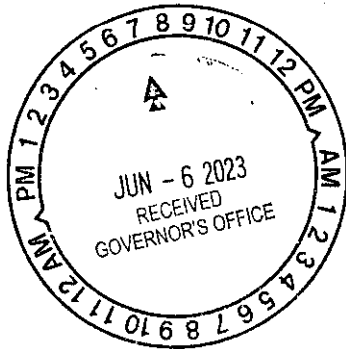




ACT #2023 - 546

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





SB299 Enrolled

1 Enrolled, An Act,

2

3 Relating to the Coal Production Tax Credit; to amend
4 Section 40-18-220, Code of Alabama 1975, to allow the credit
5 to be claimed against both income and utility services taxes;
6 to allow the credits to be earned by all persons that increase
7 their production of coal mined in Alabama from the prior year;
8 to allow any unused credits to be carried forward for no more
9 than five years; to establish sunset dates for tax incentive
10 programs; to establish future sunset dates for extended tax
11 incentive programs; and to provide required guidelines for all
12 new incentive legislation.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 40-18-220, Code of Alabama 1975, is
15 amended to read as follows:

16 "§40-18-220

17 (a) For the tax years beginning on and after January 1,
18 1995, every person~~corporation, whether a "subchapter S"~~
19 ~~corporation, as defined by the 1995 Internal Revenue Code, or~~
20 ~~not, foreign or domestic,~~ that is doing business in Alabama,
21 as a producer of coal mined in Alabama, shall be allowed a
22 coal production credit to be used as provided in subsection
23 (b)~~against the tax imposed by Section 40-18-2,~~ in the amount
24 of one dollar (\$1) per ton of increased production of coal
25 over the previous year's production of coal as set out herein
26 below. Such tax credit shall be based on coal produced after
27 January 1, 1995, provided the coal was mined in Alabama as
28 certified by the producer of the coal. The amount of the total



29 of credit in any one year shall be based on the number of tons
30 of Alabama coal produced by the person~~corporation~~ in the year
31 which exceeds the number of tons of Alabama coal produced by
32 the person~~corporation~~ in calendar year 1994. In the event a
33 person~~corporation~~ did not produce Alabama coal during calendar
34 year 1994, such person~~corporation~~ must establish a base year
35 by producing Alabama coal for 12 consecutive months.
36 Thereafter, such person~~corporation~~ 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
52 five years. Rules similar to those used for Section 40-18-15.2
53 shall be applied.



54 (2) A person that is taxed as a flow-through entity may
55 allocate the coal production credit among some or all of the
56 owners in any manner specified, regardless of whether the
57 allocation follows rules similar to 26 U.S.C. § 704(b) and the
58 regulations thereunder. The owners may then use their
59 allocated share of the coal production credit to offset any of
60 the taxes listed in subsection (b), as provided in subdivision
61 (1). This subdivision shall be liberally construed to apply to
62 multiple levels of companies, to allow the coal production
63 credit to be used by those persons bearing the tax burdens of
64 the production of coal in Alabama, and such companies shall
65 include, but shall in no way be limited to, flow-through
66 entities, employee stock ownership plans, mutual funds, real
67 estate investment trusts, and it shall also apply to offset
68 the income tax liability of employee/owners of a flow-through
69 entity owned by an employee stock ownership plan trust.

70 (3) Prior to claiming the coal production credit as
71 provided in subdivision (c)(1), the person producing Alabama
72 coal shall submit to the Department of Revenue a certification
73 as to the amount of increased production of coal for the
74 calendar year over the previous year's production of coal.
75 Following such examination as it deems necessary, the
76 Department of Revenue shall allow the coal production credit.

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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
83 date for no more than five additional years.

84 Section 3. The Rural Physician Tax Credit, Article 4A,
85 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.

89 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,
95 commencing 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
103 date for no more than five additional years.

104 Section 7. The Veterans Employment Act, Article 13,

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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
108 date for no more than five additional years.

109 Section 8. The Irrigation Equipment Tax Credit, Article
110 14, commencing with Section 40-18-340, Chapter 18, of Title
111 40, Code of Alabama 1975, is repealed effective December 31,
112 2028, unless extended by an act of the Legislature prior to
113 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
127 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
130 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.



133 Section 12. (a) Beginning in the 2024 Regular Session
134 of the Legislature, all new tax credit legislation shall
135 include the following:

136 (1) For every bill enacting a new tax credit, a tax
137 credit performance statement which must state the legislative
138 purpose for the new tax credit. The tax credit performance
139 statement must indicate one or more of the following as the
140 legislative purpose of the new tax credit:

141 a. Tax credits intended to induce certain designated
142 behavior by taxpayers.

143 b. Tax credits intended to improve industry
144 competitiveness.

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

146 d. Tax credits intended to reduce structural
147 inefficiencies in the tax structure.

148 e. Tax credits intended to provide tax relief for
149 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
157 the tax credit.

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.



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161 (4) A statement limiting the number of years for
162 carryforward of unused credits to no more than five years.

163 (5) A statement limiting the transfer or sale of tax
164 credits.

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
168 taxpayer's regular tax reporting duties to the Department of
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
172 to disclose confidential information.

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.

180 Section 14. This act shall become effective on the
181 first day of the third month following its passage and
182 approval by the Governor, or its otherwise becoming law,
183 except that Section 1 shall become effective for tax years
184 beginning on or after January 1, 2023, immediately following
185 its passage and approval by the Governor, or its otherwise
186 becoming law.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB299

Senate 18-May-23

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 06-Jun-23

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 01-Jun-23

House of Representatives
Passed 06-Jun-23, as amended by Conference Committee Report.

By: Senator Orr

APPROVED 6-14-2023
TIME 9:30 am

GOVERNOR

Alabama Secretary Of State
Act Num.....: 2023-546
Bill Num....: S-299

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

DATE: 5.23 2023
RD 1 RFD KUMMG

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 25 day of May, 2023.
Danny Gault, Chairperson

DATE: 5.25 2023
RF Wainend RD 2 CAL

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, SB _____
YEAS _____ NAYS _____
JOHN TREADWELL,
Clerk

FURTHER HOUSE ACTION (OVER)

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 299.
years 31 nays 0 abstain 0
PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.
PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE
Senate Conferees _____

SPONSORS

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