

1 HB34  
2 179134-1  
3 By Representatives Collins and Johnson (K)  
4 RFD: Ways and Means General Fund  
5 First Read: 15-AUG-16

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8 SYNOPSIS: This bill would authorize the creation of  
9 the Alabama Economic Settlement Authority. This  
10 bill would authorize the Authority to issue bonds  
11 payable from revenues received from the settlement  
12 of certain claims of the State against BP Petroleum  
13 and Exploration, Inc. and would provide for the  
14 terms of the bonds and their sale. The bill would  
15 provide for the distribution of the proceeds of the  
16 bonds to make deposits in the Alabama Trust Fund  
17 and the General Fund Rainy Day Account and to pay  
18 the cost of certain transportation projects of the  
19 State. This bill would also create a special fund  
20 entitled the "BP Settlement Fund" into which  
21 revenues from the settlement of economic damages  
22 claims against BP Petroleum and Exploration, Inc.  
23 would be deposited, and would pledge and  
24 appropriate such revenues for the payment of the  
25 authority's bonds.

26 This bill would also express legislative  
27 intent regarding previously enacted appropriations

1           for debt payments and the Alabama Medicaid Agency  
2           and would modify the repayment schedule for  
3           remaining amounts owed to the Alabama Trust Fund  
4           pursuant to the People's Trust Act.

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6                                   A BILL  
7                                   TO BE ENTITLED  
8                                   AN ACT

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10                           To authorize the creation of a new public  
11           corporation of the State of Alabama to be known as the  
12           "Alabama Economic Settlement Authority"; to make Legislative  
13           findings; to provide procedures for incorporating the  
14           authority; to provide for the members, officers and directors  
15           of the authority; to provide for the powers of the authority;  
16           to authorize the issuance of bonds by the authority and to  
17           provide for the source of payment of, and security for, the  
18           bonds; to provide for the form, sale and execution of the  
19           bonds; to provide for the disposition of the proceeds of the  
20           bonds, including deposits in the Alabama Trust Fund and the  
21           General Fund Rainy Day Account of the Alabama Trust Fund and  
22           the payment of costs of certain transportation projects; to  
23           create a special fund to be known as the "BP Settlement Fund"  
24           and to provide for deposits into and withdrawals from the  
25           fund; to appropriate and pledge certain revenues to be  
26           received by the State from the settlement of claims against BP  
27           Petroleum Exploration and Production, Inc. as security for the

1 bonds and other uses; to provide a procedure for establishing  
2 the validity of the bonds; to provide that the bonds shall be  
3 exempt from taxation in the State; to make other provisions  
4 related to the sale of the bonds, services to be provided by  
5 the Department of Finance and dissolution of the authority  
6 when no bonds remain outstanding; to express legislative  
7 intent regarding previously enacted debt payments; to amend  
8 Section 18 of Act 2015-540; and to amend Section 29-10-1, Code  
9 of Alabama 1975, to provide for modifications to the repayment  
10 schedule of amounts due to the Alabama Trust Fund pursuant to  
11 the People's Trust Act.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Legislative Findings and Purpose.

14 (a) The Legislature finds and declares the  
15 following:

16 (1) Whereas, Baldwin County and Mobile County have  
17 received approximately thirty-three million dollars  
18 (\$33,000,000) in economic damage settlements from the  
19 Deepwater Horizon Oil Spill; and

20 Whereas, two hundred ninety-six million dollars  
21 (\$296,000,000) in Natural Resource Damage Assessment (NRDA)  
22 funds have been allocated for projects in Baldwin County and  
23 Mobile County; and

24 Whereas, seven hundred twenty-five million dollars  
25 (\$725,000,000) from Resources and Ecosystems Sustainability,  
26 Tourist Opportunities, and Revived Economies of the Gulf Coast

1 States (RESTORE) Act funds have been allocated for projects in  
2 Baldwin County and Mobile County; and

3           Whereas, three hundred fifty-six million dollars  
4 (\$356,000,000) in National Fish and Wildlife Foundation (NFWF)  
5 funds have been deposited in the Gulf Environmental Benefit  
6 Fund (GEBF) for projects in Baldwin County and Mobile County;  
7 and

8           Whereas, the Alabama Gulf State Park project,  
9 located in Baldwin County, received the first fifty million  
10 dollars (\$50,000,000) from state economic damages awarded in  
11 the Deepwater Horizon Oil Spill Settlement; and

12           Whereas, individuals, business owners, and boat  
13 owners and crews in the State of Alabama have received in  
14 excess of two billion dollars (\$2,000,000,000) in claims  
15 related to the Deepwater Horizon Oil Spill; and

16           Whereas, Baldwin County and Mobile County are  
17 expected to receive additional funds from Phase II of the Gulf  
18 of Mexico Energy Security Act (GOMESA); and

19           Whereas, Baldwin County and Mobile County recognized  
20 a decrease in lodgings tax collections of 3.70% in 2009 and  
21 6.57% in 2010, these counties have since then recognized an  
22 increase in lodgings tax collections of 24.46% in 2011, 11.54%  
23 in 2012, 6.78% in 2013, 8.39% in 2014, and 10.60% in 2015; now  
24 therefore,

25           It is the intention of the Legislature to issue  
26 bonds pledged to be paid for by the remaining, unobligated  
27 proceeds of the Deepwater Horizon Oil Spill Settlement

1 relating to economic damages incurred throughout the entire  
2 state, and that such proceeds shall not be used to benefit one  
3 region in the State but shall be used to benefit the State as  
4 a whole.

5 (2) In recent years, withdrawals have been made from  
6 the Alabama Trust Fund and the General Fund Rainy Day Account  
7 of the Alabama Trust Fund for current budgetary purposes. The  
8 Constitution and laws of the State of Alabama require  
9 repayment of the withdrawals and the Legislature recognizes  
10 the need to restore those funds to their prescribed levels.

11 (3) It is desirable and in the public interest to  
12 establish a public corporation of the State of Alabama with  
13 the power to issue bonds for the purpose of making transfers  
14 to and deposits in the Alabama Trust Fund and the General Fund  
15 Rainy Day Account of the Alabama Trust Fund, and for paying  
16 the costs of transportation projects, and to appropriate and  
17 pledge a portion of the revenues to be received by the State  
18 from the settlement of certain claims against BP Exploration  
19 and Production, Inc. (and its corporate affiliates) as the  
20 source of payment of the bonds.

21 (4) By the passage of this act, it is the intention  
22 of the Legislature to:

23 a. Provide for the creation of a special fund known  
24 as the "BP Settlement Fund" into which BP settlement revenues  
25 (hereinafter defined) will be deposited.

26 b. Authorize the incorporation of the Alabama  
27 Economic Settlement Authority, with the power to issue bonds

1 as provided in this act for the purpose of providing funds to  
2 be transferred to and deposited in the Alabama Trust Fund and  
3 the General Fund Rainy Day Account of the Alabama Trust Fund,  
4 and for paying the costs of certain transportation projects,  
5 which bonds shall be payable out of the monies held in the BP  
6 Settlement Fund and any other monies and property available to  
7 the authority.

8 c. Appropriate annually the monies held in the BP  
9 Settlement Fund for the payment of such bonds.

10 Section 2. Definitions. When used in this act, the  
11 following terms shall have the following meanings, unless the  
12 context clearly indicates otherwise:

13 (1) ALABAMA TRUST FUND. The trust fund of the State  
14 created under Amendment 450 to the Constitution of Alabama of  
15 1901, as amended, and appearing as §219.02 of the Official  
16 Recompilation of the Constitution of Alabama 1901, as amended.

17 (2) APPROPRIATED FUNDS. The BP settlement revenues  
18 deposited in the special fund to the extent such revenues are  
19 appropriated to the authority pursuant to Section 10.

20 (3) AUTHORITY. The Alabama Economic Settlement  
21 Authority authorized to be established pursuant to Section 3.

22 (4) BONDS. Those bonds, including refunding bonds,  
23 issued pursuant to this act.

24 (5) BP SETTLEMENT REVENUES. Revenues received by the  
25 state in settlement of economic damages claims of the state  
26 against BP Exploration and Production, Inc. (and any of its  
27 corporate affiliates) arising out of the Deepwater Horizon oil

1 spill in the Gulf of Mexico. BP settlement revenues do not  
2 include amounts received by the state from or through natural  
3 resource damage assessment claims, the federal RESTORE Act, or  
4 claims otherwise restricted by federal law or court order.

5 (6) GOVERNMENT SECURITIES. Any bonds or other  
6 obligations, the principal of and interest on which constitute  
7 direct obligations of, or are unconditionally guaranteed by,  
8 the United States of America, including obligations of any  
9 federal agency to the extent such obligations are  
10 unconditionally guaranteed by the United States of America and  
11 any certificates or any other evidences of an ownership  
12 interest in such obligations of, or unconditionally guaranteed  
13 by, the United States of America or in specified portions  
14 thereof, which may consist of the principal thereof or the  
15 interest thereon.

16 (7) PERMITTED INVESTMENTS. (i) Government  
17 Securities; (ii) bonds, debentures, notes, or other evidences  
18 of indebtedness issued by any of the following agencies: Bank  
19 for Cooperatives; federal intermediate credit banks; Federal  
20 Financing Bank; federal home loan banks; Federal Farm Credit  
21 Bank; Export-Import Bank of the United States; federal land  
22 banks; or Farmers Home Administration or any other agency or  
23 corporation which has been or may hereafter be created by or  
24 pursuant to an act of the Congress of the United States as an  
25 agency or instrumentality thereof; (iii) bonds, notes, pass  
26 through securities or other evidences of indebtedness of the  
27 Government National Mortgage Association and participation



1 certificates of the Federal Home Loan Mortgage Corporation;  
2 (iv) full faith and credit obligations of any state, provided  
3 that at the time of purchase such obligations are rated at  
4 least "AA" by Standard & Poor's Ratings Group and at least  
5 "Aa" by Moody's Investors Service; (v) public housing bonds  
6 issued by public agencies or municipalities and fully secured  
7 as to the payment of both principal and interest by contracts  
8 with the United States of America, or temporary notes,  
9 preliminary notes, or project notes issued by public agencies  
10 or municipalities, in each case fully secured as to the  
11 payment of both principal and interest by contracts with the  
12 United States of America, or temporary notes, preliminary  
13 notes or project notes issued by public agencies or  
14 municipalities, in each case fully secured as to the payment  
15 of both principal and interest by a requisition or payment  
16 agreement with the United States of America; (vi) time  
17 deposits evidenced by certificates of deposit issued by banks  
18 or savings and loan associations which are members of the  
19 Federal Deposit Insurance Corporation, provided that, to the  
20 extent such time deposits are not covered by federal deposit  
21 insurance, such time deposits (including interest thereon) are  
22 fully secured by a pledge of obligations described in items  
23 (i), (ii), (iii), and (v) above, which at all times have a  
24 market value not less than the amount of such bank time  
25 deposits required to be so secured and which meet the greater  
26 of 100 percent collateralization or the "AA" collateral levels  
27 established by Standard & Poor's Ratings Group for structured

1 financings; (vii) repurchase agreements for obligations of the  
2 type specified in items (i), (ii), (iii), and (v) above,  
3 provided such repurchase agreements are fully collateralized  
4 and secured by such obligations which have a market value at  
5 least equal to the purchase price of such repurchase  
6 agreements which are held by a depository satisfactory to the  
7 State Treasurer in such manner as may be required to provide a  
8 perfected security interest in such obligations, and which  
9 meet the greater of 100 percent collateralization or the "AA"  
10 collateral levels established by Standard & Poor's Ratings  
11 Group for structured financings; and (viii) uncollateralized  
12 investment agreements with, or certificates of deposit issued  
13 by, banks or bank holding companies, the senior long-term  
14 securities of which are rated at least "AA" by Standard &  
15 Poor's Ratings Group and at least "Aa" by Moody's Investors  
16 Service.

17 (8) RAINY DAY ACCOUNT. The General Fund Rainy Day  
18 Account of the Alabama Trust Fund created by Amendment 803 to  
19 the Constitution of Alabama 1901, as amended, and appearing as  
20 §260.02 of the Official Recompilation of the Constitution of  
21 Alabama 1901, as amended.

22 (9) REFUNDING BONDS. Those refunding bonds issued  
23 pursuant to this act.

24 (10) SPECIAL FUND. The BP Settlement Fund  
25 established pursuant to Section 9.

26 (11) STATE. The State of Alabama.

1                   (12) TRANSPORTATION PROJECTS. Highway Projects  
2 located in the Alabama Department of Transportation divisions  
3 as they existed in calendar year 2012.

4                   Section 3. Incorporation of Authority Authorized;  
5 Application; Filing.

6                   (a) To become a public corporation and  
7 instrumentality of the state with the powers herein provided,  
8 the Governor, the State Treasurer, and the Finance Director  
9 shall present to the Secretary of State of Alabama an  
10 application signed by them which shall set forth all of the  
11 following:

12                   (1) The name, official designation, and official  
13 residence of each of the applicants, together with a certified  
14 copy of the commission evidencing each applicant's right to  
15 office.

16                   (2) The date on which each applicant was inducted  
17 into office and the term of office of each applicant.

18                   (3) The name of the proposed public corporation,  
19 which shall be "Alabama Economic Settlement Authority."

20                   (4) The location of the principal office of the  
21 proposed corporation, which shall be in the City of  
22 Montgomery.

23                   (5) Any other matter relating to the authority that  
24 the applicants may choose to insert and that is not  
25 inconsistent with this division or the laws of the state.

26                   (b) The application shall be subscribed and sworn to  
27 by each of the applicants before an officer authorized by the

1 laws of the state to take acknowledgments to deeds. The  
2 Secretary of State shall examine the application and, if he or  
3 she finds that it substantially complies with the requirements  
4 of this section, it shall be filed and recorded in an  
5 appropriate book of records in the office of the Secretary of  
6 State.

7 (c) When the application has been made, filed, and  
8 recorded as provided in subsection (b), the applicants shall  
9 constitute a corporation under the name stated in the  
10 application, and the Secretary of State shall make and issue  
11 to the applicants a certificate of incorporation pursuant to  
12 this act, under the Great Seal of the State and shall record  
13 the certificate with the application. There shall be no fees  
14 paid to the Secretary of State in connection with the  
15 incorporation or dissolution of the authority.

16 Section 4. (a) (1) The board of directors of the  
17 authority shall consist of the of the following seven  
18 directors, who shall be its members:

19 a. The Speaker of the House of Representatives, or  
20 his or her designee.

21 b. The President Pro Tempore of the Senate, or his  
22 or her designee.

23 c. The designated representative of the Alabama  
24 Legislative Black Caucus, or his or her designee.

25 d. The Governor, or his or her designee.

26 e. The Lieutenant Governor, or his or her designee.

27 f. The State Treasurer.

1 g. The Finance Director.

2 (2) Directors shall serve at the pleasure of the  
3 appointing authority and the term of office of a director  
4 shall automatically expire upon the expiration of the  
5 appointing authority's term of office.

6 (b) The chair, vice chair, and other officers of the  
7 authority shall be elected by the board of directors and shall  
8 serve for the terms and on the conditions as the board of  
9 directors may establish. All appointments to be made under  
10 this section shall be made by the appointing authority by  
11 written designation to be filed with the Secretary of State.

12 (c) All powers of the board may be exercised by a  
13 vote of the majority of a quorum present. Any four directors  
14 shall constitute a quorum for the transaction of business.

15 (d) No officer or director of the authority shall  
16 receive any salary for any service rendered or for any duty  
17 performed in connection with the authority.

18 (e) All proceedings of the board of directors shall  
19 be reduced to writing by the secretary of the authority, shall  
20 be signed by the chair or vice chair and at least one other  
21 director present at the proceeding, and shall be recorded in a  
22 bound book and filed in the Office of the Secretary of State.  
23 Copies of the proceedings, when certified by the secretary of  
24 the authority, shall be received in all courts as prima facie  
25 evidence of the matters and things certified therein.

26 (f) The State Treasurer shall act as custodian of  
27 the authority's funds and shall pay, out of the BP Settlement

1 Fund and other monies and property available to the authority,  
2 all debt service related to bonds of the authority and any  
3 other amounts required by the terms of this act to be paid out  
4 of the BP Settlement Fund.

5 Section 5. Powers of the Authority. The authority  
6 shall have, in addition to all other powers granted to it in  
7 this act, all of the following powers:

8 (1) To have succession by its corporate name until  
9 dissolved as herein provided.

10 (2) To institute and defend legal proceedings in any  
11 court of competent jurisdiction and proper venue; provided,  
12 however, that the authority may not be sued in any nisi prius  
13 court other than the courts of the county in which is located  
14 the principal office of the authority; and provided further  
15 that the officers, directors, agents, and employees of the  
16 authority may not be sued for actions on behalf of the  
17 authority in any nisi prius court other than the courts of the  
18 county in which is located the principal office of the  
19 authority.

20 (3) To have and to use a corporate seal and to alter  
21 the seal at pleasure.

22 (4) To establish a fiscal year.

23 (5) To adopt, and from time to time amend and  
24 repeal, bylaws, rules, and regulations not inconsistent with  
25 this act, to carry out and to effect the powers and purposes  
26 of the authority in the conduct of its business.

1           (6) To sell and issue bonds as provided in this act  
2 for the purpose of providing funds to be transferred to and  
3 deposited in the Alabama Trust Fund and the Rainy Day Account,  
4 or to pay the costs of transportation projects.

5           (7) To sell and issue refunding bonds, subject to  
6 the terms and conditions of this act.

7           (8) To receive and deposit the BP settlement  
8 revenues into the special fund, to invest such BP settlement  
9 revenues in the manner provided in this act, to apply such  
10 revenues to payment of bonds issued by the authority in the  
11 manner provided in this act, and to other authorized uses, and  
12 to cause the net proceeds from the sale of the bonds of the  
13 authority to be transferred to and deposited in the Alabama  
14 Trust Fund and the Rainy Day Account, and to be used to pay  
15 the costs of transportation projects.

16           (9) To execute and deliver mortgages, security  
17 agreements and trust indentures, and other forms of agreements  
18 for the purpose of securing the authority's bonds and in  
19 connection therewith, to mortgage, pledge, or assign the  
20 appropriated funds and other monies and property available to  
21 the authority.

22           (10) As security for the payment of the authority's  
23 bonds, to pledge the appropriated funds and any other monies  
24 and property available to the authority.

25           (11) To arrange for various forms of security or  
26 credit enhancement for the authority's bonds, including

1 letters of credit, guaranties, policies of insurance, surety  
2 bonds, and similar instruments.

3 (12) To accept gifts, grants, loans, appropriations,  
4 and other forms of aid from the federal government, the state  
5 or any state agency, or any political subdivision of the  
6 state, or any person, corporation, foundation, or legal  
7 entity, and to agree to and comply with any conditions  
8 attached to federal and state financial assistance not  
9 inconsistent with this act.

10 (13) To establish accounts in one or more  
11 depositories.

12 (14) To appoint, employ, contract with, and provide  
13 for the compensation of employees and agents, including  
14 engineers, attorneys, contractors, consultants, accountants,  
15 fiscal advisors, trustees, paying agents, investment bankers,  
16 and underwriters as the directors deem necessary or desirable  
17 for the conduct of the business of the authority.

18 (15) To make, enter into, and execute financing  
19 agreements and other contracts, agreements, or other  
20 instruments, and to take other actions as may be necessary or  
21 convenient to accomplish any purpose for which the authority  
22 was organized or to exercise any power granted to it.

23 (16) To sell, exchange, and convey any or all real  
24 or personal property belonging to the authority whenever its  
25 directors shall find any such action to be in furtherance of  
26 the purposes for which the authority was organized.



1           (17) To acquire, hold, and dispose of real and  
2 personal property.

3           (18) To sell, assign or otherwise convey to another  
4 person or entity, for such consideration as the directors of  
5 the authority shall determine, the authority's right to  
6 receive and collect the appropriated revenues or any portion  
7 thereof that have not been previously pledged as security for  
8 the bonds, and to use the proceeds from such sale, assignment  
9 or other conveyance for deposits into the Alabama Trust Fund  
10 or the Rainy Day Account or for transportation projects.

11           (19) To exercise any power granted by the laws of  
12 the state to public or private corporations that are not in  
13 conflict with the public purpose of this act.

14           (20) To adopt and promulgate administrative  
15 regulations necessary or appropriate to effectuate its  
16 purposes and to administer the programs herein authorized.

17           Section 6. Bonds of the Authority.

18           (a) General. The authority is authorized from time  
19 to time to sell and issue its bonds for the purpose of  
20 providing funds to be transferred to and deposited in the  
21 Alabama Trust Fund and the Rainy Day Account, for paying the  
22 costs of transportation projects, and for the purpose of  
23 refunding any or all of the authority's outstanding bonds.

24           (b) Sources of payment. Bonds issued by the  
25 authority shall be solely and exclusively an obligation of the  
26 authority and shall not create an obligation or debt of the  
27 state. Such bonds shall not be general obligations of the

1 authority but shall be payable solely from one or more of the  
2 following sources:

3 (1) Appropriated funds.

4 (2) The income or proceeds realized by the authority  
5 under any mortgage or security granted to the authority.

6 (3) Amounts derived from any letter of credit,  
7 insurance policy, or other form of credit enhancement  
8 applicable to the bonds.

9 (4) Any reserve or other fund established for such  
10 purpose by the authority.

11 (5) Any earnings on the proceeds of bonds invested  
12 by the authority pending their disbursement.

13 (6) Any other revenues that may hereafter be  
14 available to the authority.

15 Unless otherwise provided in the resolution of the  
16 directors of the authority authorizing the issuance of the  
17 bonds, all pledges of appropriated funds made by the authority  
18 shall be on a parity so that all bonds of the authority  
19 secured by a pledge of appropriated funds shall be equally and  
20 ratably so secured without regard to time of issuance. Bonds  
21 issued by the authority shall be construed to be negotiable  
22 instruments, although payable solely from a specified source,  
23 as provided herein.

24 (c) Security for the bonds. The principal of and  
25 interest on any bonds issued by the authority shall be secured  
26 by a pledge of the appropriated funds or other monies and  
27 property available to the authority and may be secured by a

1 trust indenture evidencing such pledge or by a foreclosable  
2 mortgage and deed of trust conveying as security for such  
3 bonds all, or any part, of the authority's property. The  
4 resolution under which the bonds are authorized to be issued  
5 or any such trust indenture or mortgage may contain any  
6 agreements and provisions respecting the rights, duties, and  
7 remedies of the parties to any such instrument and the parties  
8 for the benefit for whom such instrument is made and the  
9 rights and remedies available in the event of default as the  
10 authority shall deem advisable and which are not in conflict  
11 with the provisions of this act.

12 (d) General provisions respecting form, sale, and  
13 execution of the bonds. All bonds issued by the authority  
14 shall be signed by its president or vice president and  
15 attested by its secretary and the seal of the authority shall  
16 be affixed thereon. A facsimile of the signature of one or  
17 both of the officers may be printed or otherwise reproduced on  
18 any such bonds in lieu of being manually subscribed thereon  
19 and a facsimile of the seal of the authority may be printed or  
20 otherwise reproduced on any of the bonds in lieu of being  
21 manually affixed thereto. Any bonds of the authority may be  
22 executed and delivered by it at any time and from time to  
23 time, and shall be in the form and denominations and of such  
24 tenor and maturities, shall bear such rate or rates of  
25 interest, shall be payable at such times and evidenced in such  
26 manner, may be made subject to redemption at the option of the  
27 authority at such times and after such notice and on such

1 conditions and at such redemption price or prices, and may  
2 contain such other provisions not inconsistent herewith, all  
3 as may be provided by the resolution of the directors of the  
4 authority under which the bonds are authorized to be issued.  
5 Bonds of the authority may be sold, in the discretion of the  
6 authority, either (i) at public sale or sales, based on sealed  
7 bids received either electronically or on paper, after  
8 advertisement as may be prescribed by the authority, to the  
9 bidder whose bid reflects the lowest true interest cost to the  
10 authority computed to the respective maturities of the bonds  
11 sold; provided, however, that if no bid deemed acceptable by  
12 the authority is received, all bids may be rejected and the  
13 bonds offered again for public sale in accordance with the  
14 terms herein prescribed; or (ii) by negotiated sale. Such  
15 bonds may be issued in the form of current interest bonds,  
16 capital appreciation bonds or convertible capital appreciation  
17 bonds and may be issued as serial bonds or term bonds, all as  
18 may be directed by the authority.

19 (e) Other matters. Any bonds of the authority may be  
20 used by the holder as security for any funds belonging to the  
21 state, or to any political subdivision, instrumentality, or  
22 agency of the state, in any instance where security for the  
23 deposits may be required by law. Unless otherwise directed by  
24 the court having jurisdiction, or the document that is the  
25 source of authority, a trustee, executor, administrator,  
26 guardian, or one acting in any other fiduciary capacity may,  
27 in addition to any other investment powers conferred by law

1 and with the exercise of reasonable business prudence, invest  
2 trust funds and bonds of the authority. Bonds of the authority  
3 shall be legal investments for funds of the Teachers'  
4 Retirement System of Alabama, the Employees' Retirement System  
5 of Alabama, and the State Insurance Fund.

6 Section 7. Refunding Bonds.

7 (a) Any bonds issued by the authority may from time  
8 to time be refunded by the issuance, sale, or exchange of  
9 refunding bonds for the purpose of paying the following items:

10 (1) All or any part of the principal of the bonds to  
11 be refunded.

12 (2) Any redemption premium required to be paid as a  
13 condition to the redemption prior to maturity of any such  
14 bonds that are to be so redeemed in connection with such  
15 refunding.

16 (3) Any accrued and unpaid interest on the bonds to  
17 be refunded.

18 (4) Any interest to accrue on each bond to be  
19 refunded to the date on which it is to be paid, whether at  
20 maturity or by redemption prior to maturity.

21 (5) The expenses incurred in connection with the  
22 refunding.

23 (b) Refunding bonds of the authority may be sold, in  
24 the discretion of the authority, either (i) at public sale or  
25 sales, based on sealed bids received either electronically or  
26 on paper, after advertisement as may be prescribed by the  
27 authority, to the bidder whose bid reflects the lowest true

1 interest cost to the authority computed to the respective  
2 maturities of the bonds sold; provided, however, that if no  
3 bid deemed acceptable by the authority is received, all bids  
4 may be rejected and the bonds offered again for public sale in  
5 accordance with the terms herein prescribed; or (ii) by  
6 negotiated sale, or may be exchanged for the bonds to be  
7 refunded. Any such refunding bonds may be executed and  
8 delivered by the authority at any time and, from time to time,  
9 shall be in such form and denomination or denominations and of  
10 such tenor and maturity or maturities, shall contain such  
11 provisions not inconsistent with the provisions of this act,  
12 and shall bear such rate or rates of interest, payable at such  
13 place or places, either within or without the state, and  
14 evidenced in such manner, as may be provided by resolution of  
15 the authority.

16 Section 8. Disposition of Proceeds of Bonds.

17 (a) The authority is authorized and empowered to  
18 apply the proceeds of any bonds and any other funds belonging  
19 to the authority for any of the following purposes or uses:

20 (1) For the purposes for which the bonds were  
21 authorized to be issued, in the following order:

22 a. To repay the General Fund Rainy Day Account for  
23 the \$161,565,874 transferred to the State General Fund in  
24 fiscal year 2010 pursuant to Amendment 803 to the Constitution  
25 of Alabama of 1901;

26 b. To repay the Alabama Trust Fund for amounts  
27 transferred to the State General Fund in fiscal years 2013,

1 2014, and 2015 pursuant to Section 4 of Amendment 856 to the  
2 Constitution of Alabama of 1901; and

3 c. If any funds remaining after completion of the  
4 expenditures in subdivisions a. and b., the remaining shall be  
5 distributed among the nine Alabama Department of  
6 Transportation divisions as existed in calendar year 2012,  
7 with each division receiving 10% of the funds, with the  
8 exception of the Ninth Division which shall receive 20% of the  
9 funds. These funds shall, to the extent possible, be used to  
10 maximize any local or federal matching funds available to each  
11 division or the Alabama Department of Transportation.

12 The Alabama Department of Transportation shall not  
13 use any of these funds for any of the following purposes  
14 except in accordance with generally accepted accounting  
15 principles for job cost accounting or federal cost allocation  
16 regulations:

17 1. Salaries, benefits, or any other form of  
18 compensation for state or contract employees.

19 2. The purchase, lease, or maintenance of equipment.

20 3. The maintenance or construction of public  
21 buildings or other structures that are not roads or bridges.

22 (2) To fund any reserve fund established in  
23 connection with an authorized issue if the authority deems the  
24 establishment of such reserve fund to be necessary and  
25 desirable.

26 (3) To pay for the cost of obtaining credit  
27 enhancement for the bonds.

1 (4) To pay capitalized interest on the bonds.

2 (5) To pay the costs of issuing the bonds.

3 (6) If refunding bonds are issued pursuant to this  
4 act, to pay debt service on, and the redemption price of, any  
5 bonds to be refunded.

6 (b) Pending the application of the proceeds of bonds  
7 of the authority to the purpose or purposes for which the  
8 bonds were issued, the proceeds and any monies held in funds  
9 created as security for the bonds may be invested by the  
10 authority in permitted investments, as the authority shall  
11 deem advisable.

12 (c) Any and all revenues, receipts, investment  
13 earnings, and other funds paid to, or otherwise coming into  
14 the possession of the authority shall be held, deposited,  
15 administered, invested, and applied as provided in the  
16 resolution of the directors authorizing the issuance of the  
17 bonds and as provided in any trust indenture or other  
18 agreement delivered in connection therewith, or otherwise as  
19 the authority may direct, consistent with the resolution,  
20 trust indenture, or other agreement and this act.

21 Section 9. Creation of Special Fund. For the benefit  
22 of the State of Alabama and the citizens thereof, there is  
23 hereby created a special fund named the "BP Settlement Fund"  
24 which shall be funded with BP settlement revenues and  
25 administered in accordance with this act. All BP settlement  
26 revenues received after September 30, 2017 shall be deposited  
27 in the special fund upon receipt and shall be used first to



1 pay principal, interest, and premium, if any, and any other  
2 amounts due on or with respect to the bonds of the authority.  
3 Any BP settlement revenues determined by the directors of the  
4 authority to be in excess of the amounts needed for the  
5 payment of all amounts due with respect to the bonds, may be  
6 withdrawn from the special fund and used to pay costs and  
7 expenses incident to the issuance of the bonds, including  
8 costs and expenses incurred by the Department of Finance in  
9 the administration of the bonds, may be transferred to and  
10 deposited in the Alabama Trust Fund or the General Fund Rainy  
11 Day Account, or may be applied to pay the costs of  
12 transportation projects.

13 Pending the use of revenues in the special fund for  
14 the payment of debt service on the bonds, such revenues shall  
15 be invested by the State Treasurer in permitted investments  
16 until such revenues are needed for such purposes. Earnings on  
17 such permitted investments shall remain a part of the special  
18 fund.

19 Section 10. Pledge and Appropriation of BP  
20 Settlement Revenue to Pay Bonds. There is hereby irrevocably  
21 pledged and appropriated such amounts of the BP settlement  
22 revenues retained in the special fund, and earnings thereon,  
23 as shall be necessary to pay the principal, interest, and  
24 premium (if any) on the authority's bonds, to redeem such  
25 bonds prior to maturity if called for redemption by the  
26 authority, and to pay the principal of, the interest, and

1 premium (if any) on any refunding bonds issued to refund such  
2 bonds.

3 Section 11. Notice - Contested Actions.

4 (a) Upon the adoption by the directors of any  
5 resolution providing for the issuance of bonds, the authority  
6 may cause to be published once a week for two consecutive  
7 weeks, in newspapers published or having a general circulation  
8 in the Cities of Birmingham, Montgomery, Huntsville, and  
9 Mobile, a notice in substantially the following form, at the  
10 end of which shall be printed the name and title of either the  
11 president or the secretary of the authority:

12 "Alabama Economic Settlement Authority, a public  
13 corporation under the laws of the State of Alabama, on the  
14 \_\_\_\_ day of \_\_\_\_\_, authorized the issuance of \$\_\_\_\_\_  
15 principal amount of bonds for purposes authorized in this act.  
16 The proceeds from the sale of the bonds are proposed to be  
17 used to \_\_\_\_\_. Any action or proceeding questioning the  
18 validity of the bonds, the security thereof, the use of the  
19 proceeds thereof, or the proceedings authorizing the bonds,  
20 shall be commenced within 30 days after the first publication  
21 of this notice."

22 (b) Any action or proceeding in any court to set  
23 aside or question the proceedings for the issuance of the  
24 bonds referred to in the notice or to contest the validity of  
25 any bonds or the validity of security therefor, or the  
26 validity of the proposed use of the proceeds thereof must be  
27 commenced within 30 days after the first publication of the

1 notice. After the expiration of the period, no right of action  
2 or defense questioning or attacking the foregoing shall be  
3 asserted, nor shall the validity of the proceeding, bonds,  
4 security, or use of proceeds be open to question in any court  
5 on any ground whatsoever except in an action commenced within  
6 the period.

7 Section 12. Tax Exemption. The income and property  
8 of the authority, all bonds of the authority and the interest  
9 paid on any such bonds, all conveyances by or to the  
10 authority, and all instruments by and to the authority shall  
11 be exempt from all taxation in the state. The authority shall  
12 also be exempt from all license and excise taxes imposed in  
13 respect of the privilege of engaging in any of the activities  
14 in which the authority may engage. The authority shall not be  
15 obligated to pay or allow any fees, taxes, or costs in the  
16 recording of any document to the judge of probate of any  
17 county.

18 Section 13. Notice and Hearing Not Required. Except  
19 as may be expressly provided in this act, no proceeding,  
20 notice, or approval shall be required for the issuance of any  
21 bonds by the authority, the execution of any mortgage and deed  
22 of trust, trust indenture, or other document, or the exercise  
23 of any other of the powers of the authority.

24 Section 14. Applicability of Other Laws. Articles 2  
25 and 3 of Chapter 16, Title 41, of the Code of Alabama 1975,  
26 and other similar laws shall not apply to the authority, its

1 directors, or any of its officers, agents, or employees in  
2 their capacities as such.

3 Section 15. Dissolution. At any time when no bonds  
4 of the authority are outstanding, the authority may be  
5 dissolved upon the filing with the Secretary of State of an  
6 application for dissolution, which shall be subscribed by each  
7 of the directors of the authority and sworn to by each  
8 director before an officer authorized to take acknowledgments  
9 to deeds. Upon the filing of the application for dissolution,  
10 the authority shall cease to exist. The Secretary of State  
11 shall file and record the application for dissolution in an  
12 appropriate book of record in his or her office, and shall  
13 make and issue, under the Great Seal of the State, a  
14 certificate that the authority is dissolved, and shall record  
15 the certificate with the application for dissolution. Title to  
16 all property held in the name of the authority shall be vested  
17 in the state upon dissolution of the authority.

18 Section 16. Diversity. In connection with the sale  
19 of its bonds, the authority shall, to the extent practical,  
20 utilize businesses and companies that reflect the racial and  
21 ethnic diversity of the state.

22 Section 17. Services Provided by Department of  
23 Finance. The authority shall utilize all administrative  
24 services which may be provided by the state Department of  
25 Finance.

26 Section 18. Bonds are Legal Investments. Bonds  
27 issued by the authority are hereby made a legal investment for

1 savings banks and insurance companies organized under the laws  
2 of the state and for trustees, executors, administrators,  
3 guardians, persons or organizations acting in a fiduciary  
4 capacity, unless otherwise directed by a court having  
5 jurisdiction or by a document providing fiduciary authority.  
6 Any governmental entity or public corporation is authorized,  
7 in its discretion, to invest any available funds in the bonds  
8 of the authority.

9 Section 19. Legislative Intent. It is the intent of  
10 the Legislature that payments allocated in Section 8 to the  
11 Alabama Trust Fund for the purpose of repaying amounts  
12 transferred to the State General Fund pursuant to Section 4 of  
13 Amendment 856 to the Constitution of Alabama of 1901 shall be  
14 in lieu of the fiscal year 2017 State General Fund  
15 appropriation of \$20,000,000 to the Alabama Trust Fund Board  
16 for the same purpose as provided in Act 2016-116 and that such  
17 \$20,000,000 be used instead to release a portion of the  
18 conditional appropriation to the Medicaid Agency contained in  
19 Act 2016-116.

20 Section 20. Section 18 of Act 2015-540, the General  
21 Appropriations Act for fiscal year 2016, is hereby amended as  
22 follows:

23 "Section 18. In addition to all other  
24 appropriations, ~~the first~~ \$70,000,000 in funds received by the  
25 state from any negotiated settlements is appropriated for ~~the~~  
26 ~~following purposes to be expended in amounts recommended by~~  
27 ~~the Director of Finance and approved by the Governor for the~~

1 following: ~~repayment to the General Fund Rainy Day Account~~  
2 ~~pursuant to Amendment 803 to the Constitution of 1901;~~  
3 ~~repayment to the Alabama Trust Fund of the amount owed~~  
4 ~~pursuant to Section 29-10-1, Code of Alabama 1975; repayment~~  
5 ~~to the Education Trust Fund Budget Stabilization Fund set~~  
6 ~~forth in Section 29-9-4, Code of Alabama 1975; up to~~  
7 ~~\$3,000,000 to the District Attorney's Administrative Fund;~~  
8 ~~Medicaid Reform; and prison reform and related capital~~  
9 ~~outlay."~~

10 Section 21. Section 29-10-1, Code of Alabama 1975,  
11 is amended to read as follows:

12 "§29-10-1.

13 "(a) This section shall be known and may be cited as  
14 The People's Trust Act.

15 "(b) (1) Notwithstanding any other provision of law  
16 to the contrary, the Legislature shall provide for the  
17 repayment of all funds transferred from the Alabama Trust Fund  
18 to the State General Fund pursuant to Amendment 856 to the  
19 Constitution of Alabama of 1901. All funds borrowed pursuant  
20 to this amendment shall be repaid to the Alabama Trust Fund by  
21 not later than September 30, ~~2026~~ 2017.

22 "(2) The total cumulative amount repaid pursuant to  
23 this section shall not be less than the following amounts on  
24 the following dates:

25 "a. September 30, 2014: \$5,000,000;

26 "b. September 30, 2015: \$15,000,000;

27 "~~c. September 30, 2016: \$30,000,000;~~

1           ~~"d. c. September 30, 2017: \$50,000,000 \$437,390,829;~~  
2           ~~"e. September 30, 2018: \$75,000,000;~~  
3           ~~"f. September 30, 2019: \$105,000,000;~~  
4           ~~"g. September 30, 2020: \$140,000,000;~~  
5           ~~"h. September 30, 2021: \$180,000,000;~~  
6           ~~"i. September 30, 2022: \$225,000,000;~~  
7           ~~"j. September 30, 2023: \$275,000,000;~~  
8           ~~"k. September 30, 2024: \$330,000,000;~~  
9           ~~"l. September 30, 2025: \$390,000,000 and;~~  
10          ~~"m. September 30, 2026: \$437,390,829.~~

11           (c) Beginning with the 2015 Regular Session and  
12 continuing every regular session thereafter until all funds  
13 are repaid, the Legislative Fiscal Office shall, by the fifth  
14 legislative day, report to the Speaker of the House of  
15 Representatives, the President Pro Tempore of the Senate, and  
16 the Chairs of the House Ways and Means and Senate Finance and  
17 Taxation - General Fund Committees the total cumulative amount  
18 repaid pursuant to this section as of the end of the  
19 then-preceding fiscal year.

20           (d) If for any year the Legislature fails to make  
21 such appropriations as are necessary to guarantee that the  
22 total cumulative amount repaid to the Alabama Trust Fund  
23 pursuant to this section is equal to or greater than the  
24 amount set forth in subdivision (2) of subsection (b) for that  
25 year, then there is hereby appropriated from the General Fund  
26 such amount as is necessary to make up the difference between  
27 the total cumulative amount repaid and the amount set forth in

1 subdivision (2) of subsection (b) for that year. In the event  
2 that an appropriation is required under this subsection such  
3 amount shall be absolute and shall not be reduced pursuant to  
4 proration should such be necessary in any of the years  
5 referenced in subdivision (2) of subsection (b)."

6 Section 22. Liberal Construction. This act shall be  
7 liberally construed to effect its purpose.

8 Section 23. The provisions of this act are  
9 severable. If any part of this act is declared invalid or  
10 unconstitutional, that declaration shall not affect the part  
11 which remains.

12 Section 24. Effective Date. This act shall become  
13 effective immediately after its passage and approval by the  
14 Governor, or its otherwise becoming law.