

1 HB34  
2 170861-4  
3 By Representative McCutcheon  
4 RFD: Ways and Means Education  
5 First Read: 02-FEB-16  
6 PFD: 01/29/2016

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8 SYNOPSIS: This bill would establish the Alabama  
9 Renewal Act to create a number of new programs for  
10 the growth of Alabama as a place to do business.

11 The bill would create a tax credit for  
12 increased use of the state's port facilities.

13 The bill would also create the Growing  
14 Alabama Act tax credit to address economic  
15 development needs in Alabama.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

20  
21 To create the Alabama Renewal Act; to add Articles  
22 18 and 19 to Chapter 18, Title 40, of the Code of Alabama  
23 1975, commencing with Sections 40-18-400 and 40-18-410,  
24 respectively; to create new programs for the growth of  
25 business and industry in Alabama; to create tax credits for  
26 increased use of the state's port facilities; to create the  
27 Growing Alabama Act tax credit to address economic development

1 needs in Alabama; to cap the credits; to provide for the  
2 carryforward of certain earned but unused credits; to provide  
3 methods for claiming certain credits; to provide for proof  
4 that credits are due to be granted; to provide for the  
5 promulgation of forms; and to provide rulemaking authority.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall be known and may be cited  
8 as the Alabama Renewal Act.

9 Section 2. A new Article 18 of Chapter 18 of Title  
10 40 is added to the Code of Alabama 1975, to read as follows:

11 Article 18.

12 §40-18-400.

13 For the purposes of this article, the following  
14 words and phrases shall have the following meanings:

15 (1) BASE CARGO VOLUME. The greater of the following:

16 a. One hundred five percent of the cargo volume of a  
17 port facility user in the prior year.

18 b. Ten TEUs, for cargo measured by TEU, or 75 net  
19 tons, for cargo measured by net ton.

20 (2) CARGO VOLUME. The total amount of net tons of  
21 noncontainerized general cargo or containers, measured in TEUs  
22 or in net tons, transported by way of a waterborne ship, air  
23 cargo aircraft, or railroad through a port facility; provided  
24 that such cargo shall be owned by the port facility user at  
25 the time the port facility is used.

26 (3) COMMISSION. The Renewal of Alabama Commission  
27 created by Section 40-18-402.

1 (4) COMPANY. Anyone or anything which has the powers  
2 to conduct the activities required to claim the port credit.

3 (5) PORT FACILITY. Any publicly owned facility  
4 located within this state's ports of entry through which cargo  
5 is transported by way of a waterborne ship, air cargo  
6 aircraft, or railroad, to or from destinations outside this  
7 state and which handles cargo owned by third parties in  
8 addition to cargo owned by the port facility's owner.

9 (6) PORT CREDIT. The credit provided for in Section  
10 40-18-403.

11 (7) PORT FACILITY USER. A company engaged in  
12 manufacturing, warehousing, or distribution which uses a port  
13 facility.

14 (8) TEU. A "20-foot equivalent unit" volumetric  
15 measure based on the size of a container 20 feet long by eight  
16 feet wide by eight feet, six inches high.

17 §40-18-401.

18 (a) The port credit provided for in Section  
19 40-18-403 is created by this article and is allowed upon  
20 strict compliance with the provisions herein.

21 (b) Prior to the allowance of the port credit, an  
22 application shall be filed with the commission, on a form  
23 promulgated by the commission.

24 (1) The application shall be filed by the port  
25 facility user desiring to claim the credit.

26 (2) The commission shall establish deadlines for  
27 applications. Such applications shall solicit whatever

1 information the commission deems important to its  
2 determination of whether granting a port credit will create  
3 new, high paying jobs in the state, bring substantial capital  
4 to the state, increase the usage of a port facility, promote  
5 the development of clusters of businesses in the state, or  
6 promote the economic development efforts of the state.

7 (3) Upon review of the applications, the commission  
8 may approve such applications as shall result in port credits  
9 being awarded so as not to exceed twelve million dollars  
10 (\$12,000,000), and shall not exceed five million dollars  
11 (\$5,000,000) in a fiscal year.

12 (4) The commission shall charge application fees to  
13 offset the costs of administration of this article.

14 (c) Prior to claiming a port credit, the company  
15 shall submit to the Department of Commerce a certification  
16 containing information adequate to prove that the company is  
17 entitled to the credit. Following such examination as it deems  
18 necessary, the Department of Commerce may certify the  
19 information and deliver the same to the Department of Revenue.  
20 Thereafter, the Department of Revenue shall allow the tax  
21 credit.

22 (d) (1) Nothing in this article shall be construed to  
23 constitute a guarantee or assumption by the state of any debt  
24 of any company nor to authorize the credit of the state to be  
25 given, pledged, or loaned to any company.

26 (2) Nothing in this article shall be construed to  
27 make available to any company any right to the benefits

1 conferred by this article absent strict compliance with this  
2 article.

3 (3) All filings made by a private party with the  
4 commission or any department of state government shall be made  
5 using forms adopted by the commission or department. Any such  
6 filing shall be treated as a tax return, subject to penalties  
7 imposed by the Department of Revenue.

8 (4) Nothing in this article shall be construed to  
9 limit the powers otherwise existing for the Department of  
10 Revenue to audit and assess any company claiming a port  
11 credit.

12 §40-18-402.

13 (a) There is hereby created the Renewal of Alabama  
14 Commission.

15 (b) The commission shall be comprised of all of the  
16 following persons:

17 (1) The Finance Director, or his or her designee;

18 (2) The Secretary of Commerce, or his or her  
19 designee;

20 (3) The Chair of the House Ways and Means Education  
21 Committee, or its successor committee, if any, or his or her  
22 designee;

23 (4) The Chair of the Senate Finance and Taxation  
24 Education Committee, or its successor committee, if any, or  
25 his or her designee;

26 (5) Three persons appointed by the Governor, at  
27 least one of whom shall be a resident of an area of the state

1 the source of whose primary power supply is the Tennessee  
2 Valley Authority or its lawfully authorized distributor;

3 (6) One person appointed by the Speaker of the  
4 House; and

5 (7) One person appointed by the President Pro  
6 Tempore of the Senate.

7 (c) All persons appointed to the commission shall  
8 have one or more of the following qualifications:

9 (1) Members must be knowledgeable in the management  
10 of money and finance;

11 (2) Members must have experience in international  
12 trade; or

13 (3) Members must have experience as chief executive  
14 officers, chief financial officers, or other executive level  
15 management roles in businesses in this state which employ  
16 Alabama residents.

17 (4) The commission shall be inclusive and reflect  
18 the gender, racial, geographic, urban and rural, and economic  
19 diversity of the state.

20 (d) The Secretary of Commerce, or his or her  
21 designee, shall be the chair of the commission and shall  
22 preside over all meetings of the commission. The commission  
23 may elect such other officers as it may find necessary or  
24 desirable; provided that the commission shall have a board  
25 secretary to keep minutes of its proceedings. No officer of  
26 the commission other than the chair need be a member of the  
27 commission.

1 (e) No member of the commission shall vote or  
2 participate in any matter in which the member or a family  
3 member of the member has any financial gain or interest.

4 (f) Members of the commission shall serve without  
5 compensation.

6 (g) The commission shall meet at the call of the  
7 chair or any majority of members thereof; provided that the  
8 commission shall meet at least two times annually.

9 (h) The commission shall adopt its own rules of  
10 procedure for the transaction of its business, and a majority  
11 of the members present shall constitute a quorum for the  
12 purpose of transacting or performing authorized duties.  
13 Meetings of the commission are exempt from Chapter 25A of  
14 Title 36, provided that the minutes of each meeting shall be  
15 made available for public inspection. In order to balance the  
16 privacy needs of companies with openness to the public, the  
17 commission may use code names in its deliberations about  
18 various applicants and in the minutes of its proceedings.

19 (i) The Department of Commerce shall provide  
20 administrative and staffing support for the commission. The  
21 Department of Revenue shall disclose to the commission  
22 whatever information it may possess which would allow the  
23 commission to fulfill this article; provided, however, that  
24 such information shall only be disclosed and discussed in a  
25 closed session. The Department of Revenue may require members  
26 of the commission to execute confidentiality agreements before  
27 the disclosure of information.



1 (j) The commission shall make an annual report on  
2 the use of funds pursuant to this article. Such report shall  
3 be made to the chair of the House Ways and Means Education  
4 Committee, the chair of the Senate Finance and Taxation  
5 Education Committee, and the members of the Joint Legislative  
6 Advisory Committee on Economic Incentives established by  
7 Section 40-18-379, at the times and in the manner requested by  
8 the committee. Any publicly available version of the report  
9 may redact information which the Department of Commerce  
10 believes would place the state at a competitive disadvantage.

11 (k) The commission and the Department of Commerce  
12 and Department of Revenue are authorized to adopt rules as  
13 necessary to implement and administer the act.

14 (l) Members of the commission shall be public  
15 officials for purposes of the ethics laws in Chapter 25 of  
16 Title 36.

17 §40-18-403.

18 (a) If approved by the commission, a port credit is  
19 allowed, in an amount equal to fifty dollars (\$50) per TEU or  
20 three dollars (\$3) per net ton, multiplied by the following:

21 (1) The port user's cargo volume in the year for  
22 which the commission has granted approval for the port user to  
23 claim the port credit, minus

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

25 (b) The commission shall decrease the amount of the  
26 port credit to ensure that the anticipated revenues for the  
27 port facility and state will exceed the amount of the port

1 credit sought. The port credit may be conditioned on whatever  
2 requirements the commission shall impose. The port credits  
3 shall only be available to the extent that a port facility  
4 user ships more than 105 percent of its cargo volume from the  
5 prior year. Moreover, the port credit shall only be available  
6 to the extent a port facility user ships more than 10 TEUs,  
7 for cargo measured by TEU, or more than 75 net tons, for cargo  
8 measured by net ton.

9 (c) The following methods may be used to realize the  
10 port credit:

11 (1) The port credit may offset the tax levied by  
12 Chapter 18, but not below zero. The port credit may also  
13 offset the estimated payments of the tax levied by Chapter 18,  
14 but not below zero; provided that, in no event shall the port  
15 credits be allowed to reduce any estimated payment of the tax  
16 levied by Chapter 18 before October 1, 2016. In any one year,  
17 if the port credit exceeds the amount of tax liability, the  
18 port user may carry forward the unused port credit. No  
19 carryforward shall be allowed for more than five years. Rules  
20 similar to those used for Section 40-18-15.2 shall be applied.

21 (2) A company may assign and convey a port credit to  
22 another company if substantially all of the assets of the  
23 company are assigned and conveyed in the same transaction.  
24 Proof of such transfer shall be submitted to the Department of  
25 Revenue.

1 (d) To the extent that the port credit is utilized  
2 by the port user or by a transferee company, no deduction for  
3 the related expenses shall be allowed.

4 (e) For any company which enters into an economic  
5 development project agreement with the state, the project  
6 agreement may provide for an allocation to the company of any  
7 port credits which have not been allocated pursuant to this  
8 article. Allocations made pursuant to this subsection shall  
9 meet all of the following requirements:

10 (1) Allocations shall be made by the Governor and  
11 approved by the commission;

12 (2) Allocations for a project shall not exceed three  
13 million dollars (\$3,000,000);

14 (3) Allocations shall be granted only to a new  
15 warehouse or distribution facility which commits to investing  
16 at least twenty million dollars (\$20,000,000) at a single site  
17 and to creating 75 net new jobs in Alabama;

18 (4) Port credits may not be used until the  
19 Department of Commerce has received satisfactory proof that  
20 the capital investment and job creation requirements have been  
21 satisfied;

22 (5) Any port credit granted by this procedure shall  
23 not be granted for more than a 3-year period; and

24 (6) Allocations shall not exceed one hundred dollars  
25 (\$100) per TEU or three dollars (\$3) per net ton.

26 Section 3. A new Article 19 of Chapter 18 of Title  
27 40, is added to the Code of Alabama 1975, to read as follows:

1 Article 19.

2 §40-18-410.

3 For the purposes of this article, the following  
4 words and phrases shall have the following meanings:

5 (1) ADDITIONAL ALLOCATION AMOUNT. An amount for the  
6 current year which is determined after all amounts in  
7 paragraph (6)b. are verified for the current year, equal to  
8 the excess of:

9 a. The cap amount, minus

10 b. The contribution amounts for all taxpayers for  
11 the current year.

12 (2) ADDITIONAL ALLOCATION SHARE. All or part of the  
13 additional allocation amount allocated by the Department of  
14 Revenue to taxpayers with carryforward amounts existing after  
15 all amounts in paragraph (6)b. are verified for the current  
16 year. The amount of the additional allocation share for any  
17 taxpayer shall not exceed such taxpayer's carryforward amounts  
18 but may exceed, for each taxpayer, the lesser of ten million  
19 dollars (\$10,000,000) or the cap amount. Allocations of the  
20 additional allocation amount shall be made to taxpayers  
21 starting with the earliest issuance times, until the total  
22 allocations of Growing Alabama Credits for the current year  
23 should equal the cap amount.

24 (3) APPROVED ACTIVITY. An activity predominantly  
25 constituting one or more of the following:

26 a. Described by NAICS Code 1133, 115111, 2121,  
27 22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482,

1 4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493,  
2 511, 5121 (other than 51213), 51221, 517, 518 (without regard  
3 to the premise that data processing and related services be  
4 performed in conjunction with a third party), 51913, 52232,  
5 54133 (if predominantly in furtherance of another activity  
6 described in this article), 54134 (if predominantly in  
7 furtherance of another activity described in this article),  
8 54138, 5415, 541614, 5417, 55 (if not for the production of  
9 electricity), 561422 (other than establishments that originate  
10 telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

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

13 c. The conduct of original investigations undertaken  
14 on a systematic basis to gain new knowledge or the application  
15 of research findings or other scientific knowledge to create  
16 new or significantly improved products or processes.

17 d. The national or regional headquarters in Alabama  
18 for a company that conducts significant business operations  
19 outside the state and that will serve as the principal office  
20 of the company's principal operating officer with chief  
21 responsibility for the daily business operations of the  
22 company.

23 e. A target of the state's economic development  
24 efforts pursuant to the Accelerate Alabama Strategic Economic  
25 Development Plan adopted in January 2012 by the Alabama  
26 Economic Development Alliance, created by Executive Order

1 Number 21 of the Governor on July 18, 2011, or any amended  
2 version or successor document thereto.

3 f. A type listed in a regulation adopted by the  
4 Department of Commerce pursuant to the Alabama Administrative  
5 Procedure Act, other than a regulation submitted as an  
6 emergency rule.

7 Notwithstanding the foregoing, an approved activity  
8 shall not predominantly include farming activities involving  
9 trees, animals or crops or the retail sale of tangible  
10 personal property or services. This provision shall not be  
11 deemed to exclude customer service centers, call centers, or  
12 headquarters otherwise allowed as an approved activity.

13 Approved activities shall be conducted only by businesses or  
14 industries which are organized or incorporated in Alabama, or  
15 which have an existing place of business in Alabama.

16 (4) CAP AMOUNT. For the 2016 calendar year, five  
17 million dollars (\$5,000,000); for the 2017 calendar year, ten  
18 million dollars (\$10,000,000); and for calendar year 2018  
19 through and including calendar year 2025, fifteen million  
20 dollars (\$15,000,000) per year.

21 (5) CARRYFORWARD AMOUNT. As to a taxpayer for any  
22 given year, the excess of:

23 a. All amounts contributed under paragraph (6)b.  
24 during the given year and the 10 years preceding the given  
25 year; minus

26 b. The credit amounts allowed during the given year  
27 and the 10 years preceding the given year.

1 (6) CONTRIBUTION AMOUNT. As to a taxpayer, the sum  
2 of:

3 a. The first-day allocation for the current year;  
4 plus

5 b. Contributions made during the current year which  
6 are shown in online filings with the Department of Revenue,  
7 but not including any amount which is not received by an  
8 economic development organization within 15 days of the  
9 issuance time, as verified to the department by the economic  
10 development organization within 20 days of the issuance time.

11 Although a taxpayer may, in paragraph b., contribute  
12 to an economic development organization any amount of cash or  
13 property, in no event shall the contribution amount for the  
14 taxpayer exceed, for the current year, the lesser of ten  
15 million dollars (\$10,000,000) or the cap amount, and the  
16 taxpayer's contribution amount shall not cause the  
17 contribution amounts for all taxpayers to exceed the cap  
18 amount for the current year.

19 (7) CREDIT AMOUNT. As to a taxpayer, the lesser of:

20 a. Fifty percent of the taxpayer's tax liability for  
21 the current year; or

22 b. The contribution amount for the current year plus  
23 the additional allocation share for the current year.

24 Contributions will be deemed to be part of the  
25 credit amount on a first in, first out basis.

1           (8) ECONOMIC DEVELOPMENT ORGANIZATIONS. One or more  
2 organizations, each of which is determined by the Department  
3 of Commerce to meet the following criteria:

4           a. The organization is exempt from federal income  
5 tax under Section 501(c)(6) of the Internal Revenue Code of  
6 1986, as amended;

7           b. The organization was organized at least 20 years  
8 prior to the effective date of this article to lend support to  
9 economic development initiatives in the state;

10          c. The organization has a record of supporting  
11 recruitment, retention, and innovation activities in Alabama;

12          d. The organization provides the means by which the  
13 private sector collectively participates in economic  
14 development initiatives throughout the state; and

15          e. The organization will not employ or retain  
16 registered lobbyists during the time that it is designated as  
17 an economic development organization.

18           (9) FIRST-DAY ALLOCATION. For a taxpayer, the  
19 carryforward amount existing at the end of the prior year, as  
20 calculated after any additional allocation shares for the  
21 prior year are allocated by the Department of Revenue. In no  
22 event shall the first-day allocation for a taxpayer exceed,  
23 for the current year, the lesser of ten million dollars  
24 (\$10,000,000) or the cap amount. The taxpayer's first-day  
25 allocation shall not cause the first-day allocations for all  
26 taxpayers with an earlier issuance time to exceed the cap  
27 amount for the current year.



1                   (10) GROWING ALABAMA CREDIT. The credit provided for  
2 in Section 40-18-411(a).

3                   (11) ISSUANCE TIME. As to a taxpayer, the moment in  
4 time at which the taxpayer files with the Department of  
5 Revenue a request for Growing Alabama Credits or makes a  
6 request for prior approval of a contemplated transaction  
7 pursuant to Section 40-18-412(c).

8                   (12) PRIVATE LANDOWNER. An individual or entity  
9 receiving a benefit from an economic development organization,  
10 which benefit does not relate to an approved activity. The  
11 term shall not include entities listed in Section  
12 40-18-414(a)(2).

13                   (13) QUALIFYING PURPOSE. Any activity for the  
14 benefit of Alabama or any community therein which constitutes  
15 any of the following:

16                   a. Promoting designated sites for the location or  
17 expansion of industries or businesses conducting approved  
18 activities;

19                   b. The identification, acquisition, preparation, and  
20 rehabilitation of sites and the construction or rehabilitation  
21 of vacant buildings, which sites and buildings would be used  
22 by an industry or business which conducts an approved  
23 activity;

24                   c. The creation of public infrastructure in Alabama  
25 which would be used by an industry or business which conducts  
26 an approved activity;

1           d. The revitalization of downtown areas, including  
2 the renovation, upkeep, and preservation of buildings in  
3 downtown areas; provided, however, that this paragraph shall  
4 not be used as to buildings that are subjects of historic tax  
5 credits under Chapter 9F of this title, or under Section 47 of  
6 the Internal Revenue Code of 1986, as amended;

7           e. Preserving and expanding the missions and  
8 activities conducted at military bases and installations in  
9 Alabama;

10           f. Creating and promoting mechanisms to match  
11 workforce needs with the state's education system; and

12           g. An activity described in a rule issued by the  
13 Department of Commerce, other than a rule submitted as an  
14 emergency rule.

15           (14) RENEWAL OF ALABAMA COMMISSION. The Renewal of  
16 Alabama Commission created by Section 40-18-402.

17           §40-18-411.

18           (a) A taxpayer is allowed a Growing Alabama Credit  
19 in an amount equal to the credit amount. The Growing Alabama  
20 Credit shall be applied against the tax levied by Chapter 18,  
21 or used as an estimated payment of the tax levied by Chapter  
22 18, but not below zero. In no event shall Growing Alabama  
23 Credits be allowed to reduce any estimated payment of the tax  
24 levied by Chapter 18 before October 1, 2016.

25           (b) (1) Real or tangible personal property may be  
26 donated only if it would be used directly to accomplish a  
27 qualifying purpose. No donated property shall be accepted

1 before the economic development organization has conducted  
2 surveys and title searches and has satisfied itself that the  
3 property could be used for its intended, qualifying purpose by  
4 an intended user. Donated property shall be valued at its fair  
5 market value using the "qualified appraisal" standards set  
6 forth by the IRS.

7 (2) In calculating any of the amounts in Section  
8 40-18-410, the amounts may not be less than zero, and they  
9 shall not be calculated to cause a violation of the caps in  
10 subsection (c).

11 (3) In the event that the limitation in Section  
12 40-18-410(7)a. should apply to a taxpayer, the Department of  
13 Revenue shall make any resulting computational changes that  
14 impact the taxpayer, but no other taxpayer shall be  
15 disadvantaged thereby.

16 (c) The Department of Commerce shall name at least  
17 one economic development organization on the effective date of  
18 this article.

19 §40-18-412.

20 (a) The Growing Alabama Credits shall be granted to  
21 taxpayers using an online system administered by the  
22 Department of Revenue. The online system shall allow taxpayers  
23 to file applications showing the amount of the total  
24 contributions of cash and property which the taxpayer expects  
25 in good faith to contribute to one or more economic  
26 development organizations, and contributions to economic

1 development organizations shall be permitted even if in excess  
2 of the various limitations in this article.

3 (b) The online filing system shall first be  
4 available on December 1, 2016, and may be taken offline for  
5 scheduled maintenance and accounting reconciliation during  
6 January of each and every year that the Growing Alabama Credit  
7 is in effect.

8 (c) A taxpayer contributing property that would be  
9 used directly to accomplish a qualifying purpose may propose  
10 the contribution and effectuate it upon prior approval of the  
11 project by the economic development organization and the  
12 Renewal of Alabama Commission. The economic development  
13 organization and the Renewal of Alabama Commission may grant  
14 prior approval to multi-year contributions as a part of a plan  
15 to accomplish a qualifying purpose.

16 §40-18-413.

17 (a) A taxpayer may not restrict a contribution to  
18 any specific purpose.

19 (b) An economic development organization may refuse  
20 to accept any contributions it wishes to refuse.

21 (c) Individual donors shall not be dependents of  
22 other taxpayers.

23 (d) A taxpayer, including a corporate taxpayer, an  
24 individual, or a married couple filing jointly, may claim an  
25 allowable credit only once. To the extent that a Growing  
26 Alabama Credit is claimed by a taxpayer, the taxpayer shall

1 not be allowed any deduction which would have otherwise been  
2 allowed for the taxpayer's contribution.

3 (e) Credits may only be claimed by the donating  
4 individual or corporate entity and may not be assigned or  
5 transferred to any other taxpayer. A taxpayer may not claim a  
6 credit for a donation made by any other entity, including an  
7 entity taxed under subchapter S or subchapter K of which the  
8 taxpayer is an owner, shareholder, partner, or member.

9 §40-18-414.

10 (a) (1) For any contribution of property or cash for  
11 which a Growing Alabama Credit has been granted, an economic  
12 development organization shall use such contributions solely  
13 for one or more qualifying purposes, following approval of the  
14 use by the Renewal of Alabama Commission.

15 (2) In furtherance of subdivision (1), an economic  
16 development organization may use subsidiaries, partnerships,  
17 and disregarded entities and may act in conjunction with other  
18 organizations exempt from federal income tax under Section  
19 501(c) (3), 501(c) (4), or 501(c) (6) of the Internal Revenue  
20 Code of 1986, as amended, with an Alabama municipality or  
21 county, or with an entity organized by one or more of them.

22 (b) In conducting the activities specified in  
23 Section 40-18-410(13)b., c., or d., an economic development  
24 organization shall not use any contribution of property or  
25 cash for which a Growing Alabama Credit has been granted in  
26 any manner that primarily benefits a private landowner, or  
27 that primarily benefits an industry or business which conducts

1 an approved activity. A benefit shall be present if any  
2 purchase of property by an economic development organization  
3 is for more than its fair market value, or if any sale of  
4 property by an economic development organization is for less  
5 than its fair market value. Fair market value shall be  
6 determined using the "qualified appraisal" standard set forth  
7 by the Internal Revenue Service. The Renewal of Alabama  
8 Commission may issue written advice on whether a proposed use  
9 of property or cash would violate this subsection, and an  
10 economic development organization may rely on that advice.

11 (c) (1) For any contribution of property or cash for  
12 which a Growing Alabama Credit has been granted, an economic  
13 development organization shall segregate and separately  
14 account for such contribution from all other assets of the  
15 organization. Excess funds that are not expended during any  
16 taxable year may be invested in stocks or bonds so long as the  
17 funds are separately accounted for. Any investment income  
18 shall be reinvested or used for a qualifying purpose.

19 (2) An economic development organization shall not  
20 invest any contribution for which a Growing Alabama Credit has  
21 been granted directly or indirectly in the contributing  
22 taxpayer's stocks or bonds, except through a mutual fund.

23 (3) An economic development organization may use  
24 contributed property or cash for the payment of administrative  
25 expenses, but only to the extent such expenses are incurred  
26 because of the organization's status as an economic  
27 development organization. Such expenses may be approved in

1 writing by the Department of Commerce, or may be provided for  
2 in rules adopted by the Department of Commerce.

3 (d) Each economic development organization shall  
4 annually submit a report to the Department of Commerce  
5 detailing its annual qualifying expenditures. The organization  
6 shall make such other reports as may be required by the  
7 department. The department shall make an annual report on the  
8 use of funds pursuant to this article to the chair of the  
9 House Ways and Means Education Committee, the chair of the  
10 Senate Finance and Taxation Education Committee, and the  
11 members of the Joint Legislative Advisory Committee on  
12 Economic Incentives established by Section 40-18-379, at the  
13 times, and in the manner, requested by the committee.

14 Beginning with the report for fiscal year 2021, the report  
15 shall include a study of the economic impacts from the  
16 qualifying expenditures made in prior years. Any publicly  
17 available version of the report may redact information which  
18 the Department of Commerce believes would place the state or a  
19 community therein at a competitive disadvantage; provided,  
20 however, that information which is redacted shall become  
21 publicly available five years following the release of the  
22 public report.

23 (e) The status of an organization as an economic  
24 development organization shall be terminated upon any of the  
25 following:

26 (1) A determination by the Department of Revenue  
27 that the organization has lost its tax-exempt status;

1                   (2) A determination by the Department of Commerce  
2 that the organization has used funds for a non-qualifying  
3 purpose; or

4                   (3) A determination by the Department of Commerce  
5 that the organization has demonstrated a lack of institutional  
6 control by failing to make timely reports required by this  
7 section.

8                   The termination of the status of any approved  
9 economic development corporation shall not cause any taxpayer  
10 to lose any credits previously granted to the taxpayer.

11                  (f) If an economic development organization should  
12 have received cash and property which has not become part of a  
13 taxpayer's creditable amount at the time of the organization's  
14 termination of its status as an economic development  
15 organization, the economic development organization shall  
16 consult with the taxpayer who made the contribution and  
17 transfer such funds to another economic development  
18 organization.

19                  (g) An economic development organization shall be  
20 subject to the limitations in this article as to cash and  
21 property for which a Growing Alabama Credit is issued, even  
22 after the organization's status as an economic development  
23 organization should expire or be otherwise terminated.

24                  §40-18-415.

25                  (a) All filings made by a private party with any  
26 department of the state government shall be made using forms  
27 promulgated by such department. Any such filing shall be



1 treated as a tax return, subject to penalties imposed by the  
2 Department of Revenue.

3 (b) Nothing in this article shall be construed to  
4 constitute a guarantee or assumption by the state of any debt  
5 of any company nor to authorize the credit of the state to be  
6 given, pledged, or loaned to any company.

7 (c) Nothing in this article shall be construed to  
8 make available to any taxpayer any right to the benefits  
9 conferred by this article absent strict compliance with this  
10 article.

11 (d) Nothing in this article shall be construed to  
12 limit the powers otherwise existing for the Department of  
13 Revenue to audit and assess a taxpayer claiming the Growing  
14 Alabama Credit.

15 (e) The Department of Commerce and Department of  
16 Revenue are authorized to adopt rules as necessary to  
17 implement and administer this article.

18 §40-18-416.

19 This article shall be repealed following the close  
20 of calendar year 2025, but the repeal shall not cause a  
21 reduction or suspension of any credits awarded for calendar  
22 year 2025 or for prior years during which the Growing Alabama  
23 Credit was in effect. At the end of calendar year 2025, if an  
24 economic development organization should hold funds or  
25 property for which a Growing Alabama Credit was issued, the  
26 restrictions on the uses of the funds shall continue to apply.

1                   Section 4. If a court of competent jurisdiction  
2                   adjudges invalid or unconstitutional any clause, sentence,  
3                   paragraph, section, or part of this act, such judgment or  
4                   decree shall not affect, impair, invalidate, or nullify the  
5                   remainder of this act, but the effect of the decision shall be  
6                   confined to the clause, sentence, paragraph, section, or part  
7                   of this act adjudged to be invalid or unconstitutional.

8                   Section 5. All laws or parts of laws which conflict  
9                   with this act are repealed.

10                   Section 6. This act shall become effective 90 days  
11                   following its passage and approval by the Governor, or its  
12                   otherwise becoming a law.