

SB265 ENGROSSED



1 SB265

2 QNGMY41-2

3 By Senators Jones, Waggoner, Kitchens, Kelley, Smitherman,
4 Singleton, Chesteen, Bell, Albritton, Melson, Butler, Allen,
5 Stewart, Figures, Coleman-Madison, Williams, Gudger

6 RFD: Fiscal Responsibility and Economic Development

7 First Read: 05-Feb-26



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A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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



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

"§40-9B-3

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

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

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

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

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



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

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

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

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

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



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

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

(10) INDUSTRIAL OR RESEARCH ENTERPRISE.

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

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



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

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

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

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

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

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



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

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

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

1. It produces electricity from:

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

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

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

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

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

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

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



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owns an interest.

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

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

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

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

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

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



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to an existing industrial development property.

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

a. Either of the following:

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

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

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

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



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

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



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

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

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

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

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

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



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281 education.

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

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

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

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

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



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

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

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

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

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

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

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



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

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



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

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

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



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393 "§40-9B-4

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

412 (b) (1) No abatement of noneducational ad valorem taxes,
413 other ad valorem taxes, or payments required to be made in
414 lieu of the foregoing, may exceed the maximum exemption
415 period. No further abatement with respect to the same private
416 use industrial property may be granted unless there is a major
417 addition to the property, in which event abatement may be
418 granted only with respect to the noneducational ad valorem
419 taxes, and in the case of a qualifying industrial or research
420 enterprise described in Section 40-9B-3(a)(10)e. which is



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



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449 maintenance and operation of a data processing center.

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

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



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



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

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

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

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



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

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

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

(2) For a qualifying industrial or research enterprise described in Section 40-9B-3(a)(10)e., which is owned by a utility described in Section 37-4-1(7)a., and which is a



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project using an alternative energy resource the abatements for which are not provided in subdivision (1), an abatement under this section shall be in an amount equal to 100 percent of the state noneducational ad valorem taxes owed for plant, property, and facilities for the maximum exemption period, and in an amount equal to 50 percent of the state construction related transaction taxes. The abatement shall not be subject to the procedures in Section 40-9B-5 or 40-9B-6.

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



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589 procedures in Section 40-9B-5 or 40-9B-6.

590 (4) For a qualifying industrial or research enterprise
591 described in Section 40-9B-3(a)(10)e., which is owned by an
592 authority both organized and existing pursuant to Chapter 50A
593 of Title 11, and subject to the payments required to be made
594 in lieu of ad valorem, sales, use, license, and severance
595 taxes imposed by Section 11-50A-7, an abatement under this
596 section against the payments required to be made in lieu of
597 taxes imposed by Section 11-50A-7, shall be allowed in an
598 amount equal to 100 percent of the payments required to be
599 made in lieu of ad valorem taxes owed for plant, property, and
600 facilities for the maximum exemption period, and in an amount
601 equal to 100 percent of the payments required to be made in
602 lieu of the construction related transaction taxes, including,
603 without limitation, payments required to be made in lieu of
604 all transaction taxes imposed by the governing body of a
605 county pursuant to authority conferred under Article 1 of
606 Chapter 12 of this title, or any general, special, or local
607 act of the Legislature, all transaction taxes imposed by the
608 governing body of a municipality pursuant to authority
609 conferred under Article 3 of Chapter 51 of Title 11, or any
610 general, special, or local act of the Legislature, and
611 payments required to be made in lieu of all transaction taxes
612 imposed by any other taxing jurisdiction of Alabama. The
613 abatement of such payments required to be made in lieu of
614 local taxes may be granted as provided in subsection (h). The
615 abatement shall not be subject to the procedures in Section
616 40-9B-5 or 40-9B-6.



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

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

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

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

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

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

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



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

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

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

(iii) Average percent employed (50 percent).

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

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

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



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1. A utility described in Section 37-4-1(7)a.;

2. An entity organized under Chapter 6 of Title 37-;

and

3. An authority both organized and existing pursuant to Chapter 50A of Title 11 and subject to the payments required to be made in lieu of ad valorem, sales, use, license, and severance taxes imposed by Section 11-50A-7.

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

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

(h) For a qualifying industrial or research enterprise described in Section 40-9B-3(a)(10)e., the approval of the abatement of a specific ad valorem tax or construction related tax levied or imposed by a county or municipality, or payments required to be made in lieu thereof, shall take effect only



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upon adoption of a resolution by the governing body of that county or municipality approving such abatement or abatements."

"§40-9B-4.1

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

"§40-23-35

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



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

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

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

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

(3) Beginning June 1, 2000, to the Department of Conservation and Natural Resources for capital outlay for acquisition of land contiguous to existing state parks and land acquired for lakes and or water reservoirs, provision, construction, improvement, renovation, equipping, and maintenance of the state parks system only and not for use by



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the Department of Conservation and Natural Resources for personnel or administrative use, the sum equal to the increase in receipts accruing to the State of Alabama due to the cap on discounts per license holder in Section 40-23-36(b), which increase shall be equal to the difference between the discount rate or amount allowed under Section 40-23-36(b) and the maximum discount rate allowable under Section 40-23-36(a); provided, however, if at any time any bonds of the Alabama State Parks System Improvement Corporation, or the Alabama Public Historical Sites and Parks Improvement Corporation, are outstanding (excluding bonds that have been refunded by the establishment of an escrow trust for the payment thereof consisting solely of bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America) there shall first be paid into the State General Fund from such collections an amount equal to the debt service (principal, interest, and premium, if any) payable on such bonds in the then current fiscal year of the state. Provided, however, that one million dollars (\$1,000,000) of such increase in receipts per fiscal year shall be credited to the Department of Human Resources beginning October 1, 1996, until September 30, 2002, and shall be expended for the foster children program.

(4)a. On October 1, 2002, to the Department of Conservation and Natural Resources for capital outlay, repairs and maintenance of the state parks system only, the minimum sum of five million dollars (\$5,000,000) from the increase in



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

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



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813 nearest one thousand dollars (\$1,000).

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

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

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

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

840 (2) Services, including supplementation and



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supplementary services under the federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under Section 38-4-1;

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

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

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



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Alabama during fiscal year 1976-77. This restriction will apply in coordination with those provided hereinabove and, should conflict occur, the lesser amount of expenditure shall be required. At the end of each fiscal year, an accounting shall be made of the sum so that any unexpended and unencumbered balance of funds may be determined for the purpose of paying such balance to the Education Trust Fund.

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

Section 2. Nothing in this act amending Sections 40-9B-3, 40-9B-4, and 40-9B-4.1 Code of Alabama 1975, shall apply to any incentive that is part of a project executed



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897 before the effective date of this act or expanded after the
898 effective date of this act for a 10-year period after the
899 effective date of this act, if the project is located in a
900 Class 3 municipality.

901 Section 3. This act shall become effective on June 1,
902 2026.



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903
904
905 Senate

906 Read for the first time and referred05-Feb-26
907 to the Senate committee on Fiscal
908 Responsibility and Economic
909 Development

910
911 Read for the second time and placed12-Feb-26
912 on the calendar:
913 1 amendment

914
915 Read for the third time and passed12-Mar-26
916 as amended
917 Yeas 30
918 Nays 0
919 Abstains 0

920
921
922 Patrick Harris,
923 Secretary.
924