HB381

9IHNBMP-1

By Representative Ingram

RFD: Ways and Means Education

First Read: 21-Mar-24

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

(1) 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.

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

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

Section 2. For purposes of this act, the following terms have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. (a) For tax years beginning on or 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 all applicable taxes. The employer tax credit shall be in an amount equal to 50 percent of the eligible expenses incurred by an employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

tax credit that certifies all of the following:

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

b. The quality rating of the childcare facility.

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

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

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

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

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

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

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

small businesses and employers that are headquartered in rural areas.

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

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

(5) 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.

(b) Employer tax credits and facility tax credits may only be claimed by an employer or childcare provider, respectively, 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 a pro rata share of the employer tax credit or facility tax credit that is equal to their percentage ownership of the employer or childcare provider.

(c) Where the applicable taxes owed by an employer or childcare provider are less than the employer tax credit or facility tax credit received by the entity, the employer or 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 the owners are less than their pro rata share of the employer tax credit or facility tax credit received by the entity, the owners shall be entitled to claim a refund for only their pro rata share of the employer tax credit or facility tax credit received in the tax year for which the employer tax credit or facility tax credit is awarded.

(d) The Department of Revenue shall prescribe a method 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 income taxes shall be paid out of sales tax collections to the Education Trust Fund and set aside by the Comptroller into the Childcare Tax Credit Account created in subsection (e). All other refunds against other applicable taxes shall be paid in the same manner as refunds of other such taxes as provided by law.

(e) The Childcare Tax Credit Account is created within the Education Trust Fund for the payment of all income tax refunds under subsection (c) of employer tax credits or facility tax credits awarded against applicable taxes. The Commissioner of Revenue shall certify to the Comptroller the amount of the income tax credit refunds due to employers and 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 cover the refunds for the applicable tax year. The Commissioner of Revenue shall distribute the funds in the Childcare Tax Credit Account to employers and childcare providers pursuant to this act.

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

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

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

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

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

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