

1 SB57
2 214920-1
3 By Senators Orr and Albritton
4 RFD: Finance and Taxation Education
5 First Read: 11-JAN-22

2
3
4
5
6
7
8 SYNOPSIS: This bill would change the reporting date
9 requirements of state agencies that administer
10 economic tax incentives and establish sunset
11 provisions and reporting guidelines for economic
12 tax incentives.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to economic tax incentives; to amend
19 Section 40-1-50, Code of Alabama 1975; to change the reporting
20 date requirements of state agencies which administer economic
21 tax incentives; to align committee schedules to review state
22 agency reports; to establish sunset dates for tax incentive
23 programs; to establish future sunset dates for extended tax
24 incentive programs; and to provide required guidelines for all
25 new incentive legislation.

26 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 December 31 ~~the second~~
25 ~~Legislative day of the Regular Session beginning in the 2018~~
26 ~~Regular Session of the Legislature and each year thereafter.~~

1 The 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. (a) Notwithstanding any law to the
2 contrary, any tax incentive, credit, or abatement as described
3 in Title 40 of the Code of Alabama 1975 that does not have a
4 prescribed expiration, conclusion, or repeal date, shall be
5 repealed on December 31, 2023, unless extended by an act of
6 the Legislature during the 2023 Regular Session. The
7 Department of Revenue shall develop a list of tax incentives,
8 credits, or abatements subject to the sunset provisions of
9 this section.

10 (b) Any tax incentive, credit, or abatement program
11 that is extended by an act of the Legislature shall be subject
12 to the annual reporting requirements as required under Section
13 40-1-50, Code of Alabama 1975.

14 (c) Any tax incentive, credit, or abatement program
15 extended by an act of the Legislature shall be limited in
16 duration to a maximum of five years from the end of the 2023
17 Regular Session of the Legislature.

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

21 (1) For every bill enacting a new tax credit, a tax
22 credit performance statement which must state the legislative
23 purpose for the new tax credit. The tax credit performance
24 statement must indicate one or more of the following as the
25 legislative purpose of the new tax credit:

26 a. Tax credits intended to induce certain designated
27 behavior by taxpayers.

1 b. Tax credits intended to improve industry
2 competitiveness.

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

4 d. Tax credits intended to reduce structural
5 inefficiencies in the tax structure.

6 e. Tax credits intended to provide tax relief for
7 certain businesses or individuals.

8 (2) Every new tax credit shall expire on the first
9 day of the calendar year following the calendar year that is
10 five years from the effective date of the tax credit. With
11 respect to any new property tax exemption, the exemption does
12 not apply to taxes levied for collection beginning in the
13 calendar year following the calendar year that is five years
14 from the effective date of the tax credit.

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

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

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

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

25 (b) Beginning with the tax year beginning after
26 December 31, 2023, taxpayers claiming a new tax credit
27 preference must report the amount of the tax preference

1 claimed by the taxpayer to the Department of Revenue as
2 otherwise required by statute or determined by the department
3 as part of the taxpayer's regular tax reporting
4 responsibilities.

5 Section 4. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.