

HB399 ENGROSSED



1 HB399

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6 RFD: Transportation, Utilities and Infrastructure

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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) For 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) 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) (1) 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 (2) Effective for an abatement granted: (i) on or
451 after January 1, 2027; and (ii) to a data processing center
452 with a total peak demand of 100 megawatts or greater, no
453 abatement of state noneducational ad valorem taxes shall
454 extend beyond the date the private use industrial property is
455 placed in service.

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



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477 cooling towers, and other temperature infrastructure; power
478 infrastructure for transformation, distribution, or management
479 of electricity used for the maintenance and operation of a
480 data processing center, including, but not limited to,
481 exterior dedicated business-owned substations, backup power
482 generation systems, battery systems, and related
483 infrastructure; and any other equipment necessary for the
484 maintenance and operation of a data processing center. No
485 further abatement may be granted for construction related
486 transaction taxes, or payments required to be made in lieu
487 thereof, with respect to the private use industrial property
488 unless incurred in connection with a major addition, in which
489 event only construction related transaction taxes, or payments
490 required to be made in lieu thereof, that may be added to
491 capital account with respect to the major addition, determined
492 without regard to any rule which permits expenditures properly
493 chargeable to capital account to be treated as current
494 expenses, may be abated by complying with the procedures set
495 forth in Act 92-599 as amended, and as amended by Act
496 2008-275. Except in the case of a qualifying industrial or
497 research enterprise described in Section 40-9B-3(a)(10)e.
498 which is owned by an entity organized under Chapter 6 of Title
499 37, or by an authority both organized and existing pursuant to
500 Chapter 50A of Title 11, and subject to the payments required
501 to be made in lieu of ad valorem, sales, use, license, and
502 severance taxes imposed by Section 11-50A-7, no local
503 construction related transaction taxes levied for educational
504 purposes or capital improvements for education, or payments



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505 required to be made in lieu thereof, may be abated.

506

507 (2) a. Effective for an abatement granted: (i) on or
508 after January 1, 2027; and (ii) to a data processing center
509 with a total peak demand of 100 megawatts or greater,
510 construction related transaction taxes levied pursuant to
511 Chapter 23 of this title, or payments required to be made in
512 lieu thereof, on computers, servers, software licensed for use
513 at the data processing center, equipment supporting computing,
514 networking, or data storage, cooling systems, cooling towers,
515 and other temperature infrastructure, and any other equipment
516 necessary for the maintenance and operation of a data
517 processing center, shall be eligible for abatement throughout
518 the applicable maximum exemption period as provided in (c)
519 (1).

520 b. Except for those provided in (2) a., effective for
521 an abatement granted: (i) on or after January 1, 2027; and
522 (ii) to a data processing center with a total peak demand of
523 100 megawatts or greater, no abatement of state construction
524 related transaction taxes levied pursuant to Chapter 23 of
525 this title, or payments required to be made in lieu thereof,
526 shall extend beyond the date the private use industrial
527 property is placed in service.

528 (3) Notwithstanding subdivision (c) (2), the Governor
529 may abate the state construction related transaction taxes for
530 the maximum exemption period for a data processing center with
531 a total peak demand of 100 megawatts or greater, if the data
532 processing center is located in a "targeted county" as defined



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533 in Section 40-18-376.1.

534 (d) Mortgage and recording taxes with respect to
535 mortgages, deeds, and documents relating to issuing or
536 securing obligations and conveying title into or out of the
537 public authority or county or municipal government with
538 respect to a private use industrial property may be abated by
539 complying with the procedures set forth in this chapter.

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

546 (f) (1) For a qualifying industrial or research
547 enterprise described in Section 40-9B-3(a)(10)e., which is
548 owned by a utility described in Section 37-4-1(7)a., and which
549 is a coal gasification or liquefaction project or an advanced
550 fossil-based generation project, as such terms are defined in
551 Section 40-18-1, or which utilizes hydropower production, an
552 abatement under this section shall be in an amount equal to
553 100 percent of the state noneducational ad valorem taxes owed
554 for plant, property, and facilities for the maximum exemption
555 period, and in an amount equal to 50 percent of the state
556 construction related transaction taxes. The abatement shall
557 not be subject to the procedures in Section 40-9B-5 or
558 40-9B-6.

559 (2) For a qualifying industrial or research enterprise
560 described in Section 40-9B-3(a)(10)e., which is owned by a



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561 utility described in Section 37-4-1(7)a., and which is a
562 project using an alternative energy resource the abatements
563 for which are not provided in subdivision (1), an abatement
564 under this section shall be in an amount equal to 100 percent
565 of the state noneducational ad valorem taxes owed for plant,
566 property, and facilities for the maximum exemption period, and
567 in an amount equal to 50 percent of the state construction
568 related transaction taxes. The abatement shall not be subject
569 to the procedures in Section 40-9B-5 or 40-9B-6.

570 (3) For a qualifying industrial or research enterprise
571 described in Section 40-9B-3(a)(10)e., which is owned by an
572 entity organized under Chapter 6 of Title 37, an abatement
573 under this section shall be in an amount equal to 100 percent
574 of the ad valorem taxes owed for plant, property, and
575 facilities for the maximum exemption period, and in an amount
576 equal to 100 percent of the construction related transaction
577 taxes. An abatement of ad valorem taxes levied or imposed by
578 counties or municipalities may be granted as provided in
579 subsection (h). An abatement of the construction related
580 transaction taxes imposed by the governing body of a county
581 pursuant to authority conferred under Article 1 of Chapter 12
582 of Title 40, or any general, special, or local act of the
583 Legislature, and such transaction taxes imposed by the
584 governing body of a municipality pursuant to authority
585 conferred under Article 3 of Chapter 51 of Title 11, or any
586 general, special, or local act of the Legislature, and all
587 transaction taxes imposed by any other local taxing
588 jurisdiction of Alabama may be granted as provided in



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589 subsection (h). The abatement shall not be subject to the
590 procedures in Section 40-9B-5 or 40-9B-6.

591 (4) For a qualifying industrial or research enterprise
592 described in Section 40-9B-3(a)(10)e., which is owned by an
593 authority both organized and existing pursuant to Chapter 50A
594 of Title 11, and subject to the payments required to be made
595 in lieu of ad valorem, sales, use, license, and severance
596 taxes imposed by Section 11-50A-7, an abatement under this
597 section against the payments required to be made in lieu of
598 taxes imposed by Section 11-50A-7, shall be allowed in an
599 amount equal to 100 percent of the payments required to be
600 made in lieu of ad valorem taxes owed for plant, property, and
601 facilities for the maximum exemption period, and in an amount
602 equal to 100 percent of the payments required to be made in
603 lieu of the construction related transaction taxes, including,
604 without limitation, payments required to be made in lieu of
605 all transaction taxes imposed by the governing body of a
606 county pursuant to authority conferred under Article 1 of
607 Chapter 12 of this title, or any general, special, or local
608 act of the Legislature, all transaction taxes imposed by the
609 governing body of a municipality pursuant to authority
610 conferred under Article 3 of Chapter 51 of Title 11, or any
611 general, special, or local act of the Legislature, and
612 payments required to be made in lieu of all transaction taxes
613 imposed by any other taxing jurisdiction of Alabama. The
614 abatement of such payments required to be made in lieu of
615 local taxes may be granted as provided in subsection (h). The
616 abatement shall not be subject to the procedures in Section



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617 40-9B-5 or 40-9B-6.

618 (5) For a qualifying industrial or research enterprise
619 described in Section 40-9B-3(a)(10)e., which is owned by a
620 utility described in Section 37-4-1(7)a., the abatement for
621 state noneducational ad valorem taxes provided in subdivision
622 (1) or (2) of this subsection, shall be equal to 100 percent
623 of the state noneducational ad valorem taxes owed for plant,
624 property, and facilities for the maximum exemption period if
625 the industrial or research enterprise is located in either of
626 the following:

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

629 b. 1. Any Alabama county which is considered to be less
630 developed. A county is considered to be less developed if it
631 has been found to be less developed by the Alabama Department
632 of Labor using the most current data available from the United
633 States Departments of Labor or Commerce, the United States
634 Bureau of the Census, or any other federal or state agency,
635 and which finding shall be made not later than January 1 of
636 each year thereafter.

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

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

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

644 (iii) The average percent employed over the last 12



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645 months for which data are available.

646 3. The factors used in ranking counties shall be
647 weighted in the following manner:

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

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

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

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

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

672 c. The entities listed in this ~~subparagraph~~paragraph c.



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673 are:

- 674 1. A utility described in Section 37-4-1(7)a.;
- 675 2. An entity organized under Chapter 6 of Title 37-;
- 676 and
- 677 3. An authority both organized and existing pursuant to
- 678 Chapter 50A of Title 11 and subject to the payments required
- 679 to be made in lieu of ad valorem, sales, use, license, and
- 680 severance taxes imposed by Section 11-50A-7.

681 (7) No abatement for mortgage and recording taxes,

682 local noneducational ad valorem taxes, or local noneducational

683 construction related transaction taxes shall be granted to a

684 qualifying industrial or research enterprise described in

685 Section 40-9B-3(a)(10)e., owned by a utility described in

686 Section 37-4-1(7)a., except upon the approval of the abatement

687 by the governing body of the county or municipality as

688 provided in ~~subsection (b) of~~ Section 40-9B-5 (b).

689 (g) The abatements of ad valorem taxes and payments in

690 lieu thereof allowed by amendments to this section by Act

691 2008-275 shall become effective for projects for which

692 statements of intent are filed after December 31, 2011. No ad

693 valorem taxes, or payments in lieu thereof, shall be abated

694 for periods prior to January 1, 2012. The other abatements

695 allowed by amendments made to this section by Act 2008-275

696 shall become effective after December 31, 2011.

697 (h) For a qualifying industrial or research enterprise

698 described in Section 40-9B-3(a)(10)e., the approval of the

699 abatement of a specific ad valorem tax or construction related

700 tax levied or imposed by a county or municipality, or payments



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701 required to be made in lieu thereof, shall take effect only
702 upon adoption of a resolution by the governing body of that
703 county or municipality approving such abatement or
704 abatements."

705 "§40-9B-4.1

706 In no event shall any incentive provided in Act
707 2012-210 be available to any company filing an application
708 after July 31, ~~2028~~2032. Any project granted an incentive
709 prior to July 31, ~~2028~~2032, shall be entitled to the incentive
710 pursuant to the project agreement regardless of whether Act
711 2012-210 is reauthorized."

712 "§40-23-35

713 (a) Such amount of money as shall be appropriated for
714 each fiscal year by the Legislature to the Department of
715 Revenue with which to pay the salaries, the cost of operation
716 and management of the department shall be deducted, as a first
717 charge thereon, from the taxes collected under the provisions
718 of this division; provided, that the expenditure of the sum so
719 appropriated shall be budgeted and allotted pursuant to
720 Article 4 of Chapter 4 of Title 41, and limited to the amount
721 appropriated to defray the expenses of operating the
722 department for each fiscal year. After the payment of the
723 expenses, so much of the amount remaining as may be necessary,
724 after first applying all sums of money received by reason of
725 the application of the surplus in the income tax as provided
726 by Section 40-18-58, for the replacement in the public school
727 fund of the three-mill constitutional levy for schools and in
728 the General Fund of the one-mill levy for soldiers' relief and



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729 the two and one-half mills for general purposes lost by
730 exemption of homestead provided for in this division shall be
731 first charges against the proceeds of the licenses, taxes, or
732 receipts levied or collected under this division. The
733 Comptroller, with the approval of the Governor, is hereby
734 directed to draw his or her warrants payable out of the total
735 proceeds of the licenses, taxes, or receipts levied or
736 collected under this division as herein provided in such sum
737 as shall be found necessary to take care of and replace the
738 three-mill constitutional school levy, the one-mill soldiers'
739 relief levy, and the two and one-half mill levy for general
740 purposes of the state ad valorem taxes lost as above set
741 forth.

742 (b) Of the amounts of such collections in any fiscal
743 year remaining after the payment of the expenses of
744 administration and replacement of the amounts in the several
745 funds as herein provided there shall be paid into the Treasury
746 sums to be credited as follows:

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

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

752 (3) Beginning June 1, 2000, to the Department of
753 Conservation and Natural Resources for capital outlay for
754 acquisition of land contiguous to existing state parks and
755 land acquired for lakes and or water reservoirs, provision,
756 construction, improvement, renovation, equipping, and



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757 maintenance of the state parks system only and not for use by
758 the Department of Conservation and Natural Resources for
759 personnel or administrative use, the sum equal to the increase
760 in receipts accruing to the State of Alabama due to the cap on
761 discounts per license holder in Section 40-23-36(b), which
762 increase shall be equal to the difference between the discount
763 rate or amount allowed under Section 40-23-36(b) and the
764 maximum discount rate allowable under Section 40-23-36(a);
765 provided, however, if at any time any bonds of the Alabama
766 State Parks System Improvement Corporation, or the Alabama
767 Public Historical Sites and Parks Improvement Corporation, are
768 outstanding (excluding bonds that have been refunded by the
769 establishment of an escrow trust for the payment thereof
770 consisting solely of bonds or other obligations which as to
771 principal and interest constitute direct obligations of, or
772 are unconditionally guaranteed by, the United States of
773 America) there shall first be paid into the State General Fund
774 from such collections an amount equal to the debt service
775 (principal, interest, and premium, if any) payable on such
776 bonds in the then current fiscal year of the state. Provided,
777 however, that one million dollars (\$1,000,000) of such
778 increase in receipts per fiscal year shall be credited to the
779 Department of Human Resources beginning October 1, 1996, until
780 September 30, 2002, and shall be expended for the foster
781 children program.

782 (4)a. On October 1, 2002, to the Department of
783 Conservation and Natural Resources for capital outlay, repairs
784 and maintenance of the state parks system only, the minimum



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785 sum of five million dollars (\$5,000,000) from the increase in
786 receipts accruing to the State of Alabama due to the cap on
787 discounts per license holder in Section 40-23-36(b) as
788 calculated in Section 40-23-35(b) (3). Beginning October 1,
789 2003, through September 30, 2021, annually, to the Department
790 of Conservation and Natural Resources for capital outlay,
791 repairs, and maintenance of the state parks system only, the
792 sum calculated by a fraction, the numerator of which is five
793 million dollars (\$5,000,000) and the denominator of which is
794 equal to the increase in receipts as calculated in Section
795 40-23-35(b) (3) for fiscal year 2002 accruing to the State of
796 Alabama multiplied by the increase in receipts as calculated
797 in Section 40-23-35(b) (3) for the then current fiscal year, or
798 the sum of five million dollars (\$5,000,000), whichever is
799 greater. Notwithstanding the previous sentence, for the fiscal
800 years ending September 30, 2012, and September 30, 2013, only,
801 the five million dollars (\$5,000,000) shall be transferred to
802 the State General Fund.

803 b. Beginning October 1, 2021, annually, to the
804 Department of Conservation and Natural Resources for capital
805 outlay, repairs, and maintenance of the state parks system
806 only, seven million dollars (\$7,000,000). Beginning with the
807 fiscal year that starts October 1, 2022, the State Treasurer
808 shall annually adjust the dollar amount in this paragraph to
809 reflect the cumulative change in the Consumer Price Index for
810 All Urban Consumers (CPI-U), as published by the Bureau of
811 Labor Statistics of the United States Department of Labor, or
812 a successor index, for the annual period ending on the



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813 December 31 preceding the adjustment date and rounded to the
814 nearest one thousand dollars (\$1,000).

815 c. Beginning October 1, 2002, to the credit of the
816 State General Fund, the balance of the sum equal to the
817 increase in receipts accruing to the State of Alabama due to
818 the cap on discounts per license holder in Section
819 40-23-36(b).

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

835 (d) The amounts provided in subsection (b) for the
836 Department of Human Resources shall be used for general
837 welfare purposes. For purposes of this division, "general
838 welfare purposes" means:

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



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

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

847 (4) Investigative and referral services to and on
848 behalf of needy persons.

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



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869 exceeds the average staff-to-recipient ratios that existed in
870 Alabama during fiscal year 1976-77. This restriction will
871 apply in coordination with those provided hereinabove and,
872 should conflict occur, the lesser amount of expenditure shall
873 be required. At the end of each fiscal year, an accounting
874 shall be made of the sum so that any unexpended and
875 unencumbered balance of funds may be determined for the
876 purpose of paying such balance to the Education Trust Fund.

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

895 Section 2. This act shall become effective on June 1,
896 2026.



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House of Representatives

900 Read for the first time and referred05-Feb-26
901 to the House of Representatives
902 committee on Transportation,
903 Utilities and Infrastructure
904
905 Read for the second time and placed10-Feb-26
906 on the calendar:
907 1 amendment
908
909 Read for the third time and passed10-Mar-26
910 as amended
911 Yeas 103
912 Nays 0
913 Abstains 1

914
915
916
917
918

John Treadwell
Clerk