

1 HB517
2 152336-5
3 By Representatives Bracy, Buskey, Davis, Faust, Shiver, Baker,
4 McMillan, Gaston, Fincher, Ison, Barton, Hubbard (M) and
5 Sessions
6 RFD: Ways and Means Education
7 First Read: 02-APR-13

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To authorize the Alabama Public School and College
9 Authority to sell and issue up to \$30,000,000 in aggregate
10 principal amount of additional bonds to provide funds for
11 capital improvements to certain schools that were damaged by
12 tornadoes on April 27, 2011 and December 25, 2012; to
13 authorize the authority to provide for the details of the
14 bonds and the sale and issuance thereof; to make an
15 appropriation and pledge for payment of the principal of and
16 interest on the bonds from specific taxes necessary to pay the
17 principal and interest at their respective maturities; to
18 authorize the authority to pledge for payment of the principal
19 of and interest on the bonds the funds that are appropriated
20 and pledged; to provide for the investment of funds by the
21 State Treasurer; to provide that the bonds not constitute a
22 debt of the state but shall be limited obligations payable out
23 of the funds appropriated and pledged therefor; to provide
24 that the bonds and the income therefrom shall be exempt from
25 taxation in this state and that the bonds may be used to
26 secure deposits of funds of this state and its political
27 subdivisions, instrumentalities, and agencies, and for

1 investment of fiduciary funds; to authorize the authority to
2 establish procedures and requirements to ensure compliance
3 with tax covenants with which the authority must comply; to
4 exempt the bonds from the usury laws of the state; to
5 authorize the authority to issue refunding bonds and give
6 details of such refunding; to provide for the employment of
7 attorneys, fiscal advisors, trustees, paying agents,
8 investment bankers, banks and underwriters and for the payment
9 of all expenses incurred in the issuance of the bonds; to
10 provide that after payment of the expenses of the issuance of
11 the bonds the proceeds from the sale thereof shall be
12 disbursed on orders or warrants issued by or under the
13 direction of the authority for the purposes for which the
14 bonds are authorized to be issued; to provide for the timely
15 expenditure of the proceeds from the sale of the bonds; to
16 provide that if any portion of this act should be held invalid
17 such holding shall not affect the validity of any other
18 portion thereof; and to authorize the authority to reimburse
19 the Building Commission, the Department of Finance, and the
20 State Treasurer's Office for costs incurred in providing
21 services for the authority.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Wherever used in this act, the following
24 terms shall have the following meanings respectively, unless
25 the context clearly indicates otherwise:

1 (1) 1965 Act. Act No. 243 enacted at the 1965 First
2 Special Session of the Legislature, codified as Title 16,
3 Chapter 16, Code of Alabama 1975.

4 (2) 1971 Acts. Act No. 94 enacted at the 1971 First
5 Special Session of the Legislature, Act No. 2428 enacted at
6 the 1971 Regular Session of the Legislature, and Act No. 56
7 enacted at the 1971 Second Special Session of the Legislature.

8 (3) 1973 Act. Act No. 1277 enacted at the 1973
9 Regular Session of the Legislature as amended by Act No. 73
10 enacted at the 1975 Third Special Session of the Legislature
11 and Act No. 1223 enacted at the 1975 Regular Session of the
12 Legislature.

13 (4) 1978 Act. Act No. 138 enacted at the 1978 Second
14 Special Session of the Legislature, as amended by Act No.
15 79-41 enacted at the 1979 Special Session of the Legislature
16 and Act No. 81-827 enacted at the 1981 Regular Session of the
17 Legislature.

18 (5) 1985 Act. Act No. 85-943 enacted at the 1985
19 Second Special Session of the Legislature.

20 (6) 1990 Act. Act No. 90-280 enacted at the 1990
21 Regular Session of the Legislature.

22 (7) 1995 Act. Act No. 95-752 enacted at the 1995
23 Regular Session of the Legislature.

24 (8) 1998 Act. Act No. 98-373 enacted at the 1998
25 Regular Session of the Legislature.

26 (9) 1999 Act. Act No. 99-348 enacted at the 1999
27 Regular Session of the Legislature.

1 (10) 2001 Act. Act No. 2001-668 enacted at the 2001
2 Regular Session of the Legislature.

3 (11) 2002 Act. Act No. 2002-240 enacted at the 2002
4 Regular Session of the Legislature.

5 (12) 2003 Act. Act No. 2003-436 enacted at the 2003
6 Second Special Session of the Legislature.

7 (13) 2007 Act. Act No. 2007-415 enacted at the 2007
8 Regular Session of the Legislature.

9 (14) 2010 Act. Act No. 2010-720 enacted at the 2010
10 Regular Session of the Legislature.

11 (15) AUTHORITY. The Public School and College
12 Authority.

13 (16) BONDS. Except where that word is used with
14 reference to bonds issued under another act, those bonds,
15 other than refunding bonds, issued under the provisions of
16 this act.

17 (17) CAPITAL IMPROVEMENT. Capital outlay projects
18 that include the planning, designing, inspection, purchasing,
19 construction, reconstruction, enlargement, improvement,
20 repair, or renovation of permanent buildings containing
21 classrooms, offices, libraries, laboratories, clinical or
22 teaching facilities, dormitories, vocational and professional
23 and industrial training facilities, research facilities,
24 academic structures to reduce portable classrooms or
25 substandard classroom facilities, related improvements and
26 land as sites therefor, together with furnishings and

1 equipment required for the operation of the facilities and the
2 programs provided therein.

3 (18) COMMISSION. The Building Commission created by
4 Section 41-9-140, Code of Alabama 1975, and its successors as
5 the state agency for awarding construction contracts and
6 supervising construction.

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

18 (20) LEGISLATURE. The Legislature of Alabama.

19 (21) PERMITTED INVESTMENTS. (i) Government
20 Securities; (ii) bonds, debentures, notes, or other evidences
21 of indebtedness issued by any of the following agencies: Bank
22 for Cooperatives; Federal Intermediate Credit Banks; Federal
23 Financing Bank; Federal Home Loan Banks; Federal Farm Credit
24 Bank; Export-Import Bank of the United States; Federal Land
25 Banks; or Farmers Home Administration or any other agency or
26 corporation which has been or may hereafter be created by or
27 pursuant to an act of the Congress of the United States as an

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

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

16 (22) REFUNDING BONDS. Those refunding bonds issued
17 under the provisions of this act.

18 (23) STATE. The State of Alabama.

19 (24) TRUST FUND. The Education Trust Fund, formerly
20 designated as the Alabama Special Educational Trust Fund, the
21 name of which was changed to the Education Trust Fund,
22 effective October 1, 1996, pursuant to Act No. 95-264 enacted
23 at the 1995 Regular Session of the Legislature.

24 Nouns and pronouns when used in this act shall be
25 deemed to include both singular and plural and all applicable
26 genders.

1 Section 2. (a) The authority is hereby authorized to
2 sell and issue its bonds in the aggregate principal amount of
3 up to thirty million dollars (\$30,000,000) to provide funds
4 for capital improvements to certain schools that were damaged
5 by tornadoes on April 27, 2011 and December 25, 2012. The
6 bonds authorized in this act to be issued by the authority
7 shall be in addition to all other bonds previously authorized
8 to be issued by the authority, and the powers conferred on the
9 authority by this act are in addition to all other powers
10 heretofore conferred on the authority by acts heretofore
11 enacted by the Legislature.

12 (b) Proceeds from the sale of the bonds and the
13 earnings thereon shall be paid out from time to time on orders
14 or warrants issued by or at the direction of the authority.
15 The proceeds from the sale of the bonds and the earnings
16 thereof shall be allocated as follows:

17 (1) Fifteen million dollars (\$15,000,000) shall be
18 allocated to the Mobile County School System to pay for
19 capital improvements to Murphy High School for damage caused
20 by a tornado on December 25, 2012.

21 (2) Fifteen million dollars (\$15,000,000) shall be
22 allocated to the State Department of Education to be distrib-
23 uted to the following schools in the following amounts to pay
24 for capital improvements to those schools for damage caused by
25 tornadoes on April 27, 2011:

1	Alberta City Elementary	\$3,000,000
2	Phil Campbell High School	\$6,396,000
3	University Place Elementary School	\$2,500,000
4	Holt Elementary School	\$2,500,000
5	Plainview High School	\$604,000

6 Section 3. The bonds shall be signed by the
7 president or vice president of the authority and the seal of
8 the authority shall be affixed thereto (or a facsimile thereof
9 imprinted thereon) and attested by its secretary. All
10 signatures of the president, vice president, and secretary may
11 be facsimile signatures if the authority, in its proceedings
12 with respect to issuance, provides for manual authentication
13 (which may be in the form of a certificate as to registration)
14 of the bonds by a trustee, registrar, or paying agent or by
15 named individuals who are employees of the state and who are
16 assigned to the Finance Department or State Treasurer's
17 Office. All bonds bearing signatures or facsimiles of the
18 signatures of officers of the authority in office on the date
19 of signing thereof shall be valid and binding notwithstanding
20 that before the delivery thereof and payment therefor, any
21 officer whose signature appears thereon shall have ceased to
22 be an officer of the authority. The bonds and the income
23 therefrom shall be exempt from all taxation in the State of
24 Alabama, may be used as security for deposits, and shall be

1 eligible for investments of fiduciary funds, as provided in
2 the 1965 Act. The bonds shall be construed to have all the
3 qualities and incidents of negotiable instruments subject to
4 any registration provisions pertaining to transfers. The
5 authority and the bonds shall be exempt from all laws of the
6 state governing usury including, without limitation, the
7 provisions of Title 8, Chapter 8, Code of Alabama 1975, or any
8 subsequent statute of similar import. The bonds shall be in
9 such form or forms and denomination or denominations and of
10 such tenor and maturities, shall bear such rate or rates of
11 interest payable and evidenced in such manner, may be made
12 subject to redemption prior to their maturities, and may
13 contain provisions not inconsistent with this act, all as may
14 be provided by the resolution of the authority under which the
15 bonds may be issued; provided, that no bonds shall have a
16 specified maturity date later than twenty years after their
17 date; and provided further, that those bonds having maturities
18 more than ten years after their date shall be subject to
19 redemption at the option of the authority on any date on and
20 after the tenth anniversary after their date at such
21 redemption price or prices and under such conditions as may be
22 prescribed in the proceedings of the authority under which
23 they are issued. For the purpose of paying the principal of,
24 premium, if any, and interest on the bonds or any refunding
25 bonds, the authority shall designate the State Treasurer or
26 such bank or banks as the authority, in its discretion,
27 determines to be appropriate and desirable. Funds for the

1 payment of debt service shall be transferred by the authority
2 or the State Treasurer on behalf of the authority to the
3 designated paying agent on the actual due date of such
4 principal, premium, if any, or interest.

5 Section 4. The bonds may be sold by the authority
6 from time to time in series, and if sold in more than one
7 series, may all be authorized in one initial resolution of the
8 authority with the pledges therefor made by the authority in
9 such initial resolution although some of the details
10 applicable to each series may be specified in the respective
11 resolutions under which the different series are issued. The
12 authority, in the course of establishing, by resolution, a
13 principal amount of bonds to be authorized for sale at any
14 given time, or to be sold in any series, may take into account
15 the existence of any unexpended proceeds of prior issues of
16 bonds of the authority (and of any other issuer, if such
17 should be deemed by the authority to be relevant), and may
18 structure the portions of the allocations provided for in
19 Section 8 of this act to be distributed from the proceeds of a
20 particular series (constituting less than all the bonds
21 authorized by this act) as the authority deems necessary or
22 prudent in order to enable the authority to comply with any
23 tax covenants that may be required of it, or that may be
24 deemed by it to be prudent to be given by it, in connection
25 with the sale of any series of the bonds. Each series of the
26 bonds shall be sold at competitive bid and at such price or
27 prices and at such time or times as the authority may consider

1 advantageous. Bonds sold by competitive bid must be sold to
2 the bidder whose bid reflects the lowest effective borrowing
3 cost to the authority on the series of the bonds being sold;
4 provided, that if no bid acceptable to the authority is
5 received it may reject all bids. Notice or summary notice of
6 each such sale by competitive bids shall be given by
7 publication in either a financial journal or a financial
8 newspaper published in the City of New York, New York, and
9 also by publication in a newspaper published in the state
10 which is customarily published not less often than five days
11 during each calendar week, each of which notices must be
12 published at least one time not less than ten days prior to
13 the date fixed for the sale or, in the event no bid acceptable
14 to the authority is received at any such sale and the bonds so
15 offered are thereafter reoffered on the same terms and
16 conditions, not less than five days prior to the date fixed
17 for sale. The authority may fix the method and the terms and
18 conditions under which the sale of any series of the bonds may
19 otherwise be held; provided, that the terms and conditions
20 shall not conflict with any requirement of this act. Approval
21 by the Governor of Alabama of the terms and conditions under
22 which any bonds may be issued shall be requisite to their
23 validity. Before any series of the bonds shall be offered for
24 sale by the authority, the Governor shall first determine that
25 the issuance of that series of bonds and the application of
26 the taxes pledged to the payment of the principal of the bonds
27 as they mature and interest thereon as the same shall come due

1 will not impair the adequacy of the trust fund to pay
2 appropriations therefrom and to support the public schools and
3 institutions of higher learning during the period over which
4 the bonds will mature. The Governor's determination shall be
5 in writing signed by the Governor and that determination shall
6 be final and conclusive. Neither a public hearing nor consent
7 of the state Department of Finance or any other department or
8 agency shall be a prerequisite to the issuance of any of the
9 bonds.

10 Section 5. For the purpose of providing for payment
11 of the principal of, premium, if any, and interest on the
12 bonds and to accomplish the objectives of this act, there is
13 hereby irrevocably pledged to those purposes, and hereby
14 appropriated, such amount as may be necessary therefor from
15 the following sources:

16 (a) The residue of the receipts from the excise tax
17 ("the utility gross receipts tax") levied by Title 40, Chapter
18 21, Article 3, Code of Alabama 1975, as amended ("Article 3"),
19 remaining after payment of the expenses of administration and
20 enforcement of Article 3, being that portion of the tax that
21 is required by Article 3 to be deposited in the State Treasury
22 to the credit of the trust fund, after there shall have been
23 taken from the residue the amount necessary to pay at their
24 respective maturities the principal of and interest on those
25 bonds issued by the authority under the 1965 Act, 1971 Acts,
26 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the
27 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002

1 Act, the 2003 Act, the 2007 Act, the 2010 Act, or this act
2 that may be outstanding at the time of the delivery of the
3 respective series of the bonds authorized herein;

4 (b) The residue of the receipts from the excise tax
5 ("the utility service use tax") levied by Title 40, Chapter
6 21, Article 4, Code of Alabama 1975 ("Article 4"), remaining
7 after payment of the expenses of administration and
8 enforcement of Article 4, being that portion of the tax that
9 is required by Article 4 to be deposited in the State Treasury
10 to the credit of the trust fund, after there shall have been
11 taken from the residue the amount necessary to pay at their
12 respective maturities the principal of and interest on those
13 bonds issued by the authority under the 1965 Act, the 1971
14 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,
15 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the
16 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or this
17 act that may be outstanding at the time of the delivery of the
18 respective series of the bonds authorized herein;

19 (c) To the extent and to the extent only that the
20 revenues appropriated in the foregoing subsections (a) and (b)
21 of this section may not be sufficient to pay at their
22 respective maturities the principal of, premium, if any, and
23 interest on the bonds, the residue of the receipts from the
24 excise tax ("the sales tax") levied by Title 40, Chapter 23,
25 Article 1, Division 1, Code of Alabama 1975, as amended
26 ("Article 1"), after there shall have been taken from the
27 residue the amounts appropriated for other educational

1 purposes in Section 40-23-35, Code of Alabama 1975 (which
2 residue constitutes that portion of the receipts from the
3 sales tax that is now required by law to be paid into the
4 trust fund), and after there shall have been taken from the
5 residue amounts sufficient to meet all prior charges on the
6 residue including such amounts as may be necessary to pay at
7 their respective maturities the principal of and interest on
8 those bonds issued by the authority under the 1965 Act, the
9 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990
10 Act, the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act,
11 the 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or
12 this act that may be outstanding at the time of the delivery
13 of the respective series of the bonds authorized herein; and

14 (d) To the extent and to the extent only that the
15 revenues appropriated in the foregoing subsections (a), (b),
16 and (c) of this section may not be sufficient to pay at their
17 respective maturities the principal of, premium, if any, and
18 the interest on the bonds, the residue of the receipts from
19 the excise tax ("the use tax") levied by Title 40, Chapter 23,
20 Article 2, Code of Alabama 1975, as amended ("Article 2"),
21 after there shall have been taken from the residue the amount
22 necessary to meet the expenses of the state Department of
23 Revenue in collecting the use tax (which residue constitutes
24 that portion of the receipts from the use tax that is now
25 required by law to be paid into the trust fund), and after
26 there shall have been taken from the residue such amounts as
27 may be necessary to meet all prior charges on the use tax

1 including the amounts sufficient to pay at their respective
2 maturities the principal of and interest on those outstanding
3 bonds referred to in subsection (c) of this section.

4 (e) All monies hereby appropriated and pledged shall
5 constitute a sinking fund for the purpose of paying the
6 principal of, premium, if any, and interest on the bonds. The
7 State Treasurer is authorized and directed to pay at their
8 respective maturities the principal of, premium, if any, and
9 interest on the bonds out of this fund and out of the residues
10 of the tax receipts herein appropriated and pledged for the
11 benefit of the bonds, and is further authorized and directed
12 to set up and maintain appropriate records pertaining thereto.

13 Section 6. The bonds shall not be general
14 obligations of the authority but shall be limited obligations
15 payable solely out of the residues of the tax receipts
16 appropriated and pledged in Section 5. All bonds issued by the
17 authority pursuant to the provisions of this act shall be
18 solely and exclusively obligations of the authority and shall
19 not constitute or create an obligation or debt of the state.
20 As security for the payment of the principal of, premium, if
21 any, and interest on the bonds, the authority is hereby
22 authorized and empowered to pledge the residues of the tax
23 receipts that are appropriated and pledged in Section 5 hereof
24 for such purposes. All such pledges made by the authority
25 shall take precedence in the order of the adoption of the
26 resolutions containing the pledges. All such pledges shall be
27 prior and superior to any pledges that may be made for any

1 refunding bonds hereafter issued by the authority under the
2 provisions of any of the 1965 Act, the 1971 Acts, the 1973
3 Act, the 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act,
4 the 1998 Act, the 1999 Act, the 2001 Act, the 2002 Act, the
5 2003 Act, the 2007 Act, the 2010 Act, or any other act
6 heretofore enacted.

7 Section 7. For the purpose of refunding any bonds or
8 refunding bonds of the authority issued under the provisions
9 of this act, the 1965 Act, the 1971 Acts, the 1973 Act, the
10 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act, the 1998
11 Act, the 1999 Act, the 2001 Act, the 2002 Act, the 2003 Act,
12 the 2007 Act, the 2010 Act, or any other act previously
13 enacted, or any combination thereof, whether such refunding
14 shall occur before, at or after the maturity of the bonds
15 refunded and for the purpose of paying all premiums and
16 expenses of the refunding (including, but not limited to,
17 attorneys' fees, costs of printing the refunding bonds, fiscal
18 agents' fees, and accountants' fees), the authority is hereby
19 authorized to sell and issue its refunding bonds. Such
20 refunding bonds may be sold and issued from time to time, at
21 public sale, on sealed bids and on such other terms and
22 conditions as the authority shall determine to be advantageous
23 and shall adopt and provide for in its proceedings for the
24 sale and issuance of such refunding bonds. Provided, however,
25 that no refunding bonds shall be issued unless the present
26 value of all debt service on the refunding bonds (computed
27 with a discount rate equal to the true interest rate of the

1 refunding bonds and taking into account all underwriting
2 discount and other issuance expenses) shall not be greater
3 than 97 percent of the present value of all debt service on
4 the bonds to be refunded (computed using the same discount
5 rate and taking into account the underwriting discount and
6 other issuance expenses originally applicable to such bonds)
7 determined as if such bonds to be refunded were paid and
8 retired in accordance with the schedule of maturities
9 (considering mandatory redemption as scheduled maturity)
10 provided at the time of their issuance. Provided further that
11 the average maturity of the refunding bonds, as measured from
12 the date of issuance of such refunding bonds, shall not exceed
13 by more than three years the average maturity of the bonds to
14 be refunded, as also measured from such date of issuance, with
15 the average maturity of any principal amount of bonds to be
16 determined by multiplying the principal of each maturity by
17 the number of years (including any fractional part of a year)
18 intervening between such date of issuance and each such
19 maturity, taking the sum of all such products, and then
20 dividing such sum by the aggregate principal amount of bonds
21 for which the average maturity is to be determined. For the
22 purpose of providing funds to enable the authority to pay at
23 their respective maturities the principal of, premium, if any,
24 and interest on the refunding bonds issued under this act, the
25 authority is hereby authorized to pledge irrevocably for such
26 purpose, and there is hereby appropriated for such purpose,
27 such amount as may be necessary of the residues of the

1 receipts from the excise taxes pledged and appropriated in
2 subsections (a), (b), (c), and (d) of Section 5 of this act,
3 any reserves or sinking funds established by the authority, as
4 well as revenues of the authority from any other sources
5 specified in the proceedings wherein the refunding bonds are
6 authorized to be issued. Pending the application of the
7 proceeds of refunding bonds issued in accordance with this
8 section, the proceeds, together with investment earnings
9 therefrom, and amounts in any sinking fund, together with
10 investment earnings thereon, may be held by the State
11 Treasurer as treasurer of the authority in trust, or may be
12 deposited by the State Treasurer in trust, on such terms as
13 the State Treasurer and the authority shall approve, with a
14 trustee or escrow agent, which trustee or escrow agent shall
15 be a banking institution or trust company authorized to
16 exercise trust powers in Alabama, for investment in permitted
17 investments. Proceeds of refunding bonds shall be so invested
18 and applied as to assure that the principal, interest, and
19 redemption premium, if any, on the bonds being refunded shall
20 be paid in full on the respective maturity, redemption, or
21 interest payment dates. Refunding bonds issued by the
22 authority shall not be general obligations of the authority
23 but shall be payable solely from the sources specified in this
24 act and in the proceedings whereby the refunding bonds are
25 authorized to be issued. All refunding bonds issued by the
26 authority shall be solely and exclusively obligations of the
27 authority and shall not create debts of the State of Alabama.

1 The faith and credit of the State of Alabama shall never be
2 pledged for the payment of any refunding bonds issued by the
3 authority under this act. The authority may contract with
4 respect to the safekeeping and application of the refunding
5 bonds and other funds included therewith and the income
6 therefrom which may be any bank or trust company authorized to
7 exercise trust powers and located within and/or without the
8 state. All other provisions of this act shall apply to the
9 refunding bonds issued hereunder except (a) the limitation
10 contained in Section 2 of this act on the amount of bonds that
11 may be issued under this act and (b) the provisions of Section
12 8 of this act. All pledges made by this act or by the
13 authority pursuant to the provisions of this act, for the
14 benefit of refunding bonds issued under this act, and all such
15 pledges for the benefit of refunding bonds which may be issued
16 to refund any bonds issued under any of the 1965 Act, the 1971
17 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,
18 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the
19 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or this
20 act, shall take precedence in the order of the adoption of the
21 resolutions authorizing the issuance of such refunding bonds.
22 Bonds refunded prior to their maturity with the proceeds of
23 refunding bonds shall be deemed paid and the pledges herein
24 and by the authority made for the payment thereof defeased if
25 the authority, in its proceedings regarding issuance of the
26 refunding bonds shall provide for and establishes a trust or
27 escrow fund comprised of monies or government securities, or

1 both, sufficient to pay, when due, the entire principal of,
2 premium, if any, and interest on the bonds to be refunded
3 thereby; provided, that such government securities shall not
4 be subject to redemption prior to their maturities other than
5 at the option of the holder thereof. Upon the establishment of
6 such a trust or escrow fund, the refunded bonds shall no
7 longer be deemed to be outstanding, shall no longer be secured
8 by the funds pledged therefore in Section 5 of this act, shall
9 no longer be obligations of the authority and shall be secured
10 solely by and payable from monies and government securities
11 deposited in such trust or escrow fund.

12 Section 8. (a) The proceeds derived from each sale
13 of the bonds issued pursuant to this act shall be deposited
14 into the State Treasury and shall be carried in a separate
15 fund therein for the account of the authority, which shall pay
16 the expenses of issuance therefrom. The expenses of issuance
17 of the bonds shall be prorated among the recipients of the
18 proceeds from the sale of the bonds in the same proportions as
19 the allocations received of the proceeds thereunder. The
20 proceeds from the sale of the bonds remaining after payment of
21 the expenses of issuance thereof shall be retained in the
22 funds and, until they are paid out, shall be invested by the
23 State Treasurer at the direction of the authority in permitted
24 investments maturing at such time or times as the authority
25 shall direct.

26 (b) Proceeds from the sale of the bonds and the
27 earnings thereon shall be paid out from time to time on orders

1 or warrants issued by or at the discretion of the authority
2 for the purposes specified in this act.

3 Section 9. Not later than three years following
4 allocation of bond proceeds as provided herein, the authority
5 shall review the status of any unexpended allocations, and, at
6 its sole discretion, determine if unexpended allocations or
7 any portion thereof shall revert to the authority.

8 Section 10. Notwithstanding any of the foregoing and
9 in addition to all powers heretofore granted to the authority,
10 the authority is hereby expressly authorized to use the
11 proceeds derived from the sale of bonds and income on
12 permitted investments in accordance with the provisions of
13 this act. The preparation of all plans and specifications for
14 any building constructed wholly or in part with any of the
15 monies realized from the sale of any of the bonds and all work
16 done pursuant to expenditure of the proceeds thereof in regard
17 to the construction, reconstruction, alteration, improvement
18 and equipping of buildings shall be supervised by the State
19 Building Commission, and the Authority will reimburse the
20 Commission for its reasonable direct and administrative costs
21 in having plans, specifications, and contract documents
22 prepared and in supervising and inspecting the work.
23 Additionally, the authority is hereby expressly permitted to
24 pay to the Department of Finance and the State Treasurer's
25 Office, from time to time and from any funds available to the
26 authority, amounts to offset costs incurred in the
27 administration of the business of the authority. The cost of

1 such compensation shall be prorated among the recipients of
2 proceeds of the bonds in the same manner as the expenses of
3 issuance of the bonds are required hereby to be prorated.

4 Section 11. The authority shall hire or contract
5 with businesses or individuals which reflect the racial and
6 ethnic diversity of the state.

7 Section 12. The authority shall have the power to
8 make such payments to the United States of America as the
9 board of directors of the authority deems necessary to cause
10 the interest on any bonds of the authority, including the
11 bonds, to be and remain exempt from, or excludible from gross
12 income for purposes of, federal income taxation. The authority
13 shall have the power to make such agreements respecting the
14 investment of funds of the authority as the authority shall
15 deem necessary in order that the interest income on bonds of
16 the authority be and remain exempt from, or excludible from
17 gross income for purposes of, federal income taxation.

18 Section 13. The authority is authorized to pay out
19 of proceeds of any series of bonds the costs and expenses
20 incurred in connection with the issuance of such bonds,
21 including without limitation legal and accounting fees and
22 expenses, fees, and expenses of any financial or fiscal
23 advisor employed by the authority, printing costs, rating
24 agency fees, and premiums or charges for any credit
25 enhancement or liquidity providers. Notwithstanding any
26 provision of this act or the 1965 Act, in appointing,
27 employing, or contracting with attorneys, fiscal advisors,

1 trustees, paying agents, investment bankers, banks and
2 underwriters, the authority may appoint, employ, or contract
3 with firms whose principal offices are located without and/or
4 within Alabama. The authority shall hire or contract with
5 attorneys, fiscal advisors, trustees, paying agents,
6 investment bankers, banks and underwriters which shall reflect
7 the racial and ethnic diversity of the state. The authority
8 shall issue requests for proposals for attorneys, fiscal
9 advisors, trustees, paying agents, investment bankers, banks,
10 and underwriters. The authority shall evaluate each proposed
11 bid publicly and award each contract publicly. Minutes of the
12 authority's meeting shall record the reasons for awarding each
13 contract.

14 Section 14. In the event any section, sentence,
15 clause or provision of this act shall be declared invalid by a
16 court of competent jurisdiction, such action shall not affect
17 the validity of the remaining sections, sentences, clauses, or
18 provisions of this act, which shall continue effective.

19 Section 15. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
Education..... 02-APR-13

Read for the second time and placed
on the calendar with 1 substitute
and..... 24-APR-13

Read for the third time and passed
as amended..... 30-APR-13

Yeas 103, Nays 0, Abstains 0

Jeff Woodard
Clerk