

1 HB144
2 136192-1
3 By Representative Roberts
4 RFD: Economic Development and Tourism
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

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8 SYNOPSIS: This bill would expand this state's existing
9 tax incentives to investments by companies
10 primarily engaged in the coal mining industry.
11

12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 To amend Sections 40-9B-3 and 40-18-190, Code of
17 Alabama 1975; to expand existing tax incentives to investments
18 by companies primarily engaged in the coal mining industry.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 40-9B-3 and 40-18-190, Code of
21 Alabama 1975, are amended to read as follows:

22 "§40-9B-3.

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

25 "(1) ABATE, ABATEMENT. A reduction or elimination of
26 a taxpayer's liability for tax or payments required to be made
27 in lieu thereof. An abatement of transaction taxes imposed

1 under Chapter 23 of this title, or payments required to be
2 made in lieu thereof, shall relieve the seller from the
3 obligation to collect and pay over the transaction tax as if
4 the sale were to a person exempt, to the extent of the
5 abatement, from the transaction tax.

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

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

17 "(4) DATA PROCESSING CENTER. An establishment at
18 which not less than 50 new jobs are located, and which is
19 engaged in the provision of complete processing and
20 specialized reports from data, the provision of automated data
21 processing and data entry services, the provision of an
22 infrastructure for hosting or data processing services, the
23 provision of specialized hosting activities, the provision of
24 application service provisioning, the provision of general
25 time-share mainframe facilities, or some combination of the
26 foregoing, without regard to whether any other activities are
27 conducted at the establishment.

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

9 "(6) HEADQUARTERS FACILITY. Any trade or business
10 described in the 2007 North American Industry Classification
11 System, promulgated by the Executive Office of the President
12 of the United States, Office of Management and Budget,
13 National Industry 551114, at which not less than 50 new jobs
14 are located.

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

17 "(8) INDUCEMENT. Refers to an agreement, or an
18 "inducement agreement," entered into between a private user
19 and a public authority or county or municipal government
20 and/or a resolution or other official action, an "inducement
21 resolution," "inducement letter," or "official action" adopted
22 by a public authority or county or municipal government, in
23 each case expressing, among other things, the present intent
24 of such public authority or county or municipal government to
25 issue bonds in connection with the private use property
26 therein described.

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

4 "(10) INDUSTRIAL OR RESEARCH ENTERPRISE.

5 "a. Any trade or business described in the 2007
6 North American Industry Classification System, promulgated by
7 the Executive Office of the President of the United States,
8 Office of Management and Budget, Sectors 31 (other than
9 National Industry 311811), 32, and 33; Subsectors 423, 424,
10 511, and 927; Industry Groups 2121, 5417, 5415, and 5182
11 (without regard to the premise that data processing and
12 related services be performed in conjunction with a
13 third-party); Industries 11331 and 48691; and National
14 Industries 115111, 517110, 541380, and 561422 (other than
15 establishments that originate telephone calls) and includes
16 such trades and businesses as may be hereafter reclassified in
17 any subsequent publication of the North American Industry
18 Classification System or other industry classification system
19 developed in conjunction with the United States Department of
20 Commerce, or any process or treatment facility which recycles,
21 reclaims, or converts any materials, which include solids,
22 liquids, or gases, to a reusable product.

23 "b. With respect to abatements granted in accordance
24 with Section 40-9B-9, and only with respect to such
25 abatements, "industrial or research enterprise" means any
26 trade or business described in the 2007 North American
27 Industry Classification System within Subsector 493

1 (Warehousing and Storage), Industry Number 488310 (Port and
2 Harbor Operations), or Industry Number 488320 (Marine Cargo
3 Handling), when such trade or business is conducted on
4 premises in which the Alabama State Port Authority has an
5 ownership, leasehold, or other possessory interest and such
6 premises are used as part of the operations of the Alabama
7 State Port Authority.

8 "c. "Industrial or research enterprise" includes the
9 above-described trades and business and any others as may
10 hereafter be reclassified in any subsequent publication of the
11 NAICS or similar industry classification system developed in
12 conjunction with the United States Department of Commerce or
13 Office of Management and Budget.

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

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

24 "1. It produces electricity from:

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

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

3 "2. All or a portion of the plant, property, or
4 facility is owned by one or more of the following: A utility
5 described in Section 37-4-1(7)a., an entity organized under
6 the provisions of Chapter 6 of Title 37, or an authority both
7 organized and existing pursuant to the provisions of Chapter
8 50A of Title 11 and subject to the payments required to be
9 made in lieu of ad valorem, sales, use, license, and severance
10 taxes imposed by Section 11-50A-7, or an entity in which one
11 or more of the foregoing owns an interest.

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

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

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

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

20 "(11) MAJOR ADDITION. Any addition to an existing
21 industrial development property that equals the lesser of: 30
22 percent of the original cost of the industrial development
23 property or two million dollars (\$2,000,000). For purposes of
24 this subsection, the original cost of existing industrial
25 development property shall be the amount of industrial
26 development property with respect to which an abatement was
27 granted under this chapter when the property was constructed,

1 or if the existing industrial development property was
2 constructed before January 1, 1993, the maximum amount that
3 would have been allowed if the provisions of this chapter had
4 applied at the time it was constructed. Only property that
5 constitutes industrial development property shall be taken
6 into account in making the determination in the previous
7 sentence. Major addition shall include any addition costing at
8 least two million dollars (\$2,000,000) which constitutes an
9 industrial or research enterprise, regardless of whether added
10 to an existing industrial development property.

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

13 "a. Ten years from and after: 1. The date of initial
14 issuance by a county, city, or public authority of bonds to
15 finance any costs of a private use property, or 2. If no such
16 bonds are ever issued, the later of: (i) The date on which
17 title to the property was acquired by or vested in the county,
18 city, or public authority, or (ii) The date on which the
19 property is or becomes owned, for federal income tax purposes,
20 by a private user; or

21 "b. The weighted average economic life of the assets
22 comprising such property, determined consistently with the
23 provisions of 26 U.S.C. § 147(b) and measured from the date
24 such property is placed in service.

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

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

7 "(15) PERSON. Includes any individual, partnership,
8 trust, estate, or corporation.

9 "(16) PRIVATE USER. Any individual, partnership, or
10 corporation organized for profit that is or will be treated as
11 the owner of private use property for federal income tax
12 purposes, any entity organized under Chapter 6 of Title 37,
13 and any authority both organized and existing pursuant to
14 Chapter 50A of Title 11 and subject to the payments required
15 to be made in lieu of ad valorem, sales, use, license, and
16 severance taxes imposed by Section 11-50A-7.

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

20 "(18) PRIVATE USE PROPERTY. Any real and/or personal
21 property which is or will be treated as owned by a private
22 user for federal income tax purposes even though title may be
23 held by a public authority or municipal or county government;
24 any real and/or personal property which is owned by any entity
25 organized under Chapter 6 of Title 37; and any real and/or
26 personal property which is owned by any authority both
27 organized and existing pursuant to Chapter 50A of Title 11,

1 and subject to the payments required to be made in lieu of ad
2 valorem, sales, use, license, and severance taxes imposed by
3 Section 11-50A-7.

4 "(19) PUBLIC AUTHORITY. A corporation created for
5 public purposes pursuant to a provision of the Constitution of
6 Alabama of 1901, or a general or local law that authorized it
7 to issue bonds, the interest on which is exempt from the
8 Alabama income tax, as in effect on May 21, 1992.

9 "(20) PUBLIC INDUSTRIAL AUTHORITY. A public
10 authority authorized to issue bonds to acquire, construct,
11 equip, or finance industrial development property.

12 "(21) RENEWABLE ENERGY FACILITY. Any plant,
13 property, or facility that either:

14 "a. Produces electricity or natural gas, in whole or
15 in part, from biofuels as such term is defined in Section
16 2-2-90(c)(2) or from renewable energy resources as such term
17 is defined in Section 40-18-1(30) with the exception that
18 hydropower production shall be excluded from such definition;
19 or

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

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

1 "(23) STATEMENT OF INTENT. A written statement of
2 intent to claim an abatement provided in this chapter, or to
3 petition for local tax abatement, relating to an industrial or
4 research enterprise described in paragraph e. of subdivision
5 (10) of this subsection that is filed with the Department of
6 Revenue at any time prior to the date on which the industrial
7 or research enterprise described in paragraph e. of
8 subdivision (10) of this subsection is placed in service in
9 accordance with such procedures and on such form or forms as
10 may be prescribed by the Department of Revenue. Such statement
11 of intent shall contain a description of the industrial or
12 research enterprise described in paragraph e. of subdivision
13 (10) of this subsection; the date on which the acquisition,
14 construction, installation, or equipping of the industrial or
15 research enterprise described in paragraph e. of subdivision
16 (10) of this subsection was commenced or is expected to
17 commence; the actual or, if not known, the estimated capital
18 costs of the industrial or research enterprise described in
19 paragraph e. of subdivision (10) of this subsection; the
20 number of new employees to be employed at the industrial or
21 research enterprise described in paragraph e. of subdivision
22 (10) of this subsection; and any other information required by
23 the Department of Revenue.

24 "(b) The abatements of ad valorem taxes, and
25 payments in lieu thereof, allowed by amendments to this
26 section by Act 2008-275 shall become effective for projects
27 for which statements of intent are filed after December 31,

1 2011. No ad valorem taxes, or payments in lieu thereof, shall
2 be abated for periods prior to January 1, 2012. The other
3 abatements allowed by amendments made to this section by Act
4 2008-275 shall become effective after December 31, 2011.

5 "§40-18-190.

6 "(a) The following terms shall have the following
7 meanings, respectively, when used in this article unless the
8 context clearly requires otherwise:

9 "(1) BASE WAGE REQUIREMENT.

10 "a. For qualifying projects in which an investing
11 company files a written statement of intent (Form INT) with
12 the department on or before May 21, 2009, "base wage
13 requirement" means either an average hourly wage of not less
14 than eight dollars (\$8) per hour or an average total
15 compensation of not less than ten dollars (\$10) per hour,
16 including benefits.

17 "b. For qualifying projects that are not located in
18 a favored geographic area and for which an investing company
19 files a written statement of intent (Form INT) with the
20 department after May 21, 2009, "base wage requirement" means
21 an average hourly wage, inclusive of all employees in Alabama,
22 of not less than the lesser of fifteen dollars (\$15) per hour
23 (indexed annually in accordance with the manner provided in
24 Section 25-5-68) or the average hourly wage of the county
25 where the qualifying project is located (as reported annually
26 by the Department of Industrial Relations), both excluding
27 benefits.

1 "c. For qualifying projects that are located in a
2 favored geographic area and for which an investing company
3 files a written statement of intent (Form INT) with the
4 department after May 21, 2009, "base wage requirement" means
5 an average hourly wage, inclusive of all employees in Alabama,
6 of not less than the lesser of twelve dollars (\$12) per hour
7 (indexed annually in accordance with the manner provided in
8 Section 25-5-68) or the average hourly wage of the county
9 where the qualifying project is located (as reported annually
10 by the Department of Industrial Relations), both excluding
11 benefits.

12 "d. Notwithstanding the foregoing, wages of direct
13 processors of agriculture food products shall be subject to
14 the local labor market. In the event that reliable local labor
15 market statistics are not available, the department shall, by
16 regulation or ruling, establish a source of wage information
17 that best represents the average hourly wage rate in Alabama
18 for direct processors of agriculture food products.

19 "(2) CAPITAL COSTS. All costs and expenses incurred
20 by one or more investing companies in connection with the
21 acquisition, construction, installation and equipping of a
22 qualifying project during the period commencing with the date
23 on which such acquisition, construction, installation and
24 equipping commences and ending on the date on which the
25 qualifying project is placed in service, including, without
26 limitation all of the following:

1 "a. The costs of acquiring, constructing,
2 installing, equipping, and financing a qualifying project,
3 including all obligations incurred for labor and to
4 contractors, subcontractors, builders, and materialmen.

5 "b. The costs of acquiring land or rights in land
6 and any cost incidental thereto, including recording fees.

7 "c. The costs of contract bonds and of insurance of
8 all kinds that may be required or necessary during the
9 acquisition, construction, or installation of a qualifying
10 project.

11 "d. The costs of architectural and engineering
12 services, including test borings, surveys, estimates, plans
13 and specifications, preliminary investigations, environmental
14 mitigation and supervision of construction, as well as for the
15 performance of all the duties required by or consequent upon
16 the acquisition, construction, and installation of a
17 qualifying project.

18 "e. The costs associated with installation of
19 fixtures and equipment; surveys, including archaeological and
20 environmental surveys; site tests and inspections; subsurface
21 site work; excavation; removal of structures, roadways,
22 cemeteries, and other surface obstructions; filling, grading,
23 paving and provisions for drainage, storm water retention,
24 installation of utilities, including water, sewer, sewage
25 treatment, gas, electricity, communications, and similar
26 facilities; off-site construction of utility extensions to the
27 boundaries of the property.

1 "f. All other costs of a nature comparable to those
2 described, including, without limitation, all project costs
3 which are required to be capitalized for federal income tax
4 purposes pursuant to 26 U.S.C. § 263A.

5 "g. Costs otherwise defined as capital costs that
6 are incurred by the investing company where the investing
7 company is the lessee under a lease that: (1) has a term of
8 not less than five years, and (2) is characterized as a
9 capital lease for federal income tax purposes; provided, that
10 if the project is a headquarters facility, the lease may be
11 characterized as an operating lease for federal income tax
12 purposes in which event capital costs shall include the net
13 present value of the payments made by the investing company
14 under the lease computed using the applicable federal rate for
15 the month in which the qualifying project is placed in service
16 and for the term most closely approximating the term of the
17 lease. Capital costs shall not include property owned or
18 leased by the investing company or a related party before the
19 commencement of the acquisition, construction, installation or
20 equipping of the qualifying project unless such property was
21 physically located outside the state for a period of at least
22 one year prior to the date on which the qualifying project was
23 placed in service.

24 "h. Costs either paid or incurred by (i) a public
25 industrial development board or authority, city, or county, or
26 other public corporation or political subdivision (a "public
27 entity") for the benefit of a qualifying project where such

1 costs are treated as costs paid by an investing company with
2 respect to the qualifying project for federal income tax
3 purposes (such costs shall not include amounts contributed by
4 a public entity to a qualifying project as a capital
5 contribution or gift except to the extent that an investing
6 company has cost basis in the contribution or gift for federal
7 income tax purposes); or (ii) a related party to an investing
8 company to the extent such costs are included in or taken into
9 account in determining the investing company's federal income
10 tax basis in the qualifying project, whether or not incurred
11 by an investing company.

12 "(3) CAPITAL CREDIT. An annual amount equal to up to
13 five percent of the capital costs of the qualifying project,
14 such amount to be credited or allowed in accordance with
15 Section 40-18-194 and Section 40-18-195 hereof and other
16 provisions of law, against the state income tax or financial
17 institution excise tax, as provided in Section 40-18-194,
18 liability generated by or arising out of the qualifying
19 project in each of the 20 years commencing with the year
20 during which the qualifying project is placed in service and
21 continuing for 19 consecutive years thereafter.

22 "(4) DATA PROCESSING CENTER. An establishment
23 engaged in the provision of complete processing and
24 specialized reports from data, the provision of automated data
25 processing and data entry services, the provision of an
26 infrastructure for hosting or data processing services, the
27 provision of specialized hosting activities, the provision of

1 application service provisioning, the provision of general
2 time-share mainframe facilities, or some combination of the
3 foregoing, without regard to whether any other activities are
4 conducted at the establishment.

5 "(5) DEPARTMENT. The Alabama Department of Revenue.

6 "(6) FAVORED GEOGRAPHIC AREA. Either of the
7 following:

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

11 "b. 1. Any Alabama county which is considered to be
12 less developed. A county is considered to be less developed if
13 it has been found to be less developed by the Alabama
14 Department of Industrial Relations using the most current data
15 available from the United States Departments of Labor or
16 Commerce, the United States Bureau of the Census, or any other
17 federal or state agency, and which finding shall be made
18 immediately upon passage of Act 2001-965 and not later than
19 January 1 of each year thereafter.

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

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

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

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

3 "3. The factors used in ranking counties will be
4 weighted in the following manner:

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

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

7 "(iii) Average percent employed (50 percent).

8 "(7) HEADQUARTERS FACILITIES.

9 "a. For qualifying projects in which an investing
10 company files a written statement of intent (Form INT) with
11 the department on or before May 21, 2009, "headquarters
12 facilities" means a facility which will serve as the national,
13 regional or state headquarters for an investing company that
14 conducts significant business operations outside the state and
15 will serve as the principal office of the principal operating
16 officer of the qualifying project. For purposes of this
17 Article 7, the term "principal operating officer" is defined
18 as the person with chief responsibility for the daily business
19 operations of the qualifying project.

20 "b. For qualifying projects in which an investing
21 company files a written statement of intent (Form INT) with
22 the department after May 21, 2009, "headquarters facilities"
23 means any trade or business described in the 2007 North
24 American Industry Classification System, promulgated by the
25 Executive Office of the President of the United States, Office
26 of Management and Budget, National Industry 551114.

1 "(8) INDUSTRIAL, WAREHOUSING, OR RESEARCH ACTIVITY.

2 Any trade or business described in the 2007 North American
3 Industry Classification System, promulgated by the Executive
4 Office of the President of the United States, Office of
5 Management and Budget, Sectors 31 (other than National
6 Industry 311811), 32, and 33; Subsectors 423, 424, 511, and
7 927; Industry Groups 2121, 5417, 5415, and 5182 (without
8 regard to the premise that data processing and related
9 services be performed in conjunction with a third-party);
10 Industries 11331 and 48691; and National Industries 115111,
11 517110, 541380, and 561422 (other than establishments that
12 originate telephone calls) and includes such trades and
13 businesses as may be hereafter reclassified in any subsequent
14 publication of the North American Industry Classification
15 System or other industry classification system developed in
16 conjunction with the United States Department of Commerce, or
17 any process or treatment facility which recycles, reclaims, or
18 converts materials, which include solids, liquids, or gases,
19 to a reusable product.

20 "(9) INVESTING COMPANY. Any corporation,
21 partnership, limited liability company, proprietorship, trust
22 or other business entity, regardless of form, making a
23 qualified investment.

24 "(10) NEW EMPLOYEES. Those persons who have not been
25 previously employed at the site on which the qualifying
26 project is or will be located or by an investing company or
27 companies in the state; will be employed full-time at the

1 qualifying project; and will be subject to the personal income
2 tax imposed by Section 40-18-2, upon commencement of
3 employment at the qualifying project.

4 "(11) PROJECT. Any land, building or other
5 improvement, and all real and personal properties deemed
6 necessary or useful in connection therewith, whether or not
7 previously in existence, located or to be located in the
8 state.

9 "(12) QUALIFYING INVESTMENT. The undertaking by one
10 or more investing companies of a qualifying project.

11 "(13) QUALIFYING PROJECT. A project to be sponsored
12 or undertaken by one or more investing companies meeting any
13 one of the following requirements:

14 "a. A project the capital costs of which are not
15 less than two million dollars (\$2,000,000), and at which the
16 predominant trade or business activity conducted will
17 constitute industrial, warehousing, or research activity.

18 "b. A small business addition the capital costs of
19 which are not less than one million dollars (\$1,000,000), and
20 at which the predominant trade or business activity conducted
21 will constitute industrial, warehousing, or research activity.

22 "c. A headquarters facility the capital costs of
23 which are not less than two million dollars (\$2,000,000) at
24 which the predominant trade or business activity conducted
25 will not be the production of electricity.

26 "d. A project located in a favored geographic area
27 the capital costs of which are not less than five hundred

1 thousand dollars (\$500,000), and at which the predominant
2 trade or business activity conducted will constitute
3 industrial, warehousing, or research activity.

4 "e. A project owned by a utility described in
5 Section 37-4-1(7)a., or owned by an investing company which is
6 itself owned by a utility, the capital costs of which are not
7 less than the following:

8 "1. One hundred million dollars (\$100,000,000), if
9 the predominant trade or business activity conducted will be
10 the production of electricity from alternative energy
11 resources.

12 "2. Five million dollars (\$5,000,000), if the
13 predominant trade or business activity conducted will be the
14 production of electricity from hydropower production.

15 "f. A data processing center the capital costs of
16 which are not less than the following:

17 "1. Two million dollars (\$2,000,000), if the data
18 processing center is not located in a favored geographic area.

19 "2. Five hundred thousand dollars (\$500,000), if the
20 data processing center is located in a favored geographic
21 area.

22 "g. A research and development facility the capital
23 costs of which are not less than the following:

24 "1. Two million dollars (\$2,000,000), if the
25 research and development facility is not located in a favored
26 geographic area.

1 "2. Five hundred thousand dollars (\$500,000), if the
2 research and development facility is located in a favored
3 geographic area.

4 "h. A renewable energy facility the capital costs of
5 which are not less than the following:

6 "1. Two million dollars (\$2,000,000), if the
7 renewable energy facility is not located in a favored
8 geographic area.

9 "2. Five hundred thousand dollars (\$500,000), if the
10 renewable energy facility is located in a favored geographic
11 area.

12 "(14) RELATED PARTY. A person or entity that bears a
13 relationship to an investing company described in Section
14 267(b), (c), or (e) of the Internal Revenue Code of 1986, as
15 amended.

16 "(15) RENEWABLE ENERGY FACILITY. Any plant,
17 property, or facility that either:

18 "a. Produces electricity or natural gas, in whole or
19 in part, from biofuels as such term is defined in Section
20 2-2-90(c) (2) or from renewable energy resources as such term
21 is defined in Section 40-18-1(30) with the exception that
22 hydropower production shall be excluded from such definition;
23 or

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

26 "(16) RESEARCH AND DEVELOPMENT FACILITY. An
27 establishment engaged in conducting original investigations

1 undertaken on a systematic basis to gain new knowledge or
2 applying research findings or other scientific knowledge to
3 create new or significantly improved products or processes, or
4 both.

5 "(17) SMALL BUSINESS ADDITION. Any land, building or
6 other improvement, and all real and personal properties deemed
7 necessary or useful in connection therewith, whether or not
8 previously in existence, to be used as a part of any existing
9 facility of a business located in the state that, prior to the
10 date on which the addition is placed in service, had 100 or
11 fewer full-time employees.

12 "(18) TAX YEAR. The applicable taxable year as the
13 term is defined in Section 40-18-1(36).

14 "(19) 1993 ACT. Act No. 93-851, H. 27 and Act No.
15 93-852, H. 83 adopted at the 1993 First Special Session of the
16 Legislature of Alabama, as amended by Act No. 94-370, S. 559
17 adopted at the 1994 Regular Session of the Legislature of
18 Alabama.

19 "(b) The amendments made to this section by Act
20 2008-275 shall be effective for tax years and periods
21 beginning after December 31, 2011."

22 Section 2. The provisions of this act are severable.
23 If any part of this act is declared invalid or
24 unconstitutional, the declaration shall not affect the part
25 which remains.

1 Section 3. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.