

## HB293 INTRODUCED



1 MSFCHW-1

2 By Representatives Brown, Stringer, Lipscomb, Marques, Givens,

3 Holk-Jones, Clarke, Kirkland, Travis, Starnes, Jones, Hassell,

4 Shirey, Hulsey, Collins, Pringle, Drummond, Bracy, Wilcox,

5 Lomax

6 RFD: Ways and Means Education

7 First Read: 11-Apr-23

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SYNOPSIS:

Under existing law, an income tax credit is allowed for certain port activities.

This bill would revise the structure of the amounts of the credits that may be claimed and expand the credit to allow port users to claim a jobs tax credit if the user increases their cargo base volume.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to port credits; to amend Section 40-18-403, Code of Alabama 1975, to expand tax incentives for businesses and enterprises who increase their cargo volume through Alabama public ports.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-403, Code of Alabama 1975, is amended to read as follows:

"§40-18-403

(a) If approved by the commission, a port credit is allowed, in an amount equal to ~~fifty dollars (\$50) per TEU, three dollars (\$3) per net ton, four cents (\$0.04) per~~



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29 ~~kilogram for air freight, or two dollars and ninety-one cents~~  
 30 ~~(\$2.91) per VEU, multiplied by the following~~the cargo volume  
 31 calculated from subdivisions (1) and (2) as follows multiplied  
 32 by the appropriate amount shown in the table in subsection  
 33 (b):

34 (1) The port user's cargo volume in the 12-month period  
 35 for which the commission has granted approval for the port  
 36 user to claim the port credit, minus

37 (2) The port user's base cargo volume.

38 (b) Port credit amount.

<u>Increase in cargo volume over base</u>	<u>TEU</u>	<u>Net Ton</u>	<u>Kilogram for Air Freight</u>	<u>VEU</u>
<u>under 4.99 percent</u>	<u>\$50</u>	<u>\$3</u>	<u>\$0.04</u>	<u>\$2.91</u>
<u>5 to 14.99 percent</u>	<u>\$75</u>	<u>\$4.5</u>	<u>\$0.06</u>	<u>\$4.37</u>
<u>15 to 24.99 percent</u>	<u>\$100</u>	<u>\$6</u>	<u>\$0.08</u>	<u>\$5.82</u>
<u>25 percent or greater</u>	<u>\$125</u>	<u>\$7.5</u>	<u>\$0.1</u>	<u>\$7.28</u>

54 ~~(b)~~ (c) The commission shall decrease the amount of the  
 55 port credit to ensure that the anticipated revenues for the  
 56 port facility and state will exceed the amount of the port  
 57 credit sought. The port credit may be conditioned on whatever  
 58 requirements the commission shall impose. The port credits  
 59 shall only be available to the extent that a port facility  
 60 user ships more than 105 percent of its cargo volume from the



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61 12-month period immediately preceding the port facility user's  
62 application. Moreover, the port credit shall only be available  
63 to the extent a port facility user ships more than 10 TEUs,  
64 for cargo measured by TEU, more than 75 net tons, for cargo  
65 measured by net ton, more than fifteen thousand (15,000)  
66 kilograms for air cargo measured by kilograms, or more than  
67 400 VEU, for cargo measured by VEU.

68 ~~(e)~~ (d) The following methods may be used to realize the  
69 port credit:

70 (1) The port credit may offset the tax levied by this  
71 chapter, but not below zero. The port credit may also offset  
72 the estimated payments of the tax levied by this chapter, but  
73 not below zero. In no event shall the port credits be allowed  
74 to reduce any estimated payment of the tax levied by this  
75 chapter before October 1, 2016. In any one year, if the port  
76 credit exceeds the amount of tax liability, the port user may  
77 carry forward the unused port credit. No carryforward shall be  
78 allowed for more than five years. Rules similar to those used  
79 for Section 40-18-15.2 shall be applied.

80 (2) A company may assign and convey a port credit to  
81 another company if substantially all of the assets of the  
82 company are assigned and conveyed in the same transaction.  
83 Proof of such transfer shall be submitted to the Department of  
84 Revenue.

85 (e) Subject to approval by the commission provided in  
86 Section 40-18-401, any business or enterprise which has  
87 increased its cargo volume during the previous 12-month period  
88 by a percentage above its base cargo volume traffic and is



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89 qualified to claim a job credit under Article 16, Chapter 18,  
90 Title 40, shall be allowed an additional jobs credit provided  
91 in Section 40-18-375(a), on the wages paid to its Alabama  
92 Resident employees during the prior year. The amount of the  
93 credit can be seen in the table below:

<u>Percentage Increase</u>	<u>Amount of Job Credit</u>
<u>5-14.99%</u>	<u>0.5%</u>
<u>15-24.99%</u>	<u>1%</u>
<u>25-34.99%</u>	<u>1.5%</u>
<u>35% or higher</u>	<u>2%</u>

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100 ~~(d)~~ (f) To the extent that the port credit is utilized  
101 by the port user or by a transferee company, no deduction for  
102 the related expenses shall be allowed.

103 ~~(e)~~ (g) For any company which enters into an economic  
104 development project agreement with the state, the project  
105 agreement may provide for an allocation to the company of any  
106 port credits which have not been allocated pursuant to this  
107 article. Allocations made pursuant to this subsection shall  
108 meet all of the following requirements:

109 (1) Allocations shall be made by the Governor and  
110 approved by the commission.

111 (2) Allocations for a project shall not exceed three  
112 million dollars (\$3,000,000).

113 (3) Allocations shall be granted only to a new  
114 warehouse or distribution facility which commits to investing  
115 at least twenty million dollars (\$20,000,000) at a single site  
116 and to creating 75 net new jobs in Alabama.



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117 (4) Port credits may not be used until the Department  
118 of Commerce has received satisfactory proof that the capital  
119 investment and job creation requirements have been satisfied.

120 (5) Any port credit granted by this procedure shall not  
121 be granted for more than a 3-year period.

122 (6) Allocations shall not exceed one hundred dollars  
123 (\$100) per TEU, three dollars (\$3) per net ton, four cents  
124 (\$0.04) per kilogram for air freight, or two dollars and  
125 ninety-one cents (\$2.91) per VEU.

126 (7) Anticipated revenues for the state shall exceed the  
127 port credit granted, and the project agreement shall provide  
128 for recapture of all or part of the port credit should the  
129 company default on its obligations in the project agreement."

130 Section 2. The provisions of this act shall be  
131 effective for all tax years beginning after December 31, 2023.

132 Section 3. This act shall become effective January 1,  
133 2024, following its passage and approval by the Governor, or  
134 its otherwise becoming law.