House Economic Development and Tourism Reported Substitute for SB265

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, 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

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

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

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

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

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

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.

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

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

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

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

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

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

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 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

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) ~~A~~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 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) ~~A~~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 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.

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

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

B. Water or wastewater system upgrades that serve the local community; or

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

For purposes of this item (iv), "benefited community" means: (1) the county in which the project is located; (2) any municipality located in whole or in part within that county; or (3) any county or municipality adjacent to the physical project site as determined by the written agreement, regardless of county lines, provided such jurisdiction consents in writing to receive the investment. The county and, as applicable, any municipality in which the project is located, by mutual written agreement with any jurisdiction described in this paragraph, may designate the recipient or recipients of any portion of the qualified local investments.

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

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 education.

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

(17) PRIVATE USER. Any individual, partnership, or corporation organized for profit that is or will be treated as the owner of private use property for federal income tax purposes, any entity organized under Chapter 6 of Title 37, and any 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.

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

(19) PRIVATE USE PROPERTY. Any real and/or personal property which is or will be treated as owned by a private user for federal income tax purposes even though title may be held by a public authority or municipal or county government; any real and/or personal property which is owned by any entity organized under Chapter 6 of Title 37; and any real and/or personal property which is owned by any 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.

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

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."

"§40-9B-4

(a) Noneducational ad valorem taxes, construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and mortgage and recording taxes, or payments required to be made in lieu thereof, and in the case of 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, or by 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, in addition to the foregoing, all other ad valorem taxes, or payments required to be made in lieu thereof, imposed by the state, counties, municipalities, and other taxing jurisdictions of Alabama, may be abated with respect to private use industrial property and security documents and other recordable documents associated therewith as provided in this chapter.

(b)(1) No abatement of noneducational ad valorem taxes, other ad valorem taxes, or payments required to be made in lieu of the foregoing, may exceed the maximum exemption period. No further abatement with respect to the same private use industrial property may be granted unless there is a major addition to the property, in which event abatement may be granted only with respect to the noneducational ad valorem taxes, and in the case of 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, or by 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, in addition to the noneducational ad valorem taxes, with respect to all other ad valorem taxes, or payments required to be made in lieu thereof, imposed by the state, counties, municipalities, and other taxing jurisdictions of Alabama, on the major addition by complying with the procedures set forth in this chapter. Notwithstanding the immediately preceding sentence, with respect to a data processing center, an abatement of noneducational ad valorem taxes, other ad valorem taxes, or payments required to be made in lieu thereof, shall apply to all real and personal property comprising a data processing center, the costs of which may be capitalized for federal income tax purposes, acquired at any time during the applicable maximum exemption period, including, but not limited to, computers, software licensed for use at the qualifying data processing center, equipment supporting computing, networking, or data storage; cooling systems, cooling towers, and other temperature infrastructure; power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of a data processing center, including, but not limited to, exterior dedicated business-owned substations, backup power generation systems, battery systems, and related infrastructure; and any other equipment necessary for the maintenance and operation of a data processing center.

(2) 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 noneducational ad valorem taxes shall extend beyond the date the private use industrial property is placed in service.

(c)(1) An abatement of construction related transaction taxes, or payments required to be made in lieu thereof, shall apply only to tangible personal property and taxable services incorporated into a private use industrial 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. No abatement of construction related transaction taxes, or payments required to be made in lieu thereof, shall extend beyond the date the private use industrial property is placed in service; provided, however, that an abatement of construction related transaction taxes, or payments required to be made in lieu thereof, for a data processing center shall apply to all taxable services and acquisitions of real and personal property comprising the data processing center, the costs of which may be capitalized for federal income tax purposes, occurring at any time during the applicable maximum exemption period, including, but not limited to, computers, software licensed for use at the qualifying data processing center, equipment supporting computing, networking, or data storage; cooling systems, cooling towers, and other temperature infrastructure; power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of a data processing center, including, but not limited to, exterior dedicated business-owned substations, backup power generation systems, battery systems, and related infrastructure; and any other equipment necessary for the maintenance and operation of a data processing center. No further abatement may be granted for construction related transaction taxes, or payments required to be made in lieu thereof, with respect to the private use industrial property unless incurred in connection with a major addition, in which event only construction related transaction taxes, or payments required to be made in lieu thereof, that may be added to capital account with respect to the major addition, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses, may be abated by complying with the procedures set forth in Act 92-599 as amended, and as amended by Act 2008-275. Except in the case of 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, or by 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, no local construction related transaction taxes levied for educational purposes or capital improvements for education, or payments 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.

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

(4) For a qualifying industrial or research enterprise described in Section 40-9B-3(a)(10)e., which is owned by 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, an abatement under this section against the payments required to be made in lieu of taxes imposed by Section 11-50A-7, shall be allowed in an amount equal to 100 percent of the payments required to be made in lieu of ad valorem taxes owed for plant, property, and facilities for the maximum exemption period, and in an amount equal to 100 percent of the payments required to be made in lieu of the construction related transaction taxes, including,

without limitation, payments required to be made in lieu of all transaction taxes imposed by the governing body of a county pursuant to authority conferred under Article 1 of Chapter 12 of this title, or any general, special, or local act of the Legislature, all 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 payments required to be made in lieu of all transaction taxes imposed by any other taxing jurisdiction of Alabama. The abatement of such payments required to be made in lieu of local taxes may be granted as provided in subsection (h). The abatement shall not be subject to the procedures in Section 40-9B-5 or 40-9B-6.

(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.

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:

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 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 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 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 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 nearest one thousand dollars ($1,000).

c. Beginning October 1, 2002, to the credit of the State General Fund, the balance of 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).

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

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

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

(2) Services, including supplementation and 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 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 before the effective date of this act or expansions of that project after the effective date of this act for a 10-year period after the effective date of this act.

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