

1 HB35
2 179134-2
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 General Fund Rainy
17 Day Account and to provide additional funding for
18 the Alabama Medicaid Agency and to repay the
19 Alabama Trust Fund. This bill would also create a
20 special fund entitled the "BP Settlement Fund" into
21 which revenues from the settlement of economic
22 damages claims against BP Petroleum and
23 Exploration, Inc. would be deposited, and would
24 pledge and appropriate such revenues for the
25 payment of the 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.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

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 General Fund Rainy Day
21 Account of the Alabama Trust Fund and to provide additional
22 funds for the Alabama Medicaid Agency and repay the Alabama
23 Trust Fund; to create a special fund to be known as the "BP
24 Settlement Fund" and to provide for deposits into and
25 withdrawals from the fund; to appropriate and pledge certain
26 revenues to be received by the State from the settlement of
27 claims against BP Petroleum Exploration and Production, Inc.

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

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Legislative Findings and Purpose.

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

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

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

25 Whereas, seven hundred twenty-five million dollars
26 (\$725,000,000) from Resources and Ecosystems Sustainability,
27 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 General Fund Rainy Day Account of the
15 Alabama Trust Fund, for additional funds to the Alabama
16 Medicaid Agency, and for repayment to the Alabama Trust Fund,
17 and to appropriate and pledge a portion of the revenues to be
18 received by the State from the settlement of certain claims
19 against BP Exploration and Production, Inc. (and its corporate
20 affiliates) as the 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 General Fund Rainy Day
3 Account of the Alabama Trust Fund, providing for additional
4 funds to the Alabama Medicaid Agency, and for repayment to the
5 Alabama Trust Fund, which bonds shall be payable out of the
6 monies held in the BP Settlement Fund and any other monies and
7 property available to 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 Section 3. Incorporation of Authority Authorized;
2 Application; Filing.

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

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

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

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

17 (4) The location of the principal office of the
18 proposed corporation, which shall be in the City of
19 Montgomery.

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

23 (b) The application shall be subscribed and sworn to
24 by each of the applicants before an officer authorized by the
25 laws of the state to take acknowledgments to deeds. The
26 Secretary of State shall examine the application and, if he or
27 she finds that it substantially complies with the requirements

1 of this section, it shall be filed and recorded in an
2 appropriate book of records in the office of the Secretary of
3 State.

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

13 Section 4. (a) (1) The board of directors of the
14 authority shall consist of the of the following seven
15 directors, who shall be its members:

16 a. The Speaker of the House of Representatives, or
17 his or her designee.

18 b. The President Pro Tempore of the Senate, or his
19 or her designee.

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

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

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

24 f. The State Treasurer.

25 g. The Finance Director.

26 (2) Directors shall serve at the pleasure of the
27 appointing authority and the term of office of a director

1 shall automatically expire upon the expiration of the
2 appointing authority's term of office.

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

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

12 (d) No officer or director of the authority shall
13 receive any salary for any service rendered or for any duty
14 performed in connection with the authority.

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

23 (f) The State Treasurer shall act as custodian of
24 the authority's funds and shall pay, out of the BP Settlement
25 Fund and other monies and property available to the authority,
26 all debt service related to bonds of the authority and any

1 other amounts required by the terms of this act to be paid out
2 of the BP Settlement Fund.

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

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

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

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

20 (4) To establish a fiscal year.

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

25 (6) To sell and issue bonds as provided in this act
26 for the purpose of providing funds to be transferred to and
27 deposited in the General Fund Rainy Day Account, to provide

1 additional funds to the Alabama Medicaid Agency, for repayment
2 to the Alabama Trust Fund.

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

5 (8) To receive and deposit the BP settlement
6 revenues into the special fund, to invest such BP settlement
7 revenues in the manner provided in this act, to apply such
8 revenues to payment of bonds issued by the authority in the
9 manner provided in this act, and to other authorized uses, and
10 to cause the net proceeds from the sale of the bonds of the
11 authority to be transferred to and deposited in the General
12 Fund Rainy Day Account, to provide additional funds to the
13 Alabama Medicaid Agency, and for repayment to the Alabama
14 Trust Fund.

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

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

24 (11) To arrange for various forms of security or
25 credit enhancement for the authority's bonds, including
26 letters of credit, guaranties, policies of insurance, surety
27 bonds, and similar instruments.

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

8 (13) To establish accounts in one or more
9 depositories.

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

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

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

25 (17) To acquire, hold, and dispose of real and
26 personal property.

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

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

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

15 Section 6. Bonds of the Authority.

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

23 (b) Sources of payment. Bonds issued by the
24 authority shall be solely and exclusively an obligation of the
25 authority and shall not create an obligation or debt of the
26 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 provide one hundred million (\$100,000,000) to
27 the Alabama Medicaid Agency to be distributed in fiscal years

1 2018 and 2019 pursuant to the recommendation of the Director
2 of Finance;

3 c. If any funds remaining after completion of the
4 expenditures in subdivisions a. and b., the remaining shall
5 repay, in part, the Alabama Trust Fund for amounts transferred
6 to the State General Fund in fiscal years 2013, 2014, and 2015
7 pursuant to Section 4 of Amendment 856 to the Constitution of
8 Alabama of 1901; and

9 (2) To fund any reserve fund established in
10 connection with an authorized issue if the authority deems the
11 establishment of such reserve fund to be necessary and
12 desirable.

13 (3) To pay for the cost of obtaining credit
14 enhancement for the bonds.

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

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

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

20 (b) Pending the application of the proceeds of bonds
21 of the authority to the purpose or purposes for which the
22 bonds were issued, the proceeds and any monies held in funds
23 created as security for the bonds may be invested by the
24 authority in permitted investments, as the authority shall
25 deem advisable.

26 (c) Any and all revenues, receipts, investment
27 earnings, and other funds paid to, or otherwise coming into

1 the possession of the authority shall be held, deposited,
2 administered, invested, and applied as provided in the
3 resolution of the directors authorizing the issuance of the
4 bonds and as provided in any trust indenture or other
5 agreement delivered in connection therewith, or otherwise as
6 the authority may direct, consistent with the resolution,
7 trust indenture, or other agreement and this act.

8 Section 9. Creation of Special Fund. For the benefit
9 of the State of Alabama and the citizens thereof, there is
10 hereby created a special fund named the "BP Settlement Fund"
11 which shall be funded with BP settlement revenues and
12 administered in accordance with this act. All BP settlement
13 revenues received after September 30, 2017 shall be deposited
14 in the special fund upon receipt and shall be used first to
15 pay principal, interest, and premium, if any, and any other
16 amounts due on or with respect to the bonds of the authority.
17 Any BP settlement revenues determined by the directors of the
18 authority to be in excess of the amounts needed for the
19 payment of all amounts due with respect to the bonds, may be
20 withdrawn from the special fund and used to pay costs and
21 expenses incident to the issuance of the bonds, including
22 costs and expenses incurred by the Department of Finance in
23 the administration of the bonds, may be transferred to and
24 deposited in the General Fund Rainy Day Account, to provide
25 additional funds to the Alabama Medicaid Agency, or for
26 repayment to the Alabama Trust Fund.

1 Pending the use of revenues in the special fund for
2 the payment of debt service on the bonds, such revenues shall
3 be invested by the State Treasurer in permitted investments
4 until such revenues are needed for such purposes. Earnings on
5 such permitted investments shall remain a part of the special
6 fund.

7 Section 10. Pledge and Appropriation of BP
8 Settlement Revenue to Pay Bonds. There is hereby irrevocably
9 pledged and appropriated such amounts of the BP settlement
10 revenues retained in the special fund, and earnings thereon,
11 as shall be necessary to pay the principal, interest, and
12 premium (if any) on the authority's bonds, to redeem such
13 bonds prior to maturity if called for redemption by the
14 authority, and to pay the principal of, the interest, and
15 premium (if any) on any refunding bonds issued to refund such
16 bonds.

17 Section 11. Notice - Contested Actions.

18 (a) Upon the adoption by the directors of any
19 resolution providing for the issuance of bonds, the authority
20 may cause to be published once a week for two consecutive
21 weeks, in newspapers published or having a general circulation
22 in the Cities of Birmingham, Montgomery, Huntsville, and
23 Mobile, a notice in substantially the following form, at the
24 end of which shall be printed the name and title of either the
25 president or the secretary of the authority:

26 "Alabama Economic Settlement Authority, a public
27 corporation under the laws of the State of Alabama, on the

1 ____ day of _____, authorized the issuance of \$_____

2 principal amount of bonds for purposes authorized in this act.

3 The proceeds from the sale of the bonds are proposed to be

4 used to _____. Any action or proceeding questioning the

5 validity of the bonds, the security thereof, the use of the

6 proceeds thereof, or the proceedings authorizing the bonds,

7 shall be commenced within 30 days after the first publication

8 of this notice.”

9 (b) Any action or proceeding in any court to set

10 aside or question the proceedings for the issuance of the

11 bonds referred to in the notice or to contest the validity of

12 any bonds or the validity of security therefor, or the

13 validity of the proposed use of the proceeds thereof must be

14 commenced within 30 days after the first publication of the

15 notice. After the expiration of the period, no right of action

16 or defense questioning or attacking the foregoing shall be

17 asserted, nor shall the validity of the proceeding, bonds,

18 security, or use of proceeds be open to question in any court

19 on any ground whatsoever except in an action commenced within

20 the period.

21 Section 12. Tax Exemption. The income and property

22 of the authority, all bonds of the authority and the interest

23 paid on any such bonds, all conveyances by or to the

24 authority, and all instruments by and to the authority shall

25 be exempt from all taxation in the state. The authority shall

26 also be exempt from all license and excise taxes imposed in

27 respect of the privilege of engaging in any of the activities

1 in which the authority may engage. The authority shall not be
2 obligated to pay or allow any fees, taxes, or costs in the
3 recording of any document to the judge of probate of any
4 county.

5 Section 13. Notice and Hearing Not Required. Except
6 as may be expressly provided in this act, no proceeding,
7 notice, or approval shall be required for the issuance of any
8 bonds by the authority, the execution of any mortgage and deed
9 of trust, trust indenture, or other document, or the exercise
10 of any other of the powers of the authority.

11 Section 14. Applicability of Other Laws. Articles 2
12 and 3 of Chapter 16, Title 41, of the Code of Alabama 1975,
13 and other similar laws shall not apply to the authority, its
14 directors, or any of its officers, agents, or employees in
15 their capacities as such.

16 Section 15. Dissolution. At any time when no bonds
17 of the authority are outstanding, the authority may be
18 dissolved upon the filing with the Secretary of State of an
19 application for dissolution, which shall be subscribed by each
20 of the directors of the authority and sworn to by each
21 director before an officer authorized to take acknowledgments
22 to deeds. Upon the filing of the application for dissolution,
23 the authority shall cease to exist. The Secretary of State
24 shall file and record the application for dissolution in an
25 appropriate book of record in his or her office, and shall
26 make and issue, under the Great Seal of the State, a
27 certificate that the authority is dissolved, and shall record

1 the certificate with the application for dissolution. Title to
2 all property held in the name of the authority shall be vested
3 in the state upon dissolution of the authority.

4 Section 16. Diversity. In connection with the sale
5 of its bonds, the authority shall, to the extent practical,
6 utilize businesses and companies that reflect the racial and
7 ethnic diversity of the state.

8 Section 17. Services Provided by Department of
9 Finance. The authority shall utilize all administrative
10 services which may be provided by the state Department of
11 Finance.

12 Section 18. Bonds are Legal Investments. Bonds
13 issued by the authority are hereby made a legal investment for
14 savings banks and insurance companies organized under the laws
15 of the state and for trustees, executors, administrators,
16 guardians, persons or organizations acting in a fiduciary
17 capacity, unless otherwise directed by a court having
18 jurisdiction or by a document providing fiduciary authority.
19 Any governmental entity or public corporation is authorized,
20 in its discretion, to invest any available funds in the bonds
21 of the authority.

22 Section 19. Legislative Intent. It is the intent of
23 the Legislature that payments allocated in Section 8 to the
24 Alabama Trust Fund for the purpose of repaying amounts
25 transferred to the State General Fund pursuant to Section 4 of
26 Amendment 856 to the Constitution of Alabama of 1901 shall be
27 in lieu of the fiscal year 2017 State General Fund

1 appropriation of \$20,000,000 to the Alabama Trust Fund Board
2 for the same purpose as provided in Act 2016-116 and that such
3 \$20,000,000 be used instead to release a portion of the
4 conditional appropriation to the Medicaid Agency contained in
5 Act 2016-116.

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

9 "Section 18. In addition to all other
10 appropriations, ~~the first~~ \$70,000,000 in funds received by the
11 state from any negotiated settlements is appropriated for ~~the~~
12 ~~following purposes to be expended in amounts recommended by~~
13 ~~the Director of Finance and approved by the Governor for the~~
14 ~~following: repayment to the General Fund Rainy Day Account~~
15 ~~pursuant to Amendment 803 to the Constitution of 1901;~~
16 ~~repayment to the Alabama Trust Fund of the amount owed~~
17 ~~pursuant to Section 29-10-1, Code of Alabama 1975; repayment~~
18 ~~to the Education Trust Fund Budget Stabilization Fund set~~
19 ~~forth in Section 29-9-4, Code of Alabama 1975; up to~~
20 ~~\$3,000,000 to the District Attorney's Administrative Fund;~~
21 ~~Medicaid Reform; and prison reform and related capital~~
22 ~~outlay."~~

23 Section 21. Liberal Construction. This act shall be
24 liberally construed to effect its purpose.

25 Section 22. The provisions of this act are
26 severable. If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part
2 which remains.

3 Section 23. Effective Date. This act shall become
4 effective immediately after its passage and approval by the
5 Governor, or its otherwise becoming law.