

SB164 INTRODUCED



1 76W3VE-1

2 By Senators Reed, Weaver, Williams, Chesteen, Price, Allen,

3 Butler, Jones, Gudger, Waggoner, Kelley, Chambliss, Hovey,

4 Sessions, Bell, Shelnut, Scofield, Melson, Singleton,

5 Livingston, Hatcher, Stewart, Figures, Orr, Smitherman,

6 Coleman-Madison

7 RFD: Finance and Taxation Education

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SYNOPSIS:

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

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

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

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



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29 Alabama for continued growth and support.

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

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A BILL

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TO BE ENTITLED

36

AN ACT

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38 Relating to the Alabama Jobs Act and the Growing
39 Alabama Act; to amend Sections 40-18-370, 40-18-372,
40 40-18-374, 40-18-375, 40-18-376, 40-18-376.1, 40-18-376.2,
41 40-18-376.3, 40-18-376.4, 40-18-377, 40-18-378, 40-18-382,
42 40-18-383, 40-18-417.1, 40-18-417.2, 40-18-417.3, 40-18-417.4,
43 40-18-417.7, and 40-9B-4.1, Code of Alabama 1975, to extend
44 the Alabama Jobs Act sunset date to July 31, 2028; to increase
45 the annualized cap on outstanding Alabama Jobs Act incentives
46 by twenty-five million dollars each year for five years up to
47 four hundred seventy-five million dollars; to increase the
48 investment tax credit transfer time to provide that the first
49 five years of the investment credit may be transferred by the
50 incentivized company and applied by another person or company
51 under the Alabama Jobs Act; to extend the Growing Alabama Act
52 sunset date to July 31, 2028, to increase the annual cap on
53 funding approved pursuant to the Growing Alabama Act to
54 thirty-five million dollars; to remove certain programs from
55 the Growing Alabama Act for the transfer to Innovate Alabama.
56 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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

59 Section 2. Sections 40-18-370, 40-18-372, 40-18-374,
60 40-18-375, 40-18-376, 40-18-376.1, 40-18-376.2, 40-18-376.3,
61 40-18-376.4, 40-18-377, 40-18-378, 40-18-382, 40-18-383,
62 40-18-417.1, 40-18-417.2, 40-18-417.3, 40-18-417.4,
63 40-18-417.7, and 40-9B-4.1, Code of Alabama 1975, are amended
64 to read as follows:

65 "§40-18-370

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

68 (b) The Legislature makes the following findings:

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

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

76 (3) The incentives provided for in this article do not
77 raise any taxes for any individuals or businesses in Alabama
78 under state law.

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

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

84 (6) The Constitution of the State of Alabama grants the



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85 Legislature the authority to approve and authorize exemptions,
86 exclusions, deductions, and credits from taxation in order to
87 define the net proceeds of any tax payable under state law.

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

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

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

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

101 (c) In addition to the definitions found at Section
102 40-18-1, the following words and phrases shall have the
103 following meanings:

104 (1) APPROVED COMPANY. Any company determined by the
105 Secretary of Commerce and the Governor to meet the criteria
106 provided in Section 40-18-373.

107 (2) CAPITAL INVESTMENT. All costs and expenses incurred
108 by the incentivized company in connection with the
109 acquisition, construction, installation, and equipping of a
110 qualifying project, if such costs are required to be
111 capitalized for purposes of the federal income tax, determined
112 without regard to any rule that permits expenditures properly



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113 chargeable to a capital account to be treated as current
114 expenditures. However, for any project involving the
115 extraction of natural resources, the capital investment shall
116 not include the costs of acquiring land, land recording fees,
117 architectural and engineering services, environmental studies
118 and environmental mitigation.

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

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

124 ~~(5) (4) EMPLOYEES. Some or all of those persons employed~~
125 ~~and residing in Alabama~~ Persons employed in full-time positions
126 created by or through a qualifying project:

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

130 b. Whom the approved company, related company, common
131 paymaster, or joint venturer ~~or leasing company~~ identifies as
132 its employees to ~~the U.S. Internal Revenue Service,~~ the
133 Department of Revenue, or the Department of Labor on returns
134 or reports filed with the foregoing, including, but not
135 limited to, ~~IRS Form 941;~~ Form A-6, Form A-1, Form A-2,
136 UC-CR-4, and UC-10-R. and

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

139 ~~(6) (5) INCENTIVE PERIOD. The period or periods of time~~
140 during which an incentivized company can receive one or more



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141 of the jobs act incentives.

142 ~~(7)~~ (6) INCENTIVIZED COMPANY. An approved company and
143 any related company that are allowed to claim one or more of
144 the jobs act incentives as provided for in the project
145 agreement.

146 ~~(8)~~ (7) INVESTMENT CREDIT. The annual incentive provided
147 in Section 40-18-376.

148 ~~(9)~~ (8) JOBS ACT INCENTIVES. The jobs credit and the
149 investment credit as authorized and provided for in this
150 article.

151 ~~(10)~~ (9) JOBS CREDIT. The annual incentive provided in
152 Section 40-18-375.

153 ~~(11)~~ (10) NAICS CODE. Any sector, subsector, industry
154 group, industry or national industry of the 2012 North
155 American Industry Classification System, or any similar
156 classification system developed in conjunction with the United
157 States Department of Commerce or Office of Management and
158 Budget.

159 ~~(12)~~ (11) PROJECT. Any land, building, or other
160 improvements, and all real and personal properties, whether or
161 not contiguous and whether or not previously in existence, if
162 in Alabama and if deemed necessary or useful in connection
163 with an activity listed in Section 40-18-372(1).

164 ~~(13)~~ (12) PROJECT AGREEMENT. The agreement entered into
165 between an approved company and the Governor establishing the
166 terms and conditions for the provision of the jobs act
167 incentives, as provided for in Section 40-18-374.

168 ~~(14)~~ (13) QUALIFYING PROJECT. Any project to be



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169 undertaken by an approved company that satisfies Section
170 40-18-372.

171 ~~(15)~~ (14) RELATED COMPANY. ~~Any company that is under~~
172 ~~common ownership, management, or control with a company or an~~
173 ~~approved company, as the case may be~~ Any entity that owns,
174 directly or through one or more entities, a 50 percent or
175 greater interest in the capital or profits of another.

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

179 (16) UTILITY TAXES. The taxes imposed by Sections
180 40-21-82 and 40-21-102.

181 (17) WAGES. Total wages of an employee (including gross
182 wages, salaries, overtime and bonuses), defined by reference
183 to Section 25-4-16(b), without application of Sections
184 25-4-16(b) (1), 25-4-16(b) (2) a., 25-4-16(b) (3), and
185 25-4-16(b) (4).

186 "§40-18-372

187 A qualifying project must be found by the Secretary of
188 Commerce to conduct an activity specified in subdivision (1)
189 and to meet the minimum standard set forth in subdivision (2).

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

192 a. Described by NAICS Code 1133, 115111, 2121, 22111,
193 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,
194 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, 511,
195 5121 (other than 51213), 51221, 517, 518 (without regard to
196 the premise that data processing and related services be



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197 performed in conjunction with a third party), 51913, 52232,
198 54133 (if predominantly in furtherance of another activity
199 described in this article), 54134 (if predominantly in
200 furtherance of another activity described in this article),
201 54138, 5415, 541614, 5417, 55 (if not for the production of
202 electricity), 561422 (other than establishments that originate
203 telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

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

206 c. A renewable energy generation facility that is owned
207 by one or more electric providers, as such term is defined in
208 Section 37-16-3(10), for providing electric service at retail
209 in Alabama. For purposes of this subdivision, an "electric
210 provider" shall also include an authority as defined in
211 Section 11-50A-1(1). In the case of an electric provider that
212 is also a tax-exempt organization under the Internal Revenue
213 Code, notwithstanding Section 40-18-376(b)(3), any investment
214 credit may be transferred for the entire term of the project
215 agreement, as approved by the Governor. A "renewable energy
216 generation facility" as used in this subdivision shall include
217 any tangible property that is part of renewable energy
218 generation, including any addition, modification, expansion,
219 or upgrade to transmission or distribution systems that is
220 required to accommodate the interconnection of renewable
221 energy generation.

222 ~~e.~~d. The conduct of original investigations undertaken
223 on a systematic basis to gain new knowledge or the application
224 of research findings or other scientific knowledge to create



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225 new or significantly improved products or processes.

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

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

243 ~~f.~~g. A target of the state's economic development
244 efforts pursuant to the Accelerate Alabama Strategic Economic
245 Development Plan adopted in January 2012 by the Alabama
246 Economic Development Alliance, created by Executive Order
247 Number 21 of the Governor on July 18, 2011, or any amended
248 version or successor document thereto.

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

252 Notwithstanding the foregoing, a qualifying project may



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

268 (2) A qualifying project shall create a significant
269 number of new jobs for the area in which the qualifying
270 project shall be located. Absent a finding of extraordinary
271 circumstances by the Secretary of Commerce, a qualifying
272 project shall employ either of the following number of new
273 employees:

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

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



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281 "§40-18-374

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

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

289 (1) The name of the incentivized company;

290 (2) The location of the qualifying project;

291 (3) The activity to be conducted at the qualifying
292 project;

293 (4) The jobs act incentives to be granted ~~and the order~~
294 ~~in which they shall be claimed;~~

295 (5) The capital investment to be made at the qualifying
296 project;

297 (6) The time period for the capital investment to be
298 made at the qualifying project;

299 (7) The number of ~~eligible~~ employees at the qualifying
300 project;

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

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

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



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

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

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

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

322 (15) Any other terms the parties deem necessary or
323 desirable.

324 (c) The Governor may decrease the amounts and durations
325 of the jobs act incentives to ensure that the anticipated
326 revenues for the state will exceed the amount of tax
327 incentives sought."

328 "§40-18-375

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

335 (2) If the incentivized company is engaged in
336 pharmaceutical, biomedical, medical technology or medical



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337 supplies manufacturing, or its related research and
338 development activities, the incentivized company is allowed a
339 jobs credit against utility taxes, in an annual amount ~~equal~~up
340 to 4 percent of the wages paid to ~~eligible~~Alabama resident
341 employees during the prior year. The incentive period shall
342 ~~be~~not exceed 10 years. This applies to companies that
343 predominantly conduct an activity described by NAICS code
344 3254, 339112, or 339113, to include related research and
345 development.

346 (b) The project agreement shall provide that one of the
347 following methods shall be used to realize the benefits of the
348 jobs credit:

349 (1)a. As further provided in the project agreement, the
350 ~~The~~ jobs credit may be paid to the incentivized company as a
351 refund out of utility taxes during the incentive period,
352 regardless of the amount of utility taxes actually paid by the
353 incentivized company.

354 b. For each year of the incentive period for the jobs
355 credit, the incentivized company shall submit to the
356 Department of Commerce a certification as to the wages paid to
357 ~~eligible~~ employees during the prior year. Following such
358 examination as it deems necessary, the Department of Commerce
359 may certify the information and deliver the same to the
360 Department of Revenue. Thereafter, the Department of Revenue
361 shall calculate the correct refund and issue it directly to
362 the incentivized company.

363 (2)a. The jobs credit may be claimed as a credit
364 against utility taxes actually paid until the effective date



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365 of this act, after which time the provisions of subdivision
366 (b) (1) shall control and the offset provided in this
367 subdivision shall cease unless the provisions stated in
368 subdivision (b) (1) are explicitly stated in the project
369 agreement that was executed prior to the effective date of
370 this act. In any one year, if the credit exceeds the amount of
371 taxes that are allowed to be offset by the project agreement
372 and that are owed by the incentivized company, the
373 incentivized company may carry the credit forward, to the
374 extent allowed in the project agreement. No carryforward shall
375 be allowed for more than five years. Rules similar to those
376 used for Section 40-18-15.2 shall be applied.

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

385 (c) The realization methods in subsection (b) shall not
386 create debts of the state within the meaning of Section 213 of
387 the ~~Official Recompilation of the~~ Constitution of Alabama of
388 ~~1901, as amended~~2022.

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



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393 "§40-18-376

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

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

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

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

406 (4) To offset utility taxes;

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

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

411 The incentive period shall begin no earlier than the
412 placed-in-service date. The incentive period shall ~~be~~not
413 exceed 10 years. ~~Should only some portion of a tax year be~~
414 ~~included in the incentive period, the amount of the investment~~
415 ~~credit shall be prorated on a daily basis.~~

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

420 (1)a. The investment credit may be claimed as a credit



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

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

437 (2) The project agreement may authorize an incentivized
438 company that is taxed as a flow-through entity to allocate the
439 credit among some or all of the owners in any manner
440 specified, regardless of whether the allocation follows rules
441 similar to 26 U.S.C. § 704(b) and the regulations thereunder.
442 The owners may then use their allocated share of the
443 investment credit to offset any of the taxes listed in
444 subsection (a), as provided in subdivision (1). This
445 subdivision shall be liberally construed to apply to multiple
446 levels of companies, to allow the investment credits to be
447 used by those persons bearing the tax burdens of the
448 qualifying project, and such companies shall include but shall



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449 in no way be limited to flow-through entities, employee stock
450 ownership plans, mutual funds, real estate investment trusts,
451 and it shall also apply to offset the income tax liability of
452 employee/owners of a flow-through entity owned by an employee
453 stock ownership plan trust.

454 (3) ~~All or part of the first three years~~ The Secretary
455 of Commerce may recommend to the Governor that the
456 incentivized company be granted transferability of the

457 investment credit ~~may be transferred by the incentivized~~
458 ~~company and applied by another person or company as follows:~~

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

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

465 ~~(i) That any~~ for up to the first five years. Any
466 investment credit transferred shall be at the value of at
467 least 85 percent of the value of the credit. Any one year's
468 investment credit ~~will~~ shall not be purchased by more than
469 three transferees, unless such limitation is found by the
470 Secretary of Commerce to unnecessarily ~~to~~ limit the class of
471 potential transferees~~;~~.

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

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

476 ~~Upon making affirmative findings on the criteria set~~



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477 ~~forth above, the Secretary of Commerce shall recommend to the~~
478 ~~Governor that the transfer should be approved. Information~~
479 ~~about the proposed transfer shall be forwarded to the~~
480 ~~Governor, and the Governor may include provisions about the~~
481 ~~transfer in the project agreement, or in an amendment thereto~~
482 ~~executed by the Governor and the incentivized company.~~

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

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

495 ~~(ii) Certified information about the transfers,~~
496 ~~including identifying information about the transferees and~~
497 ~~the amount of credit each transferee should claim. Following~~
498 ~~such examination as it deems necessary, the Department of~~
499 ~~Commerce may certify the information and deliver the same to~~
500 ~~the Department of Revenue.~~

501 ~~d. Upon receipt of the certifications from the~~
502 ~~Department of Commerce as required by paragraph c., the~~The
503 Department of Revenue shall adopt a transfer statement form to
504 be filed by the transferor in a manner prescribed by the



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505 Department of Revenue. The transfer statement form shall
506 include the name and federal taxpayer identification number of
507 the transferor and each transferee listed therein along with
508 the amount of the tax credit to be transferred to each
509 transferee listed on the form. The transfer statement form
510 shall also contain such other information as the Department of
511 Revenue may reasonably require. For each transfer of a credit,
512 the incentivized company shall file with the Department of
513 Revenue, and a copy to the Department of Commerce, (1) a
514 completed transfer statement form; (2) a copy of the
515 investment credit certification issued by the Department of
516 Commerce; and (3) a copy of the executed transfer agreement.
517 Filing of the executed transfer agreement with the Department
518 of Revenue shall perfect such transfer to the respect to such
519 transferee and the Department of Revenue shall thereafter
520 allow the appropriate amount of the investment credit to
521 offset the tax liability of the transferee for any of the
522 taxes listed in subsection (a) and, for any project agreements
523 entered into after January 1, 2021 only, state license taxes
524 levied by Article 2 of Chapter 21. In any one year, if the
525 investment credit exceeds the amount of taxes that are allowed
526 to be offset and that are owed by the transferee, the
527 transferee may carry the credit forward for five years. A
528 transferee may not make a subsequent transfer of the credit.
529 The Department of Revenue may adopt rules necessary to
530 implement and administer the transfer provisions as provided
531 in this act.

532 ~~e.~~ If a credit is transferred, an incentivized company



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533 that is later determined by the Secretary of Commerce to have
534 defaulted under the project agreement shall be liable for the
535 underpayment of tax attributable to the credit and for
536 penalties and interest thereon. Unless the purchase of the
537 credits is determined to have been made in a fraudulent
538 manner, or is a transfer in anticipation of bankruptcy,
539 insolvency, or closure, a transferee shall not be liable for
540 the unpaid tax attributable to the credit, or for penalties or
541 interest thereon.

542 (c) The realization methods in subsection (b) shall not
543 create debts of the state within the meaning of Section 213 of
544 the ~~Official Recompilation of the~~ Constitution of Alabama of
545 ~~1901, as amended~~2022.

546 (d) (1) To the extent the investment credit is used to
547 offset a financial institution excise tax liability, in making
548 the report required by Section 40-16-6(d), the financial
549 institution receiving the investment credit shall not take
550 into account the qualifying project, and the Department of
551 Finance shall adopt rules to ensure that the credit in no case
552 would reduce the distribution for municipalities and counties.

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

558 (3) To the extent the investment credit is used to
559 offset liability for the tax imposed by Section 40-21-82 or
560 Article 2 of Chapter 21, the Department of Finance shall adopt



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561 rules to ensure that the credit in no case would reduce the
562 distribution for the Alabama Special Mental Health Trust Fund
563 by using any unencumbered funds."

564 "§40-18-376.1

565 (a) As used in this section, the following terms shall
566 have the following meaning:

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

569 a. That does not qualify as a targeted county.

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

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

578 (2) TARGETED COUNTY. Any Alabama county that has a
579 population of 50,000 or less, as determined by the
580 Commissioner of Labor as of each January 1 using the most
581 current data available from the United States Departments of
582 Labor or Commerce, the United States Bureau of the Census, or
583 any other federal or state agency or department.

584 (b) In making the findings required by Section
585 40-18-373(a), a company that proposes a qualifying project in
586 a targeted or jumpstart county shall be an approved company
587 for purposes of this section only if the Secretary of Commerce
588 makes the additional finding that the qualifying project will



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589 increase the economic diversity of, or otherwise benefit, the
590 targeted or jumpstart county.

591 (c) For purposes of determining in Section
592 40-18-372(2)b. whether a qualifying project may receive the
593 jobs act incentives, a project to be located in a targeted or
594 jumpstart county shall employ at least ten new employees and
595 shall involve, directly or indirectly, at least two million
596 dollars (\$2,000,000) of capital, absent a finding of
597 extraordinary circumstances by the Secretary of Commerce.

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

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

605 (2) The investment credit provided in Section
606 40-18-376(a) shall have an incentive period ~~of~~ not to exceed
607 15 years.

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

613 "§40-18-376.2

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

616 (1) Any incentivized company that employed, in the



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617 prior year, at least 12 percent of its ~~eligible~~ employees as
618 veterans who received an honorable or general discharge. ~~The~~
619 ~~calculation of the percentage of eligible employees who are~~
620 ~~veterans shall be made using the method provided in a project~~
621 ~~agreement.~~

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

626 (b) (1) Any incentivized company described by
627 subdivision (1) of subsection (a) shall receive an additional
628 0.5 percent jobs credit provided in Section 40-18-375(a) on
629 the wages paid during the prior year to ~~eligible~~ Alabama
630 resident employees who are veterans.

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

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

640 (d) The Department of Labor shall periodically verify
641 the actual number of veterans employed by the incentivized
642 company described in subdivision (1) of subsection (a) and the
643 wages of the veterans during the relevant year. If the
644 Department of Labor is not able to provide the verification



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645 utilizing all available resources, it may request any
646 additional information from the incentivized company as may be
647 necessary."

648 "§40-18-376.3

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

654 (2) In making the findings required by Section
655 40-18-373(1), a technology company that proposes a qualifying
656 project shall be an approved company for purposes of this
657 section only if the Secretary of Commerce makes the additional
658 finding that the qualifying project will increase the economic
659 diversity of, or otherwise benefit, the state.

660 (3) A qualifying project shall be deemed to be in
661 existence, notwithstanding the requirements of Section
662 40-18-372, so long as at least 10 new employees are employed
663 at the qualifying project, absent a finding of extraordinary
664 circumstances by the Secretary of Commerce.

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

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

672 (2) An investment credit as provided in Section



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673 40-18-376.

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

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

678 a. Activities within subsector 518; industry group
679 5112, 5121 (other than 51213), 5415, or 5417; or industry
680 51913 of the 2012 North American Industry Classification
681 System, or any similar classification system developed in
682 conjunction with the United States Department of Commerce or
683 Office of Management and Budget.

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

690 1. Any of the fields of education, healthcare, energy,
691 agriculture, infrastructure, software, robotics, nutrition,
692 aerospace, automotive, or financial services.

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

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

699 "§40-18-376.4

700 (a) This section shall be applicable to an



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

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

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

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

718 (3) The investment credit provided in Section
719 40-18-376(a) shall have an incentive period ~~of~~not to exceed
720 15 years.

721 (c) An "underrepresented company" is any company which
722 meets all the criteria in the following subdivision (1) or
723 (2):

724 (1) The company is a for-profit business headquartered
725 in a community eligible for investment through the federal New
726 Markets Tax Credit program under 26 U.S.C. § 45D(e), has fewer
727 than 10 employees at the time the project agreement is
728 executed, and has average gross revenues of less than five



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729 hundred thousand dollars (\$500,000) in the company's three
730 years prior to the execution of the project agreement; or

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

741 "§40-18-377

742 (a) After its execution, the Department of Commerce
743 shall forward to the Department of Revenue a copy of any
744 project agreement that allows an incentivized company to claim
745 a jobs act incentive.

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

748 (c) The acceptance of a tax credit under this article
749 shall constitute approval and written consent by the taxpayer
750 to disclose to the Secretary of Commerce the total tax
751 liability, net operating loss, amount of credit claimed,
752 recipient of the credit, and any transferor and transferee
753 information. The Department of Revenue shall disclose such
754 information to the Department of Commerce upon written request
755 by the Secretary of Commerce. The information shall be limited
756 to what is necessary to administer the provisions of this



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757 article. Upon receipt of this information, the provisions of
758 Section 40-2A-10 shall apply to the Department of Commerce and
759 its employees with respect to the use, dissemination, or other
760 handling of the information."

761 "§40-18-378

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

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

780 (c) (1) An incentivized company shall be liable for any
781 unearned portion of the jobs credit or investment credit it
782 claims or transfers pursuant to this article. The jobs credit
783 will be considered unearned when the incentivized company
784 fails to pay the full amount of wages or create the full



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785 number of jobs upon which the credit was based and claimed.
786 The investment credit will be considered unearned when the
787 incentivized company fails to make the full capital investment
788 upon which the credit was based and claimed or upon which the
789 credit was valued and then transferred. The incentivized
790 company shall be liable for only that portion of the jobs
791 credit or investment credit that was unearned. Any credit
792 claimed by an owner of an incentivized company is deemed to
793 have been claimed by the incentivized company for purposes of
794 this subsection.

795 (2) The Secretary of Commerce may report to the
796 Department of Revenue any failure of an incentivized company
797 to meet the jobs, wage, or investment requirements specified
798 in the project agreement. The report will be made by March 31
799 of the year following the calendar year in which the failure
800 occurs and shall contain sufficient information for the
801 Department of Revenue to calculate the unearned portion of the
802 jobs credit or investment credit. The underpayment of the
803 applicable tax will be deemed to have occurred upon the filing
804 of the report. The report shall be treated as the filing of a
805 return by the incentivized company for purposes of any
806 applicable period of limitation.

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



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

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

820 "§40-18-382

821 The incentives authorized by this article shall not be
822 available for qualifying projects for which project agreements
823 have not been executed on or prior to July 31, ~~2023~~2028,
824 unless the Legislature enacts legislation to continue or
825 reinstate the incentives for new projects after that date. No
826 action or inaction on the part of the Legislature shall reduce
827 or suspend any incentive awarded pursuant to this article in
828 any past or future calendar year with respect to qualifying
829 projects for which project agreements have been executed on or
830 prior to July 31, ~~2023~~2028, it being the sole intention of
831 this section that failure of the Legislature to enact
832 legislation continuing the incentives authorized by this
833 article for periods after July 31, ~~2023~~2028, shall affect only
834 the availability of the incentives to qualifying projects for
835 which project agreements have not been executed on or prior to
836 July 31, ~~2023~~2028, and shall not affect qualifying projects
837 for which project agreements have been executed on or prior to
838 July 31, ~~2023~~2028."

839 "§40-18-383

840 (a) At no time prior to the calendar year ending



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841 ~~December 31, 2020, shall the annualized balance of outstanding~~
842 ~~jobs act incentives exceed \$300 million, which amount would~~
843 ~~increase to three hundred twenty-five million dollars~~
844 ~~(\$325,000,000) for the calendar year ending~~ December 31, 2021
845 and shall the annualized balance of the outstanding jobs act
846 incentives exceed three hundred fifty million dollars
847 ~~(\$350,000,000) for the calendar year ending December 31, 2022,~~
848 which amount would increase to three hundred seventy-five
849 million dollars (\$375,000,000) for the calendar year ending
850 December 31, 2023, four hundred million dollars (\$400,000,000)
851 for the calendar year ending December 31, 2024, four hundred
852 twenty-five million dollars (\$425,000,000) for the calendar
853 year ending December 31, 2025, four hundred fifty million
854 dollars (\$450,000,000) for the calendar year ending December
855 31, 2026, and four hundred seventy-five million dollars
856 (\$475,000,000) for the calendar year ending December 31, 2027,
857 unless the Legislature enacts legislation to allow additional
858 jobs act incentives. Of the above annualized balance, twenty
859 million dollars (\$20,000,000) shall apply to qualifying
860 projects located in targeted or jumpstart counties as
861 described in Section 40-18-376.1.

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

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



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869 "§40-18-417.1

870 For the purposes of this article, the following words
871 and phrases shall have the following meanings:

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

876 ~~(2)~~ (1) CAPITAL IMPROVEMENTS. Construction and
877 rehabilitation expenses of a capital nature at an inland port
878 or intermodal facility, the dredging of waterways in the
879 immediate vicinity of an inland port, and the expansion of
880 onsite storage facilities at an inland port or intermodal
881 facility.

882 ~~(3)~~ (2) ECONOMIC DEVELOPMENT ACTIVITIES. Activities and
883 initiatives that enhance the use of, and flow of goods
884 through, an inland port or intermodal facility.

885 ~~(4)~~ (3) ECONOMIC DEVELOPMENT ORGANIZATION. A local
886 economic development organization or a state economic
887 development organization.

888 ~~(5)~~ (4) GROWING ALABAMA CREDIT. The credit provided for
889 in subsection (a) of Section 40-18-417.4.

890 ~~(6)~~ (5) INDUSTRY or BUSINESS. An entity that would
891 conduct at a site an activity that is primarily described in
892 Section 40-18-372(1).

893 ~~(7)~~ (6) INLAND PORT. Any port on a navigable river away
894 from traditional land, air, and coastal borders.

895 ~~(8)~~ (7) INTERMODAL FACILITY. Any facility that
896 interconnects two or more different modes of air, rail, or



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897 road traffic serving multiple customers, and which involves
898 storage facilities.

899 ~~(9)~~ (8) LOCAL ECONOMIC DEVELOPMENT ORGANIZATION.

900 Organizations which are determined by the Department of
901 Commerce to meet both of the following criteria:

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

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

911 ~~(10)~~ (9) RENEWAL OF ALABAMA COMMISSION. The Renewal of
912 Alabama Commission created by Section 40-18-402.

913 ~~(11)~~ (10) SITE. Real property owned by a local economic
914 development organization and intended for use by an industry
915 or business.

916 ~~(12)~~ (11) STATE ECONOMIC DEVELOPMENT ORGANIZATION. An
917 organization that is determined by the Department of Commerce
918 to be an Alabama entity not operating for profit which is
919 charged with improving the state or a region of the state and
920 has a record of supporting or otherwise participating in
921 economic development in the state."

922 "§40-18-417.2

923 (a) (1) A local economic development organization which
924 owns a site may apply to the Department of Commerce for



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925 funding to solve an inadequacy involving the site. The
926 application by the local economic development organization
927 shall include at least one of the following:

928 a. If there is a pending expression of interest about
929 the site from an industry or business, a list of the site
930 preparation or public infrastructure work needed to make the
931 site acceptable to the industry or business.

932 b. If the site has been offered to one or more
933 industries or businesses but the offer did not result in the
934 industry or business locating on the site, a list of the site
935 preparation or public infrastructure work which, if it had
936 been completed, would have made the site acceptable to the
937 industries or businesses.

938 c. If the site is an industrial or research park which
939 needs connections to interstates, highways, roadways, rail
940 systems, or sewer, fiber, electrical, gas, or water
941 infrastructure, a list of the site preparation or public
942 infrastructure work needed.

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

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

951 (2) An economic development organization may apply to
952 the Department of Commerce for funding to undertake ~~any of the~~



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953 ~~following issues:~~

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

960 ~~b. The~~the construction, maintenance, promotion,
961 operation, management, leasing, and subleasing of an
962 agricultural center which includes a multi-use facility and
963 related commercial and noncommercial structures for livestock,
964 equestrian, small animal shows and events, spectator events,
965 trade shows, educational conferences, agricultural and
966 agricultural related industries, educational, demonstrational
967 or training purposes, educational and training conferences or
968 events, recreational vehicle rallies, recreational vehicle
969 multi-day parking, hosting of corporate and non-corporate
970 organization meetings, use as fair grounds, operation of
971 retail activities, and other events and facilities expected to
972 draw participants and spectators from states located across
973 the southeastern United States, with a projected total annual
974 economic impact upon completion of all phases of the
975 agricultural center of at least thirty-five million dollars
976 (\$35,000,000) and with the related and supporting
977 infrastructure and facilities having a projected capital
978 expenditure upon completion of all phases of the agricultural
979 center of at least one hundred million dollars (\$100,000,000);
980 provided that the application is accompanied by an economic



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981 impact report on the agricultural center.

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

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

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

996 (d) The application provided in subsection (a) shall
997 include proof that the economic development organization has
998 in full force and effect a conflict of interest policy
999 consistent with that found in the instructions to Form 1023
1000 issued by the Internal Revenue Service.

1001 (e) The application provided in subsection (a) shall
1002 include a notarized affirmation by an officer of the economic
1003 development organization that the submission of the
1004 application did not violate the conflict of interest policy
1005 referred to in subsection (d)."

1006 "§40-18-417.3

1007 (a) Following a review, if the Department of Commerce
1008 should approve the application provided in subsection (a) of



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1009 Section 40-18-417.2, it shall forward the application to the
1010 Renewal of Alabama Commission.

1011 (b) The Renewal of Alabama Commission shall consider
1012 the application and shall approve it if the commission deems
1013 it worthy of approval. As to improvements at industrial sites,
1014 the commission shall give preference to sites with at least
1015 1,000 acres of available space. As to applications for
1016 projects located in communities which have the potential to
1017 provide additional funding separate from the Growing Alabama
1018 Credits, the commission shall take into consideration whether
1019 the separate funding is to be provided to the project that is
1020 the subject of the application. Meetings of the commission are
1021 subject to Chapter 25A of Title 36. Notwithstanding the
1022 foregoing, the commission may meet by telephone or some other
1023 telecommunications device so long as members of the public are
1024 allowed the opportunity to listen to or otherwise observe the
1025 commission's deliberations.

1026 (c) The approval of an application by the commission
1027 shall specify the amount of money which the economic
1028 development organization is allowed to receive so that it can
1029 complete the work specified in the application.

1030 (d) Following approval by the commission, the
1031 Department of Commerce shall enter into an agreement with the
1032 economic development organization which shall do all of the
1033 following:

1034 (1) Require the economic development organization to
1035 use funding received as a result of this law only for the
1036 purposes approved by the commission as expressed in the



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1037 agreement.

1038 (2) Require the economic development organization to
1039 make periodic reports, not more often than annually, to the
1040 Department of Commerce and the commission, as required by the
1041 commission, on the disposition of the funds. As to a project
1042 described in subdivision (a)(1) of Section 40-18-417.2, the
1043 report shall include information on the marketing of the site,
1044 and the ultimate use of the site until such time as it makes a
1045 final report. As to a project related to inland ports or
1046 intermodal facilities as described in paragraph (a)(1) d. of
1047 Section 40-18-417.2 or a project related to ~~a technology~~
1048 ~~company or an~~ agricultural center as described in subdivision
1049 (a)(2) of Section 40-18-417.2, the report shall include an
1050 economic impact report.

1051 (3) Require the economic development organization to
1052 provide a review of its financial accounts as directed by the
1053 Renewal of Alabama Commission.

1054 (e) For any approved applications, the Department of
1055 Commerce shall notify the Department of Revenue of the
1056 information specified in subsection (c).

1057 (f) The Department of Commerce shall publish on its
1058 website a list of all approved applications and a list of the
1059 economic development organizations that made the approved
1060 applications."

1061 "§40-18-417.4

1062 (a) A taxpayer is allowed a Growing Alabama Credit to
1063 be applied against all of the following:

1064 (1) To offset the income taxes levied in this chapter,



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1065 or as an estimated tax payment of income taxes.

1066 (2) To offset the state portion of the financial
1067 institution excise tax levied in Chapter 16.

1068 (3) To offset the insurance premium tax levied by
1069 subsection (a) of Section 27-4A-3.

1070 (4) To offset state license taxes levied by Article 2
1071 of Chapter 21.

1072 (b) In no event shall the Growing Alabama Credit cause
1073 a taxpayer's tax liability to be reduced by more than 50
1074 percent. Unused credits may be carried forward for no more
1075 than five years.

1076 (c) Growing Alabama Credits shall be granted to
1077 taxpayers using an online system administered by the
1078 Department of Revenue. The online system shall allow taxpayers
1079 to agree to make a cash contribution to an economic
1080 development organization which was approved by the Renewal of
1081 Alabama Commission, as provided in Section 40-18-417.3. The
1082 online system shall ensure that credits are not granted for
1083 contributions to an economic development organization in
1084 excess of the amounts approved by the Renewal of Alabama
1085 Commission, as provided in Section 40-18-417.3.

1086 (d) The cumulative amount of funding approved pursuant
1087 to this section shall not exceed twenty million dollars
1088 (\$20,000,000) in a calendar year for calendar years ending
1089 prior to January 1, 2023, and thirty-five million dollars
1090 (\$35,000,000) in a calendar year for calendar years beginning
1091 January 1, 2023. ~~Of that amount, no more than four million~~
1092 ~~dollars (\$4,000,000) of funding in the aggregate may be~~



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1093 ~~approved for accelerator programs as described in Section~~
1094 ~~40-18-376.3(c)(2).~~

1095 (e) The Renewal of Alabama Commission shall reserve at
1096 least 25 percent of the amounts specified in subsection (d)
1097 for projects located in targeted or jumpstart counties as
1098 defined in Section 40-18-376.1. In the event applications are
1099 not received and credits are not allocated for projects in
1100 these areas by the close of the second quarter of the program
1101 year, the funds may revert for allocations of other project
1102 applications.

1103 (f) To the extent that a Growing Alabama Credit is used
1104 by a taxpayer, the taxpayer shall not be allowed any deduction
1105 that would have otherwise been allowed for the taxpayer's
1106 contribution. Credits may only be claimed by the donating
1107 taxpayer and may not be assigned or transferred to any other
1108 taxpayer. For purposes of this section, a donating taxpayer
1109 includes a taxpayer who is a shareholder of an Alabama S
1110 corporation or a partner or member of a subchapter K entity
1111 that made a contribution to an economic development
1112 organization which was approved by the Renewal of Alabama
1113 Commission.

1114 (g) The Department of Finance shall adopt rules to
1115 ensure that the Growing Alabama Credit in no case would reduce
1116 the distribution for the Alabama Special Mental Health Trust
1117 Fund by using any unencumbered funds."

1118 "§40-18-417.7

1119 The Growing Alabama Credits provided in this article
1120 shall not be available for qualifying applicants as described



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1121 in this article, for which applications are not approved on or
1122 prior to July 31, ~~2023~~2028, unless the Legislature enacts
1123 legislation to extend the date. This shall only affect the
1124 availability of credits for applications not approved on or
1125 prior to July 31, ~~2023~~2028, and shall not cause a reduction or
1126 suspension of any credits awarded on or prior to July 31,
1127 ~~2023~~2028."

1128 "§40-9B-4.1

1129 In no event shall any incentive provided in Act
1130 2012-210 be available to any company filing an application
1131 after July 31, 2028~~December 31, 2023, unless Act 2012-210 is~~
1132 ~~reauthorized pursuant to legislation in that year and once~~
1133 ~~every five years succeeding the 2024 reauthorization~~. Any
1134 project granted an incentive prior to July 31, 2028~~December~~
1135 ~~31, 2023~~, shall be entitled to ~~those incentives~~the incentive
1136 pursuant to the project agreement regardless of whether Act
1137 2012-210 is reauthorized."

1138 Section 3. In no event does this act authorize any
1139 electric provider to provide retail electric service outside
1140 of its electric service territory as determined under the
1141 applicable provisions of Chapter 14 of Title 37, Code of
1142 Alabama 1975. Nothing in this act is intended to amend,
1143 repeal, enlarge, or otherwise affect Chapter 14 of Title 37,
1144 Code of Alabama 1975.

1145 Section 4. This act shall become effective immediately
1146 following its passage and approval by the Governor, or its
1147 otherwise becoming law.