a  
77 childcare facility.

78 (5) ELIGIBLE CHILD or ELIGIBLE CHILDREN. A child who  
79 participates in the Childcare Subsidy Program administered by  
80 the Department of Human Resources and attends a childcare  
81 facility operated by a childcare provider.

82 (6) ELIGIBLE EMPLOYEE. Each new employee of an employer  
83 for the current year that is in addition to the average number  
84 of employees of the employer during the immediately preceding



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85 year as certified by the employer's Internal Revenue Service  
86 Form 941 or 944 for that year.

87 (7) ELIGIBLE EXPENSES. Expenses incurred by an employer  
88 for any of the following:

89 a. The construction, maintenance, operation, expansion,  
90 renovation, or repair of a childcare facility, including the  
91 purchase of equipment for the childcare facility, provided all  
92 expenses are in furtherance and support of the provision of  
93 childcare for a child of an employee.

94 b. A Payment made to a childcare facility or employee  
95 for the provision of childcare at a childcare facility for a  
96 child of an employee.

97 c. A payment made to a childcare facility to reserve  
98 childcare for a child of an employee.

99 (8) EMPLOYEE. A resident of this state who works on a  
100 full-time basis for an employer, including an independent  
101 contractor engaged by an employer or an owner of an employer.

102 (9) EMPLOYER. A business lawfully operating in this  
103 state.

104 (10) EMPLOYER TAX CREDIT. A refundable tax credit to be  
105 applied against all applicable taxes for the tax year in which  
106 any eligible expense is incurred by an employer, equal to an  
107 amount calculated in accordance with Section 3.

108 (11) FACILITY TAX CREDIT. A refundable tax credit to be  
109 applied against all applicable taxes for a given tax year,  
110 equal to an amount calculated in accordance with Section 4.

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



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

115 (14) QUALITY RATING. The rating applicable to a  
116 childcare facility under the quality rating improvement  
117 system.

118 (15) QUALITY RATING IMPROVEMENT SYSTEM. A system of the  
119 Department of Human Resources which is known as the Alabama  
120 Quality STARS program that measures the quality of childcare  
121 facilities on a scale of one to five stars, with five stars  
122 denoting the highest level of quality.

123 (16) RURAL AREA. Any area within this state that is not  
124 within the boundaries of an incorporated city or town with a  
125 population in excess of 25,000 inhabitants, according to the  
126 latest federal census.

127 (17) SMALL BUSINESS. An employer that has fewer than 75  
128 employees.

129 Section 3. (a) For tax years beginning on or after  
130 January 1, 2025, and ending December 31, 2027, unless extended  
131 by an act of the Legislature, an employer may apply to the  
132 Department of Revenue for an employer tax credit to be applied  
133 against all applicable taxes. The employer tax credit shall be  
134 in an amount equal to 50 percent of the eligible expenses  
135 incurred by an employer.

136 (b) (1) The employer tax credit is limited to twelve  
137 thousand dollars (\$12,000) annually for each eligible  
138 employee, up to 50 eligible employees, of an employer. The  
139 employer tax credit is also limited to an aggregate amount of  
140 fifteen million dollars (\$15,000,000) annually for all



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141 employers.

142 (2) Notwithstanding the number of eligible employees of  
143 an employer, for any tax year that the state's annual  
144 unemployment rate is at or above 4.7 percent as determined by  
145 the Department of Labor of the State of Alabama, an employer  
146 may apply to the Department of Revenue for an employer tax  
147 credit in an amount equal to the average of the employer tax  
148 credits received by the employer for the immediately preceding  
149 two years.

150 (c) The Department of Revenue shall do all of the  
151 following in administering this section:

152 (1) Provide for a standardized certificate to be  
153 completed and signed by an employer applying for the employer  
154 tax credit that certifies that the expenses incurred by the  
155 employer were eligible expenses.

156 (2) Require an employer to provide any documentation  
157 necessary to substantiate to the satisfaction of the  
158 department the amount of the employer tax credit applied for  
159 and that the expenses incurred by the employer were eligible  
160 expenses.

161 (3) If the employer is a pass-through entity, require  
162 an employer provide the identity and pro rata percentage  
163 ownership of its owners.

164 (d) The Department of Revenue shall award the employer  
165 tax credit only after an employer provides the documentation  
166 required by subsection (c). Failure to provide the  
167 documentation shall result in the automatic denial of the  
168 employer tax credit.



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169           Section 4. (a) For tax years beginning on or after  
170 January 1, 2025, and ending December 31, 2027, unless extended  
171 by an act of the Legislature, a childcare provider may apply  
172 to the Department of Revenue for a facility tax credit to be  
173 applied against all applicable taxes. The tax credit shall be  
174 in an amount equal to the average monthly number of eligible  
175 children that attend the childcare facility multiplied by the  
176 corresponding dollar amount for each quality rating as  
177 follows:

178           (1) Five star quality rating, two thousand dollars  
179 (\$2,000) per eligible child.

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

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

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

186           (5) One star quality rating, one thousand dollars  
187 (\$1,000) per eligible child.

188           (b) The facility tax credit is limited to not more than  
189 twenty-five thousand dollars (\$25,000) per year for each  
190 childcare facility, and an aggregate amount of not more than  
191 five million dollars (\$5,000,000) annually for all childcare  
192 providers.

193           (c) The Department of Revenue shall do all of the  
194 following in administering this section:

195           (1) Provide a standardized certificate to be completed  
196 and signed by a childcare provider applying for the facility





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197 tax credit that certifies all of the following:

198 a. The childcare provider's ownership of a childcare  
199 facility.

200 b. The quality rating of the childcare facility.

201 c. The average number of eligible children attending  
202 the facility monthly.

203 (2) Require a childcare provider to provide any  
204 documentation necessary to substantiate to the satisfaction of  
205 the department the amount of the facility tax credit applied  
206 for and any information required to be certified by  
207 subdivision (1).

208 (3) If the childcare provider is a pass-through entity,  
209 require that a childcare provider provide the identity and pro  
210 rata percentage ownership of its owners.

211 (d) The Department of Revenue shall award the facility  
212 tax credit only after a childcare provider provides the  
213 documentation required by subsection (c). Failure to provide  
214 the documentation shall result in the automatic denial of the  
215 childcare facility tax credit.

216 Section 5. (a) The Department of Revenue shall adopt  
217 rules on or before January 1, 2025, as necessary to implement  
218 this act. The rules shall provide for all of the following:

219 (1) That the employer tax credit and facility tax  
220 credit will not reduce the distribution for the Alabama  
221 Special Mental Health Trust Fund.

222 (2) That not less than 25 percent of the aggregate  
223 limit specified in Section 3(b) is reserved for awards to



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224 small businesses and employers that are headquartered in rural  
225 areas.

226 (3) That not less than 25 percent of the aggregate  
227 limit specified in Section 4(b) is reserved for awards to  
228 childcare providers operating childcare facilities exclusively  
229 in rural areas.

230 (4) That in the event the Department of Revenue does  
231 not receive applications for, and therefore does not allocate,  
232 the tax credits reserved pursuant to subdivisions (2) and (3)  
233 by the close of the second quarter of the calendar year, the  
234 funds may revert for allocations to other applications.

235 (5) That employer tax credits and facility tax  
236 credits shall be awarded based on the order in which they are  
237 requested by employers and childcare providers, respectively.

238 (b) Employer tax credits and facility tax credits  
239 may only be claimed by an employer or childcare provider,  
240 respectively, or a taxpayer who is an owner of a pass-through  
241 entity that is an employer or childcare provider, but may not  
242 be otherwise assigned or transferred to any other taxpayer. A  
243 taxpayer who is an owner of a pass-through entity that is an  
244 employer or childcare provider may only claim a pro rata share  
245 of the employer tax credit or facility tax credit that is  
246 equal to their percentage ownership of the employer or  
247 childcare provider.

248 (c) Where the applicable taxes owed by an employer  
249 or childcare provider are less than the employer tax credit or  
250 facility tax credit received by the entity, the employer or  
251 childcare provider shall be entitled to claim a refund for the



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252 difference but may not carry the employer tax credit or  
253 facility tax credit forward for additional tax years. In the  
254 case of owners of pass-through entities, where the taxes owed  
255 by the owners are less than their pro rata share of the  
256 employer tax credit or facility tax credit received by the  
257 entity, the owners shall be entitled to claim a refund for  
258 only their pro rata share of the employer tax credit or  
259 facility tax credit received in the tax year for which the  
260 employer tax credit or facility tax credit is awarded.

261 (d) The Department of Revenue shall prescribe a  
262 method by which employer tax credits or facility tax credits  
263 are to be issued to employers and childcare providers. Refunds  
264 under subsection (c) of employer tax credits and facility tax  
265 credits that are awarded against income taxes shall be paid  
266 out of sales tax collections to the Education Trust Fund and  
267 set aside by the Comptroller into the Childcare Tax Credit  
268 Account created in subsection (e). All other refunds against  
269 other applicable taxes shall be paid in the same manner as  
270 refunds of other such taxes as provided by law.

271 (e) The Childcare Tax Credit Account is created  
272 within the Education Trust Fund for the payment of all income  
273 tax refunds under subsection (c) of employer tax credits or  
274 facility tax credits awarded against applicable taxes. The  
275 Commissioner of Revenue shall certify to the Comptroller the  
276 amount of the income tax credit refunds due to employers and  
277 childcare providers under this section and the Comptroller  
278 shall transfer into the Childcare Tax Credit Account only the  
279 amount from sales tax revenues within the Education Trust Fund



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280 that is sufficient for the Department of Revenue to cover the  
281 refunds for the applicable tax year. The Commissioner of  
282 Revenue shall distribute the funds in the Childcare Tax Credit  
283 Account to employers and childcare providers pursuant to this  
284 act.

285 Section 6. (a) All filings and applications made with the  
286 Department of Revenue in relation to the employer tax credit  
287 and the facility tax credit shall be made using forms adopted  
288 by the Department of Revenue. The applications and filings  
289 shall be treated as tax returns, subject to penalties imposed  
290 by the Department of Revenue.

291 (b) Nothing in this act shall be construed to do any  
292 of the following:

293 (1) Constitute a guarantee or assumption by this  
294 state of any debt of any company.

295 (2) Authorize the credit of this state to be given,  
296 pledged, or loaned to any company.

297 (3) Make available to a taxpayer any right to the  
298 benefits conferred by this act absent strict compliance  
299 herewith.

300 Section 7. This act shall become effective October 1,  
301 2024.