



4 SYNOPSIS:

5 Under existing law, the Alabama Jobs Act
6 provides certain incentives to allow the state to
7 foster economic development through the recruitment of
8 quality projects and the expansion of existing
9 businesses within Alabama.

10 Under existing law, the Growing Alabama Act
11 provides a tax credit to eligible taxpayers who make
12 contributions to economic development organizations for
13 approved qualifying projects.

14 This bill would allow Alabama Jobs Act economic
15 development programs to continue through July 31, 2028,
16 ensuring economic growth, workforce development, and
17 job creation. This bill would increase the current
18 annualized cap each year for five years allowing
19 Alabama to be more competitive for larger economic
20 development projects. This bill would allow the
21 investment tax credit transfer time to increase to five
22 years allowing incentivized companies the ability to
23 better realize credits for development projects.

24 This bill would allow Growing Alabama Act
25 programs to continue through July 31, 2028, and
26 increase the annual cap to allow greater expansion of
27 economic development programs. This bill would transfer
28 certain programs under Growing Alabama Act to Innovate



Alabama for continued growth and support.

This bill would allow the Alabama Data Center Processing Economic Incentive Enhancement Act incentive to continue through July 31, 2028.

This bill would establish the Sweet Home Alabama Tourism Investment Act to authorize and provide for tax incentives for certified tourism destination projects.

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 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; 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



85 of employment within Alabama.

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

90 (3) The incentives provided for in this article do not
91 raise any taxes for any individuals or businesses in Alabama
92 under state law.

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

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

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

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

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

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

112 (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 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 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~~

~~c. 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 incentivized 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 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, 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 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 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 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 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 project;

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

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

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

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

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

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

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

(15) Any other terms the parties deem necessary or



337 desirable.

338 (c) The Governor may decrease the amounts and durations
339 of the jobs act incentives to ensure that the anticipated
340 revenues for the state will exceed the amount of tax
341 incentives sought."

342 "\$40-18-375

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

349 (2) If the incentivized company is engaged in
350 pharmaceutical, biomedical, medical technology or medical
351 supplies manufacturing, or its related research and
352 development activities, the incentivized company is allowed a
353 jobs credit against utility taxes, in an annual amount ~~equal~~up
354 to 4 percent of the wages paid to ~~eligible~~Alabama resident
355 employees during the prior year. The incentive period shall
356 ~~be~~not exceed 10 years. This applies to companies that
357 predominantly conduct an activity described by NAICS code
358 3254, 339112, or 339113, to include related research and
359 development.

360 (b) The project agreement shall provide that one of the
361 following methods shall be used to realize the benefits of the
362 jobs credit:

363 (1)a. As further provided in the project agreement, the
364 ~~The~~ jobs credit may be paid to the incentivized company as a



refund out of utility taxes during the incentive period, regardless of the amount of utility taxes actually paid by the incentivized company.

b. For each year of the incentive period for the jobs credit, 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 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 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;



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

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

425 The incentive period shall begin no earlier than the
426 placed-in-service date. The incentive period shall ~~be~~ not
427 exceed 10 years. ~~Should only some portion of a tax year be~~
428 ~~included in the incentive period, the amount of the investment~~
429 ~~credit shall be prorated on a daily basis.~~

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

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

443 b. Prior to claiming the investment credit as provided
444 in this subdivision, the incentivized company shall submit to
445 the Department of Commerce a certification as to its capital
446 investment as of the dates specified in the project agreement.
447 Following such examination as it deems necessary, the
448 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 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 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.~~

~~c. 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, 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 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 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 meaning:

(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



589 state agency or department.

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

592 (2) TARGETED COUNTY. Any Alabama county that has a
593 population of 50,000 or less, as determined by the
594 Commissioner of Labor as of each January 1 using the most
595 current data available from the United States Departments of
596 Labor or Commerce, the United States Bureau of the Census, or
597 any other federal or state agency or department.

598 (b) In making the findings required by Section
599 40-18-373(a), a company that proposes a qualifying project in
600 a targeted or jumpstart county shall be an approved company
601 for purposes of this section only if the Secretary of Commerce
602 makes the additional finding that the qualifying project will
603 increase the economic diversity of, or otherwise benefit, the
604 targeted or jumpstart county.

605 (c) For purposes of determining in Section
606 40-18-372(2)b. whether a qualifying project may receive the
607 jobs act incentives, a project to be located in a targeted or
608 jumpstart county shall employ at least ten new employees and
609 shall involve, directly or indirectly, at least two million
610 dollars (\$2,000,000) of capital, absent a finding of
611 extraordinary circumstances by the Secretary of Commerce.

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

616 (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.

(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.

(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 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 taxes⁷ 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, 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 15 years.

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

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

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

"§40-18-377

(a) After its execution, the Department of Commerce



shall forward to the Department of Revenue a copy of any project agreement that allows an incentivized company to claim a jobs act incentive.

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

(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



785 article. Nothing in this article shall be construed to limit
786 the powers otherwise existing for the Department of Revenue to
787 audit and assess an incentivized company. The Department of
788 Insurance shall have similar audit rights over any
789 incentivized company that is subject to the insurance premium
790 tax.

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

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

809 (2) The Secretary of Commerce may report to the
810 Department of Revenue any failure of an incentivized company
811 to meet the jobs, wage, or investment requirements specified
812 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 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 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
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 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 development organization.

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

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

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

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

~~(9)~~ (8) LOCAL ECONOMIC DEVELOPMENT ORGANIZATION. Organizations which are determined by the Department of Commerce to meet both of the following criteria:

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

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



925 ~~(10)~~ (9) RENEWAL OF ALABAMA COMMISSION. The Renewal of
926 Alabama Commission created by Section 40-18-402.

927 ~~(11)~~ (10) SITE. Real property owned by a local economic
928 development organization and intended for use by an industry
929 or business.

930 ~~(12)~~ (11) STATE ECONOMIC DEVELOPMENT ORGANIZATION. An
931 organization that is determined by the Department of Commerce
932 to be an Alabama entity not operating for profit which is
933 charged with improving the state or a region of the state and
934 has a record of supporting or otherwise participating in
935 economic development in the state."

936 "§40-18-417.2

937 (a) (1) A local economic development organization which
938 owns a site may apply to the Department of Commerce for
939 funding to solve an inadequacy involving the site. The
940 application by the local economic development organization
941 shall include at least one of the following:

942 a. If there is a pending expression of interest about
943 the site from an industry or business, a list of the site
944 preparation or public infrastructure work needed to make the
945 site acceptable to the industry or business.

946 b. If the site has been offered to one or more
947 industries or businesses but the offer did not result in the
948 industry or business locating on the site, a list of the site
949 preparation or public infrastructure work which, if it had
950 been completed, would have made the site acceptable to the
951 industries or businesses.

952 c. If the site is an industrial or research park which



needs connections to interstates, highways, roadways, rail systems, or sewer, fiber, electrical, gas, or water infrastructure, a list of the site preparation or public infrastructure work needed.

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

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

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

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



b.

(d) The application provided in subsection (a) shall include proof that the economic development organization has in full force and effect a conflict of interest policy 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 shall specify the amount of money which the economic development organization is allowed to receive so that it can complete the work specified in the application.

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

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

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



1065 (3) Require the economic development organization to
1066 provide a review of its financial accounts as directed by the
1067 Renewal of Alabama Commission.

1068 (e) For any approved applications, the Department of
1069 Commerce shall notify the Department of Revenue of the
1070 information specified in subsection (c).

1071 (f) The Department of Commerce shall publish on its
1072 website a list of all approved applications and a list of the
1073 economic development organizations that made the approved
1074 applications."

1075 "§40-18-417.4

1076 (a) A taxpayer is allowed a Growing Alabama Credit to
1077 be applied against all of the following:

1078 (1) To offset the income taxes levied in this chapter,
1079 or as an estimated tax payment of income taxes.

1080 (2) To offset the state portion of the financial
1081 institution excise tax levied in Chapter 16.

1082 (3) To offset the insurance premium tax levied by
1083 subsection (a) of Section 27-4A-3.

1084 (4) To offset state license taxes levied by Article 2
1085 of Chapter 21.

1086 (b) In no event shall the Growing Alabama Credit cause
1087 a taxpayer's tax liability to be reduced by more than 50
1088 percent. Unused credits may be carried forward for no more
1089 than five years.

1090 (c) Growing Alabama Credits shall be granted to
1091 taxpayers using an online system administered by the
1092 Department of Revenue. The online system shall allow taxpayers



to agree to make a cash contribution to an economic development organization which was approved by the Renewal of Alabama Commission, as provided in Section 40-18-417.3. The online system shall ensure that credits are not granted for 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).~~

(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.

(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 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~~



1149 ~~31, 2023~~, shall be entitled to ~~those incentives~~the incentive
1150 pursuant to the project agreement regardless of whether Act
1151 2012-210 is reauthorized."

1152 Section 3. In no event does this act authorize any
1153 electric provider to provide retail electric service outside
1154 of its electric service territory as determined under the
1155 applicable provisions of Chapter 14 of Title 37, Code of
1156 Alabama 1975. Nothing in this act is intended to amend,
1157 repeal, enlarge, or otherwise affect Chapter 14 of Title 37,
1158 Code of Alabama 1975.

1159 Section 4. Section 5 of this act shall be known and may
1160 be cited as the Sweet Home Alabama Tourism Investment Act.

1161 Section 5. A new Article 23 of Chapter 18 of Title 40,
1162 Code of Alabama 1975, is created to read as follows:

1163 §40-18-470

1164 For purposes of this act, the following words and
1165 phrases have the following meanings:

1166 (1) APPLICANT. Any corporation, limited liability
1167 company, partnership, sole proprietorship, business trust, or
1168 other legal entity authorized to do business in the State of
1169 Alabama.

1170 (2) APPROVED COMPANY. Any company approved for tax
1171 rebates for operating a certified tourism destination project.

1172 (3) APPROVED COSTS. Costs relating to the following:

1173 a. Land acquisition.

1174 b. Construction.

1175 c. Engineering.

1176 d. Design.



e. Costs of contract bonds and insurances.

f. Installation of utilities paid by the applicant, including project-specific off-site extensions.

(4) BOARD. Alabama Tourism Advisory Board established pursuant to Section 41-7-3.

(5) 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, any project involving the extraction of natural resources shall not be included as a capital investment expenditure.

(6) CERTIFIED TOURISM DESTINATION PROJECT.

a. A certified tourism destination project must conduct an activity specified in subparagraphs 1. through 8.

1. A qualifying project that has seventy-five million dollars (\$75,000,000) of capital investments may be considered a mega project.

2. A qualifying project may be a tourist destination attraction with a minimum private investment of not less than fifty million dollars (\$50,000,000).

3. A qualifying project may be a tourism attraction with a minimum private investment of thirty-five million dollars (\$35,000,000) located within an entertainment district. The attraction must be open to the public at least



1205 five days per week, serve food and beverages, and provide live
1206 entertainment at least three nights per week.

1207 4. A qualifying project may be a resort development
1208 with a minimum investment of thirty-five million dollars
1209 (\$35,000,000) and consists of a hotel with a minimum of 200
1210 guest rooms. The development must also include guest amenities
1211 such as restaurants, golf courses, spas, entertainment
1212 activities, and other amenities.

1213 5. A qualifying project may be a tourism destination
1214 attraction with a minimum investment of thirty-five million
1215 dollars (\$35,000,000) located within a historic district where
1216 the district is listed in the National Register of Historic
1217 Places.

1218 6. Retail related to a qualifying project must consist
1219 primarily of upscale brands or their equivalent. Retail
1220 activities not eligible for a rebate include the following:

1221 A. Department stores.

1222 B. Convenience stores.

1223 C. Grocery stores.

1224 D. Liquor and tobacco Stores.

1225 E. Discount stores.

1226 F. Multiplex theaters.

1227 G. Facilities that perform cleaning, repair, or
1228 alteration services.

1229 H. Facilities that perform personal salon services such
1230 as tanning, nail, and beauty.

1231 7. A qualifying project may be any combination of
1232 qualifying tourist attractions, hotels, marinas, and resorts



with a minimum private investment of thirty-five million dollars (\$35,000,000) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities, and other related approved soft costs.

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

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

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

(7) DEPARTMENT. The Alabama Tourism Department.

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

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

(10) TOURISM DESTINATION ATTRACTION. Tourist attractions that qualify include the following:

a. Theme parks.

b. Water parks.



1261 c. Entertainment parks or outdoor adventure parks.

1262 d. Cultural or historical interpretive educational
1263 centers or museums.

1264 e. Motor speedways.

1265 f. Indoor or outdoor entertainment centers or
1266 complexes.

1267 g. Convention centers.

1268 h. Professional sports facilities.

1269 i. Attractions created around a natural phenomenon or
1270 scenic landscape.

1271 j. Waterfront marina facilities, including, but not
1272 limited to, indoor marine vessel storage, restaurants, and
1273 marine sales and service.

1274 §40-18-471

1275 (a) Prior to the allowance of a tax rebate on
1276 transactional taxes, an application shall be filed with the
1277 department in the manner established by the department.

1278 (b) The department shall adopt standards to be used by
1279 the Alabama Tourism Advisory Board for the review and approval
1280 of certified tourism destination projects for which a tax
1281 rebate for transactional taxes is sought pursuant to Section
1282 40-18-473.

1283 (c) The department shall establish deadlines for
1284 applications. Applications shall solicit whatever information
1285 the department deems important to its determination of
1286 authorizing a tax rebate.

1287 §40-18-472

1288 (a) In order for an applicant to be an approved



1289 company, all of the following shall occur:

1290 (1) For any applicant that proposes a certified tourism
1291 destination project, the board shall make all of the following
1292 findings:

1293 a. That the project is in fact a certified tourism
1294 destination project.

1295 b. That the amount of tourism rebates sought are
1296 exceeded by anticipated revenues for the state, including
1297 income, property, business privilege, utility, gross receipts,
1298 sales, and use tax revenues that are generated by the economic
1299 activity resulting from the project.

1300 (b) The Alabama Tourism Advisory Board shall review
1301 qualifying projects meeting the criteria established pursuant
1302 to Section 40-18-473 and approve eligible projects for tax
1303 rebates. Upon a determination that all program requirements
1304 are met, the board will issue the Alabama Tourism Advisory
1305 Board Act Certificate. Each certificate shall include the
1306 amount of the approved project costs, the maximum rebate
1307 available, and the rebate term of 10 years with a five-year
1308 carryforward from the completion date or the date on or which
1309 five million dollars (\$5,000,000) of the approved project
1310 costs has been rebated to the applicant, whichever threshold
1311 is met first.

1312 §40-18-473

1313 (a) A tax rebate from taxes generated within the
1314 tourism destination attraction by the certified tourism
1315 destination project over a 10-year period from the
1316 commencement of operation in the amount of up to five million



dollars (\$5,000,000) may be claimed. No approved company may receive more than one million dollars (\$1,000,000) in tourism rebates in a calendar year.

(b) Tax rebates may carryforward for five years.

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

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

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

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

(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



1345 resolution of the governing authority acknowledging support of
1346 the project and acknowledging that a portion no less than 20
1347 percent of the tax rebates will be comprised of municipal
1348 taxes.

1349 (6) The Alabama Department of Revenue, in consultation
1350 with the Alabama Tourism Department, shall adopt rules and
1351 require the filing of a rebate form designed by the Department
1352 of Revenue to reflect the intent of this article. To begin the
1353 rebate process, once project phases open for business, the
1354 approved company must provide a listing of all sales tax
1355 accounts and account numbers related to the project. The
1356 Alabama Department of Revenue will provide these accounts and
1357 will begin making the required diversions into the Tourism
1358 Project Sales Tax Incentive Fund the month following
1359 notification. Rebate payments from the fund will be made each
1360 January and July to the approved company.

1361 (7) No tax rebate shall be granted to an approved
1362 company during a tax year that the approved company is
1363 simultaneously receiving any other state tax incentive
1364 associated with any individual tourism attraction project.

1365 (8) Any tax rebate shall be first applied to any
1366 outstanding tax obligation of the approved company that is due
1367 and payable to the state.

1368 (9) Rebates under this article shall be made without
1369 interest.

1370 (10) Tax rebates authorized under this article are
1371 transferrable to future owners of the qualifying tourism
1372 destination project.



(11) The tax rebate allowed under this article shall be effective beginning October 1, 2023, and shall continue through September 30, 2034, unless continued by an act of the Legislature.

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

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

§40-18-474

There is created the Tourism Project Sales Tax Incentive Fund, which may consist of monies appropriated or otherwise made available by the Legislature in any manner, and monies from any other source designated for deposit into such fund, but not include monies subject to a constitutional designation for some other purpose. Unexpended amounts remaining in the fund at the end of each fiscal year of the state revert. Any investment earnings or interest earned on amounts in the fund shall be credited to the fund.

§40-18-475

The department shall report to the Legislature by the second legislative day of the regular session of the third year following passage of this act, and annually thereafter,



1401 on the overall economic activity, usage, and impact to the
1402 state of the tax rebates allowed for tourism destination
1403 projects. The information in the reports shall be consistent
1404 with the information required by the Legislature in accordance
1405 with Section 40-1-50. Information provided pursuant to this
1406 section is exempt from the confidentiality provisions of
1407 Section 40-2A-10.

1408 Section 6. This act shall become effective immediately
1409 following its passage and approval by the Governor, or its
1410 otherwise becoming law.