

HB443 INTRODUCED



1 755PVE-1
2 By Representative Garrett
3 RFD: Ways and Means Education
4 First Read: 09-May-23
5
6 2023 Regular Session



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SYNOPSIS:

This bill would change the reporting date requirements of state agencies that administer economic tax incentives and establish sunset provisions and reporting guidelines for economic tax incentives.

A BILL
TO BE ENTITLED
AN ACT

Relating to economic tax incentives; to amend Section 40-1-50, Code of Alabama 1975; to change the reporting date requirements of state agencies which administer economic tax incentives; to align committee schedules to review state agency reports; to establish sunset dates for tax incentive programs; to establish future sunset dates for extended tax incentive programs; and to provide required guidelines for all new incentive legislation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-1-50, Code of Alabama 1975, is amended to read as follows:

"§40-1-50

(a) For the purpose of this section, the term economic tax incentive shall mean any tax credits, deductions,



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29 exemptions, abatements, preferential rates, or rebates given
30 as an economic incentive. For the purpose of this section, the
31 term economic incentive shall mean an inducement provided by
32 the government, where the government promises to forgo tax
33 revenues to which it is otherwise entitled or to provide some
34 other benefit to an individual or an entity and in exchange
35 the individual or entity promises to take specific action that
36 contributes to economic development. In order for the
37 Legislature to get accurate and complete information regarding
38 the costs and benefits of economic tax incentives, each state
39 agency that administers an economic tax incentive shall
40 annually report the information required herein to the
41 Legislature.

42 (b) The head of each state agency that administers any
43 economic tax incentive shall prepare and submit to the
44 Legislature a report regarding each economic tax incentive
45 that the agency administers as set forth in the schedule
46 provided by the Alabama Department of Revenue pursuant to
47 subsection (f)(2) no later than the ~~second~~first Legislative
48 day of the Regular Session beginning in the ~~2018~~2024 Regular
49 Session of the Legislature and each year thereafter. The
50 report shall include an assessment of each economic tax
51 incentive based on the following criteria:

52 (1) Whether or not each economic tax incentive has been
53 successful in meeting the purpose for which it was enacted, in
54 particular, whether each economic tax incentive benefits those
55 originally intended to be benefited, and if not, those who do
56 benefit.



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57 (2) Whether or not the state receives a positive return
58 on investment, specifically the direct and indirect impact on
59 state and local tax revenues, from the business or industry
60 for which the economic tax incentive is intended to benefit
61 and any other economic benefits produced by such tax
62 incentive.

63 (3) The economic results of each economic tax
64 incentive, taking into account the extent to which the
65 incentive successfully changes business behavior, and the
66 unintended or inadvertent effects, benefits, or harm caused by
67 the economic tax incentive, including whether the economic tax
68 incentive conflicts with other state laws or regulations.

69 (c) (1) Nothing in this section shall be construed to
70 require the disclosure of proprietary or trade secret
71 information that has been submitted to any state agency with
72 respect to an economic tax incentive.

73 (2) Nothing in this section shall be construed to
74 supercede any provision with respect to the confidentiality of
75 taxpayer records.

76 (d) Each state agency required to submit a report
77 pursuant to the provisions of this section may request from
78 any other state or local agency, official, recipient of funds,
79 or the Alabama Department of Revenue, any information
80 necessary to complete the required report. Any such agency,
81 official, or recipient shall comply with this request.

82 (e) For purposes of this section, the term state agency
83 shall mean any office, department, board, commission,
84 institution, or division within the executive branch of state



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85 government, excluding the Alabama Department of Revenue.
86 Administration of an economic tax incentive shall be evidenced
87 by a legal requirement or authorization to undertake any of
88 the following actions for purposes of administration of the
89 tax incentive:

90 (1) Promulgation of rules or regulations; in cases
91 where more than one agency has rulemaking authority, the
92 report shall be prepared collaboratively.

93 (2) Determination, review, or confirmation of
94 eligibility or qualifications.

95 (3) Entering into a contract with an entity for
96 purposes of a tax credit.

97 (4) Facilitating economic tax incentives by
98 distributing funds to non-state agencies.

99 (5) Conducting oversight or substantial administrative
100 functions for an economic tax incentive when the public
101 purpose associated with the economic tax incentive is within
102 the core mission of the agency.

103 (f) (1) The Department of Revenue shall develop a format
104 for reports required herein. The format shall be made
105 available to all state agencies for use in preparation of
106 their required reports.

107 (2) The Department of Revenue shall prepare, every four
108 years, a four-year schedule of the economic tax incentives to
109 be reported to the Legislature beginning with the 2018 Regular
110 Session of the Legislature.

111 (3) The Department of Revenue shall provide state
112 agencies with any tax information necessary to complete the



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113 required report relating to an economic tax incentive of such
114 agency.

115 (g) ~~The House Ways and Means Committees and the Senate~~
116 ~~Finance and Taxation Committees referred to in this subsection~~
117 ~~as committees, shall conduct hearings on the reports every~~
118 ~~odd-numbered year, to be concluded thirty days before the~~
119 ~~beginning of the Regular Session of the Legislature.~~ The House
120 Ways and Means Education Committee and the Senate Committee on
121 Finance and Taxation - Education shall conduct joint hearings
122 on the tax expenditure report every odd-numbered year to be
123 concluded by the 10th legislative day of the regular session
124 of the Legislature. The committees shall analyze and consider
125 each economic tax incentive and shall provide a recommendation
126 to modify, discontinue, or take no action with respect to each
127 economic tax incentive."

128 Section 2. The Brownfield Development Tax Abatement
129 Act, Chapter 9C, of Title 40, commencing with Section 40-9C-1,
130 Code of Alabama 1975, is repealed effective December 31, 2028,
131 unless extended by an act of the Legislature prior to that
132 date for no more than five additional years.

133 Section 3. The Rural Physician Tax Credit, Article 4A,
134 commencing with Section 40-18-130, Chapter 18, of Title 40,
135 Code of Alabama 1975, is repealed effective December 31, 2028,
136 unless extended by an act of the Legislature prior to that
137 date for no more than five additional years.

138 Section 4. The Coal Production Tax Credit, Article 8,
139 commencing with Section 40-18-220, Chapter 18, of Title 40,
140 Code of Alabama 1975, is repealed effective December 31, 2028,



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141 unless extended by an act of the Legislature prior to that
142 date for no more than five additional years.

143 Section 5. The Reemployment Act of 2010, Article 10,
144 commencing with Section 40-18-270, Chapter 18, of Title 40,
145 Code of Alabama 1975, is repealed effective December 31, 2028,
146 unless extended by an act of the Legislature prior to that
147 date for no more than five additional years.

148 Section 6. The Full Employment Act of 2011, Article 11,
149 commencing with Section 40-18-290, Chapter 18, of Title 40,
150 Code of Alabama 1975, is repealed effective December 31, 2028,
151 unless extended by an act of the Legislature prior to that
152 date for no more than five additional years.

153 Section 7. The Veterans Employment Act, Article 13,
154 commencing with Section 40-18-320, Chapter 18, of Title 40,
155 Code of Alabama 1975, is repealed effective December 31, 2028,
156 unless extended by an act of the Legislature prior to that
157 date for no more than five additional years.

158 Section 8. The Irrigation Equipment Tax Credit, Article
159 14, commencing with Section 40-18-340, Chapter 18, of Title
160 40, Code of Alabama 1975, is repealed effective December 31,
161 2028, unless extended by an act of the Legislature prior to
162 that date for no more than five additional years.

163 Section 9. The Entertainment Industry Incentive Act of
164 2009, Article 3, commencing with Section 41-7A-40, Chapters
165 7A, of Title 41, Code of Alabama 1975, is repealed effective
166 December 31, 2028. Prior to the repeal of the incentive, the
167 Department of Commerce shall report to the Legislature
168 beginning in 2023 and annually thereafter, regarding the



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169 entertainment industry incentives, in accordance with Section
170 40-1-50.

171 Section 10. The Alabama Enterprise Zone Act, Article 2,
172 commencing with Section 41-23-20, Chapter 23, of Title 41,
173 Code of Alabama 1975, is repealed effective December 31, 2028,
174 unless extended by an act of the Legislature prior to that
175 date for no more than five additional years.

176 Section 11. The repealing of the incentives listed in
177 Sections 2 through 10 shall only affect the availability of
178 the tax credits after December 31, 2028, and shall not cause a
179 reduction or suspension of any credits awarded on or prior to
180 December 31, 2028.

181 Section 12. (a) Beginning in the 2024 Regular Session
182 of the Legislature, all new economic tax incentive legislation
183 shall include the following:

184 (1) For every bill enacting a new tax credit, a tax
185 credit performance statement which must state the legislative
186 purpose for the new tax credit. The tax credit performance
187 statement must indicate one or more of the following as the
188 legislative purpose of the new tax credit:

189 a. Tax credits intended to induce certain designated
190 behavior by taxpayers.

191 b. Tax credits intended to improve industry
192 competitiveness.

193 c. Tax credits intended to create or retain jobs.

194 d. Tax credits intended to reduce structural
195 inefficiencies in the tax structure.

196 e. Tax credits intended to provide tax relief for



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197 certain businesses or individuals.

198 (2) A statement providing that new tax credits shall
199 expire on the first day of the calendar year following the
200 calendar year that is five years from the effective date of
201 the tax credit. With respect to any new property tax
202 exemption, the exemption does not apply to taxes levied for
203 collection beginning in the calendar year following the
204 calendar year that is five years from the effective date of
205 the tax credit.

206 (3) A statement establishing the annual limit on the
207 amount of credits or incentives that may be provided during
208 any annual period.

209 (4) A statement limiting the number of years for
210 carryforward of unused credits to no more than five years.

211 (5) A statement limiting the transfer or sale of
212 credits to only one transaction after filing paperwork and a
213 filing fee with the Department of Revenue.

214 (6) A statement requiring pre-certification of all
215 income and financial institutions excise tax credits by the
216 Department of Revenue before they can be claimed.

217 (b) For tax years beginning after December 31, 2024,
218 taxpayers claiming a new tax credit preference must report the
219 amount of the tax preference claimed by the taxpayer to the
220 Department of Revenue as otherwise required by statute or
221 determined by the department as part of the taxpayer's regular
222 tax reporting responsibilities.

223 Section 13. This act shall become effective on the
224 first day of the third month following its passage and



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225 approval by the Governor, or its otherwise becoming law.