

**House Ways and Means Education Reported Substitute
for HB443**



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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, exemptions, abatements, preferential rates, or rebates given as an economic incentive. For the purpose of this section, the term economic incentive shall mean an inducement provided by the government, where the government promises to forgo tax revenues to which it is otherwise entitled or to provide some other benefit to an individual or an entity and in exchange



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29 the individual or entity promises to take specific action that
30 contributes to economic development. In order for the
31 Legislature to get accurate and complete information regarding
32 the costs and benefits of economic tax incentives, each state
33 agency that administers an economic tax incentive shall
34 annually report the information required herein to the
35 Legislature.

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

46 (1) Whether or not each economic tax incentive has been
47 successful in meeting the purpose for which it was enacted, in
48 particular, whether each economic tax incentive benefits those
49 originally intended to be benefited, and if not, those who do
50 benefit.

51 (2) Whether or not the state receives a positive return
52 on investment, specifically the direct and indirect impact on
53 state and local tax revenues, from the business or industry
54 for which the economic tax incentive is intended to benefit
55 and any other economic benefits produced by such tax
56 incentive.



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57 (3) The economic results of each economic tax
58 incentive, taking into account the extent to which the
59 incentive successfully changes business behavior, and the
60 unintended or inadvertent effects, benefits, or harm caused by
61 the economic tax incentive, including whether the economic tax
62 incentive conflicts with other state laws or regulations.

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

67 (2) Nothing in this section shall be construed to
68 supercede any provision with respect to the confidentiality of
69 taxpayer records.

70 (d) Each state agency required to submit a report
71 pursuant to the provisions of this section may request from
72 any other state or local agency, official, recipient of funds,
73 or the Alabama Department of Revenue, any information
74 necessary to complete the required report. Any such agency,
75 official, or recipient shall comply with this request.

76 (e) For purposes of this section, the term state agency
77 shall mean any office, department, board, commission,
78 institution, or division within the executive branch of state
79 government, excluding the Alabama Department of Revenue.
80 Administration of an economic tax incentive shall be evidenced
81 by a legal requirement or authorization to undertake any of
82 the following actions for purposes of administration of the
83 tax incentive:

84 (1) Promulgation of rules or regulations; in cases



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85 where more than one agency has rulemaking authority, the
86 report shall be prepared collaboratively.

87 (2) Determination, review, or confirmation of
88 eligibility or qualifications.

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

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

93 (5) Conducting oversight or substantial administrative
94 functions for an economic tax incentive when the public
95 purpose associated with the economic tax incentive is within
96 the core mission of the agency.

97 (f) (1) The Department of Revenue shall develop a format
98 for reports required herein. The format shall be made
99 available to all state agencies for use in preparation of
100 their required reports.

101 (2) The Department of Revenue shall prepare, every four
102 years, a four-year schedule of the economic tax incentives to
103 be reported to the Legislature beginning with the 2018 Regular
104 Session of the Legislature.

105 (3) The Department of Revenue shall provide state
106 agencies with any tax information necessary to complete the
107 required report relating to an economic tax incentive of such
108 agency.

109 ~~(g) The House Ways and Means Committees and the Senate~~
110 ~~Finance and Taxation Committees referred to in this subsection~~
111 ~~as committees, shall conduct hearings on the reports every~~
112 ~~odd-numbered year, to be concluded thirty days before the~~



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113 ~~beginning of the Regular Session of the Legislature.~~The House
114 Ways and Means Education Committee and the Senate Committee on
115 Finance and Taxation - Education shall conduct joint hearings
116 on the tax expenditure report every odd-numbered year to be
117 concluded by the 10th legislative day of the regular session
118 of the Legislature. The committees shall analyze and consider
119 each economic tax incentive and shall provide a recommendation
120 to modify, discontinue, or take no action with respect to each
121 economic tax incentive."

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

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

132 Section 4. The Coal Production Tax Credit, Article 8,
133 commencing with Section 40-18-220, Chapter 18, of Title 40,
134 Code of Alabama 1975, is repealed effective December 31, 2028,
135 unless extended by an act of the Legislature prior to that
136 date for no more than five additional years.

137 Section 5. The Reemployment Act of 2010, Article 10,
138 commencing with Section 40-18-270, Chapter 18, of Title 40,
139 Code of Alabama 1975, is repealed effective December 31, 2028,
140 unless extended by an act of the Legislature prior to that



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141 date for no more than five additional years.

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

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

152 Section 8. The Irrigation Equipment Tax Credit, Article
153 14, commencing with Section 40-18-340, Chapter 18, of Title
154 40, Code of Alabama 1975, is repealed effective December 31,
155 2028, unless extended by an act of the Legislature prior to
156 that date for no more than five additional years.

157 Section 9. The Entertainment Industry Incentive Act of
158 2009, Article 3, commencing with Section 41-7A-40, Chapters
159 7A, of Title 41, Code of Alabama 1975, is repealed effective
160 December 31, 2028. Prior to the repeal of the incentive, the
161 Department of Commerce shall report to the Legislature
162 beginning in 2023 and annually thereafter, regarding the
163 entertainment industry incentives, in accordance with Section
164 40-1-50.

165 Section 10. The Alabama Enterprise Zone Act, Article 2,
166 commencing with Section 41-23-20, Chapter 23, of Title 41,
167 Code of Alabama 1975, is repealed effective December 31, 2028,
168 unless extended by an act of the Legislature prior to that



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169 date for no more than five additional years.

170 Section 11. The repealing of the incentives listed in
171 Sections 2 through 10 shall only affect the availability of
172 the tax credits after December 31, 2028, and shall not cause a
173 reduction or suspension of any credits awarded on or prior to
174 December 31, 2028.

175 Section 12. (a) Beginning in the 2024 Regular Session
176 of the Legislature, all new tax **credit** legislation shall
177 include the following:

178 (1) For every bill enacting a new tax credit, a tax
179 credit performance statement which must state the legislative
180 purpose for the new tax credit. The tax credit performance
181 statement must indicate one or more of the following as the
182 legislative purpose of the new tax credit:

183 a. Tax credits intended to induce certain designated
184 behavior by taxpayers.

185 b. Tax credits intended to improve industry
186 competitiveness.

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

188 d. Tax credits intended to reduce structural
189 inefficiencies in the tax structure.

190 e. Tax credits intended to provide tax relief for
191 certain businesses or individuals.

192 (2) A statement providing that new tax credits shall
193 expire on the first day of the calendar year following the
194 calendar year that is five years from the effective date of
195 the tax credit. With respect to any new property tax
196 exemption, the exemption does not apply to taxes levied for



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197 collection beginning in the calendar year following the
198 calendar year that is five years from the effective date of
199 the tax credit.

200 (3) A statement establishing the limit on the amount of
201 tax credits that may be provided during any applicable period
202 of the tax credit.

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

205 (5) A statement limiting the transfer or sale of tax.

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

209 (b) For tax years beginning after December 31, 2024,
210 taxpayers claiming a new tax credit must report the amount of
211 the tax credit claimed by the taxpayer as otherwise required
212 or in accordance with the taxpayer's regular tax reporting
213 duties to the Department of Revenue.

214 (c) The term tax credit as used in this section shall
215 mean a credit allowed against the amount of tax imposed by
216 Chapter 16, Chapter 18, or Chapter 21 of Title 40.

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