

# Alabama Taxes and Incentives

**The tax burden in Alabama is one of the lowest in the United States. In addition, Alabama is one of a small number of states that allow a full deduction of Federal taxes paid from state income tax liability.**

**Alabama's major tax incentives and grants include:**

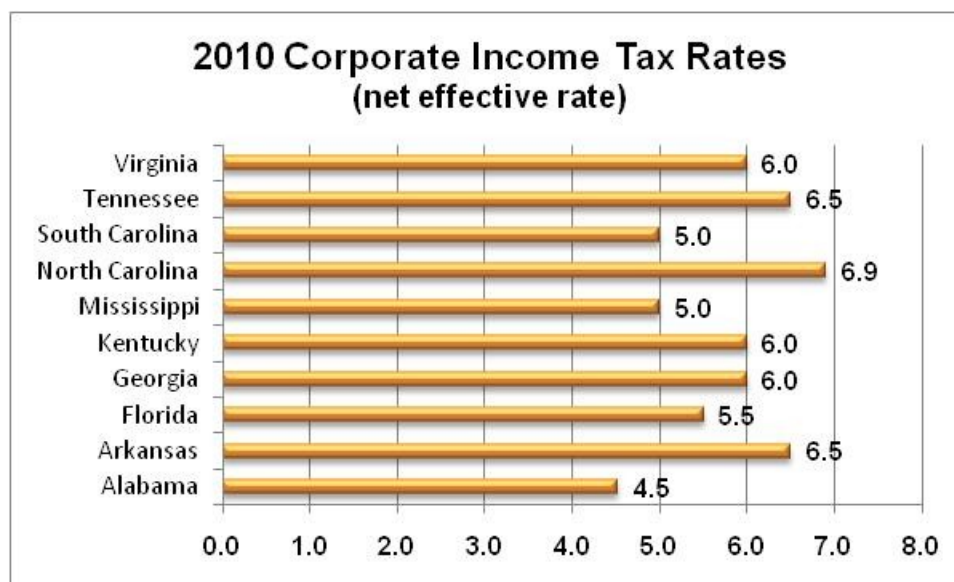
- Capital Investment Tax Credit - Income tax credit of up to five percent annually for twenty years of initial capital costs of qualifying projects to new and expanding companies.
- Property Tax Abatements - Abatement of up to 10 years from property taxes levied for non-educational purposes.
- Sales and Use Tax Abatements – Taxes on construction-related transactions, pollution control devices are exempt from sales and use taxes. Mortgage and recording taxes can be abated.
- Industrial Development Grant Program - Grants to counties, municipalities, local industrial development boards or authorities or economic development councils or authorities, airport authorities, port authorities or public corporations or certain state agencies or departments to pay for site preparation.

**Corporate Income Tax**

Corporations pay Alabama income tax based on their net taxable income derived from business conducted within the state. The amount of net income apportioned to Alabama is determined by applying an equally weighted three factor formula of property, payroll, and sales to total net income. The rate of corporate income taxation is 6.5% (Individuals are taxed at a rate of 5%). Corporations that anticipate having a tax liability of \$5000 or more must file and pay estimated tax on a quarterly basis.

There are several credits and deductions that are statutorily available for Alabama corporate taxpayers.

The taxpayer may participate in any or all of the statutory tax credits for which requirements are met.



### Federal Income Tax Deduction

There are constitutional restrictions that add to the stability of the Alabama corporate (and individual) tax environment. Amendment 212 of the Constitution allows the corporate (and individual) taxpayer to deduct from its gross apportioned and allocated income, the apportioned (to Alabama) amount of federal income tax paid or accrued, creating a lower net effective income tax rate.

### Notes:

- *Alabama: Actual rate is 6.5%. Because Alabama allows for the deduction of federal income tax (one of the only states in the United States to do so), the net effective rate is 4.5%*
- *Arkansas and Kentucky: Lesser rates apply to companies with less than \$100,001 in income.*
- *Florida: Taxpayers are liable for the greater of the income tax or the alternative minimum tax*
- *Mississippi: Lesser rates apply to companies with less than \$10,001 in income.*

### Net Operating Loss Carryforward

For Alabama corporate income tax, a net operating loss is applied to the first taxable year to which it may be carried and can be carried forward 15 consecutive years. However, corporations may not carry back a net operating loss to offset Alabama income in prior years.

### Capital Investment Tax Credit

The Capital Investment Tax Credit program allows an income tax credit of up to 5 percent of initial capital costs of qualifying projects to new and expanding companies. The credit is available each year, for 20 years, beginning in the year the qualifying project is "placed in service"\*. The capital credit can effectively eliminate the Alabama income tax liability generated by a qualifying project.

### Business Activity Requirement:

- Industrial, Warehousing or Research Activity—Any trade or business in the 2007 North American Industrial Classification System (NAICS), promulgated by the Executive Office of the President of the United States, Office of Management and Budget as:
  - Sectors 31 (except National Industry 311811), 32, and 33 (manufacturing),
  - Subsectors 423 and 424 (merchant wholesalers, goods),
  - 511 (publishing industries (except internet))
  - 927 (space research and technology),
  - Industry Group 5417 (scientific research and development services),
  - 5415 (computer systems design and related services),

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- 5182 (data processing, hosting, and related services),
- Industry 11331 (logging),
- 48691 (pipeline transportation of refined petroleum products),
- National Industry 115111 (cotton ginning),
- 517110 (wired telecommunications carriers),
- 541380 (testing laboratories)
- 561422 (in bound call centers only), or

Any process or treatment facility which recycles, reclaims, or converts materials, which includes solids, liquids, or gases, to a reusable product.

- Headquarters facilities as defined in NAICS 551114;
- Data processing centers;
- Renewable energy facilities;
- Research & development facilities;
- Projects owned by utilities that produce electricity from alternative energy resources;
- Projects owned by utilities that produce electricity from hydropower production;

### *Minimum Investment*

- \$100,000,000 for utility owned projects producing electricity from alternative energy resources;
- \$5,000,000 for utility owner projects producing electricity from hydropower production;
- \$2,000,000 for all projects except utility owned projects, small business additions and projects located in favored geographic areas;
- \$1,000,000 for small business addition projects;
- \$500,000 for projects located in favored geographic areas\*

### *Employment Requirement*

- At least 50 new employees at headquarters facilities or data processing centers;
- At least 20 new employees at all projects except utility owned projects, small business additions and projects located in favored geographic areas;
- At least 15 new employees at small business addition projects;
- At least 5 new employees at projects located in favored geographic areas\*
- New employees must meet the statutory definition of new employees, found in Section 40-18-190, Code of Alabama 1975. "New employees" cannot have worked at the site before, and cannot have worked for the project entity in Alabama before. Required jobs must be provided by the date that is not later than one (1) year after the project is placed in service, continuing each year thereafter.

### *Base Wage Requirement*

- For projects located in favored geographic areas, the average wage of all new employees at the project must meet the lesser of:
  - \$12 per hour, indexed annually as provided in Section 25-5-68, Code of Alabama 1975, or
  - Average hourly wage of the county where qualifying project is located
- For all other projects, the average wage of all new employees at the project must meet the lesser of:
  - \$15 per hour, indexed annually as provided in Section 25-5-68, Code of Alabama 1975, or
  - Average hourly wage of the county where qualifying project is located
- There is an exception for direct processors of agriculture food products. These wages shall be determined by the local labor market rate. Contact the Alabama Department of Revenue Commissioner's Office for more information.

### *Filing Requirements*

Qualifying projects can be set up as either a 'one step' project or as a 'phased' project.

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A company seeking the capital credit must file a “written statement of intent” (Form INT) with the Department of Revenue prior to the date the project is placed in service. If the Form INT is not received by the department before the project is placed in service, the project will not qualify for the capital credit. However, for phased projects, the Form INT must be submitted before the first phase is placed in service and the capital credit cannot be utilized until the last phase is placed in service.

A company must file a “report of investment in project” (Form INT-2) when the project is placed in service.

A company must file an “Accounting Practices Agreement” with the Department before the capital credit can be utilized. This agreement denotes how the income from the project will be determined and is not necessarily the same method used in determining Alabama income.

\*A Favored Geographic Area is:

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

(b). Any Alabama county which is considered to be less developed. This designation is comprised of counties ranked forty-fifth through sixty-seventh, inclusive, using the following factors:

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

Personal per capita income in the last calendar year for which data is available.

The average percent employed over the last 12 months for which data is available.

Favored Geographical Areas are ranked as of every January 1. A listing of Favored Geographical area can be found at <http://www.edpa.org/docs/Favored-Geographic-Areas-doc.pdf> and <http://www.revenue.alabama.gov/Taxincentives/fgacounties.pdf>

### Alabama Enterprise Zone Credit

To stimulate business and industrial growth in depressed areas of the state, Alabama offers certain tax credit incentives to businesses that locate or expand within a designated enterprise zone. The credit may be used against the corporate income tax in certain circumstances.

#### Enterprise Zone Credit

Section 5 allows for a maximum credit of \$2,500 per permanent new employee, to be applied against the income tax and/or business privilege tax liability of the company, provided specific requirements have been met. The credit can be used in the year earned and can be forwarded up to two consecutive years from year earned.

#### Enterprise Zone Exemption

Section 11 is subject to approval by the enterprise zone advisory council and the governor of Alabama. Section 11 provides exemptions from sales and use tax (on purchases of construction related materials, machinery and equipment used in the zone), income tax, and/or business privilege tax at the enterprise zone for five years, provided employee requirements, specific to depressed areas, are met. Company can choose to exempt 100% of the income tax, business privilege tax, or sales and use tax at the enterprise zone and 50% of the company’s choice of the two remaining taxes.

The program is administered by the Alabama Department of Economic and Community Affairs (ADECA), who determines whether the project meets the requirements for the program. More information on State Enterprise Zones can be found at <http://www.edpa.org/docs/state-enterprise-zones.pdf>.

### Employer Education Credit

A tax credit is statutorily available to employers who provide approved basic skills education programs to Alabama resident employees. The credit is 20 percent of the actual costs limited to the employer’s income tax liability. The requirements are:

- The program must have written approval from the Alabama Department of Education.
- The employees shall have been continuously employed for at least 16 weeks for at least 24 hours per week.
- The employer cannot receive or require reimbursement or any form of remuneration for any cost of education.

### Sales and Use Tax

Alabama sales tax is a privilege tax imposed on the retail sale (a sale made to the end-user) of all tangible personal

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property sold in Alabama by businesses located in Alabama. The use tax is complementary to the sales tax. Businesses or individuals that purchase tangible personal property outside of Alabama upon which no tax is paid to the seller and bring the property back to Alabama for storage, use, or consumption should remit consumer's use tax on the purchase, provided that the property purchased is not for resale.

There are four state rate differentials, which include:

- 1.5 % rate for manufacturing and farm machinery,
- 2.0 % rate for automotive vehicles,
- 3.0 % rate for food sold through vending machines, and
- 4 .0% general rate for all other items.

Local governments may also impose a sales and/or use tax. Alabama's sales and use tax statutes contain many items advantageous to businesses. These statutes allow exemptions for specific organizations and commodities (see Section 40-23-et al, Code of Alabama 1975). Some of the more common items that are exempt include: gasoline, lubricating oil, fertilizer and insecticides, feed for livestock, wholesale sales, and sales to governmental entities.

### Exemptions:

- **Raw Materials Exemption.** Raw materials used by manufacturers or compounders as an ingredient or component part of their manufactured or compounded product are specifically exempt from sales and use taxation.
- **Pollution Control Equipment Exemption.** All equipment or materials purchased primarily for the control, reduction or elimination of air or water pollution are exempt from state sales and use tax.
- **Utility Gross Receipts Tax Exemptions.** There are several exemptions from the utility gross receipts tax. Sewer costs are not taxed. Water used in industrial manufacturing in which 50 percent or more is used in industrial processing is also exempt from the utility gross receipts tax. Additionally, Alabama law allows exclusions from the utility gross receipts tax and the utility service use tax for utility services used in certain types of manufacturing and compounding processes. The law allows exemptions for:
  - The furnishing of electricity to a manufacturer or compounder for use in an electrolytic or electrothermal manufacturing or compounding process,
  - Natural gas which becomes a component of tangible personal property manufactured or compounded (but not used as fuel or energy), and
  - Natural gas used by a manufacturer or compounder to chemically convert raw materials prior to the use of such converted raw materials in an electrolytic or electrothermal manufacturing or compounding process.

### Abatements:

If the proper procedures are followed, qualifying industries may abate all state and the local non-educational portion of construction related transaction (sales and use) taxes associated with constructing and equipping a project. For state purposes, the general state sales tax rate of four percent and the state manufacturing machinery and equipment tax rate of 1 and 1/2 percent can be abated to qualifying industries.

### *Statutory requirement(s):*

- Any trade or business in the 2007 North American Industrial Classification System (NAICS), promulgated by the Executive Office of the President of the United States, Office of Management and Budget as:
  - Sectors 31 (except National Industry 311811), 32, and 33 (manufacturing),
  - Subsectors 423 and 424 (merchant wholesalers, goods),
  - 511 (publishing industries (except internet))
  - 927 (space research and technology),
  - Industry Group 5417 (scientific research and development services),
  - 5415 (computer systems design and related services),
  - 5182 (data processing, hosting, and related services),
  - Industry 11331 (logging),

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- 48691 (pipeline transportation of refined petroleum products),
- National Industry 115111 (cotton ginning),
- 517110 (wired telecommunications carriers),
- 541380 (testing laboratories)
- 561422 (in bound call centers only), or

Any process or treatment facility which recycles, reclaims, or converts materials, which includes solids, liquids, or gases, to a reusable product.

- Headquarters facilities as defined in NAICS 551114;
- Data processing centers;
- Renewable energy facilities;
- Research & development facilities;
- Projects owned by utilities that produce electricity from alternative energy resources;
- Projects owned by utilities that produce electricity from hydropower production;
- Subsector 493 (Warehousing and Storage), Industry Number 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo Handling), when such trade or business is conducted on premises in which the Alabama State Port Authority has an ownership and are used as part of the operations of the Alabama State Port Authority; or
- Any underground natural gas storage facility which is located in the Gulf Opportunity Zone, developed from existing geologic reservoirs.

### *Capital Investment Requirement*

*New Project:* There is no threshold or limiting investment amount for a new abatement project with the exception of projects owned by utilities producing electricity.

- Projects owned by utilities which produce electricity from alternative energy resources must have capital costs of at least \$100,000,000;
- Projects which produce electricity from hydropower production must have capital costs of at least \$5,000,000.

*Major Addition:* The additional capital investment by an industry that is **expanding their current facilities in Alabama** must equal the **lesser** of:

- 30% of the original cost of the currently existing industrial property (sum total of the original facilities and equipment or any expansions or additions prior to the current addition), **or**
- \$2,000,000

Please note that the local granting authority must grant the abatement for the qualifying project before the abatement can be used. Therefore, any purchases made prior to the granting of the abatement are ineligible for the sales and use tax abatement. The abatements for the state and local non-educational sales and use taxes end once the project is placed in service.

### **Alabama Enterprise Zone Exemption**

To stimulate business and industrial growth in depressed areas of the state, Alabama offers certain tax credit incentives to businesses that locate or expand within a designated enterprise zone. Under certain conditions, an enterprise zone credit for sales and use tax is available for qualified participants.

#### Enterprise Zone Exemption

Section 11 is subject to approval by the enterprise zone advisory council and the governor of Alabama. Section 11 provides exemptions from sales and use tax (on purchases of construction related materials, machinery and equipment used in the zone), income tax, and/or business privilege tax at the enterprise zone for five years, provided employee requirements, specific to depressed areas, are met. Company can choose to exempt 100% of the income tax, business privilege tax, or sales and use tax at the enterprise zone and 50% of the company's choice of the two remaining taxes.

The program is administered by the Alabama Department of Economic and Community Affairs (ADECA), who determines whether the project meets the requirements for the program.

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### Property Tax

All non-exempt property in Alabama is classified and assessed at 20% of fair and reasonable market value for businesses. The state rate of tax per one thousand dollars of assessed value is \$6.50 (includes \$3.00 for schools).

Local levies also apply.

Alabama has among the lowest property taxes in the United States.

### Exemptions:

- Air and Water Pollution Control Devices
- Inventory - Alabama exempts property tax on inventory of goods, wares and merchandise that is offered for sale. However, inventory that is used for lease or rental purposes is subject to the property tax. Materials that are to be compounded or manufactured and are stocked at plants or furnaces for manufacturing purposes are also exempt.

### Abatements:

For qualifying industries, it is possible to abate the non-educational portion of property tax. These abatements are valid for a maximum period of ten years and must be granted by the local granting authority prior to placing the project in service. No additional property (real or personal) may be eligible for abatement once the project is placed in service, unless a "major addition" is made.

### *Statutory Requirement(s)*

- Any trade or business in the 2007 North American Industrial Classification System (NAICS), promulgated by the Executive Office of the President of the United States, Office of Management and Budget as:
  - Sectors 31 (except National Industry 311811), 32, and 33 (manufacturing),
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- Any underground natural gas storage facility which is located in the Gulf Opportunity Zone, developed from existing geologic reservoirs.

## Alabama Taxes and Incentives

### *Capital Investment Requirement*

**New Project:** There is no threshold or limiting investment amount for a new abatement project with the exception of projects owned by utilities producing electricity.

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- Projects which produce electricity from hydropower production must have capital costs of at least \$5,000,000.

**Major Addition:** The additional capital investment by an industry that is expanding their current facilities in Alabama must equal the lesser of:

- 30% of the original cost of the currently existing industrial property (sum total of the original facilities and equipment or any expansions or additions prior to the current addition), **or**
- \$2,000,000

### **Business Privilege Tax**

The tax applies to all corporations, limited liability entities, including disregarded entities, which do business in Alabama or are organized under the laws of Alabama. The tax accrues as of January 1 of every taxable year and is due March 15. However, in the case of a taxpayer organized during the year, qualifying during the year, or doing business in Alabama for the first time, the tax accrues as of the date of organization, qualification, or beginning to do business and is due 45 days thereafter.

#### Computation

The tax base is the net worth of the taxpayer apportioned to Alabama. Tax rates are graduated and based on the federal taxable income apportioned to Alabama. The rate ranges from \$.25 to \$1.75 for each \$1,000 of net worth in Alabama. The minimum privilege tax is \$100 and the maximum privilege tax is \$15,000. An electing family limited liability entity is capped at \$500. However, higher caps apply for financial institutions and insurance companies.

### **Alabama Enterprise Zone Credit**

To stimulate business and industrial growth in depressed areas of the state, Alabama offers certain tax credit incentives to businesses that locate or expand within a designated enterprise zone. The credit may be used against the business privilege tax in certain circumstances.

#### Enterprise Zone Credit

Section 5 allows for a maximum credit of \$2500 per permanent new employee, to be applied against the income tax and/or business privilege tax liability of the company, provided specific requirements have been met. The credit can be used in the year earned and can be forwarded up to two consecutive years from year earned.

#### Enterprise Zone Exemption

Section 11 is subject to approval by the enterprise zone advisory council and the governor of Alabama. Section 11 provides exemptions from sales and use tax (on purchases of construction related materials, machinery and equipment used in the zone), income tax, and/or business privilege tax at the enterprise zone for five years, provided employee requirements, specific to depressed areas, are met. Company can choose to exempt 100% of the income tax, business privilege tax, or sales and use tax at the enterprise zone and 50% of the company's choice of the two remaining taxes.

The program is administered by the Alabama Department of Economic and Community Affairs (ADECA), who determines whether the project meets the requirements for the program and must certify such to the Alabama Department of Revenue. Qualified participants will be eligible for a credit that may be applied against the income or business privilege taxes or sales and use taxes, where applicable.

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### Brownfield Development Tax Abatements

The Brownfield Development Tax Abatement Act (Chapter 9C, Title 40, Code of Alabama 1975) gives cities and counties the ability to abate the following:

- Non-educational city and county sales and use taxes;
- Non-educational state, city and county property taxes – up to 20 years;
- Mortgage and recording taxes.

To receive an abatement for any or all of these taxes, a business must meet certain qualifications and follow certain procedures, as determined by law and regulation.

#### *Statutory Requirements for Brownfield Abatements*

In order to qualify for an abatement under this section, the property must be a Brownfield property and must be in the Alabama Department of Environmental Management's Voluntary Cleanup Program. There is no business activity requirement for Brownfield abatements.

#### *Capital Investment Requirement*

**New Company:** There is no threshold or limiting investment amount for new Brownfield abatement project. The total amount of the capital investment by a company that is locating in Alabama is eligible for the tax abatements.

**Major Addition:** The additional capital investment by a company that is expanding their current facilities on Brownfield development property must equal the lesser of: 30% of the original cost of the property as remediated **or** \$2,000,000.

### Grants and Other Financing Incentives

#### **Industrial Development Grant Program (Site Preparation)**

*Alabama Act Number 91-635*, as amended by *Alabama Act No. 97-645*, *Act 99-590*, *Act 99-591*, *Act 2006-417* and *Act 2007-300* authorizes the State Industrial Development Authority to sell bonds to make grants to counties, municipalities, local industrial development boards/authorities or economic development councils/authorities, airport authorities, port authorities or public corporations to pay for site preparation for land owned or possessed by lease by these entities. In order to be eligible for an industrial development grant, the activity occupying the project site must be a *Qualifying Project*, defined as:

A project to be sponsored or undertaken by one or more investing companies

- a) At which the predominate trade or business activity conducted will constitute industrial, warehousing, or research activities, or
- b) Which qualifies as a headquarters facility.

The size of the grant depends upon the amount of capital investment:

Capital Costs		Percentage of Capital Cost
Less than	\$200,000	5.0%
\$200,000 to	\$499,999	3.5% (minimum \$10,000)
\$500,000 to	\$999,999	2.5% (minimum \$20,000)
\$1,000,000 to	\$1,999,999	1.5% (minimum \$28,000)
\$2,000,000 to	\$9,999,999	1.0% (minimum \$32,000)
\$10,000,000 and	greater	0.75% (minimum \$100,000; maximum \$150,000)

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Act 99-351 (the Act) requires entities seeking an Industrial Development Grant or certain other incentives to notify the Director of the Alabama Development Office (the Director) of the general parameters of the Qualifying Project (Project). The Act requires the Director to transmit a letter acknowledging receipt of the notification (Notification Acknowledgement Letter).

Infrastructure funds are available for extension of water, sewer and road facilities. Programs include the **Alabama Infrastructure Grant Program** and other funding through Alabama Department of Economic and Community Affairs, Community Development Block Grants, and state/federal governments.

The **Alabama Industrial Access Road and Bridge Program** provides financial assistance to communities for industrial access to new and expanding industries. The program allows for the construction of roads, bridges, etc. on public right-of-ways in conjunction with industrial projects.

### **Industrial Revenue Bonds (IRBs)**

In Alabama, Industrial Revenue Bonds may be used as long-term financing of up to 100% of a project for:

- Acquisition of land, buildings, site preparation and improvements;
- Construction of buildings;
- Acquisition and installation of furnishings, fixtures and equipment;
- Capitalizable soft costs (e.g., architectural and engineering, interest incurred during construction, cost associated with bond issuance, etc.).

Typically, tax-exempt IRBs have interest rates ranging from 70-85% of prime and are limited to \$10 million per single issuance and \$40 million total maximum per company. Taxable IRBs have an interest rate equal to conventional loans and have no limit. Terms for both are normally 10-20 years and can finance up to 100% of the project costs. The principal and interest on the bonds are paid solely from the funds derived from leasing or selling the facilities to the user company. Under most circumstances, upon complete payment of the bond issue, the lessee or user company acquires ownership of the industrial facility for a nominal sum.

### **Alabama Economic Development Loan Program**

The state has more than 2,300 commercial lending sources with assets of over \$61.3 billion. The Alabama Economic Development Loan Program is used to work with commercial lenders for projects in non-entitlement communities.

*Source: Alabama Department of Revenue and other state agencies. (January 2010)*