

1 HB311
2 190473-1
3 By Representative Wilcox
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 25-JAN-18

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8 SYNOPSIS:

9 Under existing law, the Alabama
10 Transportation Infrastructure Bank was established
11 pursuant to Act 2015-50. Various sources of funding
12 were authorized to capitalize the bank including
13 revenue from one cent of the gasoline tax and a
14 portion of the revenue from the license and
15 registration fees on trucks and truck tractors. The
16 bank is authorized to make loans to units of
17 government to finance, construct, operate, or own
18 transportation projects. The bank is authorized to
19 raise funds for qualified projects by the issuance
20 of bonds. At the current time, funding has not been
21 made available to capitalize the bank.

22 This bill would further provide for the
23 Alabama Transportation Infrastructure Bank. The
24 bill provides for the establishment of the board of
25 directors of the bank. The bill authorizes
26 additional tax revenue to be pledged to pay and
27 secure revenue bonds issued by the bank as
determined by the Director of Transportation and

1 approved by the Governor, including certain taxes
2 on motor vehicle licenses and registration, certain
3 taxes on diesel fuel and gasoline, and certain fees
4 on identification markers. These taxes and fees and
5 the prior taxes and fees authorized to capitalize
6 the bank would be irrevocably appropriated to
7 capitalize the bank and pay bonds and other
8 financial assistance as determined by the director
9 and approved by the Governor. Under certain
10 conditions, pledges of the revenue would be
11 subordinate to the pledges of the revenue by the
12 Alabama Federal Aid Highway Finance Authority and
13 the Alabama Highway Finance Corporation.

14 The bill would otherwise provide for the
15 operation of the bank, including the following: (1)
16 Provide for the definitions of government unit,
17 loan, permitted investments, qualified project, and
18 qualified borrower; (2) Specify that a borrower may
19 pledge any revenue and, if authorized, its full
20 faith and credit for obligations to the bank; (3)
21 Permit the bank to establish funds and accounts
22 with the State Treasurer or a Commercial bank; (4)
23 Provide that the state Finance Director shall be
24 responsible for directing the withholding of funds
25 upon a default by a government unit; (5) Authorize
26 audits by the Department of Examiners of Public
27 Accounts in addition to independent auditors; (6)

1 Authorize bonds of the bank to be secured by other
2 forms of credit enhancement; (7) Clarify the bonds
3 would not be a debt of the state; (8) Delete the
4 requirement that bonds be issued by the State
5 Treasurer; (9) Specify that any pledge to secure
6 bonds applies to a pledge to secure other financial
7 assistance; (10) Provide that a loan may also be
8 dispersed to refinance temporary financing used to
9 pay eligible costs of a qualified project.

10 The bill would also add provisions relating
11 to the granting of other financial assistance and
12 the execution of other financial instruments,
13 specify that the bank would be a nonprofit
14 corporation, and provide for the dissolution of the
15 bank.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 Relating to the Alabama Transportation
22 Infrastructure Bank; to amend Sections 23-7-2, 23-7-4, 23-7-6,
23 23-7-7, 23-7-9, 23-7-11, 23-7-14, 23-7-15, 23-7-17, 23-7-18,
24 23-7-19, 23-7-20, and 23-7-21, Code of Alabama 1975, and to
25 add Sections 23-7-29, 23-7-30 and 23-7-31 to the Code of
26 Alabama 1975, to further provide for definitions; to provide
27 further for the exercise of the powers of the bank; to provide

1 for the appropriation and pledge of certain gasoline tax
2 revenues, motor vehicle license taxes and registration fees,
3 diesel fuel tax revenues, motor carrier tax revenues, and
4 identification marker fees to capitalize the bank and for the
5 bank to carry out its purposes; to provide for the
6 establishment of the board of directors of the bank; to
7 provide for the administration of the bank; to provide that a
8 pledge of the revenues of the bank to secure its bonds or
9 other financial assistance would continue until such
10 obligations have been paid or terminated unless the instrument
11 providing the pledge provides otherwise; to provide that under
12 certain conditions pledges of revenues would be subordinate to
13 the pledges of the revenues by the Alabama Federal Aid Highway
14 Finance Authority and the Alabama Highway Finance Corporation;
15 to provide for the priority of pledges by the bank; to provide
16 for the irrevocable appropriation to the bank the taxes and
17 fees as recommended by the Director of the Department of
18 Transportation and approved by the Governor for the purpose of
19 providing funds to capitalize the bank and for the bank to
20 carry out its purposes including the pledging for the payment
21 of bonds and other financial assistance; to provide further
22 for the establishment of funds and accounts of the bank; to
23 provide further that a government unit may pledge additional
24 types of tax revenues and, if authorized, its full faith and
25 credit to secure its obligations to the bank; to provide
26 further for the withholding of funds if a government unit
27 fails to pay amounts due to the bank; to provide further for

1 the investment of money of the bank; to provide further that
2 an audit of the books of the bank may be performed by the
3 Department of Examiners of Public Accounts; to provide further
4 that bonds issued by the bank may be secured by other
5 financial assistance provided by the bank as well as by bond
6 insurance, guarantees, letters of credit or other forms of
7 credit enhancement purchased or otherwise obtained by the bank
8 from any public or private entity; to provide further that
9 bonds and other financial assistance issued by the bank would
10 not constitute an obligation or debt of the state or any of
11 its political subdivisions, but would be limited obligations
12 of the bank payable solely from the revenue, money, or
13 property of the bank pledged for the purpose of the
14 instruments; to provide further that neither the full faith
15 and credit nor the taxing power of the state, or any of its
16 political subdivisions is pledged for payment of bonds or
17 other financial assistance of the bank; to remove the
18 requirement that the bank's bonds be issued by the State
19 Treasurer and that a trustee for the bank's bonds would be
20 designated by the State Treasurer; to provide that bonds of
21 the bank may be secured by a pledge of specific revenues and
22 assets; to provide further that any pledge to secure the
23 bank's bonds or other financial assistance is valid and
24 binding from the time it is made and that no recording or
25 filing is necessary to create or perfect any such pledge or
26 security interest; to provide further for the provision of
27 other financial assistance; to provide that the net earnings

1 of the bank shall not inure to the benefit of any individual,
2 firm, or corporation; and to provide for the dissolution of
3 the bank.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 23-7-2, 23-7-4, 23-7-6, 23-7-7,
6 23-7-9, 23-7-15, 23-7-17, 23-7-18, 23-7-19, 23-7-20, and
7 23-7-21, Code of Alabama 1975, are amended to read as follows:

8 "§23-7-2.

9 "For the purposes of this chapter, the following
10 words shall have the following meanings:

11 "(1) BANK. The Alabama Transportation Infrastructure
12 Bank.

13 "(2) BOARD. The board of directors of the bank.

14 "(3) BONDS. Includes bonds, notes, or other evidence
15 of indebtedness except as otherwise provided in this chapter.

16 "(4) DEPARTMENT or DEPARTMENT OF TRANSPORTATION. The
17 Alabama Department of Transportation.

18 "(5) ELIGIBLE COST. As applied to a qualified
19 project to be financed from the federal highway account, the
20 costs that are permitted under applicable federal laws,
21 requirements, procedures, and guidelines in regard to
22 establishing, operating, and providing assistance from the
23 bank. As applied to a qualified project to be financed from
24 the state highway account, these costs include the costs of
25 preliminary engineering, traffic, and revenue studies;
26 environmental studies; right-of-way acquisition; legal and
27 financial services associated with the development of the

1 qualified project; construction; construction management;
2 facilities; and other costs necessary for the qualified
3 project.

4 "(6) ELIGIBLE PROJECT. Highways, roads, bridges, and
5 mass transit capital projects which provide public benefits by
6 either enhancing mobility and safety, promoting economic
7 development, or increasing the quality of life and general
8 welfare of the public.

9 "(7) FINANCING AGREEMENT. Any agreement entered into
10 between the bank and a qualified borrower pertaining to a loan
11 or other financial assistance. This agreement may contain, in
12 addition to financial terms, provisions relating to the
13 regulation and supervision of a qualified project, or other
14 provisions as the board may determine. The term includes,
15 without limitation, a loan agreement, trust indenture,
16 security agreement, reimbursement agreement, guarantee
17 agreement, bond or note, ordinance or resolution, or similar
18 instrument.

19 "(8) GOVERNMENT UNIT. A municipal corporation,
20 county, or another public body, instrumentality, or agency of
21 the state including combinations of two or more of these
22 entities acting jointly to finance, construct, own, or operate
23 a qualified project, and any other state or local authority,
24 public corporation, board, commission, agency, department, or
25 other political subdivision created by the Legislature or
26 pursuant to the Constitution of Alabama of 1901, and laws of

1 this state which may finance, construct, own, or operate a
2 qualified project.

3 "(9) LOAN. An obligation subject to repayment which
4 is provided by the bank to a qualified borrower for all or a
5 part of the eligible cost of a qualified project. A loan may
6 be disbursed in anticipation of reimbursement for or direct
7 payment of eligible costs of a qualified project or to
8 refinance temporary financing used to pay eligible costs of a
9 qualified project.

10 "(10) LOAN OBLIGATION. A bond, note, or other
11 evidence of an obligation issued by a qualified borrower.

12 "(11) OTHER FINANCIAL ASSISTANCE. Includes, but is
13 not limited to, grants, contributions, credit enhancement,
14 capital or debt reserves for bonds or debt instrument
15 financing, interest rate subsidies, provision of letters of
16 credit and credit instruments, provision of bond or other debt
17 financing instrument security, and other lawful forms of
18 financing and methods of leveraging funds that are approved by
19 the board, and in the case of federal funds, as allowed by
20 federal law.

21 "(12) PERMITTED INVESTMENTS. Include any of the
22 following:

23 "a. Certificates of deposit, savings accounts,
24 deposit accounts or money market deposits that are 1. secured
25 as provided in Chapter 14A of Title 41; 2. fully insured by
26 the FDIC; or 3. made with a bank whose unsecured, long-term
27 obligations are rated by at least one nationally recognized

1 securities rating agency in one of the three highest rating
2 categories assigned by that rating agency.

3 "b. Direct obligations of, or obligations the full
4 and timely payment of which is guaranteed by, the United
5 States of America, including unit investment trusts and mutual
6 funds that invest solely in such obligations.

7 "c. Bonds, debentures, notes, pass through
8 securities, or other obligations issued or guaranteed by any
9 federal agency or corporation which has been or may hereafter
10 be created by or pursuant to an act of the Congress of the
11 United States of America as an agency or instrumentality
12 thereof if such obligations are either of the following:

13 "1. Backed by the full faith and credit of the
14 United States of America.

15 "2. Rated by at least one nationally recognized
16 securities rating agency in one of the three highest rating
17 categories assigned by the rating agency.

18 "d. Commercial paper which is rated not less than
19 "P-1" by Moody's Investor Service or "A-1+" by Standard &
20 Poor's at the time of purchase.

21 "e. Money market funds rated by at least one
22 nationally recognized securities rating agency in one of the
23 three highest rating categories assigned by that rating
24 agency.

25 "f. Bonds, warrants, notes, or other obligations
26 issued by any state, county or municipality that are rated by
27 at least one nationally recognized securities rating agency in

1 one of the three highest rating categories assigned by that
2 rating agency.

3 "g. Investment agreements, including, without
4 limitation, guaranteed investment contracts, repurchase
5 agreements and forward purchase agreements, provided that all
6 of the following are satisfied:

7 "1. Any securities purchased or held pursuant to
8 such agreement are otherwise permitted investments.

9 "2. The counterparty's long-term debt obligations
10 are rated by at least one nationally recognized securities
11 rating agency in one of the three highest rating categories
12 assigned by that rating agency.

13 "3. The securities, if purchased, are owned by the
14 bank or a trustee for any of the bank's obligations and are
15 held by the bank, the trustee or a third-party custodian
16 acceptable to the bank or, if held as collateral, are held by
17 the bank, the trustee or a third-party custodian acceptable to
18 the bank with a perfected first security interest in such
19 collateral.

20 "h. Investment or cash management agreements with a
21 commercial bank whose senior long-term debt obligations are,
22 at the time of the acquisition of any such investment or cash
23 management agreement for the account of the bank, rated by at
24 least one nationally recognized securities rating agency in
25 one of the three highest rating categories assigned by that
26 rating agency, or with a commercial bank that is owned or
27 controlled by a bank holding company whose senior long-term

1 debt obligations are, at the time of the acquisition of any
2 such investment or cash management agreement for the account
3 of the bank, rated by at least one nationally recognized
4 securities rating agency in one of the three highest rating
5 categories assigned by that rating agency.

6 "~~(12)~~ (13) PROJECT REVENUES. All rates, rents, fees,
7 assessments, charges, and other receipts derived or to be
8 derived by a qualified borrower from a qualified project or
9 made available from a special source, and, as provided in the
10 applicable financing agreement, derived from any system of
11 which the qualified project is a part of, from any other
12 revenue producing facility under the ownership or control of
13 the qualified borrower including, without limitation, proceeds
14 of grants, gifts, appropriations, and loans, including the
15 proceeds of loans made by the bank, investment earnings,
16 reserves for capital and current expenses, proceeds of
17 insurance or condemnation and proceeds from the sale or other
18 disposition of property and from any other special source as
19 may be provided by the qualified borrower.

20 "~~(13)~~ (14) QUALIFIED BORROWER. Any government unit
21 which is authorized to finance, construct, operate, or own a
22 qualified project or the applicable portion thereof in the
23 case of a qualified project consisting of a pool of eligible
24 projects for more than one government unit.

25 "~~(14)~~ (15) QUALIFIED PROJECT. ~~Am~~ Includes either of
26 the following:

1 "a. An eligible project or combination of eligible
2 projects of a government unit the aggregate total cost of
3 which exceeds five million dollars (\$5,000,000) which has been
4 selected by the bank to receive a loan or other financial
5 assistance from the bank to defray an eligible cost.

6 b. A pool of eligible projects of government units
7 the aggregate total cost of which exceeds five million dollars
8 (\$5,000,000) which government units have been selected by the
9 bank to receive a loan funded from the proceeds of bonds
10 issued by the bank for the pool of eligible projects to defray
11 an eligible cost.

12 "~~(15)~~ (16) REVENUES. When used with respect to the
13 bank, any receipts, fees, income, or other payments received
14 or to be received by the bank including, without limitation,
15 receipts and other payments deposited in the bank and
16 investment earnings on its funds and accounts.

17 "§23-7-4.

18 "(a) The board of directors is the governing board
19 of the bank. The board shall consist of seven voting members
20 as follows:

21 "(1) The Director of the Department of
22 Transportation, ex officio, who shall be designated as chair.

23 "(2) The State Finance Director, ex officio, who
24 shall be designated as secretary.

25 "~~(2)~~ (3) Three ~~Four~~ members appointed by the
26 Governor, ~~one of whom shall be designated as chair.~~

1 ~~"(3)~~ (4) One member of the House of Representatives
2 appointed by the Speaker of the House of Representatives.

3 ~~"(4)~~ (5) One member of the Senate appointed by the
4 President Pro Tempore of the Senate.

5 "(b) Members appointed by the Governor hold office
6 concurrently with the Governor and until their successors are
7 appointed and qualified. Members appointed by the Speaker of
8 the House of Representatives and the President Pro Tempore of
9 the Senate shall serve during the member's term of office
10 during which the member was appointed and until the member's
11 successor is appointed and qualified. The vice chair shall be
12 elected by the board. Any person appointed to fill a vacancy
13 shall be appointed in the same manner as the original
14 appointee for the remainder of the unexpired term.

15 "(c) Any four members of the board of directors
16 shall constitute a quorum for the transaction of business.

17 "(d) All appointing authorities shall coordinate
18 their appointments so that the diversity of gender, race, and
19 geographical areas is reflective of the makeup of this state.

20 "§23-7-6.

21 "(a) The following sources may be used to capitalize
22 the bank and for the bank to carry out its purposes:

23 "(1) An annual contribution, as determined by the
24 Director of the Department of Transportation and approved by
25 the Governor, of an amount not to exceed revenues produced by
26 one cent (\$.01) a gallon of the tax on gasoline imposed
27 pursuant to subdivision (1) of subsection (a) of Section

1 ~~40-17-325 Act 2011-565, 2011 Regular Session.~~ Any funds
2 contributed pursuant to this subdivision shall be derived from
3 the gasoline tax proceeds collected during the fiscal year
4 remaining in the Public Road and Bridge Fund after
5 distributions of the tax to the cities and counties. ~~Any~~
6 ~~contributions which are to provide funds for debt service on~~
7 ~~bonds issued by the bank shall continue until the bonds have~~
8 ~~been fully repaid.~~

9 "(2) An annual contribution, as determined by the
10 Director of the Department of Transportation and approved by
11 the Governor, of an amount of the revenues collected during
12 the fiscal year pursuant to Section 40-12-248, not to exceed
13 the balance remaining in the Public Road and Bridge Fund
14 pursuant to Section 40-12-270(d)(3), after the distributions
15 required pursuant to Sections 40-12-270(d)(1) and
16 40-12-270(d)(2). The limitation in this subdivision on the
17 amount of any cash contributions to the bank out of the
18 revenues from the truck and truck tractor license tax and
19 registration fees levied pursuant to Section 40-12-248 is not
20 intended to limit the bank's authority to pay bonds and other
21 financial assistance from the motor vehicle license tax and
22 registration fee revenues authorized to be used for such
23 purpose in subdivision (1) of subsection (b) or to limit the
24 bank's ability to pledge the motor vehicle license tax and
25 registration fee revenue for that purpose. ~~Any contributions~~
26 ~~which are to provide funds for debt service on bonds issued by~~

1 ~~the bank shall continue until the bonds have been fully~~
2 ~~repaid.~~

3 "(3) Federal funds made available to the state.

4 "(4) Federal funds made available to the state for
5 the bank.

6 "(5) Contributions and donations from government
7 units, and any other source as may become available to the
8 bank including, but not limited to, appropriations from the
9 Legislature.

10 "(6) All monies paid or credited to the bank, by
11 contract or otherwise, payments of principal and interest on
12 loans or other financial assistance made from the bank, and
13 interest earnings which may accrue from the investment or
14 reinvestment of the bank's monies.

15 "(7) Proceeds from the issuance of bonds as provided
16 in this chapter.

17 "(8) Other lawful sources as determined appropriate
18 by the board.

19 "(9) Loans from the department to the bank to be
20 repaid from revenues committed to the bank for the following
21 year.

22 "(b) With the recommendation of the Director of the
23 Department of Transportation and approval by the Governor, the
24 following revenue sources may be used to pay and secure bonds
25 and other financial assistance issued by the bank:

26 "(1) The motor vehicle license taxes and
27 registration fees that are provided to be distributed to the

1 state pursuant to the provisions of Division 1 of Article 5 of
2 Chapter 12 of Title 40, remaining after the costs of
3 collection thereof.

4 "(2) The excise taxes levied by subdivision (2) of
5 subsection (a) of Section 40-17-325 on diesel fuel, except for
6 the portion required to be distributed to municipalities and
7 counties pursuant to subsection (b) of Section 40-17-361,
8 remaining after payment of the costs of collection thereof.
9 The term "costs of collection," as used in this subdivision,
10 shall mean that portion of the excise taxes referred to in
11 this subdivision that may be appropriated by the Legislature
12 to the Department of Revenue for its operating expenses.

13 "(3) The excise tax levied by Article 3 of Chapter
14 17 of Title 40, remaining after payment of the costs of
15 collection thereof, exclusive of that portion of the tax in
16 respect of gasoline. The term "costs of collection," as used
17 in this subdivision, shall mean that portion of the excise tax
18 referred to in this subdivision that may be appropriated by
19 the Legislature to the Department of Revenue for its operating
20 expenses.

21 "(4) The receipts from the fee in respect of
22 identification markers on motor vehicles that is provided for
23 in Section 40-17-150.

24 "(c) Any pledge of the revenues and amounts
25 described in subsection (a) or (b) to provide funds for
26 payment of debt service on bonds issued by the bank or to pay
27 obligations of the bank with respect to other financial

1 assistance shall continue until the bonds have been fully
2 repaid or the bank's obligations with respect to the other
3 financial assistance has terminated, unless the trust
4 indenture, financing agreement, or other related instrument
5 providing for the pledge expressly provides that the pledge
6 may be terminated earlier or otherwise limited by the bank.

7 "(d) Any pledge by the bank of revenues described in
8 subdivision (1) of subsection (a) shall be subordinate to the
9 pledges thereof for the benefit of bonds of Alabama Federal
10 Aid Highway Finance Authority and Alabama Highway Finance
11 Corporation. Any pledge by the bank of revenues described in
12 subdivision (2) of subsection (a) and subsection (b) shall be
13 subordinate to the pledges thereof for the benefit of bonds of
14 the Alabama Highway Finance Corporation. Pledges by the bank
15 of the revenue sources described in subsections (a) and (b)
16 for its bonds or other financial assistance shall take
17 precedence among themselves in the order of the instruments
18 making the pledges, except as otherwise provided in the
19 instruments.

20 "(e) There is hereby irrevocably appropriated to the
21 bank so much of the taxes and fees described in subdivisions
22 (1) and (2) of subsection (a) and subsection (b) as the
23 Director of the Department of Transportation shall from time
24 to time determine and the Governor shall approve for the
25 purpose of providing funds to capitalize the bank and for the
26 bank to carry out its purposes, including, without limitation,
27 amounts pledged for payment of debt service on the bonds of

1 the bank or pledged to pay amounts owed by it under any other
2 financial assistance.

3 "§23-7-7.

4 "(a) Earnings on balances in the federal highway
5 account, as created by this chapter, must be credited and
6 invested according to federal law. The bank may establish
7 accounts and subaccounts within the state highway account and
8 the federal highway account as considered desirable to
9 effectuate the purposes of this chapter, or to meet the
10 requirements of any state or federal programs. ~~All accounts~~
11 ~~shall be held in trust by the State Treasurer.~~

12 ~~"(b) For necessary and convenient administration of~~
13 ~~the bank, the board shall direct the State Treasurer to~~
14 ~~establish federal and state accounts and subaccounts within~~
15 ~~the bank necessary to meet any applicable federal law~~
16 ~~requirements or as the bank shall determine necessary or~~
17 ~~desirable in order to implement this chapter.~~

18 ~~"(c)~~ (b) The bank shall comply with all applicable
19 federal laws and regulations prohibiting the commingling of
20 certain federal funds deposited in the bank.

21 "(c) The operations of the bank shall be
22 administered by the department, as agent for the bank, and the
23 department may establish procedures and adopt rules necessary
24 to administer the operations of the bank in accordance with
25 applicable law and to enter into contracts and other
26 agreements in connection with the operation of the bank
27 including, but not limited to, contracts and agreements with

1 federal agencies, public bodies, the bank, and other parties
2 to the extent necessary or convenient for administration of
3 the bank's operations. Except as provided in this chapter,
4 acting as agent for the bank, the department shall maintain
5 full authority for the administration of the bank's operations
6 in accordance with applicable federal and state law.

7 "§23-7-9.

8 "(a) Qualified borrowers may obtain loans or other
9 financial assistance from the bank through financing
10 agreements. Qualified borrowers entering into financing
11 agreements and issuing loan obligations to the bank may
12 perform any acts, take any action, adopt any proceedings, and
13 make and carry out any contracts or agreements with the bank
14 as may be agreed to by the bank and any qualified borrower for
15 carrying out the purposes of this chapter.

16 "(b) In addition to the authorizations contained in
17 this chapter, all other statutes or provisions permitting
18 government units to borrow money and issue obligations may be
19 utilized by any government unit in obtaining a loan or other
20 financial assistance from the bank to the extent determined
21 necessary or useful by the government unit in connection with
22 any financing agreement and the issuance, securing, or sale of
23 loan obligations to the bank.

24 "(c) A qualified borrower may receive, apply,
25 pledge, assign, and grant a security interest in project
26 revenues, and, in the case of a government unit, its project
27 revenues, revenues derived from a special source, ~~or~~ ad

1 valorem or other taxes, or, if the government unit is
2 authorized, its full faith and credit, to secure its
3 obligations as provided in this chapter, and may fix, revise,
4 charge, and collect fees, rates, rents, assessments, and other
5 charges of general or special application for the operation or
6 services of a qualified project, the system of which it is a
7 part, and any other revenue producing facilities from which
8 the qualified borrower derives project revenues, to meet its
9 obligations under a financing agreement or to provide for the
10 construction and improving of a qualified project.

11 "§23-7-11.

12 "(a) If a government unit fails to collect and remit
13 in full all amounts due to the bank on the date these amounts
14 are due under the terms of any note or other obligation of the
15 government unit, the bank shall notify the ~~State Treasurer~~
16 State Finance Director who shall direct the withholding of
17 ~~withhold~~ all or a portion of the funds of the state and all
18 funds administered by the state, its agencies, boards, and
19 instrumentalities allotted or appropriated to the government
20 unit and apply an amount necessary to the payment of the
21 amount due.

22 "(b) Nothing contained in this section mandates the
23 withholding of funds allocated to a government unit the
24 withholding of which would violate contracts to which the
25 state is a party, the requirements of federal law imposed on
26 the state, or judgments of a court binding on the state.

27 "§23-7-14.

1 ~~All money of the bank, except as authorized by law~~
2 ~~or provided in this chapter, shall be deposited with and~~
3 ~~invested by the State Treasurer. Funds of the bank not needed~~
4 ~~for immediate use or disbursement may be invested by the State~~
5 ~~Treasurer in obligations or securities which are declared to~~
6 ~~be legal obligations by general law. All federal funds shall~~
7 ~~be invested as required by applicable federal law.~~ Money in
8 funds or accounts of the bank may be invested in permitted
9 investments; provided, the investment of any federal funds
10 shall comply with any applicable federal requirements.

11 "§23-7-15.

12 "Following the close of each state fiscal year, the
13 bank shall submit an annual report of its activities for the
14 preceding year to the Governor and to the Legislature. The
15 bank also shall submit an annual report to the appropriate
16 federal agency in accordance with requirements of any federal
17 program. An independent certified public accountant or the
18 Department of Examiners of Public Accounts shall perform an
19 audit of the books and accounts of the bank at least once in
20 each state fiscal year.

21 "§23-7-17.

22 "(a) Whenever it shall become necessary that monies
23 be raised for qualified projects, including monies to be used
24 to refund any bonds then outstanding, the bank may issue bonds
25 as provided in this chapter.

26 "(b) The bank may pledge any of its revenue or funds
27 to the payment of its bonds, subject ~~only~~ to any prior

1 ~~agreements with the holders of particular bonds which may have~~
2 ~~pledged specific money or revenue~~ pledges for other
3 outstanding bonds or other financial assistance of the bank
4 and, in the case of those revenues described in subdivisions
5 (1) and (2) of subsection (a) and subsection (b) of Section
6 23-7-6, pledges by Alabama Federal Aid Highway Finance
7 Authority and Alabama Highway Finance Corporation of the
8 revenues for bonds issued by those entities. Bonds may be
9 secured by a pledge of any loan obligation owned by the bank,
10 any grant, contribution, or guaranty from the United States,
11 the state, or any corporation, association, institution, or
12 person, any other financial assistance provided by the bank,
13 any bond insurance, guarantees, letters of credit or other
14 forms of credit enhancement purchased or otherwise obtained by
15 the bank from any public or private entity, any other property
16 or assets of the bank, or a pledge of any money, income, or
17 revenue of the bank from any source.

18 "§23-7-18.

19 "Bonds, other financial assistance, and other
20 obligations issued by the bank shall not constitute ~~a~~ an
21 obligation or debt or a pledge of the full faith and credit of
22 this state, or any of its political subdivisions ~~other than~~
23 ~~the bank,~~ but ~~are~~ shall be limited obligations of the bank
24 payable solely from the revenue, money, or property of the
25 bank pledged for such purpose as provided in this chapter. ~~The~~
26 Any bonds, other financial assistance, or other obligations of
27 the bank issued do not constitute an indebtedness of the state

1 or any of its political subdivisions within the meaning of any
2 constitutional or statutory limitation, and neither the full
3 faith and credit nor the taxing power of the state, or any of
4 its political subdivisions, is pledged to the payment thereof.

5 No member of the bank or any person executing bonds, other
6 financial assistance, or other obligations of the bank is
7 liable personally thereon ~~on the bonds~~ by reason of their
8 issuance or execution. Each bond, other financial assistance,
9 and other obligation issued under this chapter shall contain
10 on its face a statement to the effect of the following:

11 " (1) ~~Neither the state, any of its political~~
12 ~~subdivisions, nor the bank is obligated to pay the principal~~
13 ~~of or interest on the bond or other costs incident to the bond~~
14 ~~except~~ The instrument is not a general obligation of the bank,
15 but is a limited obligation of the bank payable solely from
16 the revenue, money, or property of the bank pledged.

17 " (2) The instrument is not an obligation or debt of
18 the state, or any of its political subdivisions, and neither
19 ~~Neither~~ the full faith and credit nor the taxing power of the
20 state, or any of its political subdivisions, is pledged to the
21 payment of the instrument ~~principal of or interest on the~~
22 ~~bond.~~

23 " (3) The bank does not have taxing power.

24 "§23-7-19.

25 " (a) The bonds of the bank must be authorized by a
26 resolution of the bank.

1 "(b) The bonds shall bear the date and mature at the
2 time which the resolution provides, except that no bond may
3 mature more than 40 years from its date of issue.

4 "(c) The bonds may be in the denominations, be
5 executed in the manner, be payable in the medium of payment,
6 be payable at the place and at the time, and be subject to
7 redemption or repurchase and contain other provisions
8 determined by the bank prior to their issuance.

9 "(d) The bonds may bear interest payable at a time
10 and at a rate as determined by the bank, including the
11 determination by agents designated by the bank under
12 guidelines established by it.

13 "(e) Bonds may be sold by the bank at public or
14 private sale at the price it determines and approves.

15 ~~"(f) The State Treasurer shall issue the bonds of
16 the bank not later than 60 days upon the resolution of the
17 bank authorizing the issuance of the bonds.~~

18 "§23-7-20.

19 "(a) Bonds may be secured by a trust indenture
20 between the bank and a corporate trustee, which may be the
21 State Treasurer or any bank having trust powers or any trust
22 company, ~~designated by the State Treasurer~~ doing business in
23 this state. A trust indenture may contain provisions for
24 protecting and enforcing the rights and remedies of the
25 bondholders which are reasonable and proper, including
26 covenants setting forth the duties of the bank in relation to
27 the exercise of its powers and the custody, safekeeping, and

1 application of its money. The bank may provide by the trust
2 indenture for the payment of the proceeds of the bonds and all
3 or any part of the revenues of the bank to the trustee under
4 the trust indenture or to some other depository, and for the
5 method of its disbursement with safeguards and restrictions
6 prescribed by it. All expenses incurred in performing the
7 obligations of the bank under the trust indenture may be
8 treated as part of its operating expenses.

9 "(b) Any resolution or trust indenture pursuant to
10 which bonds are issued may contain provisions which are part
11 of the contract with the holders of the bonds and which
12 include the following:

13 "(1) Pledging ~~all or any part of the revenue~~
14 specific revenues of the bank to secure the payment of the
15 bonds.

16 "(2) Pledging ~~all or any part of the~~ specific assets
17 of the bank including loan obligations owned by it to secure
18 the payment of the bonds.

19 "(3) The use and disposition of the gross income
20 from, and payment of the principal of, and interest on loan
21 obligations owned by the bank.

22 "(4) The establishment of reserves, sinking funds,
23 and other funds and accounts, and their regulation and
24 disposition.

25 "(5) Limitations on the purposes to which the
26 proceeds from the sale of the bonds may be applied, and

1 limitations on pledging the proceeds to secure the payment of
2 the bonds.

3 "(6) Limitations on the issuance of additional
4 bonds, the terms upon which additional bonds may be issued and
5 secured, and the refunding of outstanding or other bonds.

6 "(7) The procedure, if any, by which the terms of
7 any contract with bondholders may be amended or abrogated, the
8 amount of bonds, if any, the holders of which must consent to,
9 and the manner in which any consent may be given.

10 "(8) Limitations on the amount of money to be
11 expended by the bank for its operating expenses.

12 "(9) Vesting in a trustee property, rights, powers,
13 and duties as the bank may determine, limiting or abrogating
14 the right of bondholders to appoint a trustee, and limiting
15 the rights, powers, and duties of the trustee.

16 "(10) Defining the acts or omissions which
17 constitute a default, the obligations or duties of the bank to
18 the holders of the bonds, and the rights and remedies of the
19 holders of the bonds in the event of default, including as a
20 matter of right the appointment of a receiver, and all other
21 rights generally available to creditors.

22 "(11) Requiring the bank or the trustee under the
23 trust indenture to take any and all other action to obtain
24 payment of all sums required to eliminate any default as to
25 any principal of and interest on loan obligations owned by the
26 bank or held by a trustee, which may be authorized by the laws
27 of this state.

1 "(12) Any other matter relating to the terms of the
2 bonds or the security or protection of the holders of the
3 bonds which may be considered appropriate.

4 "§23-7-21.

5 "(a) Any pledge made by the bank to secure its
6 obligations with respect to bonds or other financial
7 assistance is valid and binding from the time the pledge is
8 made. The revenue, money, or property pledged and received by
9 the bank is immediately subject to the lien of the pledge
10 without any physical delivery or further act. The lien of any
11 pledge is valid and binding as against all parties having
12 claims of any kind in tort, contract, or otherwise against the
13 bank, irrespective of whether the parties have notice of the
14 pledge.

15 "(b) No recording or filing of the resolution
16 authorizing the issuance of bonds or other financial
17 assistance, the trust indenture or other financing agreement
18 securing the bonds or other financial assistance, or any other
19 instrument including filings under the Uniform Commercial Code
20 is necessary to create or perfect any pledge or security
21 interest granted by the bank to secure any bonds or other
22 financial assistance."

23 Section 2. Sections 23-7-29, 23-7-30, and 23-7-31
24 are added to the Code of Alabama 1975, to read as follows:

25 §23-7-29.

26 (a) The granting of other financial assistance by
27 the bank shall be authorized by a resolution of the bank.

1 (b) The bank may execute instruments and enter into
2 financing agreements, including, without limitation, a trust
3 indenture between the bank and a corporate trustee, which may
4 be the State Treasurer or any bank having trust powers or any
5 trust company doing business in this state, containing the
6 terms and conditions as the bank shall determine in connection
7 with the provision of other financial assistance and the
8 securing its obligations with respect to other financial
9 assistance.

10 (c) The bank may pledge any of its revenues or funds
11 to the payment of other financial assistance provided by the
12 bank, subject to any prior pledges for outstanding bonds or
13 other financial assistance of the bank and, in the case of
14 those revenues described in subdivisions (1) and (2) of
15 subsection (a) and subsection (b) of Section 23-7-6, the
16 pledges by Alabama Federal Aid Highway Finance Authority and
17 Alabama Highway Finance Corporation of the revenues for bonds
18 issued by the entities. Other financial assistance may be
19 secured by a pledge of any loan obligation owned by the bank,
20 any grant, contribution, or guaranty from the United States,
21 the state, or any corporation, association, institution, or
22 person, any other property or assets of the bank, or a pledge
23 of any money, income, or revenue of the bank from any source.

24 §23-7-30.

25 The bank shall be a nonprofit corporation and no
26 part of its net earnings remaining after payment of its
27 expenses shall inure to the benefit of any individual, firm,

1 or corporation, except that in the event its board of
2 directors shall determine that sufficient provision has been
3 made for the full payment of the expenses, bonds, other
4 financial assistance and other obligations of the bank, then
5 any net earnings of the bank thereafter accruing shall be paid
6 to the state.

7 §23-7-31.

8 At any time when no bonds, other financial
9 assistance or other obligations of the bank are outstanding,
10 the bank may be dissolved upon the filing with the Secretary
11 of State of an application for dissolution, which shall be
12 subscribed by each of the directors of the bank and which
13 shall be sworn to by each director before an officer
14 authorized to take acknowledgments to deeds. Upon the filing
15 of the application for dissolution, the bank shall cease and
16 any property owned by it at the time of its dissolution shall
17 pass to the state. The Secretary of State shall file and
18 record the application for dissolution, in an appropriate book
19 of record in his or her office, and shall make and issue,
20 under the Great Seal of the State, a certificate that the bank
21 is dissolved and shall record the certificate with the
22 application for dissolution.

23 Section 3. The provisions of this act are severable.
24 If any part of this act is declared invalid or
25 unconstitutional, that declaration shall not affect the part
26 which remains.

1 Section 4. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.