

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

8 SYNOPSIS: Under existing law, tax increment financing  
9 is an economic development mechanism that allows  
10 local governments to designate a portion of the  
11 county or municipality as a tax increment district  
12 and apply certain property tax revenues above a  
13 baseline established when the tax increment  
14 district was established, to redevelop or  
15 revitalize the area until the tax increment  
16 district expires after 30 years of existence.

17 This bill would provide further for what  
18 constitutes a blighted or economically distressed  
19 area for purposes of establishing a tax increment  
20 district.

21 This bill would allow the redevelopment or  
22 revitalization project to continue through the  
23 creation of a subsequent tax increment district  
24 after expiration of the existing district, but  
25 retain the original baseline.

1                   This bill would also make nonsubstantive,  
2                   technical revisions to update the existing code  
3                   language to current style.

4  
5                   A BILL  
6                   TO BE ENTITLED  
7                   AN ACT

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

18                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19                  Section 1. Sections 11-99-2, 11-99-4, 11-99-5,  
20                  11-99-6, 11-99-8, and 11-99-10, Code of Alabama 1975, are  
21                  amended to read as follows:

22                  "§11-99-2.

23                  "As used in this chapter, the following terms shall  
24                  have the following meanings:

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

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

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

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

6            "d. Any area ~~which~~ that the local governing body:  
7 (i) Determines, which determination shall not be subject to  
8 judicial review except after a showing of fraud, corruption,  
9 or undue influence, is in need of redevelopment,  
10 rehabilitation, or revitalization to provide for the economic  
11 growth and development of the area, or (ii) certifies is in  
12 need of redevelopment or rehabilitation as a result of flood,  
13 fire, hurricane, tornado, earthquake, storm, or other  
14 catastrophe respecting which the Governor of the state has  
15 certified the need for disaster assistance under federal law,  
16  ~~or.~~

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

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

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

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

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

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

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

18           "b. Is suitable for the site of an automotive,  
19 automotive-industry related, aviation, aviation-industry  
20 related, medical, pharmaceutical, semiconductor, computer,  
21 electronics, energy conservation, cyber technology, or  
22 biomedical industry manufacturing facility or facilities~~7~~and.

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

1 based upon representations and information provided by the  
2 anticipated user or users of the facility or facilities and  
3 ~~such~~ other information as the local governing body shall have  
4 available to it and deems appropriate.

5 "(7) MUNICIPALITY. Any incorporated municipality in  
6 this state.

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

10 "a. As determined by the local governing body, which  
11 determination shall not be subject to judicial review except  
12 after a showing of fraud, corruption, or undue influence, the  
13 elimination and prevention of the development or spread of  
14 blight in, or the redevelopment or revitalization of, a  
15 blighted or economically distressed area, including, but not  
16 limited to, property acquisition, property clearance,  
17 development, preservation, redevelopment, rehabilitation,  
18 renovation, or conservation, or a combination or part thereof,  
19 in accordance with a project plan.

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

26 "c. ~~the~~ The utilization of underutilized real  
27 property in an area determined by a local governing body to be

1 a Major 21st Century Manufacturing Zone, ~~and may include~~  
2 including, but not limited to, property acquisition<sup>7</sup>; property  
3 clearance<sup>7</sup>; development, including, without limitation, public  
4 infrastructure improvements and any other improvements for the  
5 construction and equipping of automotive, automotive-industry  
6 related, aviation, aviation-industry related, medical,  
7 pharmaceutical, semiconductor, computer, electronics, energy  
8 conservation, cyber technology, or biomedical industry  
9 manufacturing facilities<sup>7</sup>; or the redevelopment,  
10 rehabilitation, or conservation<sup>7</sup> or a combination or part  
11 thereof<sup>7</sup> in accordance with a project plan.

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



1            "a. Capital costs, including the costs of the  
2            acquisition, installation, or construction of public works or  
3            improvements, new buildings, facilities or improvements,  
4            structures, and fixtures, the preservation and renovation of  
5            properties of historic significance and facades of properties,  
6            the demolition, alteration, remodeling, repair, or  
7            reconstruction of existing buildings, structures, facilities,  
8            and fixtures, the improvement, maintenance, repair,  
9            renovation, and replacement of property pursuant to a project  
10           plan, the acquisition of equipment, the acquisition, clearing,  
11           and grading of land, environmental remediation of real  
12           property, and the acquisition of interests in land~~7.~~

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

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

24           "d. Professional service costs, including those  
25           costs incurred for architectural, planning, engineering,  
26           fiscal, underwriting, ~~and~~ legal advice and services~~7,~~ and  
27           consulting and management services.

1 "e. Imputed administrative costs, including  
2 reasonable charges for the time spent by officers and  
3 employees of the public entity in connection with the  
4 implementation of a project plan7.

5 "f. Relocation costs, including those relocation  
6 payments made following condemnation under Chapter 1A of Title  
7 187.

8 "g. Organizational costs, including the costs of  
9 conducting environmental impact and other studies and the  
10 costs of informing the public with respect to the creation of  
11 tax increment districts and the implementation of project  
12 plans7.

13 "h. The amount of any contributions made in  
14 connection with the implementation of the project plan that  
15 are within limits prescribed by law7.

16 "i. Payments made, at the discretion of the local  
17 governing body, which are to be necessary or convenient to the  
18 creation of tax increment districts or the implementation and  
19 management of project plans~~7~~and.

20 "j. For purposes of any tax increment district in  
21 which not less than 50 percent, by area, of the real property  
22 within the tax increment district is an enhanced use lease  
23 area, ~~project costs shall also include~~ all costs described in  
24 this subdivision which are expended by a public entity or a  
25 developer within three years immediately preceding the date of  
26 the creation of ~~such~~ the tax increment district.

1           "(10) PROJECT PLAN. The properly approved plan by  
2 the public entity creating a tax increment district for the  
3 development, ~~or~~ redevelopment, or revitalization of a tax  
4 increment district, including all properly approved amendments  
5 thereto.

6           "(11) PUBLIC ENTITY. Any municipality or county in  
7 the state.

8           "(12) 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 is  
17 less than the aggregate value of taxable property as equalized  
18 by the Department of Revenue; it is negative if the base  
19 exceeds ~~such~~ that value.

20           "(13) TAX INCREMENT BASE. The aggregate value, as  
21 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 11-99-5.

25           "(14) 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           "(15) TAX INCREMENT FUND. A fund into which all tax  
2 increments not retained by a taxing authority as provided by  
3 Section 11-99-10~~(b)~~(a) are paid, and from which money is  
4 disbursed to satisfy claims of holders of tax increment  
5 obligations issued for the tax increment district.

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

9           "(17) 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           "(18) 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~~ the term means any municipality,  
18 county, or other taxing authority which has the power to levy  
19 taxes on 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~~ the term means the state or any municipality,  
24 county, or other taxing authority ~~which~~ that has the power to  
25 levy taxes on property within the tax increment district.

26           "c. For tax increment districts in which not less  
27 than 50 percent, by area, of the real property within the tax

1 increment district is a Major 21st Century Manufacturing Zone,  
2 ~~"taxing authority"~~ the term means the state or any  
3 municipality, county, or other taxing authority ~~which~~ that has  
4 the power to levy taxes on property within the tax increment  
5 district.

6 "§11-99-4.

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

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

23 "(2) In addition to the notice required by  
24 subdivision (1) ~~of this section~~, and either before or after  
25 ~~such~~ the public hearing, the local governing body shall make a  
26 written submission to the governing body of each deferred tax  
27 recipient. The submission shall include a description of the

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

1 held, but ~~such~~ notice may be waived. At the meetings, the  
2 local governing body and the representatives of the deferred  
3 tax recipients may discuss the boundaries of the tax increment  
4 district, development within ~~such~~ the tax increment district,  
5 the exclusion of particular parcels of property from ~~such~~ the  
6 district, and tax collection for ~~such~~ the district. On the  
7 motion of the local governing body any other matter relevant  
8 to the proposed tax increment district may be discussed.

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

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

24 "b. Creates the tax increment district as of a given  
25 date after the date of adoption of the resolution, which date  
26 of creation of the tax increment district may be a date  
27 subsequent to the date of expiration of the period of duration

1 of an existing tax increment district of the public entity,  
2 and fixes the period for its duration, which may be for a  
3 period not to exceed 30 years from the date of creation of the  
4 tax increment district in the case of a tax increment district  
5 in which not less than 50 percent, by area, of the real  
6 property within the tax increment district is a blighted or  
7 economically distressed area, and which may be for a period  
8 not to exceed 35 years from the date of creation of the tax  
9 increment district in the case of a ~~tax increment~~ district in  
10 which not less than 50 percent, by area, of the real property  
11 within the tax increment district is an enhanced use lease  
12 area or a Major 21st Century Manufacturing Zone, unless an  
13 amendment is made to the project plan under subdivision (7) ~~of~~  
14 ~~this section,~~.

15 "c. Assigns a name to the tax increment district for  
16 identification purposes, such as "tax increment district  
17 number one"~~.~~.

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

21 "1. Not less than 50 percent, by area, of the real  
22 property within the tax increment district is: ~~either~~ (i) ~~a~~  
23 ~~blighted area and is in~~ In need of rehabilitation,  
24 redevelopment, revitalization, or conservation work, or (ii)  
25 an enhanced use lease area, or (iii) a Major 21st Century  
26 Manufacturing Zone; and



1           "2. The aggregate value of equalized taxable  
2 property in the district plus all existing districts created  
3 by the public entity does not exceed 10 percent of the total  
4 value of equalized taxable property within the public entity  
5 or 50 percent if the public entity is a Class 3 municipality.  
6 Provided, however, that equalized taxable property located  
7 within the boundaries of a military reservation, jurisdiction  
8 over which has been ceded to the United States pursuant to  
9 Section 42-3-1, shall be excluded from aggregated value.

10           "(4) The local governmental body shall prepare and  
11 adopt a project plan for each tax increment district. The plan  
12 shall include a statement listing the proposed projects,  
13 including, without limitation and if applicable, the kind,  
14 number, and location of all proposed public works or  
15 improvements or, in the case of a Major 21st Century  
16 Manufacturing Zone, public works or improvements or private  
17 improvements, within the district; a detailed list of  
18 estimated project costs; and a description of the methods of  
19 financing all estimated project ~~cost~~ costs and the time when  
20 related costs or monetary obligations are to be incurred. For  
21 purposes of this chapter, any work or improvement for a  
22 military installation and located within an enhanced use lease  
23 area shall be deemed to be for public uses and purposes. The  
24 project plan shall also include: A map showing existing uses  
25 and condition of real property in the district; a map or  
26 description showing proposed improvements and uses therein;  
27 proposed changes of zoning, master map plan, building code,

1 and other ordinances or resolutions affecting the district; a  
2 list of estimated nonproject costs; and a proposed plan for  
3 the relocation of any families, persons, and businesses to be  
4 temporarily or permanently displaced from housing or  
5 commercial facilities in the district by implementation of the  
6 plan.

7 "(5) The local governing body shall certify, which  
8 certification shall not be subject to judicial review except  
9 after a showing of fraud, corruption, or undue influence,  
10 before approving the project plan that:

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

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

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

23 "~~d.~~ c. The project plan will afford maximum  
24 opportunity, consistent with the sound needs of the public  
25 entity as a whole, for the rehabilitation,  or redevelopment,  
26  or revitalization of the tax increment district by private  
27 enterprise.

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

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

7           "(8) The public entity that created the tax  
8 increment district, and each deferred tax recipient with  
9 respect to the tax increment district, notwithstanding any  
10 provision in this chapter to the contrary, by written mutual  
11 agreement duly authorized, executed, and delivered thereby,  
12 may establish an advisory board for the tax increment district  
13 composed of the mayor or the chair of the county commission of  
14 the public entity, as appropriate, a member of the governing  
15 body of the public entity that represents the largest area in  
16 the tax increment district, and other members as the  
17 respective governing body, or its designee, of each deferred  
18 tax recipient may appoint; provided a majority of the members  
19 of an advisory board must be members of the governing body of  
20 the public entity.

21           "§11-99-5.

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

26           "(b) Upon application in writing by the local  
27 finance officer, the tax assessor, ~~for~~ the officer of the

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

26 "(c) If the public entity ~~creating~~ that created 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 a blighted or economically distressed area adopts an  
3 amendment to the original project plan for ~~such~~ the tax  
4 increment district ~~which that~~ includes additional project  
5 costs for which tax increments may be received by ~~such~~ the  
6 public entity, the tax increment base for the district shall  
7 not be redetermined ~~pursuant to subsection (b) of this section~~  
8 ~~as of 90 days following the effective date of the amendment,~~  
9 ~~except that if the effective date of the amendment is October~~  
10 ~~1 of any year, the redetermination shall be made on that date.~~  
11 ~~The tax increment base as redetermined under this subsection~~  
12 ~~shall be effective for the purposes of this chapter only if it~~  
13 ~~exceeds the original tax increment base determined under~~  
14 ~~subsection (b) of this section.~~

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

25 "(e) There shall be a rebuttable presumption that  
26 any property within a tax increment district, acquired or  
27 leased as lessee by the public entity or any agency or

1 instrumentality thereof within one year immediately preceding  
2 the date of the creation of the district,    was so acquired or  
3 leased in contemplation of the creation of the district. The  
4 presumption may be rebutted by the public entity with proof  
5 that the property was so leased or acquired primarily for a  
6 purpose other than to reduce the tax increment base. If the  
7 presumption is not rebutted, in determining the tax increment  
8 base of the district, but for no other purpose, the taxable  
9 status of ~~such~~ the property shall be determined as though ~~such~~  
10 the lease or acquisition had not occurred.

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

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

25           "§11-99-6.

26           "(a) Positive tax increments of a tax increment  
27 district shall be allocated and paid over to the public entity

1 which created the district for each year commencing on the  
2 October 1 following the date when the district is created  
3 until the earlier of:

4 "(1) That time, after: (i) The period of duration of  
5 the tax increment district, as established pursuant to this  
6 chapter, has expired, and (ii) the completion of all projects  
7 and public improvements specified in, or purposes of, the  
8 project plan or amendments thereto, when the public entity has  
9 received aggregate tax increments from the district in an  
10 amount equal to the aggregate of all expenditures previously  
11 made or monetary obligations previously incurred for project  
12 costs for the district; or

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

26 "(b) Notwithstanding any other provision of law,  
27 every officer charged by law to collect and pay over or retain

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

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



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

16 "§11-99-8.

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

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

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

1           "(3) Payment out of the proceeds of the sale of  
2 warrants, bonds, or notes (whether public improvement bonds,  
3 warrants, or notes; mortgage bonds, warrants, or notes; or  
4 certificates, revenue bonds, warrants, or notes; or  
5 otherwise) issued by the public entity creating a tax  
6 increment district, ~~such the~~ payments being used either  
7 directly by the public entity to pay ~~such the project~~ costs or  
8 used by a third party recipient of ~~such the~~ funds to pay ~~such~~  
9 the project costs if within a Major 21st Century Manufacturing  
10 Zone.

11           "(4) Payment out of the proceeds of the sale of tax  
12 increment obligations issued by the public entity creating a  
13 tax increment district under this ~~section~~ chapter, ~~such the~~  
14 payments being used either directly by the public entity to  
15 pay ~~such the project~~ costs or used by a third party recipient  
16 of such funds to pay ~~such the project~~ costs if within a Major  
17 21st Century Manufacturing Zone, ~~and~~.

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

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

1           "(c) Tax increment obligations may be authorized by  
2 resolution of the local governing body without the necessity  
3 of a referendum or any approval by the electorate. The  
4 resolution shall state the name of the tax increment district,  
5 the amount of obligations authorized, and the interest rate or  
6 rates to be borne thereby or the method of computing the same.  
7 The resolution may prescribe the terms, form, and content of  
8 the obligations and such other matters as the local governing  
9 body deems useful.

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

24           "(e) Tax increment obligations shall be payable only  
25 out of a stipulated tax increment fund created pursuant to  
26 Section 11-99-6 ~~hereof~~, except as provided in ~~paragraph~~  
27 subsection (f) ~~of this section~~. The ~~local governing body~~

1 public entity creating the district shall irrevocably pledge  
2 all or a part of ~~such~~ the tax increment fund to the payment of  
3 the tax increment obligations. The amounts in the tax  
4 increment fund may thereafter be used only for the payment of  
5 the principal of and interest on the tax increment obligations  
6 payable therefrom until ~~they~~ the principal and interest have  
7 been fully paid; provided, the amounts, if any, in the tax  
8 increment fund in excess of the amount required to pay the  
9 principal of and interest on the tax increment obligations  
10 becoming due and payable in any fiscal year of the local  
11 governing body may be used for the payment of project costs.

12 "(f) To increase the security and marketability of  
13 tax increment obligations, the public entity may do any of the  
14 following:

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

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

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

26 "(g) For the purpose of paying project costs, the  
27 ~~local governing body~~ public entity creating the tax increment

1 district may also allow payments to be made in full at the  
2 time ~~such~~ the project costs accrue, thus allowing a project to  
3 be all or partially funded on a pay-as-you-go basis.

4 "§11-99-10.

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

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

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

25 "(2) A portion, not to exceed 20 percent or a  
26 one-time payment mutually agreed upon at the time of the  
27 creation of the tax increment district, of the tax increment

1 produced in the district by the taxes levied on behalf of that  
2 taxing authority.

3 "~~(c)~~ (b) All tax increments ~~which~~ that have accrued  
4 with respect to school districts under this chapter shall be  
5 determined and the amounts shall be paid on February 1 of each  
6 year out of the taxes of all school districts ~~which~~ that have  
7 territory in a tax increment district.

8 "~~(d)~~ (c) The use of the increased valuations in the  
9 tax increment district before the completion of the project in  
10 calculating any general state school aid formula is  
11 prohibited.

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

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

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

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

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

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