

1 HB57  
2 167047-2  
3 By Representative Beech  
4 RFD: Economic Development and Tourism  
5 First Read: 03-MAR-15  
6 PFD: 02/27/2015

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ENROLLED, An Act,

To enact the Alabama Veterans and Targeted Counties Act; to add provisions to the Alabama Jobs Act proposed by HB 58 of the Regular Session of 2015 of the Alabama Legislature; to define the term "targeted county"; to require that the Secretary of Commerce make certain findings as to whether a project is a qualifying project and whether a company is an approved company when the project is to be located in a targeted county; to provide that a qualifying project in a targeted county could receive incentives if it created at least 25 new jobs; to allow a 4 percent jobs credit for qualifying projects located in targeted counties; to allow an additional 5 years in the incentive period for the investment credit in certain cases; to provide an additional jobs credit of 0.5 percent of wages paid to veterans in certain cases; to provide for audits of companies claiming the Jobs Act Incentives; to create the Accelerate Alabama Fund; to allow the fund to be funded by the issuance of bonds secured by targeted county financing agreements, any other funds available to the authority, or money appropriated to such fund; to allow the State Industrial Development Authority to make loans to local entities to fund site preparation and other expenses for projects that will provide employment opportunities in the targeted area; to limit the value of

1 loans allowed by such fund; to allow various entities to  
2 accept loans from such fund and to provide security for  
3 repayment of each loan; to require annual reports to the  
4 legislature on the operations of such fund; to authorize entry  
5 into agreements for the operation of such fund; to make  
6 legislative findings; to provide for the promulgation of  
7 regulations; to add a new Article 2B to Chapter 10 of Title  
8 41, Code of Alabama 1975; to provide for the severability of  
9 invalid provisions; to provide for the repeal of conflicting  
10 laws; to provide for an effective date.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall be known and may be cited  
13 as the "Alabama Veterans and Targeted Counties Act".

14 Section 2. The legislature makes the following  
15 findings:

16 (a) Certain targeted counties in the state face  
17 challenges in their efforts to improve their economies in  
18 terms of personal income, job creation, average wages and  
19 strong revenue bases which provide much needed community  
20 services.

21 (b) Scarce economic development prospects and  
22 persistent unemployment and underemployment that exist in many  
23 targeted counties present serious threats to the safety,  
24 health and welfare of the residents of targeted counties.

1           (c) The economic well-being of the citizens of the  
2 state will be enhanced by the increased development and growth  
3 of targeted counties in Alabama.

4           (d) It is in the best interests and a public purpose  
5 of the state to provide enhanced incentives in targeted  
6 counties.

7           (e) It is in the best interests and a public purpose  
8 of the state to establish a program that will provide loans to  
9 qualifying borrowers in targeted counties to foster economic  
10 development and job creation by facilitating the location and  
11 expansion of economic development projects in targeted  
12 counties.

13           (f) The loans and incentives provided in this act  
14 will allow the state to encourage the creation of new jobs  
15 that may not otherwise exist within Alabama and its targeted  
16 counties.

17           Section 3. New Sections 40-18-376.1 and 40-18-376.2  
18 are added to Article 16 of Chapter 18 of Title 40, Code of  
19 Alabama 1975, which article is proposed by HB 58 of the  
20 Regular Session of 2015 of the Alabama Legislature. Said  
21 Sections 40-18-376.1 and 40-18-376.2 shall read as follows:

22           § 40-18-376.1.

23           (a) The provisions in this section shall apply to  
24 any "targeted county," a term defined in this article to mean  
25 any Alabama county that has a population of 25,000 or less, as

1 determined by the Commissioner of Labor as of each January 1  
2 using the most current data available from the United States  
3 Departments of Labor or Commerce, the United States Bureau of  
4 the Census, or any other federal or state agency or  
5 department.

6 (b) In making the findings required by Section  
7 40-18-373(a), a company that proposes a qualifying project in  
8 a targeted county shall be an approved company for purposes of  
9 this section only if the Secretary of Commerce makes the  
10 additional finding that the qualifying project will increase  
11 the economic diversity of, or otherwise benefit, the targeted  
12 county.

13 (c) For purposes of determining in Section  
14 40-18-372(b)(2) whether a qualifying project may receive the  
15 Jobs Act Incentives, a project to be located in a targeted  
16 county shall employ at least 25 new employees, absent a  
17 finding of extraordinary circumstances by the Secretary of  
18 Commerce.

19 (d) If the qualifying project is located in a county  
20 which is deemed to be a targeted county on the date the  
21 project agreement is executed, the following shall be  
22 applicable:

23 (1) The jobs credit provided in Section 40-18-375(a)  
24 shall be 4.0 percent of the wages paid to eligible employees  
25 during the prior year; and

1           (2) The investment credit provided in Section  
2 40-18-376(a) shall have an incentive period of 15 years, but  
3 only if the qualifying project is expected to sell the  
4 majority of its output or services to a business located in  
5 Alabama that is described in Section 40-18-372(a), so that the  
6 transit distance for the output or services shall be less than  
7 50 miles.

8           (e) Each year, the incentives in subsection (d) may  
9 be extended to no more than two qualifying projects not in  
10 targeted counties. Such incentives shall be granted in project  
11 agreements executed by the Governor on the recommendation of  
12 the Secretary of Commerce.

13           § 40-18-376.2.

14           (a) The provisions in this section shall apply to  
15 any incentivized company that employed, in the prior year, at  
16 least 12 percent of its eligible employees as veterans who  
17 received an honorable or general discharge. The calculation of  
18 the percentage of eligible employees who are veterans shall be  
19 made using the method provided in a project agreement.

20           (b) Any incentivized company described by subsection  
21 (a) shall receive an additional 0.5 percent jobs credit  
22 provided in Section 40-18-375(a) on the wages paid during the  
23 prior year to eligible employees who are veterans.

24           (c) No incentivized company claiming the credit  
25 provided by subsection (b) shall also claim the credit

1 provided by Article 13 of this Chapter 18 for any portion of  
2 the project.

3 (d) The Department of Labor shall periodically  
4 verify the actual number of veterans employed by the  
5 incentivized company and the wages of the veterans during the  
6 relevant year. If the Department of Labor is not able to  
7 provide the verification utilizing all available resources, it  
8 may request any additional information from the incentivized  
9 company as may be necessary.

10 Section 4. A new Article 2B is added to Chapter 10  
11 of Title 41, Code of Alabama 1975, to read as follows:

12 § 41-10-45.1. The following words and phrases shall  
13 have the following meanings when used in this article:

14 (a) AUTHORITY. The State Industrial Development  
15 Authority, a public corporation of the state, organized and  
16 existing under Articles 2, 2A and 2B of this Chapter.

17 (b) DEPARTMENT. The Alabama Department of Commerce.

18 (c) ELIGIBLE BORROWER. A municipality, county,  
19 industrial development authority organized under Chapter 92A  
20 of Title 11, industrial development board organized under  
21 Article 4, Chapter 54 of Title 11, or nonprofit organization  
22 organized to foster economic development and described in  
23 Section 501(c) of the Internal Revenue Code of 1986, as in  
24 effect from time to time.

1 (d) ELIGIBLE EXPENSES. Expenses relating to land  
2 acquisition, site preparation or development, building  
3 improvements, building construction, building renovations,  
4 infrastructure, and any other real or personal property deemed  
5 necessary or useful in connection therewith.

6 (e) ELIGIBLE PROJECT. A project located in a  
7 targeted county that, when completed, will provide employment  
8 opportunities within one or more targeted counties. An  
9 eligible project shall be the subject of a project agreement,  
10 abatement agreement or similar agreement between the company  
11 and any of the state or an eligible borrower.

12 (f) FUND. The Accelerate Alabama Fund.

13 (g) MAXIMUM LOAN AMOUNT. For any project anticipated  
14 to create more than 25 new jobs, \$2,000,000, and in all other  
15 cases, \$1,000,000.

16 (h) PROJECT OBLIGATIONS. The meaning in Section  
17 41-10-44.2(8).

18 (i) QUALIFYING BORROWER. An eligible borrower  
19 selected by the authority to receive a loan.

20 (j) QUALIFYING EXPENSES. The eligible expenses  
21 permitted to be financed by the loan pursuant to the targeted  
22 county financing agreement.

23 (k) QUALIFYING PROJECT. An eligible project selected  
24 by the authority to receive a loan from the fund to finance  
25 its qualifying expenses.



1           (1) TARGETED COUNTY. Any Alabama county that is  
2 described by Section 40-18-376.1(a).

3           (m) TARGETED COUNTY FINANCING AGREEMENT. Any  
4 agreement entered into between the authority and a qualifying  
5 borrower pertaining to a loan from the fund including, without  
6 limitation, a loan agreement, trust indenture, security  
7 agreement, reimbursement agreement, guarantee agreement, bond  
8 or note, ordinance or resolution, or similar instrument. A  
9 targeted county financing agreement may contain, in addition  
10 to financial terms, provisions relating to the regulation and  
11 supervision of the qualifying project and other provisions as  
12 the authority may determine.

13           § 41-10-45.2.

14           (a) There is created the "Accelerate Alabama Fund,"  
15 which may consist of monies appropriated or otherwise made  
16 available by the legislature in any manner, proceeds of  
17 project obligations issued by the authority, and monies from  
18 any other source designated for deposit into such fund, but  
19 not including monies subject to a constitutional designation  
20 for some other purpose. Unexpended amounts remaining in the  
21 fund at the end of each fiscal year of the state shall not  
22 lapse into the State General Fund. Any investment earnings or  
23 interest earned on amounts in the fund and all loan payments  
24 of principal and/or interest shall be deposited to the credit  
25 of the fund.

1           (b) In addition to the purposes for which the  
 2 authority may issue project obligations, the authority is  
 3 hereby authorized to issue project obligations to provide  
 4 money for the fund. Project obligations shall be issued as  
 5 provided in Section 41-10-44.6, subject, however, to the  
 6 following:

7           (1) Project obligations may also be payable solely  
 8 from revenues and receipts of the authority derived from a  
 9 targeted county financing agreement, from any other source  
 10 described in Section 41-10-45.4(a), or from any combination  
 11 thereof; and

12           (2) Project obligations may be secured by a pledge  
 13 of, or security interest in, any revenues, collateral or other  
 14 security described in Section 41-10-45.4(a), from any other  
 15 source permitted by law, or from any combination thereof.

16           (c) In addition to the purposes for which the  
 17 authority may use the proceeds of project obligations pursuant  
 18 to Section 41-10-44.7, the proceeds of project obligations  
 19 issued to provide money for the fund remaining after adequate  
 20 provision for the payment of the expenses of issuance may be  
 21 deposited in the fund and used as provided in this article.

22           (d) In addition to the purposes for which the  
 23 authority may refund project obligations pursuant to Section  
 24 41-10-44.10, the authority may issue project obligations to  
 25 refund project obligations issued to provide money for the

1 fund. Refunding project obligations shall be issued as  
2 provided in Section 41-10-44.10, subject, however, to the  
3 following:

4 (1) Refunding project obligations may also be  
5 payable solely from revenues and receipts of the authority  
6 derived from a targeted county financing agreement, from any  
7 other source described in Section 41-10-45.4(a), or from any  
8 combination thereof; and

9 (2) Refunding project obligations may be secured by  
10 a pledge of, or security interest in, any revenues, collateral  
11 or other security described in Section 41-10-45.4(a), from any  
12 other source permitted by law, or from any combination  
13 thereof.

14 § 41-10-45.3.

15 (a) The authority may provide loans to an eligible  
16 borrower to pay for all or part of the eligible expenses of a  
17 qualifying project pursuant to a targeted county financing  
18 agreement. A loan may have a maturity or maturities not  
19 exceeding 20 years from its date, may bear interest or be  
20 interest free, may not exceed the maximum loan amount, and may  
21 contain terms not in conflict with the provisions of this  
22 article, all as the governing body of the authority may  
23 provide in the proceedings pursuant to which the loan is  
24 authorized to be issued. The authority may provide, in its  
25 discretion, that the loan shall bear interest at a rate or

1 rates fixed at the time of the issuance thereof, or at fixed  
2 rates which may be changed from time to time during the term  
3 of the loan in accordance with an objective procedure  
4 determined by the authority at the time of the issuance of the  
5 loan, or at a floating rate or rates, and the authority may  
6 also provide, in its discretion, that interest on the loan may  
7 be payable in cash or in kind at fixed intervals, through one  
8 or more payments which reflect compound interest computed at  
9 specified intervals on accrued but unpaid interest, through a  
10 discount in the sales price for the loan equivalent to  
11 compound interest on the loan for all or part of the term  
12 thereof, or through any combination of the foregoing methods.  
13 The proceeds derived from the loan shall be used solely for  
14 the purpose specified in the targeted county financing  
15 agreement.

16 (b) The authority shall determine the form and  
17 content of loan applications, targeted county financing  
18 agreements and loan obligations, including the term and rate  
19 or rates of interest. The loan application must include a  
20 description of the eligible project, the estimated cost of the  
21 project for which assistance is requested and any other  
22 information required by the authority.

23 (c) The authority may not issue project obligations  
24 to provide money for the fund in excess of \$20,000,000.

25 (d) The authority may:

1           (1) Require a qualifying borrower with an  
2 outstanding loan to submit to the authority information  
3 relevant to the loan; and

4           (2) Require a qualifying borrower with an  
5 outstanding loan to submit financial reports.

6           (e) The authority may refinance any loan previously  
7 made to a qualifying borrower.

8           (f) The treasurer of the state may invest the money  
9 in the fund not currently needed to meet the obligations of  
10 the fund under this article. The treasurer of the state may  
11 contract with investment management professionals, investment  
12 advisors and legal counsel to assist in the management of the  
13 fund and may pay from the fund the state expenses incurred  
14 under those contracts.

15           § 41-10-45.4.

16           (a) In order to provide for the repayment of a loan  
17 by a qualifying borrower for a project, the qualifying  
18 borrower is hereby authorized and empowered to do and perform  
19 any one or more of the following:

20           (1) To obligate itself to pay to the authority at  
21 periodic intervals a sum sufficient to repay the authority  
22 loan according to the terms thereof;

23           (2) To levy, collect and pay over to the authority  
24 and to obligate itself to continue to levy, collect and pay

1 over to the authority the proceeds of any fee, charge,  
2 license, permit, tax, or other source of revenue;

3 (3) To undertake and obligate itself to pay its  
4 contractual obligation to the authority solely from the  
5 proceeds from any one or more of the sources specified in  
6 paragraph (2), or to impose upon itself a general obligation  
7 pledge to the authority additionally secured by a pledge of  
8 any one or more of such sources;

9 (4) To obligate itself to continue to levy and  
10 collect such revenues, fees and charges in such amounts as  
11 shall be required by the authority;

12 (5) As evidence of its obligation to repay any loan  
13 made by the authority, to issue its bonds, warrants or other  
14 obligations;

15 (6) As security for its obligation to repay any loan  
16 made by the authority, to contract for letters of credit in  
17 favor of the authority, to execute and deliver mortgages on  
18 any of its property in favor of the authority, to obtain and  
19 provide guaranties of its obligation to the authority, or to  
20 provide any other security as may be requested by the  
21 authority; and

22 (7) To enter into such agreements, to perform such  
23 acts and to delegate such functions and duties as its  
24 governing body shall determine to be necessary or desirable to

1 enable the authority to fund a loan to the public body to aid  
2 it in the construction or acquisition of a project.

3 (b) The authority may pledge any of the foregoing as  
4 set forth in subsection (a) to repayment of project  
5 obligations or refunding project obligations.

6 (c) In the event of default, the authority may  
7 accelerate all principal and interest on any loan and utilize  
8 any other available remedies under state law.

9 § 41-10-45.5.

10 (a) The authority shall make an annual report to the  
11 legislature as to the loans granted during, or outstanding at  
12 the end of, each fiscal year. The report shall be due on the  
13 fifth legislative day of each regular session and shall state,  
14 for each qualifying project, the county in which it is  
15 located, the name of the qualifying borrower, the outstanding  
16 principal amount of the loan and the maturity date of the  
17 loan.

18 (b) Nothing in this article shall be construed to  
19 constitute a guarantee or assumption by the state of any debt  
20 of any qualifying borrower nor to authorize the credit of the  
21 state to be given, pledged or loaned to any qualifying  
22 borrower.

23 § 41-10-45.6.

24 (a) The department and the authority may enter into  
25 contracts and other agreements in connection with the

1 operation of the fund, including but not limited to agreements  
2 appointing the department as the agent of the authority for  
3 administration of the fund and the lending program authorized  
4 hereby.

5 (b) The department shall promulgate regulations to  
6 implement and administer the provisions of this act and to  
7 administer the fund in accordance with applicable law.

8 Section 5. If a court of competent jurisdiction  
9 adjudges invalid or unconstitutional any clause, sentence,  
10 paragraph, section, or part of this act, such judgment or  
11 decree shall not affect, impair, invalidate, or nullify the  
12 remainder of this act, but the effect of the decision shall be  
13 confined to the clause, sentence, paragraph, section, or part  
14 of this act adjudged to be invalid or unconstitutional.

15 Section 6. All laws or parts of laws which conflict  
16 with this act are repealed.

17 Section 7. Following its passage and approval by the  
18 Governor, or its otherwise becoming law, this act shall become  
19 effective on the same date that HB 58 of the Regular Session  
20 of 2015 of the Alabama Legislature should become effective. In  
21 the event that HB 58 of the Regular Session of 2015 of the  
22 Alabama Legislature is not enacted, then this act shall become  
23 null and void.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

---

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 10-MAR-15, as amended.

Jeff Woodard  
Clerk

Senate	<hr/> 02-APR-15 <hr/>	Amended and Passed
House	<hr/> 09-APR-15 <hr/>	Concurred in Senate Amendment