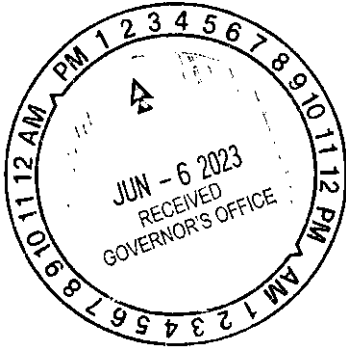




ACT #2023 - 512

- 1 THGP95-2
- 2 By Representatives Garrett, Baker
- 3 RFD: Ways and Means Education
- 4 First Read: 09-May-23
- 5 2023 Regular Session





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1 Enrolled, An Act,

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3

4 Relating to economic development; to amend Section
5 40-18-417.4, Code of Alabama 1975, as amended by Act 2023-34
6 of the 2023 Regular Session; to amend Section 5 of Act 2023-34
7 of the 2023 Regular Session, now appearing as Sections
8 40-18-472 and 40-18-473, Code of Alabama 1975, to correct a
9 date referenced in the Growing Alabama Act; to clarify the tax
10 rebates under the Sweet Home Alabama Tourism Investment Act
11 for certain businesses for certified tourism destination
12 projects are only available for projects placed into service
13 after the effective date of this act; to amend Section 41-7-3,
14 Code of Alabama 1975 to include the Chairs of the Senate
15 Finance and Taxation Education Committee and Ways and Means
16 Education Committee and the ranking minority member of each
17 committee, or their designees, to the Tourism Advisory Board;
18 and to amend Sections 41-10-47.03 and 41-10-47.04, Code of
19 Alabama 1975, from Section 1 of Act 2023-35 of the 2023
20 Regular Session, to align rural population provisions of the
21 Site Evaluation Economic Development Strategy with the Jobs
22 Act.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 40-18-417.4, Code of Alabama 1975,
25 as amended by Act 2023-34 of the 2023 Regular Session, is
26 amended to read as follows:

27 "§40-18-417.4

28 (a) A taxpayer is allowed a Growing Alabama Credit to



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29 be applied against all of the following:

30 (1) To offset the income taxes levied in this chapter,
31 or as an estimated tax payment of income taxes.

32 (2) To offset the state portion of the financial
33 institution excise tax levied in Chapter 16.

34 (3) To offset the insurance premium tax levied by
35 subsection (a) of Section 27-4A-3.

36 (4) To offset state license taxes levied by Article 2
37 of Chapter 21.

38 (b) In no event shall the Growing Alabama Credit cause
39 a taxpayer's tax liability to be reduced by more than 50
40 percent. Unused credits may be carried forward for no more
41 than five years.

42 (c) Growing Alabama Credits shall be granted to
43 taxpayers using an online system administered by the
44 Department of Revenue. The online system shall allow taxpayers
45 to agree to make a cash contribution to an economic
46 development organization which was approved by the Renewal of
47 Alabama Commission, as provided in Section 40-18-417.3. The
48 online system shall ensure that credits are not granted for
49 contributions to an economic development organization in
50 excess of the amounts approved by the Renewal of Alabama
51 Commission, as provided in Section 40-18-417.3.

52 (d) The cumulative amount of funding approved pursuant
53 to this section shall not exceed twenty million dollars
54 (\$20,000,000) in a calendar year for calendar years ending
55 prior to January 1, 2024, which amount would increase to
56 twenty-three million dollars (\$23,000,000) for the calendar



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57 year ending December 31, 2024, twenty-six million dollars
58 (\$26,000,000) for the calendar year ending December 31, 2025,
59 twenty-nine million dollars (\$29,000,000) for the calendar
60 year ending December 31, 2026, thirty-two million dollars
61 (\$32,000,000) for the calendar year ending December 31, 2027,
62 and thirty-five million dollars (\$35,000,000) for calendar
63 year ending ~~January 1~~December 31, 2028.

64 (e) The Renewal of Alabama Commission shall reserve at
65 least 25 percent of the amounts specified in subsection (d)
66 for projects located in targeted or jumpstart counties as
67 defined in Section 40-18-376.1. In the event applications are
68 not received and credits are not allocated for projects in
69 these areas by the close of the second quarter of the program
70 year, the funds may revert for allocations of other project
71 applications.

72 (f) To the extent that a Growing Alabama Credit is used
73 by a taxpayer, the taxpayer shall not be allowed any deduction
74 that would have otherwise been allowed for the taxpayer's
75 contribution. Credits may only be claimed by the donating
76 taxpayer and may not be assigned or transferred to any other
77 taxpayer. For purposes of this section, a donating taxpayer
78 includes a taxpayer who is a shareholder of an Alabama S
79 corporation or a partner or member of a subchapter K entity
80 that made a contribution to an economic development
81 organization which was approved by the Renewal of Alabama
82 Commission.

83 (g) The Department of Finance shall adopt rules to
84 ensure that the Growing Alabama Credit in no case would reduce



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85 the distribution for the Alabama Special Mental Health Trust
86 Fund by using any unencumbered funds."

87 Section 2. Section 5 of Act 2023-34 of the 2023 Regular
88 Session, now appearing as Sections 40-18-472 and 40-18-473,
89 Code of Alabama 1975, is amended to read as follows:

90 "§40-18-472

91 (a) In order for an applicant ~~to be an approved~~
92 ~~company, all of the following shall occur:~~

93 ~~(1) For any applicant~~ that proposes a certified tourism
94 destination project to be an approved company, the board shall
95 make ~~all~~both of the following findings:

96 a. That the project is in fact a certified tourism
97 destination project.

98 b. That the amount of tourism rebates sought are
99 exceeded by anticipated revenues for the state, including
100 income, property, business privilege, utility, gross receipts,
101 sales, and use tax revenues that are generated by the economic
102 activity resulting from the project.

103 (b) The Alabama Tourism Advisory Board shall review
104 qualifying projects meeting the criteria established pursuant
105 to Section 40-18-473 and approve eligible projects for tax
106 rebates. Upon a determination that all program requirements
107 are met, the board will issue the Alabama Tourism Advisory
108 Board Act Certificate. Each certificate shall include the
109 amount of the approved project costs, the maximum rebate
110 available, and the rebate term of 10 years ~~with a five-year~~
111 ~~carry forward~~ from the completion date or the date on or which
112 five million dollars (\$5,000,000) of the approved project



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113 costs has been rebated to the applicant, whichever threshold
114 is met first."

115 "§40-18-473

116 (a) A tax rebate from taxes generated within the
117 tourism destination attraction by the certified tourism
118 destination project over a 10-year period from the
119 commencement of operation, which must occur after the
120 effective date of the act adding this language, in the amount
121 of up to five million dollars (\$5,000,000) may be claimed. No
122 approved company may receive more than one million dollars
123 (\$1,000,000) in tourism rebates in a calendar year.

124 ~~(b) Tax rebates may carry forward for five years.~~

125 ~~(e)~~ (b) (1) The tax rebates authorized by this ~~act~~ article
126 are limited to an aggregate amount for all certified tourism
127 destination projects of ten million dollars (\$10,000,000)
128 annually with 10 percent set aside annually for certified
129 tourism destination projects located in targeted or jumpstart
130 counties.

131 (2) An approved company with a certified tourism
132 destination project may be granted a tax rebate on any
133 combination of the state and local sales and use taxes,
134 lodging taxes, or other transactional taxes generated by or
135 arising within the tourism destination project after the
136 effective date of the act adding this language.

137 (3) An approved company shall have no obligation to
138 refund or otherwise return any amount of taxes authorized for
139 rebate to the persons from whom the taxes were collected.

140 (4) Rebates authorized under this article shall be for



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141 up to 10 years, commencing on the date the tourism attraction
142 opens for business, which must occur after the effective date
143 of the act adding this language, and begins to collect taxes
144 generated by, or arising within, the tourism destination
145 project.

146 (5) Tax rebates may be a combination of state and local
147 retail sales tax, state and local lodging taxes, and any other
148 taxes generated by, or arising within, the tourism destination
149 project after the effective date of the act adding this
150 language. The municipality or the taxing district where the
151 tourism destination project will be located must support and
152 approve the facility. The approval must be in the form of a
153 resolution of the governing authority acknowledging support of
154 the project and acknowledging that a portion no less than 20
155 percent of the tax rebates will be comprised of municipal
156 taxes.

157 (6) The Alabama Department of Revenue, in consultation
158 with the Alabama Tourism Department, shall adopt rules and
159 require the filing of a rebate form designed by the Department
160 of Revenue to reflect the intent of this article. To begin the
161 rebate process, once project phases open for business after
162 the effective date of the act adding this language, the
163 approved company must provide a listing of all sales tax
164 accounts and account numbers related to the project. The
165 Alabama Department of Revenue will provide these accounts and
166 will begin making the required diversions into the Tourism
167 Project Sales Tax Incentive Fund the month following
168 notification. Rebate payments from the fund will be made each



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169 January and July to the approved company.

170 (7) No tax rebate shall be granted to an approved
171 company during a tax year that the approved company is
172 simultaneously receiving any other state tax incentive
173 associated with any individual tourism attraction project.

174 (8) Any tax rebate shall be first applied to any
175 outstanding tax obligation of the approved company that is due
176 and payable to the state.

177 (9) Rebates under this article shall be made without
178 interest.

179 (10) Tax rebates authorized under this article are
180 transferrable to future owners of the qualifying tourism
181 destination project.

182 (11) The tax rebate allowed under this article shall be
183 effective beginning August 1, 2023, for projects placed into
184 service after the effective date of the act adding this
185 language and shall continue through July 31, 2028, unless
186 continued by an act of the Legislature.

187 (12) Tax rebates for certified tourism destination
188 projects are to be administered by the Alabama Department of
189 Revenue.

190 (c) Notwithstanding the ten million dollar
191 (\$10,000,000) annual cap on tax rebates allowed, the board may
192 approve an annual onetime designation of an additional two
193 million five hundred thousand dollars (\$2,500,000) in tax
194 rebates for one project per calendar year with a minimum
195 capital investment amount of seventy-five million dollars
196 (\$75,000,000)."



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197 Section 3. Section 41-7-3, Code of Alabama 1975, is
198 amended as follows:

199 "§41-7-3

200 (a) There is established the Advisory Board to the
201 Alabama Tourism Department to advise and assist the director.
202 The board shall be composed of ~~24~~25 members who shall be
203 appointed as follows:

204 (1) Two members who shall be appointed by the Governor
205 from a list of three persons for each board position which
206 shall be submitted to the Governor by the Alabama Travel
207 Council, or its successor organization.

208 (2) Two members who shall be appointed by the Governor
209 from a list of three persons for each board position which
210 shall be submitted to the Governor by the Alabama Hospitality
211 Association, or its successor organization.

212 (3) Two members who shall be appointed by the Governor
213 from a list of three persons for each board position which
214 shall be submitted to the Governor by the Alabama Association
215 of Convention and Visitor Bureaus, or its successor
216 organization.

217 (4) Two members who shall be appointed by the Governor
218 from a list of three persons for each board position which
219 shall be submitted to the Governor from the Alabama Restaurant
220 Association, or its successor organization.

221 (5) Two members who shall be appointed by the Governor
222 from a list of three persons for each board position which
223 shall be submitted to the Governor from the Alabama
224 Cooperative Extension System who shall be representatives of



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225 the private sector rural tourism industry.

226 (6) Two members who shall be appointed by the Governor
227 from a list of three persons for each board position which
228 shall be submitted to the Governor from the Economic
229 Development Association of Alabama, or its successor
230 organization.

231 (7) Three members appointed by the Governor who are not
232 current full-time public officials or public employees, but
233 who are representatives of the private sector of the tourism
234 industry in Alabama.

235 (8) The Director of the Alabama State Parks who shall
236 serve as an ex officio member.

237 (9) The Director of the Alabama Historical Commission
238 who shall serve as an ex officio member.

239 (10) The Director of the Alabama State Council on the
240 Arts who shall serve as an ex officio member.

241 (11) The Director of the Alabama Cooperative Extension
242 Service who shall serve as an ex officio member.

243 (12) The Director of the Alabama Department of Public
244 Safety who shall serve as an ex officio member.

245 (13) The Director of the Alabama Department of
246 Transportation who shall serve as an ex officio member.

247 (14) The Chair of the Senate Finance and Taxation
248 Education Committee, the Chair of the House Ways and Means
249 Education Committee, and the ranking minority member of each
250 committee, or their designees.

251 (b) Ex officio members of the board shall be voting
252 members, but shall serve as a member of the board only as long



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253 as the ex officio member holds his or her respective office.
254 Each member not serving in an ex officio capacity shall be
255 appointed to a six-year term except for the initial
256 appointments of one of the members for each of the positions
257 designated in subsection (a), subdivisions (1) to (5),
258 inclusive, which shall be appointed to initial three-year
259 terms. Members shall serve until their successors are
260 appointed and qualified. Vacancies which occur other than by
261 expiration of the term shall be filled for the unexpired term
262 only.

263 (c) The members of the board shall serve without
264 compensation but shall be entitled to reimbursement for actual
265 and necessary expenses incurred in the performance of their
266 duties as members.

267 (d) The director shall be a nonvoting member of the
268 board.

269 (e) Members of the board shall be residents of the
270 State of Alabama, and to the extent possible, appointments to
271 the board shall be made from all geographic regions of the
272 State of Alabama in order to promote economic diversity from
273 throughout the state. Appointments to the board shall include
274 Black and other minority representation, and to the extent
275 possible, the appointments shall reflect the percentage of
276 minority population of the state and the gender and urban and
277 rural diversity of the state. Those members of the board not
278 serving in an ex officio capacity shall be actively employed
279 in the tourism industry throughout the term of their
280 appointment, and if the member ceases to be so employed, that



281 person shall immediately cease to be a member of the board,
282 and the appointing authority shall promptly appoint a new
283 member in the manner consistent with the initial appointment
284 procedure to fill the remainder of the term.

285 (f) All members shall be notified in writing of the
286 time and place of any regular or special meeting. Any member
287 who misses four consecutive regularly scheduled meetings shall
288 immediately cease to be a member of the board, and the
289 appointing authority shall promptly appoint a new member in
290 the manner consistent with the initial appointment procedure
291 to fill the remainder of the term. Such meeting requirements
292 shall not apply to the director nor to ex officio members.

293 (g) The board shall meet at least quarterly, and shall
294 perform the following duties:

295 (1) Serve as a body to advise the director and private
296 persons on the development and implementation of state
297 policies and programs relating to tourism and recreation and
298 to assist in the coordination of these activities.

299 (2) Adopt bylaws, elect officers, including a
300 chairperson, and establish procedures for its operation.

301 (3) Advise and review marketing and annual advertising
302 plans developed by the department. The comprehensive marketing
303 plan shall be directed toward the accomplishment of at least
304 the following purposes:

305 a. Maximizing the return on public and private
306 investment and tourism.

307 b. Encouraging longer stays by visitors to Alabama.

308 c. Assisting local entities in attracting conferences



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309 and conventions.

310 d. Reducing season fluctuations in travel and tourist
311 related industries.

312 e. Encouraging visitors to be destination oriented in
313 this state.

314 f. Encouraging visitors from foreign countries to visit
315 Alabama.

316 g. Encouraging Alabamians to vacation in Alabama.

317 (h) Seek and review the views of all levels of
318 government and the private sector with respect to state
319 programs and policies for the promotion and assistance of
320 tourism.

321 (i) Cooperate and provide expertise for communities and
322 tourism marketing associations in the development and
323 promotion of their tourism attractions and businesses.

324 (j) Establish working committees to advise the
325 department with specific areas of operation including
326 marketing, advertising, regional issues, administration of
327 grant and co-op programs, and product and service
328 development."

329 Section 4. Sections 41-10-47.03 and 41-10-47.04, Code
330 of Alabama 1975, from Section 1 of Act 2023-35 of the 2023
331 Regular Session, are amended as follows:

332 "§41-10-47.03

333 (a) Any local economic development organization may
334 apply to the authority for a site assessment grant.

335 (b) Before making a site assessment grant, the
336 authority shall make all of the following findings:



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337 (1) The site is owned by a local economic development
338 organization, or a local economic development organization has
339 an option to purchase the site.

340 (2) The site is at least 50 acres.

341 (3) The application includes proof that the grant funds
342 that are approved by the authority will be matched by funds on
343 hand with, or contingently committed to, the applicant such
344 that one of the following is true:

345 a. If the site is located in a targeted county with a
346 population of less than 12,000, for every dollar of grant
347 funds, the applicant will contribute twenty-five cents (\$0.25)
348 of additional funds.

349 b. If the site is located in a targeted county with a
350 population of 12,000 or greater but less than ~~50,000~~60,000,
351 for every dollar of grant funds, the applicant will contribute
352 fifty cents (\$0.50) of additional funds.

353 c. If the site is located in a county with a population
354 of ~~50,000~~60,000 or greater but less than 150,000, for every
355 dollar of grant funds, the applicant will contribute
356 seventy-five cents (\$0.75) of additional funds.

357 d. If the site is located in a county with a
358 population of 150,000 or greater, for every dollar of grant
359 funds, the applicant will contribute one dollar (\$1) of
360 additional funds.

361 (c) The authority may impose additional requirements
362 with regard to the sites, including, but not limited to,
363 environmental and geotechnical matters, as well as utility
364 related and transportation related issues.



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365 (d) Each applicant must enter into a project agreement
366 with the authority to establish the terms and conditions of
367 the site assessment grant."

368 "§41-10-47.04

369 (a) Any local economic development organization may
370 apply to the authority for a site development grant.

371 (b) Before making a site development grant, the
372 authority shall make both of the following findings:

373 (1) The site is comprised of at least 75 contiguous
374 acres, provided that in addition to the 75 contiguous acres,
375 other proximate but noncontiguous property may be a part of
376 the site.

377 (2) The application includes proof that the grant funds
378 that are approved by the authority will be matched by funds on
379 hand with, or contingently committed to, the applicant such
380 that one of the following is true:

381 a. If the site is located in a targeted county with a
382 population of less than 12,000, for every dollar of grant
383 funds, the applicant will contribute twenty-five cents (\$0.25)
384 of additional funds.

385 b. If the site is located in a targeted county with a
386 population of 12,000 or greater but less than ~~50,000~~60,000,
387 for every dollar of grant funds, the applicant will contribute
388 fifty cents (\$0.50) of additional funds.

389 c. If the site is located in a county with a population
390 of ~~50,000~~60,000 or greater but less than 150,000, for every
391 dollar of grant funds, the applicant will contribute
392 seventy-five cents (\$0.75) of additional funds.



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393 d. If the site is located in a county with a population
394 of 150,000 or greater, for every dollar of grant funds, the
395 applicant will contribute one dollar (\$1) of additional funds.

396 (c) The authority may impose additional requirements
397 with regard to the sites, including, but not limited to,
398 environmental and geotechnical matters, as well as utility
399 related and transportation related issues.

400 (d) Each applicant must enter into a project agreement
401 with the authority to establish the terms and conditions of
402 the site development grant."

403 Section 5. This act shall become effective immediately
404 following its passage and approval by the Governor, or its
405 otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 25-May-23.

John Treadwell
Clerk

Senate	<u>01-Jun-23</u>	Passed
House	<u>01-Jun-23</u>	Concurred in Senate Amendment

APPROVED 6-14-2023
TIME 9:30 am

GOVERNOR

Alabama Secretary Of State
Act Num....: 2023-512
Bill Num....: H-445
Recv'd 06/15/23 09:53amSLF

DATE: 5-25 20 23
RD 1 RFD F+7E

This Bill was referred to the Standing Committee of the Senate on FATE and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) 1 w/sub 1 w/eng sub by a vote of years 13 nays 0 abstain 0 this 31st day of May 20 23, Chair [Signature]

DATE: 5-31 20 23
RF TA US-30 RD2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB _____ YEARS _____ NAYS _____
PATRICK HARRIS, Secretary

DATE: 6-1-23 RD 3 at length
PASSED PASSED AS AMENDED

YEAS 32 NAYS 0
And was ordered returned forthwith to the House
PATRICK HARRIS, Secretary

DATE: _____ 20 _____
INDEFINITELY POSTPONED YEARS _____ NAYS _____

DATE: _____ 20 _____
RECONSIDERED YEARS _____ NAYS _____

FURTHER SENATE ACTION (OVER)

DATE: 5-9 20 23
RD 1 RFD WANE

REPORT OF STANDING COMMITTEE
This bill having been referred by the House to its standing committee on Ways & Means Education was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s) 1 w/sub _____ this 17th day of May 20 23, Chair Ray Bennett

DATE: 5-17 20 23
RF _____ RD 2 CAL _____

DATE: _____ 20 _____
RE-REFERRED RE-COMMITTED
Committee _____

DATE: _____ 20 _____
RE-REFERRED RE-COMMITTED
Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 445
YEAS 103 NAYS 0
JOHN TREADWELL, Clerk

FURTHER HOUSE ACTION (OVER)

- 44
- SPONSORS
- Baker 666 28
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