

# HB435 INTRODUCED



1 HB435  
2 6YUR21Z-1  
3 By Representative Whitt  
4 RFD: Commerce and Small Business  
5 First Read: 18-Mar-25



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SYNOPSIS:

Under existing law, the state has established research and development corridors and grants as well as various tax abatements and incentives that include references to the now outdated Accelerate Alabama Strategic Economic Development Plan. These laws also include references to the 2012 North American Industry Classification System (NAICS) Codes used to classify business establishments by industry sector.

This bill would remove references to the Accelerate Alabama Strategic Economic Development Plan and align relevant sections with the provisions of the Alabama Jobs Act.

This bill would also update NAICS Codes used to classify business establishments by industry sector, bringing them in line with the latest updates released in 2022.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to economic development; to amend Sections 11-66A-2 and 41-23-252, regarding research and development corridors and grants, and Sections 40-9B-3, 40-9G-1, 40-18-372, regarding tax abatements and incentives; to remove references to the outdated Accelerate Alabama Strategic



## HB435 INTRODUCED

29 Economic Development Plan; and to update NAICS Code references  
30 to the latest updated released in 2022.

31 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

32 Section 1. Sections 11-66A-2, 40-9B-3, 40-9G-1,  
33 40-18-372, and 41-23-252, Code of Alabama 1975, are amended as  
34 follows:

35 "§11-66A-2

36 (a) The Legislature finds and determines the public  
37 good, welfare, and economy of the state are best served by  
38 providing and encouraging the development, growth,  
39 improvement, and support of new and creative economic  
40 opportunities for existing and future qualified enterprises to  
41 establish and continue projects in this state for innovative  
42 processes and products. ~~These include specifically those~~  
43 ~~business sectors expressly identified in Accelerate Alabama~~  
44 ~~2.0, the strategic economic development plan developed by the~~  
45 ~~Department of Commerce.~~

46 (b) In furtherance of subsection (a) the legislative  
47 intent and public purpose of this chapter is:

48 (1) To provide authority to municipalities for the  
49 creation of research and development corridors with corporate  
50 authority and power to provide, in the discretion of the  
51 corridors, its resources; and

52 (2) To provide authority to public entities to provide  
53 public resources to, or for the benefit of, corridors."

54 "§40-9B-3

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



## HB435 INTRODUCED

57 (1) ABATE, ABATEMENT. A reduction or elimination of a  
58 taxpayer's liability for tax or payments required to be made  
59 in lieu thereof. An abatement of transaction taxes imposed  
60 under Chapter 23 ~~of this title~~, or payments required to be  
61 made in lieu thereof, shall relieve the seller from the  
62 obligation to collect and pay over the transaction tax as if  
63 the sale were to a person exempt, to the extent of the  
64 abatement, from the transaction tax.

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

67 (3) CONSTRUCTION RELATED TRANSACTION TAXES. The  
68 transaction taxes imposed by Chapter 23 ~~of this title~~, or  
69 payments required to be made in lieu thereof, on tangible  
70 personal property and taxable services incorporated into an  
71 industrial development property, the cost of which may be  
72 added to capital account with respect to the property,  
73 determined without regard to any rule which permits  
74 expenditures properly chargeable to capital account to be  
75 treated as current expenses.

76 (4) DATA PROCESSING CENTER. An establishment at which  
77 not less than 20 new jobs are located, the average annual  
78 total compensation, including benefits, of such new jobs to be  
79 not less than forty thousand dollars (\$40,000) and such  
80 establishment is engaged in the provision of complete  
81 processing and specialized reports from data, the provision of  
82 automated data processing and data entry services, the  
83 provision of an infrastructure for hosting or data processing  
84 services, the provision of specialized hosting activities, the



## HB435 INTRODUCED

85 provision of application service provisioning, the provision  
86 of general time-share mainframe facilities, the provision or  
87 operation of computer equipment or enabling software for the  
88 processing, storage, backup, retrieval, communication, or  
89 distribution of data, or some combination of the foregoing,  
90 without regard to whether any other activities are conducted  
91 at the establishment.

92 (5) EDUCATION TAXES. Ad valorem taxes, or payments  
93 required to be made in lieu thereof, that must, pursuant to  
94 the Constitution of Alabama of ~~1901~~2022, as amended,  
95 legislative act, or the resolution or other action of the  
96 governing board authorizing the tax, be used for educational  
97 purposes or for capital improvements for education and local  
98 construction related transaction taxes levied for educational  
99 purposes or for capital improvements for education.

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

103 (7) HYDROPOWER PRODUCTION. The definition given in  
104 Section 40-18-1.

105 (8) INDUCEMENT. Refers to an agreement, or an  
106 "inducement agreement," entered into between a private user  
107 and a public authority or county or municipal government  
108 and/or a resolution or other official action, an "inducement  
109 resolution," "inducement letter," or "official action" adopted  
110 by a public authority or county or municipal government, in  
111 each case expressing, among other things, the present intent  
112 of such public authority or county or municipal government to



## HB435 INTRODUCED

113 issue bonds in connection with the private use property  
114 therein described. Notwithstanding any provision in this  
115 chapter to the contrary, neither an inducement nor a request  
116 for inducement shall be required to apply for, grant, or  
117 receive any abatement of taxes allowed to be abated under this  
118 chapter.

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

122 (10) INDUSTRIAL OR RESEARCH ENTERPRISE.

123 a. Any trade or business ~~predominately~~predominantly  
124 consisting of any one or more of the following:

125 1. Described by NAICS Code 1133, 115111, 2121, 22111,  
126 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,  
127 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, ~~511,~~  
128 5121 (other than 51213), ~~51221~~5122, 513, 517, 518 (without  
129 regard to the premise that data processing and related  
130 services be performed in conjunction with a third party),  
131 ~~51913~~51929, 52232, 54133 (if predominantly in furtherance of  
132 another activity described in this article), 54134 (if  
133 predominantly in furtherance of another activity described in  
134 this article), 54138, 5415, 541614, 5417, 55 (if not for the  
135 production of electricity), 561422 (other than establishments  
136 that originate telephone calls), 562213, 56291, 56292, 611512,  
137 927, or 92811.

138 2. ~~A target of the state's economic development efforts~~  
139 ~~pursuant to either of the following:~~

140 ~~(i) The Accelerate Alabama Strategic Economic~~



## HB435 INTRODUCED

141 ~~Development Plan adopted in January 2012 by the Alabama~~  
142 ~~Economic Development Alliance, created by Executive Order~~  
143 ~~Number 21 of the Governor on July 18, 2011, or any amended~~  
144 ~~version or successor document thereto; or~~

145 ~~(ii)~~ A type listed in a regulation adopted by the  
146 Department of Commerce, other than a regulation submitted as  
147 an emergency rule.

148 Notwithstanding the foregoing, the activities described  
149 in this definition shall not predominantly concern farming  
150 activities involving trees, animals or crops, nor the retail  
151 sale of tangible personal property or services. This provision  
152 shall not be deemed to exclude customer service centers or  
153 call centers otherwise allowed or provided for herein.

154 b. With respect to abatements granted in accordance  
155 with Section 40-9B-9, and only with respect to such  
156 abatements, "industrial or research enterprise" means any  
157 trade or business described in NAICS Code 493, 488310, or  
158 488320, when such trade or business is conducted on premises  
159 in which the Alabama State Port Authority has an ownership,  
160 leasehold, or other possessory interest and such premises are  
161 used as part of the operations of the Alabama State Port  
162 Authority.

163 c. "Industrial or research enterprise" includes the  
164 above-described trades and business and any others as may  
165 hereafter be reclassified in any subsequent publication of the  
166 NAICS or similar industry classification system developed in  
167 conjunction with the United States Department of Commerce or  
168 Office of Management and Budget.



## HB435 INTRODUCED

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

175 e. "Industrial or research enterprise" also includes  
176 any plant, property, or facility that meets both of the  
177 following:

178 1. It produces electricity from:

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

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

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

185 (i) A utility described in Section 37-4-1(7)a. ~~7~~

186 (ii) An entity organized under the provisions of  
187 Chapter 6 of Title 37 ~~7~~.

188 (iii) An authority both organized and existing pursuant  
189 to the provisions of Chapter 50A of Title 11 and subject to  
190 the payments required to be made in lieu of ad valorem, sales,  
191 use, license, and severance taxes imposed by Section 11-50A-7 ~~7~~  
192 ~~of~~.

193 (iv) An entity in which one or more of the foregoing  
194 owns an interest.

195 f. "Industrial or research enterprise" also includes  
196 any headquarters facility.





## HB435 INTRODUCED

197 g. "Industrial or research enterprise" also includes  
198 any data processing center.

199 h. "Industrial or research enterprise" also includes  
200 any research and development facility.

201 i. "Industrial or research enterprise" also includes  
202 any renewable energy facility.

203 j. "Industrial or research enterprise" also includes  
204 any tourism destination attraction.

205 (11) MAJOR ADDITION. Any addition to an existing  
206 industrial development property that equals the lesser of: 30  
207 percent of the original cost of the industrial development  
208 property or two million dollars (\$2,000,000). For purposes of  
209 this subsection, the original cost of existing industrial  
210 development property shall be the amount of industrial  
211 development property with respect to which an abatement was  
212 granted under this chapter when the property was constructed,  
213 or if the existing industrial development property was  
214 constructed before January 1, 1993, the maximum amount that  
215 would have been allowed if the provisions of this chapter had  
216 applied at the time it was constructed. Only property that  
217 constitutes industrial development property shall be taken  
218 into account in making the determination in the previous  
219 sentence. Major addition shall include any addition costing at  
220 least two million dollars (\$2,000,000) which constitutes an  
221 industrial or research enterprise, regardless of whether added  
222 to an existing industrial development property.

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



## HB435 INTRODUCED

225 a. Either of the following:

226 1. Twenty years from and after: (i) ~~The~~the date of  
227 initial issuance by a county, city, or public authority of  
228 bonds to finance any costs of a private use property, or (ii)  
229 ~~If~~if no such bonds are ever issued~~;~~; the later of: A. ~~The~~the  
230 date on which title to the property was acquired by or vested  
231 in the county, city, or public authority~~;~~; or B. ~~The~~the date  
232 on which the property is or becomes owned, for federal income  
233 tax purposes, by a private user~~;~~;~~or~~.

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

236 (i) A period of 10 years from and after the date on  
237 which private use property is or becomes owned, for federal  
238 income tax purposes, by such private user or users (including  
239 the lessor and any lessee with respect to co-location  
240 centers), if the aggregate capital investment in the data  
241 processing center by such private user or users does not  
242 exceed two hundred million dollars (\$200,000,000) within 10  
243 years from the date on which a private user commences the  
244 acquisition, construction, and equipping of the data  
245 processing center~~;~~.

246 (ii) A period of 20 years from and after the date on  
247 which private use property is or becomes owned, for federal  
248 income tax purposes, by such private user or users (including  
249 the lessor and any lessee with respect to co-location  
250 centers), if the aggregate capital investment in the data  
251 processing center by such private user or users exceeds two  
252 hundred million dollars (\$200,000,000) but is not greater than



## HB435 INTRODUCED

253 four hundred million dollars (\$400,000,000) within 10 years  
254 from the date on which a private user commences the  
255 acquisition, construction, and equipping of the data  
256 processing center, ~~or~~.

257 (iii) A period of 30 years from and after the date on  
258 which private use property is or becomes owned, for federal  
259 income tax purposes, by such private user or users (including  
260 the lessor and any lessee with respect to co-location  
261 centers), if the aggregate capital investment in the data  
262 processing center by such private user or users exceeds two  
263 hundred million dollars (\$200,000,000) within 10 years from  
264 the date on which a private user commences the physical work  
265 of constructing and equipping the data processing center and  
266 exceeds four hundred million dollars (\$400,000,000) within 20  
267 years from the date on which a private user commences the  
268 acquisition, construction, and equipping of the data  
269 processing center.

270 For purposes of this subparagraph 2., a private user's  
271 aggregate capital investment in a data processing center shall  
272 include all real and personal property comprising a data  
273 processing center, the costs of which may be capitalized for  
274 federal income tax purposes. In no event shall abatements of  
275 construction related transaction taxes or noneducational ad  
276 valorem taxes granted for a data processing center apply  
277 beyond the expiration of the applicable maximum exemption  
278 period; ~~or~~.

279 b. The period ending on the date on which the property  
280 has ceased, for ~~6~~six consecutive months, to be used in the



## HB435 INTRODUCED

281 active conduct of an industrial or research enterprise.

282 (13) MORTGAGE AND RECORDING TAXES. The taxes imposed by  
283 Chapter 22 ~~of this title~~.

284 (14) NAICS CODE. Any sector, subsector, industry group,  
285 industry or national industry of the ~~2012~~2022 North American  
286 Industry Classification System, or any similar classification  
287 system developed in conjunction with the United States  
288 Department of Commerce or Office of Management and Budget.

289 (15) NONEDUCATIONAL AD VALOREM TAXES. Ad valorem taxes,  
290 or payments required to be made in lieu thereof, imposed by  
291 the state, counties, municipalities, and other taxing  
292 jurisdictions of Alabama that are not required to be used for  
293 educational purposes or for capital improvements for  
294 education.

295 (16) PERSON. Includes any individual, partnership,  
296 trust, estate, or corporation.

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

305 (18) PRIVATE USE INDUSTRIAL PROPERTY. Private use  
306 property that also constitutes industrial development  
307 property.

308 (19) PRIVATE USE PROPERTY. Any real and/or personal



## HB435 INTRODUCED

309 property which is or will be treated as owned by a private  
310 user for federal income tax purposes even though title may be  
311 held by a public authority or municipal or county government;  
312 any real and/or personal property which is owned by any entity  
313 organized under Chapter 6 of Title 37; and any real and/or  
314 personal property which is owned by any authority both  
315 organized and existing pursuant to Chapter 50A of Title 11,  
316 and subject to the payments required to be made in lieu of ad  
317 valorem, sales, use, license, and severance taxes imposed by  
318 Section 11-50A-7.

319 (20) PUBLIC AUTHORITY. A corporation created for public  
320 purposes pursuant to a provision of the Constitution of  
321 Alabama of ~~1901~~2022, or a general or local law that authorized  
322 it to issue bonds, the interest on which is exempt from the  
323 Alabama income tax, as in effect on May 21, 1992.

324 (21) PUBLIC INDUSTRIAL AUTHORITY. A public authority  
325 authorized to issue bonds to acquire, construct, equip, or  
326 finance industrial development property.

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

329 a. Produces electricity or natural gas, in whole or in  
330 part, from biofuels as such term is defined in Section  
331 2-2-90(c) ~~(2)~~ or from renewable energy resources as such term  
332 is defined in Section 40-18-1(30) with the exception that  
333 hydropower production shall be excluded from such definition;  
334 or

335 b. Produces biofuel as such term is defined in Section  
336 2-2-90(c) ~~(2)~~.



## HB435 INTRODUCED

337 (23) RESEARCH AND DEVELOPMENT FACILITY. An  
338 establishment engaged in conducting original investigations  
339 undertaken on a systematic basis to gain new knowledge or  
340 applying research findings or other scientific knowledge to  
341 create new or significantly improved products or processes, or  
342 both.

343 (24) STATEMENT OF INTENT. A written statement of intent  
344 to claim an abatement provided in this chapter, or to petition  
345 for local tax abatement, relating to an industrial or research  
346 enterprise described in paragraph ~~e. of subdivision~~ (10) e. of  
347 ~~this subsection~~ that is filed with the Department of Revenue  
348 at any time prior to the date on which the industrial or  
349 research enterprise described in paragraph ~~e. of subdivision~~  
350 (10) e. of this subsection is placed in service in accordance  
351 with such procedures and on such form or forms as may be  
352 prescribed by the Department of Revenue. Such statement of  
353 intent shall contain a description of the industrial or  
354 research enterprise described in paragraph ~~e. of subdivision~~  
355 (10) e. of this subsection; the date on which the acquisition,  
356 construction, installation, or equipping of the industrial or  
357 research enterprise described in paragraph ~~e. of subdivision~~  
358 (10) e. of this subsection was commenced or is expected to  
359 commence; the actual or, if not known, the estimated capital  
360 costs of the industrial or research enterprise described in  
361 paragraph ~~e. of subdivision~~ (10) e. of this subsection; the  
362 number of new employees to be employed at the industrial or  
363 research enterprise described in paragraph ~~e. of subdivision~~  
364 (10) e. of this subsection; and any other information required



## HB435 INTRODUCED

365 by the Department of Revenue.

366 (25) TOURISM DESTINATION ATTRACTION. a. A commercial  
367 enterprise which is open to the public not less than 120 days  
368 during a calendar year and is designed to attract visitors  
369 from inside or outside of the State of Alabama, typically for  
370 its inherent cultural value, historical significance, natural  
371 or man-made beauty, or entertainment or amusement  
372 opportunities. The term shall include, but not be limited to,  
373 a cultural or historical site; a botanical garden; a museum; a  
374 wildlife park or aquarium open to the public that cares for  
375 and displays a collection of animals or fish; an amusement  
376 park; a convention hotel and conference center; a water park;  
377 or a spectator venue or arena.

378 b. A tourism destination attraction shall not include a  
379 facility primarily devoted to the retail sale of goods; a  
380 shopping center; a restaurant; a movie theater; a bowling  
381 alley; a fitness center; a miniature golf course; or a  
382 nightclub. Provided, however, that the capital costs of the  
383 construction of a tourism destination attraction may include  
384 the capital costs associated with the construction of any  
385 retail establishment, restaurant, or other portion of the  
386 tourism destination attraction. The term also does not include  
387 any gaming facility or establishment that the Secretary of the  
388 Department of Commerce deems to be serving the local  
389 community.

390 (b) The abatements of ad valorem taxes, and payments in  
391 lieu thereof, allowed by amendments to this section by Act  
392 2008-275 shall become effective for projects for which



## HB435 INTRODUCED

393 statements of intent are filed after December 31, 2011. No ad  
394 valorem taxes, or payments in lieu thereof, shall be abated  
395 for periods prior to January 1, 2012. The other abatements  
396 allowed by amendments made to this section by Act 2008-275  
397 shall become effective after December 31, 2011.

398 For a qualifying industrial or research enterprise  
399 described in Section 40-9B-3(a)(10)j., the approval of the  
400 abatement of a specified ad valorem tax or construction  
401 related tax levied or imposed by a county or municipality, or  
402 payments required to be made in lieu thereof, shall take  
403 effect only upon adoption of a resolution by the governing  
404 body of that county or municipality approving such abatement  
405 or abatements."

406 "§40-9G-1

407 For purposes of the chapter, the following words and  
408 phrases ~~shall~~ have the following ~~meaning~~meanings:

409 (1) APPROVED ACTIVITY. The conduct of an activity that  
410 is predominantly any one or more of the following:

411 a. Described by NAICS Code 1133, 115111, 2121, 22111,  
412 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,  
413 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, ~~511,~~  
414 5121 (other than 51213), ~~51221~~5122, 513, 517, 518 (without  
415 regard to the premise that data processing and related  
416 services be performed in conjunction with a third party),  
417 ~~51913~~51929, 52232, 54133 (if predominantly in furtherance of  
418 another activity described in this chapter), 54134 (if  
419 predominantly in furtherance of another activity described in  
420 this chapter), 54138, 5415, 541614, 5417, 55 (if not for the





## HB435 INTRODUCED

421 production of electricity), 561422 (other than establishments  
422 that originate telephone calls), 562213, 56291, 56292, 611512,  
423 927, or 92811.

424 b. The production of biofuel as such term is defined in  
425 Section 2-2-90(c)(2).

426 c. The conduct of original investigations undertaken on  
427 a systematic basis to gain new knowledge or the application of  
428 research findings or other scientific knowledge to create new  
429 or significantly improved products or processes.

430 d. The national or regional headquarters for a company  
431 that conducts significant business operations outside the  
432 state and that will serve as the principal office of the  
433 company's principal operating officer with chief  
434 responsibility for the daily business operations of the  
435 company.

436 e. ~~A target of the state's economic development efforts~~  
437 ~~pursuant to either of the following:~~

438 ~~(i) The Accelerate Alabama Strategic Economic~~  
439 ~~Development Plan adopted in January 2012 by the Alabama~~  
440 ~~Economic Development Alliance, created by Executive Order~~  
441 ~~Number 21 of the Governor on July 18, 2011, or any amended~~  
442 ~~version or successor document thereto; or~~

443 ~~(ii) A type listed in a regulation adopted by the~~  
444 ~~Department of Commerce, other than a regulation submitted as~~  
445 ~~an emergency rule.~~

446 Notwithstanding the foregoing, an approved activity  
447 shall not predominantly concern farming activities involving  
448 trees, animals, or crops, nor the retail sale of tangible



## HB435 INTRODUCED

449 personal property or services. This provision shall not be  
450 deemed to exclude customer service centers, call centers, or  
451 headquarters otherwise allowed by this subdivision.

452 (2) COMPANY. Anyone or anything which has the powers to  
453 own a project and have employees.

454 (3) NAICS CODE. Any sector, subsector, industry group,  
455 industry or national industry of the ~~2012~~2022 North American  
456 Industry Classification System, or any similar classification  
457 system developed in conjunction with the United States  
458 Department of Commerce or Office of Management and Budget.

459 (4) QUALIFYING PROJECT. Any project a. that proposes to  
460 invest in capital expenditures that equal or exceed two  
461 million dollars (\$2,000,000) as part of any addition,  
462 expansion, improvement, renovation, re-opening, or  
463 rehabilitation of a facility, or replacement of any existing  
464 equipment or tangible personal property; b. that predominantly  
465 involves an approved activity; and c. for which no project  
466 agreement has been entered into with the Governor for the  
467 provision of other incentives.

468 (5) UTILITY TAXES. The taxes imposed by Sections  
469 40-21-82 and 40-21-102."

470 "§40-18-372

471 A qualifying project must be found by the Secretary of  
472 Commerce to conduct an activity specified in subdivision (1)  
473 and to meet the minimum standard set forth in subdivision (2).

474 (1) A qualifying project must predominantly conduct an  
475 activity that is any one or more of the following:

476 a. Described by NAICS Code 1133, 115111, 2121, 22111,



## HB435 INTRODUCED

477 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,  
478 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, ~~511,~~  
479 5121 (other than 51213), ~~51221~~5122, 513, 517, 518 (without  
480 regard to the premise that data processing and related  
481 services be performed in conjunction with a third party),  
482 ~~51913~~51929, 52232, 54133 (if predominantly in furtherance of  
483 another activity described in this article), 54134 (if  
484 predominantly in furtherance of another activity described in  
485 this article), 54138, 5415, 541614, 5417, 55 (if not for the  
486 production of electricity), 561422 (other than establishments  
487 that originate telephone calls), 562213, 56291, 56292, 611512,  
488 927, or 92811.

489           b. The production of biofuel as such term is defined in  
490 Section 2-2-90(c)(2).

491           c. A renewable energy generation facility that is owned  
492 by one or more electric providers, as the term is defined in  
493 Section 37-16-3, for providing electric service at retail in  
494 Alabama. For purposes of this subdivision, an "electric  
495 provider" shall also include an authority as defined in  
496 Section 11-50A-1. In the case of an electric provider that is  
497 also a tax-exempt organization under the ~~Internal Revenue~~  
498 ~~Code~~26 U.S.C. § 501, notwithstanding Section 40-18-376(b)(3),  
499 any investment credit may be transferred for the entire term  
500 of the project agreement, as approved by the Governor. A  
501 "renewable energy generation facility" as used in this  
502 subdivision shall include any tangible property that is part  
503 of renewable energy generation, including any addition,  
504 modification, expansion, or upgrade to transmission or



## HB435 INTRODUCED

505 distribution systems that is required to accommodate the  
506 interconnection of renewable energy generation.

507 d. The conduct of original investigations undertaken on  
508 a systematic basis to gain new knowledge or the application of  
509 research findings or other scientific knowledge to create new  
510 or significantly improved products or processes.

511 e. The national or regional headquarters for a company  
512 that conducts significant business operations outside the  
513 state and that will serve as the principal office of the  
514 company's principal operating officer with chief  
515 responsibility for the daily business operations of the  
516 company.

517 f. ~~A target of the state's economic development efforts~~  
518 ~~pursuant to the Accelerate Alabama Strategic Economic~~  
519 ~~Development Plan adopted in January 2012 by the Alabama~~  
520 ~~Economic Development Alliance, created by Executive Order~~  
521 ~~Number 21 of the Governor on July 18, 2011, or any amended~~  
522 ~~version or successor document thereto.~~

523 g. ~~A type listed in a rule adopted by the Department of~~  
524 ~~Commerce, other than an emergency rule.~~

525 Notwithstanding the foregoing, a qualifying project may  
526 not engage predominantly in farming activities involving  
527 trees, animals, or crops, and a qualifying project may not  
528 engage predominantly in the retail sale of tangible personal  
529 property or services, and may not be a shopping center,  
530 restaurant, movie theater, bowling alley, fitness center,  
531 miniature golf course, nightclub, gaming facility, or  
532 establishment serving the local community. However, if the



## HB435 INTRODUCED

533 excluded activities are not the predominant activity at the  
534 project, and if the project is otherwise a qualifying project,  
535 then the project agreement may provide that the capital  
536 investment may include costs related to excluded activities  
537 that are ancillary to the primary business conducted as part  
538 of the project. This provision shall not be deemed to exclude  
539 customer service centers, call centers, l or headquarters  
540 otherwise allowed by this subdivision.

541 (2) A qualifying project shall create a significant  
542 number of new jobs for the area in which the qualifying  
543 project shall be located. Absent a finding of extraordinary  
544 circumstances by the Secretary of Commerce, a qualifying  
545 project shall employ either of the following number of new  
546 employees:

547 a. Any number of new employees, for a qualifying  
548 project in which the predominant activity involves chemical  
549 manufacturing, data centers, renewable energy generation,  
550 engineering, design, or research, metal/machining technology, l  
551 or toolmaking; or

552 b. At least 50 new employees, for all other qualifying  
553 projects."

554 "§41-23-252

555 For the purpose of this article, the following words  
556 and phrases ~~shall~~ have the following meanings:

557 (1) ADECA. The Alabama Department of Economic and  
558 Community Affairs.

559 (2) ALABAMA RESEARCH ENTITY. One or more of the  
560 following:



## HB435 INTRODUCED

561 a. A public or private university in the state in  
562 partnership with a private sector applicant.

563 b. A university research foundation affiliated with a  
564 public or private university in the state in partnership with  
565 a private sector applicant.

566 c. A public two-year college in the state in  
567 partnership with a private sector applicant.

568 d. A publicly owned hospital in the state in  
569 partnership with a private sector applicant.

570 e. An entity duly formed, domiciled, or qualified to do  
571 business in the state in partnership with a private sector  
572 applicant and that meets each of the following criteria:

573 1. Is exempt from federal income tax under ~~Section 26~~  
574 U.S.C. § 501(c)(3) ~~of the Internal Revenue Code of 1986~~, as  
575 amended.

576 2. Is predominantly engaged in research and  
577 ~~non-commercial~~ noncommercial development activities undertaken  
578 for the purpose of discovering information that is  
579 technological or biotechnological in nature, involves a  
580 process of experimentation, and the application of which is  
581 intended to be used in the development of a new or improved  
582 product, service, or treatment.

583 3. Has its headquarters and principal place of business  
584 in the state.

585 4. Has, or is anticipated to have, at least 75 percent  
586 of its property and payroll in Alabama, using the property and  
587 payroll factor calculations found in Title 40.

588 (3) APPROVED ACTIVITY. The conduct of an activity that



## HB435 INTRODUCED

589 is predominantly any one or more of the following:

590 a. Described by NAICS Code 1133, 115111, 2121, 22111,  
591 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,  
592 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, ~~511,~~  
593 5121 (other than 51213), ~~51221~~51222, 513, 517, 518 (without  
594 regard to the premise that data processing and related  
595 services be performed in conjunction with a third party),  
596 ~~51913~~51929, 52232, 54133 (if predominantly in furtherance of  
597 another activity described in this article), 54134 (if  
598 predominantly in furtherance of another activity described in  
599 this article), 54138, 5415, 541614, 5417, 55 (if not for the  
600 production of electricity), 561422 (other than establishments  
601 that originate telephone calls), 562213, 56291, 56292, 611512,  
602 927, or 92811.

603 b. The production of biofuel as the term is defined in  
604 Section 2-2-90(c)(2).

605 c. ~~A target of the state's economic development efforts~~  
606 ~~pursuant to either of the following:~~

607 ~~1. The Accelerate Alabama Strategic Economic~~  
608 ~~Development Plan adopted in January 2012 by the Alabama~~  
609 ~~Economic Development Alliance, created by Executive Order~~  
610 ~~Number 21 of the Governor on July 18, 2011, or any amended~~  
611 ~~version or successor document.~~

612 ~~2.~~A type listed in a regulation adopted by the  
613 Department of Commerce.

614 (4) NAICS CODE. Any sector, subsector, industry group,  
615 industry, or national industry of the ~~2012~~2022 North American  
616 Industry Classification System, or any similar classification



## HB435 INTRODUCED

617 system developed in conjunction with the United States  
618 Department of Commerce or Office of Management and Budget.

619 (5) QUALIFIED RESEARCH. The meaning given in 26 U.S.C.  
620 § 41(d), if conducted in Alabama in pursuit of an approved  
621 activity. In applying any terms in 26 U.S.C. § 41, "qualified  
622 research" shall have the meaning given herein."

623 Section 2. This act shall become effective on June 1,  
624 2025.