

1 SB125
2 209381-1
3 By Senator Reed
4 RFD: Finance and Taxation Education
5 First Read: 02-FEB-21
6 PFD: 02/01/2021

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8 SYNOPSIS: This bill would reestablish the Growing
9 Alabama Credit that was repealed following the
10 close of fiscal year 2020 as it was established by
11 Act 2016-102 and amended by Act 2019-392, with the
12 following modifications:

13 This bill allows the credit to be applied
14 against the state portion of the financial
15 institution excise tax and the insurance premiums
16 tax, establishes a \$20 million annual cap on
17 credits, specifies that a portion of the credits
18 are reserved for targeted or jumpstart counties as
19 defined in the statute, allows the credit to be
20 taken by owners of an S corporation or other
21 partnership, and sunsets the tax credit at the end
22 of calendar year 2023.

23 Under the existing Alabama Jobs Act, certain
24 incentivized companies are allowed a jobs credit
25 and an investment credit for creating new jobs in
26 Alabama, which incentives were not available for
27 new projects after December 31, 2020.

1 This bill extends the sunset date for the
2 Alabama Jobs Act to July 31, 2023 and increases the
3 cap each calendar year through 2022.

4 Under the existing Alabama Port Credit,
5 shippers are provided a tax credit against their
6 Alabama income tax liability for import/export
7 general and containerized cargoes. This bill
8 provides further definitions to include the
9 automotive industry's form of shipping's unit of
10 measure, the Vehicle Equivalent Unit (VEU).

11 This bill would further allow additional
12 credits for minority-owned and women-owned
13 businesses, and for companies involved in
14 pharmaceutical and medical research, development,
15 and manufacturing, and allow the investment credit
16 to be used for technology companies.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Sections 40-18-370, 40-18-375, 40-18-376.3,
23 40-18-382, 40-18-383, 40-18-400, and 40-18-403, Code of
24 Alabama 1975, relating to tax credits for the Alabama Jobs
25 Act; to make nonsubstantive, technical revisions to update the
26 existing code language to current style; to allow additional
27 jobs credits for minority-owned and women-owned businesses and

1 to provide definitions; to allow additional jobs credits for
2 pharmaceutical and medical research, development, and
3 manufacturing; to extend the investment credits to technology
4 companies; to extend the sunset date for the Alabama Jobs Act;
5 to increase the annual cap of Jobs Act credits; to specify the
6 reservation of credits for projects in targeted or jumpstart
7 counties; to provide further definitions and allowable credits
8 for the Alabama Port Credit; to reestablish the Growing
9 Alabama Credits; to allow a mechanism for an economic
10 development organization to apply for funding; to allow for
11 the credit to be taken against the state portion of the
12 financial institution excise tax and the insurance premiums
13 tax; to provide for an annual cap for the amount of Growing
14 Alabama Credits; to clarify the reservation of credits for
15 projects in targeted or jumpstart counties; to allow the
16 credit to be taken by owners of S corporations and other
17 partnerships; to provide rulemaking authority; and to provide
18 for a sunset of the Growing Alabama Credits after calendar
19 year 2023.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 40-18-370, 40-18-375,
22 40-18-376.3, 40-18-382, 40-18-383, 40-18-400, and 40-18-403,
23 of the Code of Alabama 1975, are amended to read as follows:

24 "§40-18-370.

25 "(a) This article shall be known and may be cited as
26 the Alabama Jobs Act.

27 "(b) The Legislature makes the following findings:

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

4 "(2) It is in the best interests of the state to
5 provide certain incentives to allow the state to foster
6 economic development through the recruitment of quality
7 projects and the expansion of existing businesses within
8 Alabama.

9 "(3) The incentives provided for in this article do
10 not raise any taxes for any individuals or businesses in
11 Alabama under state law.

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

15 "(5) The incentives provided in this article will
16 increase revenues for the state without increasing taxes.

17 "(6) The Constitution of the State of Alabama grants
18 the Legislature the authority to approve and authorize
19 exemptions, exclusions, deductions, and credits from taxation
20 in order to define the net proceeds of any tax payable under
21 state law.

22 "(7) The Constitution of the State of Alabama was
23 framed, and the laws of the state were enacted, with the goal
24 of protecting, encouraging, and developing individual
25 enterprise.

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

1 "(9) The powers to be granted and the purposes to be
2 accomplished by this article will create an environment for
3 the recruitment of quality projects and the expansion of
4 existing businesses within Alabama.

5 "(10) Economic development through tax and financial
6 incentives benefits the citizens of the state and is a public
7 purpose of the state.

8 "(c) In addition to the definitions found ~~at~~ in
9 Section 40-18-1, the following words and phrases shall have
10 the following meanings:

11 "(1) APPROVED COMPANY. Any company determined by the
12 Secretary of Commerce and the Governor to meet the criteria
13 provided in Section 40-18-373.

14 "(2) CAPITAL INVESTMENT. All costs and expenses
15 incurred by the incentivized company in connection with the
16 acquisition, construction, installation, and equipping of a
17 qualifying project, if such costs are required to be
18 capitalized for purposes of the federal income tax, determined
19 without regard to any rule that permits expenditures properly
20 chargeable to a capital account to be treated as current
21 expenditures. However, for any project involving the
22 extraction of natural resources, the capital investment shall
23 not include the costs of acquiring land, land recording fees,
24 architectural and engineering services, environmental studies,
25 and environmental mitigation.

26 "(3) COMPANY. Anyone or anything which has the
27 powers to own a project and have employees.

1 "(4) ELIGIBLE EMPLOYEES. Those employee positions
2 set forth in a project agreement that will be the result of
3 new jobs created by or through a qualifying project.

4 "(5) EMPLOYEES. Some or all of those persons
5 employed and residing in Alabama:

6 "a. Who are being paid directly by an approved
7 company, related company, common paymaster, joint venturer, or
8 leasing company for working at a qualifying project;

9 "b. Whom the approved company, related company,
10 common paymaster, joint venturer, or leasing company
11 identifies as its employees to the U.S. Internal Revenue
12 Service, the Department of Revenue, or the Department of Labor
13 on returns or reports filed with the foregoing, including, but
14 not limited to, IRS Form 941; and

15 "c. Who are assigned to a qualifying project for a
16 period of at least one year.

17 "(6) INCENTIVE PERIOD. The period or periods of time
18 during which an incentivized company can receive one or more
19 of the jobs act incentives.

20 "(7) INCENTIVIZED COMPANY. An approved company and
21 any related company that are allowed to claim one or more of
22 the jobs act incentives as provided for in the project
23 agreement.

24 "(8) INVESTMENT CREDIT. The annual incentive
25 provided in Section 40-18-376.

1 "(9) JOBS ACT INCENTIVES. The jobs credit and the
2 investment credit as authorized and provided for in this
3 article.

4 "(10) JOBS CREDIT. The annual incentive provided in
5 Section 40-18-375.

6 "(11) MINORITY-OWNED BUSINESS. A for-profit
7 business that is independently owned and operated and is at
8 least 51 percent owned and controlled by one or more minority
9 individuals or, in the case of a publicly owned business, a
10 for-profit business of which at least 51 percent of the stock
11 is owned and controlled by one or more minority individuals
12 and whose daily management and operations are under the
13 control of one or more minority individuals. For purposes of
14 this subdivision, "minority" means a person who is an African
15 American and a citizen of the United States.

16 "~~(11)~~ (12) NAICS CODE. Any sector, subsector,
17 industry group, industry or national industry of the 2012
18 North American Industry Classification System, or any similar
19 classification system developed in conjunction with the United
20 States Department of Commerce or Office of Management and
21 Budget.

22 "~~(12)~~ (13) PROJECT. Any land, building, or other
23 improvements, and all real and personal properties, whether or
24 not contiguous and whether or not previously in existence, if
25 in Alabama and if deemed necessary or useful in connection
26 with an activity listed in Section 40-18-372(1).

1 "~~(13)~~ (14) PROJECT AGREEMENT. The agreement entered
2 into between an approved company and the Governor establishing
3 the terms and conditions for the provision of the jobs act
4 incentives, as provided for in Section 40-18-374.

5 "~~(14)~~ (15) QUALIFYING PROJECT. Any project to be
6 undertaken by an approved company that satisfies Section
7 40-18-372.

8 "~~(15)~~ (16) RELATED COMPANY. Any company that is
9 under common ownership, management, or control with a company
10 or an approved company, as the case may be.

11 "~~(16)~~ (17) UTILITY TAXES. The taxes imposed by
12 Sections 40-21-82 and 40-21-102.

13 "~~(17)~~ (18) WAGES. Total wages of an employee
14 (including gross wages, salaries, overtime, and bonuses),
15 defined by reference to Section 25-4-16(b), without
16 application of Sections 25-4-16(b) (1), 25-4-16(b) (2)a.,
17 25-4-16(b) (3), and 25-4-16(b) (4).

18 "(19) WOMAN-OWNED BUSINESS. A for-profit business
19 that is independently owned and operated and is at least
20 fifty-one percent (51%) owned and controlled by one or more
21 women or, in the case of a publicly owned business, a
22 for-profit business of which at least fifty-one percent (51%)
23 of the stock is owned and controlled by one or more women and
24 whose daily management and operations are under the control of
25 one or more women. For the purposes of this definition a
26 "woman" means a woman who is a citizen of the United States.

27 "§40-18-375.

1 "(a) (1) If provided for in the project agreement and
2 in accordance with the terms therein, the incentivized company
3 is allowed a jobs credit against utility taxes, in an annual
4 amount equal to 3 percent of the wages paid to eligible
5 employees during the prior year. The incentive period shall be
6 10 years.

7 "(2) If the incentivized company is a minority-owned
8 or woman-owned business as described in this chapter, the
9 incentivized company is allowed a jobs credit against utility
10 taxes, in an annual amount equal to 4 percent of the wages
11 paid to eligible employees during the prior year. The
12 incentive period shall be 10 years.

13 "(3) If the incentivized company is engaged in
14 pharmaceutical, biomedical, medical technology or medical
15 supplies manufacturing or their related research and
16 development activities, the incentivized company is allowed a
17 jobs credit against utility taxes, in an annual amount equal
18 to 4 percent of the wages paid to eligible employees during
19 the prior year. The incentive period shall be 10 years. This
20 would apply to companies that predominantly conduct an
21 activity described by NAICS code 3254, 339112, or 339113, to
22 include related research and development.

23 "(b) The project agreement shall provide that one of
24 the following methods shall be used to realize the benefits of
25 the jobs credit:

26 "(1)a. The jobs credit may be paid to the
27 incentivized company as a refund out of utility taxes during

1 the incentive period, regardless of the amount of utility
2 taxes actually paid by the incentivized company.

3 "b. For each year of the incentive period for the
4 jobs credit, the incentivized company shall submit to the
5 Department of Commerce a certification as to the wages paid to
6 eligible employees during the prior year. Following such
7 examination as it deems necessary, the Department of Commerce
8 may certify the information and deliver the same to the
9 Department of Revenue. Thereafter, the Department of Revenue
10 shall calculate the correct refund and issue it directly to
11 the incentivized company.

12 "(2)a. The jobs credit may be claimed as a credit
13 against utility taxes actually paid. In any one year, if the
14 credit exceeds the amount of taxes that are allowed to be
15 offset by the project agreement and that are owed by the
16 incentivized company, the incentivized company may carry the
17 credit forward, to the extent allowed in the project
18 agreement. No carryforward shall be allowed for more than five
19 years. Rules similar to those used for Section 40-18-15.2
20 shall be applied.

21 "b. Prior to claiming the jobs credit as provided in
22 this subdivision, the incentivized company shall submit to the
23 Department of Commerce a certification as to the wages paid to
24 eligible employees during the prior year. Following such
25 examination as it deems necessary, the Department of Commerce
26 may certify the information and deliver same to the Department

1 of Revenue. Thereafter, the Department of Revenue shall allow
2 the jobs credit.

3 "(c) The realization methods in subsection (b) shall
4 not create debts of the state within the meaning of Section
5 213 of the Official Recompilation of the Constitution of
6 Alabama of 1901, as amended.

7 "(d) The Department of Finance shall ~~promulgate~~
8 adopt regulations to ensure that the credit in no case would
9 reduce the distribution for the Alabama Special Mental Health
10 Trust Fund.

11 "§40-18-376.3.

12 "(a) (1) This section shall be applicable to a
13 technology company so long as there is a project agreement
14 which provides that Alabama is or will become the company's
15 headquarters, the place of residence of its top three
16 executives, and the place of residence of at least 75 percent
17 of its employees.

18 "(2) In making the findings required by Section
19 40-18-373(1), a technology company that proposes a qualifying
20 project shall be an approved company for purposes of this
21 section only if the Secretary of Commerce makes the additional
22 finding that the qualifying project will increase the economic
23 diversity of, or otherwise benefit, the state.

24 "(3) A qualifying project shall be deemed to be in
25 existence notwithstanding the requirements of Section
26 40-18-372 so long as at least 10 new employees are employed at

1 the qualifying project, absent a finding of extraordinary
2 circumstances by the Secretary of Commerce.

3 "(b) If provided for in the project agreement, the
4 following shall be allowed to any company which meets all the
5 criteria in subsection (a):

6 ~~"(1) A qualifying project shall be deemed to be in~~
7 ~~existence notwithstanding the requirements of Section~~
8 ~~40-18-372 so long as at least five new employees are employed~~
9 ~~at the qualifying project, absent a finding of extraordinary~~
10 ~~circumstances by the Secretary of Commerce. A jobs credit~~
11 ~~against utility taxes, in an annual amount equal to 4 percent~~
12 ~~of the wages paid to eligible employees during the prior year.~~
13 ~~The incentive period shall be 10 years.~~

14 ~~"(2) The jobs credit provided in Section~~
15 ~~40-18-375(a) shall include an additional 2 percent above that~~
16 ~~otherwise allowed. An investment credit as provided in Section~~
17 ~~40-18-376.~~

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

20 "(1) A company which earns at least 75 percent of
21 its revenues from either of the following:

22 "a. Activities within subsector 518; industry group
23 5112, 5121 (other than 51213), 5415, or 5417; or industry
24 51913 of the 2012 North American Industry Classification
25 System, or any similar classification system developed in
26 conjunction with the United States Department of Commerce or
27 Office of Management and Budget.

1 b. The use of technology to develop new coding or
2 processes for the creation or delivery of goods or services in
3 the following fields, or any additional activities determined
4 by the Secretary of Commerce to be beneficial to the
5 enhancement of businesses rooted in either of the following
6 fields:

7 "1. Any of the fields of education, healthcare,
8 energy, agriculture, infrastructure, software, robotics,
9 nutrition, aerospace, automotive, or financial services.

10 "2. Any fields related to science, technology,
11 engineering, or mathematics.

12 "(2) A company which, for a fixed term, educates and
13 mentors early-stage technology companies recruited to a
14 location in Alabama, with the goal of accelerating the
15 companies' development and growth.

16 "§40-18-382.

17 "The incentives authorized by this article shall not
18 be available for qualifying projects for which project
19 agreements have not been executed on or prior to ~~December 31,~~
20 ~~2020~~ July 31, 2023, unless the Legislature, ~~by joint~~
21 ~~resolution or other applicable action of both houses, votes~~
22 enacts legislation to continue or reinstate the incentives for
23 new projects after that date. No action or inaction on the
24 part of the Legislature shall reduce or suspend any incentive
25 awarded pursuant to this article in any past or future
26 calendar year with respect to qualifying projects for which
27 project agreements have been executed on or prior to ~~December~~

1 ~~31, 2020~~ July 31, 2023, it being the sole intention of this
2 section that failure of the Legislature to ~~adopt a joint~~
3 ~~resolution or other applicable action of both houses~~ enact
4 legislation continuing the incentives authorized by this
5 article for periods after ~~December 31, 2020~~ July 31, 2023,
6 shall affect only the availability of the incentives to
7 qualifying projects for which project agreements have not been
8 executed on or prior to ~~December 31, 2020~~ July 31, 2023, and
9 shall not affect qualifying projects for which project
10 agreements have been executed on or prior to ~~December 31, 2020~~
11 July 31, 2023.

12 "§40-18-383.

13 "(a) At no time prior to the calendar year ending
14 December 31, 2020, shall the annualized balance of outstanding
15 jobs act incentives exceed \$300 million, which amount would
16 increase to three hundred twenty-five million dollars
17 (\$325,000,000) for the calendar year ending December 31, 2021
18 and three hundred fifty million dollars (\$350,000,000) for the
19 calendar year ending December 31, 2022, unless the
20 Legislature, ~~by joint resolution or other applicable action of~~
21 ~~both houses, votes~~ enacts legislation to allow additional jobs
22 act incentives. Of the above annualized balance, twenty
23 million dollars (\$20,000,000) shall apply to qualifying
24 projects located in targeted or jumpstart counties as
25 described in Section 40-18-376.1.

1 "(b) Jobs act incentives shall not be available to
2 any project for which substantial construction activities have
3 begun by July 2, 2015.

4 "(c) Jobs act incentives under this article shall
5 not be available for any qualifying project unless at least 80
6 percent of the eligible employees created by the qualifying
7 project are employed full time.

8 "§40-18-400.

9 "For the purposes of this article, the following
10 words and phrases shall have the following meanings:

11 "(1) BASE CARGO VOLUME. The greater of the
12 following:

13 "a. One hundred five percent of the cargo volume of
14 a port facility user in the 12-month period immediately
15 preceding the application.

16 "b. Ten TEUs~~7~~ for cargo measured by TEU, ~~or~~ 75 net
17 tons~~7~~ for cargo measured by net ton, or 400 VEUs for cargo
18 measured by VEU.

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

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

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

4 "(5) INLAND PORTS. Physical sites located away from
5 traditional land, air, and coastal borders with the vision to
6 facilitate and process international and domestic trade
7 through strategic investment in multi-modal transportation
8 assets and by promoting value-added services as goods move
9 through the supply chain.

10 "(6) PORT FACILITY. Any publicly owned facility
11 located within this state's ports of entry, including inland
12 ports, through which cargo is transported by way of a
13 waterborne ship, air cargo aircraft, or railroad, to or from
14 destinations inside or outside this state and which handles
15 cargo owned by third parties in addition to cargo owned by the
16 port facility's owner.

17 "(7) PORT CREDIT. The credit provided for in Section
18 40-18-403.

19 "(8) PORT FACILITY USER. A company engaged in
20 manufacturing, warehousing, or distribution which uses a port
21 facility.

22 "(9) TEU. A "20-foot equivalent unit" volumetric
23 measure based on the size of a container 20 feet long by eight
24 feet wide by eight feet, six inches high.

25 "(10) VEHICLE. Any motorized vehicle as defined in
26 Section 32-1-1.1

1 "(11) VEU. A "Vehicle Equivalent Unit" volumetric
2 measure of one (1) cubic meter.

3 "\$40-18-403.

4 "(a) If approved by the commission, a port credit is
5 allowed, in an amount equal to fifty dollars (\$50) per TEU,
6 three dollars (\$3) per net ton, ~~or~~ four cents (\$0.04) per
7 kilogram for air freight, or two dollars and ninety-one cents
8 (\$2.91) per VEU, multiplied by the following:

9 "(1) The port user's cargo volume in the 12-month
10 period for which the commission has granted approval for the
11 port user to claim the port credit, minus

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

13 "(b) The commission shall decrease the amount of the
14 port credit to ensure that the anticipated revenues for the
15 port facility and state will exceed the amount of the port
16 credit sought. The port credit may be conditioned on whatever
17 requirements the commission shall impose. The port credits
18 shall only be available to the extent that a port facility
19 user ships more than 105 percent of its cargo volume from the
20 12-month period immediately preceding the port facility user's
21 application. Moreover, the port credit shall only be available
22 to the extent a port facility user ships more than 10 TEUs,
23 for cargo measured by TEU, more than 75 net tons, for cargo
24 measured by net ton, ~~or~~ more than fifteen thousand (15,000)
25 kilograms for air cargo measured by kilograms, or more than
26 400 VEUs, for cargo measured by VEU.

1 "(c) The following methods may be used to realize
2 the port credit:

3 "(1) The port credit may offset the tax levied by
4 this chapter, but not below zero. The port credit may also
5 offset the estimated payments of the tax levied by this
6 chapter, but not below zero. In no event shall the port
7 credits be allowed to reduce any estimated payment of the tax
8 levied by this chapter before October 1, 2016. In any one
9 year, if the port credit exceeds the amount of tax liability,
10 the port user may carry forward the unused port credit. No
11 carryforward shall be allowed for more than five years. Rules
12 similar to those used for Section 40-18-15.2 shall be applied.

13 "(2) A company may assign and convey a port credit
14 to another company if substantially all of the assets of the
15 company are assigned and conveyed in the same transaction.
16 Proof of such transfer shall be submitted to the Department of
17 Revenue.

18 "(d) To the extent that the port credit is utilized
19 by the port user or by a transferee company, no deduction for
20 the related expenses shall be allowed.

21 "(e) For any company which enters into an economic
22 development project agreement with the state, the project
23 agreement may provide for an allocation to the company of any
24 port credits which have not been allocated pursuant to this
25 article. Allocations made pursuant to this subsection shall
26 meet all of the following requirements:

1 "(1) Allocations shall be made by the Governor and
2 approved by the commission.

3 "(2) Allocations for a project shall not exceed
4 three million dollars (\$3,000,000).

5 "(3) Allocations shall be granted only to a new
6 warehouse or distribution facility which commits to investing
7 at least twenty million dollars (\$20,000,000) at a single site
8 and to creating 75 net new jobs in Alabama.

9 "(4) Port credits may not be used until the
10 Department of Commerce has received satisfactory proof that
11 the capital investment and job creation requirements have been
12 satisfied.

13 "(5) Any port credit granted by this procedure shall
14 not be granted for more than a 3-year period.

15 "(6) Allocations shall not exceed one hundred
16 dollars (\$100) per TEU, three dollars (\$3) per net ton, ~~or~~
17 four cents (\$0.04) per kilogram for air freight, or two
18 dollars and ninety-one cents (\$2.91) per VEU.

19 "(7) Anticipated revenues for the state shall exceed
20 the port credit granted, and the project agreement shall
21 provide for recapture of all or part of the port credit should
22 the company default on its obligations in the project
23 agreement."

24 Section 2. Sections 3 through 9 shall be known and
25 may be cited as the Growing Alabama Act.

26 Section 3. For the purposes of this act, the
27 following words and phrases shall have the following meanings:

1 (1) CAPITAL IMPROVEMENTS. Construction and
2 rehabilitation expenses of a capital nature at an inland port
3 or intermodal facility, the dredging of waterways in the
4 immediate vicinity of an inland port, and the expansion of
5 onsite storage facilities at an inland port or intermodal
6 facility.

7 (2) ECONOMIC DEVELOPMENT ACTIVITIES. Activities and
8 initiatives which enhance the use of, and flow of goods
9 through, an inland port or intermodal facility.

10 (3) ECONOMIC DEVELOPMENT ORGANIZATION. A local
11 economic development organization or a state economic
12 development organization.

13 (4) GROWING ALABAMA CREDIT. The credit provided for
14 in subsection (a) of Section 6.

15 (5) INDUSTRY OR BUSINESS. An entity which would
16 conduct at a site an activity that is primarily described in
17 Section 40-18-372(1), Code of Alabama 1975.

18 (6) INLAND PORT. Any port on a navigable river away
19 from traditional land, air, and coastal borders.

20 (7) INTERMODAL FACILITY. Any facility which
21 interconnects two or more different modes of air, rail, or
22 road traffic serving multiple customers, and which involves
23 storage facilities.

24 (8) LOCAL ECONOMIC DEVELOPMENT ORGANIZATION.
25 Organizations which are determined by the Department of
26 Commerce to meet both of the following criteria: a. The
27 organization is an Alabama entity not operating for a profit,

1 including, but not limited to, a municipality or county, an
2 industrial board or authority, a chamber of commerce, or some
3 other foundation or Alabama nonprofit corporation charged with
4 improving a community or region of the state. b. The
5 organization has a record of supporting or otherwise
6 participating in economic development activities in some part
7 of Alabama.

8 (9) RENEWAL OF ALABAMA COMMISSION. The Renewal of
9 Alabama Commission created by Section 40-18-402, Code of
10 Alabama 1975.

11 (10) SITE. Real property owned by a local economic
12 development organization and intended for use by an industry
13 or business.

14 (11) STATE ECONOMIC DEVELOPMENT ORGANIZATION.
15 Organizations which are determined by the Department of
16 Commerce to be an Alabama entity not operating for a profit
17 which is charged with improving the state or a region of the
18 state and has a record of supporting or otherwise
19 participating in economic development activities in the state.

20 Section 4. (a) (1) A local economic development
21 organization which owns a site may apply to the Department of
22 Commerce for funding to solve an inadequacy involving the
23 site. The application by the local economic development
24 organization shall include at least one of the following:

25 a. If there is a pending expression of interest
26 about the site from an industry or business, a list of the

1 site preparation or public infrastructure work needed to make
2 the site acceptable to the industry or business.

3 b. If the site has been offered to one or more
4 industries or businesses but the offer did not result in the
5 industry or business locating on the site, a list of the site
6 preparation or public infrastructure work which, if it had
7 been completed, would have made the site acceptable to the
8 industries or businesses.

9 c. If the site is an industrial or research park
10 which needs connections to interstates, highways, roadways,
11 rail systems, or sewer, fiber, electrical, gas, or water
12 infrastructure, a list of the site preparation or
13 infrastructure work needed.

14 d. Capital improvements or economic development
15 activities at an inland port or intermodal facility, as
16 described in Section 3; provided that the application is
17 accompanied by an economic impact report on such improvements
18 or activities.

19 (2) An economic development organization may apply
20 to the Department of Commerce for funding to undertake any of
21 the following issues:

22 a. The creation, operation, or support of an
23 accelerator program for technology companies, as described in
24 Section 40-18-376.3(c) (2), Code of Alabama 1975, provided that
25 the application is accompanied by an economic impact report on
26 such program.

1 b. The construction, maintenance, promotion,
2 operation, management, leasing, and subleasing of an
3 agricultural center which includes a multi-use facility and
4 related commercial and non-commercial structures for
5 livestock, equestrian, small animal shows and events,
6 spectator events, trade shows, educational conferences,
7 agricultural and agricultural-related industries, educational,
8 demonstrational or training purposes, educational and training
9 conferences or events, recreational vehicle rallies,
10 recreational vehicle multi-day parking, hosting of corporate
11 and non-corporate organization meetings, use as fair grounds,
12 operation of retail activities, and other events and
13 facilities expected to draw participants and spectators from
14 states located across the southeastern United States, with a
15 projected total annual economic impact upon completion of all
16 phases of the agricultural center at least thirty-five million
17 dollars (\$35,000,000) and with the related and supporting
18 infrastructure and facilities having a projected capital
19 expenditure upon completion of all phases of the agricultural
20 center of at least one hundred million dollars (\$100,000,000);
21 provided that the application is accompanied by an economic
22 impact report on the agricultural center.

23 (b) For any site preparation or public
24 infrastructure work provided in subdivision (a)(1), the
25 application shall include quotes for the completion of such
26 work, following compliance with the procedures set forth by
27 the Department of Economic and Community Affairs, as if the

1 organization were disbursing state funds received from such
2 department.

3 (c) The application provided in paragraph (a)(1) a.
4 or b. shall include an estimate of the number of jobs, wages,
5 and capital investment which would have been undertaken by the
6 industries or businesses referred to in paragraph (a)(1) a. or
7 b.

8 (d) The application provided in subsection (a) shall
9 include proof that the economic development organization has
10 in full force and effect a conflict of interest policy
11 consistent with that found in the instructions to Form 1023
12 issued by the Internal Revenue Service.

13 (e) The application provided in subsection (a) shall
14 include a notarized affirmation by an officer of the economic
15 development organization that the submission of the
16 application did not violate the conflict of interest policy
17 referred to in subsection (d).

18 Section 5. (a) Following a review, if the Department
19 of Commerce should approve the application provided in
20 subsection (a) of Section 4, it shall forward the application
21 to the Renewal of Alabama Commission.

22 (b) The Renewal of Alabama Commission shall consider
23 the application and shall approve it if it deems it worthy of
24 approval. As to improvements at industrial sites, the
25 commission shall give preference to sites with at least 1,000
26 acres of available space. As to applications for projects
27 located in communities which have the potential to provide

1 additional funding separate from the Growing Alabama Credits,
2 the commission shall take into consideration whether such
3 separate funding is to be provided to the project which is the
4 subject of the application. Meetings of the commission are
5 subject to Chapter 25A of Title 36, Code of Alabama 1975.
6 Notwithstanding the foregoing, the commission may meet by
7 telephone or some other telecommunications device so long as
8 members of the public are allowed the opportunity to listen to
9 or otherwise observe the commission's deliberations.

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

14 (d) Following approval by the commission, the
15 Department of Commerce shall enter into an agreement with the
16 economic development organization which shall do all of the
17 following:

18 (1) Require the economic development organization to
19 use funding received as a result of this law only for the
20 purposes approved by the commission as expressed in the
21 agreement.

22 (2) Require the economic development organization to
23 make periodic reports, not more often than annually, to the
24 Department of Commerce and the commission, as required by the
25 commission, on the disposition of the funds. As to a project
26 described in subdivision (a)(1), of Section 4, the report
27 shall include information on the marketing of the site, and

1 the ultimate use of the site until such time as it makes a
2 final report. As to a project related to inland ports or
3 intermodal facilities as described in paragraph (a)(1) d. of
4 Section 4 or a project related to a technology company or
5 agricultural center as described in subdivision (a)(2) of
6 Section 4, the report shall include an economic impact report.

7 (3) Require the economic development organization to
8 provide a review of its financial accounts as directed by the
9 Renewal of Alabama Commission.

10 (e) For any approved applications, the Department of
11 Commerce shall notify the Department of Revenue of the
12 information specified in subsection (c).

13 (f) The Department of Commerce shall publish on its
14 website a list of all approved applications and a list of the
15 economic development organizations which made the approved
16 applications.

17 Section 6. (a) A taxpayer is allowed a Growing
18 Alabama Credit to be applied against all of the following:

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

21 (2) To offset the state portion of the financial
22 institution excise tax levied in Chapter 16 of Title 40 of the
23 Code of Alabama 1975.

24 (3) To offset the insurance premium tax levied by
25 subsection (a) of Section 27-4A-3, Code of Alabama 1975.

26 (b) In no event shall the Growing Alabama Credit
27 cause a taxpayer's tax liability to be reduced by more than 50

1 percent. Unused credits may be carried forward for no more
2 than five years.

3 (c) Growing Alabama Credits shall be granted to
4 taxpayers using an online system administered by the
5 Department of Revenue. The online system shall allow taxpayers
6 to agree to make a cash contribution to an economic
7 development organization which was approved by the Renewal of
8 Alabama Commission, as provided in Section 5. The online
9 system shall ensure that credits are not granted for
10 contributions to an economic development organization in
11 excess of the amounts approved by the Renewal of Alabama
12 Commission, as provided in Section 5.

13 (d) The cumulative amount of funding approved
14 pursuant to this section shall not exceed twenty million
15 dollars (\$20,000,000) in a calendar year. Of that amount, no
16 more than four million dollars (\$4,000,000) of funding in the
17 aggregate may be approved for accelerator programs as
18 described in Section 40-18-376.3 (c) (2), Code of Alabama 1975.

19 (e) The Renewal of Alabama Commission shall reserve
20 at least 25 percent of the amounts specified in subsection (c)
21 for projects located in targeted or jumpstart counties as
22 defined in Section 40-18-376.1, Code of Alabama 1975. In the
23 event applications are not received and credits are not
24 allocated for projects in these areas by the close of the
25 second quarter of the program year, the funds may revert for
26 allocations of other project applications.

1 (f) To the extent that a Growing Alabama Credit is
2 used by a taxpayer, the taxpayer shall not be allowed any
3 deduction which would have otherwise been allowed for the
4 taxpayer's contribution. Credits may only be claimed by the
5 donating individual or corporate entity and may not be
6 assigned or transferred to any other taxpayer. For purposes of
7 this section, an individual taxpayer includes an individual
8 who is a shareholder of an Alabama S corporation or a partner
9 or member of a Subchapter K entity that made a contribution to
10 an economic development organization which was approved by the
11 Renewal of Alabama Commission.

12 Section 7. (a) Upon receipt of funding provided by
13 the tax credit process in Section 6, the economic development
14 organization shall proceed with the work that was specified in
15 the application required by Section 4.

16 (b) (1) As to a project described in subdivision
17 (a) (1) of Section 4, the economic development organization
18 shall report to the Department of Commerce upon the completion
19 of the site preparation or public infrastructure work, upon
20 the transfer of the site to an industry or business, and at
21 other times as may be required or requested by the Department
22 of Commerce.

23 (2) As to a project described in subdivision (a) (2)
24 of Section 4, the economic development organization shall
25 report to the Department of Commerce upon the completion of
26 the work and at such times as may be required or requested by
27 the Department of Commerce.

1 (c) The Department of Commerce shall make an annual
2 report on the use of funds pursuant to this act to the Chair
3 of the House Ways and Means Education Committee, the Chair of
4 the Senate Finance and Taxation Education Committee, and the
5 members of the Joint Legislative Advisory Committee on
6 Economic Incentives established by Section 40-18-379, Code of
7 Alabama 1975, at the times, and in the manner, requested by
8 the committee.

9 Section 8. (a) All filings and applications made
10 with any department of the state government shall be made
11 using forms promulgated by such department. Any such filing
12 shall be treated as a tax return, subject to penalties imposed
13 by the Department of Revenue.

14 (b) Nothing in this act shall be construed to
15 constitute a guarantee or assumption by the state of any debt
16 of any company nor to authorize the credit of the state to be
17 given, pledged, or loaned to any company.

18 (c) Nothing in this act shall be construed to make
19 available to any taxpayer any right to the benefits conferred
20 by this act absent strict compliance with this act.

21 (d) Nothing in this act shall be construed to limit
22 the powers otherwise existing for the Department of Revenue to
23 audit and assess a taxpayer claiming the Growing Alabama
24 Credit.

25 (e) Nothing in this act shall be construed to change
26 or lessen the requirements for claiming jobs act incentives
27 under the Alabama Jobs Act in Article 16 of Chapter 18 of

1 Title 40 of the Code of Alabama 1975. Companies claiming the
2 jobs act incentives must strictly comply with Article 16 of
3 Chapter 18 of Title 40 of the Code of Alabama 1975.

4 (f) The Department of Commerce and Department of
5 Revenue are authorized to adopt rules as necessary to
6 implement and administer this act.

7 Section 9. The Growing Alabama Credits provided in
8 this act shall not be available for qualifying applicants as
9 described in this act, for which applications are not approved
10 on or prior to July 31, 2023, unless the Legislature enacts
11 legislation to extend the date. This shall only affect the
12 availability of credits for applications not approved on or
13 prior to July 31, 2023, and shall not cause a reduction or
14 suspension of any credits awarded on or prior to July 31,
15 2023.

16 Section 10. Any action taken prior to the effective
17 date of this act by the Governor by proclamation or otherwise
18 or any action taken by any agency or department to extend
19 benefits or credits under the Alabama Jobs Act or the Growing
20 Alabama Act is hereby ratified and confirmed.

21 Section 11. This act shall become effective
22 immediately upon its passage and approval by the Governor, or
23 its otherwise becoming law.