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3 ORR AMENDMENT TO HB227
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8 On page 1, line 19, after "shelter" insert the
9 following:

10 ; and to amend Section 40-1-50, Code of Alabama
11 1975; to change the reporting date requirements of state
12 agencies which administer economic tax incentives; to align
13 committee schedules to review state agency reports; to
14 establish sunset dates for tax incentive programs; to
15 establish future sunset dates for extended tax incentive
16 programs; and to provide required guidelines for all new
17 incentive legislation
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19 On page 5, after line 10 insert the following new
20 sections and renumber the subsequent section accordingly:

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

23 "§40-1-50.

24 "(a) For the purpose of this section, the term
25 economic tax incentive shall mean any tax credits, deductions,
26 exemptions, abatements, preferential rates, or rebates given
27 as an economic incentive. For the purpose of this section, the

1 term economic incentive shall mean an inducement provided by
2 the government, where the government promises to forgo tax
3 revenues to which it is otherwise entitled or to provide some
4 other benefit to an individual or an entity and in exchange
5 the individual or entity promises to take specific action that
6 contributes to economic development. In order for the
7 Legislature to get accurate and complete information regarding
8 the costs and benefits of economic tax incentives, each state
9 agency that administers an economic tax incentive shall
10 annually report the information required herein to the
11 Legislature.

12 "(b) The head of each state agency that administers
13 any economic tax incentive shall prepare and submit to the
14 Legislature a report regarding each economic tax incentive
15 that the agency administers as set forth in the schedule
16 provided by the Alabama Department of Revenue pursuant to
17 subsection (f) (2) no later than December 31 ~~the second~~
18 ~~Legislative day of the Regular Session beginning in the 2018~~
19 ~~Regular Session of the Legislature and each year thereafter.~~
20 The report shall include an assessment of each economic tax
21 incentive based on the following criteria:

22 "(1) Whether or not each economic tax incentive has
23 been successful in meeting the purpose for which it was
24 enacted, in particular, whether each economic tax incentive
25 benefits those originally intended to be benefited, and if
26 not, those who do benefit.

1 "(2) Whether or not the state receives a positive
2 return on investment, specifically the direct and indirect
3 impact on state and local tax revenues, from the business or
4 industry for which the economic tax incentive is intended to
5 benefit and any other economic benefits produced by such tax
6 incentive.

7 "(3) The economic results of each economic tax
8 incentive, taking into account the extent to which the
9 incentive successfully changes business behavior, and the
10 unintended or inadvertent effects, benefits, or harm caused by
11 the economic tax incentive, including whether the economic tax
12 incentive conflicts with other state laws or regulations.

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

17 "(2) Nothing in this section shall be construed to
18 supercede any provision with respect to the confidentiality of
19 taxpayer records.

20 "(d) Each state agency required to submit a report
21 pursuant to the provisions of this section may request from
22 any other state or local agency, official, recipient of funds,
23 or the Alabama Department of Revenue, any information
24 necessary to complete the required report. Any such agency,
25 official, or recipient shall comply with this request.

26 "(e) For purposes of this section, the term state
27 agency shall mean any office, department, board, commission,

1 institution, or division within the executive branch of state
2 government, excluding the Alabama Department of Revenue.

3 Administration of an economic tax incentive shall be evidenced
4 by a legal requirement or authorization to undertake any of
5 the following actions for purposes of administration of the
6 tax incentive:

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

10 "(2) Determination, review, or confirmation of
11 eligibility or qualifications.

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

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

16 "(5) Conducting oversight or substantial
17 administrative functions for an economic tax incentive when
18 the public purpose associated with the economic tax incentive
19 is within the core mission of the agency.

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

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

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

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

19 Section 3. (a) Notwithstanding any law to the
20 contrary, any tax incentive, credit, or abatement as described
21 in Title 40 of the Code of Alabama 1975 that does not have a
22 prescribed expiration, conclusion, or repeal date, shall be
23 repealed on December 31, 2022, unless extended by an act of
24 the Legislature during the 2022 Regular Session. The
25 Department of Revenue shall develop a list of tax incentives,
26 credits, or abatements subject to the sunset provisions of
27 this section.

1 (b) Any tax incentive, credit, or abatement program
2 that is extended by an act of the Legislature shall be subject
3 to the annual reporting requirements as required under Section
4 40-1-50, Code of Alabama 1975.

5 (c) Any tax incentive, credit, or abatement program
6 extended by an act of the Legislature shall be limited in
7 duration to a maximum of five years from the end of the 2022
8 Regular Session of the Legislature.

9 Section 4. (a) Beginning in the 2022 Regular Session
10 of the Legislature, all new economic tax incentive legislation
11 shall have provisions for the following:

12 (1) For every bill enacting a new tax credit, a tax
13 credit performance statement which must state the legislative
14 purpose for the new tax credit. The tax credit performance
15 statement must indicate one or more of the following as the
16 legislative purpose of the new tax credit:

17 a. Tax credits intended to induce certain designated
18 behavior by taxpayers.

19 b. Tax credits intended to improve industry
20 competitiveness.

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

22 d. Tax credits intended to reduce structural
23 inefficiencies in the tax structure.

24 e. Tax credits intended to provide tax relief for
25 certain businesses or individuals.

26 (2) Every new tax credit shall expire on the first
27 day of the calendar year following the calendar year that is

1 five years from the effective date of the tax credit. With
2 respect to any new property tax exemption, the exemption does
3 not apply to taxes levied for collection beginning in the
4 calendar year following the calendar year that is five years
5 from the effective date of the tax credit.

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

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

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

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

16 (b) Beginning with the tax year beginning after
17 December 31, 2022, taxpayers claiming a new tax credit
18 preference must report the amount of the tax preference
19 claimed by the taxpayer to the Department of Revenue as
20 otherwise required by statute or determined by the department
21 as part of the taxpayer's regular tax reporting
22 responsibilities.