

HB399 ENROLLED



1 HB399
2 I3SA7ZZ-3
3 By Representatives Hulsey, Rafferty, Tillman, Mooney, DuBose,
4 Carns, Robertson, Hammett, Crow, Stringer, Brinyark, Kirkland,
5 Bedsole
6 RFD: Transportation, Utilities and Infrastructure
7 First Read: 05-Feb-26



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1 Enrolled, An Act,

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4 Relating to tax abatements and economic development; to
5 amend Sections 40-9B-3, 40-9B-4, and 40-9B-4.1, Code of
6 Alabama 1975, relating to tax abatements for data processing
7 centers; and to amend Section 40-23-35, Code of Alabama 1975,
8 relating to the distribution of sales taxes; to limit the
9 maximum exemption period for abatements available to data
10 processing centers to 20 years beginning January 1, 2027; to
11 provide for the collection of the state noneducational ad
12 valorem taxes and sales and use tax levied pursuant to Chapter
13 23 of this title on purchases of building materials, building
14 fixtures, structural components, real property improvements,
15 power infrastructure for transformation, distribution, or
16 management of electricity, backup power generation systems,
17 and battery systems made by certain large data processing
18 centers beginning January 1, 2027; to extend the sunset date
19 applicable to abatements for data processing centers; and to
20 make nonsubstantive, technical revisions to update existing
21 code language to current style.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 40-9B-3, 40-9B-4, and 40-9B-4.1,
24 Code of Alabama 1975, are amended to read as follows:

25 "§40-9B-3

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

28 (1) ABATE, ABATEMENT. A reduction or elimination of a



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29 taxpayer's liability for tax or payments required to be made
30 in lieu thereof. An abatement of transaction taxes imposed
31 under Chapter 23 of this title, or payments required to be
32 made in lieu thereof, shall relieve the seller from the
33 obligation to collect and pay over the transaction tax as if
34 the sale were to a person exempt, to the extent of the
35 abatement, from the transaction tax.

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

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

47 (4) DATA PROCESSING CENTER. An establishment at which
48 not less than 20 new jobs are located, the average annual
49 total compensation, including benefits, of such new jobs to be
50 not less than forty thousand dollars (\$40,000) and such
51 establishment is engaged in the provision of complete
52 processing and specialized reports from data, the provision of
53 automated data processing and data entry services, the
54 provision of an infrastructure for hosting or data processing
55 services, the provision of specialized hosting activities, the
56 provision of application service provisioning, the provision



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57 of general time-share mainframe facilities, the provision or
58 operation of computer equipment or enabling software for the
59 processing, storage, backup, retrieval, communication, or
60 distribution of data, or some combination of the foregoing,
61 without regard to whether any other activities are conducted
62 at the establishment.

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

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

74 (7) HYDROPOWER PRODUCTION. The definition given in
75 Section 40-18-1.

76 (8) INDUCEMENT. Refers to an agreement, or an
77 "inducement agreement," entered into between a private user
78 and a public authority or county or municipal government
79 and/or a resolution or other official action, an "inducement
80 resolution," "inducement letter," or "official action" adopted
81 by a public authority or county or municipal government, in
82 each case expressing, among other things, the present intent
83 of such public authority or county or municipal government to
84 issue bonds in connection with the private use property



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85 therein described. Notwithstanding any provision in this
86 chapter to the contrary, neither an inducement nor a request
87 for inducement shall be required to apply for, grant, or
88 receive any abatement of taxes allowed to be abated under this
89 chapter.

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

93 (10) INDUSTRIAL OR RESEARCH ENTERPRISE.

94 a. Any trade or business predominately consisting of
95 any one or more of the following:

96 1. Described by NAICS Code 1133, 115111, 2121, 22111,
97 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862,
98 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, 511,
99 5121 (other than 51213), 51221, 517, 518 (without regard to
100 the premise that data processing and related services be
101 performed in conjunction with a third party), 51913, 52232,
102 54133 (if predominantly in furtherance of another activity
103 described in this article), 54134 (if predominantly in
104 furtherance of another activity described in this article),
105 54138, 5415, 541614, 5417, 55 (if not for the production of
106 electricity), 561422 (other than establishments that originate
107 telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

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

110 (i) The Accelerate Alabama Strategic Economic
111 Development Plan adopted in January 2012 by the Alabama
112 Economic Development Alliance, created by Executive Order



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113 Number 21 of the Governor on July 18, 2011, or any amended
114 version or successor document thereto; or

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

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

124 b. With respect to abatements granted in accordance
125 with Section 40-9B-9, and only with respect to such
126 abatements, "industrial or research enterprise" means any
127 trade or business described in NAICS Code 493, 488310, or
128 488320, when such trade or business is conducted on premises
129 in which the Alabama State Port Authority has an ownership,
130 leasehold, or other possessory interest and such premises are
131 used as part of the operations of the Alabama State Port
132 Authority.

133 c. "Industrial or research enterprise" includes the
134 above-described trades and business and any others as may
135 hereafter be reclassified in any subsequent publication of the
136 NAICS or similar industry classification system developed in
137 conjunction with the United States Department of Commerce or
138 Office of Management and Budget.

139 d. "Industrial or research enterprise" also includes
140 any underground natural gas storage facility which is located



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141 in the Gulf Opportunity Zone, as that phrase is defined in the
142 Gulf Opportunity Zone Act of 2005, developed from existing
143 geologic reservoirs, including, without limitation, salt
144 domes, and placed in service on or before December 31, 2013.

145 e. "Industrial or research enterprise" also includes
146 any plant, property, or facility that meets both of the
147 following:

148 1. It produces electricity from:

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

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

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

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

156 (ii) An entity organized under the provisions of
157 Chapter 6 of Title 37,

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

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

165 f. "Industrial or research enterprise" also includes
166 any headquarters facility.

167 g. "Industrial or research enterprise" also includes
168 any data processing center.



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169 h. "Industrial or research enterprise" also includes
170 any research and development facility.

171 i. "Industrial or research enterprise" also includes
172 any renewable energy facility.

173 j. "Industrial or research enterprise" also includes
174 any tourism destination attraction.

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

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

195 a. Either of the following:

196 1. Twenty years from and after: (i) The date of initial



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197 issuance by a county, city, or public authority of bonds to
198 finance any costs of a private use property~~;~~ or (ii) If no
199 such bonds are ever issued, the later of: A. The date on which
200 title to the property was acquired by or vested in the county,
201 city, or public authority~~;~~ or B. The date on which the
202 property is or becomes owned, for federal income tax purposes,
203 by a private user~~;~~~~or~~.

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

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

216 (ii) For any abatement granted prior to January 1,
217 2027, a period of 20 years from and after the date on which
218 private use property is or becomes owned, for federal income
219 tax purposes, by such private user or users (including the
220 lessor and any lessee with respect to co-location centers), if
221 the aggregate capital investment in the data processing center
222 by such private user or users exceeds two hundred million
223 dollars (\$200,000,000) but is not greater than four hundred
224 million dollars (\$400,000,000) within 10 years from the date



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225 on which a private user commences the acquisition,
226 construction, and equipping of the data processing center. For
227 any abatement granted on or after January 1, 2027, a period of
228 20 years from and after the date on which the private use
229 property is or becomes owned, for federal income tax purposes,
230 by such private user or users, including the lessor or any
231 lessee with respect to co-location centers, if the aggregate
232 capital investment in the data processing center by such
233 private user or users exceeds two hundred million dollars
234 (\$200,000,000) within 10 years from the date on which a
235 private user commences the acquisition, construction, and
236 equipping of the data processing center, ~~or.~~

237 (iii) ~~A~~ For any abatement granted until January 1, 2027,
238 a period of 30 years from and after the date on which private
239 use property is or becomes owned, for federal income tax
240 purposes, by such private user or users, ~~(including the lessor~~
241 ~~and any lessee with respect to co-location centers),~~ if the
242 aggregate capital investment in the data processing center by
243 such private user or users exceeds two hundred million dollars
244 (\$200,000,000) within 10 years from the date on which a
245 private user commences the physical work of constructing and
246 equipping the data processing center and exceeds four hundred
247 million dollars (\$400,000,000) within 20 years from the date
248 on which a private user commences the acquisition,
249 construction, and equipping of the data processing center.
250 This item (iii) shall not apply to any abatement granted after
251 January 1, 2027.

252 (iv) For abatements granted on or after January 1,



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253 2027, a private user or users may qualify for an additional 10
254 years of abatement, for a total maximum exemption period not
255 to exceed 30 years, if the private user or users: (1) satisfy
256 the capital investment thresholds contained in this section;
257 and (2) enter into a binding written agreement, approved by
258 the Department of Revenue, the Department of Commerce, and the
259 affected local governing body committing to provide qualified
260 local investments for the benefit of the benefited community.
261 The agreement shall describe the nature, timing, dollar value,
262 and verification procedures applicable to the qualified local
263 investments. Qualified local investments consists of:

264 A. Infrastructure improvements, including roads,
265 bridges, or other public facilities that support local
266 development;

267 B. Improvements to broadband in locations determined to
268 be an unserved area as defined in Section 41-23-212;

269 C. Water or wastewater system upgrades that serve the
270 local community; or

271 D. Local education support, including capital
272 improvements, equipment, or programmatic support for public
273 K-12 schools, public charter schools, career technical
274 centers, or community college programs that serve the
275 benefited community.

276 For purposes of this item (iv), "benefited community"
277 means: (1) the county in which the project is located; (2) any
278 municipality located in whole or in part within that county;
279 or (3) any county or municipality adjacent to the physical
280 project site as determined by the written agreement,



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281 regardless of county lines, provided such jurisdiction
282 consents in writing to receive the investment. The county and,
283 as applicable, any municipality in which the project is
284 located, by mutual written agreement with any jurisdiction
285 described in this paragraph, may designate the recipient or
286 recipients of any portion of the qualified local investments.

287 If the private user or users fail to satisfy any
288 material obligation contained in the binding agreement
289 required under this item (iv), the additional 10-year
290 abatement authorized under this item (iv) shall be revoked,
291 and the abatement shall revert to the 20-year maximum
292 exemption period otherwise applicable. Upon such revocation,
293 the private user or users shall repay all state taxes abated
294 during the extended period, together with interest as provided
295 by law.

296 For purposes of this subparagraph 2., a private user's
297 aggregate capital investment in a data processing center shall
298 include all real and personal property comprising a data
299 processing center, the costs of which may be capitalized for
300 federal income tax purposes. In no event shall abatements of
301 construction related transaction taxes or noneducational ad
302 valorem taxes granted for a data processing center apply
303 beyond the expiration of the applicable maximum exemption
304 period; or

305 b. The period ending on the date on which the property
306 has ceased, for ~~six~~ consecutive months, to be used in the
307 active conduct of an industrial or research enterprise.

308 (13) MORTGAGE AND RECORDING TAXES. The taxes imposed by



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309 Chapter 22 of this title.

310 (14) NAICS CODE. Any sector, subsector, industry group,
311 industry or national industry of the 2012 North American
312 Industry Classification System, or any similar classification
313 system developed in conjunction with the United States
314 Department of Commerce or Office of Management and Budget.

315 (15) NONEDUCATIONAL AD VALOREM TAXES. Ad valorem taxes,
316 or payments required to be made in lieu thereof, imposed by
317 the state, counties, municipalities, and other taxing
318 jurisdictions of Alabama that are not required to be used for
319 educational purposes or for capital improvements for
320 education.

321 (16) PERSON. Includes any individual, partnership,
322 trust, estate, or corporation.

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

331 (18) PRIVATE USE INDUSTRIAL PROPERTY. Private use
332 property that also constitutes industrial development
333 property.

334 (19) PRIVATE USE PROPERTY. Any real and/or personal
335 property which is or will be treated as owned by a private
336 user for federal income tax purposes even though title may be



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337 held by a public authority or municipal or county government;
338 any real and/or personal property which is owned by any entity
339 organized under Chapter 6 of Title 37; and any real and/or
340 personal property which is owned by any authority both
341 organized and existing pursuant to Chapter 50A of Title 11,
342 and subject to the payments required to be made in lieu of ad
343 valorem, sales, use, license, and severance taxes imposed by
344 Section 11-50A-7.

345 (20) PUBLIC AUTHORITY. A corporation created for public
346 purposes pursuant to a provision of the Constitution of
347 Alabama of 1901, or a general or local law that authorized it
348 to issue bonds, the interest on which is exempt from the
349 Alabama income tax, as in effect on May 21, 1992.

350 (21) PUBLIC INDUSTRIAL AUTHORITY. A public authority
351 authorized to issue bonds to acquire, construct, equip, or
352 finance industrial development property.

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

355 a. Produces electricity or natural gas, in whole or in
356 part, from biofuels as such term is defined in Section
357 2-2-90(c)(2) or from renewable energy resources as such term
358 is defined in Section 40-18-1(30) with the exception that
359 hydropower production shall be excluded from such definition;
360 or

361 b. Produces biofuel as such term is defined in Section
362 2-2-90(c)(2).

363 (23) RESEARCH AND DEVELOPMENT FACILITY. An
364 establishment engaged in conducting original investigations



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365 undertaken on a systematic basis to gain new knowledge or
366 applying research findings or other scientific knowledge to
367 create new or significantly improved products or processes, or
368 both.

369 (24) STATEMENT OF INTENT. A written statement of intent
370 to claim an abatement provided in this chapter, or to petition
371 for local tax abatement, relating to an industrial or research
372 enterprise described in paragraph e. of subdivision (10) of
373 this subsection that is filed with the Department of Revenue
374 at any time prior to the date on which the industrial or
375 research enterprise described in paragraph e. of subdivision
376 (10) of this subsection is placed in service in accordance
377 with such procedures and on such form or forms as may be
378 prescribed by the Department of Revenue. Such statement of
379 intent shall contain a description of the industrial or
380 research enterprise described in paragraph e. of subdivision
381 (10) of this subsection; the date on which the acquisition,
382 construction, installation, or equipping of the industrial or
383 research enterprise described in paragraph e. of subdivision
384 (10) of this subsection was commenced or is expected to
385 commence; the actual or, if not known, the estimated capital
386 costs of the industrial or research enterprise described in
387 paragraph e. of subdivision (10) of this subsection; the
388 number of new employees to be employed at the industrial or
389 research enterprise described in paragraph e. of subdivision
390 (10) of this subsection; and any other information required by
391 the Department of Revenue.

392 (25) TOURISM DESTINATION ATTRACTION. A commercial



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393 enterprise which is open to the public not less than 120 days
394 during a calendar year and is designed to attract visitors
395 from inside or outside of the State of Alabama, typically for
396 its inherent cultural value, historical significance, natural
397 or man-made beauty, or entertainment or amusement
398 opportunities. The term shall include, but not be limited to,
399 a cultural or historical site; a botanical garden; a museum; a
400 wildlife park or aquarium open to the public that cares for
401 and displays a collection of animals or fish; an amusement
402 park; a convention hotel and conference center; a water park;
403 or a spectator venue or arena.

404 A tourism destination attraction shall not include a
405 facility primarily devoted to the retail sale of goods; a
406 shopping center; a restaurant; a movie theater; a bowling
407 alley; a fitness center; a miniature golf course; or a
408 nightclub. Provided, however, that the capital costs of the
409 construction of a tourism destination attraction may include
410 the capital costs associated with the construction of any
411 retail establishment, restaurant or other portion of the
412 tourism destination attraction. The term also does not include
413 any gaming facility or establishment that the Secretary of the
414 Department of Commerce deems to be serving the local
415 community.

416 (b) The abatements of ad valorem taxes, and payments in
417 lieu thereof, allowed by amendments to this section by Act
418 2008-275 shall become effective for projects for which
419 statements of intent are filed after December 31, 2011. No ad
420 valorem taxes, or payments in lieu thereof, shall be abated



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421 for periods prior to January 1, 2012. The other abatements
422 allowed by amendments made to this section by Act 2008-275
423 shall become effective after December 31, 2011.

424 For a qualifying industrial or research enterprise
425 described in Section 40-9B-3(a)(10)j., the approval of the
426 abatement of a specified ad valorem tax or construction
427 related tax levied or imposed by a county or municipality, or
428 payments required to be made in lieu thereof, shall take
429 effect only upon adoption of a resolution by the governing
430 body of that county or municipality approving such abatement
431 or abatements."

432 "§40-9B-4

433 (a) Noneducational ad valorem taxes, construction
434 related transaction taxes, except those local construction
435 related transaction taxes levied for educational purposes or
436 for capital improvements for education, and mortgage and
437 recording taxes, or payments required to be made in lieu
438 thereof, and in the case of a qualifying industrial or
439 research enterprise described in Section 40-9B-3(a)(10)e.
440 which is owned by an entity organized under Chapter 6 of Title
441 37, or by an authority both organized and existing pursuant to
442 Chapter 50A of Title 11, and subject to the payments required
443 to be made in lieu of ad valorem, sales, use, license, and
444 severance taxes imposed by Section 11-50A-7, in addition to
445 the foregoing, all other ad valorem taxes, or payments
446 required to be made in lieu thereof, imposed by the state,
447 counties, municipalities, and other taxing jurisdictions of
448 Alabama, may be abated with respect to private use industrial



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449 property and security documents and other recordable documents
450 associated therewith as provided in this chapter.

451 (b) (1) No abatement of noneducational ad valorem taxes,
452 other ad valorem taxes, or payments required to be made in
453 lieu of the foregoing, may exceed the maximum exemption
454 period. No further abatement with respect to the same private
455 use industrial property may be granted unless there is a major
456 addition to the property, in which event abatement may be
457 granted only with respect to the noneducational ad valorem
458 taxes, and in the case of a qualifying industrial or research
459 enterprise described in Section 40-9B-3(a)(10)e. which is
460 owned by an entity organized under Chapter 6 of Title 37, or
461 by an authority both organized and existing pursuant to
462 Chapter 50A of Title 11, and subject to the payments required
463 to be made in lieu of ad valorem, sales, use, license, and
464 severance taxes imposed by Section 11-50A-7, in addition to
465 the noneducational ad valorem taxes, with respect to all other
466 ad valorem taxes, or payments required to be made in lieu
467 thereof, imposed by the state, counties, municipalities, and
468 other taxing jurisdictions of Alabama, on the major addition
469 by complying with the procedures set forth in this chapter.
470 Notwithstanding the immediately preceding sentence, with
471 respect to a data processing center, an abatement of
472 noneducational ad valorem taxes, other ad valorem taxes, or
473 payments required to be made in lieu thereof, shall apply to
474 all real and personal property comprising a data processing
475 center, the costs of which may be capitalized for federal
476 income tax purposes, acquired at any time during the



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477 applicable maximum exemption period, including, but not
478 limited to, computers, software licensed for use at the
479 qualifying data processing center, equipment supporting
480 computing, networking, or data storage; cooling systems,
481 cooling towers, and other temperature infrastructure; power
482 infrastructure for transformation, distribution, or management
483 of electricity used for the maintenance and operation of a
484 data processing center, including, but not limited to,
485 exterior dedicated business-owned substations, backup power
486 generation systems, battery systems, and related
487 infrastructure; and any other equipment necessary for the
488 maintenance and operation of a data processing center.

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

495 (c) (1) An abatement of construction related transaction
496 taxes, or payments required to be made in lieu thereof, shall
497 apply only to tangible personal property and taxable services
498 incorporated into a private use industrial property, the cost
499 of which may be added to capital account with respect to the
500 property, determined without regard to any rule which permits
501 expenditures properly chargeable to capital account to be
502 treated as current expenses. No abatement of construction
503 related transaction taxes, or payments required to be made in
504 lieu thereof, shall extend beyond the date the private use



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505 industrial property is placed in service; provided, however,
506 that an abatement of construction related transaction taxes,
507 or payments required to be made in lieu thereof, for a data
508 processing center shall apply to all taxable services and
509 acquisitions of real and personal property comprising the data
510 processing center, the costs of which may be capitalized for
511 federal income tax purposes, occurring at any time during the
512 applicable maximum exemption period, including, but not
513 limited to, computers, software licensed for use at the
514 qualifying data processing center, equipment supporting
515 computing, networking, or data storage; cooling systems,
516 cooling towers, and other temperature infrastructure; power
517 infrastructure for transformation, distribution, or management
518 of electricity used for the maintenance and operation of a
519 data processing center, including, but not limited to,
520 exterior dedicated business-owned substations, backup power
521 generation systems, battery systems, and related
522 infrastructure; and any other equipment necessary for the
523 maintenance and operation of a data processing center. No
524 further abatement may be granted for construction related
525 transaction taxes, or payments required to be made in lieu
526 thereof, with respect to the private use industrial property
527 unless incurred in connection with a major addition, in which
528 event only construction related transaction taxes, or payments
529 required to be made in lieu thereof, that may be added to
530 capital account with respect to the major addition, determined
531 without regard to any rule which permits expenditures properly
532 chargeable to capital account to be treated as current



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533 expenses, may be abated by complying with the procedures set
534 forth in Act 92-599 as amended, and as amended by Act
535 2008-275. Except in the case of a qualifying industrial or
536 research enterprise described in Section 40-9B-3(a)(10)e.
537 which is owned by an entity organized under Chapter 6 of Title
538 37, or by an authority both organized and existing pursuant to
539 Chapter 50A of Title 11, and subject to the payments required
540 to be made in lieu of ad valorem, sales, use, license, and
541 severance taxes imposed by Section 11-50A-7, no local
542 construction related transaction taxes levied for educational
543 purposes or capital improvements for education, or payments
544 required to be made in lieu thereof, may be abated.

545
546 (2) a. Effective for an abatement granted: (i) on or
547 after January 1, 2027; and (ii) to a data processing center
548 with a total peak demand of 100 megawatts or greater,
549 construction related transaction taxes levied pursuant to
550 Chapter 23 of this title, or payments required to be made in
551 lieu thereof, on computers, servers, software licensed for use
552 at the data processing center, equipment supporting computing,
553 networking, or data storage, cooling systems, cooling towers,
554 and other temperature infrastructure, and any other equipment
555 necessary for the maintenance and operation of a data
556 processing center, shall be eligible for abatement throughout
557 the applicable maximum exemption period as provided in (c)
558 (1).

559 b. Except for those provided in (2) a., effective for
560 an abatement granted: (i) on or after January 1, 2027; and



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561 (ii) to a data processing center with a total peak demand of
562 100 megawatts or greater, no abatement of state construction
563 related transaction taxes levied pursuant to Chapter 23 of
564 this title, or payments required to be made in lieu thereof,
565 shall extend beyond the date the private use industrial
566 property is placed in service.

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

573 (d) Mortgage and recording taxes with respect to
574 mortgages, deeds, and documents relating to issuing or
575 securing obligations and conveying title into or out of the
576 public authority or county or municipal government with
577 respect to a private use industrial property may be abated by
578 complying with the procedures set forth in this chapter.

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

585 (f) (1) For a qualifying industrial or research
586 enterprise described in Section 40-9B-3(a) (10)e., which is
587 owned by a utility described in Section 37-4-1(7)a., and which
588 is a coal gasification or liquefaction project or an advanced



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589 fossil-based generation project, as such terms are defined in
590 Section 40-18-1, or which utilizes hydropower production, an
591 abatement under this section shall be in an amount equal to
592 100 percent of the state noneducational ad valorem taxes owed
593 for plant, property, and facilities for the maximum exemption
594 period, and in an amount equal to 50 percent of the state
595 construction related transaction taxes. The abatement shall
596 not be subject to the procedures in Section 40-9B-5 or
597 40-9B-6.

598 (2) For a qualifying industrial or research enterprise
599 described in Section 40-9B-3(a)(10)e., which is owned by a
600 utility described in Section 37-4-1(7)a., and which is a
601 project using an alternative energy resource the abatements
602 for which are not provided in subdivision (1), an abatement
603 under this section shall be in an amount equal to 100 percent
604 of the state noneducational ad valorem taxes owed for plant,
605 property, and facilities for the maximum exemption period, and
606 in an amount equal to 50 percent of the state construction
607 related transaction taxes. The abatement shall not be subject
608 to the procedures in Section 40-9B-5 or 40-9B-6.

609 (3) For a qualifying industrial or research enterprise
610 described in Section 40-9B-3(a)(10)e., which is owned by an
611 entity organized under Chapter 6 of Title 37, an abatement
612 under this section shall be in an amount equal to 100 percent
613 of the ad valorem taxes owed for plant, property, and
614 facilities for the maximum exemption period, and in an amount
615 equal to 100 percent of the construction related transaction
616 taxes. An abatement of ad valorem taxes levied or imposed by



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617 counties or municipalities may be granted as provided in
618 subsection (h). An abatement of the construction related
619 transaction taxes imposed by the governing body of a county
620 pursuant to authority conferred under Article 1 of Chapter 12
621 of Title 40, or any general, special, or local act of the
622 Legislature, and such transaction taxes imposed by the
623 governing body of a municipality pursuant to authority
624 conferred under Article 3 of Chapter 51 of Title 11, or any
625 general, special, or local act of the Legislature, and all
626 transaction taxes imposed by any other local taxing
627 jurisdiction of Alabama may be granted as provided in
628 subsection (h). The abatement shall not be subject to the
629 procedures in Section 40-9B-5 or 40-9B-6.

630 (4) For a qualifying industrial or research enterprise
631 described in Section 40-9B-3(a)(10)e., which is owned by an
632 authority both organized and existing pursuant to Chapter 50A
633 of Title 11, and subject to the payments required to be made
634 in lieu of ad valorem, sales, use, license, and severance
635 taxes imposed by Section 11-50A-7, an abatement under this
636 section against the payments required to be made in lieu of
637 taxes imposed by Section 11-50A-7, shall be allowed in an
638 amount equal to 100 percent of the payments required to be
639 made in lieu of ad valorem taxes owed for plant, property, and
640 facilities for the maximum exemption period, and in an amount
641 equal to 100 percent of the payments required to be made in
642 lieu of the construction related transaction taxes, including,
643 without limitation, payments required to be made in lieu of
644 all transaction taxes imposed by the governing body of a



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645 county pursuant to authority conferred under Article 1 of
646 Chapter 12 of this title, or any general, special, or local
647 act of the Legislature, all transaction taxes imposed by the
648 governing body of a municipality pursuant to authority
649 conferred under Article 3 of Chapter 51 of Title 11, or any
650 general, special, or local act of the Legislature, and
651 payments required to be made in lieu of all transaction taxes
652 imposed by any other taxing jurisdiction of Alabama. The
653 abatement of such payments required to be made in lieu of
654 local taxes may be granted as provided in subsection (h). The
655 abatement shall not be subject to the procedures in Section
656 40-9B-5 or 40-9B-6.

657 (5) For a qualifying industrial or research enterprise
658 described in Section 40-9B-3(a)(10)e., which is owned by a
659 utility described in Section 37-4-1(7)a., the abatement for
660 state noneducational ad valorem taxes provided in subdivision
661 (1) or (2) of this subsection, shall be equal to 100 percent
662 of the state noneducational ad valorem taxes owed for plant,
663 property, and facilities for the maximum exemption period if
664 the industrial or research enterprise is located in either of
665 the following:

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

668 b. 1. Any Alabama county which is considered to be less
669 developed. A county is considered to be less developed if it
670 has been found to be less developed by the Alabama Department
671 of Labor using the most current data available from the United
672 States Departments of Labor or Commerce, the United States



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673 Bureau of the Census, or any other federal or state agency,
674 and which finding shall be made not later than January 1 of
675 each year thereafter.

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

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

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

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

685 3. The factors used in ranking counties shall be
686 weighted in the following manner:

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

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

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

690 (6) a. To the extent that a plant, property, or
691 facility described in Section 40-9B-3(a)(10)e., is owned in
692 whole or in part by one or more private users listed
693 hereinafter in ~~subparagraph~~paragraph c., including, but not
694 limited to, ownership as tenants in common, joint tenants, or
695 owners of an undivided interest, then each private user shall
696 be entitled to the abatement allowed under this section with a
697 percentage limitation equal to the ownership interest
698 percentage of the private user multiplied by the percentage
699 limitation found in this subsection applicable to the private
700 user for the tax, or payment in lieu of tax, in question.



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701 b. To the extent that a plant, property, or facility
702 described in Section 40-9B-3(a)(10)e. is owned by a private
703 user which is itself owned in whole or in part by one or more
704 of the entities listed hereinafter in ~~subparagraph~~paragraph
705 c., then the private user shall be entitled to the abatement
706 allowed under this section with a percentage limitation equal
707 to the sum, for all owners, of the ownership interest
708 percentage of each owner multiplied by the percentage
709 limitation found in this subsection applicable to the owner
710 for the tax, or payment in lieu of tax, in question.

711 c. The entities listed in this ~~subparagraph~~paragraph c.
712 are:

- 713 1. A utility described in Section 37-4-1(7)a.i
- 714 2. An entity organized under Chapter 6 of Title 37-i
715 and
- 716 3. An authority both organized and existing pursuant to
717 Chapter 50A of Title 11 and subject to the payments required
718 to be made in lieu of ad valorem, sales, use, license, and
719 severance taxes imposed by Section 11-50A-7.

720 (7) No abatement for mortgage and recording taxes,
721 local noneducational ad valorem taxes, or local noneducational
722 construction related transaction taxes shall be granted to a
723 qualifying industrial or research enterprise described in
724 Section 40-9B-3(a)(10)e., owned by a utility described in
725 Section 37-4-1(7)a., except upon the approval of the abatement
726 by the governing body of the county or municipality as
727 provided in ~~subsection (b) of~~ Section 40-9B-5 (b).

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



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729 lieu thereof allowed by amendments to this section by Act
730 2008-275 shall become effective for projects for which
731 statements of intent are filed after December 31, 2011. No ad
732 valorem taxes, or payments in lieu thereof, shall be abated
733 for periods prior to January 1, 2012. The other abatements
734 allowed by amendments made to this section by Act 2008-275
735 shall become effective after December 31, 2011.

736 (h) For a qualifying industrial or research enterprise
737 described in Section 40-9B-3(a)(10)e., the approval of the
738 abatement of a specific ad valorem tax or construction related
739 tax levied or imposed by a county or municipality, or payments
740 required to be made in lieu thereof, shall take effect only
741 upon adoption of a resolution by the governing body of that
742 county or municipality approving such abatement or
743 abatements."

744 "§40-9B-4.1

745 In no event shall any incentive provided in Act
746 2012-210 be available to any company filing an application
747 after July 31, ~~2028~~2032. Any project granted an incentive
748 prior to July 31, ~~2028~~2032, shall be entitled to the incentive
749 pursuant to the project agreement regardless of whether Act
750 2012-210 is reauthorized."

751 "§40-23-35

752 (a) Such amount of money as shall be appropriated for
753 each fiscal year by the Legislature to the Department of
754 Revenue with which to pay the salaries, the cost of operation
755 and management of the department shall be deducted, as a first
756 charge thereon, from the taxes collected under the provisions



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757 of this division; provided, that the expenditure of the sum so
758 appropriated shall be budgeted and allotted pursuant to
759 Article 4 of Chapter 4 of Title 41, and limited to the amount
760 appropriated to defray the expenses of operating the
761 department for each fiscal year. After the payment of the
762 expenses, so much of the amount remaining as may be necessary,
763 after first applying all sums of money received by reason of
764 the application of the surplus in the income tax as provided
765 by Section 40-18-58, for the replacement in the public school
766 fund of the three-mill constitutional levy for schools and in
767 the General Fund of the one-mill levy for soldiers' relief and
768 the two and one-half mills for general purposes lost by
769 exemption of homestead provided for in this division shall be
770 first charges against the proceeds of the licenses, taxes, or
771 receipts levied or collected under this division. The
772 Comptroller, with the approval of the Governor, is hereby
773 directed to draw his or her warrants payable out of the total
774 proceeds of the licenses, taxes, or receipts levied or
775 collected under this division as herein provided in such sum
776 as shall be found necessary to take care of and replace the
777 three-mill constitutional school levy, the one-mill soldiers'
778 relief levy, and the two and one-half mill levy for general
779 purposes of the state ad valorem taxes lost as above set
780 forth.

781 (b) Of the amounts of such collections in any fiscal
782 year remaining after the payment of the expenses of
783 administration and replacement of the amounts in the several
784 funds as herein provided there shall be paid into the Treasury



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785 sums to be credited as follows:

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

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

791 (3) Beginning June 1, 2000, to the Department of
792 Conservation and Natural Resources for capital outlay for
793 acquisition of land contiguous to existing state parks and
794 land acquired for lakes and or water reservoirs, provision,
795 construction, improvement, renovation, equipping, and
796 maintenance of the state parks system only and not for use by
797 the Department of Conservation and Natural Resources for
798 personnel or administrative use, the sum equal to the increase
799 in receipts accruing to the State of Alabama due to the cap on
800 discounts per license holder in Section 40-23-36(b), which
801 increase shall be equal to the difference between the discount
802 rate or amount allowed under Section 40-23-36(b) and the
803 maximum discount rate allowable under Section 40-23-36(a);
804 provided, however, if at any time any bonds of the Alabama
805 State Parks System Improvement Corporation, or the Alabama
806 Public Historical Sites and Parks Improvement Corporation, are
807 outstanding (excluding bonds that have been refunded by the
808 establishment of an escrow trust for the payment thereof
809 consisting solely of bonds or other obligations which as to
810 principal and interest constitute direct obligations of, or
811 are unconditionally guaranteed by, the United States of
812 America) there shall first be paid into the State General Fund



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813 from such collections an amount equal to the debt service
814 (principal, interest, and premium, if any) payable on such
815 bonds in the then current fiscal year of the state. Provided,
816 however, that one million dollars (\$1,000,000) of such
817 increase in receipts per fiscal year shall be credited to the
818 Department of Human Resources beginning October 1, 1996, until
819 September 30, 2002, and shall be expended for the foster
820 children program.

821 (4)a. On October 1, 2002, to the Department of
822 Conservation and Natural Resources for capital outlay, repairs
823 and maintenance of the state parks system only, the minimum
824 sum of five million dollars (\$5,000,000) from the increase in
825 receipts accruing to the State of Alabama due to the cap on
826 discounts per license holder in Section 40-23-36(b) as
827 calculated in Section 40-23-35(b)(3). Beginning October 1,
828 2003, through September 30, 2021, annually, to the Department
829 of Conservation and Natural Resources for capital outlay,
830 repairs, and maintenance of the state parks system only, the
831 sum calculated by a fraction, the numerator of which is five
832 million dollars (\$5,000,000) and the denominator of which is
833 equal to the increase in receipts as calculated in Section
834 40-23-35(b)(3) for fiscal year 2002 accruing to the State of
835 Alabama multiplied by the increase in receipts as calculated
836 in Section 40-23-35(b)(3) for the then current fiscal year, or
837 the sum of five million dollars (\$5,000,000), whichever is
838 greater. Notwithstanding the previous sentence, for the fiscal
839 years ending September 30, 2012, and September 30, 2013, only,
840 the five million dollars (\$5,000,000) shall be transferred to



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841 the State General Fund.

842 b. Beginning October 1, 2021, annually, to the
843 Department of Conservation and Natural Resources for capital
844 outlay, repairs, and maintenance of the state parks system
845 only, seven million dollars (\$7,000,000). Beginning with the
846 fiscal year that starts October 1, 2022, the State Treasurer
847 shall annually adjust the dollar amount in this paragraph to
848 reflect the cumulative change in the Consumer Price Index for
849 All Urban Consumers (CPI-U), as published by the Bureau of
850 Labor Statistics of the United States Department of Labor, or
851 a successor index, for the annual period ending on the
852 December 31 preceding the adjustment date and rounded to the
853 nearest one thousand dollars (\$1,000).

854 c. Beginning October 1, 2002, to the credit of the
855 State General Fund, the balance of the sum equal to the
856 increase in receipts accruing to the State of Alabama due to
857 the cap on discounts per license holder in Section
858 40-23-36(b).

859 (c) One-half of the amount deposited to the credit of
860 the 67 counties as above provided, shall be divided and
861 distributed proportionately among the 67 counties of the state
862 according to the population of the counties as shown by the
863 last federal census as proclaimed, published, or certified by
864 the Director of the Bureau of the Census; and one-half of the
865 proceeds shall be divided or distributed equally among 67
866 counties; provided, that the funds divided and distributed to
867 the several counties of the state as hereinabove provided for
868 shall be used exclusively for full-time health service in



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869 cooperation with the State Board of Health or the federal
870 government, and for extension services in cooperation with the
871 Alabama Agriculture Extension Service or the federal
872 government, at the discretion of the county commissions of the
873 several counties of the state.

874 (d) The amounts provided in subsection (b) for the
875 Department of Human Resources shall be used for general
876 welfare purposes. For purposes of this division, "general
877 welfare purposes" means:

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

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

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

886 (4) Investigative and referral services to and on
887 behalf of needy persons.

888 (e) In addition, there shall be paid, commencing on
889 January 1, 1978, and on the first day of each fiscal quarter
890 thereafter, to the Department of Human Resources for a
891 statewide, state-administered food stamp program, as
892 authorized by the Food Stamp Act of 1964, Public Law 88-525,
893 88th Congress, and amendments thereto, an amount equal to five
894 percent of the value of food stamp benefits issued statewide
895 in excess of the amount paid by recipients (bonus or free
896 stamps) during the immediate prior fiscal quarter, which sum



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897 so appropriated shall be paid quarterly to the Department of
898 Human Resources Trust Fund for administration of the food
899 stamp program in conformity with rules and regulations
900 ~~promulgated~~adopted by the United States Department of
901 Agriculture and in conformity with Sections 38-1-1 through
902 38-6-9. The administrative funds shall be limited to and based
903 on fiscal year 1976-77 administrative costs, normal
904 inflationary increases, and mandated administration
905 requirements of the Alabama Legislature and the United States
906 Department of Agriculture. The Department of Human Resources
907 will not staff any county food stamp office at a level that
908 exceeds the average staff-to-recipient ratios that existed in
909 Alabama during fiscal year 1976-77. This restriction will
910 apply in coordination with those provided hereinabove and,
911 should conflict occur, the lesser amount of expenditure shall
912 be required. At the end of each fiscal year, an accounting
913 shall be made of the sum so that any unexpended and
914 unencumbered balance of funds may be determined for the
915 purpose of paying such balance to the Education Trust Fund.

916 (f) The amount of the proceeds of all taxes levied by
917 this division remaining after the payment of the expenses of
918 administration and enforcement and the replacement in the
919 several funds of the amount lost by any homestead exemptions
920 and the distribution as provided in subsections (b) and (d),
921 shall be paid into the Education Trust Fund except as provided
922 in ~~subdivision (4) of Section 40-23-2(4) and subsection (c) of~~
923 ~~Section 40-23-61(c) and, beginning January 1, 2016,~~ except
924 those collected on consumable vapor products as defined in



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925 ~~subdivision (15) of subsection (a) of Section 40-23-1(a) (15),~~
926 and, beginning January 1, 2027, those collected on
927 construction related transaction taxes on building materials,
928 building fixtures, structural components, real property
929 improvements, power infrastructure for transformation,
930 distribution, or management of electricity, backup power
931 generation systems, and battery systems for data processing
932 centers under Section 40-9B-4(c) (2), which shall be
933 distributed to the State General Fund."

934 Section 2. Nothing in this act amending Sections
935 40-9B-3, 40-9B-4, and 40-9B-4.1 Code of Alabama 1975, shall
936 apply to any incentive that is part of a project executed
937 before the effective date of this act or expansions of that
938 project after the effective date of this act for a 10-year
939 period after the effective date of this act.

940 Section 3. This act shall become effective on June 1,
941 2026.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 10-Mar-26, as amended.

John Treadwell
Clerk

Senate	<u>09-Apr-26</u>	Amended and Passed
House	<u>09-Apr-26</u>	Concurred in Senate Amendment