



# ACT #2023 - 34

1 Z4OGWR-3

2 By Representatives Garrett, Ledbetter, Daniels, Reynolds

3 RFD: Ways and Means Education

4 First Read: 04-Apr-23

5





## HB241 Enrolled

1 Enrolled, An Act,  
2           Relating to the Alabama Jobs Act and the Growing  
3 Alabama Act and tourism; to amend Sections 40-18-370,  
4 40-18-372, 40-18-374, 40-18-375, 40-18-376, 40-18-376.1,  
5 40-18-376.2, 40-18-376.3, 40-18-376.4, 40-18-377, 40-18-378,  
6 40-18-382, 40-18-383, 40-18-417.1, 40-18-417.2, 40-18-417.3,  
7 40-18-417.4, 40-18-417.7, and 40-9B-4.1, Code of Alabama 1975,  
8 to extend the Alabama Jobs Act sunset date to July 31, 2028;  
9 to increase the annualized cap on outstanding Alabama Jobs Act  
10 incentives by twenty-five million dollars each year for five  
11 years up to four hundred seventy-five million dollars; to  
12 increase the investment tax credit transfer time to provide  
13 that the first five years of the investment credit may be  
14 transferred by the incentivized company and applied by another  
15 person or company under the Alabama Jobs Act; to extend the  
16 Growing Alabama Act sunset date to July 31, 2028, to increase  
17 the annual cap on funding approved pursuant to the Growing  
18 Alabama Act incrementally to thirty-five million dollars; to  
19 remove certain programs from the Growing Alabama Act for the  
20 transfer to Innovate Alabama; to create the Sweet Home Alabama  
21 Tourism Investment Act; to define certain terms; to require  
22 the Alabama Tourism Department to develop standards for the  
23 review and approval of certified tourism destination projects;  
24 to designate the Alabama Tourism Advisory Board to review and  
25 certify qualifying projects; to authorize tax rebates for  
26 certain businesses for certified tourism destination projects;  
27 to provide for an annual cap on tax rebates; to create the  
28 Tourism Project Sales Tax Incentive Fund; to establish the



## HB241 Enrolled

29 process for renewing a tax rebate; and to establish reporting  
30 requirements of the Alabama Tourism Department.

31 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

34 Section 2. Sections 40-18-370, 40-18-372, 40-18-374,  
35 40-18-375, 40-18-376, 40-18-376.1, 40-18-376.2, 40-18-376.3,  
36 40-18-376.4, 40-18-377, 40-18-378, 40-18-382, 40-18-383,  
37 40-18-417.1, 40-18-417.2, 40-18-417.3, 40-18-417.4,  
38 40-18-417.7, and 40-9B-4.1, Code of Alabama 1975, are amended  
39 to read as follows:

40 "§40-18-370

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

43 (b) The Legislature makes the following findings:

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

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

51 (3) The incentives provided for in this article do not  
52 raise any taxes for any individuals or businesses in Alabama  
53 under state law.

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

HB241 Enrolled



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

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

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

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

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

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

76 (c) In addition to the definitions found at Section  
77 40-18-1, the following words and phrases shall have the  
78 following meanings:

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

82 (2) CAPITAL INVESTMENT. All costs and expenses incurred  
83 by the incentivized company in connection with the  
84 acquisition, construction, installation, and equipping of a



## HB241 Enrolled

85 qualifying project, if such costs are required to be  
86 capitalized for purposes of the federal income tax, determined  
87 without regard to any rule that permits expenditures properly  
88 chargeable to a capital account to be treated as current  
89 expenditures. However, for any project involving the  
90 extraction of natural resources, the capital investment shall  
91 not include the costs of acquiring land, land recording fees,  
92 architectural and engineering services, environmental studies  
93 and environmental mitigation.

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

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

99 ~~(5) (4) EMPLOYEES. Some or all of those persons employed~~  
100 ~~and residing in Alabama~~ Persons employed in full time  
101 positions created by or through a qualifying project:

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

105 b. Whom the approved company, related company, common  
106 paymaster, or joint venturer ~~or leasing company~~ identifies as  
107 its employees to ~~the U.S. Internal Revenue Service,~~ the  
108 Department of Revenue, or the Department of Labor on returns  
109 or reports filed with the foregoing, including, but not  
110 limited to, ~~IRS Form 941; Form A-6, Form A-1, Form A-2,~~  
111 UC-CR-4, and UC-10-R. and

112 ~~c. Who are assigned to a qualifying project for a~~

HB241 Enrolled



113 ~~period of at least one year.~~

114       ~~(6)~~ (5) INCENTIVE PERIOD. The period or periods of time  
115 during which an incentiivized company can receive one or more  
116 of the jobs act incentives.

117       ~~(7)~~ (6) INCENTIVIZED COMPANY. An approved company and  
118 any related company that are allowed to claim one or more of  
119 the jobs act incentives as provided for in the project  
120 agreement.

121       ~~(8)~~ (7) INVESTMENT CREDIT. The annual incentive provided  
122 in Section 40-18-376.

123       ~~(9)~~ (8) JOBS ACT INCENTIVES. The jobs credit and the  
124 investment credit as authorized and provided for in this  
125 article.

126       ~~(10)~~ (9) JOBS CREDIT. The annual incentive provided in  
127 Section 40-18-375.

128       ~~(11)~~ (10) NAICS CODE. Any sector, subsector, industry  
129 group, industry or national industry of the 2012 North  
130 American Industry Classification System, or any similar  
131 classification system developed in conjunction with the United  
132 States Department of Commerce or Office of Management and  
133 Budget.

134       ~~(12)~~ (11) PROJECT. Any land, building, or other  
135 improvements, and all real and personal properties, whether or  
136 not contiguous and whether or not previously in existence, if  
137 in Alabama and if deemed necessary or useful in connection  
138 with an activity listed in Section 40-18-372(1).

139       ~~(13)~~ (12) PROJECT AGREEMENT. The agreement entered into  
140 between an approved company and the Governor establishing the



## HB241 Enrolled

141 terms and conditions for the provision of the jobs act  
142 incentives, as provided for in Section 40-18-374.

143 ~~(14)~~ (13) QUALIFYING PROJECT. Any project to be  
144 undertaken by an approved company that satisfies Section  
145 40-18-372.

146 ~~(15)~~ (14) RELATED COMPANY. ~~Any company that is under~~  
147 ~~common ownership, management, or control with a company or an~~  
148 ~~approved company, as the case may be~~ Any entity that owns,  
149 owned, or is owned, directly or through one or more entities,  
150 a 50 percent or greater interest in the capital or profits of  
151 another.

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

155 (16) UTILITY TAXES. The taxes imposed by Sections  
156 40-21-82 and 40-21-102.

157 (17) WAGES. Total wages of an employee (including gross  
158 wages, salaries, overtime and bonuses), defined by reference  
159 to Section 25-4-16(b), without application of Sections  
160 25-4-16(b)(1), 25-4-16(b)(2)a., 25-4-16(b)(3), and  
161 25-4-16(b)(4).

162 "§40-18-372

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

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

168 a. Described by NAICS Code 1133, 115111, 2121, 22111,



## HB241 Enrolled

169 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,  
170 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, 511,  
171 5121 (other than 51213), 51221, 517, 518 (without regard to  
172 the premise that data processing and related services be  
173 performed in conjunction with a third party), 51913, 52232,  
174 54133 (if predominantly in furtherance of another activity  
175 described in this article), 54134 (if predominantly in  
176 furtherance of another activity described in this article),  
177 54138, 5415, 541614, 5417, 55 (if not for the production of  
178 electricity), 561422 (other than establishments that originate  
179 telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

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

182       c. A renewable energy generation facility that is owned  
183 by one or more electric providers, as such term is defined in  
184 Section 37-16-3(10), for providing electric service at retail  
185 in Alabama. For purposes of this subdivision, an "electric  
186 provider" shall also include an authority as defined in  
187 Section 11-50A-1(1). In the case of an electric provider that  
188 is also a tax-exempt organization under the Internal Revenue  
189 Code, notwithstanding Section 40-18-376(b)(3), any investment  
190 credit may be transferred for the entire term of the project  
191 agreement, as approved by the Governor. A "renewable energy  
192 generation facility" as used in this subdivision shall include  
193 any tangible property that is part of renewable energy  
194 generation, including any addition, modification, expansion,  
195 or upgrade to transmission or distribution systems that is  
196 required to accommodate the interconnection of renewable





197 energy generation.

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

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

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

219 f. A target of the state's economic development efforts  
 220 pursuant to the Accelerate Alabama Strategic Economic  
 221 Development Plan adopted in January 2012 by the Alabama  
 222 Economic Development Alliance, created by Executive Order  
 223 Number 21 of the Governor on July 18, 2011, or any amended  
 224 version or successor document thereto.



## HB241 Enrolled

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

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

244 (2) A qualifying project shall create a significant  
245 number of new jobs for the area in which the qualifying  
246 project shall be located. Absent a finding of extraordinary  
247 circumstances by the Secretary of Commerce, a qualifying  
248 project shall employ either of the following number of new  
249 employees:

250 a. Any number of new employees, for a qualifying  
251 project in which the predominant activity involves chemical  
252 manufacturing, data centers, renewable energy generation,



## HB241 Enrolled

253 engineering, design, or research, metal/machining technology  
254 or toolmaking; or

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

257 "§40-18-374

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

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

265 (1) The name of the incentivized company;

266 (2) The location of the qualifying project;

267 (3) The activity to be conducted at the qualifying  
268 project;

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

271 (5) The capital investment to be made at the qualifying  
272 project;

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

275 (7) The number of ~~eligible~~ employees at the qualifying  
276 project;

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

280 (9) The dates or conditions that shall begin the



## HB241 Enrolled

281 running of the incentive periods for applicable jobs act  
282 incentives;

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

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

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

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

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

298 (15) Any other terms the parties deem necessary or  
299 desirable.

300 (c) The Governor may decrease the amounts and durations  
301 of the jobs act incentives to ensure that the anticipated  
302 revenues for the state will exceed the amount of tax  
303 incentives sought."

304 "§40-18-375

305 (a) (1) If provided for in the project agreement and in  
306 accordance with the terms therein, the incentivized company is  
307 allowed a jobs credit against utility taxes, in an annual  
308 amount ~~equal~~up to 3 percent of the wages paid to ~~eligible~~



## HB241 Enrolled

309 Alabama resident employees during the prior year. The  
310 incentive period shall ~~be~~ not exceed 10 years.

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

322 (b) The project agreement shall provide that one of the  
323 following methods shall be used to realize the benefits of the  
324 jobs credit:

325 (1)a. As further provided in the project agreement, the  
326 ~~The~~ jobs credit may be paid to the incentivized company as a  
327 refund out of utility taxes during the incentive period,  
328 regardless of the amount of utility taxes actually paid by the  
329 incentivized company.

330 b. For each year of the incentive period for the jobs  
331 credit, the incentivized company shall submit to the  
332 Department of Commerce a certification as to the wages paid to  
333 ~~eligible~~ employees during the prior year. Following such  
334 examination as it deems necessary, the Department of Commerce  
335 may certify the information and deliver the same to the  
336 Department of Revenue. Thereafter, the Department of Revenue



## HB241 Enrolled

337 shall calculate the correct refund and issue it directly to  
338 the incentivized company.

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

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

361 (c) The realization methods in subsection (b) shall not  
362 create debts of the state within the meaning of Section 213 of  
363 the ~~Official Recompilation of the Constitution of Alabama of~~  
364 ~~1901, as amended~~2022.



## HB241 Enrolled

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

369 "\$40-18-376

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

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

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

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

382 (4) To offset utility taxes;

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

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

387 The incentive period shall begin no earlier than the  
388 placed-in-service date. The incentive period shall ~~be not~~  
389 exceed 10 years. ~~Should only some portion of a tax year be~~  
390 ~~included in the incentive period, the amount of the investment~~  
391 ~~credit shall be prorated on a daily basis.~~

392 (b) A project agreement may specify any one or more of



## HB241 Enrolled

393 the following methods by which the investment credit shall be  
394 realized by the incentivized company, so long as a credit is  
395 not utilized more than once:

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

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

413 (2) The project agreement may authorize an incentivized  
414 company that is taxed as a flow-through entity to allocate the  
415 credit among some or all of the owners in any manner  
416 specified, regardless of whether the allocation follows rules  
417 similar to 26 U.S.C. § 704(b) and the regulations thereunder.  
418 The owners may then use their allocated share of the  
419 investment credit to offset any of the taxes listed in  
420 subsection (a), as provided in subdivision (1). This





## HB241 Enrolled

421 subdivision shall be liberally construed to apply to multiple  
422 levels of companies, to allow the investment credits to be  
423 used by those persons bearing the tax burdens of the  
424 qualifying project, and such companies shall include but shall  
425 in no way be limited to flow-through entities, employee stock  
426 ownership plans, mutual funds, real estate investment trusts,  
427 and it shall also apply to offset the income tax liability of  
428 employee/owners of a flow-through entity owned by an employee  
429 stock ownership plan trust.

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

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

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

441 ~~(i) That any~~ for up to the first five years. Any  
442 investment credit transferred shall be at the value of at  
443 least 85 percent of the value of the credit. Any one year's  
444 investment credit will ~~shall~~ not be purchased by more than  
445 three transferees, unless such limitation is found by the  
446 Secretary of Commerce to unnecessarily ~~to~~ limit the class of  
447 potential transferees.

448 ~~(ii) That the proposed transfer will enhance the~~



## HB241 Enrolled

449 ~~economic benefits of the qualifying project; and~~

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

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

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

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

471 ~~(ii) Certified information about the transfers,~~  
472 ~~including identifying information about the transferees and~~  
473 ~~the amount of credit each transferee should claim. Following~~  
474 ~~such examination as it deems necessary, the Department of~~  
475 ~~Commerce may certify the information and deliver the same to~~  
476 ~~the Department of Revenue.~~



## HB241 Enrolled

477 ~~d. Upon receipt of the certifications from the~~  
478 ~~Department of Commerce as required by paragraph c., the~~The  
479 Department of Revenue shall adopt a transfer statement form to  
480 be filed by the transferor in a manner prescribed by the  
481 Department of Revenue. The transfer statement form shall  
482 include the name and federal taxpayer identification number of  
483 the transferor and each transferee listed therein along with  
484 the amount of the tax credit to be transferred to each  
485 transferee listed on the form. The transfer statement form  
486 shall also contain such other information as the Department of  
487 Revenue may reasonably require. For each transfer of a credit,  
488 the incentivized company shall file with the Department of  
489 Revenue, and a copy to the Department of Commerce, (1) a  
490 completed transfer statement form; (2) a copy of the  
491 investment credit certification issued by the Department of  
492 Commerce; and (3) a copy of the executed transfer agreement.  
493 Filing of the executed transfer agreement with the Department  
494 of Revenue shall perfect such transfer to the respect to such  
495 transferee and the Department of Revenue shall thereafter  
496 allow the appropriate amount of the investment credit to  
497 offset the tax liability of the transferee for any of the  
498 taxes listed in subsection (a) and, for any project agreements  
499 entered into after January 1, 2021 only, state license taxes  
500 levied by Article 2 of Chapter 21. In any one year, if the  
501 investment credit exceeds the amount of taxes that are allowed  
502 to be offset and that are owed by the transferee, the  
503 transferee may carry the credit forward for five years. A  
504 transferee may not make a subsequent transfer of the credit.



## HB241 Enrolled

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

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

518 (c) The realization methods in subsection (b) shall not  
519 create debts of the state within the meaning of Section 213 of  
520 the ~~Official Recompilation of the Constitution of Alabama of~~  
521 ~~1901, as amended~~2022.

522 (d) (1) To the extent the investment credit is used to  
523 offset a financial institution excise tax liability, in making  
524 the report required by Section 40-16-6(d), the financial  
525 institution receiving the investment credit shall not take  
526 into account the qualifying project, and the Department of  
527 Finance shall adopt rules to ensure that the credit in no case  
528 would reduce the distribution for municipalities and counties.

529 (2) To the extent the investment credit is used to  
530 offset an insurance premium tax liability, the Department of  
531 Finance shall adopt rules to ensure that the credit would in  
532 no case reduce the distributions to the Alabama Special Mental



## HB241 Enrolled

533 Health Trust Fund by using any unencumbered funds.

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

540 "§40-18-376.1

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

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

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

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

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

554 (2) TARGETED COUNTY. Any Alabama county that has a  
555 population of ~~50,000~~60,000 or less, as determined by the  
556 Commissioner of Labor as of each January 1 using the most  
557 current data available from the United States Departments of  
558 Labor or Commerce, the United States Bureau of the Census, or  
559 any other federal or state agency or department.

560 (b) In making the findings required by Section



## HB241 Enrolled

561 40-18-373(a), a company that proposes a qualifying project in  
562 a targeted or jumpstart county shall be an approved company  
563 for purposes of this section only if the Secretary of Commerce  
564 makes the additional finding that the qualifying project will  
565 increase the economic diversity of, or otherwise benefit, the  
566 targeted or jumpstart county.

567 (c) For purposes of determining in Section  
568 40-18-372(2)b. whether a qualifying project may receive the  
569 jobs act incentives, a project to be located in a targeted or  
570 jumpstart county shall employ at least ten new employees and  
571 shall involve, directly or indirectly, at least two million  
572 dollars (\$2,000,000) of capital, absent a finding of  
573 extraordinary circumstances by the Secretary of Commerce.

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

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

581 (2) The investment credit provided in Section  
582 40-18-376(a) shall have an incentive period ~~of~~ not to exceed  
583 15 years.

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



## HB241 Enrolled

589            "§40-18-376.2

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

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

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

602            (b) (1) Any incentivized company described by  
603 subdivision (1) of subsection (a) shall receive an additional  
604 0.5 percent jobs credit provided in Section 40-18-375(a) on  
605 the wages paid during the prior year to ~~eligible~~ Alabama  
606 resident employees who are veterans.

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

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

616            (d) The Department of Labor shall periodically verify



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

624           "§40-18-376.3

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

630           (2) In making the findings required by Section  
631 40-18-373(1), a technology company that proposes a qualifying  
632 project shall be an approved company for purposes of this  
633 section only if the Secretary of Commerce makes the additional  
634 finding that the qualifying project will increase the economic  
635 diversity of, or otherwise benefit, the state.

636           (3) A qualifying project shall be deemed to be in  
637 existence, notwithstanding the requirements of Section  
638 40-18-372, so long as at least 10 new employees are employed  
639 at the qualifying project, absent a finding of extraordinary  
640 circumstances by the Secretary of Commerce.

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

644           (1) A jobs credit against utility taxes, in an annual





HB241 Enrolled

645 amount ~~equal~~ up to 4 percent of the wages paid to  
646 ~~eligible~~ Alabama resident employees during the prior year. The  
647 incentive period shall ~~be~~ not exceed 10 years.

648 (2) An investment credit as provided in Section  
649 40-18-376.

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

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

654 a. Activities within subsector 518; industry group  
655 5112, 5121 (other than 51213), 5415, or 5417; or industry  
656 51913 of the 2012 North American Industry Classification  
657 System, or any similar classification system developed in  
658 conjunction with the United States Department of Commerce or  
659 Office of Management and Budget.

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

666 1. Any of the fields of education, healthcare, energy,  
667 agriculture, infrastructure, software, robotics, nutrition,  
668 aerospace, automotive, or financial services.

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

671 (2) A company that, for a fixed term, educates and  
672 mentors early-stage technology companies recruited to a



## HB241 Enrolled

673 location in Alabama, with the goal of accelerating the  
674 companies' development and growth."

675 "§40-18-376.4

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

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

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

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

694 (3) The investment credit provided in Section  
695 40-18-376(a) shall have an incentive period ~~of~~ not to exceed  
696 15 years.

697 (c) An "underrepresented company" is any company which  
698 meets all the criteria in the following subdivision (1) or  
699 (2):

700 (1) The company is a for-profit business headquartered



## HB241 Enrolled

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

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

717 "§40-18-377

718 (a) After its execution, the Department of Commerce  
719 shall forward to the Department of Revenue a copy of any  
720 project agreement that allows an incentivized company to claim  
721 a jobs act incentive.

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

724 (c) The acceptance of a tax credit under this article  
725 shall constitute approval and written consent by the taxpayer  
726 to disclose to the Secretary of Commerce the total tax  
727 liability, net operating loss, amount of credit claimed,  
728 recipient of the credit, and any transferor and transferee



## HB241 Enrolled

729 information. The Department of Revenue shall disclose such  
730 information to the Department of Commerce upon written request  
731 by the Secretary of Commerce. The information shall be limited  
732 to what is necessary to administer the provisions of this  
733 article. Upon receipt of this information, the provisions of  
734 Section 40-2A-10 shall apply to the Department of Commerce and  
735 its employees with respect to the use, dissemination, or other  
736 handling of the information."

737 "§40-18-378

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

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

756 (c) (1) An incentivized company shall be liable for any



## HB241 Enrolled

757 unearned portion of the jobs credit or investment credit it  
758 claims or transfers pursuant to this article. The jobs credit  
759 will be considered unearned when the incentivized company  
760 fails to pay the full amount of wages or create the full  
761 number of jobs upon which the credit was based and claimed.  
762 The investment credit will be considered unearned when the  
763 incentivized company fails to make the full capital investment  
764 upon which the credit was based and claimed or upon which the  
765 credit was valued and then transferred. The incentivized  
766 company shall be liable for only that portion of the jobs  
767 credit or investment credit that was unearned. Any credit  
768 claimed by an owner of an incentivized company is deemed to  
769 have been claimed by the incentivized company for purposes of  
770 this subsection.

771           (2) The Secretary of Commerce may report to the  
772 Department of Revenue any failure of an incentivized company  
773 to meet the jobs, wage, or investment requirements specified  
774 in the project agreement. The report will be made by March 31  
775 of the year following the calendar year in which the failure  
776 occurs and shall contain sufficient information for the  
777 Department of Revenue to calculate the unearned portion of the  
778 jobs credit or investment credit. The underpayment of the  
779 applicable tax will be deemed to have occurred upon the filing  
780 of the report. The report shall be treated as the filing of a  
781 return by the incentivized company for purposes of any  
782 applicable period of limitation.

783           (3) The Department of Revenue may assess an  
784 incentivized company for any unearned portion of the



## HB241 Enrolled

785 investment credit or jobs credit, with allowed interest and  
786 penalties, pursuant to the terms of Chapter 2A or 29. The  
787 liability shall be considered an underpayment of the tax  
788 against which the respective credit was applied or refunded.

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

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

796 "§40-18-382

797 The incentives authorized by this article shall not be  
798 available for qualifying projects for which project agreements  
799 have not been executed on or prior to July 31, ~~2023~~2028,  
800 unless the Legislature enacts legislation to continue or  
801 reinstate the incentives for new projects after that date. No  
802 action or inaction on the part of the Legislature shall reduce  
803 or suspend any incentive awarded pursuant to this article in  
804 any past or future calendar year with respect to qualifying  
805 projects for which project agreements have been executed on or  
806 prior to July 31, ~~2023~~2028, it being the sole intention of  
807 this section that failure of the Legislature to enact  
808 legislation continuing the incentives authorized by this  
809 article for periods after July 31, ~~2023~~2028, shall affect only  
810 the availability of the incentives to qualifying projects for  
811 which project agreements have not been executed on or prior to  
812 July 31, ~~2023~~2028, and shall not affect qualifying projects



## HB241 Enrolled

813 for which project agreements have been executed on or prior to  
814 July 31, ~~2023~~2028."

815 "§40-18-383

816 (a) At no time prior to the calendar year ending  
817 ~~December 31, 2020, shall the annualized balance of outstanding~~  
818 ~~jobs act incentives exceed \$300 million, which amount would~~  
819 ~~increase to three hundred twenty-five million dollars~~  
820 ~~(\$325,000,000) for the calendar year ending December 31, 2021~~  
821 ~~and, shall the annualized balance of the outstanding jobs act~~  
822 ~~incentives exceed three hundred fifty million dollars~~  
823 ~~(\$350,000,000) for the calendar year ending December 31, 2022,~~  
824 ~~which amount would increase to three hundred seventy-five~~  
825 ~~million dollars (\$375,000,000) for the calendar year ending~~  
826 ~~December 31, 2023, four hundred million dollars (\$400,000,000)~~  
827 ~~for the calendar year ending December 31, 2024, four hundred~~  
828 ~~twenty-five million dollars (\$425,000,000) for the calendar~~  
829 ~~year ending December 31, 2025, four hundred fifty million~~  
830 ~~dollars (\$450,000,000) for the calendar year ending December~~  
831 ~~31, 2026, and four hundred seventy-five million dollars~~  
832 ~~(\$475,000,000) for the calendar year ending December 31, 2027,~~  
833 unless the Legislature enacts legislation to allow additional  
834 jobs act incentives. Of the above annualized balance, twenty  
835 million dollars (\$20,000,000) shall apply to qualifying  
836 projects located in targeted or jumpstart counties as  
837 described in Section 40-18-376.1.

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



## HB241 Enrolled

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

845 "§40-18-417.1

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

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

853 ~~(2)~~ (1) CAPITAL IMPROVEMENTS. Construction and  
854 rehabilitation expenses of a capital nature at an inland port  
855 or intermodal facility, the dredging of waterways in the  
856 immediate vicinity of an inland port, and the expansion of  
857 onsite storage facilities at an inland port or intermodal  
858 facility.

859 ~~(3)~~ (2) ECONOMIC DEVELOPMENT ACTIVITIES. Activities and  
860 initiatives that enhance the use of, and flow of goods  
861 through, an inland port or intermodal facility.

862 ~~(4)~~ (3) ECONOMIC DEVELOPMENT ORGANIZATION. A local  
863 economic development organization or a state economic  
864 development organization.

865 ~~(5)~~ (4) GROWING ALABAMA CREDIT. The credit provided for  
866 in subsection (a) of Section 40-18-417.4.

867 ~~(6)~~ (5) INDUSTRY or BUSINESS. An entity that would  
868 conduct at a site an activity that is primarily described in





## HB241 Enrolled

869 Section 40-18-372(1).

870 ~~(7)~~(6) INLAND PORT. Any port on a navigable river away  
871 from traditional land, air, and coastal borders.

872 ~~(8)~~(7) INTERMODAL FACILITY. Any facility that  
873 interconnects two or more different modes of air, rail, or  
874 road traffic serving multiple customers, and which involves  
875 storage facilities.

876 ~~(9)~~(8) LOCAL ECONOMIC DEVELOPMENT ORGANIZATION.

877 Organizations which are determined by the Department of  
878 Commerce to meet both of the following criteria:

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

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

888 ~~(10)~~(9) RENEWAL OF ALABAMA COMMISSION. The Renewal of  
889 Alabama Commission created by Section 40-18-402.

890 ~~(11)~~(10) SITE. Real property owned by a local economic  
891 development organization and intended for use by an industry  
892 or business.

893 ~~(12)~~(11) STATE ECONOMIC DEVELOPMENT ORGANIZATION. An  
894 organization that is determined by the Department of Commerce  
895 to be an Alabama entity not operating for profit which is  
896 charged with improving the state or a region of the state and



## HB241 Enrolled

897 has a record of supporting or otherwise participating in  
898 economic development in the state."

899 "§40-18-417.2

900 (a) (1) A local economic development organization which  
901 owns a site may apply to the Department of Commerce for  
902 funding to solve an inadequacy involving the site. The  
903 application by the local economic development organization  
904 shall include at least one of the following:

905 a. If there is a pending expression of interest about  
906 the site from an industry or business, a list of the site  
907 preparation or public infrastructure work needed to make the  
908 site acceptable to the industry or business.

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

915 c. If the site is an industrial or research park which  
916 needs connections to interstates, highways, roadways, rail  
917 systems, or sewer, fiber, electrical, gas, or water  
918 infrastructure, a list of the site preparation or public  
919 infrastructure work needed.

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



## HB241 Enrolled

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

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

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

937 ~~b. The~~ the construction, maintenance, promotion,  
938 operation, management, leasing, and subleasing of an  
939 agricultural center which includes a multi-use facility and  
940 related commercial and noncommercial structures for livestock,  
941 equestrian, small animal shows and events, spectator events,  
942 trade shows, educational conferences, agricultural and  
943 agricultural related industries, educational, demonstrational  
944 or training purposes, educational and training conferences or  
945 events, recreational vehicle rallies, recreational vehicle  
946 multi-day parking, hosting of corporate and non-corporate  
947 organization meetings, use as fair grounds, operation of  
948 retail activities, and other events and facilities expected to  
949 draw participants and spectators from states located across  
950 the southeastern United States, with a projected total annual  
951 economic impact upon completion of all phases of the  
952 agricultural center of at least thirty-five million dollars

HB241 Enrolled



953 (\$35,000,000) and with the related and supporting  
954 infrastructure and facilities having a projected capital  
955 expenditure upon completion of all phases of the agricultural  
956 center of at least one hundred million dollars (\$100,000,000);  
957 provided that the application is accompanied by an economic  
958 impact report on the agricultural center.

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

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

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

973 (d) The application provided in subsection (a) shall  
974 include proof that the economic development organization has  
975 in full force and effect a conflict of interest policy  
976 consistent with that found in the instructions to Form 1023  
977 issued by the Internal Revenue Service.

978 (e) The application provided in subsection (a) shall  
979 include a notarized affirmation by an officer of the economic  
980 development organization that the submission of the



## HB241 Enrolled

981 application did not violate the conflict of interest policy  
982 referred to in subsection (d)."

983           "§40-18-417.3

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

988           (b) The Renewal of Alabama Commission shall consider  
989 the application and shall approve it if the commission deems  
990 it worthy of approval. As to improvements at industrial sites,  
991 the commission shall give preference to sites with at least  
992 1,000 acres of available space. As to applications for  
993 projects located in communities which have the potential to  
994 provide additional funding separate from the Growing Alabama  
995 Credits, the commission shall take into consideration whether  
996 the separate funding is to be provided to the project that is  
997 the subject of the application. Meetings of the commission are  
998 subject to Chapter 25A of Title 36. Notwithstanding the  
999 foregoing, the commission may meet by telephone or some other  
1000 telecommunications device so long as members of the public are  
1001 allowed the opportunity to listen to or otherwise observe the  
1002 commission's deliberations.

1003           (c) The approval of an application by the commission  
1004 shall specify the amount of money which the economic  
1005 development organization is allowed to receive so that it can  
1006 complete the work specified in the application.

1007           (d) Following approval by the commission, the  
1008 Department of Commerce shall enter into an agreement with the



## HB241 Enrolled

1009 economic development organization which shall do all of the  
1010 following:

1011 (1) Require the economic development organization to  
1012 use funding received as a result of this law only for the  
1013 purposes approved by the commission as expressed in the  
1014 agreement.

1015 (2) Require the economic development organization to  
1016 make periodic reports, not more often than annually, to the  
1017 Department of Commerce and the commission, as required by the  
1018 commission, on the disposition of the funds. As to a project  
1019 described in subdivision (a)(1) of Section 40-18-417.2, the  
1020 report shall include information on the marketing of the site,  
1021 and the ultimate use of the site until such time as it makes a  
1022 final report. As to a project related to inland ports or  
1023 intermodal facilities as described in paragraph (a)(1) d. of  
1024 Section 40-18-417.2 or a project related to ~~a technology~~  
1025 ~~company~~ or an agricultural center as described in subdivision  
1026 (a)(2) of Section 40-18-417.2, the report shall include an  
1027 economic impact report.

1028 (3) Require the economic development organization to  
1029 provide a review of its financial accounts as directed by the  
1030 Renewal of Alabama Commission.

1031 (e) For any approved applications, the Department of  
1032 Commerce shall notify the Department of Revenue of the  
1033 information specified in subsection (c).

1034 (f) The Department of Commerce shall publish on its  
1035 website a list of all approved applications and a list of the  
1036 economic development organizations that made the approved



## HB241 Enrolled

1037 applications."

1038           "§40-18-417.4

1039           (a) A taxpayer is allowed a Growing Alabama Credit to  
1040 be applied against all of the following:

1041           (1) To offset the income taxes levied in this chapter,  
1042 or as an estimated tax payment of income taxes.

1043           (2) To offset the state portion of the financial  
1044 institution excise tax levied in Chapter 16.

1045           (3) To offset the insurance premium tax levied by  
1046 subsection (a) of Section 27-4A-3.

1047           (4) To offset state license taxes levied by Article 2  
1048 of Chapter 21.

1049           (b) In no event shall the Growing Alabama Credit cause  
1050 a taxpayer's tax liability to be reduced by more than 50  
1051 percent. Unused credits may be carried forward for no more  
1052 than five years.

1053           (c) Growing Alabama Credits shall be granted to  
1054 taxpayers using an online system administered by the  
1055 Department of Revenue. The online system shall allow taxpayers  
1056 to agree to make a cash contribution to an economic  
1057 development organization which was approved by the Renewal of  
1058 Alabama Commission, as provided in Section 40-18-417.3. The  
1059 online system shall ensure that credits are not granted for  
1060 contributions to an economic development organization in  
1061 excess of the amounts approved by the Renewal of Alabama  
1062 Commission, as provided in Section 40-18-417.3.

1063           (d) The cumulative amount of funding approved pursuant to this  
1064 section shall not exceed twenty million dollars (\$20,000,000)



## HB241 Enrolled

1065 in a calendar year for calendar years ending prior to January  
1066 1, 2023, and thirty-five million dollars (\$35,000,000) in a  
1067 calendar year for calendar years beginning January 1, 2023. Of  
1068 that amount, no more than four million dollars (\$4,000,000) of  
1069 funding in the aggregate may be approved for accelerator  
1070 programs as described in Section 40-18-376.3 (c) (2).  
1071 prior to January 1, 2024, which amount would increase to  
1072 twenty-three million dollars (\$23,000,000) for the calendar  
1073 year ending December 31, 2024, twenty-six million dollars  
1074 (\$26,000,000) for the calendar year ending December 31, 2025,  
1075 twenty-nine million dollars (\$29,000,000) for the calendar year  
1076 ending December 31, 2026, thirty-two million dollars  
1077 (\$32,000,000) for the calendar year ending December 31, 2027,  
1078 and thirty-five million dollars (\$35,000,000) for calendar  
1079 year ending January 1, 2028.

1080 (e) The Renewal of Alabama Commission shall reserve at  
1081 least 25 percent of the amounts specified in subsection (d)  
1082 for projects located in targeted or jumpstart counties as  
1083 defined in Section 40-18-376.1. In the event applications are  
1084 not received and credits are not allocated for projects in  
1085 these areas by the close of the second quarter of the program  
1086 year, the funds may revert for allocations of other project  
1087 applications.

1088 (f) To the extent that a Growing Alabama Credit is used  
1089 by a taxpayer, the taxpayer shall not be allowed any deduction  
1090 that would have otherwise been allowed for the taxpayer's  
1091 contribution. Credits may only be claimed by the donating  
1092 taxpayer and may not be assigned or transferred to any other





## HB241 Enrolled

1093 taxpayer. For purposes of this section, a donating taxpayer  
1094 includes a taxpayer who is a shareholder of an Alabama S  
1095 corporation or a partner or member of a subchapter K entity  
1096 that made a contribution to an economic development  
1097 organization which was approved by the Renewal of Alabama  
1098 Commission.

1099 (g) The Department of Finance shall adopt rules to  
1100 ensure that the Growing Alabama Credit in no case would reduce  
1101 the distribution for the Alabama Special Mental Health Trust  
1102 Fund by using any unencumbered funds."

1103 "§40-18-417.7

1104 The Growing Alabama Credits provided in this article  
1105 shall not be available for qualifying applicants as described  
1106 in this article, for which applications are not approved on or  
1107 prior to July 31, ~~2023~~2028, unless the Legislature enacts  
1108 legislation to extend the date. This shall only affect the  
1109 availability of credits for applications not approved on or  
1110 prior to July 31, ~~2023~~2028, and shall not cause a reduction or  
1111 suspension of any credits awarded on or prior to July 31,  
1112 ~~2023~~2028."

1113 "§40-9B-4.1

1114 In no event shall any incentive provided in Act  
1115 2012-210 be available to any company filing an application  
1116 after July 31, 2028~~December 31, 2023~~, unless Act 2012-210 is  
1117 ~~reauthorized pursuant to legislation in that year and once~~  
1118 ~~every five years succeeding the 2024 reauthorization~~. Any  
1119 project granted an incentive prior to July 31, 2028~~December~~  
1120 ~~31, 2023~~, shall be entitled to ~~those incentives~~ the incentive



## HB241 Enrolled

1121 pursuant to the project agreement regardless of whether Act  
1122 2012-210 is reauthorized."

1123 Section 3. In no event does this act authorize any  
1124 electric provider to provide retail electric service outside  
1125 of its electric service territory as determined under the  
1126 applicable provisions of Chapter 14 of Title 37, Code of  
1127 Alabama 1975. Nothing in this act is intended to amend,  
1128 repeal, enlarge, or otherwise affect Chapter 14 of Title 37,  
1129 Code of Alabama 1975.

1130 Section 4. Section 5 of this act shall be known and may  
1131 be cited as the Sweet Home Alabama Tourism Investment Act.

1132 Section 5. A new Article 23 of Chapter 18 of Title 40,  
1133 Code of Alabama 1975, is created to read as follows:

1134 §40-18-470

1135 For purposes of this act, the following words and  
1136 phrases have the following meanings:

1137 (1) APPLICANT. Any corporation, limited liability  
1138 company, partnership, sole proprietorship, business trust, or  
1139 other legal entity authorized to do business in the State of  
1140 Alabama.

1141 (2) APPROVED COMPANY. Any company approved for tax  
1142 rebates for operating a certified tourism destination project.

1143 (3) APPROVED COSTS. Costs relating to the following:

1144 a. Land acquisition.

1145 b. Construction.

1146 c. Engineering.

1147 d. Design.

1148 e. Costs of contract bonds and insurances.



## HB241 Enrolled

1149 f. Installation of utilities paid by the applicant,  
1150 including project-specific off-site extensions.

1151 (4) BOARD. Alabama Tourism Advisory Board established  
1152 pursuant to Section 41-7-3.

1153 (5) CAPITAL INVESTMENT. All costs and expenses incurred  
1154 by the incentivized company in connection with the  
1155 acquisition, construction, installation, and equipping of a  
1156 qualifying project, if such costs are required to be  
1157 capitalized for purposes of the federal income tax, determined  
1158 without regard to any rule that permits expenditures properly  
1159 chargeable to a capital account to be treated as current  
1160 expenditures. However, any project involving the extraction of  
1161 natural resources shall not be included as a capital  
1162 investment expenditure.

1163 (6) CERTIFIED TOURISM DESTINATION PROJECT.

1164 a. A certified tourism destination project must conduct  
1165 an activity specified in subparagraphs 1. through 8.

1166 1. A qualifying project that has seventy-five million  
1167 dollars (\$75,000,000) of capital investments may be considered  
1168 a mega project.

1169 2. A qualifying project may be a tourist destination  
1170 attraction with a minimum private investment of not less than  
1171 fifty million dollars (\$50,000,000).

1172 3. A qualifying project may be a tourism attraction  
1173 with a minimum private investment of thirty-five million  
1174 dollars (\$35,000,000) located within an entertainment  
1175 district. The attraction must be open to the public at least  
1176 five days per week, serve food and beverages, and provide live



## HB241 Enrolled

1177 entertainment at least three nights per week.

1178           4. A qualifying project may be a resort development  
1179 with a minimum investment of thirty-five million dollars  
1180 (\$35,000,000) and consists of a hotel with a minimum of 200  
1181 guest rooms. The development must also include guest amenities  
1182 such as restaurants, golf courses, spas, entertainment  
1183 activities, and other amenities.

1184           5. A qualifying project may be a tourism destination  
1185 attraction with a minimum investment of thirty-five million  
1186 dollars (\$35,000,000) located within a historic district where  
1187 the district is listed in the National Register of Historic  
1188 Places.

1189           6. Retail related to a qualifying project must consist  
1190 primarily of upscale brands or their equivalent. Retail  
1191 activities not eligible for a rebate include the following:

1192           A. Department stores.

1193           B. Convenience stores.

1194           C. Grocery stores.

1195           D. Liquor and tobacco Stores.

1196           E. Discount stores.

1197           F. Multiplex theaters.

1198           G. Facilities that perform cleaning, repair, or  
1199 alteration services.

1200           H. Facilities that perform personal salon services such  
1201 as tanning, nail, and beauty.

1202           7. A qualifying project may be any combination of  
1203 qualifying tourist attractions, hotels, marinas, and resorts  
1204 with a minimum private investment of thirty-five million



## HB241 Enrolled

1205 dollars (\$35,000,000) in land, buildings, architecture,  
1206 engineering, fixtures, equipment, furnishings, amenities, and  
1207 other related approved soft costs.

1208           b. Projects that cannot be certified as an eligible  
1209 certified tourism destination project include the following:

1210           1. Expansions of any existing projects previously  
1211 approved that are not equal to the lesser of 75 percent of the  
1212 original capital investment or thirty-five million dollars  
1213 (\$35,000,000).

1214           2. Facilities that are primarily developed for retail  
1215 sales that are not certified as a resort development. Pro  
1216 shops, souvenir shops, gift shops, concessions, and similar  
1217 retail activities may not be included within the definition of  
1218 a tourism destination project.

1219           (7) DEPARTMENT. The Alabama Tourism Department.

1220           (8) PROJECT. Any land, building, or other improvement,  
1221 and all real and personal property, whether or not contiguous  
1222 and whether or not previously in existence, if in Alabama and  
1223 if deemed necessary or useful in connection with certified  
1224 destination projects.

1225           (9) QUALIFYING PROJECT. Any project to be undertaken by  
1226 an approved company that is deemed a certified tourism  
1227 destination project.

1228           (10) TOURISM DESTINATION ATTRACTION. Tourist  
1229 attractions that qualify include the following:

1230           a. Theme parks.

1231           b. Water parks.

1232           c. Entertainment parks or outdoor adventure parks.



## HB241 Enrolled

1233 d. Cultural or historical interpretive educational  
1234 centers or museums.

1235 e. Motor speedways.

1236 f. Indoor or outdoor entertainment centers or  
1237 complexes.

1238 g. Convention centers.

1239 h. Professional sports facilities.

1240 i. Attractions created around a natural phenomenon or  
1241 scenic landscape.

1242 j. Waterfront marina facilities, including, but not  
1243 limited to, indoor marine vessel storage, restaurants, and  
1244 marine sales and service.

1245 k. Aquariums.

1246 §40-18-471

1247 (a) Prior to the allowance of a tax rebate on  
1248 transactional taxes, an application shall be filed with the  
1249 department in the manner established by the department.

1250 (b) The department shall adopt standards to be used by  
1251 the Alabama Tourism Advisory Board for the review and approval  
1252 of certified tourism destination projects for which a tax  
1253 rebate for transactional taxes is sought pursuant to Section  
1254 40-18-473.

1255 (c) The department shall establish deadlines for  
1256 applications. Applications shall solicit whatever information  
1257 the department deems important to its determination of  
1258 authorizing a tax rebate.

1259 §40-18-472

1260 (a) In order for an applicant to be an approved



## HB241 Enrolled

1261 company, all of the following shall occur:

1262 (1) For any applicant that proposes a certified tourism  
1263 destination project, the board shall make all of the following  
1264 findings:

1265 a. That the project is in fact a certified tourism  
1266 destination project.

1267 b. That the amount of tourism rebates sought are  
1268 exceeded by anticipated revenues for the state, including  
1269 income, property, business privilege, utility, gross receipts,  
1270 sales, and use tax revenues that are generated by the economic  
1271 activity resulting from the project.

1272 (b) The Alabama Tourism Advisory Board shall review  
1273 qualifying projects meeting the criteria established pursuant  
1274 to Section 40-18-473 and approve eligible projects for tax  
1275 rebates. Upon a determination that all program requirements  
1276 are met, the board will issue the Alabama Tourism Advisory  
1277 Board Act Certificate. Each certificate shall include the  
1278 amount of the approved project costs, the maximum rebate  
1279 available, and the rebate term of 10 years with a five-year  
1280 carry forward from the completion date or the date on or which  
1281 five million dollars (\$5,000,000) of the approved project  
1282 costs has been rebated to the applicant, whichever threshold  
1283 is met first.

1284 §40-18-473

1285 (a) A tax rebate from taxes generated within the  
1286 tourism destination attraction by the certified tourism  
1287 destination project over a 10-year period from the  
1288 commencement of operation in the amount of up to five million



## HB241 Enrolled

1289 dollars (\$5,000,000) may be claimed. No approved company may  
1290 receive more than one million dollars (\$1,000,000) in tourism  
1291 rebates in a calendar year.

1292 (b) Tax rebates may carry forward for five years.

1293 (c) (1) The tax rebates authorized by this act are  
1294 limited to an aggregate amount for all certified tourism  
1295 destination projects of ten million dollars (\$10,000,000)  
1296 annually with 10 percent set aside annually for certified  
1297 tourism destination projects located in targeted or Alabama  
1298 counties.

1299 (2) An approved company with a certified tourism  
1300 destination project may be granted a tax rebate on any  
1301 combination of the state and local sales and use taxes,  
1302 lodging taxes, or other transactional taxes generated by or  
1303 arising within the tourism destination project.

1304 (3) An approved company shall have no obligation to  
1305 refund or otherwise return any amount of taxes authorized for  
1306 rebate to the persons from whom the taxes were collected.

1307 (4) Rebates authorized under this article shall be for  
1308 up to 10 years, commencing on the date the tourism attraction  
1309 opens for business and begins to collect taxes generated by,  
1310 or arising within, the tourism destination project.

1311 (5) Tax rebates may be a combination of state and local  
1312 retail sales tax, state and local lodging taxes, and any other  
1313 taxes generated by, or arising within, the tourism destination  
1314 project. The municipality or the taxing district where the  
1315 tourism destination project will be located must support and  
1316 approve the facility. The approval must be in the form of a





## HB241 Enrolled

1317 resolution of the governing authority acknowledging support of  
1318 the project and acknowledging that a portion no less than 20  
1319 percent of the tax rebates will be comprised of municipal  
1320 taxes.

1321 (6) The Alabama Department of Revenue, in consultation  
1322 with the Alabama Tourism Department, shall adopt rules and  
1323 require the filing of a rebate form designed by the Department  
1324 of Revenue to reflect the intent of this article. To begin the  
1325 rebate process, once project phases open for business, the  
1326 approved company must provide a listing of all sales tax  
1327 accounts and account numbers related to the project. The  
1328 Alabama Department of Revenue will provide these accounts and  
1329 will begin making the required diversions into the Tourism  
1330 Project Sales Tax Incentive Fund the month following  
1331 notification. Rebate payments from the fund will be made each  
1332 January and July to the approved company.

1333 (7) No tax rebate shall be granted to an approved  
1334 company during a tax year that the approved company is  
1335 simultaneously receiving any other state tax incentive  
1336 associated with any individual tourism attraction project.

1337 (8) Any tax rebate shall be first applied to any  
1338 outstanding tax obligation of the approved company that is due  
1339 and payable to the state.

1340 (9) Rebates under this article shall be made without  
1341 interest.

1342 (10) Tax rebates authorized under this article are  
1343 transferrable to future owners of the qualifying tourism  
1344 destination project.



## HB241 Enrolled

1345 (11) The tax rebate allowed under this article shall be  
1346 effective beginning August 1, 2023, and shall continue through  
1347 July 31, 2028, unless continued by an act of the Legislature.

1348 (12) Tax rebates for certified tourism destination  
1349 projects are to be administered by the Alabama Department of  
1350 Revenue.

1351 (d) Notwithstanding the ten million dollar  
1352 (\$10,000,000) annual cap on tax rebates allowed, the board may  
1353 approve an annual onetime designation of an additional two  
1354 million five hundred thousand dollars (\$2,500,000) in tax  
1355 rebates for one project per calendar year with a minimum  
1356 capital investment amount of seventy-five million dollars  
1357 (\$75,000,000).

1358 §40-18-474

1359 There is created the Tourism Project Sales Tax  
1360 Incentive Fund, which may consist of monies appropriated or  
1361 otherwise made available by the Legislature in any manner, and  
1362 monies from any other source designated for deposit into such  
1363 fund, but not include monies subject to a constitutional  
1364 designation for some other purpose. Unexpended amounts  
1365 remaining in the fund at the end of each fiscal year of the  
1366 state revert. Any investment earnings or interest earned on  
1367 amounts in the fund shall be credited to the fund.

1368 §40-18-475

1369 The department shall report to the Legislature by the  
1370 second legislative day of the regular session of the third  
1371 year following passage of this act, and annually thereafter,  
1372 on the overall economic activity, usage, and impact to the



## HB241 Enrolled

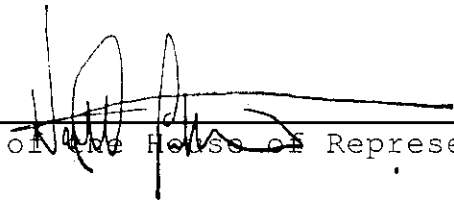
1373 state of the tax rebates allowed for tourism destination  
1374 projects. The information in the reports shall be consistent  
1375 with the information required by the Legislature in accordance  
1376 with Section 40-1-50. Information provided pursuant to this  
1377 section is exempt from the confidentiality provisions of  
1378 Section 40-2A-10.

1379 Section 6. This act shall become effective immediately  
1380 following its passage and approval by the Governor, or its  
1381 otherwise becoming law.



HB241 Enrolled

1382  
1383  
1384  
1385  
1386  
1387  
1388  
1389  
1390  
1391  
1392  
1393  
1394  
1395  
1396  
1397  
1398  
1399  
1400  
1401  
1402  
1403  
1404  
1405  
1406  
1407

  
\_\_\_\_\_  
Speaker of the House of Representatives

  
\_\_\_\_\_  
President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 13-Apr-23, as amended.

John Treadwell  
Clerk

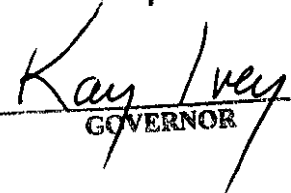
Senate

20-Apr-23

Passed

APPROVED 04-20-23

TIME 2:15 p.m.

  
\_\_\_\_\_  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2023-34  
Bill Num...: H-241

Recv'd 04/20/23 02:28pmSLF

arrett  
SPONSORS  
better  
niels  
nolds

I HEREBY CERTIFY THAT THE  
RESOLUTION AS REQUIRED IN  
SECTION C OF ACT NO. 81-889  
WAS ADOPTED AND IS ATTACHED  
TO THE BILL, H.B. 241

YEAS 104 NAYS 0

JOHN TREADWELL, Clerk

I HEREBY CERTIFY THAT THE  
NOTICE & PROOF IS ATTACHED  
TO THE BILL, H.B. \_\_\_\_\_  
AS REQUIRED IN THE GENERAL  
ACTS OF ALABAMA, 1975 ACT NO.  
919.

JOHN TREADWELL, Clerk

**CONFERENCE COMMITTEE**

House Conferees \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_

RD 1 RFD \_\_\_\_\_

20 \_\_\_\_\_

This Bill was referred to the Standing Committee  
of the Senate on FATE  
and was acted upon by such Committee in  
session and is by order of the Committee  
returned therefrom with a favorable report  
w/amend(s) \_\_\_\_\_ w/sub \_\_\_\_\_ by a vote of  
yeas 15 nays 0 abstain 0  
this 19<sup>th</sup> day of April 20 23  
\_\_\_\_\_, Chair

DATE: 4-19

RF FAU

20 23

RD 2 CAL

DATE: \_\_\_\_\_

20 \_\_\_\_\_

RE-REFERRED

RE-COMMITTED

Committee \_\_\_\_\_

I hereby certify that the Resolution as  
required in Section C of Act No. 81-889  
was adopted and is attached to the Bill,  
HB 241

YEAS 31 NAYS 0

**PATRICK HARRIS,**  
Secretary

FURTHER SENATE ACTION (OVER)