



**House Transportation, Utilities and Infrastructure  
Reported Substitute for HB399**

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A BILL  
TO BE ENTITLED  
AN ACT

Relating to tax abatements and economic development; to amend Sections 40-9B-3, 40-9B-4, and 40-9B-4.1, Code of Alabama 1975, relating to tax abatements for data processing centers; and to amend Section 40-23-35, Code of Alabama 1975, relating to the distribution of sales taxes; to limit the maximum exemption period for abatements available to data processing centers to 20 years beginning January 1, 2027; to provide for the collection of the state noneducational ad valorem taxes and sales and use tax levied pursuant to Chapter 23 of this title on purchases of building materials, building fixtures, structural components, real property improvements, power infrastructure for transformation, distribution, or management of electricity, backup power generation systems, and battery systems made by certain large data processing centers beginning January 1, 2027; to extend the sunset date applicable to abatements for data processing centers; and to make nonsubstantive, technical revisions to update existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-9B-3, 40-9B-4, and 40-9B-4.1,



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29 Code of Alabama 1975, are amended to read as follows:

30 "§40-9B-3

31 (a) For purposes of this chapter, the following words  
32 and phrases mean:

33 (1) ABATE, ABATEMENT. A reduction or elimination of a  
34 taxpayer's liability for tax or payments required to be made  
35 in lieu thereof. An abatement of transaction taxes imposed  
36 under Chapter 23 of this title, or payments required to be  
37 made in lieu thereof, shall relieve the seller from the  
38 obligation to collect and pay over the transaction tax as if  
39 the sale were to a person exempt, to the extent of the  
40 abatement, from the transaction tax.

41 (2) ALTERNATIVE ENERGY RESOURCES. The definition given  
42 in Section 40-18-1.

43 (3) CONSTRUCTION RELATED TRANSACTION TAXES. The  
44 transaction taxes imposed by Chapter 23 of this title, or  
45 payments required to be made in lieu thereof, on tangible  
46 personal property and taxable services incorporated into an  
47 industrial development property, the cost of which may be  
48 added to capital account with respect to the property,  
49 determined without regard to any rule which permits  
50 expenditures properly chargeable to capital account to be  
51 treated as current expenses.

52 (4) DATA PROCESSING CENTER. An establishment at which  
53 not less than 20 new jobs are located, the average annual  
54 total compensation, including benefits, of such new jobs to be  
55 not less than forty thousand dollars (\$40,000) and such  
56 establishment is engaged in the provision of complete



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57 processing and specialized reports from data, the provision of  
58 automated data processing and data entry services, the  
59 provision of an infrastructure for hosting or data processing  
60 services, the provision of specialized hosting activities, the  
61 provision of application service provisioning, the provision  
62 of general time-share mainframe facilities, the provision or  
63 operation of computer equipment or enabling software for the  
64 processing, storage, backup, retrieval, communication, or  
65 distribution of data, or some combination of the foregoing,  
66 without regard to whether any other activities are conducted  
67 at the establishment.

68 (5) EDUCATION TAXES. Ad valorem taxes, or payments  
69 required to be made in lieu thereof, that must, pursuant to  
70 the Constitution of Alabama of 1901, as amended, legislative  
71 act, or the resolution or other action of the governing board  
72 authorizing the tax, be used for educational purposes or for  
73 capital improvements for education and local construction  
74 related transaction taxes levied for educational purposes or  
75 for capital improvements for education.

76 (6) HEADQUARTERS FACILITY. Any trade or business  
77 described in NACIS Code 551114, at which not less than 50 new  
78 jobs are located.

79 (7) HYDROPOWER PRODUCTION. The definition given in  
80 Section 40-18-1.

81 (8) INDUCEMENT. Refers to an agreement, or an  
82 "inducement agreement," entered into between a private user  
83 and a public authority or county or municipal government  
84 and/or a resolution or other official action, an "inducement



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85 resolution," "inducement letter," or "official action" adopted  
86 by a public authority or county or municipal government, in  
87 each case expressing, among other things, the present intent  
88 of such public authority or county or municipal government to  
89 issue bonds in connection with the private use property  
90 therein described. Notwithstanding any provision in this  
91 chapter to the contrary, neither an inducement nor a request  
92 for inducement shall be required to apply for, grant, or  
93 receive any abatement of taxes allowed to be abated under this  
94 chapter.

95 (9) INDUSTRIAL DEVELOPMENT PROPERTY. Real and/or  
96 personal property acquired in connection with establishing or  
97 expanding an industrial or research enterprise in Alabama.

98 (10) INDUSTRIAL OR RESEARCH ENTERPRISE.

99 a. Any trade or business predominately consisting of  
100 any one or more of the following:

101 1. Described by NAICS Code 1133, 115111, 2121, 22111,  
102 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,  
103 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, 511,  
104 5121 (other than 51213), 51221, 517, 518 (without regard to  
105 the premise that data processing and related services be  
106 performed in conjunction with a third party), 51913, 52232,  
107 54133 (if predominantly in furtherance of another activity  
108 described in this article), 54134 (if predominantly in  
109 furtherance of another activity described in this article),  
110 54138, 5415, 541614, 5417, 55 (if not for the production of  
111 electricity), 561422 (other than establishments that originate  
112 telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.



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113           2. A target of the state's economic development efforts  
114 pursuant to either of the following:

115           (i) The Accelerate Alabama Strategic Economic  
116 Development Plan adopted in January 2012 by the Alabama  
117 Economic Development Alliance, created by Executive Order  
118 Number 21 of the Governor on July 18, 2011, or any amended  
119 version or successor document thereto; or

120           (ii) A type listed in a regulation adopted by the  
121 Department of Commerce, other than a regulation submitted as  
122 an emergency rule.

123           Notwithstanding the foregoing, the activities described  
124 in this definition shall not predominantly concern farming  
125 activities involving trees, animals or crops, nor the retail  
126 sale of tangible personal property or services. This provision  
127 shall not be deemed to exclude customer service centers or  
128 call centers otherwise allowed or provided for herein.

129           b. With respect to abatements granted in accordance  
130 with Section 40-9B-9, and only with respect to such  
131 abatements, "industrial or research enterprise" means any  
132 trade or business described in NAICS Code 493, 488310, or  
133 488320, when such trade or business is conducted on premises  
134 in which the Alabama State Port Authority has an ownership,  
135 leasehold, or other possessory interest and such premises are  
136 used as part of the operations of the Alabama State Port  
137 Authority.

138           c. "Industrial or research enterprise" includes the  
139 above-described trades and business and any others as may  
140 hereafter be reclassified in any subsequent publication of the



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141 NAICS or similar industry classification system developed in  
142 conjunction with the United States Department of Commerce or  
143 Office of Management and Budget.

144 d. "Industrial or research enterprise" also includes  
145 any underground natural gas storage facility which is located  
146 in the Gulf Opportunity Zone, as that phrase is defined in the  
147 Gulf Opportunity Zone Act of 2005, developed from existing  
148 geologic reservoirs, including, without limitation, salt  
149 domes, and placed in service on or before December 31, 2013.

150 e. "Industrial or research enterprise" also includes  
151 any plant, property, or facility that meets both of the  
152 following:

153 1. It produces electricity from:

154 (i) Alternative energy resources and has capital costs  
155 of at least one hundred million dollars (\$100,000,000); or

156 (ii) Hydropower production and has capital costs of at  
157 least five million dollars (\$5,000,000).

158 2. All or a portion of the plant, property, or facility  
159 is owned by one or more of the following:

160 (i) A utility described in Section 37-4-1(7)a.,

161 (ii) An entity organized under the provisions of  
162 Chapter 6 of Title 37,

163 (iii) An authority both organized and existing pursuant  
164 to the provisions of Chapter 50A of Title 11 and subject to  
165 the payments required to be made in lieu of ad valorem, sales,  
166 use, license, and severance taxes imposed by Section 11-50A-7,  
167 or

168 (iv) An entity in which one or more of the foregoing



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169 owns an interest.

170 f. "Industrial or research enterprise" also includes  
171 any headquarters facility.

172 g. "Industrial or research enterprise" also includes  
173 any data processing center.

174 h. "Industrial or research enterprise" also includes  
175 any research and development facility.

176 i. "Industrial or research enterprise" also includes  
177 any renewable energy facility.

178 j. "Industrial or research enterprise" also includes  
179 any tourism destination attraction.

180 (11) MAJOR ADDITION. Any addition to an existing  
181 industrial development property that equals the lesser of: 30  
182 percent of the original cost of the industrial development  
183 property or two million dollars (\$2,000,000). For purposes of  
184 this subsection, the original cost of existing industrial  
185 development property shall be the amount of industrial  
186 development property with respect to which an abatement was  
187 granted under this chapter when the property was constructed,  
188 or if the existing industrial development property was  
189 constructed before January 1, 1993, the maximum amount that  
190 would have been allowed if the provisions of this chapter had  
191 applied at the time it was constructed. Only property that  
192 constitutes industrial development property shall be taken  
193 into account in making the determination in the previous  
194 sentence. Major addition shall include any addition costing at  
195 least two million dollars (\$2,000,000) which constitutes an  
196 industrial or research enterprise, regardless of whether added



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197 to an existing industrial development property.

198 (12) MAXIMUM EXEMPTION PERIOD. Except as provided in  
199 Section 40-9B-11, a period equal to the shorter of:

200 a. Either of the following:

201 1. Twenty years from and after: (i) The date of initial  
202 issuance by a county, city, or public authority of bonds to  
203 finance any costs of a private use property~~;~~; or (ii) If no  
204 such bonds are ever issued, the later of: A. The date on which  
205 title to the property was acquired by or vested in the county,  
206 city, or public authority~~;~~; or B. The date on which the  
207 property is or becomes owned, for federal income tax purposes,  
208 by a private user~~;~~;.

209 2. Exclusively with respect to one or more private  
210 users of a data processing center, the following:

211 (i) A period of 10 years from and after the date on  
212 which private use property is or becomes owned, for federal  
213 income tax purposes, by such private user or users (including  
214 the lessor and any lessee with respect to co-location  
215 centers), if the aggregate capital investment in the data  
216 processing center by such private user or users does not  
217 exceed two hundred million dollars (\$200,000,000) within 10  
218 years from the date on which a private user commences the  
219 acquisition, construction, and equipping of the data  
220 processing center~~;~~.

221 (ii) AFor any abatement granted prior to January 1,  
222 2027, a period of 20 years from and after the date on which  
223 private use property is or becomes owned, for federal income  
224 tax purposes, by such private user or users (including the



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225 lessor and any lessee with respect to co-location centers), if  
 226 the aggregate capital investment in the data processing center  
 227 by such private user or users exceeds two hundred million  
 228 dollars (\$200,000,000) but is not greater than four hundred  
 229 million dollars (\$400,000,000) within 10 years from the date  
 230 on which a private user commences the acquisition,  
 231 construction, and equipping of the data processing center. For  
 232 any abatement granted on or after January 1, 2027, a period of  
 233 20 years from and after the date on which the private use  
 234 property is or becomes owned, for federal income tax purposes,  
 235 by such private user or users, including the lessor or any  
 236 lessee with respect to co-location centers, if the aggregate  
 237 capital investment in the data processing center by such  
 238 private user or users exceeds two hundred million dollars  
 239 (\$200,000,000) within 10 years from the date on which a  
 240 private user commences the acquisition, construction, and  
 241 equipping of the data processing center, ~~or.~~

242 (iii) ~~A~~ For any abatement granted until January 1, 2027,  
 243 a period of 30 years from and after the date on which private  
 244 use property is or becomes owned, for federal income tax  
 245 purposes, by such private user or users, ~~including the lessor~~  
 246 ~~and any lessee with respect to co-location centers~~, if the  
 247 aggregate capital investment in the data processing center by  
 248 such private user or users exceeds two hundred million dollars  
 249 (\$200,000,000) within 10 years from the date on which a  
 250 private user commences the physical work of constructing and  
 251 equipping the data processing center and exceeds four hundred  
 252 million dollars (\$400,000,000) within 20 years from the date



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253 on which a private user commences the acquisition,  
254 construction, and equipping of the data processing center.  
255 This item (iii) shall not apply to any abatement granted after  
256 January 1, 2027.

257 For purposes of this subparagraph 2., a private user's  
258 aggregate capital investment in a data processing center shall  
259 include all real and personal property comprising a data  
260 processing center, the costs of which may be capitalized for  
261 federal income tax purposes. In no event shall abatements of  
262 construction related transaction taxes or noneducational ad  
263 valorem taxes granted for a data processing center apply  
264 beyond the expiration of the applicable maximum exemption  
265 period; or

266 b. The period ending on the date on which the property  
267 has ceased, for 6 consecutive months, to be used in the active  
268 conduct of an industrial or research enterprise.

269 (13) MORTGAGE AND RECORDING TAXES. The taxes imposed by  
270 Chapter 22 of this title.

271 (14) NAICS CODE. Any sector, subsector, industry group,  
272 industry or national industry of the 2012 North American  
273 Industry Classification System, or any similar classification  
274 system developed in conjunction with the United States  
275 Department of Commerce or Office of Management and Budget.

276 (15) NONEDUCATIONAL AD VALOREM TAXES. Ad valorem taxes,  
277 or payments required to be made in lieu thereof, imposed by  
278 the state, counties, municipalities, and other taxing  
279 jurisdictions of Alabama that are not required to be used for  
280 educational purposes or for capital improvements for



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281 education.

282 (16) PERSON. Includes any individual, partnership,  
283 trust, estate, or corporation.

284 (17) PRIVATE USER. Any individual, partnership, or  
285 corporation organized for profit that is or will be treated as  
286 the owner of private use property for federal income tax  
287 purposes, any entity organized under Chapter 6 of Title 37,  
288 and any authority both organized and existing pursuant to  
289 Chapter 50A of Title 11 and subject to the payments required  
290 to be made in lieu of ad valorem, sales, use, license, and  
291 severance taxes imposed by Section 11-50A-7.

292 (18) PRIVATE USE INDUSTRIAL PROPERTY. Private use  
293 property that also constitutes industrial development  
294 property.

295 (19) PRIVATE USE PROPERTY. Any real and/or personal  
296 property which is or will be treated as owned by a private  
297 user for federal income tax purposes even though title may be  
298 held by a public authority or municipal or county government;  
299 any real and/or personal property which is owned by any entity  
300 organized under Chapter 6 of Title 37; and any real and/or  
301 personal property which is owned by any authority both  
302 organized and existing pursuant to Chapter 50A of Title 11,  
303 and subject to the payments required to be made in lieu of ad  
304 valorem, sales, use, license, and severance taxes imposed by  
305 Section 11-50A-7.

306 (20) PUBLIC AUTHORITY. A corporation created for public  
307 purposes pursuant to a provision of the Constitution of  
308 Alabama of 1901, or a general or local law that authorized it



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309 to issue bonds, the interest on which is exempt from the  
310 Alabama income tax, as in effect on May 21, 1992.

311 (21) PUBLIC INDUSTRIAL AUTHORITY. A public authority  
312 authorized to issue bonds to acquire, construct, equip, or  
313 finance industrial development property.

314 (22) RENEWABLE ENERGY FACILITY. Any plant, property, or  
315 facility that either:

316 a. Produces electricity or natural gas, in whole or in  
317 part, from biofuels as such term is defined in Section  
318 2-2-90(c)(2) or from renewable energy resources as such term  
319 is defined in Section 40-18-1(30) with the exception that  
320 hydropower production shall be excluded from such definition;  
321 or

322 b. Produces biofuel as such term is defined in Section  
323 2-2-90(c)(2).

324 (23) RESEARCH AND DEVELOPMENT FACILITY. An  
325 establishment engaged in conducting original investigations  
326 undertaken on a systematic basis to gain new knowledge or  
327 applying research findings or other scientific knowledge to  
328 create new or significantly improved products or processes, or  
329 both.

330 (24) STATEMENT OF INTENT. A written statement of intent  
331 to claim an abatement provided in this chapter, or to petition  
332 for local tax abatement, relating to an industrial or research  
333 enterprise described in paragraph e. of subdivision (10) of  
334 this subsection that is filed with the Department of Revenue  
335 at any time prior to the date on which the industrial or  
336 research enterprise described in paragraph e. of subdivision



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337 (10) of this subsection is placed in service in accordance  
338 with such procedures and on such form or forms as may be  
339 prescribed by the Department of Revenue. Such statement of  
340 intent shall contain a description of the industrial or  
341 research enterprise described in paragraph e. of subdivision  
342 (10) of this subsection; the date on which the acquisition,  
343 construction, installation, or equipping of the industrial or  
344 research enterprise described in paragraph e. of subdivision  
345 (10) of this subsection was commenced or is expected to  
346 commence; the actual or, if not known, the estimated capital  
347 costs of the industrial or research enterprise described in  
348 paragraph e. of subdivision (10) of this subsection; the  
349 number of new employees to be employed at the industrial or  
350 research enterprise described in paragraph e. of subdivision  
351 (10) of this subsection; and any other information required by  
352 the Department of Revenue.

353 (25) TOURISM DESTINATION ATTRACTION. A commercial  
354 enterprise which is open to the public not less than 120 days  
355 during a calendar year and is designed to attract visitors  
356 from inside or outside of the State of Alabama, typically for  
357 its inherent cultural value, historical significance, natural  
358 or man-made beauty, or entertainment or amusement  
359 opportunities. The term shall include, but not be limited to,  
360 a cultural or historical site; a botanical garden; a museum; a  
361 wildlife park or aquarium open to the public that cares for  
362 and displays a collection of animals or fish; an amusement  
363 park; a convention hotel and conference center; a water park;  
364 or a spectator venue or arena.



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365           A tourism destination attraction shall not include a  
366 facility primarily devoted to the retail sale of goods; a  
367 shopping center; a restaurant; a movie theater; a bowling  
368 alley; a fitness center; a miniature golf course; or a  
369 nightclub. Provided, however, that the capital costs of the  
370 construction of a tourism destination attraction may include  
371 the capital costs associated with the construction of any  
372 retail establishment, restaurant or other portion of the  
373 tourism destination attraction. The term also does not include  
374 any gaming facility or establishment that the Secretary of the  
375 Department of Commerce deems to be serving the local  
376 community.

377           (b) The abatements of ad valorem taxes, and payments in  
378 lieu thereof, allowed by amendments to this section by Act  
379 2008-275 shall become effective for projects for which  
380 statements of intent are filed after December 31, 2011. No ad  
381 valorem taxes, or payments in lieu thereof, shall be abated  
382 for periods prior to January 1, 2012. The other abatements  
383 allowed by amendments made to this section by Act 2008-275  
384 shall become effective after December 31, 2011.

385           For a qualifying industrial or research enterprise  
386 described in Section 40-9B-3(a)(10)j., the approval of the  
387 abatement of a specified ad valorem tax or construction  
388 related tax levied or imposed by a county or municipality, or  
389 payments required to be made in lieu thereof, shall take  
390 effect only upon adoption of a resolution by the governing  
391 body of that county or municipality approving such abatement  
392 or abatements."



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393 "§40-9B-4

394 (a) Noneducational ad valorem taxes, construction  
395 related transaction taxes, except those local construction  
396 related transaction taxes levied for educational purposes or  
397 for capital improvements for education, and mortgage and  
398 recording taxes, or payments required to be made in lieu  
399 thereof, and in the case of a qualifying industrial or  
400 research enterprise described in Section 40-9B-3(a)(10)e.  
401 which is owned by an entity organized under Chapter 6 of Title  
402 37, or by an authority both organized and existing pursuant to  
403 Chapter 50A of Title 11, and subject to the payments required  
404 to be made in lieu of ad valorem, sales, use, license, and  
405 severance taxes imposed by Section 11-50A-7, in addition to  
406 the foregoing, all other ad valorem taxes, or payments  
407 required to be made in lieu thereof, imposed by the state,  
408 counties, municipalities, and other taxing jurisdictions of  
409 Alabama, may be abated with respect to private use industrial  
410 property and security documents and other recordable documents  
411 associated therewith as provided in this chapter.

412 (b) No abatement of noneducational ad valorem taxes,  
413 other ad valorem taxes, or payments required to be made in  
414 lieu of the foregoing, may exceed the maximum exemption  
415 period. No further abatement with respect to the same private  
416 use industrial property may be granted unless there is a major  
417 addition to the property, in which event abatement may be  
418 granted only with respect to the noneducational ad valorem  
419 taxes, and in the case of a qualifying industrial or research  
420 enterprise described in Section 40-9B-3(a)(10)e. which is



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421 owned by an entity organized under Chapter 6 of Title 37, or  
422 by an authority both organized and existing pursuant to  
423 Chapter 50A of Title 11, and subject to the payments required  
424 to be made in lieu of ad valorem, sales, use, license, and  
425 severance taxes imposed by Section 11-50A-7, in addition to  
426 the noneducational ad valorem taxes, with respect to all other  
427 ad valorem taxes, or payments required to be made in lieu  
428 thereof, imposed by the state, counties, municipalities, and  
429 other taxing jurisdictions of Alabama, on the major addition  
430 by complying with the procedures set forth in this chapter.  
431 Notwithstanding the immediately preceding sentence, with  
432 respect to a data processing center, an abatement of  
433 noneducational ad valorem taxes, other ad valorem taxes, or  
434 payments required to be made in lieu thereof, shall apply to  
435 all real and personal property comprising a data processing  
436 center, the costs of which may be capitalized for federal  
437 income tax purposes, acquired at any time during the  
438 applicable maximum exemption period, including, but not  
439 limited to, computers, software licensed for use at the  
440 qualifying data processing center, equipment supporting  
441 computing, networking, or data storage; cooling systems,  
442 cooling towers, and other temperature infrastructure; power  
443 infrastructure for transformation, distribution, or management  
444 of electricity used for the maintenance and operation of a  
445 data processing center, including, but not limited to,  
446 exterior dedicated business-owned substations, backup power  
447 generation systems, battery systems, and related  
448 infrastructure; and any other equipment necessary for the



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449 maintenance and operation of a data processing center.

450 (c) (1) An abatement of construction related transaction  
451 taxes, or payments required to be made in lieu thereof, shall  
452 apply only to tangible personal property and taxable services  
453 incorporated into a private use industrial property, the cost  
454 of which may be added to capital account with respect to the  
455 property, determined without regard to any rule which permits  
456 expenditures properly chargeable to capital account to be  
457 treated as current expenses. No abatement of construction  
458 related transaction taxes, or payments required to be made in  
459 lieu thereof, shall extend beyond the date the private use  
460 industrial property is placed in service; provided, however,  
461 that an abatement of construction related transaction taxes,  
462 or payments required to be made in lieu thereof, for a data  
463 processing center shall apply to all taxable services and  
464 acquisitions of real and personal property comprising the data  
465 processing center, the costs of which may be capitalized for  
466 federal income tax purposes, occurring at any time during the  
467 applicable maximum exemption period, including, but not  
468 limited to, computers, software licensed for use at the  
469 qualifying data processing center, equipment supporting  
470 computing, networking, or data storage; cooling systems,  
471 cooling towers, and other temperature infrastructure; power  
472 infrastructure for transformation, distribution, or management  
473 of electricity used for the maintenance and operation of a  
474 data processing center, including, but not limited to,  
475 exterior dedicated business-owned substations, backup power  
476 generation systems, battery systems, and related



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477 infrastructure; and any other equipment necessary for the  
478 maintenance and operation of a data processing center. No  
479 further abatement may be granted for construction related  
480 transaction taxes, or payments required to be made in lieu  
481 thereof, with respect to the private use industrial property  
482 unless incurred in connection with a major addition, in which  
483 event only construction related transaction taxes, or payments  
484 required to be made in lieu thereof, that may be added to  
485 capital account with respect to the major addition, determined  
486 without regard to any rule which permits expenditures properly  
487 chargeable to capital account to be treated as current  
488 expenses, may be abated by complying with the procedures set  
489 forth in Act 92-599 as amended, and as amended by Act  
490 2008-275. Except in the case of a qualifying industrial or  
491 research enterprise described in Section 40-9B-3(a)(10)e.  
492 which is owned by an entity organized under Chapter 6 of Title  
493 37, or by an authority both organized and existing pursuant to  
494 Chapter 50A of Title 11, and subject to the payments required  
495 to be made in lieu of ad valorem, sales, use, license, and  
496 severance taxes imposed by Section 11-50A-7, no local  
497 construction related transaction taxes levied for educational  
498 purposes or capital improvements for education, or payments  
499 required to be made in lieu thereof, may be abated.

500 (2) Effective for an abatement granted: (i) on or after  
501 January 1, 2027; and (ii) to a data processing center with a  
502 total peak demand of 100 megawatts or greater, no abatement of  
503 state noneducational ad valorem taxes or construction related  
504 transaction taxes levied pursuant to Chapter 23 of this title,



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505 or payments required to be made in lieu thereof, on building  
506 materials, building fixtures, structural components, real  
507 property improvements, power infrastructure for  
508 transformation, distribution, or management of electricity,  
509 backup power generation systems, and battery systems shall  
510 extend beyond the date the private use industrial property is  
511 placed in service, provided that this subdivision shall not  
512 limit or restrict the abatement of construction related  
513 transaction taxes on computers, servers, software licensed for  
514 use at the data processing center, equipment supporting  
515 computing, networking, or data storage, cooling systems,  
516 cooling towers, and other temperature infrastructure, and any  
517 other equipment necessary for the maintenance and operation of  
518 a data processing center, which shall continue to be eligible  
519 for abatement throughout the applicable maximum exemption  
520 period as provided in subdivision (c)(1).

521 (3) Notwithstanding subdivision (c)(2), the Governor  
522 may abate the state construction related transaction taxes for  
523 the maximum exemption period for a data processing center with  
524 a total peak demand of 100 megawatts or greater, if the data  
525 processing center is located in a "targeted county" as defined  
526 in Section 40-18-376.1.

527 (d) Mortgage and recording taxes with respect to  
528 mortgages, deeds, and documents relating to issuing or  
529 securing obligations and conveying title into or out of the  
530 public authority or county or municipal government with  
531 respect to a private use industrial property may be abated by  
532 complying with the procedures set forth in this chapter.



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533           (e) An abatement under this section may be granted only  
534 with respect to private use industrial property that has not  
535 previously been placed in service by the private user who is  
536 applying for the abatement or by a person who is a related  
537 party, as defined in 26 U.S.C. §267, with respect to such  
538 private user.

539           (f) (1) For a qualifying industrial or research  
540 enterprise described in Section 40-9B-3(a)(10)e., which is  
541 owned by a utility described in Section 37-4-1(7)a., and which  
542 is a coal gasification or liquefaction project or an advanced  
543 fossil-based generation project, as such terms are defined in  
544 Section 40-18-1, or which utilizes hydropower production, an  
545 abatement under this section shall be in an amount equal to  
546 100 percent of the state noneducational ad valorem taxes owed  
547 for plant, property, and facilities for the maximum exemption  
548 period, and in an amount equal to 50 percent of the state  
549 construction related transaction taxes. The abatement shall  
550 not be subject to the procedures in Section 40-9B-5 or  
551 40-9B-6.

552           (2) For a qualifying industrial or research enterprise  
553 described in Section 40-9B-3(a)(10)e., which is owned by a  
554 utility described in Section 37-4-1(7)a., and which is a  
555 project using an alternative energy resource the abatements  
556 for which are not provided in subdivision (1), an abatement  
557 under this section shall be in an amount equal to 100 percent  
558 of the state noneducational ad valorem taxes owed for plant,  
559 property, and facilities for the maximum exemption period, and  
560 in an amount equal to 50 percent of the state construction



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561 related transaction taxes. The abatement shall not be subject  
562 to the procedures in Section 40-9B-5 or 40-9B-6.

563 (3) For a qualifying industrial or research enterprise  
564 described in Section 40-9B-3(a)(10)e., which is owned by an  
565 entity organized under Chapter 6 of Title 37, an abatement  
566 under this section shall be in an amount equal to 100 percent  
567 of the ad valorem taxes owed for plant, property, and  
568 facilities for the maximum exemption period, and in an amount  
569 equal to 100 percent of the construction related transaction  
570 taxes. An abatement of ad valorem taxes levied or imposed by  
571 counties or municipalities may be granted as provided in  
572 subsection (h). An abatement of the construction related  
573 transaction taxes imposed by the governing body of a county  
574 pursuant to authority conferred under Article 1 of Chapter 12  
575 of Title 40, or any general, special, or local act of the  
576 Legislature, and such transaction taxes imposed by the  
577 governing body of a municipality pursuant to authority  
578 conferred under Article 3 of Chapter 51 of Title 11, or any  
579 general, special, or local act of the Legislature, and all  
580 transaction taxes imposed by any other local taxing  
581 jurisdiction of Alabama may be granted as provided in  
582 subsection (h). The abatement shall not be subject to the  
583 procedures in Section 40-9B-5 or 40-9B-6.

584 (4) For a qualifying industrial or research enterprise  
585 described in Section 40-9B-3(a)(10)e., which is owned by an  
586 authority both organized and existing pursuant to Chapter 50A  
587 of Title 11, and subject to the payments required to be made  
588 in lieu of ad valorem, sales, use, license, and severance



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589 taxes imposed by Section 11-50A-7, an abatement under this  
590 section against the payments required to be made in lieu of  
591 taxes imposed by Section 11-50A-7, shall be allowed in an  
592 amount equal to 100 percent of the payments required to be  
593 made in lieu of ad valorem taxes owed for plant, property, and  
594 facilities for the maximum exemption period, and in an amount  
595 equal to 100 percent of the payments required to be made in  
596 lieu of the construction related transaction taxes, including,  
597 without limitation, payments required to be made in lieu of  
598 all transaction taxes imposed by the governing body of a  
599 county pursuant to authority conferred under Article 1 of  
600 Chapter 12 of this title, or any general, special, or local  
601 act of the Legislature, all transaction taxes imposed by the  
602 governing body of a municipality pursuant to authority  
603 conferred under Article 3 of Chapter 51 of Title 11, or any  
604 general, special, or local act of the Legislature, and  
605 payments required to be made in lieu of all transaction taxes  
606 imposed by any other taxing jurisdiction of Alabama. The  
607 abatement of such payments required to be made in lieu of  
608 local taxes may be granted as provided in subsection (h). The  
609 abatement shall not be subject to the procedures in Section  
610 40-9B-5 or 40-9B-6.

611 (5) For a qualifying industrial or research enterprise  
612 described in Section 40-9B-3(a)(10)e., which is owned by a  
613 utility described in Section 37-4-1(7)a., the abatement for  
614 state noneducational ad valorem taxes provided in subdivision  
615 (1) or (2) of this subsection, shall be equal to 100 percent  
616 of the state noneducational ad valorem taxes owed for plant,



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617 property, and facilities for the maximum exemption period if  
618 the industrial or research enterprise is located in either of  
619 the following:

620 a. Any area designated or created as an enterprise zone  
621 by law or that is governed by the Alabama Enterprise Zone Act.

622 b. 1. Any Alabama county which is considered to be less  
623 developed. A county is considered to be less developed if it  
624 has been found to be less developed by the Alabama Department  
625 of Labor using the most current data available from the United  
626 States Departments of Labor or Commerce, the United States  
627 Bureau of the Census, or any other federal or state agency,  
628 and which finding shall be made not later than January 1 of  
629 each year thereafter.

630 2. A county shall be found to be less developed if it  
631 is ranked as the forty-fifth through sixty-seventh county,  
632 inclusive, using the following factors:

633 (i) Percent change in population over the most recent  
634 five-year period.

635 (ii) Personal per capita income in the last calendar  
636 year for which data are available.

637 (iii) The average percent employed over the last 12  
638 months for which data are available.

639 3. The factors used in ranking counties shall be  
640 weighted in the following manner:

641 (i) Percent change in population (25 percent).

642 (ii) Personal per capita income (25 percent).

643 (iii) Average percent employed (50 percent).

644 (6) a. To the extent that a plant, property, or



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645 facility described in Section 40-9B-3(a)(10)e., is owned in  
 646 whole or in part by one or more private users listed  
 647 hereinafter in ~~subparagraph~~paragraph c., including, but not  
 648 limited to, ownership as tenants in common, joint tenants, or  
 649 owners of an undivided interest, then each private user shall  
 650 be entitled to the abatement allowed under this section with a  
 651 percentage limitation equal to the ownership interest  
 652 percentage of the private user multiplied by the percentage  
 653 limitation found in this subsection applicable to the private  
 654 user for the tax, or payment in lieu of tax, in question.

655         b. To the extent that a plant, property, or facility  
 656 described in Section 40-9B-3(a)(10)e. is owned by a private  
 657 user which is itself owned in whole or in part by one or more  
 658 of the entities listed hereinafter in ~~subparagraph~~paragraph  
 659 c., then the private user shall be entitled to the abatement  
 660 allowed under this section with a percentage limitation equal  
 661 to the sum, for all owners, of the ownership interest  
 662 percentage of each owner multiplied by the percentage  
 663 limitation found in this subsection applicable to the owner  
 664 for the tax, or payment in lieu of tax, in question.

665         c. The entities listed in this ~~subparagraph~~paragraph c.  
 666 are:

- 667             1. A utility described in Section 37-4-1(7)a.;
- 668             2. An entity organized under Chapter 6 of Title 37-;
- 669             and
- 670             3. An authority both organized and existing pursuant to  
 671 Chapter 50A of Title 11 and subject to the payments required  
 672 to be made in lieu of ad valorem, sales, use, license, and



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673 severance taxes imposed by Section 11-50A-7.

674 (7) No abatement for mortgage and recording taxes,  
675 local noneducational ad valorem taxes, or local noneducational  
676 construction related transaction taxes shall be granted to a  
677 qualifying industrial or research enterprise described in  
678 Section 40-9B-3(a)(10)e., owned by a utility described in  
679 Section 37-4-1(7)a., except upon the approval of the abatement  
680 by the governing body of the county or municipality as  
681 provided in ~~subsection (b) of~~ Section 40-9B-5 (b).

682 (g) The abatements of ad valorem taxes and payments in  
683 lieu thereof allowed by amendments to this section by Act  
684 2008-275 shall become effective for projects for which  
685 statements of intent are filed after December 31, 2011. No ad  
686 valorem taxes, or payments in lieu thereof, shall be abated  
687 for periods prior to January 1, 2012. The other abatements  
688 allowed by amendments made to this section by Act 2008-275  
689 shall become effective after December 31, 2011.

690 (h) For a qualifying industrial or research enterprise  
691 described in Section 40-9B-3(a)(10)e., the approval of the  
692 abatement of a specific ad valorem tax or construction related  
693 tax levied or imposed by a county or municipality, or payments  
694 required to be made in lieu thereof, shall take effect only  
695 upon adoption of a resolution by the governing body of that  
696 county or municipality approving such abatement or  
697 abatements."

698 "§40-9B-4.1

699 In no event shall any incentive provided in Act  
700 2012-210 be available to any company filing an application



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701 after July 31, ~~2028~~2032. Any project granted an incentive  
702 prior to July 31, ~~2028~~2032, shall be entitled to the incentive  
703 pursuant to the project agreement regardless of whether Act  
704 2012-210 is reauthorized."

705 "§40-23-35

706 (a) Such amount of money as shall be appropriated for  
707 each fiscal year by the Legislature to the Department of  
708 Revenue with which to pay the salaries, the cost of operation  
709 and management of the department shall be deducted, as a first  
710 charge thereon, from the taxes collected under the provisions  
711 of this division; provided, that the expenditure of the sum so  
712 appropriated shall be budgeted and allotted pursuant to  
713 Article 4 of Chapter 4 of Title 41, and limited to the amount  
714 appropriated to defray the expenses of operating the  
715 department for each fiscal year. After the payment of the  
716 expenses, so much of the amount remaining as may be necessary,  
717 after first applying all sums of money received by reason of  
718 the application of the surplus in the income tax as provided  
719 by Section 40-18-58, for the replacement in the public school  
720 fund of the three-mill constitutional levy for schools and in  
721 the General Fund of the one-mill levy for soldiers' relief and  
722 the two and one-half mills for general purposes lost by  
723 exemption of homestead provided for in this division shall be  
724 first charges against the proceeds of the licenses, taxes, or  
725 receipts levied or collected under this division. The  
726 Comptroller, with the approval of the Governor, is hereby  
727 directed to draw his or her warrants payable out of the total  
728 proceeds of the licenses, taxes, or receipts levied or



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729 collected under this division as herein provided in such sum  
730 as shall be found necessary to take care of and replace the  
731 three-mill constitutional school levy, the one-mill soldiers'  
732 relief levy, and the two and one-half mill levy for general  
733 purposes of the state ad valorem taxes lost as above set  
734 forth.

735 (b) Of the amounts of such collections in any fiscal  
736 year remaining after the payment of the expenses of  
737 administration and replacement of the amounts in the several  
738 funds as herein provided there shall be paid into the Treasury  
739 sums to be credited as follows:

740 (1) To the credit of the 67 counties of the state, to  
741 be divided and distributed as hereinafter provided, three  
742 hundred seventy-eight thousand dollars (\$378,000);

743 (2) To the Department of Human Resources, one million  
744 three hundred twenty-two thousand dollars (\$1,322,000); and

745 (3) Beginning June 1, 2000, to the Department of  
746 Conservation and Natural Resources for capital outlay for  
747 acquisition of land contiguous to existing state parks and  
748 land acquired for lakes and or water reservoirs, provision,  
749 construction, improvement, renovation, equipping, and  
750 maintenance of the state parks system only and not for use by  
751 the Department of Conservation and Natural Resources for  
752 personnel or administrative use, the sum equal to the increase  
753 in receipts accruing to the State of Alabama due to the cap on  
754 discounts per license holder in Section 40-23-36(b), which  
755 increase shall be equal to the difference between the discount  
756 rate or amount allowed under Section 40-23-36(b) and the



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757 maximum discount rate allowable under Section 40-23-36(a);  
758 provided, however, if at any time any bonds of the Alabama  
759 State Parks System Improvement Corporation, or the Alabama  
760 Public Historical Sites and Parks Improvement Corporation, are  
761 outstanding (excluding bonds that have been refunded by the  
762 establishment of an escrow trust for the payment thereof  
763 consisting solely of bonds or other obligations which as to  
764 principal and interest constitute direct obligations of, or  
765 are unconditionally guaranteed by, the United States of  
766 America) there shall first be paid into the State General Fund  
767 from such collections an amount equal to the debt service  
768 (principal, interest, and premium, if any) payable on such  
769 bonds in the then current fiscal year of the state. Provided,  
770 however, that one million dollars (\$1,000,000) of such  
771 increase in receipts per fiscal year shall be credited to the  
772 Department of Human Resources beginning October 1, 1996, until  
773 September 30, 2002, and shall be expended for the foster  
774 children program.

775 (4)a. On October 1, 2002, to the Department of  
776 Conservation and Natural Resources for capital outlay, repairs  
777 and maintenance of the state parks system only, the minimum  
778 sum of five million dollars (\$5,000,000) from the increase in  
779 receipts accruing to the State of Alabama due to the cap on  
780 discounts per license holder in Section 40-23-36(b) as  
781 calculated in Section 40-23-35(b)(3). Beginning October 1,  
782 2003, through September 30, 2021, annually, to the Department  
783 of Conservation and Natural Resources for capital outlay,  
784 repairs, and maintenance of the state parks system only, the



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785 sum calculated by a fraction, the numerator of which is five  
786 million dollars (\$5,000,000) and the denominator of which is  
787 equal to the increase in receipts as calculated in Section  
788 40-23-35(b) (3) for fiscal year 2002 accruing to the State of  
789 Alabama multiplied by the increase in receipts as calculated  
790 in Section 40-23-35(b) (3) for the then current fiscal year, or  
791 the sum of five million dollars (\$5,000,000), whichever is  
792 greater. Notwithstanding the previous sentence, for the fiscal  
793 years ending September 30, 2012, and September 30, 2013, only,  
794 the five million dollars (\$5,000,000) shall be transferred to  
795 the State General Fund.

796           b. Beginning October 1, 2021, annually, to the  
797 Department of Conservation and Natural Resources for capital  
798 outlay, repairs, and maintenance of the state parks system  
799 only, seven million dollars (\$7,000,000). Beginning with the  
800 fiscal year that starts October 1, 2022, the State Treasurer  
801 shall annually adjust the dollar amount in this paragraph to  
802 reflect the cumulative change in the Consumer Price Index for  
803 All Urban Consumers (CPI-U), as published by the Bureau of  
804 Labor Statistics of the United States Department of Labor, or  
805 a successor index, for the annual period ending on the  
806 December 31 preceding the adjustment date and rounded to the  
807 nearest one thousand dollars (\$1,000).

808           c. Beginning October 1, 2002, to the credit of the  
809 State General Fund, the balance of the sum equal to the  
810 increase in receipts accruing to the State of Alabama due to  
811 the cap on discounts per license holder in Section  
812 40-23-36(b).



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813 (c) One-half of the amount deposited to the credit of  
814 the 67 counties as above provided, shall be divided and  
815 distributed proportionately among the 67 counties of the state  
816 according to the population of the counties as shown by the  
817 last federal census as proclaimed, published, or certified by  
818 the Director of the Bureau of the Census; and one-half of the  
819 proceeds shall be divided or distributed equally among 67  
820 counties; provided, that the funds divided and distributed to  
821 the several counties of the state as hereinabove provided for  
822 shall be used exclusively for full-time health service in  
823 cooperation with the State Board of Health or the federal  
824 government, and for extension services in cooperation with the  
825 Alabama Agriculture Extension Service or the federal  
826 government, at the discretion of the county commissions of the  
827 several counties of the state.

828 (d) The amounts provided in subsection (b) for the  
829 Department of Human Resources shall be used for general  
830 welfare purposes. For purposes of this division, "general  
831 welfare purposes" means:

832 (1) The administration of public assistance as set out  
833 in Sections 38-2-5 and 38-4-1;

834 (2) Services, including supplementation and  
835 supplementary services under the federal Social Security Act,  
836 to or on behalf of persons to whom such public assistance may  
837 be given under Section 38-4-1;

838 (3) Services to and on behalf of dependent, neglected,  
839 or delinquent children; and

840 (4) Investigative and referral services to and on



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841 behalf of needy persons.

842 (e) In addition, there shall be paid, commencing on  
843 January 1, 1978, and on the first day of each fiscal quarter  
844 thereafter, to the Department of Human Resources for a  
845 statewide, state-administered food stamp program, as  
846 authorized by the Food Stamp Act of 1964, Public Law 88-525,  
847 88th Congress, and amendments thereto, an amount equal to five  
848 percent of the value of food stamp benefits issued statewide  
849 in excess of the amount paid by recipients (bonus or free  
850 stamps) during the immediate prior fiscal quarter, which sum  
851 so appropriated shall be paid quarterly to the Department of  
852 Human Resources Trust Fund for administration of the food  
853 stamp program in conformity with rules and regulations  
854 ~~promulgated~~adopted by the United States Department of  
855 Agriculture and in conformity with Sections 38-1-1 through  
856 38-6-9. The administrative funds shall be limited to and based  
857 on fiscal year 1976-77 administrative costs, normal  
858 inflationary increases, and mandated administration  
859 requirements of the Alabama Legislature and the United States  
860 Department of Agriculture. The Department of Human Resources  
861 will not staff any county food stamp office at a level that  
862 exceeds the average staff-to-recipient ratios that existed in  
863 Alabama during fiscal year 1976-77. This restriction will  
864 apply in coordination with those provided hereinabove and,  
865 should conflict occur, the lesser amount of expenditure shall  
866 be required. At the end of each fiscal year, an accounting  
867 shall be made of the sum so that any unexpended and  
868 unencumbered balance of funds may be determined for the



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869 purpose of paying such balance to the Education Trust Fund.

870 (f) The amount of the proceeds of all taxes levied by  
871 this division remaining after the payment of the expenses of  
872 administration and enforcement and the replacement in the  
873 several funds of the amount lost by any homestead exemptions  
874 and the distribution as provided in subsections (b) and (d),  
875 shall be paid into the Education Trust Fund except as provided  
876 in ~~subdivision (4) of~~ Section 40-23-2 (4) and ~~subsection (c) of~~  
877 Section 40-23-61 (c) ~~and, beginning January 1, 2016~~, except  
878 those collected on consumable vapor products as defined in  
879 ~~subdivision (15) of subsection (a) of~~ Section 40-23-1 (a) (15),  
880 and, beginning January 1, 2027, those collected on  
881 construction related transaction taxes on building materials,  
882 building fixtures, structural components, real property  
883 improvements, power infrastructure for transformation,  
884 distribution, or management of electricity, backup power  
885 generation systems, and battery systems for data processing  
886 centers under Section 40-9B-4(c) (2), which shall be  
887 distributed to the State General Fund."

888 Section 2. This act shall become effective on June 1,  
889 2026.