

**HB241 ENGROSSED**



1 Z4OGWR-2

2 By Representatives Garrett, Ledbetter, Daniels, Reynolds

3 RFD: Ways and Means Education

4 First Read: 04-Apr-23

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## HB241 Engrossed

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A BILL  
TO BE ENTITLED  
AN ACT

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



## HB241 Engrossed

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

36 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

39 Section 2. Sections 40-18-370, 40-18-372, 40-18-374,  
40 40-18-375, 40-18-376, 40-18-376.1, 40-18-376.2, 40-18-376.3,  
41 40-18-376.4, 40-18-377, 40-18-378, 40-18-382, 40-18-383,  
42 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, are amended  
44 to read as follows:

45 "§40-18-370

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

48 (b) The Legislature makes the following findings:

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

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

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



## HB241 Engrossed

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

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

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

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

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

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

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

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

81 (c) In addition to the definitions found at Section  
82 40-18-1, the following words and phrases shall have the  
83 following meanings:

84 (1) APPROVED COMPANY. Any company determined by the



## HB241 Engrossed

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

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

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

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

104 ~~(5) (4) EMPLOYEES. Some or all of those persons employed~~  
105 ~~and residing in Alabama Persons employed in full time~~  
106 ~~positions created by or through a qualifying project:~~

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

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



## HB241 Engrossed

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

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

119 ~~(6)~~ (5) INCENTIVE PERIOD. The period or periods of time  
120 during which an incentiivized company can receive one or more  
121 of the jobs act incentives.

122 ~~(7)~~ (6) INCENTIVIZED COMPANY. An approved company and  
123 any related company that are allowed to claim one or more of  
124 the jobs act incentives as provided for in the project  
125 agreement.

126 ~~(8)~~ (7) INVESTMENT CREDIT. The annual incentive provided  
127 in Section 40-18-376.

128 ~~(9)~~ (8) JOBS ACT INCENTIVES. The jobs credit and the  
129 investment credit as authorized and provided for in this  
130 article.

131 ~~(10)~~ (9) JOBS CREDIT. The annual incentive provided in  
132 Section 40-18-375.

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

139 ~~(12)~~ (11) PROJECT. Any land, building, or other  
140 improvements, and all real and personal properties, whether or



## HB241 Engrossed

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

144 ~~(13)~~ (12) PROJECT AGREEMENT. The agreement entered into  
145 between an approved company and the Governor establishing the  
146 terms and conditions for the provision of the jobs act  
147 incentives, as provided for in Section 40-18-374.

148 ~~(14)~~ (13) QUALIFYING PROJECT. Any project to be  
149 undertaken by an approved company that satisfies Section  
150 40-18-372.

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

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

160 (16) UTILITY TAXES. The taxes imposed by Sections  
161 40-21-82 and 40-21-102.

162 (17) WAGES. Total wages of an employee (including gross  
163 wages, salaries, overtime and bonuses), defined by reference  
164 to Section 25-4-16(b), without application of Sections  
165 25-4-16(b) (1), 25-4-16(b) (2) a., 25-4-16(b) (3), and  
166 25-4-16(b) (4).

167 "§40-18-372

168 A qualifying project must be found by the Secretary of



## HB241 Engrossed

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

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

173 a. Described by NAICS Code 1133, 115111, 2121, 22111,  
174 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,  
175 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, 511,  
176 5121 (other than 51213), 51221, 517, 518 (without regard to  
177 the premise that data processing and related services be  
178 performed in conjunction with a third party), 51913, 52232,  
179 54133 (if predominantly in furtherance of another activity  
180 described in this article), 54134 (if predominantly in  
181 furtherance of another activity described in this article),  
182 54138, 5415, 541614, 5417, 55 (if not for the production of  
183 electricity), 561422 (other than establishments that originate  
184 telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

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

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



## HB241 Engrossed

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

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

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

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

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



## HB241 Engrossed

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

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

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

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



## HB241 Engrossed

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

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

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

262 "§40-18-374

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

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

270 (1) The name of the incentivized company;

271 (2) The location of the qualifying project;

272 (3) The activity to be conducted at the qualifying  
273 project;

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

276 (5) The capital investment to be made at the qualifying  
277 project;

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

280 (7) The number of ~~eligible~~ employees at the qualifying



## HB241 Engrossed

281 project;

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

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

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

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

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

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

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

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

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



## HB241 Engrossed

309 "§40-18-375

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

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

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

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

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



## HB241 Engrossed

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

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

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



## HB241 Engrossed

365 the jobs credit.

366 (c) The realization methods in subsection (b) shall not  
367 create debts of the state within the meaning of Section 213 of  
368 the ~~Official Recompilation of the Constitution of Alabama of~~  
369 ~~1901, as amended~~2022.

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

374 "§40-18-376

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

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

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

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

387 (4) To offset utility taxes;

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

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

392 The incentive period shall begin no earlier than the



## HB241 Engrossed

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

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

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

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

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



## HB241 Engrossed

421 specified, regardless of whether the allocation follows rules  
422 similar to 26 U.S.C. § 704(b) and the regulations thereunder.  
423 The owners may then use their allocated share of the  
424 investment credit to offset any of the taxes listed in  
425 subsection (a), as provided in subdivision (1). This  
426 subdivision shall be liberally construed to apply to multiple  
427 levels of companies, to allow the investment credits to be  
428 used by those persons bearing the tax burdens of the  
429 qualifying project, and such companies shall include but shall  
430 in no way be limited to flow-through entities, employee stock  
431 ownership plans, mutual funds, real estate investment trusts,  
432 and it shall also apply to offset the income tax liability of  
433 employee/owners of a flow-through entity owned by an employee  
434 stock ownership plan trust.

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

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

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

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



## HB241 Engrossed

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

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

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

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

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

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

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



## HB241 Engrossed

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

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



## HB241 Engrossed

505 levied by Article 2 of Chapter 21. In any one year, if the  
506 investment credit exceeds the amount of taxes that are allowed  
507 to be offset and that are owed by the transferee, the  
508 transferee may carry the credit forward for five years. A  
509 transferee may not make a subsequent transfer of the credit.  
510 The Department of Revenue may adopt rules necessary to  
511 implement and administer the transfer provisions as provided  
512 in this act.

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

523 (c) The realization methods in subsection (b) shall not  
524 create debts of the state within the meaning of Section 213 of  
525 the ~~Official Recompilation of the Constitution of Alabama of~~  
526 ~~1901, as amended~~2022.

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



## HB241 Engrossed

533 would reduce the distribution for municipalities and counties.

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

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

545 "§40-18-376.1

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

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

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

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

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

559 (2) TARGETED COUNTY. Any Alabama county that has a  
560 population of ~~50,000~~ 60,000 or less, as determined by the



## HB241 Engrossed

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

565 (b) In making the findings required by Section  
566 40-18-373(a), a company that proposes a qualifying project in  
567 a targeted or jumpstart county shall be an approved company  
568 for purposes of this section only if the Secretary of Commerce  
569 makes the additional finding that the qualifying project will  
570 increase the economic diversity of, or otherwise benefit, the  
571 targeted or jumpstart county.

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

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

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

586 (2) The investment credit provided in Section  
587 40-18-376(a) shall have an incentive period ~~of~~ not to exceed  
588 15 years.



## HB241 Engrossed

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

594 "§40-18-376.2

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

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

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

607 (b) (1) Any incentivized company described by  
608 subdivision (1) of subsection (a) shall receive an additional  
609 0.5 percent jobs credit provided in Section 40-18-375(a) on  
610 the wages paid during the prior year to ~~eligible~~ Alabama  
611 resident employees who are veterans.

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



## HB241 Engrossed

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

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

629 "§40-18-376.3

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

635 (2) In making the findings required by Section  
636 40-18-373(1), a technology company that proposes a qualifying  
637 project shall be an approved company for purposes of this  
638 section only if the Secretary of Commerce makes the additional  
639 finding that the qualifying project will increase the economic  
640 diversity of, or otherwise benefit, the state.

641 (3) A qualifying project shall be deemed to be in  
642 existence, notwithstanding the requirements of Section  
643 40-18-372, so long as at least 10 new employees are employed  
644 at the qualifying project, absent a finding of extraordinary



## HB241 Engrossed

645 circumstances by the Secretary of Commerce.

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

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

653 (2) An investment credit as provided in Section  
654 40-18-376.

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

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

659 a. Activities within subsector 518; industry group  
660 5112, 5121 (other than 51213), 5415, or 5417; or industry  
661 51913 of the 2012 North American Industry Classification  
662 System, or any similar classification system developed in  
663 conjunction with the United States Department of Commerce or  
664 Office of Management and Budget.

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

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



## HB241 Engrossed

673 aerospace, automotive, or financial services.

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

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

680 "§40-18-376.4

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

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

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

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

699 (3) The investment credit provided in Section  
700 40-18-376(a) shall have an incentive period ~~of~~ not to exceed



## HB241 Engrossed

701 15 years.

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

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

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

722 "§40-18-377

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

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



## HB241 Engrossed

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

742           "§40-18-378

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



## HB241 Engrossed

757 tax.

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

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

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



## HB241 Engrossed

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

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

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

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

801 "§40-18-382

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



## HB241 Engrossed

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

820 "§40-18-383

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



## HB241 Engrossed

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

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

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

850 "§40-18-417.1

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

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

858 ~~(2)~~ (1) CAPITAL IMPROVEMENTS. Construction and  
859 rehabilitation expenses of a capital nature at an inland port  
860 or intermodal facility, the dredging of waterways in the  
861 immediate vicinity of an inland port, and the expansion of  
862 onsite storage facilities at an inland port or intermodal  
863 facility.

864 ~~(3)~~ (2) ECONOMIC DEVELOPMENT ACTIVITIES. Activities and  
865 initiatives that enhance the use of, and flow of goods  
866 through, an inland port or intermodal facility.

867 ~~(4)~~ (3) ECONOMIC DEVELOPMENT ORGANIZATION. A local  
868 economic development organization or a state economic



## HB241 Engrossed

869 development organization.

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

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

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

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

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

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

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

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

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

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



## HB241 Engrossed

897 or business.

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

904 "§40-18-417.2

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

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

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

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



## HB241 Engrossed

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

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

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

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

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



## HB241 Engrossed

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

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

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

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

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



## HB241 Engrossed

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

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

988 "§40-18-417.3

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

993 (b) The Renewal of Alabama Commission shall consider  
994 the application and shall approve it if the commission deems  
995 it worthy of approval. As to improvements at industrial sites,  
996 the commission shall give preference to sites with at least  
997 1,000 acres of available space. As to applications for  
998 projects located in communities which have the potential to  
999 provide additional funding separate from the Growing Alabama  
1000 Credits, the commission shall take into consideration whether  
1001 the separate funding is to be provided to the project that is  
1002 the subject of the application. Meetings of the commission are  
1003 subject to Chapter 25A of Title 36. Notwithstanding the  
1004 foregoing, the commission may meet by telephone or some other  
1005 telecommunications device so long as members of the public are  
1006 allowed the opportunity to listen to or otherwise observe the  
1007 commission's deliberations.

1008 (c) The approval of an application by the commission



## HB241 Engrossed

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

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

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

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

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

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



## HB241 Engrossed

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

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

1043 "§40-18-417.4

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

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

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

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

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

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

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



## HB241 Engrossed

1065 contributions to an economic development organization in  
1066 excess of the amounts approved by the Renewal of Alabama  
1067 Commission, as provided in Section 40-18-417.3.

1068 (d) The cumulative amount of funding approved pursuant to this  
1069 section shall not exceed twenty million dollars (\$20,000,000)  
1070 in a calendar year for calendar years ending prior to January  
1071 1, 2023, and thirty-five million dollars (\$35,000,000) in a  
1072 calendar year for calendar years beginning January 1, 2023. Of  
1073 that amount, no more than four million dollars (\$4,000,000) of  
1074 funding in the aggregate may be approved for accelerator  
1075 programs as described in Section 40-18-376.3 (c) (2).  
1076 prior to January 1, 2024, which amount would increase to  
1077 twenty-three million dollars (\$23,000,000) for the calendar  
1078 year ending December 31, 2024, twenty-six million dollars  
1079 (\$26,000,000) for the calendar year ending December 31, 2025,  
1080 twenty-nine million dollars (\$29,000,000) for the calendar year  
1081 ending December 31, 2026, thirty-two million dollars  
1082 (\$32,000,000) for the calendar year ending December 31, 2027,  
1083 and thirty-five million dollars (\$35,000,000) for calendar  
1084 year ending January 1, 2028.

1085 (e) The Renewal of Alabama Commission shall reserve at  
1086 least 25 percent of the amounts specified in subsection (d)  
1087 for projects located in targeted or jumpstart counties as  
1088 defined in Section 40-18-376.1. In the event applications are  
1089 not received and credits are not allocated for projects in  
1090 these areas by the close of the second quarter of the program  
1091 year, the funds may revert for allocations of other project  
1092 applications.



## HB241 Engrossed

1093 (f) To the extent that a Growing Alabama Credit is used  
1094 by a taxpayer, the taxpayer shall not be allowed any deduction  
1095 that would have otherwise been allowed for the taxpayer's  
1096 contribution. Credits may only be claimed by the donating  
1097 taxpayer and may not be assigned or transferred to any other  
1098 taxpayer. For purposes of this section, a donating taxpayer  
1099 includes a taxpayer who is a shareholder of an Alabama S  
1100 corporation or a partner or member of a subchapter K entity  
1101 that made a contribution to an economic development  
1102 organization which was approved by the Renewal of Alabama  
1103 Commission.

1104 (g) The Department of Finance shall adopt rules to  
1105 ensure that the Growing Alabama Credit in no case would reduce  
1106 the distribution for the Alabama Special Mental Health Trust  
1107 Fund by using any unencumbered funds."

1108 "§40-18-417.7

1109 The Growing Alabama Credits provided in this article  
1110 shall not be available for qualifying applicants as described  
1111 in this article, for which applications are not approved on or  
1112 prior to July 31, ~~2023~~2028, unless the Legislature enacts  
1113 legislation to extend the date. This shall only affect the  
1114 availability of credits for applications not approved on or  
1115 prior to July 31, ~~2023~~2028, and shall not cause a reduction or  
1116 suspension of any credits awarded on or prior to July 31,  
1117 ~~2023~~2028."

1118 "§40-9B-4.1

1119 In no event shall any incentive provided in Act  
1120 2012-210 be available to any company filing an application



## HB241 Engrossed

1121 after July 31, 2028~~December 31, 2023~~, unless Act 2012-210 is  
1122 reauthorized pursuant to legislation in that year and once  
1123 every five years succeeding the 2024 reauthorization. Any  
1124 project granted an incentive prior to July 31, 2028~~December~~  
1125 ~~31, 2023~~, shall be entitled to ~~those incentives~~ the incentive  
1126 pursuant to the project agreement regardless of whether Act  
1127 2012-210 is reauthorized."

1128 Section 3. In no event does this act authorize any  
1129 electric provider to provide retail electric service outside  
1130 of its electric service territory as determined under the  
1131 applicable provisions of Chapter 14 of Title 37, Code of  
1132 Alabama 1975. Nothing in this act is intended to amend,  
1133 repeal, enlarge, or otherwise affect Chapter 14 of Title 37,  
1134 Code of Alabama 1975.

1135 Section 4. Section 5 of this act shall be known and may  
1136 be cited as the Sweet Home Alabama Tourism Investment Act.

1137 Section 5. A new Article 23 of Chapter 18 of Title 40,  
1138 Code of Alabama 1975, is created to read as follows:

1139 §40-18-470

1140 For purposes of this act, the following words and  
1141 phrases have the following meanings:

1142 (1) APPLICANT. Any corporation, limited liability  
1143 company, partnership, sole proprietorship, business trust, or  
1144 other legal entity authorized to do business in the State of  
1145 Alabama.

1146 (2) APPROVED COMPANY. Any company approved for tax  
1147 rebates for operating a certified tourism destination project.

1148 (3) APPROVED COSTS. Costs relating to the following:



## HB241 Engrossed

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

1156 (4) BOARD. Alabama Tourism Advisory Board established  
1157 pursuant to Section 41-7-3.

1158 (5) CAPITAL INVESTMENT. All costs and expenses incurred  
1159 by the incentivized company in connection with the  
1160 acquisition, construction, installation, and equipping of a  
1161 qualifying project, if such costs are required to be  
1162 capitalized for purposes of the federal income tax, determined  
1163 without regard to any rule that permits expenditures properly  
1164 chargeable to a capital account to be treated as current  
1165 expenditures. However, any project involving the extraction of  
1166 natural resources shall not be included as a capital  
1167 investment expenditure.

1168 (6) CERTIFIED TOURISM DESTINATION PROJECT.

1169 a. A certified tourism destination project must conduct  
1170 an activity specified in subparagraphs 1. through 8.

1171 1. A qualifying project that has seventy-five million  
1172 dollars (\$75,000,000) of capital investments may be considered  
1173 a mega project.

1174 2. A qualifying project may be a tourist destination  
1175 attraction with a minimum private investment of not less than  
1176 fifty million dollars (\$50,000,000).



## HB241 Engrossed

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

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

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

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

1197           A. Department stores.

1198           B. Convenience stores.

1199           C. Grocery stores.

1200           D. Liquor and tobacco Stores.

1201           E. Discount stores.

1202           F. Multiplex theaters.

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



## HB241 Engrossed

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

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

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

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

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

1224 (7) DEPARTMENT. The Alabama Tourism Department.

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

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



## HB241 Engrossed

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



## HB241 Engrossed

1261 applications. Applications shall solicit whatever information  
1262 the department deems important to its determination of  
1263 authorizing a tax rebate.

1264 §40-18-472

1265 (a) In order for an applicant to be an approved  
1266 company, all of the following shall occur:

1267 (1) For any applicant that proposes a certified tourism  
1268 destination project, the board shall make all of the following  
1269 findings:

1270 a. That the project is in fact a certified tourism  
1271 destination project.

1272 b. That the amount of tourism rebates sought are  
1273 exceeded by anticipated revenues for the state, including  
1274 income, property, business privilege, utility, gross receipts,  
1275 sales, and use tax revenues that are generated by the economic  
1276 activity resulting from the project.

1277 (b) The Alabama Tourism Advisory Board shall review  
1278 qualifying projects meeting the criteria established pursuant  
1279 to Section 40-18-473 and approve eligible projects for tax  
1280 rebates. Upon a determination that all program requirements  
1281 are met, the board will issue the Alabama Tourism Advisory  
1282 Board Act Certificate. Each certificate shall include the  
1283 amount of the approved project costs, the maximum rebate  
1284 available, and the rebate term of 10 years with a five-year  
1285 carry forward from the completion date or the date on or which  
1286 five million dollars (\$5,000,000) of the approved project  
1287 costs has been rebated to the applicant, whichever threshold  
1288 is met first.



## HB241 Engrossed

1289 §40-18-473

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

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

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

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

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

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



## HB241 Engrossed

1317 (5) Tax rebates may be a combination of state and local  
1318 retail sales tax, state and local lodging taxes, and any other  
1319 taxes generated by, or arising within, the tourism destination  
1320 project. The municipality or the taxing district where the  
1321 tourism destination project will be located must support and  
1322 approve the facility. The approval must be in the form of a  
1323 resolution of the governing authority acknowledging support of  
1324 the project and acknowledging that a portion no less than 20  
1325 percent of the tax rebates will be comprised of municipal  
1326 taxes.

1327 (6) The Alabama Department of Revenue, in consultation  
1328 with the Alabama Tourism Department, shall adopt rules and  
1329 require the filing of a rebate form designed by the Department  
1330 of Revenue to reflect the intent of this article. To begin the  
1331 rebate process, once project phases open for business, the  
1332 approved company must provide a listing of all sales tax  
1333 accounts and account numbers related to the project. The  
1334 Alabama Department of Revenue will provide these accounts and  
1335 will begin making the required diversions into the Tourism  
1336 Project Sales Tax Incentive Fund the month following  
1337 notification. Rebate payments from the fund will be made each  
1338 January and July to the approved company.

1339 (7) No tax rebate shall be granted to an approved  
1340 company during a tax year that the approved company is  
1341 simultaneously receiving any other state tax incentive  
1342 associated with any individual tourism attraction project.

1343 (8) Any tax rebate shall be first applied to any  
1344 outstanding tax obligation of the approved company that is due



## HB241 Engrossed

1345 and payable to the state.

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

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

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

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

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

1365 §40-18-474

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



## HB241 Engrossed

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

1375 §40-18-475

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

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



## HB241 Engrossed

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1391

### House of Representatives

1392 Read for the first time and referred .....04-Apr-23  
1393 to the House of Representatives  
1394 committee on Ways and Means  
1395 Education  
1396  
1397 Read for the second time and placed .....12-Apr-23  
1398 on the calendar:  
1399 3 amendments  
1400  
1401 Read for the third time and passed .....13-Apr-23  
1402 as amended  
1403 Yeas 105  
1404 Nays 0  
1405 Abstains 0  
1406  
1407

1408  
1409  
1410

John Treadwell  
Clerk