

**HB445 ENROLLED**



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



## HB445 Enrolled

1 Enrolled, An Act,

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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 to the Tourism Advisory Board; and to amend Sections  
18 41-10-47.03 and 41-10-47.04, Code of Alabama 1975, from  
19 Section 1 of Act 2023-35 of the 2023 Regular Session, to align  
20 rural population provisions of the Site Evaluation Economic  
21 Development Strategy with the Jobs Act.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 "§40-18-417.4

27 (a) A taxpayer is allowed a Growing Alabama Credit to  
28 be applied against all of the following:



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

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

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

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

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

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

51 (d) The cumulative amount of funding approved pursuant  
52 to this section shall not exceed twenty million dollars  
53 (\$20,000,000) in a calendar year for calendar years ending  
54 prior to January 1, 2024, which amount would increase to  
55 twenty-three million dollars (\$23,000,000) for the calendar  
56 year ending December 31, 2024, twenty-six million dollars



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

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

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

82 (g) The Department of Finance shall adopt rules to  
83 ensure that the Growing Alabama Credit in no case would reduce  
84 the distribution for the Alabama Special Mental Health Trust



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85 Fund by using any unencumbered funds."

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

89 "§40-18-472

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

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

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

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

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



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113 is met first."

114 "§40-18-473

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

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

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

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

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

139 (4) Rebates authorized under this article shall be for  
140 up to 10 years, commencing on the date the tourism attraction



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

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

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



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

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

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

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

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

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

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

196 Section 3. Section 41-7-3, Code of Alabama 1975, is





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197 amended to read as follows:

198 "§41-7-3

199 (a) There is established the Advisory Board to the  
200 Alabama Tourism Department to advise and assist the director.  
201 The board shall be composed of ~~21~~25 members who shall be  
202 appointed as follows:

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

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

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

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

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



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

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

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

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

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

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

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

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

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

250 (b) Ex officio members of the board shall be voting  
251 members, but shall serve as a member of the board only as long  
252 as the ex officio member holds his or her respective office.



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

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

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

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



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281 and the appointing authority shall promptly appoint a new  
282 member in the manner consistent with the initial appointment  
283 procedure to fill the remainder of the term.

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

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

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

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

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

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

306 b. Encouraging longer stays by visitors to Alabama.

307 c. Assisting local entities in attracting conferences  
308 and conventions.



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

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

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

315           g. Encouraging Alabamians to vacation in Alabama.

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

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

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

328           Section 4. Sections 41-10-47.03 and 41-10-47.04, Code  
329 of Alabama 1975, are amended to read as follows:

330           "§41-10-47.03

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

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

335           (1) The site is owned by a local economic development  
336 organization, or a local economic development organization has



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337 an option to purchase the site.

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

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

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

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

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

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

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

363 (d) Each applicant must enter into a project agreement  
364 with the authority to establish the terms and conditions of



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365 the site assessment grant."

366 "§41-10-47.04

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

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

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

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

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

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

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

391 d. If the site is located in a county with a population  
392 of 150,000 or greater, for every dollar of grant funds, the



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393 applicant will contribute one dollar (\$1) of additional funds.

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

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

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





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Speaker of the House of Representatives

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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

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Senate

**01-Jun-23**

Passed

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House

**01-Jun-23**

Concurred in  
Senate Amendment