# SB299 ENROLLED

ACT #2023 - 546

- 1 RUOCMN-3
- 2 By Senator Orr
- 3 RFD: Conference Committee on SB299
- 4 First Read: 09-May-23
- 5 2023 Regular Session



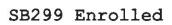


1 Enrolled, An Act,

- Relating to the Coal Production Tax Credit; to amend Section 40-18-220, Code of Alabama 1975, to allow the credit to be claimed against both income and utility services taxes; to allow the credits to be earned by all persons that increase their production of coal mined in Alabama from the prior year; to allow any unused credits to be carried forward for no more than five years; 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.
- 13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
- Section 1. Section 40-18-220, Code of Alabama 1975, is amended to read as follows:
- 16 "\$40-18-220
  - (a) For the tax years beginning on and after January 1, 1995, every personeorporation, whether a "subchapter S" corporation, as defined by the 1995 Internal Revenue Code, or not, foreign or domestic, that is doing business in Alabama, as a producer of coal mined in Alabama, shall be allowed a coal production credit to be used as provided in subsection (b) against the tax imposed by Section 40-18-2, in the amount of one dollar (\$1) per ton of increased production of coal over the previous year's production of coal as set out herein below. Such tax credit shall be based on coal produced after January 1, 1995, provided the coal was mined in Alabama as certified by the producer of the coal. The amount of the total



- of credit in any one year shall be based on the number of tons
- of Alabama coal produced by the person<del>corporation</del> in the year
- 31 which exceeds the number of tons of Alabama coal produced by
- 32 the person<del>corporation</del> in calendar year 1994. In the event a
- 33 person<del>corporation</del> did not produce Alabama coal during calendar
- 34 year 1994, such person<del>corporation</del> must establish a base year
- 35 by producing Alabama coal for 12 consecutive months.
- 36 Thereafter, such person<del>corporation</del> shall be eligible for the
- 37 tax credit as specified hereinabove over the base year
- 38 production.
- 39 (b) The coal production credit described in subsection
- 40 (a) shall be used as follows:
- 41 (1) To offset the income taxes found in this chapter, or
- 42 as an estimated tax payment of income taxes;
- 43 (2) To offset the taxes imposed by Sections 40-21-82 and
- 44 40-21-102; or
- 45 (3) To offset some combination of the foregoing, so long
- 46 as the same credit is used only once.
- 47 (c)(1) The coal production credit may be claimed as a
- 48 credit against the taxes in subsection (b) that are actually
- 49 paid. In any one year, if the credit exceeds the amount of
- 50 taxes that are owed by the person, the person may carry the
- 51 credit forward. No carryforward shall be allowed for more than
- five years. Rules similar to those used for Section 40-18-15.2
- 53 shall be applied.





allocate the coal production credit among some or all c	
arrocate the coar production credit among some of arr c	of the
owners in any manner specified, regardless of whether t	he
allocation follows rules similar to 26 U.S.C. § 704(b)	and the
regulations thereunder. The owners may then use their	
allocated share of the coal production credit to offset	any of
the taxes listed in subsection (b), as provided in subc	division
(1). This subdivision shall be liberally construed to a	apply to
multiple levels of companies, to allow the coal product	cion .
credit to be used by those persons bearing the tax burd	dens of
the production of coal in Alabama, and such companies s	shall
include, but shall in no way be limited to, flow-through	gh_
entities, employee stock ownership plans, mutual funds,	real
estate investment trusts, and it shall also apply to of	fset
the income tax liability of employee/owners of a flow-t	hrough
entity owned by an employee stock ownership plan trust.	_
(3) Prior to claiming the coal production credit a	<u>IS</u>
provided in subdivision (c)(1), the person producing Al	Labama
2 coal shall submit to the Department of Revenue a certif	fication
as to the amount of increased production of coal for th	<u>ie</u>
calendar year over the previous year's production of co	oal.
Following such examination as it deems necessary, the	
Department of Revenue shall allow the coal production of	credit.



- 77 (d) The coal production tax credit shall be subject to
  78 the reporting requirements of Section 40-1-50.
- 79 Section 2. The Brownfield Development Tax Abatement
- 80 Act, Chapter 9C, of Title 40, commencing with Section 40-9C-1,
- 81 Code of Alabama 1975, is repealed effective December 31, 2028,
- 82 unless extended by an act of the Legislature prior to that
- date for no more than five additional years.
- Section 3. The Rural Physician Tax Credit, Article 4A,
- commencing with Section 40-18-130, Chapter 18, of Title 40,
- 86 Code of Alabama 1975, is repealed effective December 31, 2028,
- 87 unless extended by an act of the Legislature prior to that
- 88 date for no more than five additional years.
- Section 4. The Coal Production Tax Credit, Article 8,
- 90 commencing with Section 40-18-220, Chapter 18, of Title 40,
- 91 Code of Alabama 1975, is repealed effective December 31, 2028,
- 92 unless extended by an act of the Legislature prior to that
- 93 date for no more than five additional years.
- 94 Section 5. The Reemployment Act of 2010, Article 10,
- ommencing with Section 40-18-270, Chapter 18, of Title 40,
- 96 Code of Alabama 1975, is repealed effective December 31, 2028,
- 97 unless extended by an act of the Legislature prior to that
- 98 date for no more than five additional years.
- 99 Section 6. The Full Employment Act of 2011, Article 11,
- 100 commencing with Section 40-18-290, Chapter 18, of Title 40,
- 101 Code of Alabama 1975, is repealed effective December 31, 2028,
- 102 unless extended by an act of the Legislature prior to that
- date for no more than five additional years.
- Section 7. The Veterans Employment Act, Article 13,



- 105 commencing with Section 40-18-320, Chapter 18, of Title 40,
- 106 Code of Alabama 1975, is repealed effective December 31, 2028,
- 107 unless extended by an act of the Legislature prior to that
- date for no more than five additional years.
- Section 8. The Irrigation Equipment Tax Credit, Article
- 110 14, commencing with Section 40-18-340, Chapter 18, of Title
- 40, Code of Alabama 1975, is repealed effective December 31,
- 112 2028, unless extended by an act of the Legislature prior to
- that date for no more than five additional years.
- 114 Section 9. The Entertainment Industry Incentive Act of
- 115 2009, Article 3, commencing with Section 41-7A-40, Chapters
- 116 7A, of Title 41, Code of Alabama 1975, is repealed effective
- 117 December 31, 2028, unless extended by an act of the
- 118 Legislature. Prior to the repeal of the incentive, the
- 119 Department of Commerce shall report to the Legislature
- 120 beginning in 2023 and annually thereafter, regarding the
- 121 entertainment industry incentives, in accordance with Section
- 122 40-1-50.
- 123 Section 10. The Alabama Enterprise Zone Act, Article 2,
- 124 commencing with Section 41-23-20, Chapter 23, of Title 41,
- 125 Code of Alabama 1975, is repealed effective December 31, 2028,
- 126 unless extended by an act of the Legislature prior to that
- date for no more than five additional years.
- 128 Section 11. The repealing of the incentives listed in
- 129 Sections 2 through 10 shall only affect the availability of
- the tax credits after December 31, 2028, and shall not cause a
- 131 reduction or suspension of any credits awarded on or prior to
- 132 December 31, 2028.



- Section 12. (a) Beginning in the 2024 Regular Session of the Legislature, all new tax credit legislation shall include the following:
- (1) For every bill enacting a new tax credit, a tax

  credit performance statement which must state the legislative

  purpose for the new tax credit. The tax credit performance

  statement must indicate one or more of the following as the

  legislative purpose of the new tax credit:
- 141 a. Tax credits intended to induce certain designated 142 behavior by taxpayers.
- b. Tax credits intended to improve industry competitiveness.
- 145 c. Tax credits intended to create or retain jobs.
- d. Tax credits intended to reduce structural inefficiencies in the tax structure.
- e. Tax credits intended to provide tax relief for certain businesses or individuals.
- 150 (2) A statement providing that new tax credits shall 151 expire on the first day of the calendar year following the 152 calendar year that is five years from the effective date of 153 the tax credit. With respect to any new property tax 154 exemption, the exemption does not apply to taxes levied for 155 collection beginning in the calendar year following the 156 calendar year that is five years from the effective date of the tax credit. 157
- 158 (3) A statement establishing the limit on the amount of 159 tax credits that may be provided during any applicable period 160 of the tax credit.

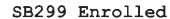


- (4) A statement limiting the number of years for
  carryforward of unused credits to no more than five years.
- 165 (b) For tax years beginning after December 31, 2024, 166 taxpayers claiming a new tax credit must report the amount of 167 the tax credit claimed by the taxpayer in accordance with the taxpayer's regular tax reporting duties to the Department of 168 169 Revenue. The amount of the tax credit claimed shall be 170 considered as confidential taxpayer information, and the 171 Department of Revenue shall not be required under this section to disclose confidential information. 172
- 173 (c) The term tax credit as used in this section shall
  174 mean a credit allowed against the amount of tax imposed by
  175 Chapter 16 or Chapter 18 of Title 40.
- 176 Section 13. The provisions of this act are severable.

  177 If any part of this act is declared invalid or

  178 unconstitutional, the declaration shall not affect the part

  179 which remains.
- Section 14. This act shall become effective on the
  first day of the third month following its passage and
  approval by the Governor, or its otherwise becoming law,
  except that Section 1 shall become effective for tax years
  beginning on or after January 1, 2023, immediately following
  its passage and approval by the Governor, or its otherwise
  becoming law.





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190	President and Presiding Officer of the Senate		
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194	Tall in		
195	Speaker of the House of Representatives		
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197			
198	SB299		
199	Senate 18-May-23		
200	I hereby certify that the within Act originated in and passed		
201	the Senate, as amended.		
202			
203	Senate 06-Jun-23		
204	I hereby certify that the within Act originated in and passed		
205	the Senate, as amended by Conference Committee Report.		
206 207	Dates ale Hannia		
207	Patrick Harris,		
209	Secretary.		
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212			
213	House of Representatives		
214	Amended and passed: 01-Jun-23		
215	imenaed and passed. Of San 25		
216	House of Representatives		
217	Passed 06-Jun-23, as amended by Conference Committee Report.		
218	The state of the s		
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222	By: Senator Orr		

PPROVED 6-14-S

TIME

Alabama Secretary Of State

Act Num...: 2023-546 Bill Num...: 5-299

Recv'd 06/15/23 10:05amSLF

		I hereby certify that the Resolution as	DATE: 5.23 204
ONSORS	<del></del>	required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 299	RD 1 RFD KILME
	19	yeas 31 nays 0 abstain 0	REPORT OF STANDING COMMITTEE
	20	· PATRICK HARRIS, Secretary	This bill having been referred by the House to its standing committee on
	21	•	www.s. Education.was acted upon by such committee in session, and returned therefrom to the
	22	I hereby certify that the notice & proof is attached to the Bill, SB	House with the recommendation that it be Passed, w/amend(s)w/sub
	23	as required in the General Acts of Alabama, 1975 Act No. 919.	This 2 strday of may, 2023.  May Sauth, Chairperson
	24	PATRICK HARRIS, <sup>,</sup> Secretary	V - WNWY SACOCO , Criairperson
	25		
	26		DATE: 5.25 2023  RF (1) \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
	27	CONFERENCE COMMITTEE	RF WAINENC RD 2 CAL
,		Senate Conferees	
	28		DATE: 20
	29		RE-REFERRED RE-COMMITTED
	30		Committee
·	31		
	32		I hereby certify that the Resolution as required in Section C of Act No. 81-889
	33		was adopted and is attached to the Bill, SB
	34		YEASNAYS JOHN TREADWELL,
	35		JOHN TREADWELL, Clerk
		-	FURTHER HOUSE ACTION (OVER)