

**House Ways and Means Education Engrossed  
Substitute for HB241**



A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Alabama Jobs Act and the Growing Alabama Act and tourism; to amend Sections 40-18-370, 40-18-372, 40-18-374, 40-18-375, 40-18-376, 40-18-376.1, 40-18-376.2, 40-18-376.3, 40-18-376.4, 40-18-377, 40-18-378, 40-18-382, 40-18-383, 40-18-417.1, 40-18-417.2, 40-18-417.3, 40-18-417.4, 40-18-417.7, and 40-9B-4.1, Code of Alabama 1975, to extend the Alabama Jobs Act sunset date to July 31, 2028; to increase the annualized cap on outstanding Alabama Jobs Act incentives by twenty-five million dollars each year for five years up to four hundred seventy-five million dollars; to increase the investment tax credit transfer time to provide that the first five years of the investment credit may be transferred by the incentivized company and applied by another person or company under the Alabama Jobs Act; to extend the Growing Alabama Act sunset date to July 31, 2028, to increase the annual cap on funding approved pursuant to the Growing Alabama Act incrementally to thirty-five million dollars; to remove certain programs from the Growing Alabama Act for the transfer to Innovate Alabama; to create the Sweet Home Alabama Tourism Investment Act; to define certain terms; to require the Alabama Tourism Department to develop standards for the review and approval of certified tourism destination projects;



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to designate the Alabama Tourism Advisory Board to review and certify qualifying projects; to authorize tax rebates for certain businesses for certified tourism destination projects; to provide for an annual cap on tax rebates; to create the Tourism Project Sales Tax Incentive Fund; to establish the process for renewing a tax rebate; and to establish reporting requirements of the Alabama Tourism Department.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and cited as the Enhancing Economic Progress Act.

Section 2. Sections 40-18-370, 40-18-372, 40-18-374, 40-18-375, 40-18-376, 40-18-376.1, 40-18-376.2, 40-18-376.3, 40-18-376.4, 40-18-377, 40-18-378, 40-18-382, 40-18-383, 40-18-417.1, 40-18-417.2, 40-18-417.3, 40-18-417.4, 40-18-417.7, and 40-9B-4.1, Code of Alabama 1975, are amended to read as follows:

"§40-18-370

(a) This article shall be known and may be cited as the Alabama Jobs Act.

(b) The Legislature makes the following findings:

(1) The economic well-being of the citizens of the state will be enhanced by the increased development and growth of employment within Alabama.

(2) It is in the best interests of the state to provide certain incentives to allow the state to foster economic development through the recruitment of quality projects and the expansion of existing businesses within Alabama.

(3) The incentives provided for in this article do not



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raise any taxes for any individuals or businesses in Alabama under state law.

(4) The incentives provided in this article will allow the state to encourage the creation of new jobs that may not otherwise exist within the State of Alabama.

(5) The incentives provided in this article will increase revenues for the state without increasing taxes.

(6) The Constitution of the State of Alabama grants the Legislature the authority to approve and authorize exemptions, exclusions, deductions, and credits from taxation in order to define the net proceeds of any tax payable under state law.

(7) The Constitution of the State of Alabama was framed, and the laws of the state were enacted, with the goal of protecting, encouraging, and developing individual enterprise.

(8) The incentives provided in this article will not decrease the salary paid to any education personnel.

(9) The powers to be granted and the purposes to be accomplished by this article will create an environment for the recruitment of quality projects and the expansion of existing businesses within Alabama.

(10) Economic development through tax and financial incentives benefits the citizens of the state and is a public purpose of the state.

(c) In addition to the definitions found at Section 40-18-1, the following words and phrases shall have the following meanings:

(1) APPROVED COMPANY. Any company determined by the



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Secretary of Commerce and the Governor to meet the criteria provided in Section 40-18-373.

(2) CAPITAL INVESTMENT. All costs and expenses incurred by the incentivized company in connection with the acquisition, construction, installation, and equipping of a qualifying project, if such costs are required to be capitalized for purposes of the federal income tax, determined without regard to any rule that permits expenditures properly chargeable to a capital account to be treated as current expenditures. However, for any project involving the extraction of natural resources, the capital investment shall not include the costs of acquiring land, land recording fees, architectural and engineering services, environmental studies and environmental mitigation.

(3) COMPANY. Anyone or anything which has the powers to own a project and have employees.

~~(4) ELIGIBLE EMPLOYEES. Those employee positions set forth in a project agreement that will be the result of new jobs created by or through a qualifying project.~~

~~(5) (4) EMPLOYEES. Some or all of those persons employed and residing in Alabama~~ Persons employed in full time positions created by or through a qualifying project:

a. Who are being paid directly by an approved company, related company, common paymaster, or joint venturer, ~~or leasing company for working at a qualifying project; and~~

b. Whom the approved company, related company, common paymaster, or joint venturer ~~or leasing company~~ identifies as its employees to ~~the U.S. Internal Revenue Service,~~ the



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Department of Revenue, or the Department of Labor on returns or reports filed with the foregoing, including, but not limited to, ~~IRS Form 941;~~ Form A-6, Form A-1, Form A-2, UC-CR-4, and UC-10-R. and

~~e. Who are assigned to a qualifying project for a period of at least one year.~~

~~(6)~~ (5) INCENTIVE PERIOD. The period or periods of time during which an incentiivized company can receive one or more of the jobs act incentives.

~~(7)~~ (6) INCENTIVIZED COMPANY. An approved company and any related company that are allowed to claim one or more of the jobs act incentives as provided for in the project agreement.

~~(8)~~ (7) INVESTMENT CREDIT. The annual incentive provided in Section 40-18-376.

~~(9)~~ (8) JOBS ACT INCENTIVES. The jobs credit and the investment credit as authorized and provided for in this article.

~~(10)~~ (9) JOBS CREDIT. The annual incentive provided in Section 40-18-375.

~~(11)~~ (10) NAICS CODE. Any sector, subsector, industry group, industry or national industry of the 2012 North American Industry Classification System, or any similar classification system developed in conjunction with the United States Department of Commerce or Office of Management and Budget.

~~(12)~~ (11) PROJECT. Any land, building, or other improvements, and all real and personal properties, whether or



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not contiguous and whether or not previously in existence, if in Alabama and if deemed necessary or useful in connection with an activity listed in Section 40-18-372(1).

~~(13)~~ (12) PROJECT AGREEMENT. The agreement entered into between an approved company and the Governor establishing the terms and conditions for the provision of the jobs act incentives, as provided for in Section 40-18-374.

~~(14)~~ (13) QUALIFYING PROJECT. Any project to be undertaken by an approved company that satisfies Section 40-18-372.

~~(15)~~ (14) RELATED COMPANY. ~~Any company that is under common ownership, management, or control with a company or an approved company, as the case may be~~ Any entity that owns, owned, or is owned, directly or through one or more entities, a 50 percent or greater interest in the capital or profits of another.

(15) RENEWABLE ENERGY GENERATION. Energy derived from biomass, geothermal, hydrogen, hydropower, marine energy, solar, or wind.

(16) UTILITY TAXES. The taxes imposed by Sections 40-21-82 and 40-21-102.

(17) WAGES. Total wages of an employee (including gross wages, salaries, overtime and bonuses), defined by reference to Section 25-4-16(b), without application of Sections 25-4-16(b)(1), 25-4-16(b)(2)a., 25-4-16(b)(3), and 25-4-16(b)(4).

"§40-18-372

A qualifying project must be found by the Secretary of



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Commerce to conduct an activity specified in subdivision (1) and to meet the minimum standard set forth in subdivision (2).

(1) A qualifying project must predominantly conduct an activity that is any one or more of the following:

a. Described by NAICS Code 1133, 115111, 2121, 22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, 511, 5121 (other than 51213), 51221, 517, 518 (without regard to the premise that data processing and related services be performed in conjunction with a third party), 51913, 52232, 54133 (if predominantly in furtherance of another activity described in this article), 54134 (if predominantly in furtherance of another activity described in this article), 54138, 5415, 541614, 5417, 55 (if not for the production of electricity), 561422 (other than establishments that originate telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

b. The production of biofuel as such term is defined in Section 2-2-90(c)(2).

c. A renewable energy generation facility that is owned by one or more electric providers, as such term is defined in Section 37-16-3(10), for providing electric service at retail in Alabama. For purposes of this subdivision, an "electric provider" shall also include an authority as defined in Section 11-50A-1(1). In the case of an electric provider that is also a tax-exempt organization under the Internal Revenue Code, notwithstanding Section 40-18-376(b)(3), any investment credit may be transferred for the entire term of the project agreement, as approved by the Governor. A "renewable energy



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generation facility" as used in this subdivision shall include any tangible property that is part of renewable energy generation, including any addition, modification, expansion, or upgrade to transmission or distribution systems that is required to accommodate the interconnection of renewable energy generation.

~~e.~~d. The conduct of original investigations undertaken on a systematic basis to gain new knowledge or the application of research findings or other scientific knowledge to create new or significantly improved products or processes.

~~d.~~e. The national or regional headquarters for a company that conducts significant business operations outside the state and that will serve as the principal office of the company's principal operating officer with chief responsibility for the daily business operations of the company.

~~e. A commercial enterprise which is open to the public not less than 120 days during a calendar year and is designed to attract visitors from inside or outside of the State of Alabama, typically for its inherent cultural value, historical significance, natural or man-made beauty, or entertainment or amusement opportunities, including, but not limited to, a cultural or historical site, a botanical garden, a museum, a wildlife park or aquarium open to the public that cares for and displays a collection of animals or fish, an amusement park, a convention hotel and conference center, a water park, or a spectator venue or arena.~~

f. A target of the state's economic development efforts





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pursuant to the Accelerate Alabama Strategic Economic Development Plan adopted in January 2012 by the Alabama Economic Development Alliance, created by Executive Order Number 21 of the Governor on July 18, 2011, or any amended version or successor document thereto.

g. A type listed in a regulation adopted by the Department of Commerce, other than a regulation submitted as an emergency rule.

Notwithstanding the foregoing, a qualifying project may not engage predominantly in farming activities involving trees, animals, or crops, and a qualifying project may not engage predominantly in the retail sale of tangible personal property or services, and may not be a shopping center, restaurant, movie theater, bowling alley, fitness center, miniature golf course, nightclub, gaming facility, or establishment serving the local community. However, if such excluded activities are not the predominant activity at the project, and if the project is otherwise a qualifying project, then the project agreement may provide that the capital investment may include costs related to excluded activities that are ancillary to the primary business conducted as part of the project. This provision shall not be deemed to exclude customer service centers, call centers or headquarters otherwise allowed by this subdivision (1).

(2) A qualifying project shall create a significant number of new jobs for the area in which the qualifying project shall be located. Absent a finding of extraordinary circumstances by the Secretary of Commerce, a qualifying



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project shall employ either of the following number of new employees:

a. Any number of new employees, for a qualifying project in which the predominant activity involves chemical manufacturing, data centers, renewable energy generation, engineering, design, or research, metal/machining technology or toolmaking; or

b. At least 50 new employees, for all other qualifying projects."

"§40-18-374

(a) An incentivized company may claim either or both of the jobs act incentives, to the extent provided in the project agreement.

(b) In order for an incentivized company to claim the jobs act incentives, the Governor and the incentivized company shall execute a project agreement. The agreement shall contain all of the following:

- (1) The name of the incentivized company;
- (2) The location of the qualifying project;
- (3) The activity to be conducted at the qualifying project;
- (4) The jobs act incentives to be granted ~~and the order in which they shall be claimed~~;
- (5) The capital investment to be made at the qualifying project;
- (6) The time period for the capital investment to be made at the qualifying project;
- (7) The number of ~~eligible~~ employees at the qualifying



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281 project;

282 (8) The anticipated wages to be paid to or for the  
283 benefit of ~~eligible~~ employees during the incentive period for  
284 the jobs created;

285 (9) The dates or conditions that shall begin the  
286 running of the incentive periods for applicable jobs act  
287 incentives;

288 (10) The lengths of the incentive periods for the jobs  
289 act incentives;

290 (11) Any annual or aggregate limitations on the amount  
291 of either or both of the jobs act incentives that can be  
292 claimed during an incentive period;

293 (12) Provisions governing the recapture of all or part  
294 of the jobs act incentives awarded to the qualifying project,  
295 should the approved company default on its obligations in the  
296 project agreement;

297 (13) Whether the project agreement may be assigned by  
298 the approved company to some other purchaser, assignee, or  
299 successor;

300 (14) Any other terms, conditions, and limitations that  
301 this article or the Governor may require for an incentivized  
302 company to qualify for and receive a jobs act incentive; and

303 (15) Any other terms the parties deem necessary or  
304 desirable.

305 (c) The Governor may decrease the amounts and durations  
306 of the jobs act incentives to ensure that the anticipated  
307 revenues for the state will exceed the amount of tax  
308 incentives sought."



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309           "§40-18-375

310           (a) (1) If provided for in the project agreement and in  
311 accordance with the terms therein, the incentivized company is  
312 allowed a jobs credit against utility taxes, in an annual  
313 amount ~~equal~~up to 3 percent of the wages paid to ~~eligible~~  
314 Alabama resident employees during the prior year. The  
315 incentive period shall ~~be~~not exceed 10 years.

316           (2) If the incentivized company is engaged in  
317 pharmaceutical, biomedical, medical technology or medical  
318 supplies manufacturing, or its related research and  
319 development activities, the incentivized company is allowed a  
320 jobs credit against utility taxes, in an annual amount ~~equal~~up  
321 to 4 percent of the wages paid to ~~eligible~~Alabama resident  
322 employees during the prior year. The incentive period shall  
323 ~~be~~not exceed 10 years. This applies to companies that  
324 predominantly conduct an activity described by NAICS code  
325 3254, 339112, or 339113, to include related research and  
326 development.

327           (b) The project agreement shall provide that one of the  
328 following methods shall be used to realize the benefits of the  
329 jobs credit:

330           (1)a. As further provided in the project agreement, the  
331 ~~The~~ jobs credit may be paid to the incentivized company as a  
332 refund out of utility taxes during the incentive period,  
333 regardless of the amount of utility taxes actually paid by the  
334 incentivized company.

335           b. For each year of the incentive period for the jobs  
336 credit, the incentivized company shall submit to the



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Department of Commerce a certification as to the wages paid to ~~eligible~~ employees during the prior year. Following such examination as it deems necessary, the Department of Commerce may certify the information and deliver the same to the Department of Revenue. Thereafter, the Department of Revenue shall calculate the correct refund and issue it directly to the incentivized company.

(2)a. The jobs credit may be claimed as a credit against utility taxes actually paid until the effective date of this act, after which time the provisions of subdivision (b) (1) shall control, and the offset provided in this subdivision shall cease unless the provisions stated in subdivision (b) (1) are explicitly stated in the project agreement that was executed prior to the effective date of this act. In any one year, if the credit exceeds the amount of taxes that are allowed to be offset by the project agreement and that are owed by the incentivized company, the incentivized company may carry the credit forward, to the extent allowed in the project agreement. No carryforward shall be allowed for more than five years. Rules similar to those used for Section 40-18-15.2 shall be applied.

b. Prior to claiming the jobs credit as provided in this subdivision, the incentivized company shall submit to the Department of Commerce a certification as to the wages paid to ~~eligible~~ employees during the prior year. Following such examination as it deems necessary, the Department of Commerce may certify the information and deliver same to the Department of Revenue. Thereafter, the Department of Revenue shall allow



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the jobs credit.

(c) The realization methods in subsection (b) shall not create debts of the state within the meaning of Section 213 of the ~~Official Recompilation of the~~ Constitution of Alabama of ~~1901, as amended~~2022.

(d) The Department of Finance shall adopt rules to ensure that the credit in no case would reduce the distribution for the Alabama Special Mental Health Trust Fund by using any unencumbered funds."

"§40-18-376

(a) If provided for in the project agreement, the incentivized company is allowed an investment credit in an annual amount ~~equal~~up to 1.5 percent of the capital investment incurred as of the beginning of the incentive period, to be used as follows:

(1) To offset the income taxes found in this chapter, or as an estimated tax payment of income taxes;

(2) To offset the financial institution excise tax found in Chapter 16;

(3) To offset the insurance premium tax levied by Section 27-4A-3(a), or as an estimated payment of insurance premium tax;

(4) To offset utility taxes;

(5) To offset state license taxes levied by Article 2 of Chapter 21; or

(6) To offset some combination of the foregoing, so long as the same credit is used only once.

The incentive period shall begin no earlier than the



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placed-in-service date. The incentive period shall ~~be not~~  
exceed 10 years. ~~Should only some portion of a tax year be~~  
~~included in the incentive period, the amount of the investment~~  
~~credit shall be prorated on a daily basis.~~

(b) A project agreement may specify any one or more of  
the following methods by which the investment credit shall be  
realized by the incentivized company, so long as a credit is  
not utilized more than once:

(1)a. The investment credit may be claimed as a credit  
against the taxes in subsection (a) that are actually paid. In  
any one year, if the credit exceeds the amount of taxes that  
are allowed to be offset by the project agreement and that are  
owed by the incentivized company, the incentivized company may  
carry the credit forward, to the extent allowed in the project  
agreement. No carryforward shall be allowed for more than five  
years. Rules similar to those used for Section 40-18-15.2  
shall be applied.

b. Prior to claiming the investment credit as provided  
in this subdivision, the incentivized company shall submit to  
the Department of Commerce a certification as to its capital  
investment as of the dates specified in the project agreement.  
Following such examination as it deems necessary, the  
Department of Commerce may certify the information and deliver  
the same to the Department of Revenue. Thereafter, the  
Department of Revenue shall allow the investment credit.

(2) The project agreement may authorize an incentivized  
company that is taxed as a flow-through entity to allocate the  
credit among some or all of the owners in any manner



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specified, regardless of whether the 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 investment credit to offset any of the taxes listed in subsection (a), as provided in subdivision (1). This subdivision shall be liberally construed to apply to multiple levels of companies, to allow the investment credits to be used by those persons bearing the tax burdens of the qualifying project, and such companies shall include but shall in no way be limited to flow-through entities, employee stock ownership plans, mutual funds, real estate investment trusts, and it shall also apply to offset the income tax liability of employee/owners of a flow-through entity owned by an employee stock ownership plan trust.

(3) ~~All or part of the first three years~~ The Secretary of Commerce may recommend to the Governor that the incentivized company be granted transferability of the investment credit ~~may be transferred by the incentivized company and applied by another person or company as follows:~~

~~a. A transfer of the credit shall be made by written, notarized contract.~~

~~b. No such transfer shall occur before the contract is approved by the Secretary of Commerce. In determining whether to approve any transfer, the Secretary shall make all of the following findings:~~

~~(i) That any~~ for up to the first five years. Any investment credit transferred shall be at the value of at least 85 percent of the value of the credit. Any one year's





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investment credit ~~will~~ shall not be purchased by more than three transferees, unless such limitation is found by the Secretary of Commerce to unnecessarily ~~to~~ limit the class of potential transferees~~+~~.

~~(ii) That the proposed transfer will enhance the economic benefits of the qualifying project; and~~

~~(iii) That the transfer is at a value of at least 85 percent of the present value of the credits.~~

~~Upon making affirmative findings on the criteria set forth above, the Secretary of Commerce shall recommend to the Governor that the transfer should be approved. Information about the proposed transfer shall be forwarded to the Governor, and the Governor may include provisions about the transfer in the project agreement, or in an amendment thereto executed by the Governor and the incentivized company.~~

~~e. If a transfer is approved, the incentivized company shall submit to the Department of Commerce the following:~~

~~(i) Certifications as to its capital investment as of the dates specified in the project agreement. Following such examination as it deems necessary, the~~If approved by the Governor, transferability shall be allowed in the project agreement, subject to any notice and verification requirements determined by the Department of Commerce. Prior to any transfer, the investment credit shall be certified by the Department of Commerce~~may certify the information and deliver the same to the Department of Revenue~~pursuant to paragraph (b) (1)b. of Section 40-18-376.

~~(ii) Certified information about the transfers,~~



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~~including identifying information about the transferees and  
the amount of credit each transferee should claim. Following  
such examination as it deems necessary, the Department of  
Commerce may certify the information and deliver the same to  
the Department of Revenue.~~

~~d. Upon receipt of the certifications from the  
Department of Commerce as required by paragraph c., the~~The  
Department of Revenue shall adopt a transfer statement form to  
be filed by the transferor in a manner prescribed by the  
Department of Revenue. The transfer statement form shall  
include the name and federal taxpayer identification number of  
the transferor and each transferee listed therein along with  
the amount of the tax credit to be transferred to each  
transferee listed on the form. The transfer statement form  
shall also contain such other information as the Department of  
Revenue may reasonably require. For each transfer of a credit,  
the incentivized company shall file with the Department of  
Revenue, and a copy to the Department of Commerce, (1) a  
completed transfer statement form; (2) a copy of the  
investment credit certification issued by the Department of  
Commerce; and (3) a copy of the executed transfer agreement.  
Filing of the executed transfer agreement with the Department  
of Revenue shall perfect such transfer to the respect to such  
transferee and the Department of Revenue shall thereafter  
allow the appropriate amount of the investment credit to  
offset the tax liability of the transferee for any of the  
taxes listed in subsection (a) and, for any project agreements  
entered into after January 1, 2021 only, state license taxes



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levied by Article 2 of Chapter 21. In any one year, if the investment credit exceeds the amount of taxes that are allowed to be offset and that are owed by the transferee, the transferee may carry the credit forward for five years. A transferee may not make a subsequent transfer of the credit.

The Department of Revenue may adopt rules necessary to implement and administer the transfer provisions as provided in this act.

~~e.~~ If a credit is transferred, an incentivized company that is later determined by the Secretary of Commerce to have defaulted under the project agreement shall be liable for the underpayment of tax attributable to the credit and for penalties and interest thereon. Unless the purchase of the credits is determined to have been made in a fraudulent manner, or is a transfer in anticipation of bankruptcy, insolvency, or closure, a transferee shall not be liable for the unpaid tax attributable to the credit, or for penalties or interest thereon.

(c) The realization methods in subsection (b) shall not create debts of the state within the meaning of Section 213 of the ~~Official Recompilation of the~~ Constitution of Alabama of ~~1901, as amended~~2022.

(d) (1) To the extent the investment credit is used to offset a financial institution excise tax liability, in making the report required by Section 40-16-6(d), the financial institution receiving the investment credit shall not take into account the qualifying project, and the Department of Finance shall adopt rules to ensure that the credit in no case



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would reduce the distribution for municipalities and counties.

(2) To the extent the investment credit is used to offset an insurance premium tax liability, the Department of Finance shall adopt rules to ensure that the credit would in no case reduce the distributions to the Alabama Special Mental Health Trust Fund by using any unencumbered funds.

(3) To the extent the investment credit is used to offset liability for the tax imposed by Section 40-21-82 or Article 2 of Chapter 21, the Department of Finance shall adopt rules to ensure that the credit in no case would reduce the distribution for the Alabama Special Mental Health Trust Fund by using any unencumbered funds."

"§40-18-376.1

(a) As used in this section, the following terms ~~shall~~ have the following meanings:

(1) JUMP START COUNTY. Any Alabama county which meets all the following:

a. That does not qualify as a targeted county.

b. That has experienced negative population growth over the last five years as determined by the Commissioner of Labor as of each January 1 using the most current data available from the United States Departments of Labor or Commerce, the United States Bureau of the Census, or any other federal or state agency or department.

c. Contains no more than two opportunity zones as they existed on June 1, 2019.

(2) TARGETED COUNTY. Any Alabama county that has a population of 50,000 or less, as determined by the



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Commissioner of Labor as of each January 1 using the most current data available from the United States Departments of Labor or Commerce, the United States Bureau of the Census, or any other federal or state agency or department.

(b) In making the findings required by Section 40-18-373(a), a company that proposes a qualifying project in a targeted or jumpstart county shall be an approved company for purposes of this section only if the Secretary of Commerce makes the additional finding that the qualifying project will increase the economic diversity of, or otherwise benefit, the targeted or jumpstart county.

(c) For purposes of determining in Section 40-18-372(2)b. whether a qualifying project may receive the jobs act incentives, a project to be located in a targeted or jumpstart county shall employ at least ten new employees and shall involve, directly or indirectly, at least two million dollars (\$2,000,000) of capital, absent a finding of extraordinary circumstances by the Secretary of Commerce.

(d) If the qualifying project is located in a county which is deemed to be a targeted or jumpstart county on the date the project agreement is executed, the following shall be applicable:

(1) The jobs credit provided in Section 40-18-375(a) shall be up to 4.0 percent of the wages paid to ~~eligible~~Alabama resident employees during the prior year; and

(2) The investment credit provided in Section 40-18-376(a) shall have an incentive period ~~of~~ not to exceed 15 years.



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(e) Each year, the incentives in subsection (d) may be extended to no more than two qualifying projects not in targeted or jumpstart counties. Such incentives shall be granted in project agreements executed by the Governor on the recommendation of the Secretary of Commerce."

"§40-18-376.2

(a) The provisions in this section shall apply to the following:

(1) Any incentivized company that employed, in the prior year, at least 12 percent of its ~~eligible~~ employees as veterans who received an honorable or general discharge. ~~The calculation of the percentage of eligible employees who are veterans shall be made using the method provided in a project agreement.~~

(2) Any incentivized company ~~that employed eligible employees by or through~~with a qualifying project located within a former active duty military installation closed by the Base Realignment and Closure process.

(b)(1) Any incentivized company described by subdivision (1) of subsection (a) shall receive an additional 0.5 percent jobs credit provided in Section 40-18-375(a) on the wages paid during the prior year to ~~eligible~~ Alabama resident employees who are veterans.

(2) Any incentivized company described by subdivision (2) of subsection (a) shall receive an additional 0.5 percent jobs credit provided in Section 40-18-375(a) on the wages paid during the prior year to ~~its eligible~~ Alabama resident employees.



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(c) No incentivized company claiming the credit provided by subdivision (1) of subsection (b) shall also claim the credit provided by Article 13 of this chapter for any portion of the project.

(d) The Department of Labor shall periodically verify the actual number of veterans employed by the incentivized company described in subdivision (1) of subsection (a) and the wages of the veterans during the relevant year. If the Department of Labor is not able to provide the verification utilizing all available resources, it may request any additional information from the incentivized company as may be necessary."

"§40-18-376.3

(a)(1) This section shall be applicable to a technology company so long as there is a project agreement which provides that Alabama is or will become the company's headquarters, the place of residence of its top three executives, and the place of residence of at least 75 percent of its employees.

(2) In making the findings required by Section 40-18-373(1), a technology company that proposes a qualifying project shall be an approved company for purposes of this section only if the Secretary of Commerce makes the additional finding that the qualifying project will increase the economic diversity of, or otherwise benefit, the state.

(3) A qualifying project shall be deemed to be in existence, notwithstanding the requirements of Section 40-18-372, so long as at least 10 new employees are employed at the qualifying project, absent a finding of extraordinary



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circumstances by the Secretary of Commerce.

(b) If provided for in the project agreement, the following shall be allowed to any company which meets all the criteria in subsection (a):

(1) A jobs credit against utility taxes, in an annual amount ~~equal~~ up to 4 percent of the wages paid to ~~eligible~~ Alabama resident employees during the prior year. The incentive period shall ~~be~~ not exceed 10 years.

(2) An investment credit as provided in Section 40-18-376.

(c) A "technology company" is any company which meets all the criteria in subdivision (1) or (2):

(1) A company that earns at least 75 percent of its revenues from either of the following:

a. Activities within subsector 518; industry group 5112, 5121 (other than 51213), 5415, or 5417; or industry 51913 of the 2012 North American Industry Classification System, or any similar classification system developed in conjunction with the United States Department of Commerce or Office of Management and Budget.

b. The use of technology to develop new coding or processes for the creation or delivery of goods or services in the following fields, or any additional activities determined by the Secretary of Commerce to be beneficial to the enhancement of businesses rooted in either of the following fields:

1. Any of the fields of education, healthcare, energy, agriculture, infrastructure, software, robotics, nutrition,





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aerospace, automotive, or financial services.

2. Any fields related to science, technology, engineering, or mathematics.

(2) A company that, for a fixed term, educates and mentors early-stage technology companies recruited to a location in Alabama, with the goal of accelerating the companies' development and growth."

"§40-18-376.4

(a) This section shall be applicable to an underrepresented company, as defined in this section. In making the findings required by Section 40-18-373(1), an underrepresented company that proposes a qualifying project shall be an approved company for purposes of this section only if the Secretary of Commerce makes the additional finding that the qualifying project will increase economic diversity and will benefit the state.

(b) If provided for in the project agreement, the following shall be allowed to any company which meets all of the criteria in subsection (a):

(1) Absent a finding of extraordinary circumstances by the Secretary of Commerce, a qualifying project shall be deemed to be in existence notwithstanding the requirements of Section 40-18-372 so long as 10 new jobs are created.

(2) A jobs credit against utility taxes, in an annual amount ~~equal~~up to 4 percent of the wages paid to ~~eligible~~Alabama resident employees during the prior year.

(3) The investment credit provided in Section 40-18-376(a) shall have an incentive period ~~of~~not to exceed



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701 15 years.

702 (c) An "underrepresented company" is any company which  
703 meets all the criteria in the following subdivision (1) or  
704 (2):

705 (1) The company is a for-profit business headquartered  
706 in a community eligible for investment through the federal New  
707 Markets Tax Credit program under 26 U.S.C. § 45D(e), has fewer  
708 than 10 employees at the time the project agreement is  
709 executed, and has average gross revenues of less than five  
710 hundred thousand dollars (\$500,000) in the company's three  
711 years prior to the execution of the project agreement; or

712 (2) The company is a for-profit business that is  
713 independently owned and controlled and is at least 51 percent  
714 owned and controlled by one or more underrepresented persons  
715 or, in the case of a publicly-owned business, the company is a  
716 for-profit business of which at least 51 percent of the stock  
717 is owned and controlled by one or more underrepresented  
718 persons and whose daily management and operations are under  
719 the control of one or more underrepresented persons. As used  
720 herein, an underrepresented person is a United States citizen  
721 who is a woman or is African American."

722 "§40-18-377

723 (a) After its execution, the Department of Commerce  
724 shall forward to the Department of Revenue a copy of any  
725 project agreement that allows an incentivized company to claim  
726 a jobs act incentive.

727 (b) Jobs act incentives shall not be considered  
728 securities under Section 8-6-2(10).



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(c) The acceptance of a tax credit under this article shall constitute approval and written consent by the taxpayer to disclose to the Secretary of Commerce the total tax liability, net operating loss, amount of credit claimed, recipient of the credit, and any transferor and transferee information. The Department of Revenue shall disclose such information to the Department of Commerce upon written request by the Secretary of Commerce. The information shall be limited to what is necessary to administer the provisions of this article. Upon receipt of this information, the provisions of Section 40-2A-10 shall apply to the Department of Commerce and its employees with respect to the use, dissemination, or other handling of the information."

"§40-18-378

(a) The Department of Labor shall periodically verify the actual number of ~~eligible~~ employees employed at the qualifying project and the wages of the ~~eligible~~ employees during the relevant year. If the Department of Labor is not able to provide the verification utilizing all available resources, it may request any additional information from the incentivized company as may be necessary. The Department of Revenue may periodically audit any incentivized company to monitor compliance by the incentivized company with this article. Nothing in this article shall be construed to limit the powers otherwise existing for the Department of Revenue to audit and assess an incentivized company. The Department of Insurance shall have similar audit rights over any incentivized company that is subject to the insurance premium



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tax.

(b) The project agreement shall include provisions for the incentivized company to return any unearned credit amounts.

(c) (1) An incentivized company shall be liable for any unearned portion of the jobs credit or investment credit it claims or transfers pursuant to this article. The jobs credit will be considered unearned when the incentivized company fails to pay the full amount of wages or create the full number of jobs upon which the credit was based and claimed. The investment credit will be considered unearned when the incentivized company fails to make the full capital investment upon which the credit was based and claimed or upon which the credit was valued and then transferred. The incentivized company shall be liable for only that portion of the jobs credit or investment credit that was unearned. Any credit claimed by an owner of an incentivized company is deemed to have been claimed by the incentivized company for purposes of this subsection.

(2) The Secretary of Commerce may report to the Department of Revenue any failure of an incentivized company to meet the jobs, wage, or investment requirements specified in the project agreement. The report will be made by March 31 of the year following the calendar year in which the failure occurs and shall contain sufficient information for the Department of Revenue to calculate the unearned portion of the jobs credit or investment credit. The underpayment of the applicable tax will be deemed to have occurred upon the filing



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of the report. The report shall be treated as the filing of a return by the incentivized company for purposes of any applicable period of limitation.

(3) The Department of Revenue may assess an incentivized company for any unearned portion of the investment credit or jobs credit, with allowed interest and penalties, pursuant to the terms of Chapter 2A or 29. The liability shall be considered an underpayment of the tax against which the respective credit was applied or refunded.

(4) If more than one company is considered the incentivized company under the terms of the project agreement, each such company will be jointly and severally liable for any liability associated with the unearned credit.

(d) Notwithstanding the provisions of subsection (c), no credit authorized under this article shall be approved and issued prior to the credit being earned."

"§40-18-382

The incentives authorized by this article shall not be available for qualifying projects for which project agreements have not been executed on or prior to July 31, ~~2023~~2028, unless the Legislature enacts legislation to continue or reinstate the incentives for new projects after that date. No action or inaction on the part of the Legislature shall reduce or suspend any incentive awarded pursuant to this article in any past or future calendar year with respect to qualifying projects for which project agreements have been executed on or prior to July 31, ~~2023~~2028, it being the sole intention of this section that failure of the Legislature to enact



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legislation continuing the incentives authorized by this article for periods after July 31, ~~2023~~2028, shall affect only the availability of the incentives to qualifying projects for which project agreements have not been executed on or prior to July 31, ~~2023~~2028, and shall not affect qualifying projects for which project agreements have been executed on or prior to July 31, ~~2023~~2028."

"§40-18-383

(a) At no time prior to the calendar year ending ~~December 31, 2020, shall the annualized balance of outstanding jobs act incentives exceed \$300 million, which amount would increase to three hundred twenty-five million dollars (\$325,000,000) for the calendar year ending~~ December 31, 2021 ~~and, shall the annualized balance of the outstanding jobs act incentives exceed~~ three hundred fifty million dollars (\$350,000,000) ~~for the calendar year ending December 31, 2022, which amount would increase to three hundred seventy-five million dollars (\$375,000,000) for the calendar year ending~~ December 31, 2023, four hundred million dollars (\$400,000,000) for the calendar year ending December 31, 2024, four hundred twenty-five million dollars (\$425,000,000) for the calendar year ending December 31, 2025, four hundred fifty million dollars (\$450,000,000) for the calendar year ending December 31, 2026, and four hundred seventy-five million dollars (\$475,000,000) for the calendar year ending December 31, 2027, unless the Legislature enacts legislation to allow additional jobs act incentives. Of the above annualized balance, twenty million dollars (\$20,000,000) shall apply to qualifying



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projects located in targeted or jumpstart counties as described in Section 40-18-376.1.

~~(b) Jobs act incentives shall not be available to any project for which substantial construction activities have begun by July 2, 2015.~~

~~(c)~~ (b) Jobs act incentives under this article shall not be available for any qualifying project unless at least 80 percent of the ~~eligible~~ employees created by the qualifying project are employed full time."

"§40-18-417.1

For the purposes of the Growing Alabama Act pursuant to this article, the following words and phrases shall have the following meanings:

~~(1) ACCELERATOR. A company that, for a fixed term, educates and mentors early-stage technology companies recruited to a location in Alabama, with the goal of accelerating the companies' development and growth.~~

~~(2)~~ (1) CAPITAL IMPROVEMENTS. Construction and rehabilitation expenses of a capital nature at an inland port or intermodal facility, the dredging of waterways in the immediate vicinity of an inland port, and the expansion of onsite storage facilities at an inland port or intermodal facility.

~~(3)~~ (2) ECONOMIC DEVELOPMENT ACTIVITIES. Activities and initiatives that enhance the use of, and flow of goods through, an inland port or intermodal facility.

~~(4)~~ (3) ECONOMIC DEVELOPMENT ORGANIZATION. A local economic development organization or a state economic



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869 development organization.

870       ~~(5)~~ (4) GROWING ALABAMA CREDIT. The credit provided for  
871 in subsection (a) of Section 40-18-417.4.

872       ~~(6)~~ (5) INDUSTRY or BUSINESS. An entity that would  
873 conduct at a site an activity that is primarily described in  
874 Section 40-18-372(1).

875       ~~(7)~~ (6) INLAND PORT. Any port on a navigable river away  
876 from traditional land, air, and coastal borders.

877       ~~(8)~~ (7) INTERMODAL FACILITY. Any facility that  
878 interconnects two or more different modes of air, rail, or  
879 road traffic serving multiple customers, and which involves  
880 storage facilities.

881       ~~(9)~~ (8) LOCAL ECONOMIC DEVELOPMENT ORGANIZATION.

882 Organizations which are determined by the Department of  
883 Commerce to meet both of the following criteria:

884       a. The organization is an Alabama entity not operating  
885 for profit, including, but not limited to, a municipality or  
886 county, an industrial board or authority, a chamber of  
887 commerce, or some other foundation or Alabama nonprofit  
888 corporation charged with improving a community or region of  
889 the state.

890       b. The organization has a record of supporting or  
891 otherwise participating in economic development in some part  
892 of this state.

893       ~~(10)~~ (9) RENEWAL OF ALABAMA COMMISSION. The Renewal of  
894 Alabama Commission created by Section 40-18-402.

895       ~~(11)~~ (10) SITE. Real property owned by a local economic  
896 development organization and intended for use by an industry





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897 or business.

898 ~~(12)~~ (11) STATE ECONOMIC DEVELOPMENT ORGANIZATION. An  
899 organization that is determined by the Department of Commerce  
900 to be an Alabama entity not operating for profit which is  
901 charged with improving the state or a region of the state and  
902 has a record of supporting or otherwise participating in  
903 economic development in the state."

904 "§40-18-417.2

905 (a) (1) A local economic development organization which  
906 owns a site may apply to the Department of Commerce for  
907 funding to solve an inadequacy involving the site. The  
908 application by the local economic development organization  
909 shall include at least one of the following:

910 a. If there is a pending expression of interest about  
911 the site from an industry or business, a list of the site  
912 preparation or public infrastructure work needed to make the  
913 site acceptable to the industry or business.

914 b. If the site has been offered to one or more  
915 industries or businesses but the offer did not result in the  
916 industry or business locating on the site, a list of the site  
917 preparation or public infrastructure work which, if it had  
918 been completed, would have made the site acceptable to the  
919 industries or businesses.

920 c. If the site is an industrial or research park which  
921 needs connections to interstates, highways, roadways, rail  
922 systems, or sewer, fiber, electrical, gas, or water  
923 infrastructure, a list of the site preparation or public  
924 infrastructure work needed.



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d. Capital improvements or economic development activities at an inland port or intermodal facility, as described in Section 40-18-417.1; provided that the application is accompanied by an economic impact report on such improvements or activities.

e. Any site improvement or public infrastructure work in census tracts that meets the definition of low-income communities pursuant to 26 U.S.C. § 45D(e).

(2) An economic development organization may apply to the Department of Commerce for funding to undertake ~~any of the following issues:~~

~~a. The creation, operation, or support of an accelerator for technology companies, provided that the application is accompanied by an economic impact report. Technology companies shall include companies which earn or reasonably expect to earn at least 75 percent of their revenues from sources described in Section 40-18-376.3(c)(1).~~

~~b. The~~the construction, maintenance, promotion, operation, management, leasing, and subleasing of an agricultural center which includes a multi-use facility and related commercial and noncommercial structures for livestock, equestrian, small animal shows and events, spectator events, trade shows, educational conferences, agricultural and agricultural related industries, educational, demonstrational or training purposes, educational and training conferences or events, recreational vehicle rallies, recreational vehicle multi-day parking, hosting of corporate and non-corporate organization meetings, use as fair grounds, operation of



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953 retail activities, and other events and facilities expected to  
954 draw participants and spectators from states located across  
955 the southeastern United States, with a projected total annual  
956 economic impact upon completion of all phases of the  
957 agricultural center of at least thirty-five million dollars  
958 (\$35,000,000) and with the related and supporting  
959 infrastructure and facilities having a projected capital  
960 expenditure upon completion of all phases of the agricultural  
961 center of at least one hundred million dollars (\$100,000,000);  
962 provided that the application is accompanied by an economic  
963 impact report on the agricultural center.

964 ~~c. The creation, operation, or support of programs~~  
965 ~~designed to provide funding or other resources for businesses~~  
966 ~~that are described in Section 40-18-376.4(c).~~

967 (b) ~~For any site preparation or public infrastructure~~  
968 ~~work provided in subdivision (a)(1), the~~The application shall  
969 include quotes for the completion of the work, following  
970 compliance with the procedures set forth by the Department of  
971 Economic and Community Affairs, as if the organization were  
972 disbursing state funds received from the department.

973 (c) The application provided in paragraph (a)(1) a. or  
974 b. shall include an estimate of the number of jobs, wages, and  
975 capital investment which would have been undertaken by the  
976 industries or businesses referred to in paragraph (a)(1) a. or  
977 b.

978 (d) The application provided in subsection (a) shall  
979 include proof that the economic development organization has  
980 in full force and effect a conflict of interest policy



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consistent with that found in the instructions to Form 1023 issued by the Internal Revenue Service.

(e) The application provided in subsection (a) shall include a notarized affirmation by an officer of the economic development organization that the submission of the application did not violate the conflict of interest policy referred to in subsection (d)."

"§40-18-417.3

(a) Following a review, if the Department of Commerce should approve the application provided in subsection (a) of Section 40-18-417.2, it shall forward the application to the Renewal of Alabama Commission.

(b) The Renewal of Alabama Commission shall consider the application and shall approve it if the commission deems it worthy of approval. As to improvements at industrial sites, the commission shall give preference to sites with at least 1,000 acres of available space. As to applications for projects located in communities which have the potential to provide additional funding separate from the Growing Alabama Credits, the commission shall take into consideration whether the separate funding is to be provided to the project that is the subject of the application. Meetings of the commission are subject to Chapter 25A of Title 36. Notwithstanding the foregoing, the commission may meet by telephone or some other telecommunications device so long as members of the public are allowed the opportunity to listen to or otherwise observe the commission's deliberations.

(c) The approval of an application by the commission



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1009 shall specify the amount of money which the economic  
1010 development organization is allowed to receive so that it can  
1011 complete the work specified in the application.

1012 (d) Following approval by the commission, the  
1013 Department of Commerce shall enter into an agreement with the  
1014 economic development organization which shall do all of the  
1015 following:

1016 (1) Require the economic development organization to  
1017 use funding received as a result of this law only for the  
1018 purposes approved by the commission as expressed in the  
1019 agreement.

1020 (2) Require the economic development organization to  
1021 make periodic reports, not more often than annually, to the  
1022 Department of Commerce and the commission, as required by the  
1023 commission, on the disposition of the funds. As to a project  
1024 described in subdivision (a)(1) of Section 40-18-417.2, the  
1025 report shall include information on the marketing of the site,  
1026 and the ultimate use of the site until such time as it makes a  
1027 final report. As to a project related to inland ports or  
1028 intermodal facilities as described in paragraph (a)(1) d. of  
1029 Section 40-18-417.2 or a project related to ~~a technology~~  
1030 ~~company or an~~ agricultural center as described in subdivision  
1031 (a)(2) of Section 40-18-417.2, the report shall include an  
1032 economic impact report.

1033 (3) Require the economic development organization to  
1034 provide a review of its financial accounts as directed by the  
1035 Renewal of Alabama Commission.

1036 (e) For any approved applications, the Department of



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1037 Commerce shall notify the Department of Revenue of the  
1038 information specified in subsection (c).

1039 (f) The Department of Commerce shall publish on its  
1040 website a list of all approved applications and a list of the  
1041 economic development organizations that made the approved  
1042 applications."

1043 "§40-18-417.4

1044 (a) A taxpayer is allowed a Growing Alabama Credit to  
1045 be applied against all of the following:

1046 (1) To offset the income taxes levied in this chapter,  
1047 or as an estimated tax payment of income taxes.

1048 (2) To offset the state portion of the financial  
1049 institution excise tax levied in Chapter 16.

1050 (3) To offset the insurance premium tax levied by  
1051 subsection (a) of Section 27-4A-3.

1052 (4) To offset state license taxes levied by Article 2  
1053 of Chapter 21.

1054 (b) In no event shall the Growing Alabama Credit cause  
1055 a taxpayer's tax liability to be reduced by more than 50  
1056 percent. Unused credits may be carried forward for no more  
1057 than five years.

1058 (c) Growing Alabama Credits shall be granted to  
1059 taxpayers using an online system administered by the  
1060 Department of Revenue. The online system shall allow taxpayers  
1061 to agree to make a cash contribution to an economic  
1062 development organization which was approved by the Renewal of  
1063 Alabama Commission, as provided in Section 40-18-417.3. The  
1064 online system shall ensure that credits are not granted for



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contributions to an economic development organization in excess of the amounts approved by the Renewal of Alabama Commission, as provided in Section 40-18-417.3.

(d) The cumulative amount of funding approved pursuant to this section shall not exceed twenty million dollars (\$20,000,000) in a calendar year for calendar years ending prior to January 1, 2023, and thirty-five million dollars (\$35,000,000) in a calendar year for calendar years beginning January 1, 2023. ~~Of that amount, no more than four million dollars (\$4,000,000) of funding in the aggregate may be approved for accelerator programs as described in Section 40-18-376.3 (c) (2).~~

prior to January 1, 2024, which amount would increase to twenty-three million dollars (\$23,000,000) for the calendar year ending December 31, 2024, twenty-six million dollars (\$26,000,000) for the calendar year ending December 31, 2025, twenty-nine million dollars (\$29,000,000) for the calendar year ending December 31, 2026, thirty-two million dollars (\$32,000,000) for the calendar year ending December 31, 2027, and thirty-five million dollars (\$35,000,000) for calendar year ending January 1, 2028.

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



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

(g) The Department of Finance shall adopt rules to ensure that the Growing Alabama Credit in no case would reduce the distribution for the Alabama Special Mental Health Trust Fund by using any unencumbered funds."

"§40-18-417.7

The Growing Alabama Credits provided in this article shall not be available for qualifying applicants as described in this article, for which applications are not approved on or prior to July 31, ~~2023~~2028, unless the Legislature enacts legislation to extend the date. This shall only affect the availability of credits for applications not approved on or prior to July 31, ~~2023~~2028, and shall not cause a reduction or suspension of any credits awarded on or prior to July 31, ~~2023~~2028."

"§40-9B-4.1

In no event shall any incentive provided in Act 2012-210 be available to any company filing an application





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after July 31, 2028~~December 31, 2023, unless Act 2012-210 is~~  
~~reauthorized pursuant to legislation in that year and once~~  
~~every five years succeeding the 2024 reauthorization.~~ Any  
project granted an incentive prior to July 31, 2028~~December~~  
~~31, 2023~~, shall be entitled to ~~those incentives~~the incentive  
pursuant to the project agreement regardless of whether Act  
2012-210 is reauthorized."

Section 3. In no event does this act authorize any  
electric provider to provide retail electric service outside  
of its electric service territory as determined under the  
applicable provisions of Chapter 14 of Title 37, Code of  
Alabama 1975. Nothing in this act is intended to amend,  
repeal, enlarge, or otherwise affect Chapter 14 of Title 37,  
Code of Alabama 1975.

Section 4. Section 5 of this act shall be known and may  
be cited as the Sweet Home Alabama Tourism Investment Act.

Section 5. A new Article 23 of Chapter 18 of Title 40,  
Code of Alabama 1975, is created to read as follows:

§40-18-470

For purposes of this act, the following words and  
phrases have the following meanings:

(1) APPLICANT. Any corporation, limited liability  
company, partnership, sole proprietorship, business trust, or  
other legal entity authorized to do business in the State of  
Alabama.

(2) APPROVED COMPANY. Any company approved for tax  
rebates for operating a certified tourism destination project.

(3) APPROVED COSTS. Costs relating to the following:



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- 1149           a. Land acquisition.
- 1150           b. Construction.
- 1151           c. Engineering.
- 1152           d. Design.
- 1153           e. Costs of contract bonds and insurances.
- 1154           f. Installation of utilities paid by the applicant,
- 1155 including project-specific off-site extensions.

1156           (4) BOARD. Alabama Tourism Advisory Board established

1157 pursuant to Section 41-7-3.

1158           (5) CAPITAL INVESTMENT. All costs and expenses incurred

1159 by the incentivized company in connection with the

1160 acquisition, construction, installation, and equipping of a

1161 qualifying project, if such costs are required to be

1162 capitalized for purposes of the federal income tax, determined

1163 without regard to any rule that permits expenditures properly

1164 chargeable to a capital account to be treated as current

1165 expenditures. However, any project involving the extraction of

1166 natural resources shall not be included as a capital

1167 investment expenditure.

1168           (6) CERTIFIED TOURISM DESTINATION PROJECT.

1169           a. A certified tourism destination project must conduct

1170 an activity specified in subparagraphs 1. through 8.

1171           1. A qualifying project that has seventy-five million

1172 dollars (\$75,000,000) of capital investments may be considered

1173 a mega project.

1174           2. A qualifying project may be a tourist destination

1175 attraction with a minimum private investment of not less than

1176 fifty million dollars (\$50,000,000).



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1177           3. A qualifying project may be a tourism attraction  
1178 with a minimum private investment of thirty-five million  
1179 dollars (\$35,000,000) located within an entertainment  
1180 district. The attraction must be open to the public at least  
1181 five days per week, serve food and beverages, and provide live  
1182 entertainment at least three nights per week.

1183           4. A qualifying project may be a resort development  
1184 with a minimum investment of thirty-five million dollars  
1185 (\$35,000,000) and consists of a hotel with a minimum of 200  
1186 guest rooms. The development must also include guest amenities  
1187 such as restaurants, golf courses, spas, entertainment  
1188 activities, and other amenities.

1189           5. A qualifying project may be a tourism destination  
1190 attraction with a minimum investment of thirty-five million  
1191 dollars (\$35,000,000) located within a historic district where  
1192 the district is listed in the National Register of Historic  
1193 Places.

1194           6. Retail related to a qualifying project must consist  
1195 primarily of upscale brands or their equivalent. Retail  
1196 activities not eligible for a rebate include the following:

1197           A. Department stores.

1198           B. Convenience stores.

1199           C. Grocery stores.

1200           D. Liquor and tobacco Stores.

1201           E. Discount stores.

1202           F. Multiplex theaters.

1203           G. Facilities that perform cleaning, repair, or  
1204 alteration services.



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1205 H. Facilities that perform personal salon services such  
1206 as tanning, nail, and beauty.

1207 7. A qualifying project may be any combination of  
1208 qualifying tourist attractions, hotels, marinas, and resorts  
1209 with a minimum private investment of thirty-five million  
1210 dollars (\$35,000,000) in land, buildings, architecture,  
1211 engineering, fixtures, equipment, furnishings, amenities, and  
1212 other related approved soft costs.

1213 b. Projects that cannot be certified as an eligible  
1214 certified tourism destination project include the following:

1215 1. Expansions of any existing projects previously  
1216 approved that are not equal to the lesser of 75 percent of the  
1217 original capital investment or thirty-five million dollars  
1218 (\$35,000,000).

1219 2. Facilities that are primarily developed for retail  
1220 sales that are not certified as a resort development. Pro  
1221 shops, souvenir shops, gift shops, concessions, and similar  
1222 retail activities may not be included within the definition of  
1223 a tourism destination project.

1224 (7) DEPARTMENT. The Alabama Tourism Department.

1225 (8) PROJECT. Any land, building, or other improvement,  
1226 and all real and personal property, whether or not contiguous  
1227 and whether or not previously in existence, if in Alabama and  
1228 if deemed necessary or useful in connection with certified  
1229 destination projects.

1230 (9) QUALIFYING PROJECT. Any project to be undertaken by  
1231 an approved company that is deemed a certified tourism  
1232 destination project.



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1233           (10) TOURISM DESTINATION ATTRACTION. Tourist  
1234 attractions that qualify include the following:  
1235           a. Theme parks.  
1236           b. Water parks.  
1237           c. Entertainment parks or outdoor adventure parks.  
1238           d. Cultural or historical interpretive educational  
1239 centers or museums.  
1240           e. Motor speedways.  
1241           f. Indoor or outdoor entertainment centers or  
1242 complexes.  
1243           g. Convention centers.  
1244           h. Professional sports facilities.  
1245           i. Attractions created around a natural phenomenon or  
1246 scenic landscape.  
1247           j. Waterfront marina facilities, including, but not  
1248 limited to, indoor marine vessel storage, restaurants, and  
1249 marine sales and service.  
1250           k. Aquariums.  
1251           §40-18-471  
1252           (a) Prior to the allowance of a tax rebate on  
1253 transactional taxes, an application shall be filed with the  
1254 department in the manner established by the department.  
1255           (b) The department shall adopt standards to be used by  
1256 the Alabama Tourism Advisory Board for the review and approval  
1257 of certified tourism destination projects for which a tax  
1258 rebate for transactional taxes is sought pursuant to Section  
1259 40-18-473.  
1260           (c) The department shall establish deadlines for



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applications. Applications shall solicit whatever information the department deems important to its determination of authorizing a tax rebate.

§40-18-472

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

(1) For any applicant that proposes a certified tourism destination project, the board shall make all of the following findings:

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

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

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



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1289               \$40-18-473

1290               (a) A tax rebate from taxes generated within the  
1291 tourism destination attraction by the certified tourism  
1292 destination project over a 10-year period from the  
1293 commencement of operation in the amount of up to five million  
1294 dollars (\$5,000,000) may be claimed. No approved company may  
1295 receive more than one million dollars (\$1,000,000) in tourism  
1296 rebates in a calendar year.

1297               (b) Tax rebates may carry forward for five years.

1298               (c) (1) The tax rebates authorized by this act are  
1299 limited to an aggregate amount for all certified tourism  
1300 destination projects of ~~twenty million dollars (\$20,000,000)~~  
1301 ten million dollars (\$10,000,000) annually with 10 percent set  
1302 aside annually for certified tourism destination projects  
1303 located in rural targeted or distressed jumpstart Alabama  
1304 counties.

1305               (2) An approved company with a certified tourism  
1306 destination project may be granted a tax rebate on any  
1307 combination of the state and local sales and use taxes,  
1308 lodging taxes, or other transactional taxes generated by or  
1309 arising within the tourism destination project.

1310               (3) An approved company shall have no obligation to  
1311 refund or otherwise return any amount of taxes authorized for  
1312 rebate to the persons from whom the taxes were collected.

1313               (4) Rebates authorized under this article shall be for  
1314 up to 10 years, commencing on the date the tourism attraction  
1315 opens for business and begins to collect taxes generated by,  
1316 or arising within, the tourism destination project.



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(5) Tax rebates may be a combination of state and local retail sales tax, state and local lodging taxes, and any other taxes generated by, or arising within, the tourism destination project. The municipality or the taxing district where the tourism destination project will be located must support and approve the facility. The approval must be in the form of a resolution of the governing authority acknowledging support of the project and acknowledging that a portion no less than 20 percent of the tax rebates will be comprised of municipal taxes.

(6) The Alabama Department of Revenue, in consultation with the Alabama Tourism Department, shall adopt rules and require the filing of a rebate form designed by the Department of Revenue to reflect the intent of this article. To begin the rebate process, once project phases open for business, the approved company must provide a listing of all sales tax accounts and account numbers related to the project. The Alabama Department of Revenue will provide these accounts and will begin making the required diversions into the Tourism Project Sales Tax Incentive Fund the month following notification. Rebate payments from the fund will be made each January and July to the approved company.

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

(8) Any tax rebate shall be first applied to any outstanding tax obligation of the approved company that is due





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1345 and payable to the state.

1346 (9) Rebates under this article shall be made without  
1347 interest.

1348 (10) Tax rebates authorized under this article are  
1349 transferrable to future owners of the qualifying tourism  
1350 destination project.

1351 (11) The tax rebate allowed under this article shall be  
1352 effective beginning ~~October~~ August 1, 2023, and shall continue  
1353 through ~~September 30, 2034~~ July 31, 2028, unless continued by  
1354 an act of the Legislature.

1355 (12) Tax rebates for certified tourism destination  
1356 projects are to be administered by the Alabama Department of  
1357 Revenue.

1358 (d) Notwithstanding the ~~twenty million dollar~~  
1359 ~~(\$20,000,000)~~ ten million dollar (\$10,000,000) annual cap on  
1360 tax rebates allowed, the board may approve an annual onetime  
1361 designation of an additional two million five hundred thousand  
1362 dollars (\$2,500,000) in tax rebates for one project per  
1363 calendar year with a minimum capital investment amount of  
1364 seventy-five million dollars (\$75,000,000).

1365 §40-18-474

1366 There is created the Tourism Project Sales Tax  
1367 Incentive Fund, which may consist of monies appropriated or  
1368 otherwise made available by the Legislature in any manner, and  
1369 monies from any other source designated for deposit into such  
1370 fund, but not include monies subject to a constitutional  
1371 designation for some other purpose. Unexpended amounts  
1372 remaining in the fund at the end of each fiscal year of the



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1373 state revert. Any investment earnings or interest earned on  
1374 amounts in the fund shall be credited to the fund.

1375 §40-18-475

1376 The department shall report to the Legislature by the  
1377 second legislative day of the regular session of the third  
1378 year following passage of this act, and annually thereafter,  
1379 on the overall economic activity, usage, and impact to the  
1380 state of the tax rebates allowed for tourism destination  
1381 projects. The information in the reports shall be consistent  
1382 with the information required by the Legislature in accordance  
1383 with Section 40-1-50. Information provided pursuant to this  
1384 section is exempt from the confidentiality provisions of  
1385 Section 40-2A-10.

1386 Section 6. This act shall become effective immediately  
1387 following its passage and approval by the Governor, or its  
1388 otherwise becoming law.