

1 SB470  
2 139638-2  
3 By Senators Orr, Holtzclaw and Scofield  
4 RFD: Finance and Taxation General Fund  
5 First Read: 05-APR-12

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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 provide for the designation by municipalities of  
12 large contiguous tracts of underutilized real property as  
13 Major 21st Century Manufacturing Zones for certain  
14 manufacturing purposes; to provide capital, infrastructure  
15 improvements, capital improvements to existing facilities, and  
16 construction development of buildings and structures suitable  
17 for use as part of or in connection with certain manufacturing  
18 activities within the zone and in certain appurtenant areas;  
19 to provide a method for the funding of all or a portion of  
20 costs through tax increment financing by cities and counties;  
21 and to amend Sections 11-99-1, 11-99-2, 11-99-4, 11-99-5,  
22 11-99-6, 11-99-8, and 11-99-10, Code of Alabama 1975, to  
23 authorize the provision of capital, public infrastructure  
24 improvements, and capital improvements to existing facilities;  
25 to authorize the provision of buildings and structures.  
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. This act shall be known and may be cited  
2 as the Major 21st Century Manufacturing Zone Act of 2012.

3           Section 2. The Legislature makes the following  
4 findings:

5           (1) It is in the best interest of the state to  
6 ensure the location and expansion of automotive,  
7 automotive-industry related, aviation, aviation-industry  
8 related, medical, pharmaceutical, semiconductor, computer,  
9 electronics, energy conservation, cyber technology, and  
10 biomedical industry manufacturing facilities in this state.

11           (2) The presence and expansion of automotive,  
12 automotive-industry related, aviation, aviation-industry  
13 related, medical, pharmaceutical, semiconductor, computer,  
14 electronics, energy conservation, cyber technology, and  
15 biomedical industry manufacturing facilities in this state is  
16 of substantial benefit to and enhances the public welfare of  
17 the state by, among other things, promoting local economic  
18 development and the stimulus of local economies, increasing  
19 skilled job opportunities, creating additional tax revenues,  
20 and enhancing the public's overall quality of life.

21           (3) The growth and enhanced prosperity of  
22 municipalities and counties of the state, as well as of the  
23 state at large, as a result of the presence and expansion of  
24 automotive, automotive-industry related, aviation,  
25 aviation-industry related, medical, pharmaceutical,  
26 semiconductor, computer, electronics, energy conservation,  
27 cyber technology, and biomedical industry manufacturing

1 facilities in this state often requires the infusion of  
2 capital, improved, and expanded public infrastructure  
3 dedicated to such facilities, and the provision, for the  
4 benefit thereof, of capital improvements to existing  
5 facilities as well as the provision of buildings and  
6 structures suitable for use as part of or in connection with  
7 automotive, automotive-industry related, aviation,  
8 aviation-industry related, medical, pharmaceutical,  
9 semiconductor, computer, electronics, energy conservation,  
10 cyber technology, and biomedical industry manufacturing  
11 facilities.

12 (4) The provision of such capital, public  
13 infrastructure improvements, and capital improvements  
14 constitutes an important public purpose vital to the welfare  
15 and prosperity of the citizens of this state.

16 Section 3. Sections 11-99-1, 11-99-2, 11-99-4,  
17 11-99-5, 11-99-6, 11-99-8, and 11-99-10, Code of Alabama 1975,  
18 are amended to read as follows:

19 "§11-99-1.

20 "(a) It is hereby found and declared that there  
21 exist in municipalities and counties of the state blighted or  
22 economically distressed areas which constitute a serious and  
23 growing problem, injurious to the public health, safety,  
24 morals, and welfare of the residents of the state; that the  
25 existence of such areas contributes substantially and  
26 increasingly to the spread of disease and crime, constitutes  
27 an economic and social liability imposing onerous burdens

1 which decrease the tax base and reduce tax revenues,  
2 substantially impairs or arrests sound growth, retards the  
3 provision of housing accommodations, aggravates traffic  
4 problems, and substantially hampers the elimination of traffic  
5 hazards and the improvement of traffic facilities; and that  
6 the prevention and elimination of slums and blighted areas and  
7 economically distressed areas is a matter of state policy and  
8 state concern in order that the state and its municipalities  
9 and counties shall not continue to be endangered by areas  
10 which are focal centers of disease, promote juvenile  
11 delinquency, and consume an excessive proportion of public  
12 revenues because of the extra services required for police,  
13 fire, accident, hospitalization, and other forms of public  
14 protection, services, and facilities.

15 "(b) It is further found and declared that certain  
16 blighted and economically distressed areas or portions thereof  
17 may require acquisition, clearance, and disposition subject to  
18 use restrictions, as provided in this chapter, since the  
19 prevailing condition of blight and economic distress may make  
20 impracticable the reclamation of the area by conservation or  
21 rehabilitation; that other areas or portions thereof may,  
22 through the means provided in this chapter, be susceptible of  
23 conservation or rehabilitation in such a manner that the  
24 conditions and evils enumerated may be eliminated, remedied,  
25 or prevented; and that salvageable blighted and economically  
26 distressed areas can be conserved and rehabilitated through  
27 appropriate public action as herein authorized and the

1 cooperation and voluntary action of the owners and tenants of  
2 property in such areas.

3 "(c) It is further found and declared that there  
4 exist in municipalities and counties of the state  
5 underutilized real and personal property in enhanced use lease  
6 areas which, when leased by a secretary of a military  
7 department for cash or in-kind consideration, enhances the  
8 public benefit and welfare by, among other things, promoting  
9 local economic development and the stimulation of the local  
10 economy, increasing job opportunities, creating additional tax  
11 revenues, and enhancing the public's overall quality of life.

12 "(d) It is further found and declared that there  
13 exist in municipalities and counties of the state  
14 underutilized large tracts of real property suitable for the  
15 location of automotive, automotive-industry related, aviation,  
16 aviation-industry related, medical, pharmaceutical,  
17 semiconductor, computer, electronics, energy conservation,  
18 cyber technology, and biomedical industry manufacturing  
19 facilities which, when serving as the site therefor, enhances  
20 the public benefit and welfare by, among other things,  
21 facilitating the creation of skilled manufacturing jobs,  
22 promoting local economic development and the stimulation of  
23 the local economy, creating additional tax revenues, and  
24 enhancing the public's overall quality of life.

25 "(d)(e) It is further found and declared that the  
26 powers conferred by this chapter are for public and, in the  
27 case of automotive, automotive-industry related, aviation,

1 aviation-industry related, medical, pharmaceutical,  
2 semiconductor, computer, electronics, energy conservation,  
3 cyber technology, and biomedical industry manufacturing  
4 facilities, private uses and purposes imbued with a public  
5 interest and for which public money may be expended, either  
6 directly or indirectly, in the case of automotive,  
7 automotive-industry related, aviation, aviation-industry  
8 related, medical, pharmaceutical, semiconductor, computer,  
9 electronics, energy conservation, cyber technology, and  
10 biomedical industry manufacturing facilities, and the power of  
11 eminent domain and police power exercised, and the necessity  
12 in the public interest for the provisions herein enacted is  
13 hereby declared as a matter of legislative determination.

14 "§11-99-2.

15 "As used in this chapter:

16 "(1) BLIGHTED OR ECONOMICALLY DISTRESSED AREA:

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

1            "b. Any area which by reason of the presence of a  
2            substantial number of substandard, slum, deteriorated, or  
3            deteriorating structures, predominance of defective or  
4            inadequate street layout, faulty lot layout in relation to  
5            size, adequacy, accessibility, or usefulness, unsanitary or  
6            unsafe conditions, deterioration of site or other  
7            improvements, diversity of ownership, tax or special  
8            assessment delinquencies exceeding the fair value of the land,  
9            defective or unusual conditions of title, or the existence of  
10           conditions which endanger life or property by fire and other  
11           causes, or any combination of the foregoing, substantially  
12           impairs or arrests the sound economic growth of an area,  
13           retards the provision of housing accommodations, or  
14           constitutes an economic or social liability and is a detriment  
15           to the public health, safety, morals, or welfare in its  
16           present condition and use, or

17           "c. Any area which is predominantly open and which  
18           because of obsolete platting, diversity of ownership,  
19           deterioration of structures or of site improvements, or  
20           otherwise, substantially impairs or arrests the sound economic  
21           growth of an area, or

22           "d. Any area which the local governing body  
23           certifies is in need of redevelopment or rehabilitation as a  
24           result of flood, fire, hurricane, tornado, earthquake, storm,  
25           or other catastrophe respecting which the Governor of the  
26           state has certified the need for disaster assistance under  
27           federal law, or



1 "e. Any area containing excessive vacant land on  
2 which structures were previously located, or on which are  
3 located abandoned or vacant buildings or old buildings, or  
4 where excessive vacancies exist in existing buildings, or  
5 which contains substandard structures, or with respect to  
6 which there exist delinquencies in payment of real property  
7 taxes.

8 "(2) DEFERRED TAX RECIPIENT. Each taxing authority  
9 which receives ad valorem taxes with respect to property  
10 located in a proposed tax increment district.

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

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

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

22 "(6) MAJOR 21ST CENTURY MANUFACTURING ZONE. Any area  
23 aggregating not less than 500 contiguous acres of real  
24 property determined by a municipality to be a. located, in  
25 whole or part, within its boundaries or corporate limits, b.  
26 suitable for the site of an automotive, automotive-industry  
27 related, aviation, aviation-industry related, medical,

1 pharmaceutical, semiconductor, computer, electronics, energy  
2 conservation, cyber technology, or biomedical industry  
3 manufacturing facility or facilities, and c. an area within  
4 which not less than one hundred million dollars (\$100,000,000)  
5 of capital expenditure in connection with the establishment,  
6 expansion, construction, equipping, development,  
7 rehabilitation, or redevelopment of such a facility or  
8 facilities is anticipated to be made based upon  
9 representations and information provided by the anticipated  
10 user or users of the facility or facilities and such other  
11 information as the local governing body shall have available  
12 to it and deems appropriate.

13 "(6)(7) MUNICIPALITY. Any incorporated municipality  
14 in this state.

15 "(7)(8) PROJECT. Undertakings and activities of a  
16 public entity in a tax increment district for either (i) a.  
17 the elimination and prevention of the development or spread of  
18 blight in a blighted or economically distressed area or (ii),  
19 b. the utilization of underutilized real or personal property,  
20 or both, in an enhanced use lease area, and may include  
21 property acquisition, property clearance, development,  
22 redevelopment, rehabilitation, or conservation or a  
23 combination or part thereof in accordance with a project plan,  
24 or c. the utilization of underutilized real property in an  
25 area determined by a local governing body to be a Major 21st  
26 Century Manufacturing Zone, and may include property  
27 acquisition, property clearance, development, including,

1 without limitation, public infrastructure improvements and any  
2 other improvements for the construction and equipping of  
3 automotive, automotive-industry related, aviation,  
4 aviation-industry related, medical, pharmaceutical,  
5 semiconductor, computer, electronics, energy conservation,  
6 cyber technology, or biomedical industry manufacturing  
7 facilities, or the redevelopment, rehabilitation, or  
8 conservation or a combination or part thereof in accordance  
9 with a project plan.

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

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

1 demolition, alteration, remodeling, repair or reconstruction  
2 of existing buildings, structures, facilities, and fixtures,  
3 the acquisition of equipment, the acquisition, clearing, and  
4 grading of land and the acquisition of interests in land;

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

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

16 "d. Professional service costs, including those  
17 costs incurred for architectural, planning, engineering,  
18 fiscal, underwriting, and legal advice and services;

19 "e. Imputed administrative costs, including  
20 reasonable charges for the time spent by officers and  
21 employees of the public entity in connection with the  
22 implementation of a project plan;

23 "f. Relocation costs, including those relocation  
24 payments made following condemnation under Chapter 1A of Title  
25 18;

26 "g. Organizational costs, including the costs of  
27 conducting environmental impact and other studies and the

1 costs of informing the public with respect to the creation of  
2 tax increment districts and the implementation of project  
3 plans;

4 "h. The amount of any contributions made in  
5 connection with the implementation of the project plan that  
6 are within limits prescribed by law;

7 "i. Payments made, at the discretion of the local  
8 governing body, which are to be necessary or convenient to the  
9 creation of tax increment districts or the implementation of  
10 project plans; and

11 "j. For purposes of any tax increment district in  
12 which not less than 50 percent, by area, of the real property  
13 within the tax increment district is an enhanced use lease  
14 area, project costs shall also include all costs described in  
15 this subdivision which are expended by a public entity or a  
16 developer within three years immediately preceding the date of  
17 the creation of such tax increment district.

18 "~~(9)~~ (10) PROJECT PLAN. The properly approved plan  
19 for the development or redevelopment of a tax increment  
20 district, including all properly approved amendments thereto.

21 "~~(10)~~ (11) PUBLIC ENTITY. Any municipality or county  
22 in the state.

23 "~~(11)~~ (12) TAX INCREMENT. That amount obtained by  
24 multiplying the total revenue derived from ad valorem taxes  
25 levied by all local taxing authorities on all taxable property  
26 within a tax increment district in any tax year by a fraction  
27 having a numerator equal to that tax year's market value of

1 all taxable property in the district minus the tax increment  
2 base and a denominator equal to that tax year's equalized  
3 value of all taxable property in the district. In any tax  
4 year, a tax increment is positive if the tax increment base is  
5 less than the aggregate value of taxable property as equalized  
6 by the Department of Revenue; it is negative if the base  
7 exceeds such value.

8 "~~(12)~~(13) TAX INCREMENT BASE. The aggregate value,  
9 as equalized by the Department of Revenue, of all taxable  
10 property located within a tax increment district on the date  
11 the district is created, determined as provided in Section  
12 11-99-5.

13 "~~(13)~~(14) TAX INCREMENT DISTRICT. A contiguous  
14 geographic area within the boundaries of a public entity  
15 defined and created by resolution of the local governing body.

16 "~~(14)~~(15) TAX INCREMENT FUND. A fund into which all  
17 tax increments not retained by a taxing authority as provided  
18 by Section 11-99-10(b) are paid, and from which money is  
19 disbursed to satisfy claims of holders of tax increment  
20 obligations issued for the tax increment district.

21 "~~(15)~~(16) TAX INCREMENT OBLIGATIONS. Bonds,  
22 warrants, notes, or other evidences of indebtedness issued by  
23 a public entity to fund all or any project costs.

24 "~~(16)~~(17) TAXABLE PROPERTY. All real and personal  
25 property located in a tax increment district which is subject  
26 to ad valorem taxation on the date of adoption of the  
27 resolution creating the tax increment district.

1           "~~(17)~~(18) TAXING AUTHORITY.

2           "a. For tax increment districts in which not less  
3 than 50 percent, by area, of the real property within the tax  
4 increment district is a blighted or economically distressed  
5 area, taxing authority means any municipality, county, or  
6 other taxing authority which has the power to levy taxes on  
7 property within the tax increment districts.

8           "b. For tax increment districts in which not less  
9 than 50 percent, by area, of the real property within the tax  
10 increment district is an enhanced use lease area, taxing  
11 authority means the state or any municipality, county, or  
12 other taxing authority which has the power to levy taxes on  
13 property within the tax increment district.

14           "c. 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 Major 21st Century Manufacturing Zone,  
17 taxing authority means the state or any municipality, county,  
18 or other taxing authority which has the power to levy taxes on  
19 property within the tax increment district.

20           "§11-99-4.

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

23           "(1) The local governing body shall hold a public  
24 hearing at which all interested parties are afforded a  
25 reasonable opportunity to express their views on the concept  
26 of tax increment financing, on the proposed creation of a tax  
27 increment district and its proposed boundaries, and its

1 benefits to the public entity. Notice of the hearing shall be  
2 published in a newspaper of general circulation in either the  
3 county or in the city, as the case may be, in which the  
4 proposed tax increment district is to be located with such  
5 notice to be published at least twice in the 15-day period  
6 immediately preceding the date of the hearing. Prior to  
7 publication, a copy of the notice shall be sent by first class  
8 mail to the chief executive officer of each deferred tax  
9 recipient.

10 "(2) In addition to the notice required by  
11 subdivision (1) of this section, and either before or after  
12 such hearing, the local governing body shall make a written  
13 submission to the governing body of each deferred tax  
14 recipient. The submission shall include a description of the  
15 proposed boundaries of the tax increment district, the  
16 tentative plans for the development or redevelopment of the  
17 tax increment district, and an estimate of the general impact  
18 of the proposed project plan on property values and tax  
19 revenues. Not later than the fifteenth day after the date on  
20 which the notice required by subdivision (1) of this section  
21 is mailed, each deferred tax recipient shall designate a  
22 representative empowered to meet with the local governing body  
23 to discuss the project plan and the tax increment financing  
24 and shall notify the local governing body of its designation.  
25 Failure of any deferred tax recipient to designate a  
26 representative within the 15-day period, or to notify the  
27 local governing body of its designation, shall not prevent the



1 local governing body from proceeding hereunder. If a deferred  
2 tax recipient which has failed to so designate a  
3 representative shall thereafter designate a representative and  
4 shall notify the local governing body of such designation,  
5 such representative shall be entitled to notice of any  
6 meetings held thereafter pursuant to this section, and shall  
7 be entitled to attend such meetings, but shall have no right  
8 to have matters discussed again which have already been  
9 discussed. The local governing body shall call a meeting, or  
10 meetings, of the representatives of the deferred tax  
11 recipients to be held at any time after 20 days from the  
12 mailing notice referred to in subdivision (1) of this section.  
13 Each representative shall be notified of each meeting at least  
14 three days before it is to be held, but such notice may be  
15 waived. At the meetings the local governing body and the  
16 representatives of the deferred tax recipients may discuss the  
17 boundaries of the tax increment district, development within  
18 such district, the exclusion of particular parcels of property  
19 from such district, and tax collection for such district. On  
20 the motion of the local governing body any other matter  
21 relevant to the proposed tax increment district may be  
22 discussed.

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

25 "a. Describes the boundaries of the tax increment  
26 district with sufficient definiteness to identify with  
27 ordinary and reasonable certainty the territory included,

1 which shall include only those whole units of property, other  
2 than publicly owned property such as streets, easements, and  
3 rights-of-ways, assessed for general property tax purposes  
4 and, if the public entity is a county, which shall include  
5 only those areas which lie outside the corporate limits of any  
6 municipality, unless the governing body of a municipality has  
7 consented to the inclusion of land within its corporate limits  
8 within a tax increment district formed by a county;

9 "b. Creates the tax increment district as of a given  
10 date after the date of adoption of the resolution, and fixes  
11 the period for its duration, which may be for a period not to  
12 exceed 30 years in the case of a tax increment district in  
13 which not less than 50 percent, by area, of the real property  
14 within the tax increment district is a blighted or  
15 economically distressed area, and which may be for a period  
16 not to exceed 35 years in the case of a tax increment district  
17 in which not less than 50 percent, by area, of the real  
18 property within the tax increment district is an enhanced use  
19 lease area or a Major 21st Century Manufacturing Zone, unless  
20 an amendment is made to the project plan under subdivision (7)  
21 of this section;

22 "c. Assigns a name to the tax increment district for  
23 identification purposes, such as "tax increment district  
24 number one";

25 "d. Contains findings, which shall not be subject to  
26 review except after a showing of fraud, corruption, or undue  
27 influence, that:

1           "1. Not less than 50 percent, by area, of the real  
2 property within the tax increment district is either (i) a  
3 blighted area and is in need of rehabilitation or conservation  
4 work, ~~or~~ (ii) an enhanced use lease area, or (iii) Major 21st  
5 Century Manufacturing Zone; and

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

15           "(4) The local governmental body shall prepare and  
16 adopt a project plan for each tax increment district. The plan  
17 shall include a statement listing the kind, number, and  
18 location of all proposed public works or improvements or, in  
19 the case of a Major 21st Century Manufacturing Zone, public  
20 works or improvements or private improvements, within the  
21 district; a detailed list of estimated project costs; and a  
22 description of the methods of financing all estimated project  
23 cost and the time when related costs or monetary obligations  
24 are to be incurred. For purposes of this chapter, any work or  
25 improvement for a military installation and located within an  
26 enhanced use lease area shall be deemed to be for public uses  
27 and purposes. The project plan shall also include: A map

1 showing existing uses and condition of real property in the  
2 district; a map showing proposed improvements and uses  
3 therein; proposed changes of zoning, master map plan, building  
4 code, and other ordinances or resolutions affecting the  
5 district; a list of estimated nonproject costs; and a proposed  
6 plan for the relocation of families, persons, and businesses  
7 to be temporarily or permanently displaced from housing or  
8 commercial facilities in the district by implementation of the  
9 plan.

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

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

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

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

24 "d. The plan will afford maximum opportunity,  
25 consistent with the sound needs of the public entity as a  
26 whole, for the rehabilitation or redevelopment of the tax  
27 increment district by private 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           "§11-99-5.

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

11           "(b) Upon application in writing by the local  
12 finance officer, the tax assessor (or the officer of the  
13 county performing the duties of a tax assessor) for each  
14 county in which any part of the district is located shall  
15 determine according to his or her best judgment from all  
16 sources available to him or her the full aggregate value of  
17 the taxable property in the district located in that county.  
18 The aggregate valuation from all such tax assessors or other  
19 such public officials, upon certification to the local finance  
20 officer, shall constitute the tax increment base of the  
21 district.

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

1 received by such public entity, the tax increment base for the  
2 district shall be redetermined pursuant to subsection (b) of  
3 this section as of 90 days following the effective date of the  
4 amendment, except that if the effective date of the amendment  
5 is October 1 of any year, the redetermination shall be made on  
6 that date. The tax increment base as redetermined under this  
7 subsection shall be effective for the purposes of this chapter  
8 only if it exceeds the original tax increment base determined  
9 under subsection (b) of this section.

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

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

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

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

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

19 "§11-99-6.

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

25 "(1) That time, after the completion of all public  
26 improvements specified in the project plan or amendments  
27 thereto, when the public entity has received aggregate tax

1 increments from the district in an amount equal to the  
2 aggregate of all expenditures previously made or monetary  
3 obligations previously incurred for project costs for the  
4 district; or

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

17 "(b) Notwithstanding any other provision of law,  
18 every officer charged by law to collect and pay over or retain  
19 local general property taxes in the case of a tax increment  
20 district in which not less than 50 percent, by area, of the  
21 real property within the tax increment district is a blighted  
22 or economically distressed area, or state and local general  
23 property taxes in the case of a tax increment district in  
24 which not less than 50 percent, by area, of the real property  
25 within the tax increment district is an enhanced use lease  
26 area or a Major 21st Century Manufacturing Zone, shall first,  
27 on the next settlement date provided by law, pay over to the



1 local finance officer out of all such taxes which have been  
2 collected that portion which represents a tax increment  
3 allocable to a tax increment district, identifying the amount  
4 for each district.

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

1 such moneys, if any, represents tax increments not allocated  
2 to the public entity and what portion thereof, if any,  
3 represents voluntary deposits of the public entity into the  
4 fund.

5 "§11-99-8.

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

8 "(1) Payment from the tax increment fund of the tax  
9 increment district if the purpose of the payment is one  
10 provided for in Section 11-99-6 hereof;

11 "(2) Payment out of the general funds of the public  
12 entity, such payments being used either directly by the public  
13 entity to pay such costs or used by a third party recipient of  
14 such funds to pay such costs if within a Major 21st Century  
15 Manufacturing Zone;

16 "(3) Payment out of the proceeds of the sale of  
17 warrants, bonds or notes (whether public improvement bonds or  
18 notes, mortgage bonds, notes or certificates, revenue bonds or  
19 notes, or otherwise) issued by the public entity, such  
20 payments being used either directly by the public entity to  
21 pay such costs or used by a third party recipient of such  
22 funds to pay such costs if within a Major 21st Century  
23 Manufacturing Zone;

24 "(4) Payment out of the proceeds of the sale of tax  
25 increment obligations issued by the public entity under this  
26 section, such payments being used either directly by the  
27 public entity to pay such costs or used by a third party

1 recipient of such funds to pay such costs if within a Major  
2 21st Century Manufacturing Zone; and

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

4 "(b) For the purposes of paying project costs or of  
5 refunding obligations issued as otherwise provided by law or  
6 under this section, the local governing body may issue tax  
7 increment obligations payable out of positive tax increments.  
8 Such tax increment obligations shall not be included in the  
9 computation of the constitutional debt limitation of the  
10 public entity unless they are also secured by a pledge of the  
11 full faith and credit of the public entity.

12 "(c) Tax increment obligations may be authorized by  
13 resolution of the local governing body without the necessity  
14 of a referendum or any approval by the electorate. The  
15 resolution shall state the name of the tax increment district,  
16 the amount of obligations authorized, and the interest rate or  
17 rates to be borne thereby or the method of computing the same.  
18 The resolution may prescribe the terms, form, and content of  
19 the obligations and such other matters as the local governing  
20 body deems useful.

21 "(d) Tax increment obligations may not be issued in  
22 an amount exceeding the aggregate project costs of a project.  
23 The tax increment obligations shall mature not more than 30  
24 years from the date thereof. The tax increment obligations may  
25 (i) contain provisions authorizing the redemption thereof, in  
26 whole or in part, at stipulated prices, at the option of the  
27 public entity, on any dates named therein and provide the

1 method of selecting the obligations to be redeemed, (ii) be  
2 payable at any time or times and at any place, (iii) be  
3 payable to bearer or registered as to principal or principal  
4 and interest, (iv) be in any denominations, and (v) be sold at  
5 public or private sale.

6 "(e) Tax increment obligations shall be payable only  
7 out of a stipulated tax increment fund created pursuant to  
8 Section 11-99-6 hereof, except as provided in paragraph (f) of  
9 this section. The local governing body shall irrevocably  
10 pledge all or a part of such tax increment fund to the payment  
11 of the tax increment obligations. The tax increment fund may  
12 thereafter be used only for the payment of the principal of  
13 and interest on the tax increment obligations payable  
14 therefrom until they have been fully paid.

15 "(f) To increase the security and marketability of  
16 tax increment obligations, the public entity may:

17 "(1) Create a lien for the benefit of the security  
18 holders upon any public improvements or public works financed  
19 thereby 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  
25 obligations or make the obligations more marketable.

26 "(g) For the purpose of paying project costs, the  
27 local governing body may also allow payments to be made in

1 full at the time such costs accrue, thus allowing a project to  
2 be all or partially funded on a pay-as-you-go basis.

3 "§11-99-10.

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

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

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

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

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

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

10           "(e) A taxing authority is not required to pay a tax  
11           increment into the tax increment fund for a district beyond  
12           three years from the date the district was created unless one  
13           or more of the following conditions exist or have been met:

14           "(1) Tax increment obligations have been issued for  
15           the district;

16           "(2) The public entity has acquired property within  
17           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           Section 4. If a court of competent jurisdiction  
21           adjudges invalid or unconstitutional any clause, sentence,  
22           paragraph, section, or part of this act, such judgment or  
23           decree shall not affect, impair, invalidate, or nullify the  
24           remainder of this act, but the effect of the decision shall be  
25           confined to the clause, sentence, paragraph, section, or part  
26           of this act adjudged to be invalid or unconstitutional.

1           Section 5. Nothing herein shall be construed to  
2 authorize any municipality or county to lend its credit or to  
3 grant public money or things of value in aid of any  
4 individual, association, or corporation in violation of  
5 Section 94 of the Constitution of Alabama of 1901, as amended,  
6 except to the extent otherwise permitted by other provisions  
7 of or amendments to the Constitution.

8           Section 6. All laws or parts of laws which conflict  
9 with this act are repealed.

10           Section 7. This act of this act shall become  
11 effective immediately following its passage and approval by  
12 the Governor, or its otherwise becoming law. Notwithstanding  
13 the foregoing, the provisions of this act shall apply to any  
14 tax increment district created before the effective date of  
15 this act provided that the tax increment district is created  
16 on or after April 1, 2012, and not less than 50 percent by  
17 area of the real property within such tax increment district  
18 is a Major 21st Century Manufacturing Zone.

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Senate

Read for the first time and referred to the Senate committee on Finance and Taxation General Fund ...	05-APR-12
Read for the second time and placed on the calen- dar 1 amendment.....	12-APR-12
Read for the third time and passed as amended ....	19-APR-12

Yeas 31  
Nays 0

Patrick Harris  
Secretary