

1 SB303
2 218176-1
3 By Senators Orr and Melson
4 RFD: Finance and Taxation Education
5 First Read: 09-MAR-22

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:

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

3 "§40-1-50.

4 "(a) For the purpose of this section, the term
5 economic tax incentive shall mean any tax credits, deductions,
6 exemptions, abatements, preferential rates, or rebates given
7 as an economic incentive. For the purpose of this section, the
8 term economic incentive shall mean an inducement provided by
9 the government, where the government promises to forgo tax
10 revenues to which it is otherwise entitled or to provide some
11 other benefit to an individual or an entity and in exchange
12 the individual or entity promises to take specific action that
13 contributes to economic development. In order for the
14 Legislature to get accurate and complete information regarding
15 the costs and benefits of economic tax incentives, each state
16 agency that administers an economic tax incentive shall
17 annually report the information required herein to the
18 Legislature.

19 "(b) The head of each state agency that administers
20 any economic tax incentive shall prepare and submit to the
21 Legislature a report regarding each economic tax incentive
22 that the agency administers as set forth in the schedule
23 provided by the Alabama Department of Revenue pursuant to
24 subsection (f) (2) no later than the ~~second~~ first Legislative
25 day of the Regular Session beginning in the ~~2018~~ 2023 Regular
26 Session of the Legislature and each year thereafter. The

1 report shall include an assessment of each economic tax
2 incentive based on the following criteria:

3 "(1) Whether or not each economic tax incentive has
4 been successful in meeting the purpose for which it was
5 enacted, in particular, whether each economic tax incentive
6 benefits those originally intended to be benefited, and if
7 not, those who do benefit.

8 "(2) Whether or not the state receives a positive
9 return on investment, specifically the direct and indirect
10 impact on state and local tax revenues, from the business or
11 industry for which the economic tax incentive is intended to
12 benefit and any other economic benefits produced by such tax
13 incentive.

14 "(3) The economic results of each economic tax
15 incentive, taking into account the extent to which the
16 incentive successfully changes business behavior, and the
17 unintended or inadvertent effects, benefits, or harm caused by
18 the economic tax incentive, including whether the economic tax
19 incentive conflicts with other state laws or regulations.

20 "(c) (1) Nothing in this section shall be construed
21 to require the disclosure of proprietary or trade secret
22 information that has been submitted to any state agency with
23 respect to an economic tax incentive.

24 "(2) Nothing in this section shall be construed to
25 supercede any provision with respect to the confidentiality of
26 taxpayer records.

1 "(d) Each state agency required to submit a report
2 pursuant to the provisions of this section may request from
3 any other state or local agency, official, recipient of funds,
4 or the Alabama Department of Revenue, any information
5 necessary to complete the required report. Any such agency,
6 official, or recipient shall comply with this request.

7 "(e) For purposes of this section, the term state
8 agency shall mean any office, department, board, commission,
9 institution, or division within the executive branch of state
10 government, excluding the Alabama Department of Revenue.
11 Administration of an economic tax incentive shall be evidenced
12 by a legal requirement or authorization to undertake any of
13 the following actions for purposes of administration of the
14 tax incentive:

15 "(1) Promulgation of rules or regulations; in cases
16 where more than one agency has rulemaking authority, the
17 report shall be prepared collaboratively.

18 "(2) Determination, review, or confirmation of
19 eligibility or qualifications.

20 "(3) Entering into a contract with an entity for
21 purposes of a tax credit.

22 "(4) Facilitating economic tax incentives by
23 distributing funds to non-state agencies.

24 "(5) Conducting oversight or substantial
25 administrative functions for an economic tax incentive when
26 the public purpose associated with the economic tax incentive
27 is within the core mission of the agency.

1 "(f) (1) The Department of Revenue shall develop a
2 format for reports required herein. The format shall be made
3 available to all state agencies for use in preparation of
4 their required reports.

5 "(2) The Department of Revenue shall prepare, every
6 four years, a four-year schedule of the economic tax
7 incentives to be reported to the Legislature beginning with
8 the 2018 Regular Session of the Legislature.

9 "(3) The Department of Revenue shall provide state
10 agencies with any tax information necessary to complete the
11 required report relating to an economic tax incentive of such
12 agency.

13 "(g) The House Ways and Means Education Committee
14 and the Senate Committee on Finance and Taxation - Education
15 shall conduct joint hearings on the tax expenditure report
16 every odd-numbered year to be concluded by the tenth
17 legislative day of the regular session of the Legislature ~~The~~
18 ~~House Ways and Means Committees and the Senate Finance and~~
19 ~~Taxation Committees referred to in this subsection as~~
20 ~~committees, shall conduct hearings on the reports every~~
21 ~~odd-numbered year, to be concluded thirty days before the~~
22 ~~beginning of the Regular Session of the Legislature. The~~
23 committees shall analyze and consider each economic tax
24 incentive and shall provide a recommendation to modify,
25 discontinue, or take no action with respect to each economic
26 tax incentive."

1 Section 2. The Brownfield Development Tax Abatement
2 Act, Chapter 9C, of Title 40, commencing with Section 40-9C-1,
3 Code of Alabama 1975, is repealed December 31, 2027, unless
4 extended by an act of the Legislature prior to that date for
5 no more than five additional years.

6 Section 3. The Rural Physician Tax Credit, Article
7 4A, commencing with Section 40-18-130, Chapter 18, of Title
8 40, Code of Alabama 1975, is repealed December 31, 2027,
9 unless extended by an act of the Legislature prior to that
10 date for no more than five additional years.

11 Section 4. The Coal Production Tax Credit, Article
12 8, commencing with Section 40-18-220, Chapter 18, of Title 40,
13 Code of Alabama 1975, is repealed December 31, 2027, unless
14 extended by an act of the Legislature prior to that date for
15 no more than five additional years.

16 Section 5. The Reemployment Act of 2010, Article 10,
17 commencing with Section 40-18-270, Chapter 18, of Title 40,
18 Code of Alabama 1975, is repealed December 31, 2027, unless
19 extended by an act of the Legislature prior to that date for
20 no more than five additional years.

21 Section 6. The Full Employment Act of 2011, Article
22 11, commencing with Section 40-18-290, Chapter 18, of Title
23 40, Code of Alabama 1975, is repealed December 31, 2027,
24 unless extended by an act of the Legislature prior to that
25 date for no more than five additional years.

26 Section 7. The Veterans Employment Act, Article 13,
27 commencing with Section 40-18-320, Chapter 18, of Title 40,

1 Code of Alabama 1975, is repealed December 31, 2027, unless
2 extended by an act of the Legislature prior to that date for
3 no more than five additional years.

4 Section 8. The Irrigation Equipment Tax Credit,
5 Article 14, commencing with Section 40-18-340, Chapter 18, of
6 Title 40, Code of Alabama 1975, is repealed December 31, 2027,
7 unless extended by an act of the Legislature prior to that
8 date for no more than five additional years.

9 Section 9. The Entertainment Industry Incentive Act
10 of 2009, Article 3, commencing with section 41-7A-40, Chapters
11 7A, of Title 41, Code of Alabama 1975, is repealed December
12 31, 2027. Prior to the repeal the incentive, the Department of
13 Commerce shall report to the Legislature beginning in 2023 and
14 annually thereafter, regarding the entertainment industry
15 incentives, in accordance with Section 40-1-50.

16 Section 10. The Alabama Enterprise Zone Act, Article
17 2, commencing with Section 41-23-20, Chapter 23, of Title 41,
18 Code of Alabama 1975, unless extended by an act of the
19 Legislature prior to that date for no more than five
20 additional years.

21 Section 11. The repealing of the incentives listed
22 in sections 2 through 10 shall only affect the availability of
23 the tax credits after December 31, 2027 and shall not cause a
24 reduction or suspension of any credits awarded on or prior to
25 December 31, 2027.

1 Section 12. (a) Beginning in the 2023 Regular
2 Session of the Legislature, all new economic tax incentive
3 legislation shall have provisions for the following:

4 (1) For every bill enacting a new tax credit, a tax
5 credit performance statement which must state the legislative
6 purpose for the new tax credit. The tax credit performance
7 statement must indicate one or more of the following as the
8 legislative purpose of the new tax credit:

9 a. Tax credits intended to induce certain designated
10 behavior by taxpayers.

11 b. Tax credits intended to improve industry
12 competitiveness.

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

14 d. Tax credits intended to reduce structural
15 inefficiencies in the tax structure.

16 e. Tax credits intended to provide tax relief for
17 certain businesses or individuals.

18 (2) Every new tax credit shall expire on the first
19 day of the calendar year following the calendar year that is
20 five years from the effective date of the tax credit. With
21 respect to any new property tax exemption, the exemption does
22 not apply to taxes levied for collection beginning in the
23 calendar year following the calendar year that is five years
24 from the effective date of the tax credit.

25 (3) An annual limit on the amount of credits or
26 incentives that may be provided during any annual period.

1 (4) Limit the number of years for carryforward of
2 unused credits to no more than five years.

3 (5) Limit any transfer or sale of credits to only
4 one transaction after filing paperwork and a filing fee with
5 the Department of Revenue.

6 (6) Require pre-certification of all income and
7 financial institutions excise tax credits by the Department of
8 Revenue before they can be claimed.

9 (b) Beginning with the tax year beginning after
10 December 31, 2023, taxpayers claiming a new tax credit
11 preference must report the amount of the tax preference
12 claimed by the taxpayer to the Department of Revenue as
13 otherwise required by statute or determined by the department
14 as part of the taxpayer's regular tax reporting
15 responsibilities.

16 Section 13. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.