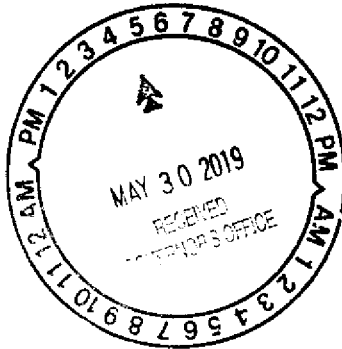


ACT #2019- 392

1 HB540
2 201085-4
3 By Representative Poole
4 RFD: Ways and Means Education
5 First Read: 02-MAY-19



1
2 ENROLLED, An Act,

3 To make legislative findings; to amend Sections
4 27-4A-3, 40-18-376, 40-18-376.1, 40-18-410, 40-18-411,
5 40-18-412, 40-18-413, and 40-18-414, Code of Alabama 1975; to
6 add new Sections 40-18-6.1, 40-18-8.1 and 40-18-376.3, Code of
7 Alabama 1975; to add a new Article 2C to Chapter 10 of Title
8 41, Code of Alabama 1975; to add new tools for the attraction
9 of new and expanding businesses in rural Alabama; to attract
10 high-tech companies to Alabama; to add new tools for the
11 attraction of new and expanding technology companies to
12 Alabama; to make various enhancements to Alabama's incentives
13 laws; to enhance Alabama's participation in the opportunity
14 zone program; to provide for the repeal of conflicting laws;
15 to provide further for the distribution of proceeds from the
16 insurance premium tax; and to provide for an effective date.
17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. This bill shall be known as the "Alabama
19 Incentives Modernization Act."

20 Section 2. The Legislature finds as follows:

21 (a) While Alabama's incentive programs have
22 succeeded in growing industry in the more populated parts of
23 the State, Alabama's rural and low growth communities have not
24 enjoyed the same rates of success.

1 (b) Alabama's incentives grew out of a need to
2 attract heavy industry to the State. Now, Alabama must also
3 prepare for the future by attracting and retaining high-tech
4 companies, and preparing and retaining a workforce trained for
5 such jobs.

6 (c) New tools must be brought to bear to solve
7 Alabama's rural, low growth, and high-tech deficits.

8 (d) It is a public purpose to expand Alabama's
9 incentives laws to attract and retain companies in rural and
10 low growth areas Alabama, and high-tech companies and workers
11 throughout the State. The tools used in this bill are urgently
12 needed to solve these problems.

13 (e) The Legislature finds that the enhancements to
14 the Alabama Jobs Act, as found in this bill, may be made
15 without compromising on the strict requirement that the state
16 shall not offer any such incentives to the extent that the tax
17 incentives sought exceed the anticipated revenues to the
18 state, as required by Section 40-18-373(1)c., Code of Alabama
19 1975.

20 Section 3. Sections 27-4A-3, 40-18-376, 40-18-376.1,
21 40-18-410, 40-18-411, 40-18-412, 40-18-413, and 40-18-414 are
22 amended to read as follows:

23 "§27-4A-3.

24 (a) Subject to the exceptions and exemptions
25 hereinafter set forth, for the year beginning on January 1,

1995, and for each year thereafter, every insurer shall pay to the commissioner a premium tax equal to the percentage, as set out in this subsection (a), of the premiums received by the insurer for business done in this state, whether the same was actually received by the insurer in this state or elsewhere:

(1) PREMIUM TAX ON LIFE INSURANCE PREMIUMS.

a. Except as hereinafter provided, the rates of taxation on life insurance premiums shall be those amounts set out in the following schedule:

| Year | Foreign Insurers |
|-----------------------|------------------|
| 1995 | 2.9 |
| 1996 | 2.8 |
| 1997 | 2.7 |
| 1998 | 2.5 |
| Every Year Thereafter | 2.3 |

b. Individual life insurance policies in a face amount of greater than \$5,000 and up to and including \$25,000, excluding group life insurance policies, shall be taxed at the rate of one percent per annum.

c. Individual life insurance policies in a face amount of \$5,000 or less, excluding group life insurance

1 policies, shall be taxed at the rate of one-half percent per
 2 annum.

3 d. For the purposes of computing the face amount of
 4 life insurance policies, all life insurance policies issued
 5 within 60 days of another on the life of the same applicant or
 6 applicants shall be treated as one policy.

7 (2) PREMIUM TAX ON HEALTH INSURANCE PREMIUMS.

8 a. Except as hereinafter provided, the rates of tax-
 9 ation on premiums for health insurance, and accident and
 10 health insurance for which a separate premium is charged,
 11 shall be those amounts set out in the following schedule:

| Year | Foreign Insurers |
|-----------------------|------------------|
| 1995 | 2.9 |
| 1996 | 2.8 |
| 1997 | 2.4 |
| 1998 | 2.0 |
| Every Year Thereafter | 1.6 |

18 b. Premiums for hospital, medical, surgical, or
 19 other health care benefits provided pursuant to any
 20 employer-sponsored plan for groups with less than 50 insured
 21 participants shall be taxed at the rate of one-half percent
 22 per annum.

1 c. Premiums for hospital, medical, surgical, or
2 other health care benefits supplementary to Medicare and
3 Medicaid, or provided pursuant to an employer-sponsored plan
4 for governmental employees, shall be exempt from the premium
5 tax levied pursuant to this chapter.

6 (3) PREMIUM TAX ON OTHER INSURANCE PREMIUMS.

7 a. Except as hereinafter provided, the rate of
8 taxation on insurance other than life insurance, health
9 insurance, and accident health insurance shall be 3.6 percent
10 per annum.

11 b. Premiums for all of the following types of
12 insurance shall be taxed at the rate of one percent per annum:

13 1. All property and multi-peril insurance written in
14 fire protection Classes 9 and 10.

15 2. Mobile homes, mobile homeowners, homeowners and
16 low value dwelling policies in a face amount of \$40,000 or
17 less.

18 c. Premiums for medical liability insurance shall be
19 taxed at the rate of 1.6 percent per annum.

20 d. The tax imposed at the rate specified in
21 paragraph a. of this subdivision (3) shall be reduced by the
22 following credits for certain economic development activities
23 pursued in the State of Alabama.

24 1. Alabama Insurance Offices Facilities Credit. For
25 each office owned or leased by an insurer in the State of Ala-

bama and used for insurance operations, an insurer shall be entitled to a credit against the tax imposed by paragraph a. of this subdivision (3) according to the following schedule:

| Number of Full-Time Employees in Office | Credit as a % o |
|--|-----------------|
| 1-3 | |
| 4-10 | |
| 11-50 | |
| 51 or more | |

The total credit allowable for Alabama insurance office facilities shall not exceed one percent of an insurer's Alabama premiums taxable at the rate specified in paragraph a. of this subdivision (3).

2. Alabama Real Property Investment Credit. For each \$1,000,000 in value of real property investments in the State of Alabama, an insurer shall be entitled to a credit of 0.10 percent of its Alabama premiums taxable at the rate specified in paragraph a. of this subdivision (3). The total credit allowable for Alabama real property investments shall not exceed 1 percent of an insurer's Alabama premiums taxable at the rate specified in paragraph a. of this subdivision (3).

1 (i) Alabama real property investments which qualify
2 for the Alabama real property investment credit include any
3 improved Alabama real property owned by the insurer or an
4 affiliate of the insurer on January 1, 1993, and any improved
5 or unimproved Alabama real property acquired or new
6 construction placed in service on or after January 1, 1993, by
7 the insurer or an affiliate of the insurer.

8 (ii) For purposes of determining the Alabama real
9 property investment credit, Alabama real property investments
10 shall be valued at cost and not at book value or fair market
11 value. The cost of capital improvements to existing Alabama
12 real property investments, such as the renovation of shopping
13 centers, hotels, or other buildings, completed and placed in
14 service by the insurer or an affiliate of the insurer on or
15 after January 1, 1993, shall be considered an Alabama real
16 estate investment.

17 (iii) For purposes of determining the value of
18 Alabama real property investments, funds borrowed to finance
19 Alabama real property investments shall be subtracted from
20 cost so that only the net cost in the investment properties
21 borne from assets belonging to the insurer or an affiliate of
22 the insurer qualifies for the Alabama real property investment
23 credit. The cost of debt-financed Alabama real property
24 investments of an insurer shall be increased pro tanto as the

1 underlying debt is paid off by the insurer or an affiliate of
2 the insurer.

3 (iv) The Alabama real property investment credit
4 shall not be allowed for properties in the State of Alabama
5 used in an insurer's insurance operations and for which the
6 Alabama insurance office facilities credit is allowed or
7 allowable, without regard to the 1 percent limitation on the
8 credit. However, the cost of real property owned in the State
9 of Alabama and used in part as an Alabama real property
10 investment and in part for the insurer's insurance operations
11 shall be allocated on a square-foot basis so that the cost
12 allocated to that portion of the property not used for
13 insurance operations shall qualify for the Alabama real
14 property investment credit.

15 (v) Mortgages held by an insurer that are secured by
16 real property located in the State of Alabama shall not be
17 considered Alabama real property investments for purposes of
18 the Alabama real property investment credit.

19 3. Special Rules. The following special rules apply
20 to the Alabama insurance office facilities credit and the
21 Alabama real property investment credit.

22 (i) For purposes of determining the economic
23 development credits allowed under this section, the term
24 "affiliate" shall mean any business entity, other than a life
25 or health insurance company, which is wholly owned by the

1 insurer subject to tax under paragraph a. of this subdivision
2 (3) or any other insurer and its wholly owned subsidiaries,
3 other than a life or health insurance company, which is part
4 of a group of companies, including the insurer, which are
5 under common control and management. For an insurer having
6 affiliates, all premiums of the insurer and its insurance
7 company affiliates subject to tax at the rate specified in
8 paragraph a. of this subdivision (3) may be aggregated; all
9 Alabama insurance office facilities and all Alabama real
10 property investments may be aggregated; and, subject to the
11 specific credit limitations, the total allowable tax credits
12 may be determined as if all the aggregated premiums, office
13 facilities, and Alabama real property investments were owned
14 by one insurer. Once the total allowable credits have been
15 determined, the credits may be allocated to the insurer and
16 its insurance company affiliates at the sole discretion of the
17 insurer subject to the specific credit limitations on a per
18 insurance company basis. The computation of allowable credits
19 and their allocation to affiliates shall be made on forms to
20 be supplied by the Alabama Department of Insurance, which
21 forms shall be filed with the insurer's annual statement.

22 (b) Notwithstanding any provision of law to the
23 contrary, including, but not limited to, Section 27-4-4 and
24 Section 27-4-5, all premium tax payments made subsequent to
25 passage of this chapter shall be remitted in accordance with

1 this subsection (b). Beginning January 1, 1993, and all years
2 thereafter, each insurer shall pay its premium taxes on a
3 quarterly basis, as follows: on or before May 15, a payment
4 estimated on the basis of 25 percent of its business done in
5 this state during the preceding calendar year or, at the
6 option of the insurer, on the basis of its actual business
7 done in the state from January 1 through March 31 of the same
8 calendar year; on or before August 15, a payment estimated on
9 the basis of 45 percent of its business done in this state
10 during the preceding calendar year or, at the option of the
11 insurer, on the basis of 180 percent of its actual business
12 done in this state from April 1 through June 30 of the same
13 calendar year; on or before November 15, a payment estimated
14 on the basis of 25 percent of its business done in this state
15 during the preceding calendar year or, at the option of the
16 insurer, on the basis of its actual business done in this
17 state from July 1 through September 30 of the same calendar
18 year; on or before March 1, a payment in the amount of the
19 remainder of the actual premium taxes due on its business done
20 in the state during the preceding calendar year. Every
21 authorized insurer shall file with the commissioner a
22 statement, on a form as furnished or approved by the
23 commissioner, setting forth the total amount of premiums
24 received by it for business done in this state during the
25 period covered by the tax payment. The statement shall be

1 verified by an affidavit of an officer of the insurer having
2 knowledge of the facts. It is the intent and meaning of this
3 subsection (b) that any taxes paid on an estimated quarterly
4 basis during the calendar year shall be reconciled to actual
5 premiums received on risks in this state for such calendar
6 year on the March 1 payment date in the succeeding calendar
7 year.

8 (c) The tax imposed by this section shall be subject
9 to credit and deduction of the full amount, with 25 percent of
10 the full amount paid, or estimated to be paid, being credited
11 or deducted on each quarterly payment date, for all of the
12 following:

13 (1) Ad valorem property taxes paid by an insurer on
14 any building and real estate in this state which is owned and
15 occupied, in whole or in part, by the insurer for the full
16 period of the tax year as its principal office in the State of
17 Alabama.

18 (2) All ad valorem taxes paid by an insurer during
19 the calendar year on any other real estate and improvements
20 thereon in this state which is owned and at least 50 percent
21 occupied by the insurer for the full period of the tax year.

22 (3) Ad valorem property taxes paid by an insurer on
23 the insurer's offices in this state during the calendar year,
24 but with respect to the office apportioned to the square foot
25 area occupied by the insured, whether the ad valorem taxes are

1 paid directly by the insurer or in the form of rent to a
2 third-party landlord.

3 (4) All license fees and taxes paid to any county in
4 this state during the calendar year for the privilege of
5 engaging in the business of insurance within the county.

6 (5) All expenses of examination of the insurer by
7 the commissioner paid during the calendar year.

8 (6) Sixty percent of the franchise or privilege
9 taxes paid by the insurer to the State of Alabama for the
10 calendar year.

11 (7) All credits for assessments as provided under
12 Sections 27-42-16 and 27-44-13, or assessments for any
13 insurance guaranty fund or pool now or hereafter created by
14 statute paid during the calendar year.

15 (8) It is the intent of this subsection (c) that any
16 estimated allowable credits or deductions claimed on quarterly
17 returns be reconciled to actual expenditures made during the
18 calendar year on the return due for March 1 in the succeeding
19 calendar year.

20 (d) The premium taxes collected under this section
21 shall be deposited in the State Treasury and credited as
22 follows:

23 (1) To the credit of the State General Fund:

24 a. One hundred percent of the premium tax paid by
25 all health maintenance organizations, domestic and foreign.

1 b. Fifty percent of the premium tax paid by domestic
 2 life insurers.

3 c. No part of the premium tax paid by nonprofit
 4 corporations organized pursuant to the provisions of Sections
 5 10-4-100 to 10-4-115, inclusive.

6 d. Twenty-five percent of the premium tax paid by
 7 all other domestic insurers.

8 e. One hundred percent of the premium tax paid by
 9 foreign life insurers.

10 f. Sixty-two and one-half percent of the premium tax
 11 paid by all foreign property insurers.

12 g. Seventy-five percent of the premium tax paid by
 13 all other foreign insurers.

14 (2) To the credit of the Education Trust Fund:

15 a. Fifty percent of the premium tax paid by domestic
 16 life insurers.

17 b. No part of the premium tax paid by nonprofit
 18 corporations organized pursuant to the provisions of Sections
 19 10-4-100 to 10-4-115, inclusive.

20 c. Seventy-five percent of the premium tax paid by
 21 all other domestic insurers.

22 d. Thirty-seven and one-half percent of the premium
 23 tax paid by foreign property insurers.

24 e. Twenty-five percent of the premium tax paid by
 25 all other foreign insurers.

1 (3) To the credit of the Alabama Special Mental
2 Health Trust Fund 100 percent of the premium taxes paid by
3 nonprofit corporations organized pursuant to Sections 10-4-100
4 to 10-4-115, inclusive.

5 (4) Any provision of this subsection (d) to the
6 contrary notwithstanding, the amount credited to the Education
7 Trust Fund and the Alabama Special Mental Health Trust Fund
8 for any fiscal year after the fiscal year ending September 30,
9 1992, under this subsection (d) shall be limited to no more
10 than the amount so credited in the fiscal year ending
11 September 30, 1992. Any premium tax that would have been
12 credited to the Education Trust Fund or the Alabama Special
13 Mental Health Trust Fund but for this limitation, shall be
14 credited to the State General Fund.

15 (5) Effective for the fiscal year beginning on
16 October 1, 2020 and for each fiscal year thereafter, the
17 amount credited to the Education Trust Fund under subdivision
18 (4) shall be deposited into the State General Fund.

19 (e) For the purposes of this section, the term
20 "insurer" shall not include counties, municipalities,
21 municipal corporations, political subdivisions of the state,
22 instrumentalities of counties, municipalities, municipal
23 corporations, or the State of Alabama, or corporations or
24 associations owned solely by counties, municipalities or the
25 State of Alabama.

1 "§40-18-376.

2 "(a) If provided for in the project agreement, the
3 incentivized company is allowed an investment credit in an
4 annual amount equal to 1.5 percent of the capital investment
5 incurred as of the beginning of the incentive period, to be
6 used as follows:

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

9 "(2) To offset the financial institution excise tax
10 found in Chapter 16;

11 "(3) To offset the insurance premium tax levied by
12 Section 27-4A-3(a), or as an estimated payment of insurance
13 premium tax;

14 "(4) To offset utility taxes; or

15 "(5) To offset some combination of the foregoing, so
16 long as the same credit is used only once.

17 "The incentive period shall begin no earlier than
18 the placed-in-service date. The incentive period shall be 10
19 years. Should only some portion of a tax year be included in
20 the incentive period, the amount of the investment credit
21 shall be prorated on a daily basis.

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

1 "(1)a. The investment credit may be claimed as a
2 credit against the taxes in subsection (a) that are actually
3 paid. In any one year, if the credit exceeds the amount of
4 taxes that are allowed to be offset by the project agreement
5 and that are owed by the incentivized company, the
6 incentivized company may carry the credit forward, to the
7 extent allowed in the project agreement. No carryforward shall
8 be allowed for more than five years. Rules similar to those
9 used for Section 40-18-15.2 shall be applied.

10 "b. Prior to claiming the investment credit as
11 provided in this subdivision, the incentivized company shall
12 submit to the Department of Commerce a certification as to its
13 capital investment as of the dates specified in the project
14 agreement. Following such examination as it deems necessary,
15 the Department of Commerce may certify the information and
16 deliver the same to the Department of Revenue. Thereafter, the
17 Department of Revenue shall allow the investment credit.

18 "(2) The project agreement may authorize an
19 incentivized company that is taxed as a flow-through entity to
20 allocate the credit among some or all of the owners in any
21 manner specified, regardless of whether the allocation follows
22 rules similar to 26 U.S.C. § 704(b) and the regulations
23 thereunder. The owners may then use their allocated share of
24 the investment credit to offset any of the taxes listed in
25 subsection (a), as provided in subdivision (1). This

1 subdivision (2) shall be liberally construed to apply to
2 multiple levels of companies, to allow the investment credits
3 to be used by those persons bearing the tax burdens of the
4 qualifying project, and such companies shall include but shall
5 in no way be limited to flow-through entities, employee stock
6 ownership plans, mutual funds, real estate investment trusts,
7 and it shall also apply to offset the income tax liability of
8 employee/owners of a flow-through entity owned by an employee
9 stock ownership plan trust.

10 "(3) All or part of the first three years of the
11 investment credit may be transferred by the incentivized
12 company and applied by another person or company as follows:

13 "a. A transfer of the credit shall be made by
14 written, notarized contract.

15 "b. No such transfer shall occur before the contract
16 is approved by the Secretary of Commerce. In determining
17 whether to approve any transfer, the Secretary shall make all
18 of the following findings:

19 "(i) That any year's investment credit will not be
20 purchased by more than three transferees, unless such
21 limitation is found by the Secretary of Commerce unnecessarily
22 to limit the class of potential transferees;

23 "(ii) That the proposed transfer will enhance the
24 economic benefits of the qualifying project; and

1 "(iii) That the transfer is at a value of at least
2 85 percent of the present value of the credits, ~~and~~

3 ~~"(iv) That the incentivized company and the~~
4 ~~transferee are both subject to the tax listed in subsection~~
5 ~~(a) (1), are both subject to the tax listed in subsection~~
6 ~~(a) (2), or are both subject to the tax listed in subsection~~
7 ~~(a) (3).~~

8 "Upon making affirmative findings on the criteria
9 set forth above, the Secretary of Commerce shall recommend to
10 the Governor that the transfer should be approved. Information
11 about the proposed transfer shall be forwarded to the
12 Governor, and the Governor may include provisions about the
13 transfer in the project agreement, or in an amendment thereto
14 executed by the Governor and the incentivized company.

15 "c. If a transfer is approved, the incentivized
16 company shall submit to the Department of Commerce the
17 following:

18 "(i) Certifications as to its capital investment as
19 of the dates specified in the project agreement. Following
20 such examination as it deems necessary, the Department of
21 Commerce may certify the information and deliver the same to
22 the Department of Revenue.

23 "(ii) Certified information about the transfers,
24 including identifying information about the transferees and
25 the amount of credit each transferee should claim. Following

1 such examination as it deems necessary, the Department of
2 Commerce may certify the information and deliver the same to
3 the Department of Revenue.

4 "d. Upon receipt of the certifications from the
5 Department of Commerce as required by subsection (b)(3)c., the
6 Department of Revenue shall thereafter allow the appropriate
7 amount of the investment credit to offset the tax liability of
8 the transferee for any of the taxes listed in subsection (a).
9 A transferee may not make a subsequent transfer of the credit.

10 "e. If a credit is transferred, an incentivized
11 company that is later determined by the Secretary of Commerce
12 to have defaulted under the project agreement shall be liable
13 for the underpayment of tax attributable to the credit and for
14 penalties and interest thereon. Unless the purchase of the
15 credits is determined to have been made in a fraudulent
16 manner, or is a transfer in anticipation of bankruptcy,
17 insolvency or closure, a transferee shall not be liable for
18 the unpaid tax attributable to the credit, or for penalties or
19 interest thereon.

20 "(c) The realization methods in subsection (b) shall
21 not create debts of the state within the meaning of Section
22 213 of the Official Recompilation of the Constitution of
23 Alabama of 1901, as amended.

24 "(d)(1) To the extent the investment credit is used
25 to offset a financial institution excise tax liability, in

1 making the report required by Section 40-16-6(d), the
2 financial institution receiving the investment credit shall
3 not take into account the qualifying project, and the
4 Department of Finance shall promulgate regulations to ensure
5 that the credit in no case would reduce the distribution for
6 municipalities and counties.

7 "(2) To the extent the investment credit is used to
8 offset an insurance premium tax liability, the Department of
9 Finance shall promulgate regulations to ensure that the credit
10 would reduce the distribution for the Education Trust Fund,
11 but in no case would the investment credit reduce the
12 distributions for the State General Fund or the Alabama
13 Special Mental Health Trust Fund.

14 "(3) To the extent the investment credit is used to
15 offset liability for the tax imposed by Section 40-21-82, the
16 Department of Finance shall promulgate regulations to ensure
17 that the credit in no case would reduce the distribution for
18 the Alabama Special Mental Health Trust Fund.

19 "\$40-18-376.1.

20 ~~"(a) The provisions in this section shall apply to~~
21 ~~any targeted county, a term defined in this article to mean~~
22 ~~any Alabama county that has a population of 250,000 or less,~~
23 ~~as determined by the Commissioner of Labor as of each January~~
24 ~~1 using the most current data available from the United States~~
25 ~~Departments of Labor or Commerce, the United States Bureau of~~

1 ~~the Census, or any other federal or state agency or~~
2 ~~department.~~

3 "(a) The provisions in this section shall apply to
4 any targeted or jumpstart county. A targeted county is a term
5 defined in this article to mean any Alabama county that has a
6 population of 25,000 50,000 or less, as determined by the
7 Commissioner of Labor as of each January 1 using the most
8 current data available from the United States Departments of
9 Labor or Commerce, the United States Bureau of the Census, or
10 any other federal or state agency or department. A jumpstart
11 county is a term defined in this article to mean any Alabama
12 county: 1) that does not qualify as a targeted county; 2) that
13 has experienced negative population growth over the last five
14 years as determined by the Commissioner of Labor as of each
15 January 1 using the most current data available from the
16 United States Departments of Labor or Commerce, the United
17 States Bureau of the Census, or any other federal or state
18 agency or department; and 3) contains no more than one
19 Opportunity Zone two Opportunity Zones as they existed on
20 June 1, 2019."

21 "(b) In making the findings required by Section
22 40-18-373(a), a company that proposes a qualifying project in
23 a targeted or jumpstart county shall be an approved company
24 for purposes of this section only if the Secretary of Commerce
25 makes the additional finding that the qualifying project will

1 increase the economic diversity of, or otherwise benefit, the
2 targeted or jumpstart county.

3 "(c) For purposes of determining in Section
4 40-18-372(2)b. whether a qualifying project may receive the
5 jobs act incentives, a project to be located in a targeted or
6 jumpstart county shall employ at least ~~25~~ ten new employees
7 and shall involve, directly or indirectly, at least \$2 million
8 of capital, absent a finding of extraordinary circumstances by
9 the Secretary of Commerce.

10 "(d) If the qualifying project is located in a
11 county which is deemed to be a targeted or jumpstart county on
12 the date the project agreement is executed, the following
13 shall be applicable:

14 "(1) The jobs credit provided in Section
15 40-18-375(a) shall be 4.0 percent of the wages paid to
16 eligible employees during the prior year; and

17 "(2) The investment credit provided in Section
18 40-18-376(a) shall have an incentive period of 15 years, ~~but~~
19 ~~only if the qualifying project is expected to sell the~~
20 ~~majority of its output or services to a business located in~~
21 ~~Alabama that is described in Section 40-18-372(a), so that the~~
22 ~~transit distance for the output or services shall be less than~~
23 ~~50 miles.~~

24 "(e) Each year, the incentives in subsection (d) may
25 be extended to no more than two qualifying projects not in

1 targeted or jumpstart counties. Such incentives shall be
2 granted in project agreements executed by the Governor on the
3 recommendation of the Secretary of Commerce.

4 "§40-18-410.

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

7 "(1) ECONOMIC DEVELOPMENT ORGANIZATION. A local
8 economic development organization or a state economic
9 development organization.

10 "~~(1)~~ (2) GROWING ALABAMA CREDIT. The credit provided
11 for in Section 40-18-413(a).

12 "~~(2)~~ (3) INDUSTRY OR BUSINESS. An entity which would
13 conduct at a site an activity that is primarily described in
14 Section 40-18-372(1).

15 "~~(3)~~ (4) LOCAL ECONOMIC DEVELOPMENT ORGANIZATION.
16 Organizations which are determined by the Department of
17 Commerce to meet both of the following criteria:

18 "a. The organization is an Alabama entity not
19 operating for a profit, including, but not limited to, a
20 municipality or county, an industrial board or authority, a
21 chamber of commerce, or some other foundation or Alabama
22 nonprofit corporation charged with improving a community or
23 region of the state.

"b. The organization has a record of supporting or otherwise participating in economic development activities in some part of Alabama.

"~~(4)~~ (5) RENEWAL OF ALABAMA COMMISSION. The Renewal of Alabama Commission created by Section 40-18-402.

"~~(5)~~ (6) SITE. Real property owned by a local economic development organization and intended for use by an industry or business.

"(7) STATE ECONOMIC DEVELOPMENT ORGANIZATION.
Organizations which are determined by the Department of Commerce to be an Alabama entity not operating for a profit which is charged with improving the state or a region of the state.

"§40-18-411.

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

"~~(1)~~ a. If there is a pending expression of interest about the site from an industry or business, a list of the site preparation or public infrastructure work needed to make the site acceptable to the industry or business.

"~~(2)~~ b. If the site has been offered to one or more industries or businesses but the offer did not result in the

1 industry or business locating on the site, a list of the site
2 preparation or public infrastructure work which, if it had
3 been completed, would have made the site acceptable to the
4 industries or businesses. ~~or~~

5 "c. If the site is an industrial or research park
6 which needs connections to interstates, highways, roadways,
7 rail systems, or sewer, fiber, electrical, gas, or water
8 infrastructure, a list of the site preparation or
9 infrastructure work needed.

10 "d. Capital improvements or economic development
11 activities at an inland port or intermodal facility, as such
12 terms are defined herein; provided that the application is
13 accompanied by an economic impact report on such improvements
14 or activities.

15 1. The term "capital improvements" shall mean
16 construction and rehabilitation expenses of a capital nature
17 at an inland port or intermodal facility, the dredging of
18 waterways in the immediate vicinity of an inland port, and the
19 expansion of onsite storage facilities at an inland port or
20 intermodal facility.

21 2. The term "economic development activities" shall
22 mean activities and initiatives which enhance the use of, and
23 flow of goods through, an inland port or intermodal facility.

1 3. The term "inland port" means any port on a
2 navigable river away from traditional land, air, and coastal
3 borders.

4 4. The term "intermodal facility" means any facility
5 which interconnects two or more different modes of air, rail,
6 or road traffic serving multiple customers, and which involves
7 storage facilities."

8 "(2) An economic development organization may apply
9 to the Department of Commerce for funding to undertake any of
10 the following issues:

11 "a. A marketing program to encourage persons trained
12 in fields related to science, technology, engineering, or
13 mathematics to remain in Alabama; provided that the
14 application is accompanied by an economic impact report on
15 such program;

16 "b. The creation, operation, or support of an
17 accelerator program for technology companies, as described in
18 Section 40-18-376.3(c)(2); provided that the application is
19 accompanied by an economic impact report on such program; or

20 "c. The construction, maintenance, promotion,
21 operation, management, leasing, and subleasing of an
22 Agricultural Center which includes a multi-use facility and
23 related commercial and non-commercial structures for
24 livestock, equestrian, small animal shows and events,
25 spectator events, trade shows, educational conferences,

1 agricultural and agricultural-related industries, educational,
2 demonstrational or training purposes, educational and training
3 conferences or events, recreational vehicle rallies,
4 recreational vehicle multi-day parking, hosting of corporate
5 and non-corporate organization meetings, use as fair grounds,
6 operation of retail activities, and other events and
7 facilities expected to draw participants and spectators from
8 states located across the southeastern United States, with a
9 projected total annual economic impact upon completion of all
10 phases of the Agricultural Center at least \$35,000,000 and
11 with the related and supporting infrastructure and facilities
12 having a projected capital expenditure upon completion of all
13 phases of the Agricultural Center of at least \$100,000,000;
14 provided that the application is accompanied by an economic
15 impact report on the Agricultural Center.

16 "(b) For any site preparation or public
17 infrastructure work ~~listed in an application to the Department~~
18 ~~of Commerce, provided in subsection (a)(1),~~ the application
19 shall include quotes for the completion of such work,
20 following compliance with the procedures set forth by the
21 Department of Economic and Community Affairs, as if the
22 organization were disbursing state funds received from such
23 department.

24 "(c) The application provided in subsection (a)(1)
25 a. or b. shall include an estimate of the number of jobs,

1 wages, and capital investment which would have been undertaken
2 by the industries or businesses referred to in subsection
3 (a) (1) a. or b.

4 "(d) The application provided in subsection (a)
5 shall include proof that the ~~local~~ economic development
6 organization has in full force and effect a conflict of
7 interest policy consistent with that found in the instructions
8 to Form 1023 issued by the Internal Revenue Service.

9 "(e) The application provided in subsection (a)
10 shall include a notarized affirmation by an officer of the
11 ~~local~~ economic development organization that the submission of
12 the application did not violate the conflict of interest
13 policy referred to in subsection (d).

14 "§40-18-412.

15 "(a) Following a review, if the Department of
16 Commerce should approve the application, provided in Section
17 40-18-411(a), it shall forward the application to the Renewal
18 of Alabama Commission.

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

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

9 "(c) The approval of an application by the
10 commission shall specify the amount of money which the ~~local~~
11 economic development organization is allowed to receive so
12 that it can complete the ~~site preparation or public~~
13 ~~infrastructure~~ 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 ~~local~~ economic development organization which shall do all of
17 the following:

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

22 "(2) Require the ~~local~~ economic development
23 organization to make periodic reports, not more often than
24 annually, to the Department of Commerce and the commission, as
25 required by the commission, on the disposition of the funds.

1 As to a project described in Section 40-18-411(a)(1), the
2 report shall include information on the marketing of the
3 site, and the ultimate use of the site until such time as it
4 makes a final report. As to a project described in Section
5 40-18-411(a)(1) d. or 40-18-411(a)(2), the report shall
6 include an economic impact report.

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

10 "(e) For any approved applications, the Department
11 of 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
15 the economic development organizations which made the approved
16 applications.

17 "§40-18-413.

18 "(a) A taxpayer is allowed a Growing Alabama Credit
19 to be applied against the tax levied by this chapter. In no
20 event shall the Growing Alabama Credit cause a taxpayer's
21 income tax liability to be reduced by more than 50 percent.
22 Unused credits may be carried forward for no more than five
23 years.

24 "(b) Growing Alabama Credits shall be granted to
25 taxpayers using an online system administered by the

1 Department of Revenue. The online system shall allow taxpayers
2 to agree to make a cash contribution to ~~a local~~ an economic
3 development organization which was approved by the Renewal of
4 Alabama Commission, as provided in Section 40-18-412. The
5 online system shall ensure that credits are not granted for
6 contributions to ~~a local~~ an economic development organization
7 in excess of the amounts approved by the Renewal of Alabama
8 Commission, as provided in Section 40-18-412.

9 "(c) In no event shall Growing Alabama Credits be
10 allowed in excess of five million dollars (\$5,000,000) for
11 fiscal year 2016. In no event shall Growing Alabama Credits be
12 allowed in excess of ten million dollars (\$10,000,000) per
13 year for fiscal years 2017, 2018, 2019, and 2020.

14 "(d) The Renewal of Alabama Commission shall reserve
15 at least 25 percent of the amounts specified in subsection (c)
16 ~~for projects in targeted or jumpstart counties described in~~
17 ~~Section 40-18-376.1:~~ for projects located in a county in which
18 the population is 25,000 or less according to the 2010
19 decennial census. In the event applications are not received
20 and credits are not allocated for projects in these areas by
21 the close of the second quarter of the program year, the funds
22 may revert for allocations of other project applications.

23 "(e) To the extent that a Growing Alabama Credit is
24 used by a taxpayer, the taxpayer shall not be allowed any
25 deduction which would have otherwise been allowed for the

1 taxpayer's contribution. Credits may only be claimed by the
2 donating individual or corporate entity and may not be
3 assigned or transferred to any other taxpayer. A taxpayer may
4 not claim a credit for a donation made by any other entity,
5 including an entity taxed under subchapter S or subchapter K
6 of which the taxpayer is an owner, shareholder, partner, or
7 member.

8 "§40-18-414.

9 "(a) Upon receipt of funding provided by the tax
10 credit process in Section 40-18-413, the ~~local~~ economic
11 development organization shall proceed with the ~~site~~
12 ~~preparation or public infrastructure~~ work that was specified
13 in the application required by Section 40-18-411.

14 "(b) (1) As to a project described in Section
15 40-18-411(a) (1), the economic development organization shall
16 report to the Department of Commerce upon the completion of
17 the site preparation or public infrastructure work, upon the
18 transfer of the site to an industry or business, and at other
19 times as may be required or requested by the Department of
20 Commerce.

21 "(2) As to a project described in Section
22 40-18-411(a) (2), the ~~The local~~ economic development
23 organization shall report to the Department of Commerce upon
24 the completion of the ~~site preparation or public~~
25 ~~infrastructure work, upon the transfer of the site to an~~

1 ~~industry or business, and at other~~ work and at such times as
2 may be required or requested by the Department of Commerce.

3 "(c) The Department of Commerce shall make an annual
4 report on the use of funds pursuant to this article to the
5 Chair of the House Ways and Means Education Committee, the
6 Chair of the Senate Finance and Taxation Education Committee,
7 and the members of the Joint Legislative Advisory Committee on
8 Economic Incentives established by Section 40-18-379, at the
9 times, and in the manner, requested by the committee.
10 Beginning with the report for fiscal year 2019, the report
11 shall include a study of the economic impacts from the
12 expenditures made in prior years."

13 Section 4. New Sections 40-18-6.1 and 40-18-8.1 are
14 added to Article 1 of Chapter 18 of Title 40 to read as
15 follows:

16 Section 40-18-6.1.

17 (a) The provisions in 26 U.S.C. § 1400Z-2 shall be
18 ~~applicable to an investment in an opportunity fund with at~~
19 ~~least 75 percent of its qualified opportunity zone property,~~
20 ~~by dollar value, located in Alabama. The Department of Revenue~~
21 ~~Alabama Department of Economic and Community Affairs shall~~
22 ~~promulgate rules for determining whether a qualified~~
23 ~~opportunity zone business is located in an Alabama opportunity~~
24 ~~zone. This subsection (a) shall be applicable in calculating~~

1 applicable to an investment in an approved opportunity fund in
2 calculating each of the following:

3 (1) The income tax levied by this chapter, or the
4 estimated income tax payment; and

5 (2) The financial institution excise tax found in
6 Chapter 16.

7 (b) Any approved opportunity fund may enter into a
8 project agreement with ADECA to provide to such fund's
9 investors impact investment tax credits against any tax
10 liability described in paragraphs (1) and (2) of subsection
11 (a). Such impact investment tax credits shall be allocated
12 annually, but only to the extent that one or more projects
13 undertaken by the fund are not producing the returns provided
14 in the project agreement. Provided however, the calculation of
15 the impact investment tax credit cannot guarantee a rate of
16 return that is more than the 52-week average yield rate for
17 the United States 10-year Treasury Note from the prior
18 calendar year. The project agreement may authorize the fund to
19 allocate the credits among some or all of the owners in any
20 manner specified, regardless of whether the allocation follows
21 rules similar to 26 U.S.C. § 704(b) and the regulations
22 thereunder. Unused credits may carry forward for ~~ten~~ five
23 years.

24 (c) The project agreement shall require an approved
25 opportunity fund to obtain investment from a qualified fund

1 and require that such qualified fund receive a fixed portion
2 of any distributions in excess of the amounts stated in the
3 project agreement.

4 (d) (1) In no event shall the credits allowed under
5 this section exceed \$50 million cumulatively. In no event
6 shall the credits be allocated during the first four years of
7 the existence of the fund, but credits may be allocated in the
8 fifth year to account for inadequate aggregate returns during
9 the first four years. Credits may not be allocated to projects
10 in which an approved opportunity fund has committed to invest
11 prior to the effective date of this act.

12 (2) The project agreement shall provide that ADECA
13 shall receive regular financial performance information about
14 the fund, and the information shall, at a minimum, include all
15 information provided to other investors in the fund. Prior to
16 claiming the credits provided in paragraph (1), a fund shall
17 submit to ADECA a certification as to the financial
18 performance of the fund or assets which are the subject of the
19 project agreement. ADECA may choose to request other
20 information, and the fund shall comply with such requests.
21 Following such examination as it deems necessary, ADECA may
22 certify the information and deliver the same to the Department
23 of Revenue. Thereafter, the Department of Revenue shall allow
24 the credits in the amount determined by ADECA.

1 (e) ADECA may charge reasonable fees for its
2 negotiation and entry into project agreements provided herein,
3 and it may charge fees for its financial and oversight audits
4 of such funds. ADECA may retain consultants to assist it with
5 the powers and responsibilities delegated to it herein.

6 (f) For purposes of this Section 40-18-6.1:

7 (1) "ADECA" shall mean the Department of Economic
8 and Community Affairs.

9 (2) An "approved opportunity fund" is a fund which
10 meets all the criteria in Section 41-10-47.01(b)(2).

11 (3) A "qualified fund" is a fund which meets all the
12 criteria in Section 41-10-47.01(b)(3).

13 (g) ADECA shall not enter into any project
14 agreements under this section after December 31, 2024.

15 (h) ADECA shall report to the Legislature in the
16 third year following passage of this act, and annually
17 thereafter, on the overall economic activity, usage, and
18 impact to the state from opportunity fund investments for
19 which impact investment tax credits have been allowed. The
20 information in the reports shall be consistent with the
21 information required by the Legislature pursuant to, and shall
22 be provided by ADECA to the Legislature in accordance with,
23 Section 40-1-50, and rules adopted thereunder. Information
24 provided pursuant to this section is exempt from the
25 confidentiality provisions of Section 40-2A-10.

1 Section 40-18-8.1.

2 (a) A qualified employee's gain shall not be
3 recognized upon the disposition of his or her ownership
4 interest in a qualified entity, and a qualified investment
5 fund's gain shall not be recognized upon the disposition of
6 the fund's ownership interest in a qualified entity.

7 (b) Subsection (a) shall be applied as to each of
8 the following taxes:

9 (1) The income tax levied by this chapter, or the
10 estimated income tax payment; and

11 (2) The financial institution excise tax found in
12 Chapter 16.

13 (c) The following terms shall have the following
14 meanings:

15 (1) A "company" is anyone or anything with the
16 powers to conduct a lawful business.

17 (2) The "disposition date" is the date on which an
18 ownership interest in a qualified entity is sold or otherwise
19 disposed of, triggering a capital gain.

20 (3) A "qualified entity" is any company which meets
21 all of the following:

22 a. As of the effective date of this act, Alabama is
23 not the company's headquarters, the place of residence of its
24 top three executives, or the place of residence of at least 75
25 percent of its employees;

1 b. The company has at least 100 employees on the
2 disposition date;

3 c. For a period of at least three years prior to the
4 disposition date and for a period of at least five years after
5 the disposition date, Alabama is the company's headquarters,
6 the place of residence of its top three executives, and the
7 place of residence of at least 75 percent of its employees;
8 and

9 d. From the date that the company makes Alabama its
10 headquarters and continuing until the date which is five years
11 after the disposition date, the company meets all criteria set
12 forth in Section 40-18-376.3(c).

13 A company shall not be eliminated from the
14 definition of a "qualified entity" merely because the
15 disposition is in the form of a sale of substantially all of
16 the assets of such company to a successor company, or in the
17 form of a merger of such company into a successor company, so
18 long as such successor company itself meets all criteria set
19 forth in subparagraphs a., b, and d., and if Alabama is such
20 successor company's headquarters, the place of residence of
21 its top three executives, and the place of residence of at
22 least 75 percent of its employees for a period of at least
23 five years after the disposition date.

24 (4) A "qualified employee" is any employee of a
25 qualified entity who meets all the following:

1 a. The employee's primary residence is not in
2 Alabama on the effective date of this act;

3 b. The employee's primary residence is in Alabama
4 continuously for the period beginning three years prior to the
5 disposition date and continuing for five years after the
6 disposition date;

7 c. Within three months of the disposition date, the
8 employee ceases employment at the qualified entity;

9 d. Within nine months of the disposition date, the
10 employee begins employment at or ownership or some other
11 company which meets all the criteria set forth in Section
12 40-18-376.3(c); and

13 ~~e. The employee has an educational degree in a field~~
14 ~~which the Department of Revenue determines by regulation to~~
15 ~~fall within the general areas of science, technology,~~
16 ~~engineering, and mathematics.~~

17 e. The employee demonstrates to Alabama Department
18 of Revenue that he or she has an educational degree within the
19 general areas of science, technology, engineering, and
20 mathematics.

21 (5) A "qualified investment fund" is any company
22 which meets all the following:

23 a. The fund made its investment in the qualified
24 entity after the effective date of this act; and

1 b. For a period of five years after the disposition
2 date, the fund invests the moneys resulting from the
3 disposition in another qualified entity.

4 (d) The Department of Revenue may assess a qualified
5 employee for any exclusion from income under this section to
6 which the employee is not ultimately entitled, with allowed
7 interest and penalties, pursuant to the terms of Chapter 2A or
8 29. The statute of limitations shall be tolled for a period of
9 ten years beginning on the date of the return under which the
10 exclusion from income in this section is claimed. The
11 Department of Revenue may prescribe forms for the enforcement
12 of this act.

13 Section 5. A new Section 40-18-376.3 is added to
14 Article 16 of Chapter 18 of Title 40 to read as follows:

15 (a) This section shall be applicable to a technology
16 company, as defined herein, so long as there is a project
17 agreement which provides that Alabama is or will become the
18 company's headquarters, the place of residence of its top 3
19 executives, and the place of residence of at least 75 percent
20 of its employees.

21 In making the findings required by Section
22 40-18-373(a), a technology company that proposes a qualifying
23 project shall be an approved company for purposes of this
24 section only if the Secretary of Commerce makes the additional

1 finding that the qualifying project will increase the economic
2 diversity of, or otherwise benefit, the state.

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; and

11 (2) The jobs credit provided in Section 40-18-375(a)
12 shall include an additional 2.0 percent above that otherwise
13 allowed.

14 (c) A "technology company" is any company which
15 meets all the criteria in paragraph (1) or paragraph (2):

16 (1) A company which earns at least 75 percent of its
17 revenues from any of the following:

18 a. Activities within subsector 518; industry group
19 5112, 5121 (other than 51213), 5415, or 5417; or industry
20 51913 of the 2012 North American Industry Classification
21 System, or any similar classification system developed in
22 conjunction with the United States Department of Commerce or
23 Office of Management and Budget; or

24 b. The use of technology to develop new coding or
25 processes for the creation or delivery of goods or services in

1 the following fields, or any additional activities determined
2 by the Secretary of Commerce to be beneficial to the
3 enhancement of businesses rooted in any of the following
4 fields:

5 1. any of the fields of education, healthcare,
6 energy, agriculture, infrastructure, software, robotics,
7 nutrition, aerospace, automotive, or financial services; or

8 2. any fields related to science, technology,
9 engineering, or mathematics.

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

14 Section 6. A new Article 2C is added to Chapter 10
15 of Title 41 to read as follows:

16 Article 2C.

17 Section 41-10-46.01

18 (a) Any qualified fund may invest at least three
19 percent of its corpus in one or more approved opportunity
20 funds.

21 (b) The following terms shall have the following
22 meanings:

23 (1) "ADECA" shall mean the Department of Economic
24 and Community Affairs.

1 (2) "Approved opportunity fund" shall mean any fund
2 approved by ADECA as meeting all of the following:

3 a. ADECA determines that the fund has the capacity
4 to improve Alabama's low-income opportunity zone communities
5 by approving an application showing all of the following:

6 1. the amount of existing committed capital or
7 potential to raise committed capital;

8 2. the investment track record or strength of the
9 applicant's management team;

10 3. the existing project pipeline or strategy for
11 developing new pipeline;

12 4. the fund structure and anticipated returns within
13 that fund structure;

14 5. the presence of sound legal, accounting, and
15 compliance policies and procedures;

16 6. a strategy for measuring, tracking, and annual
17 reporting to ADECA on how the approved opportunity fund is
18 achieving investment outcomes set forth in its applications;
19 and

20 7. one or more clear and demonstrable partnerships
21 with local or statewide public or nonprofit entities to ensure
22 community engagement.

23 b. ADECA determines that the fund has committed to
24 deploying a substantial portion of its capital into qualified

1 opportunity zone property in Alabama within one or more of the
2 following asset classes:

3 1. rural areas described in Section 40-18-376.1(a);

4 2. technology companies which meet all the criteria
5 in Section 40-18-376.3(c), or facilities to house such
6 companies;

7 3. companies or projects described in Section
8 40-18-372(1), or facilities to house such companies or
9 projects;

10 4. workforce training;

11 5. affordable housing, in which case the burden
12 shall be on the fund to demonstrate rent levels charged and
13 why those rents are appropriate for a particular geographic
14 area;

15 6. remediation of blighted or abandoned property, in
16 which case the burden shall be on the fund to demonstrate why
17 targeted properties qualify as blighted or abandoned;

18 7. revitalization of distressed urban neighborhoods,
19 in which case the burden shall be on the fund to demonstrate
20 why a neighborhood is distressed and why its investment
21 strategy will revitalize the neighborhood; or

22 8. companies or projects that will have substantial,
23 measurable impact on social, environmental, or economic
24 conditions in low-income areas, or facilities to house such
25 companies or projects, in which case the burden shall be on

1 the fund to demonstrate why such companies or projects will
2 have such substantial effects.

3 In addition, ADECA may determine that a fund meets
4 this subparagraph b. if it can demonstrate that it will create
5 substantial wealth within and for residents of Alabama's
6 low-income and rural communities and will directly track the
7 wealth created.

8 c. The fund commits to investing at least 75 percent
9 of its committed capital in qualified opportunity zone
10 property located in Alabama. The ~~Department of Revenue~~ ADECA
11 shall promulgate rules for determining whether an investment
12 in a corporation or partnership should be considered to be
13 located in Alabama. For purposes of this subparagraph c.,
14 "qualified opportunity zone property" shall have the meaning
15 given to it in 26 U.S.C. § 1400Z-2(d)(2).

16 (3) "Qualified funds" are each of the following:

17 a. The Alabama Trust Fund created by Amendment No.
18 450 to the Constitution of Alabama of 1901;

19 b. The Alabama Game and Fish Fund created by Section
20 9-2-20, the Alabama Game and Fish Endowment Fund created by
21 Section 9-2-20.1, and the Alabama Nongame Wildlife Endowment
22 created by Section 9-2-20.2;

23 c. The Alabama Marine Resources Endowment Fund
24 created by Section 9-11-23 and the Marine Resources Fund
25 referred to therein;

1 ~~d. The County Government Capital Improvement Fund~~
2 ~~created by Section 11-29-4;~~

3 ~~e. The Municipal Government Capital Improvement Fund~~
4 ~~created by Section 11-66-4;~~

5 f. The Alabama Corrections Institution Finance
6 Authority funds referred to in Chapter 2 of Title 14;

7 g. The Public Health Finance Authority funds
8 described in Chapter 3A of Title 22;

9 h. The Public Road and Bridge funds described in
10 Chapter 6 of Title 23;

11 i. The Unemployment Compensation Trust Fund created
12 by Section 25-4-30;

13 j. The Mental Health Finance Authority funds
14 described in Article 11 of Chapter 10 of Title 41;

15 k. The Incentives Financing Authority funds
16 described in Division 1 of Article 16 of Chapter 10 of Title
17 41;

18 l. The Alabama Senior Services Trust Fund created by
19 Section 41-15C-1; and

20 m. Any fund of funds representing two or more of the
21 funds listed in subparagraphs a. through l.

22 (c) ADECA may charge application fees for the powers
23 and responsibilities delegated to it herein, and it may charge
24 fees for its financial and oversight audits of such funds.

1 ADECA may retain consultants to assist it with the powers and
2 responsibilities delegated to it herein.

3 Section 7. Both of the following shall be considered
4 industrial or research enterprises for purposes of Chapter 9B
5 of this Title 40, approved activities for purposes of Chapter
6 9G of this Title 40, and qualifying projects for purposes of
7 Article 16 of Chapter 18 of this Title 40:

8 (a) any trade or business predominately consisting
9 of an activity described in 40-18-376.3(c); and

10 (b) the Agricultural Center described in Section
11 40-18-411(a) (2)c.

12 The Agricultural Center is allowed the investment
13 credit as provided in Section 40-18-376 for a period not to
14 exceed 10 years.

15 For purposes of Article 16 of Chapter 18 of Title
16 40, the Governor may decrease the amounts and durations of the
17 jobs act incentives. The Department of Commerce may charge
18 fees for amendments to project agreements entered into under
19 Article 16 of Chapter 18 of Title 40.

20 As to the Agricultural Center described in Section
21 40-18-411(a) (2)c., all of the years of the investment credit
22 may be made transferable in the project agreement, using rules
23 similar to those provided in Section 40-18-376(b) (3).

24 Section 8. The departments of Economic and Community
25 Affairs, Revenue, Commerce, and Finance shall implement this

1 act, exercise all powers as authorized in this act, and
2 promulgate regulations to implement and administer the
3 provisions of this act.

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

11 Section 10. All laws or parts of laws which conflict
12 with this Act are repealed.

13 Section 11. Notwithstanding the provisions of
14 Section 40-18-376(d)(2), to the extent the investment credit
15 is used to offset an insurance premium tax liability and a
16 portion of the insurance premium taxes are deposited into the
17 Education Trust Fund, the Department of Finance shall
18 promulgate regulations to ensure that the credit would reduce
19 the distribution for the Education Trust Fund. Thereafter, the
20 credit will reduce the distributions to the State General Fund
21 only.

22 Section 12. This Act shall become effective sixty
23 days following its passage and approval by the Governor, or
24 following its otherwise becoming a law.

Mac McCutcheon

Speaker of the House of Representatives

[Signature]

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 16-MAY-19, as amended.

Jeff Woodard
Clerk

| | | |
|--------|------------------|------------------------------------|
| Senate | <u>29-MAY-19</u> | Amended and Passed |
| House | <u>30-MAY-19</u> | Concurred in Sen- ate Amendment |

APPROVED

6/6/19

TIME

8:53am

[Signature]
GOVERNOR

Alabama Secretary Of State

Act Num...: 2019-392
Bill Num...: H-540

Revd 06/06/19 11:01amKOW

SENATE ACTION
(Continued)

| | |
|--|---|
| DATE: 5-29-79 | RD 3 at length |
| PASSED <input type="checkbox"/> | PASSED AS AMENDED <input checked="" type="checkbox"/> |
| YEAS 27 | NAYS 0 |
| And was ordered returned forthwith to the House. | |
| PATRICK HARRIS, Secretary | |

| | | |
|------------------------|------|------|
| DATE: | 20__ | |
| INDEFINITELY POSTPONED | YEAS | NAYS |

| | | |
|--------------|------|------|
| DATE: | 20__ | |
| RECONSIDERED | YEAS | NAYS |

| |
|------------------------|
| CONFERENCE COMMITTEE |
| Senate Conferees _____ |
| _____ |
| _____ |

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|---|
| This bill having been referred to the Committee on Rules pursuant to Senate Rule 23 is reported to the Senate for assignment to the Committee on: |
| _____ |
| This ____ day of _____, 20__ |
| _____, Chairperson |

| | |
|------------------|------------|
| Date: _____ | Rereferred |
| Committee: _____ | |