

1 SB260  
2 217601-2  
3 By Senator Smitherman  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 23-FEB-22

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3  
4 ENGROSSED

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6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 11-99-2, 11-99-4, 11-99-5,  
12 11-99-6, 11-99-8, 11-99-10, and 11-99-11 Code of Alabama 1975;  
13 relating to tax increment districts; to provide further for  
14 the projects in a tax increment district and the project costs  
15 therefor; to provide further for the determination of the tax  
16 increment base for a tax increment district; to provide  
17 further for the collection, payment, and use of tax  
18 increments; and to make nonsubstantive, technical revisions to  
19 update the existing code language to current style.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 11-99-2, 11-99-4, 11-99-5,  
22 11-99-6, 11-99-8, 11-99-10, and 11-99-11 Code of Alabama 1975,  
23 are amended to read as follows:

24 "§11-99-2.

25 "As used in this chapter, the following terms shall  
26 have the following meanings:

1                   "(1) BLIGHTED OR ECONOMICALLY DISTRESSED AREA. Any  
2 of the following:

3                   "a. ~~An~~ Any area in which the structures, buildings,  
4 or improvements, by reason of dilapidation, deterioration,  
5 age, or obsolescence~~;~~ inadequate provision for ventilation,  
6 light, air, sanitation, or open spaces~~;~~ high density of  
7 population and overcrowding~~;~~ or the existence of conditions  
8 ~~which~~ that endanger life or property by fire and other  
9 causes~~;~~ or any combination of such factors, are conducive to  
10 ill health, transmission of disease, infant mortality,  
11 juvenile delinquency, or crime~~;~~ and are detrimental to the  
12 public health, safety, morals, or welfare~~, or.~~

13                   "b. Any area ~~which~~ that by reason of the presence of  
14 a substantial number of substandard, slum, deteriorated, or  
15 deteriorating structures~~;~~ predominance of defective or  
16 inadequate street layout~~;~~ faulty lot layout in relation to  
17 size, adequacy, accessibility, or usefulness~~;~~ unsanitary or  
18 unsafe conditions~~;~~ deterioration of site or other  
19 improvements~~;~~ diversity of ownership~~;~~ tax or special  
20 assessment delinquencies exceeding the fair value of the  
21 land~~;~~ defective or unusual conditions of title~~;~~ or the  
22 existence of conditions ~~which~~ that endanger life or property  
23 by fire and other causes~~;~~ or any combination of the  
24 foregoing, substantially impairs or arrests the sound economic  
25 growth of an area, ~~retards~~ hinders the provision of housing  
26 accommodations, or constitutes an economic or social liability

1 and is a detriment to the public health, safety, morals, or  
2 welfare in its present condition and use,~~or.~~

3 "c. Any area ~~which~~ that is predominantly open and  
4 which because of obsolete platting, diversity of ownership,  
5 deterioration of structures or of site improvements, or  
6 otherwise, substantially impairs or arrests the sound economic  
7 growth of an area,~~or.~~

8 "d. Any area ~~which~~ that the local governing body:  
9 (i) Determines is in need of redevelopment, rehabilitation, or  
10 revitalization to provide for the economic growth and  
11 development of the area, or (ii) certifies is in need of  
12 redevelopment or rehabilitation as a result of flood, fire,  
13 hurricane, tornado, earthquake, storm, or other catastrophe  
14 ~~respecting~~ which the Governor of the state has certified the  
15 need for disaster assistance under federal law,~~or.~~

16 "e. Any area containing excessive vacant land on  
17 which structures were previously located,~~or;~~ on which are  
18 located abandoned or vacant buildings or old buildings,~~or;~~  
19 where excessive vacancies exist in existing buildings,~~or;~~  
20 which contains substandard structures,~~;~~ or with respect to  
21 which there exist delinquencies in payment of real property  
22 taxes.

23 "(2) DEFERRED TAX RECIPIENT. Each taxing authority  
24 ~~which~~ that receives ad valorem taxes with respect to property  
25 located in a proposed tax increment district.

26 "(3) ENHANCED USE LEASE AREA. Any area of a military  
27 installation which contains underutilized real or personal

1 property, or both, that is leased by a secretary of a military  
2 department to a lessee pursuant to the authority provided in  
3 Title 10 U.S.C. § 2667.

4 "(4) LOCAL FINANCE OFFICER. The legally authorized  
5 officer or agent responsible for receipt and disbursement of  
6 the revenues of a taxing authority.

7 "(5) LOCAL GOVERNING BODY. The governing body of a  
8 county or municipality which proposes to create or has created  
9 a tax increment district.

10 "(6) MAJOR 21ST CENTURY MANUFACTURING ZONE. Any area  
11 aggregating not less than 250 contiguous acres of real  
12 property determined by a local governing body to ~~be~~ meet all  
13 of the following criteria:

14 "a. Is located, in whole or part, within its  
15 boundaries or corporate limits~~7.~~

16 "b. Is suitable for the site of an automotive,  
17 automotive-industry related, aviation, aviation-industry  
18 related, medical, pharmaceutical, semiconductor, computer,  
19 electronics, energy conservation, cyber technology, or  
20 biomedical industry manufacturing facility or facilities~~, and.~~

21 "c. Is an area within which not less than one  
22 hundred million dollars (\$100,000,000) of capital expenditure  
23 in connection with the establishment, expansion, construction,  
24 equipping, development, rehabilitation, or redevelopment of  
25 ~~such a~~ the facility or facilities is anticipated to be made  
26 based upon representations and information provided by the  
27 anticipated user or users of the facility or facilities and

1 ~~such~~ other information as the local governing body shall have  
2 available to it and deems appropriate.

3 "(7) MUNICIPALITY. Any incorporated municipality in  
4 this state.

5 "(8) PROJECT. Undertakings and activities of a  
6 public entity in a tax increment district for any one or more  
7 of the following:

8 "a. As determined by the local governing body, the  
9 elimination and prevention of the development or spread of  
10 blight in, or the redevelopment or revitalization of, a  
11 blighted or economically distressed area, including, but not  
12 limited to, property acquisition, property clearance,  
13 development, preservation, redevelopment, rehabilitation,  
14 renovation, or conservation, or a combination or part thereof,  
15 in accordance with a project plan.

16 "b. ~~the~~ The utilization of underutilized real or  
17 personal property, or both, in an enhanced use lease area, ~~and~~  
18 ~~may include~~ including, but not limited to, property  
19 acquisition, property clearance, development, redevelopment,  
20 rehabilitation, or conservation, or a combination or part  
21 thereof, in accordance with a project plan, ~~or.~~

22 "c. ~~the~~ The utilization of underutilized real  
23 property in an area determined by a local governing body to be  
24 a Major 21st Century Manufacturing Zone, ~~and may include~~  
25 including, but not limited to, property acquisition, ~~;~~ property  
26 clearance, ~~;~~ development, including, without limitation, public  
27 infrastructure improvements and any other improvements for the

1 construction and equipping of automotive, automotive-industry  
2 related, aviation, aviation-industry related, medical,  
3 pharmaceutical, semiconductor, computer, electronics, energy  
4 conservation, cyber technology, or biomedical industry  
5 manufacturing facilities; or the redevelopment,  
6 rehabilitation, or conservation, or a combination or part  
7 thereof, in accordance with a project plan.

8 "(9) PROJECT COSTS. Any expenditures made or  
9 estimated to be made or monetary obligations incurred or  
10 estimated to be incurred by a public entity, which in the case  
11 of expenditures for or within a Major 21st Century  
12 Manufacturing Zone may be incurred directly by the public  
13 entity or by a private entity with funds granted by, or  
14 otherwise made available from, a public entity, which are  
15 listed in a project plan as costs of public works or  
16 improvements or, in the case of improvements within a Major  
17 21st Century Manufacturing Zone, public works or improvements  
18 or private improvements, within a tax increment district, plus  
19 any costs incidental thereto, diminished by any special  
20 assessments, received or reasonably expected to be received by  
21 the public entity in connection with the implementation of the  
22 project plan. Project costs include, but are not limited to,   
23 all of the following:

24 "a. Capital costs, including the costs of the  
25 acquisition, installation, or construction of public works or  
26 improvements, new buildings, facilities or improvements,  
27 structures, and fixtures, the preservation and renovation of

1 properties of historic significance and facades of properties,  
2 the demolition, alteration, remodeling, repair, or  
3 reconstruction of existing buildings, structures, facilities,  
4 and fixtures, the improvement, maintenance, repair,  
5 renovation, and replacement of property pursuant to a project  
6 plan, the acquisition of equipment, the acquisition, clearing,  
7 and grading of land, environmental remediation of real  
8 property, and the acquisition of interests in land~~7.~~

9 "b. Financing costs, including all interest paid to  
10 holders of tax increment obligations during the period of  
11 implementation of the project plan, the costs of any form of  
12 credit enhancement, printing and trustee costs, and any  
13 premium paid in excess of the principal amount thereof because  
14 of the redemption of ~~such~~ the obligations prior to maturity~~7.~~

15 "c. Real property assembly costs, meaning any  
16 deficit resulting from the sale or lease as lessor by the  
17 public entity of real or personal property within a tax  
18 increment district for consideration which is less than its  
19 cost to the public entity~~7.~~

20 "d. Professional service costs, including those  
21 costs incurred for architectural, planning, engineering,  
22 fiscal, underwriting, ~~and~~ legal advice and services~~7,~~ and  
23 consulting and management 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~~7.~~



1 "f. Relocation costs, including those relocation  
2 payments made following condemnation under Chapter 1A of Title  
3 187.

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 plans7.

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 law7.

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 and  
15 management of project plans~~7~~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 in  
20 this subdivision which are expended by a public entity or a  
21 developer within three years immediately preceding the date of  
22 the creation of ~~such~~ the tax increment district.

23 "(10) PROJECT PLAN. The properly approved plan by  
24 the public entity creating a tax increment district for the  
25 development, or redevelopment, or revitalization of a tax  
26 increment district, including all properly approved amendments  
27 thereto.

1           "(11) PUBLIC ENTITY. Any municipality or county in  
2 the state.

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

15           "(13) TAX INCREMENT BASE. The aggregate value, as  
16 equalized by the Department of Revenue, of all taxable  
17 property located within a tax increment district on the date  
18 the district is created, determined as provided in Section  
19 11-99-5.

20           "(14) TAX INCREMENT DISTRICT. A contiguous  
21 geographic area within the boundaries of a public entity  
22 defined and created by resolution of the local governing body.

23           "(15) TAX INCREMENT FUND. A fund into which all tax  
24 increments not retained by a taxing authority as provided by  
25 Section 11-99-10~~(b)~~(a) are paid, and from which money is  
26 disbursed to satisfy claims of holders of tax increment  
27 obligations issued for the tax increment district.

1           "(16) TAX INCREMENT OBLIGATIONS. Bonds, warrants,  
2 notes, or other evidences of indebtedness issued by a public  
3 entity to fund all or any project costs.

4           "(17) TAXABLE PROPERTY. All real and personal  
5 property located in a tax increment district which is subject  
6 to ad valorem taxation on the date of adoption of the  
7 resolution creating the tax increment district.

8           "(18) TAXING AUTHORITY.

9           "a. For tax increment districts in which not less  
10 than 50 percent, by area, of the real property within the tax  
11 increment district is a blighted or economically distressed  
12 area, ~~taxing authority~~ the term means any municipality,  
13 county, or other taxing authority which has the power to levy  
14 taxes on property within the tax increment districts.

15           "b. For tax increment districts in which not less  
16 than 50 percent, by area, of the real property within the tax  
17 increment district is an enhanced use lease area, ~~taxing~~  
18 ~~authority~~ the term means the state or any municipality,  
19 county, or other taxing authority ~~which~~ that has the power to  
20 levy taxes on property within the tax increment district.

21           "c. For tax increment districts in which not less  
22 than 50 percent, by area, of the real property within the tax  
23 increment district is a Major 21st Century Manufacturing Zone,  
24 ~~"taxing authority"~~ the term means the state or any  
25 municipality, county, or other taxing authority ~~which~~ that has  
26 the power to levy taxes on property within the tax increment  
27 district.

1           "§11-99-4.

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

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

18           "(2) In addition to the notice required by  
19 subdivision (1) ~~of this section~~, and either before or after  
20 ~~such~~ the public hearing, the local governing body shall make a  
21 written submission to the governing body of each deferred tax  
22 recipient. The submission shall include a description of the  
23 proposed boundaries of the tax increment district, the  
24 tentative plans for the development, or redevelopment, or  
25 revitalization of the tax increment district, and an estimate  
26 of the general impact of the proposed project plan on property  
27 values and tax revenues. Not later than the ~~fifteenth~~ 15th day

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

1 district, and tax collection for ~~such~~ the district. On the  
2 motion of the local governing body any other matter relevant  
3 to the proposed tax increment district may be discussed.

4 "(3) The local governing body shall adopt a  
5 resolution, which need not be published, which does all of the  
6 following:

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

19 "b. Creates the tax increment district as of a given  
20 date after the date of adoption of the resolution, which date  
21 of creation of the tax increment district may be a date  
22 subsequent to the date of expiration of the period of duration  
23 of an existing tax increment district of the public entity,  
24 and fixes the period for its duration, which may be for a  
25 period not to exceed 30 years from the date of creation of the  
26 tax increment district in the case of a tax increment district  
27 in which not less than 50 percent, by area, of the real

1 property within the tax increment district is a blighted or  
2 economically distressed area, and which may be for a period  
3 not to exceed 35 years from the date of creation of the tax  
4 increment district in the case of a ~~tax increment~~ district in  
5 which not less than 50 percent, by area, of the real property  
6 within the tax increment district is an enhanced use lease  
7 area or a Major 21st Century Manufacturing Zone, unless an  
8 amendment is made to the project plan under subdivision (7) ~~of~~  
9 ~~this section,~~.

10 "c. Assigns a name to the tax increment district for  
11 identification purposes, such as "tax increment district  
12 number one"~~.~~.

13 "d. Contains findings, which shall not be subject to  
14 judicial review except after a showing of fraud, corruption,  
15 or undue influence, that:

16 "1. Not less than 50 percent, by area, of the real  
17 property within the tax increment district is: ~~either~~ (i) ~~a~~  
18 ~~blighted area and is in~~ In need of rehabilitation,  
19 redevelopment, revitalization, or conservation work, or (ii)  
20 an enhanced use lease area, or (iii) a Major 21st Century  
21 Manufacturing Zone; 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 proposed projects,  
7 including, without limitation and if applicable, the kind,  
8 number, and location of all proposed public works or  
9 improvements or, in the case of a Major 21st Century  
10 Manufacturing Zone, public works or improvements or private  
11 improvements, within the district; a detailed list of  
12 estimated project costs; and a description of the methods of  
13 financing all estimated project ~~cost~~ costs and the time when  
14 related costs or monetary obligations are to be incurred. For  
15 purposes of this chapter, any work or improvement for a  
16 military installation and located within an enhanced use lease  
17 area shall be deemed to be for public uses and purposes. The  
18 project plan shall also include: A map showing existing uses  
19 and condition of real property in the district; a map or  
20 description showing proposed improvements and uses therein;  
21 proposed changes of zoning, master map plan, building code,  
22 and other ordinances or resolutions affecting the district; a  
23 list of estimated nonproject costs; and a proposed plan for  
24 the relocation of any families, persons, and businesses to be  
25 temporarily or permanently displaced from housing or  
26 commercial facilities in the district by implementation of the  
27 plan.



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

3           ~~"a. The proposed tax increment district on the whole  
4 has not been subject to growth and development through  
5 investment by private enterprise and it is not reasonable to  
6 anticipate that the land in the district will be developed  
7 without the adoption of the project plan;~~

8           ~~"b. a.~~ A feasible method exists for the relocation  
9 and compensation of any individuals, families, and businesses  
10 that will be displaced by the project in decent, safe, and  
11 sanitary accommodations within their means and without undue  
12 hardship to such individuals, families, and businesses;

13           ~~"c. b.~~ The project plan conforms to the applicable  
14 master plan of the local entity,    (if there is one); and

15           ~~"d. c.~~ The project plan will afford maximum  
16 opportunity, consistent with the sound needs of the public  
17 entity as a whole, for the rehabilitation,    or redevelopment,     
18 or revitalization of the tax increment district by private  
19 enterprise.

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

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

26           "(8) The public entity that created the tax  
27 increment district, and each deferred tax recipient with

1 respect to the tax increment district, notwithstanding any  
2 provision in this chapter to the contrary, by written mutual  
3 agreement duly authorized, executed, and delivered thereby,  
4 may establish an advisory board for the tax increment district  
5 composed of the mayor or the chair of the county commission of  
6 the public entity, as appropriate, a member of the governing  
7 body of the public entity that represents the largest area in  
8 the tax increment district, and other members as the  
9 respective governing body, or its designee, of each deferred  
10 tax recipient may appoint; provided a majority of the members  
11 of an advisory board must be members of the governing body of  
12 the public entity.

13 "(b) Judicial review of a decision of a public  
14 entity related to a tax increment district shall be as  
15 provided by law.

16 "§11-99-5.

17 ~~"(a) Upon the creation of a tax increment district~~  
18 ~~or adoption of any amendment pursuant to subsection (c) of~~  
19 ~~this section, the The tax increment base shall be determined~~  
20 ~~as provided in this section.~~

21 "(b) Upon application in writing by the local  
22 finance officer, the tax assessor, ~~for the officer of the~~  
23 county performing the duties of a tax assessor) ~~for each~~  
24 county in which any part of the district is located shall  
25 determine, according to his or her best judgment from all  
26 sources available to him or her, the full aggregate value of  
27 the taxable property in the district located in that county as

1 of the date of creation of the tax increment district. The  
2 aggregate valuation from all such tax assessors or other such  
3 public officials, upon certification to the local finance  
4 officer, shall constitute the tax increment base of the  
5 district; provided, however, if a public entity creates a  
6 district that is to succeed and continue the programs and  
7 project plans for redevelopment and revitalization of property  
8 in an existing tax increment district upon its expiration, the  
9 public entity and each deferred tax recipient with respect to  
10 the successor tax increment district, notwithstanding any  
11 provision in this chapter to the contrary, by written mutual  
12 agreement duly authorized, executed, and delivered thereby,  
13 may agree that the aggregate value of all taxable property  
14 included in both the expiring district and the successor  
15 district shall be the aggregate value of the taxable property  
16 as originally determined for the tax increment base of the  
17 expiring district as of the date of creation of the expiring  
18 district and without redetermination of the value of the  
19 taxable property as of the date of creation of the successor  
20 district or some other date.

21 "(c) If the public entity ~~creating~~ that created a  
22 tax increment district in which not less than 50 percent, by  
23 area, of the real property within the tax increment district  
24 is a blighted or economically distressed area adopts an  
25 amendment to the original project plan for ~~such~~ the tax  
26 increment district ~~which~~ that includes additional project  
27 costs for which tax increments may be received by ~~such~~ the

1 public entity, the tax increment base for the district shall  
2 ~~not be redetermined pursuant to subsection (b) of this section~~  
3 ~~as of 90 days following the effective date of the amendment,~~  
4 ~~except that if the effective date of the amendment is October~~  
5 ~~1 of any year, the redetermination shall be made on that date.~~  
6 ~~The tax increment base as redetermined under this subsection~~  
7 ~~shall be effective for the purposes of this chapter only if it~~  
8 ~~exceeds the original tax increment base determined under~~  
9 ~~subsection (b) of this section.~~

10 "(d) If the public entity ~~creating~~ that created a  
11 tax increment district in which not less than 50 percent, by  
12 area, of the real property within the tax increment district  
13 is an enhanced use lease area or a Major 21st Century  
14 Manufacturing Zone adopts an amendment to the original project  
15 plan for ~~such~~ the tax increment district ~~which~~ that includes  
16 additional project costs for which tax increments may be  
17 received by ~~such~~ the public entity or an expansion of the tax  
18 increment district, the tax increment base for the district  
19 shall not be redetermined.

20 "(e) There shall be a rebuttable presumption that  
21 any property within a tax increment district, l acquired or  
22 leased as lessee by the public entity or any agency or  
23 instrumentality thereof within one year immediately preceding  
24 the date of the creation of the district, l was so acquired or  
25 leased in contemplation of the creation of the district. The  
26 presumption may be rebutted by the public entity with proof  
27 that the property was so leased or acquired primarily for a

1 purpose other than to reduce the tax increment base. If the  
2 presumption is not rebutted, in determining the tax increment  
3 base of the district, but for no other purpose, the taxable  
4 status of ~~such~~ the property shall be determined as though ~~such~~  
5 the lease or acquisition had not occurred.

6 "(f) The local tax assessor or person performing his  
7 or her duties shall identify upon the tax records prepared by  
8 him or her under Chapter 7 of Title 40 those parcels of  
9 property which are within each existing tax increment  
10 district, specifying the name of each district. A similar  
11 notation shall also appear on the tax records made by the  
12 local finance officer.

13 "(g) The Department of Revenue shall annually give  
14 notice to the designated finance officer of all taxing  
15 authorities levying taxes on property within each district as  
16 to both the assessed and equalized value of the property and  
17 the assessed and equalized value of the tax increment base.  
18 The notice shall state that the taxes collected in excess of  
19 the base will be paid to the public entity.

20 "§11-99-6.

21 "(a) Positive tax increments of a tax increment  
22 district shall be allocated and paid over to the public entity  
23 which created the district for each year commencing on the  
24 October 1 following the date when the district is created  
25 until the earlier of:

26 "(1) That time, after: (i) The period of duration of  
27 the tax increment district, as established pursuant to this

1 chapter, has expired, and (ii) the completion of all projects  
2 and public improvements specified in, or purposes of, the  
3 project plan or amendments thereto, when the public entity has  
4 received aggregate tax increments from the district in an  
5 amount equal to the aggregate of all expenditures previously  
6 made or monetary obligations previously incurred for project  
7 costs for the district; or

8           "(2) Thirty-five years after the last expenditure  
9 identified in the project plan is made. No expenditure may be  
10 provided for in the project plan to be made more than five  
11 years after the district is created, except as may be provided  
12 in an amendment to the project plan, and except in Class 3  
13 municipalities where ~~such~~ the expenditures may be made not  
14 more than 10 years thereafter if so provided and in tax  
15 increment districts in which not less than 50 percent, by  
16 area, of the real property within the tax increment district  
17 is an enhanced use lease area where ~~such~~ the expenditures may  
18 be made not more than 15 years thereafter if so provided,  
19 unless an amendment is adopted by the local governing body  
20 under subdivision (7) of Section 11-99-4.

21           "(b) Notwithstanding any other provision of law,  
22 every officer charged by law to collect and pay over or retain  
23 local general property taxes in the case of a tax increment  
24 district in which not less than 50 percent, by area, of the  
25 real property within the tax increment district is a blighted  
26 or economically distressed area, or state and local general  
27 property taxes in the case of a tax increment district in

1 which not less than 50 percent, by area, of the real property  
2 within the tax increment district is an enhanced use lease  
3 area or a Major 21st Century Manufacturing Zone, shall first,  
4 on the next settlement date provided by law, pay over to the  
5 local finance officer out of all such taxes which have been  
6 collected, that portion which that represents a tax increment  
7 allocable to a tax increment district, identifying the amount  
8 for each district.

9 "(c) All tax increments received for a tax increment  
10 district ~~shall~~, upon receipt by the local finance officer,  
11 shall be deposited into the tax increment fund for that  
12 district. The local finance officer may deposit additional  
13 ~~moneys monies~~ into the fund pursuant to an appropriation by  
14 the local governing body. ~~Moneys Monies~~ shall be paid out of  
15 the fund only for direct payment of, or to reimburse the  
16 public entity for payments theretofore made by it for  
17 principal of or interest on tax increment obligations for that  
18 district if ~~such~~ the obligations are general obligations of  
19 the public entity, or to satisfy claims of holders of tax  
20 increment obligations issued for that district, or for direct  
21 payment of, or to reimburse the public entity for payments  
22 theretofore made by ~~it~~ the public entity that are used to pay  
23 project costs. Subject to any agreement with security holders,  
24 ~~moneys monies~~ in the fund may be temporarily invested in the  
25 same manner as other surplus funds of the public entity. After  
26 the principal of and interest on all tax increment obligations  
27 of the district have been paid or provided for, subject to any

1 agreement with security holders, if there ~~remain~~ remains in  
2 the fund any ~~moneys~~ monies, they shall be paid over to the  
3 chief finance officer of the state, each county, each  
4 municipality, each school district, and to the general fund of  
5 the public entity in ~~such~~ amounts as are due to each  
6 respectively, having due regard for what portion of ~~such~~  
7 ~~moneys~~ these monies, if any, represents tax increments not  
8 allocated to the public entity and what portion thereof, if  
9 any, represents voluntary deposits of the public entity into  
10 the fund.

11 "§11-99-8.

12 "(a) Payment of project costs may be made by any of  
13 the following methods or any combination thereof:

14 "(1) Payment from the tax increment fund of the tax  
15 increment district if the purpose of the payment is one  
16 provided for in Section 11-99-6 ~~hereof~~.

17 "(2) Payment out of the general funds of the public  
18 entity creating a tax increment district, ~~such the~~ payments  
19 being used either directly by the public entity to pay ~~such~~  
20 the project costs or used by a third party recipient of such  
21 funds to pay ~~such the project~~ costs if within a Major 21st  
22 Century Manufacturing Zone.

23 "(3) Payment out of the proceeds of the sale of  
24 warrants, bonds, or notes (whether public improvement bonds,  
25 warrants, or notes; mortgage bonds, warrants, or notes; or  
26 certificates, revenue bonds, warrants, or notes; or  
27 otherwise) issued by the public entity creating a tax



1 increment district, ~~such the~~ payments being used either  
2 directly by the public entity to pay ~~such the project~~ costs or  
3 used by a third party recipient of ~~such the~~ funds to pay ~~such~~  
4 the project costs if within a Major 21st Century Manufacturing  
5 Zone~~7~~.

6 "(4) Payment out of the proceeds of the sale of tax  
7 increment obligations issued by the public entity creating a  
8 tax increment district under this ~~section~~ chapter, ~~such the~~  
9 payments being used either directly by the public entity to  
10 pay ~~such the project~~ costs or used by a third party recipient  
11 of such funds to pay ~~such the project~~ costs if within a Major  
12 21st Century Manufacturing Zone~~7~~ ~~and~~.

13 "(5) Payment as otherwise provided by law.

14 "(b) For the purposes of paying project costs or of  
15 refunding obligations issued ~~as otherwise provided by law or~~  
16 ~~under this section~~ pursuant to the authority of this chapter or  
17 other applicable law , the local governing body may issue tax  
18 increment obligations payable out of positive tax increments.  
19 ~~Such~~ The tax increment obligations shall not be included in  
20 the computation of the constitutional debt limitation of the  
21 public entity unless they are also secured by a pledge of the  
22 full faith and credit of the public entity.

23 "(c) Tax increment obligations may be authorized by  
24 resolution of the local governing body without the necessity  
25 of a referendum or any approval by the electorate. The  
26 resolution shall state the name of the tax increment district,  
27 the amount of obligations authorized, and the interest rate or

1 rates to be borne thereby or the method of computing the same.  
2 The resolution may prescribe the terms, form, and content of  
3 the obligations and such other matters as the local governing  
4 body deems useful.

5 "(d) Tax increment obligations may not be issued in  
6 an amount exceeding the aggregate project costs of a project  
7 or projects specified in a project plan, as such plan may be  
8 amended. The tax increment obligations shall mature not more  
9 than 30 years from the date thereof. The tax increment  
10 obligations may: (i) ~~contain~~ Contain provisions authorizing  
11 the redemption thereof, in whole or in part, at stipulated  
12 prices, at the option of the public entity creating the  
13 district, on any dates named therein and provide the method of  
14 selecting the obligations to be redeemed, (ii) be payable at  
15 any time or times and at any place, (iii) be payable to bearer  
16 or registered as to principal or principal and interest, (iv)  
17 be in any denominations, and (v) be sold at public or private  
18 sale.

19 "(e) Tax increment obligations shall be payable only  
20 out of a stipulated tax increment fund created pursuant to  
21 Section 11-99-6 ~~hereof~~, except as provided in ~~paragraph~~  
22 subsection (f) of this section. The ~~local governing body~~  
23 public entity creating the district shall irrevocably pledge  
24 all or a part of ~~such the~~ the tax increment fund to the payment of  
25 the tax increment obligations. The amounts in the tax  
26 increment fund may thereafter be used only for the payment of  
27 the principal of and interest on the tax increment obligations

1 payable therefrom until ~~they~~ the principal and interest have  
2 been fully paid; provided, the amounts, if any, in the tax  
3 increment fund in excess of the amount required to pay the  
4 principal of and interest on the tax increment obligations  
5 becoming due and payable in any fiscal year of the local  
6 governing body may be used for the payment of project costs.

7 "(f) To increase the security and marketability of  
8 tax increment obligations, the public entity may do any of the  
9 following:

10 "(1) ~~Create~~ To the extent permitted by the  
11 Constitution of Alabama of 1901, as amended, create a  
12 non-forclosable lien for the benefit of the security holders  
13 upon any public improvements or public works financed thereby  
14 ~~or the revenues therefrom;.~~

15 "(2) Pledge the full faith and credit of the public  
16 entity to the payment thereof; ~~and.~~

17 "(3) Make covenants and do any and all acts as may  
18 be necessary or convenient or desirable in the judgment of the  
19 local governing body in order additionally to secure ~~such~~ the  
20 obligations or make the obligations more marketable.

21 "(g) For the purpose of paying project costs, the  
22 ~~local governing body~~ public entity creating the tax increment  
23 district may also allow payments to be made in full at the  
24 time ~~such~~ the project costs accrue, thus allowing a project to  
25 be all or partially funded on a pay-as-you-go basis.

26 "§11-99-10.

1           "~~(a) With respect to any taxing authority other than~~  
2 ~~the public entity which created the tax increment district,~~  
3 ~~the calculation of the equalized valuation of taxable property~~  
4 ~~in a tax increment district may not exceed the tax increment~~  
5 ~~base of the district until the district is terminated, unless~~  
6 ~~agreement has been made for other arrangements under~~  
7 ~~subsection (b) of this section.~~

8           "~~(b)~~ (a) ~~In such cases where~~ If it can be shown that  
9 losing tax increments would be harmful to any given taxing  
10 authority or cause ~~such~~ a taxing authority not to honor a  
11 prior binding commitment, by contract executed with the public  
12 entity creating a tax increment district prior to the  
13 designation of the tax increment district, and if an agreement  
14 has been made for such allowances through a process of  
15 negotiation at the time of the creation of the tax increment  
16 district, a taxing authority may make payments into the tax  
17 increment fund, less the sum of:

18           "(1) Any property taxes produced from the tax  
19 increments which are required to be paid by the taxing  
20 authority to another political subdivision; and

21           "(2) A portion, not to exceed 20 percent or a  
22 one-time payment mutually agreed upon at the time of the  
23 creation of the tax increment district, of the tax increment  
24 produced in the district by the taxes levied on behalf of that  
25 taxing authority.

26           "~~(c)~~ (b) All tax increments ~~which~~ that have accrued  
27 with respect to school districts under this chapter shall be

1 determined and the amounts shall be paid on February 1 of each  
2 year out of the taxes of all school districts ~~which~~ that have  
3 territory in a tax increment district.

4 "~~(d)~~ (c) The use of the increased valuations in the  
5 tax increment district before the completion of the project in  
6 calculating any general state school aid formula is  
7 prohibited.

8 "~~(e)~~ (d) A taxing authority ~~is not~~ may, but shall  
9 not be required to, pay a tax increment into the tax increment  
10 fund for a district beyond ~~three~~ five years from the date the  
11 district was created unless one or more of the following  
12 conditions exist or have been met:

13 "(1) Tax increment obligations have been issued for  
14 the district~~;~~.

15 "(2) The public entity that created the tax  
16 increment district has acquired an interest in any property  
17 within the district pursuant to the project plan~~;~~or.

18 (3) Construction of improvements pursuant to the  
19 project plan has commenced in the district.

20 "§11-99-11.

21 "(a) Any reference to the Major 21st Century  
22 Manufacturing Zone Act contained in this chapter shall not be  
23 construed to expand the scope, authority, or powers of a  
24 public entity beyond what is expressly permitted in this  
25 chapter when utilizing a tax increment district.

26 "(b) Nothing herein in this chapter shall be  
27 construed to ~~authorize~~ do any of the following:

1           "(1) Authorize any municipality or county to lend  
2 its credit or to grant public money or things of value in aid  
3 of any individual, association, or corporation in violation of  
4 Section 94 of the Constitution of Alabama of 1901, as amended,  
5 except to the extent otherwise permitted by other provisions  
6 of or amendments to the Constitution.

7           "(2) Expand the scope, authority, or powers of a  
8 public entity to acquire real property beyond what is  
9 otherwise provided by state law or to narrow or restrict the  
10 private property rights of owners of real property within or  
11 near a tax increment district.

12           "(3) To expand the scope, authority, or powers of a  
13 public entity to categorize real property as blighted for  
14 purposes of creating or expanding a tax increment district."

15           Section 2. The provisions of this act are severable.  
16 If any part of this act is declared invalid or  
17 unconstitutional, that declaration shall not affect the part  
18 which remains.

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

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Senate

Read for the first time and referred to the Senate  
committee on Fiscal Responsibility and Economic  
Development..... 23-FEB-22

Read for the second time and placed on the calen-  
dar 1 amendment..... 09-MAR-22

Read for the third time and passed as amended .... 17-MAR-22

Yeas 32  
Nays 0

Patrick Harris,  
Secretary.