

1 SB283
2 116520-1
3 By Senators Butler, Orr, Mitchem, Barron and Bedford
4 RFD: Finance and Taxation General Fund
5 First Read: 19-JAN-10

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8 SYNOPSIS: This bill would create the Enhanced Use
9 Lease Area Act of 2010. This bill would make
10 legislative findings and define terms. Enhanced use
11 lease area property would be defined as property on
12 a military installation which is underutilized and
13 which is leased by the secretary of a military
14 department pursuant to federal law. This bill would
15 provide for the utilization of underutilized real
16 and personal property located in enhanced use lease
17 areas and funding the costs thereof through tax
18 increment financing. This bill would entitle
19 certain qualified property within a tax increment
20 district in which not less than 50 percent, by
21 area, of the real property within the tax increment
22 district is an enhanced use lease area, to an
23 abatement of state property taxes. This bill would
24 provide that in lieu of paying state property
25 taxes, the taxable owner of certain qualified
26 property would make a payment to the public entity
27 which created the tax increment district in which

1 the qualified property is located which payment
2 would be used to pay for project costs and to repay
3 tax increment obligations issued to fund project
4 costs. This bill would ensure that withholding
5 amounts for wages paid to certain construction
6 workers are reported and paid to the state. This
7 bill would provide an effective date, including
8 retroactive effect for certain districts created on
9 or after January 1, 2010.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To create the Enhanced Use Lease Area Act of 2010;
16 to amend Sections 11-99-1, 11-99-2, 11-99-4, 11-99-5, 11-99-6,
17 11-99-10, and 40-18-70, Code of Alabama 1975, and to add
18 Chapter 9E to Title 40, Code of Alabama 1975; to make
19 legislative findings and define terms; to provide for the
20 utilization of underutilized real and personal property
21 located in enhanced use lease areas and funding the costs
22 thereof through tax increment financing; to entitle certain
23 qualified property within a tax increment district in which
24 not less than 50 percent, by area, of the real property within
25 the tax increment district is an enhanced use lease area, to
26 an abatement of state property taxes; to provide that in lieu
27 of paying state property taxes, the taxable owner of certain

1 qualified property must make a payment to the public entity
2 which created the tax increment district in which the
3 qualified property is located and that this payment to the
4 public entity would be used to pay for project costs and to
5 repay tax increment obligations issued to fund project costs;
6 to ensure that withholding amounts for wages paid to certain
7 construction workers are reported and paid to the state; and
8 to provide an effective date, including retroactive effect for
9 certain districts created on or after January 1, 2010.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. This act shall be known and may be cited
12 as the Enhanced Use Lease Area Act of 2010.

13 Section 2. The Legislature makes the following
14 findings:

15 (1) It is in the best interest of the state to
16 ensure the continued location and expansion of military
17 installations in this state.

18 (2) The presence and expansion of military
19 installations in this state enhance the public benefit and
20 welfare by, among other things, promoting local economic
21 development and the stimulus of the local economy, increasing
22 job opportunities, creating additional tax revenues and
23 enhancing the public's overall quality of life.

24 (3) Growth to municipalities and counties of the
25 state as a result of the presence and expansion of military
26 installations requires additional capital and improved and

1 expanded infrastructure, and the provision of such capital and
2 infrastructure constitutes an important public purpose.

3 Section 3. Sections 11-99-1, 11-99-2, 11-99-4,
4 11-99-5, 11-99-6, 11-99-10, and 40-18-70, Code of Alabama
5 1975, are amended to read as follows:

6 "§11-99-1.

7 "(a) It is hereby found and declared that there
8 exist in municipalities and counties of the state blighted or
9 economically distressed areas which constitute a serious and
10 growing problem, injurious to the public health, safety,
11 morals, and welfare of the residents of the state; that the
12 existence of such areas contributes substantially and
13 increasingly to the spread of disease and crime, constitutes
14 an economic and social liability imposing onerous burdens
15 which decrease the tax base and reduce tax revenues,
16 substantially impairs or arrests sound growth, retards the
17 provision of housing accommodations, aggravates traffic
18 problems, and substantially hampers the elimination of traffic
19 hazards and the improvement of traffic facilities; and that
20 the prevention and elimination of slums and blighted areas and
21 economically distressed areas is a matter of state policy and
22 state concern in order that the state and its municipalities
23 and counties shall not continue to be endangered by areas
24 which are focal centers of disease, promote juvenile
25 delinquency, and consume an excessive proportion of public
26 revenues because of the extra services required for police,

1 fire, accident, hospitalization, and other forms of public
2 protection, services, and facilities.

3 "(b) It is further found and declared that certain
4 blighted and economically distressed areas or portions thereof
5 may require acquisition, clearance, and disposition subject to
6 use restrictions, as provided in this chapter, since the
7 prevailing condition of blight and economic distress may make
8 impracticable the reclamation of the area by conservation or
9 rehabilitation; that other areas or portions thereof may,
10 through the means provided in this chapter, be susceptible of
11 conservation or rehabilitation in such a manner that the
12 conditions and evils enumerated may be eliminated, remedied,
13 or prevented; and that salvageable blighted and economically
14 distressed areas can be conserved and rehabilitated through
15 appropriate public action as herein authorized and the
16 cooperation and voluntary action of the owners and tenants of
17 property in such areas.

18 "(c) It is further found and declared that there
19 exist in municipalities and counties of the state
20 underutilized real and personal property in enhanced use lease
21 areas which, when leased by a secretary of a military
22 department for cash or in-kind consideration, enhances the
23 public benefit and welfare by, among other things, promoting
24 local economic development and the stimulation of the local
25 economy, increasing job opportunities, creating additional tax
26 revenues and enhancing the public's overall quality of life.

1 "~~(c)~~(d) It is further found and declared that the
2 powers conferred by this chapter are for public uses and
3 purposes for which public money may be expended and the power
4 of eminent domain and police power exercised, and the
5 necessity in the public interest for the provisions herein
6 enacted is hereby declared as a matter of legislative
7 determination.

8 "§11-99-2.

9 "As used in this chapter:

10 "(1) BLIGHTED OR ECONOMICALLY DISTRESSED AREA:

11 "a. An area in which the structures, buildings, or
12 improvements, by reason of dilapidation, deterioration, age,
13 or obsolescence, inadequate provision for ventilation, light,
14 air, sanitation, or open spaces, high density of population
15 and overcrowding, or the existence of conditions which
16 endanger life or property by fire and other causes, or any
17 combination of such factors, are conducive to ill health,
18 transmission of disease, infant mortality, juvenile
19 delinquency, or crime, and are detrimental to the public
20 health, safety, morals, or welfare, or

21 "b. Any area which by reason of the presence of a
22 substantial number of substandard, slum, deteriorated, or
23 deteriorating structures, predominance of defective or
24 inadequate street layout, faulty lot layout in relation to
25 size, adequacy, accessibility, or usefulness, unsanitary or
26 unsafe conditions, deterioration of site or other
27 improvements, diversity of ownership, tax or special

1 assessment delinquencies exceeding the fair value of the land,
2 defective or unusual conditions of title, or the existence of
3 conditions which endanger life or property by fire and other
4 causes, or any combination of the foregoing, substantially
5 impairs or arrests the sound economic growth of an area,
6 retards the provision of housing accommodations, or
7 constitutes an economic or social liability and is a detriment
8 to the public health, safety, morals, or welfare in its
9 present condition and use, or

10 "c. Any area which is predominantly open and which
11 because of obsolete platting, diversity of ownership,
12 deterioration of structures or of site improvements, or
13 otherwise, substantially impairs or arrests the sound economic
14 growth of an area, or

15 "d. Any area which the local governing body
16 certifies is in need of redevelopment or rehabilitation as a
17 result of flood, fire, hurricane, tornado, earthquake, storm,
18 or other catastrophe respecting which the Governor of the
19 state has certified the need for disaster assistance under
20 federal law, or

21 "e. Any area containing excessive vacant land on
22 which structures were previously located, or on which are
23 located abandoned or vacant buildings or old buildings, or
24 where excessive vacancies exist in existing buildings, or
25 which contains substandard structures, or with respect to
26 which there exist delinquencies in payment of real property
27 taxes.

1 "(2) DEFERRED TAX RECIPIENT. Each ~~public entity,~~
2 ~~other than state,~~ taxing authority which receives ad valorem
3 taxes with respect to property located in a proposed tax
4 increment district.

5 "(3) ENHANCED USE LEASE AREA. Any area of a military
6 installation which contains underutilized real or personal
7 property, or both, that is leased by a secretary of a military
8 department to a lessee pursuant to the authority provided in
9 Title 10 U.S.C. §2667.

10 "~~(3)~~ (4) LOCAL FINANCE OFFICER. The legally
11 authorized officer or agent responsible for receipt and
12 disbursement of the revenues of a ~~public entity~~ taxing
13 authority.

14 "~~(4)~~ (5) LOCAL GOVERNING BODY. The governing body of
15 a county or municipality which proposes to create or has
16 created a tax increment district.

17 "~~(5)~~ (6) MUNICIPALITY. Any incorporated municipality
18 in this state.

19 "~~(6)~~ (7) PROJECT. Undertakings and activities of a
20 public entity in a tax increment district for either (i) the
21 elimination and prevention of the development or spread of
22 blight in a blighted or economically distressed area or (ii)
23 the utilization of underutilized real or personal property, or
24 both, in an enhanced use lease area, and may include property
25 acquisition, property clearance, development, redevelopment,
26 rehabilitation, or conservation or a combination or part
27 thereof in accordance with a project plan.

1 "~~(7)~~(8) PROJECT COSTS. Any expenditures made or
2 estimated to be made or monetary obligations incurred or
3 estimated to be incurred by a public entity which are listed
4 in a project plan as costs of public works or improvements
5 within a tax increment district, plus any costs incidental
6 thereto, diminished by any special assessments, received or
7 reasonably expected to be received by the public entity in
8 connection with the implementation of the project plan.
9 Project costs include, but are not limited to:

10 "a. Capital costs, including the costs of the
11 construction of public works or improvements, new buildings,
12 structures, and fixtures, the demolition, alteration,
13 remodeling, repair or reconstruction of existing buildings,
14 structures, and fixtures, the acquisition of equipment, the
15 acquisition, clearing, and grading of land and the acquisition
16 of interests in land;

17 "b. Financing costs, including all interest paid to
18 holders of tax increment obligations during the period of
19 implementation of the project plan, the costs of any form of
20 credit enhancement, printing and trustee costs, and any
21 premium paid in excess of the principal amount thereof because
22 of the redemption of such obligations prior to maturity;

23 "c. Real property assembly costs, meaning any
24 deficit resulting from the sale or lease as lessor by the
25 public entity of real or personal property within a tax
26 increment district for consideration which is less than its
27 cost to the public entity;

1 "d. Professional service costs, including those
2 costs incurred for architectural, planning, engineering,
3 fiscal, underwriting, and legal advice and services;

4 "e. Imputed administrative costs, including
5 reasonable charges for the time spent by officers and
6 employees of the public entity in connection with the
7 implementation of a project plan;

8 "f. Relocation costs, including those relocation
9 payments made following condemnation under Chapter 1A of Title
10 18;

11 "g. Organizational costs, including the costs of
12 conducting environmental impact and other studies and the
13 costs of informing the public with respect to the creation of
14 tax increment districts and the implementation of project
15 plans;

16 "h. The amount of any contributions made in
17 connection with the implementation of the project plan that
18 are within limits prescribed by law; ~~and~~

19 "i. Payments made, at the discretion of the local
20 governing body, which are to be necessary or convenient to the
21 creation of tax increment districts or the implementation of
22 project plans; ~~and~~

23 "j. For purposes of any tax increment district in
24 which not less than 50 percent, by area, of the real property
25 within the tax increment district is an enhanced use lease
26 area, "project costs" shall also include all costs described
27 in this subdivision which are expended by a public entity or a

1 developer within three years immediately preceding the date of
2 the creation of such tax increment district.

3 "~~(8)~~(9) PROJECT PLAN. The properly approved plan for
4 the development or redevelopment of a tax increment district,
5 including all properly approved amendments thereto.

6 "~~(9)~~(10) PUBLIC ENTITY. Any municipality or county
7 in the state.

8 "~~(10)~~(11) TAX INCREMENT. That amount obtained by
9 multiplying the total revenue derived from ad valorem taxes
10 levied by all local taxing authorities on all taxable property
11 within a tax increment district in any tax year by a fraction
12 having a numerator equal to that tax year's market value of
13 all taxable property in the district minus the tax increment
14 base and a denominator equal to that tax year's equalized
15 value of all taxable property in the district. In any tax
16 year, a tax increment is "positive" if the tax increment base
17 is less than the aggregate value of taxable property as
18 equalized by the Department of Revenue; it is "negative" if
19 the base exceeds such value.

20 "~~(11)~~(12) TAX INCREMENT BASE. The aggregate value,
21 as equalized by the Department of Revenue, of all taxable
22 property located within a tax increment district on the date
23 the district is created, determined as provided in Section
24 ~~11-99-4~~ 11-99-5 hereof.

25 "~~(12)~~(13) TAX INCREMENT DISTRICT. A contiguous
26 geographic area within the boundaries of a public entity
27 defined and created by resolution of the local governing body.

1 "~~(13)~~(14) TAX INCREMENT FUND. A fund into which all
2 tax increments not retained by a taxing ~~unit~~ authority as
3 provided by Section 11-99-10(b) hereof are paid, and from
4 which money is disbursed to satisfy claims of holders of tax
5 increment obligations issued for the tax increment district.

6 "~~(14)~~(15) TAX INCREMENT OBLIGATIONS. Bonds,
7 warrants, notes, or other evidences of indebtedness issued by
8 a public entity to fund all or any project costs.

9 "~~(15)~~(16) TAXABLE PROPERTY. All real and personal
10 property located in a tax increment district which is subject
11 to ad valorem taxation on the date of adoption of the
12 resolution creating the tax increment district.

13 "(17) TAXING AUTHORITY.

14 "a. For tax increment districts in which not less
15 than 50 percent, by area, of the real property within the tax
16 increment district is a blighted or economically distressed
17 area, "taxing authority" means any municipality, county, or
18 other taxing authority which has the power to levy taxes on
19 property within the tax increment districts.

20 "b. For tax increment districts in which not less
21 than 50 percent, by area, of the real property within the tax
22 increment district is an enhanced use lease area, "taxing
23 authority" means the state or any municipality, county, or
24 other taxing authority which has the power to levy taxes on
25 property within the tax increment district.

26 "§11-99-4.

1 "In order to exercise its powers under this chapter,
2 a public entity shall take the following steps:

3 "(1) The local governing body shall hold a public
4 hearing at which all interested parties are afforded a
5 reasonable opportunity to express their views on the concept
6 of tax increment financing, on the proposed creation of a tax
7 increment district and its proposed boundaries, and its
8 benefits to the public entity. Notice of the hearing shall be
9 published in a newspaper of general circulation in either the
10 county or in the city, as the case may be, in which the
11 proposed tax increment district is to be located with such
12 notice to be published at least twice in the 15-day period
13 immediately preceding the date of the hearing. Prior to
14 publication, a copy of the notice shall be sent by first class
15 mail to the chief executive officer of each deferred tax
16 recipient.

17 "(2) In addition to the notice required by
18 subdivision (1) of this section, and either before or after
19 such hearing, the local governing body shall make a written
20 submission to the governing body of each deferred tax
21 recipient. The submission shall include a description of the
22 proposed boundaries of the tax increment district, the
23 tentative plans for the development or redevelopment of the
24 tax increment district, and an estimate of the general impact
25 of the proposed project plan on property values and tax
26 revenues. Not later than the fifteenth day after the date on
27 which the notice required by subdivision (1) of this section

1 is mailed, each deferred tax recipient shall designate a
2 representative empowered to meet with the local governing body
3 to discuss the project plan and the tax increment financing
4 and shall notify the local governing body of its designation.
5 Failure of any deferred tax recipient to designate a
6 representative within the 15-day period, or to notify the
7 local governing body of its designation, shall not prevent the
8 local governing body from proceeding hereunder. If a deferred
9 tax recipient which has failed to so designate a
10 representative shall thereafter designate a representative and
11 shall notify the local governing body of such designation,
12 such representative shall be entitled to notice of any
13 meetings held thereafter pursuant to this section, and shall
14 be entitled to attend such meetings, but shall have no right
15 to have matters discussed again which have already been
16 discussed. The local governing body shall call a meeting, or
17 meetings, of the representatives of the deferred tax
18 recipients to be held at any time after 20 days from the
19 mailing notice referred to in subdivision (1) of this section.
20 Each representative shall be notified of each meeting at least
21 three days before it is to be held, but such notice may be
22 waived. At the meetings the local governing body and the
23 representatives of the deferred tax recipients may discuss the
24 boundaries of the tax increment district, development within
25 such district, the exclusion of particular parcels of property
26 from such district, and tax collection for such district. On
27 the motion of the local governing body any other matter

1 relevant to the proposed tax increment district may be
2 discussed.

3 "(3) The local governing body shall adopt a
4 resolution (which need not be published) which:

5 "a. Describes the boundaries of the tax increment
6 district with sufficient definiteness to identify with
7 ordinary and reasonable certainty the territory included,
8 which shall include only those whole units of property (other
9 than publicly owned property such as streets, easements, and
10 rights-of-ways) assessed for general property tax purposes
11 and, if the public entity is a county, which shall include
12 only those areas which lie outside the corporate limits of any
13 municipality, unless the governing body of a municipality has
14 consented to the inclusion of land within its corporate limits
15 within a tax increment district formed by a county;

16 "b. Creates the tax increment district as of a given
17 date after the date of adoption of the resolution, and fixes
18 the period for its duration, which may be for a period not to
19 exceed 30 years in the case of a tax increment district in
20 which not less than 50 percent, by area, of the real property
21 within the tax increment district is a blighted or
22 economically distressed area, and which may be for a period
23 not to exceed 35 years in the case of a tax increment district
24 in which not less than 50 percent, by area, of the real
25 property within the tax increment district is an enhanced use
26 lease area, unless an amendment is made to the project plan
27 under subdivision (7) of this section, in which case the

1 period of duration for the tax increment district shall be
2 extended as provided in such amendment to the project plan,
3 but shall not be for a period which exceeds 30 years from the
4 date such amendment is adopted in the case of a tax increment
5 district in which not less than 50 percent, by area, of the
6 real property within the tax increment district is a blighted
7 or economically distressed area, and shall not be for a period
8 which exceeds 35 years from the date such amendment is adopted
9 in the case of a tax increment district in which not less than
10 50 percent, by area, of the real property within the tax
11 increment district is an enhanced use lease area;

12 "c. Assigns a name to the tax increment district for
13 identification purposes, such as "tax increment district
14 number one";

15 "d. Contains findings (which shall not be subject to
16 review except after a showing of fraud, corruption, or undue
17 influence) that:

18 "1. Not less than 50 percent, by area, of the real
19 property within the tax increment district is either (i) a
20 blighted area and is in need of rehabilitation or conservation
21 work or (ii) an enhanced use lease area; and

22 "2. The aggregate value of equalized taxable
23 property in the district plus all existing districts created
24 by the public entity does not exceed 10 percent of the total
25 value of equalized taxable property within the public entity
26 or 50 percent if the public entity is a Class 3 municipality.
27 Provided, however, that equalized taxable property located

1 within the boundaries of a military reservation, jurisdiction
2 over which has been ceded to the United States pursuant to
3 Section 42-3-1, shall be excluded from aggregated value.

4 "(4) The local governmental body shall prepare and
5 adopt a project plan for each tax increment district. The plan
6 shall include a statement listing the kind, number, and
7 location of all proposed public works or improvements within
8 the district; a detailed list of estimated project costs; and
9 a description of the methods of financing all estimated
10 project cost and the time when related costs or monetary
11 obligations are to be incurred. For purposes of this chapter,
12 any work or improvement for a military installation and
13 located within an enhanced use lease area shall be deemed to
14 be for public uses and purposes. The project plan shall also
15 include: A map showing existing uses and condition of real
16 property in the district; a map showing proposed improvements
17 and uses therein; proposed changes of zoning, master map plan,
18 building code, and other ordinances or resolutions affecting
19 the district; a list of estimated nonproject costs; and a
20 proposed plan for the relocation of families, persons, and
21 businesses to be temporarily or permanently displaced from
22 housing or commercial facilities in the district by
23 implementation of the plan.

24 "(5) The local governing body shall certify before
25 approving the project plan that:

26 "a. The proposed tax increment district on the whole
27 has not been subject to growth and development through

1 investment by private enterprise and it is not reasonable to
2 anticipate that the land in the district will be developed
3 without the adoption of the project plan;

4 "b. A feasible method exists for the relocation and
5 compensation of individuals, families, and businesses that
6 will be displaced by the project in decent, safe, and sanitary
7 accommodations within their means and without undue hardship
8 to such individuals, families, and businesses;

9 "c. The plan conforms to the applicable master plan
10 of the local entity (if there is one); and

11 "d. The plan will afford maximum opportunity,
12 consistent with the sound needs of the public entity as a
13 whole, for the rehabilitation or redevelopment of the tax
14 increment district by private enterprise.

15 "(6) A copy of the project plan shall be mailed to
16 the governing body of each deferred tax recipient, before
17 approval of the project plan.

18 "(7) The local governing body may at any time adopt
19 an amendment to a project plan by complying with the
20 procedures for the original adoption of a project plan.

21 "§11-99-5.

22 "(a) Upon the creation of a tax increment district
23 or adoption of any amendment pursuant to subsection (c) of
24 this section, the tax increment base shall be determined.

25 "(b) Upon application in writing by the local
26 finance officer, the tax assessor (or the officer of the
27 county performing the duties of a tax assessor) for each

1 county in which any part of the district is located shall
2 determine according to his or her best judgment from all
3 sources available to him or her the full aggregate value of
4 the taxable property in the district located in that county.
5 The aggregate valuation from all such tax assessors or other
6 such public officials, upon certification to the local finance
7 officer, shall constitute the tax increment base of the
8 district.

9 "(c) If the public entity creating a tax increment
10 district in which not less than 50 percent, by area, of the
11 real property within the tax increment district is a blighted
12 or economically distressed area adopts an amendment to the
13 original project plan for any such district which includes
14 additional project costs for which tax increments may be
15 received by such public entity, the tax increment base for the
16 district shall be redetermined pursuant to subsection (b) of
17 this section as of 90 days following the effective date of the
18 amendment, except that if the effective date of the amendment
19 is October 1 of any year, the redetermination shall be made on
20 that date. The tax increment base as redetermined under this
21 subsection shall be effective for the purposes of this chapter
22 only if it exceeds the original tax increment base determined
23 under subsection (b) of this section.

24 "(d) If the public entity creating a tax increment
25 district in which not less than 50 percent, by area, of the
26 real property within the tax increment district is an enhanced
27 use lease area adopts an amendment to the original project

1 plan for such district which includes additional project costs
2 for which tax increments may be received by such public entity
3 or an expansion of the tax increment district, the tax
4 increment base for the district shall not be redetermined.

5 ~~"(d)~~ (e) There shall be a rebuttable presumption that
6 any property within a tax increment district acquired or
7 leased as lessee by the public entity or any agency or
8 instrumentality thereof within one year immediately preceding
9 the date of the creation of the district was so acquired or
10 leased in contemplation of the creation of the district. The
11 presumption may be rebutted by the public entity with proof
12 that the property was so leased or acquired primarily for a
13 purpose other than to reduce the tax increment base. If the
14 presumption is not rebutted, in determining the tax increment
15 base of the district, but for no other purpose, the taxable
16 status of such property shall be determined as though such
17 lease or acquisition had not occurred.

18 ~~"(e)~~ (f) The local tax assessor or person performing
19 his or her duties shall identify upon the tax records prepared
20 by him or her under Chapter 7 of Title 40 those parcels of
21 property which are within each existing tax increment
22 district, specifying the name of each district. A similar
23 notation shall also appear on the tax records made by the
24 local finance officer.

25 ~~"(f)~~ (g) The Department of Revenue shall annually
26 give notice to the designated finance officer of all
27 ~~governmental entities having the power to levy~~ taxing

1 authorities levying taxes on property within each district as
2 to both the assessed and equalized value of the property and
3 the assessed and equalized value of the tax increment base.
4 The notice shall state that the taxes collected in excess of
5 the base will be paid to the public entity.

6 "§11-99-6.

7 "(a) Positive tax increments of a tax increment
8 district shall be allocated and paid over to the public entity
9 which created the district for each year commencing on the
10 October 1 following the date when the district is created
11 until the earlier of:

12 "(1) That time, after the completion of all public
13 improvements specified in the project plan or amendments
14 thereto, when the public entity has received aggregate tax
15 increments from the district in an amount equal to the
16 aggregate of all expenditures previously made or monetary
17 obligations previously incurred for project costs for the
18 district; or

19 "(2) Thirty-five years after the last expenditure
20 identified in the project plan is made. No expenditure may be
21 provided for in the project plan to be made more than five
22 years after the district is created, except in Class 3
23 municipalities where such expenditures may be made not more
24 than 10 years thereafter if so provided and in tax increment
25 districts in which not less than 50 percent, by area, of the
26 real property within the tax increment district is an enhanced
27 use lease area where such expenditures may be made not more

1 than 15 years thereafter if so provided, unless an amendment
2 is adopted by the local governing body under subdivision (7)
3 of Section 11-99-4.

4 "(b) Notwithstanding any other provision of law,
5 every officer charged by law to collect and pay over or retain
6 local general property taxes in the case of a tax increment
7 district in which not less than 50 percent, by area, of the
8 real property within the tax increment district is a blighted
9 or economically distressed area, or state and local general
10 property taxes in the case of a tax increment district in
11 which not less than 50 percent, by area, of the real property
12 within the tax increment district is an enhanced use lease
13 area, shall first, on the next settlement date provided by
14 law, pay over to the local finance officer out of all such
15 taxes which have been collected that portion which represents
16 a tax increment allocable to a tax increment district,
17 identifying the amount for each district.

18 "(c) All tax increments received for a tax increment
19 district shall, upon receipt by the local finance officer, be
20 deposited into the tax increment fund for that district. The
21 local finance officer may deposit additional moneys into the
22 fund pursuant to an appropriation by the local governing body.
23 Moneys shall be paid out of the fund only to reimburse the
24 public entity for payments theretofore made by it for
25 principal of or interest on tax increment obligations for that
26 district if such obligations are general obligations of the
27 public entity, or to satisfy claims of holders of tax

1 increment obligations issued for that district. Subject to any
2 agreement with security holders, moneys in the fund may be
3 temporarily invested in the same manner as other surplus funds
4 of the public entity. After the principal of and interest on
5 all tax increment obligations of the district have been paid
6 or provided for, subject to any agreement with security
7 holders, if there remain in the fund any moneys, they shall be
8 paid over to the chief finance officer of the state, each
9 county, each municipality, each school district, and to the
10 general fund of the public entity in such amounts as are due
11 to each respectively, having due regard for what portion of
12 such moneys, if any, represents tax increments not allocated
13 to the public entity and what portion thereof, if any,
14 represents voluntary deposits of the public entity into the
15 fund.

16 "§11-99-10.

17 "(a) With respect to any taxing authority other
18 ~~governing body having the power to levy taxes on property~~
19 ~~located within a~~ than the public entity which created the tax
20 increment district, the calculation of the equalized valuation
21 of taxable property in a tax increment district may not exceed
22 the tax increment base of the district until the district is
23 terminated, unless agreement has been made for other
24 arrangements under subsection (b) of this section.

25 "(b) In such cases where it can be shown that losing
26 tax increments would be harmful to any given taxing unit
27 authority or cause such unit taxing authority not to honor a

1 prior binding commitment, by contract executed with the public
2 entity prior to the designation of the tax increment district,
3 and if an agreement has been made for such allowances through
4 a process of negotiation at the time of the creation of the
5 tax increment district, a taxing unit authority may make
6 payments into the tax increment fund, less the sum of:

7 "(1) Any property taxes produced from the tax
8 increments which are required to be paid by the taxing unit
9 authority to another political subdivision; and

10 "(2) A portion, not to exceed 20 percent or a
11 one-time payment mutually agreed upon at the time of the
12 creation of the tax increment district, of the tax increment
13 produced in the district by the taxes levied on behalf of that
14 taxing unit authority.

15 "(c) All tax increments which have accrued with
16 respect to school districts under this chapter shall be
17 determined and the amounts shall be paid on February 1 of each
18 year out of the taxes of all school districts which have
19 territory in a tax increment district.

20 "(d) The use of the increased valuations in the tax
21 increment district before the completion of the project in
22 calculating any general state school aid formula is
23 prohibited.

24 "(e) A taxing unit authority is not required to pay
25 a tax increment into the tax increment fund for a district
26 beyond three years from the date the district was created

1 unless one or more of the following conditions exist or have
2 been met:

3 "(1) Tax increment obligations have been issued for
4 the district;

5 "(2) The public entity has acquired property within
6 the district pursuant to the project plan; or

7 "(3) Construction of improvements pursuant to the
8 project plan has commenced in the district.

9 "§40-18-70.

10 "For the purpose of this article, the following
11 terms shall have the respective meanings ascribed by this
12 section:

13 "(1) EMPLOYEE. "Employee" as defined in the Internal
14 Revenue Code, as amended from time to time.

15 "(2) EMPLOYER. "Employer" as defined in the Internal
16 Revenue Code, as amended from time to time. An employer is
17 required to withhold tax from the wages of employees to the
18 extent that such wages are earned in Alabama, whether the
19 employee is a resident or a nonresident of the state.

20 "(3) INTERNAL REVENUE CODE. The Internal Revenue
21 Code of the United States, as amended from time to time.

22 "(4) PROVISIONAL CONSTRUCTION EMPLOYERS. A
23 provisional construction employer is any employer, including
24 members of its affiliated group as that term is defined in the
25 Internal Revenue Code, that (i) employs 50 or more employees
26 in a construction project for qualified property located in a
27 tax increment district in which not less than 50 percent, by

1 area, of the real property within the tax increment district
2 is an enhanced use lease area, as these terms are defined in
3 Section 40-9E-1, a construction project for a qualifying
4 industrial or research enterprise described in Section
5 40-9B-3(a)(8)e, or a construction project, the cost of which
6 is part of a qualifying entity's capital cost, as these terms
7 are defined in Section 40-9D-3, and (ii) has not registered in
8 the tax year preceding the current tax year with the Alabama
9 Department of Revenue for withholding tax purposes. If the
10 provisional construction employer reports and pays all past
11 withholding taxes due the state and continues to report and
12 pay for a one-year period all withholding taxes due to
13 Alabama, the employer will no longer be deemed to be a
14 provisional construction employer.

15 "(5) WAGES. "Wages" as defined in the Internal
16 Revenue Code, as amended from time to time. However, Alabama
17 does differentiate from federal requirements for certain
18 classes and amounts pursuant to departmental rules adopted via
19 the procedures in Title 41."

20 Section 4. The following new Chapter 9E, comprised
21 of Sections 40-9E-1 and 40-9E-2, is added to Title 40 of the
22 Code of Alabama 1975, to read as follows:

23 CHAPTER 9E. STATE PROPERTY TAX IN TAX INCREMENT
24 DISTRICTS

25 §40-9E-1.

26 For purposes of this chapter only, the following
27 terms shall have the following meanings:

1 (1) BASE YEAR. The taxable year immediately before
2 the taxable year in which property first becomes qualified
3 property under this section.

4 (2) BASE YEAR VALUE. The value of the property used
5 to determine the assessment on which the property tax on
6 property is imposed for the base year. "Base year value" does
7 not include any new property that is first assessed in the
8 base year.

9 (3) ELIGIBLE ASSESSMENT. The difference between the
10 base year value and the actual value as determined by the
11 county tax assessor for the applicable taxable year.

12 (4) ENHANCED USE LEASE AREA. Any area of a military
13 installation which contains underutilized real or personal
14 property, or both, that is leased by a secretary of a military
15 department to a lessee pursuant to the authority provided in
16 Title 10 U.S.C. §2667.

17 (5) LOCAL GOVERNING BODY. The governing body of a
18 county or municipality which proposes to create or has created
19 a tax increment district.

20 (6) PROJECT COSTS. Any expenditures made or
21 estimated to be made or monetary obligations incurred or
22 estimated to be incurred by a public entity which are listed
23 in a project plan as costs of public works or improvements
24 within a tax increment district, plus any costs incidental
25 thereto, diminished by any special assessments received or
26 reasonably expected to be received by the public entity in

1 connection with the implementation of the project plan.

2 Project costs include, but are not limited to:

3 a. Capital costs, including the costs of the
4 construction of public works or improvements, new buildings,
5 structures, and fixtures, the demolition, alteration,
6 remodeling, repair or reconstruction of existing buildings,
7 structures, and fixtures, the acquisition of equipment, the
8 acquisition, clearing, and grading of land and the acquisition
9 of interests in land;

10 b. Financing costs, including all interest paid to
11 holders of tax increment obligations during the period of
12 implementation of the project plan, the costs of any form of
13 credit enhancement, printing and trustee costs, and any
14 premium paid in excess of the principal amount thereof because
15 of the redemption of such obligations prior to maturity;

16 c. Real property assembly costs, meaning any deficit
17 resulting from the sale or lease as lessor by the public
18 entity of real or personal property within a tax increment
19 district for consideration which is less than its cost to the
20 public entity;

21 d. Professional service costs, including those costs
22 incurred for architectural, planning, engineering, fiscal,
23 underwriting, and legal advice and services;

24 e. Imputed administrative costs, including
25 reasonable charges for the time spent by officers and
26 employees of the public entity in connection with the
27 implementation of a project plan;

1 f. Relocation costs, including those relocation
2 payments made following condemnation under Chapter 1A of Title
3 18;

4 g. Organizational costs, including the costs of
5 conducting environmental impact and other studies and the
6 costs of informing the public with respect to the creation of
7 tax increment districts and the implementation of project
8 plans;

9 h. The amount of any contributions made in
10 connection with the implementation of the project plan that
11 are within limits prescribed by law;

12 i. Payments made, at the discretion of the local
13 governing body, which are to be necessary or convenient to the
14 creation of tax increment districts or the implementation of
15 project plans; and

16 j. For purposes of any tax increment district in
17 which not less than 50 percent, by area, of the real property
18 within the tax increment district is an enhanced use lease
19 area, "project costs" shall also include all costs described
20 in this subdivision which are expended within three years
21 immediately preceding the date of the creation of such tax
22 increment district.

23 (7) PROJECT PLAN. The properly approved plan for the
24 development or redevelopment of a tax increment district,
25 including all properly approved amendments thereto.

26 (8) PUBLIC ENTITY. Any municipality or county in the
27 state.

1 (9) QUALIFIED PROPERTY. Real property that is
2 located in a tax increment district in which not less than 50
3 percent, by area, of the real property within the tax
4 increment district is an enhanced use lease area.

5 (10) STATE PROPERTY TAX INCREMENT. The state
6 property taxes attributable to the eligible assessment of
7 qualified property.

8 (11) TAX INCREMENT DISTRICT. A contiguous geographic
9 area within the boundaries of a public entity defined and
10 created by resolution of the local governing body.

11 (12) TAX INCREMENT OBLIGATIONS. Bonds, warrants,
12 notes, or other evidences of indebtedness issued by a public
13 entity to fund all or any project costs.

14 §40-9E-2.

15 (a) Notwithstanding any other law of this state,
16 qualified property shall be entitled to an abatement of state
17 property taxes provided the conditions of this section are
18 satisfied.

19 (b) In lieu of paying the state property tax
20 increment on qualified property, any owner of qualified
21 property not exempt from ad valorem taxation must pay the
22 state property tax increment on such qualified property to the
23 public entity that created the tax increment district in which
24 the qualified property is located for each year commencing on
25 the October 1 following the date when property first becomes
26 qualified property under this chapter, and each October 1
27 thereafter, until the tax increment district in which such

1 qualified property is located is terminated in accordance with
2 Section 11-99-7.

3 (c) State property tax increments received by the
4 public entity which created the tax increment district in
5 which the qualified property is located shall be used:

6 (1) To pay for project costs; and

7 (2) To repay tax increment obligations issued to
8 fund project costs.

9 Section 5. If a court of competent jurisdiction
10 adjudges invalid or unconstitutional any clause, sentence,
11 paragraph, section, or part of this act, such judgment or
12 decree shall not affect, impair, invalidate, or nullify the
13 remainder of this act, but the effect of the decision shall be
14 confined to the clause, sentence, paragraph, section, or part
15 of this act adjudged to be invalid or unconstitutional.

16 Section 6. All laws or parts of laws which conflict
17 with this act are repealed.

18 Section 7. The provisions of this act shall become
19 effective immediately following its passage and approval by
20 the Governor or its otherwise becoming law. Notwithstanding
21 the foregoing, the provisions of this act shall apply to any
22 tax increment district created before the effective date of
23 this act provided that (1) such tax increment district is
24 created on or after January 1, 2010, and (2) not less than 50
25 percent, by area, of the real property within such tax
26 increment district is an enhanced use lease area.