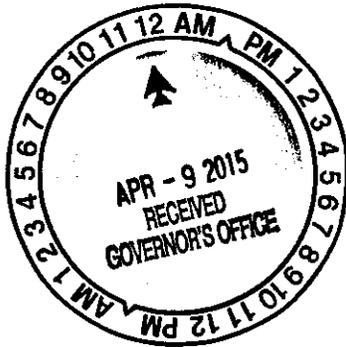


ACT No. 2015 - 41

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



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ENROLLED, An Act,

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

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

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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

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

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

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

22 § 40-18-376.1.

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

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

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

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

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

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

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

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

13 § 40-18-376.2.

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

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

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

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

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

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

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

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

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

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

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

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

12 (f) FUND. The Accelerate Alabama Fund.

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

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

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

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

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

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

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

13 § 41-10-45.2.

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

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

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

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

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

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

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

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

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

14 § 41-10-45.3.

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

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

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

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

25 (d) The authority may:

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

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

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

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

15 § 41-10-45.4.

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

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

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

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

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

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

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

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

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

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

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

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

9 § 41-10-45.5.

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

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

23 § 41-10-45.6.

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

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

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

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

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

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 10-MAR-15, as amended.

Jeff Woodard
Clerk

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