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3 By Representative Pringle  
4 RFD: Ways and Means Education  
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ENGROSSED

A BILL  
TO BE ENTITLED  
AN ACT

To enact the Alabama Renewal Act; to enact new programs for the growth of business and industry in Alabama; to create tax credits for increased use of the state's port facilities; to create the Growing Alabama Act tax credit to address economic development needs in Alabama that cannot be solved with traditional tax incentives; to cap the credits; to provide for the carryforward of certain earned but unused credits; to provide methods for claiming certain credits; to provide for proof that credits are due to be granted; to provide for the promulgation of forms; to create new Articles 18 and 19 of Chapter 18 of Title 40; to provide for the promulgation of regulations; to provide for the severability of invalid provisions; to provide for the repeal of conflicting laws; to provide for effective dates.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known as the "Alabama Renewal Act".

Section 2. A new Article 18 of Chapter 18 of Title 40, Code of Alabama 1975, is created to read as follows:

1           § 40-18-400. For the purpose of this article, the  
2 following words and phrases shall have the following meanings:

3           (a) BASE CARGO VOLUME. The average cargo volume of a  
4 port facility user in the five years prior to the year for  
5 which the commission has granted approval for the company to  
6 claim the port credit.

7           (b) CARGO VOLUME. The total amount of net tons of  
8 noncontainerized general cargo or containers, measured in TEUs  
9 or in net tons, transported by way of a waterborne ship, air  
10 cargo aircraft, or railroad through a port facility; provided  
11 that such cargo shall be owned by the port facility user at  
12 the time the port facility is used.

13           (c) COMMISSION. The Renewal of Alabama Commission  
14 created by Section 40-18-402.

15           (d) COMPANY. Anyone or anything which has the powers  
16 to conduct the activities required to claim the port credit.

17           (e) PORT FACILITY. Any publicly-owned facility  
18 located within this state's ports of entry through which cargo  
19 is transported by way of a waterborne ship, air cargo  
20 aircraft, or railroad, to or from destinations outside this  
21 state and which handles cargo owned by third parties in  
22 addition to cargo owned by the port facility's owner.

23           (f) PORT FACILITY USER. A company engaged in  
24 manufacturing, warehousing, or distribution which uses a port  
25 facility.

26           (g) PORT CREDIT. The credit provided for in Section  
27 40-18-403.

1 (h) TEU. A "twenty-foot equivalent unit" volumetric  
2 measure based on the size of a container twenty feet long by  
3 eight feet wide by eight feet, six inches high.

4 § 40-18-401.

5 (a) The port credit provided for in Section  
6 40-18-403 is created by this article and is allowed upon  
7 strict compliance with the provisions herein.

8 (b) Prior to the allowance of the port credit, an  
9 application shall be filed with the commission, on a form  
10 promulgated by the commission.

11 (1) The application shall be filed by the port  
12 facility user desiring to claim the credit.

13 (2) The commission shall establish deadlines for  
14 applications. Such applications shall solicit whatever  
15 information the commission deems important to its  
16 determination of whether granting a port credit will create  
17 new, high-paying jobs in the state, bring substantial capital  
18 to the state, increase the usage of a port facility, promote  
19 the development of clusters of businesses in the state, or  
20 promote the economic development efforts of the state.

21 (3) Upon review of such applications, the commission  
22 shall approve such applications as shall result in port  
23 credits being awarded so as not to exceed \$8 million. In  
24 addition, the commission may grant conditional approval to  
25 applications above the amounts provided herein. Thereafter, if  
26 applications which were initially approved do not result in a  
27 claim of port credits, conditionally approved applications may

1 be granted approval. The calculations required to be made by  
2 the commission shall be based on the initial returns filed by  
3 companies which had port credits approved. No company may  
4 amend a return to claim an approved port credit which was not  
5 claimed on its initial filed return, unless such amendment is  
6 to claim a credit which was conditionally approved initially.

7 (4) The commission shall charge application fees to  
8 offset the costs of administration of this article.

9 (c) Prior to claiming a port credit, the company  
10 shall submit to the Department of Commerce a certification  
11 containing information adequate to prove that the company is  
12 entitled to the credit. Following such examination as it deems  
13 necessary, the Department of Commerce may certify the  
14 information and deliver the same to the Department of Revenue.  
15 Thereafter, the Department of Revenue shall allow the tax  
16 credit.

17 (d) (1) Nothing in this article shall be construed to  
18 constitute a guarantee or assumption by the state of any debt  
19 of any company nor to authorize the credit of the state to be  
20 given, pledged or loaned to any company.

21 (2) Nothing in this article shall be construed to  
22 make available to any company any right to the benefits  
23 conferred by this article absent strict compliance with this  
24 article.

25 (3) All filings made by a private party with the  
26 commission or any department of the state government shall be  
27 made using forms promulgated by such commission or department.

1 Any such filing shall be treated as a tax return, subject to  
2 penalties imposed by the Department of Revenue.

3 (4) Nothing in this article shall be construed to  
4 limit the powers otherwise existing for the Department of  
5 Revenue to audit and assess any company claiming a port  
6 credit.

7 § 40-18-402.

8 (a) There is hereby created the Renewal of Alabama  
9 Commission.

10 (b) The commission shall be comprised of all of the  
11 following persons:

12 (1) The Finance Director, or his or her designee;

13 (2) The Secretary of Commerce, or his or her  
14 designee;

15 (3) One person appointed by the Governor;

16 (4) One person appointed by the Speaker of the  
17 House; and

18 (5) One person appointed by the President Pro  
19 Tempore of the Senate.

20 (c) All persons appointed to the commission shall  
21 have one or more of the following qualifications:

22 (1) Members must be knowledgeable in the management  
23 of money and finance;

24 (2) Members must have experience in innovative  
25 technologies or products;

26 (3) Members must have experience in international  
27 trade; or

1 (4) Members must have experience as chief executive  
2 officers, chief financial officers, or other executive-level  
3 management roles in businesses in this state which employ  
4 Alabama residents.

5 (5) The Commission shall be inclusive and reflect  
6 the rural, gender, geographic, urban and rural, and economic  
7 diversity of the state.

8 (d) The Secretary of Commerce, or his or her  
9 designee, shall be the chairman of the commission and shall  
10 preside over all meetings of the commission. The commission  
11 may elect such other officers as it may find necessary or  
12 desirable; provided that the commission shall have a board  
13 secretary to keep minutes of its proceedings. No officer of  
14 the commission other than the chairman need be a member of the  
15 commission.

16 (e) No member of the commission shall vote or  
17 participate in any matter in which the member or a family  
18 member of the member has any financial gain or interest.

19 (f) Members of the commission shall serve without  
20 compensation.

21 (g) The commission shall meet at the call of the  
22 chair or any majority of members thereof; provided that the  
23 commission shall meet at least two times annually.

24 (h) The commission shall adopt its own rules of  
25 procedure for the transaction of its business, and a majority  
26 of the members present shall constitute a quorum for the  
27 purpose of transacting or performing authorized duties.

1 Meetings of the commission are exempt from Chapter 25A of  
2 Title 36, provided that the minutes of each meeting shall be  
3 made available for public inspection. In order to balance the  
4 privacy needs of companies with openness to the public, the  
5 commission may use code names in its deliberations about  
6 various applicants and in the minutes of its proceedings.

7 (i) The Department of Commerce shall provide  
8 administrative and staffing support for the commission. The  
9 Department of Revenue shall disclose to the commission  
10 whatever information it may possess which would allow the  
11 commission to fulfill this article; provided, however, that  
12 such information shall only be disclosed and discussed in a  
13 closed session. The Department of Revenue may require members  
14 of the commission to execute confidentiality agreements before  
15 the disclosure of information.

16 (j) The commission shall make an annual report on  
17 the use of funds pursuant to this article. Such report shall  
18 be made to the Joint Legislative Advisory Committee on  
19 Economic Incentives established by Section 40-18-379, at the  
20 times and in the manner requested by the Committee. Any  
21 publicly-available version of the report may redact  
22 information which the Department of Commerce believes would  
23 place the state at a competitive disadvantage.

24 (k) The commission and the Departments of Commerce  
25 and Revenue are authorized to promulgate regulations as  
26 necessary to implement and administer the provisions of this  
27 act.



1 § 40-18-403.

2 (a) If approved by the commission, a port credit is  
3 allowed, in an amount equal to \$50 per TEU or \$3.00 per net  
4 ton, multiplied by the following:

5 (1) The port user's cargo volume in the year for  
6 which the commission has granted approval for the port user to  
7 claim the port credit, minus

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

9 (b) The commission may decrease the amount of the  
10 port credit to ensure that the anticipated revenues for the  
11 port facility and state will exceed the amount of the port  
12 credit sought. The port credit may be conditioned on whatever  
13 requirements the commission shall impose.

14 (c) The following methods may be used to realize the  
15 port credit:

16 (1) The port credit may offset the tax levied by  
17 Chapter 18, but not below zero. The port credit may also  
18 offset the estimated payments of the tax levied by Chapter 18,  
19 but not below zero; provided that, in no event shall the port  
20 credits be allowed to reduce any estimated payment of the tax  
21 levied by Chapter 18 before October 1, 2016. In any one year,  
22 if the port credit exceeds the amount of tax liability, the  
23 port user may carry forward the unused port credit. No  
24 carryforward shall be allowed for more than five years. Rules  
25 similar to those used for Section 40-18-15.2 shall be applied.

26 (2) Port credits earned by a flow-through entity may  
27 be allocated among some or all of the owners of such entity in

1 any manner specified, regardless of whether the allocation  
2 follows rules similar to 26 U.S.C. § 704(b) and the  
3 regulations thereunder. The owners may then use their  
4 allocated share of the credits to offset the tax levied by  
5 Chapter 18, using the methods otherwise provided in subsection  
6 (b).

7 (3) A company may assign and convey a port credit to  
8 another company if substantially all of the assets of the  
9 company are assigned and conveyed in the same transaction.  
10 Proof of such transfer shall be submitted to the Department of  
11 Revenue.

12 (d) To the extent that the port credit is utilized  
13 by the port user or by a transferee company, no deduction for  
14 the related expenses shall be allowed.

15 (e) For any company which enters into an economic  
16 development project agreement with the state, the project  
17 agreement may provide for an allocation to the company of any  
18 port credits which have not been allocated pursuant to this  
19 article. Allocations made pursuant to this subsection shall  
20 meet all of the following requirements:

21 (1) Allocations shall be made by the Governor and  
22 approved by the commission;

23 (2) Allocations shall not in the aggregate exceed \$1  
24 million;

25 (3) Allocations shall be granted only to a new  
26 warehouse or distribution facility which commits to investing  
27 at least \$20 million at a single site and to creating 75 jobs;

1                   (4) Port credits may not be used until the  
2 Department of Commerce has received satisfactory proof that  
3 the capital investment and job creation requirements have been  
4 satisfied; and

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

7                   Section 3. A new Article 19 of Chapter 18 of Title  
8 40, Code of Alabama 1975, is created to read as follows:

9                   § 40-18-410. For the purpose of this article, the  
10 following words and phrases shall have the following meanings:

11                   (a) ADDITIONAL ALLOCATION AMOUNT. An amount for the  
12 current year which is determined after all amounts in  
13 paragraph (f)(2) are verified for the current year, equal to  
14 the excess of:

15                   (1) The cap amount, minus

16                   (2) The contribution amounts for all taxpayers for  
17 the current year.

18                   (b) ADDITIONAL ALLOCATION SHARE. All or part of the  
19 additional allocation amount allocated by the Department of  
20 Revenue to taxpayers with carryforward amounts existing after  
21 all amounts in paragraph (f)(2) are verified for the current  
22 year. The amount of the additional allocation share for any  
23 taxpayer shall not exceed such taxpayers' carryforward amounts  
24 but may exceed, for each taxpayer, the lesser of \$10 million  
25 or the cap amount. Allocations of the additional allocation  
26 amount shall be made to taxpayers starting with the earliest

1 issuance times, until the total allocations of Growing Alabama  
2 Credits for the current year should equal the cap amount.

3 (c) APPROVED ACTIVITY. An activity predominantly  
4 constituting one or more of the following:

5 (1) Described by NAICS Code 1133, 115111, 2121,  
6 22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482,  
7 4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493,  
8 511, 5121 (other than 51213), 51221, 517, 518 (without regard  
9 to the premise that data processing and related services be  
10 performed in conjunction with a third party), 51913, 52232,  
11 54133 (if predominantly in furtherance of another activity  
12 described in this article), 54134 (if predominantly in  
13 furtherance of another activity described in this article),  
14 54138, 5415, 541614, 5417, 55 (if not for the production of  
15 electricity), 561422 (other than establishments that originate  
16 telephone calls), 562213, 56291, 56292, 611512, 927 or 92811.

17 (2) The production of biofuel as such term is  
18 defined in Section 2-2-90(c)(2).

19 (3) The conduct of original investigations  
20 undertaken on a systematic basis to gain new knowledge or the  
21 application of research findings or other scientific knowledge  
22 to create new or significantly improved products or processes.

23 (4) The national or regional headquarters for a  
24 company that conducts significant business operations outside  
25 the state and that will serve as the principal office of the  
26 company's principal operating officer with chief

1 responsibility for the daily business operations of the  
2 company.

3 (5) A target of the state's economic development  
4 efforts pursuant to the Accelerate Alabama Strategic Economic  
5 Development Plan adopted in January 2012 by the Alabama  
6 Economic Development Alliance, created by Executive Order  
7 Number 21 of the Governor on July 18, 2011, or any amended  
8 version or successor document thereto.

9 (6) A type listed in a regulation adopted by the  
10 Department of Commerce, other than a regulation submitted as  
11 an emergency rule.

12 Notwithstanding the foregoing, an approved activity  
13 shall not predominantly include farming activities involving  
14 trees, animals or crops or the retail sale of tangible  
15 personal property or services. This provision shall not be  
16 deemed to exclude customer service centers, call centers or  
17 headquarters otherwise allowed as an approved activity.

18 (d) CAP AMOUNT. For the 2016 calendar year, \$5  
19 million; for the 2017 calendar year, \$10 million; and for  
20 calendar year 2018 and each year thereafter, \$15 million per  
21 year.

22 (e) CARRYFORWARD AMOUNT. As to a taxpayer for any  
23 given year, the excess of:

24 (1) All amounts contributed under paragraph (f) (2)  
25 during the given year and the 10 years preceding the given  
26 year; minus

1           (2) The credit amounts allowed during the given year  
2 and the 10 years preceding the given year.

3           (f) CONTRIBUTION AMOUNT. As to a taxpayer, the sum  
4 of:

5           (1) The first-day allocation for the current year;  
6 plus

7           (2) Contributions made during the current year which  
8 are shown in online filings with the Department of Revenue,  
9 but not including any amount which is not received by an  
10 economic development organization within 15 days of the  
11 issuance time, as verified to the Department by the economic  
12 development organization within 20 days of the issuance time.

13           Although a taxpayer may, in paragraph (2),  
14 contribute to a statewide organization any amount of cash or  
15 property, in no event shall the contribution amount for the  
16 taxpayer exceed, for the current year, the lesser of \$10  
17 million or the cap amount, and the taxpayer's contribution  
18 amount shall not cause the contribution amounts for all  
19 taxpayers to exceed the cap amount for the current year.

20           (g) CREDIT AMOUNT. As to a taxpayer, the lesser of:

21           (1) 50% of the taxpayer's tax liability for the  
22 current year; or

23           (2) The contribution amount for the current year  
24 plus the additional allocation share for the current year.

25           Contributions will be deemed to be part of the  
26 credit amount on a first in, first out basis.

1           (h) ECONOMIC DEVELOPMENT ORGANIZATIONS. One or more  
2 organizations, each of which is determined by the Department  
3 of Commerce to meet the following criteria:

4           (1) The organization is exempt from federal income  
5 tax under section 501(c)(6) of the Internal Revenue Code of  
6 1986, as amended;

7           (2) The organization was organized at least 20 years  
8 prior to the effective date of this article to lend support to  
9 economic development initiatives in the state;

10          (3) The organization has a record of supporting  
11 recruitment, retention, and innovation activities in Alabama;

12          (4) The organization provides the means by which the  
13 private sector collectively participates in economic  
14 development initiatives throughout the state; and

15          (5) The organization will not employ or retain  
16 registered lobbyists during the time that it is designated as  
17 an economic development organization.

18          (i) FIRST-DAY ALLOCATION. For a taxpayer, the  
19 carryforward amount existing at the end of the prior year, as  
20 calculated after any additional allocation shares for the  
21 prior year are allocated by the Department of Revenue. In no  
22 event shall the first-day allocation for a taxpayer exceed,  
23 for the current year, the lesser of \$10 million or the cap  
24 amount. The taxpayer's first-day allocation shall not cause  
25 the first-day allocations for all taxpayers with an earlier  
26 issuance time to exceed the cap amount for the current year.

1 (j) GROWING ALABAMA CREDIT. The credit provided for  
2 in Section 40-18-411(a).

3 (k) ISSUANCE TIME. As to a taxpayer, the moment in  
4 time at which the taxpayer files with the Department of  
5 Revenue a request for Growing Alabama Credits or makes a  
6 request for prior approval of a contemplated transaction  
7 pursuant to Section 40-18-412(c).

8 (l) PRIVATE LANDOWNER. An individual or entity  
9 receiving a benefit from an economic development organization,  
10 which benefit does not relate to an approved activity. The  
11 term shall not include entities listed in Section  
12 40-18-414(a)(2).

13 (m) QUALIFYING PURPOSE. Any activity for the benefit  
14 of Alabama or any community therein which constitutes any of  
15 the following:

16 (1) Promoting the state as a place for the location  
17 or expansion of industries or businesses conducting approved  
18 activities;

19 (2) The identification, acquisition, preparation,  
20 and rehabilitation of sites and the construction or  
21 rehabilitation of vacant buildings, which sites and buildings  
22 could reasonably be anticipated to be used by any type of  
23 industry or business which conducts an approved activity;

24 (3) The creation of public infrastructure in Alabama  
25 which could reasonably be anticipated to be in support of any  
26 type of industry or business which conducts an approved  
27 activity;



1           (4) The revitalization of downtown areas, including  
2 the renovation, upkeep and preservation of buildings in  
3 downtown areas;

4           (5) Preserving and expanding the missions and  
5 activities conducted at military bases and installations in  
6 Alabama;

7           (6) Creating and promoting mechanisms to match  
8 workforce needs with the state's education system;

9           (7) The placement of high-technology devices in  
10 Alabama classrooms; and

11           (8) An activity described in a regulation issued by  
12 the Department of Commerce, other than a regulation submitted  
13 as an emergency rule.

14           (n) RENEWAL OF ALABAMA COMMISSION. The Renewal of  
15 Alabama Commission created by Section 40-18-402.

16           § 40-18-411.

17           (a) A taxpayer is allowed a Growing Alabama Credit  
18 in an amount equal to the credit amount. The Growing Alabama  
19 Credit shall be applied against the tax levied by Chapter 18,  
20 or used as an estimated payment of the tax levied by Chapter  
21 18, but not below zero. In no event shall Growing Alabama  
22 Credits be allowed to reduce any estimated payment of the tax  
23 levied by Chapter 18 before October 1, 2016.

24           (b) (1) Real or tangible personal property may be  
25 donated only if it would be used directly to accomplish a  
26 qualifying purpose. Donated property shall be valued at its

1 fair market value using the "qualified appraisal" standards  
2 set forth by the IRS.

3 (2) In calculating any of the amounts in Section  
4 40-18-410, the amounts may not be less than zero, and they  
5 shall not be calculated to cause a violation of the caps in  
6 subsection (c).

7 (3) In the event that the limitation in Section  
8 40-18-410(g)(1) should apply to a taxpayer, the Department of  
9 Revenue shall make any resulting computational changes that  
10 impact the taxpayer, but no other taxpayer shall be  
11 disadvantaged thereby.

12 (c) The Department of Commerce shall name at least  
13 one economic development organization on the effective date of  
14 this article.

15 § 40-18-412.

16 (a) The Growing Alabama Credits shall be granted to  
17 taxpayers using an online system administered by the  
18 Department of Revenue. The online system shall allow taxpayers  
19 to file applications showing the amount of the total  
20 contributions of cash and property which the taxpayer expects  
21 in good faith to contribute to one or more economic  
22 development organizations, and contributions to economic  
23 development organizations shall be permitted even if in excess  
24 of the various limitations in this article.

25 (b) The online filing system shall first be  
26 available in January 2016, but shall not be available during  
27 January of any other year.

1           (c) A taxpayer contributing property that would be  
2 used directly to accomplish a qualifying purpose may propose  
3 the contribution and effectuate it upon prior approval of the  
4 project by the economic development organization and the  
5 Renewal of Alabama Commission. The economic development  
6 organization and the Renewal of Alabama Commission may grant  
7 prior approval to multi-year contributions as a part of a plan  
8 to accomplish a qualifying purpose.

9           § 40-18-413.

10          (a) A taxpayer may not restrict a contribution to  
11 any specific purpose.

12          (b) An economic development organization may refuse  
13 to accept any contributions it wishes to refuse.

14          (c) Individual donors shall not be dependents of  
15 other taxpayers.

16          (d) A taxpayer, including a corporate taxpayer, an  
17 individual, or a married couple filing jointly, may claim an  
18 allowable credit only once. To the extent that a Growing  
19 Alabama Credit is claimed by a taxpayer, the taxpayer shall  
20 not be allowed any deduction which would have otherwise been  
21 allowed for the taxpayer's contribution.

22          (e) Credits may only be claimed by the donating  
23 individual or corporate entity and may not be assigned or  
24 transferred to any other taxpayer except as a part of a sale  
25 of substantially all of the assets of the taxpayer. A taxpayer  
26 may not claim a credit for a donation made by any other  
27 entity, including an entity taxed under subchapter S or

1 subchapter K of which the taxpayer is an owner, shareholder,  
2 partner or member.

3 § 40-18-414.

4 (a) (1) For any contribution of property or cash for  
5 which a Growing Alabama Credit has been granted, an economic  
6 development organization shall use such contributions solely  
7 for one or more qualifying purposes, following approval of the  
8 use by the Renewal of Alabama Commission.

9 (2) In furtherance of paragraph (1), an economic  
10 development organization may use subsidiaries, partnerships,  
11 and disregarded entities and may act in conjunction with other  
12 organizations exempt from federal income tax under section  
13 501(c) (3), 501(c) (4), or 501(c) (6) of the Internal Revenue  
14 Code of 1986, as amended, with an Alabama municipality or  
15 county, or with an entity organized by one or more of them.

16 (b) In conducting the activities specified in  
17 Section 40-18-410(m) (2), (3), or (4), an economic development  
18 organization shall not use any contribution of property or  
19 cash for which a Growing Alabama Credit has been granted in  
20 any manner that primarily benefits a private landowner, other  
21 than the acquisition of property owned by a private landowner  
22 at or below an appraised fair market value, or the sale or  
23 lease of property to a private landowner at or above an  
24 appraised fair market value. The Renewal of Alabama Commission  
25 may issue written advice on whether a proposed use of property  
26 or cash would violate this subsection, and an economic  
27 development organization may rely on that advice.

1           (c) (1) For any contribution of property or cash for  
2           which a Growing Alabama Credit has been granted, an economic  
3           development organization shall segregate and separately  
4           account for such contribution from all other assets of the  
5           organization. Excess funds that are not expended during any  
6           taxable year may be invested in stocks, bonds, loans, or real  
7           estate, so long as the funds are separately accounted for. Any  
8           investment income shall be reinvested or used for a qualifying  
9           purpose.

10           (2) An economic development organization shall not  
11           invest any contribution for which a Growing Alabama Credit has  
12           been granted directly or indirectly in the contributing  
13           taxpayer's stocks or bonds, except through a mutual fund. If  
14           an economic development organization receives as a  
15           contribution any stocks or bonds of the contributing taxpayer  
16           or its affiliate, the organization shall, within a reasonable  
17           and commercially feasible time, sell such stocks or bonds and  
18           either reinvest in other stocks, bonds or real estate or use  
19           the funds for a qualifying purpose. The Department of Commerce  
20           may issue written advice on whether a proposed divestment  
21           would be made in a reasonable and commercially feasible time.

22           (3) An economic development organization may use  
23           contributed property or cash for the payment of administrative  
24           expenses, but only to the extent such expenses are incurred  
25           because of the organization's status as an economic  
26           development organization. Such expenses may be approved in a

1 writing by the Department of Commerce, or may be provided for  
2 in regulations promulgated by the Department of Commerce.

3 (d) Each economic development organization shall  
4 annually submit a report to the Department of Commerce  
5 detailing its annual qualifying expenditures. The organization  
6 shall make such other reports as may be required by the  
7 Department. The Department shall make an annual report on the  
8 use of funds pursuant to this article to the Joint Legislative  
9 Advisory Committee on Economic Incentives established by  
10 Section 40-18-379, at the times, and in the manner, requested  
11 by the Committee. Any publicly-available version of the report  
12 may redact information which the Department of Commerce  
13 believes would place the state or a community therein at a  
14 competitive disadvantage.

15 (e) The status of an organization as an economic  
16 development organization shall be terminated upon any of the  
17 following:

18 (1) A determination by the Department of Revenue  
19 that the organization has lost its tax-exempt status;

20 (2) A determination by the Department of Commerce  
21 that the organization has used funds for a non-qualifying  
22 purpose; or

23 (3) A determination by the Department of Commerce  
24 that the organization has demonstrated a lack of institutional  
25 control by failing to make timely reports required by this  
26 section.

1           The termination of the status of any approved  
2 economic development corporation shall not cause any taxpayer  
3 to lose any credits previously granted to the taxpayer.

4           (f) If an economic development organization should  
5 have received cash and property which has not become part of a  
6 taxpayer's creditable amount at the time of the organization's  
7 termination of its status as an economic development  
8 organization, the economic development organization shall  
9 consult with the taxpayer who made the contribution and  
10 transfer such funds to an economic development organization.

11           (g) An economic development organization shall be  
12 subject to the limitations in this article as to cash and  
13 property for which a Growing Alabama Credit is issued, even  
14 after the organization's status as an economic development  
15 organization should expire or be otherwise terminated.

16           § 40-18-415.

17           (a) All filings made by a private party with any  
18 department of the state government shall be made using forms  
19 promulgated by such department. Any such filing shall be  
20 treated as a tax return, subject to penalties imposed by the  
21 Department of Revenue.

22           (b) Nothing in this article shall be construed to  
23 constitute a guarantee or assumption by the state of any debt  
24 of any company nor to authorize the credit of the state to be  
25 given, pledged or loaned to any company.

26           (c) Nothing in this article shall be construed to  
27 make available to any taxpayer any right to the benefits

1 conferred by this article absent strict compliance with this  
2 article.

3 (d) Nothing in this article shall be construed to  
4 limit the powers otherwise existing for the Department of  
5 Revenue to audit and assess a taxpayer claiming the Growing  
6 Alabama Credit.

7 (e) The Departments of Commerce and Revenue are  
8 authorized to promulgate regulations as necessary to implement  
9 and administer the provisions of this article.

10 Section 4. If a court of competent jurisdiction  
11 adjudges invalid or unconstitutional any clause, sentence,  
12 paragraph, section, or part of this act, such judgment or  
13 decree shall not affect, impair, invalidate, or nullify the  
14 remainder of this act, but the effect of the decision shall be  
15 confined to the clause, sentence, paragraph, section, or part  
16 of this act adjudged to be invalid or unconstitutional.

17 Section 5. All laws or parts of laws which conflict  
18 with this act are repealed.

19 Section 6. This act shall become effective on  
20 January 1, 2016 following its passage and approval by the  
21 Governor, or its otherwise becoming a law.



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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Ways and Means  
Education..... . . . . 02-APR-15

Reported from Ways and Means Educa-  
tion as Favorable with 1 substitute  
and with 1 amendment..... . . . . 14-MAY-15

Read for the third time and passed  
as amended..... . . . . 19-MAY-15

Yeas 101, Nays 0, Abstains 1

Jeff Woodard  
Clerk