

1 HB540
2 211731-1
3 By Representative Poole
4 RFD: Boards, Agencies and Commissions
5 First Read: 11-MAR-21

8 SYNOPSIS: This bill would create the Alabama
9 Innovation Corporation as an authority organized as
10 a public corporation having a legal existence
11 separate and apart from the state and any county,
12 municipality, or political subdivision, and would
13 provide for its powers and duties.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 To add Article 20, commencing with Section
20 41-10-800, to Chapter 10, Title 41 of the Code of Alabama
21 1975; to create the Alabama Innovation Corporation; to provide
22 legislative findings; to provide for its incorporation; to
23 provide for the creation of a board; to provide for the powers
24 and duties of the corporation; to allow the corporation to
25 enter into contracts; to create an accompanying fund and
26 provide for the management of the fund; to provide for

1 amendments to the governing documents of the corporation; and
2 to provide for the dissolution of the corporation.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Article 20, commencing with Section
5 41-10-800, is added to Chapter 10, Title 41 of the Code of
6 Alabama 1975, to read as follows:

7 §41-10-800. Legislative findings.

8 The Legislature finds and declares all of the
9 following:

10 (1) On July 16, 2020, the Governor issued Executive
11 Order No. 720, establishing the Alabama Innovation Commission
12 to "identify policies that will promote entrepreneurship,
13 innovation, and related opportunities in the State of
14 Alabama."

15 (2) The commission has issued an interim report
16 outlining initial policy recommendations, including all of the
17 following:

18 a. To develop a statewide innovation coordination
19 and incentive structure to generate additional, successful
20 business growth.

21 b. To develop an Alabama branding campaign to evolve
22 the state into an emerging destination place.

23 c. To seek Small Business Innovation Research and
24 Small Business Technology Transfer Research grants matching
25 funds through a state program that would potentially match
26 existing funding.

1 (3) This article creates the structure recommended
2 in paragraph (2)a., to implement the recommendations listed in
3 paragraphs (2)b. and (2)c.

4 (4) Recognizing that this state's economy is rapidly
5 changing, this article should be interpreted and applied to
6 allow the corporation to respond rapidly, as its board deems
7 appropriate, to challenges and opportunities in the fields of
8 technology, research and development, innovation, and
9 entrepreneurship.

10 (5) The corporation is charged with preparing this
11 state for the economy of the future. The corporation shall
12 make this state a hub for technology, research and
13 development, innovation, and entrepreneurship by partnering
14 with the private sector, state agencies, and state policy
15 makers to develop and implement programs and policies to lead
16 to a more robust, diverse, and resilient economy for this
17 state.

18 §41-10-801. Definitions.

19 For the purposes of this article, the following
20 terms shall have the following meanings:

21 (1) ASPIRING ALABAMIAN. A person who has less than
22 one hundred thousand dollars (\$100,000) of household net worth
23 and who satisfies at least one of the following criteria:

24 a. The person has a principal residence in a
25 community eligible for investment through the federal New
26 Markets Tax Credit program under 26 U.S.C. § 45D(e) (1).

1 b. The person owns at least a majority interest in a
2 business located in a community eligible for investment
3 through the federal New Markets Tax Credit program under 26
4 U.S.C. § 45D(e) (1).

5 c. The person does not hold, and is not actively
6 pursuing, a baccalaureate degree or does not have parents who
7 hold baccalaureate degrees.

8 d. The person has at least one parent who does not
9 have a high school diploma or its equivalent.

10 (2) BOARD. The governing board of the corporation.

11 (3) CORPORATION. The Alabama Innovation Corporation
12 created by this article as an authority organized as a public
13 corporation having a legal existence separate and apart from
14 the state and any county, municipality, or political
15 subdivision.

16 (4) ECONOMIC DEVELOPMENT AND INNOVATION ENTITY.

17 a. A nonprofit corporation that possesses all of the
18 following characteristics:

19 1. Is organized as a nonprofit corporation exempt
20 from federal income tax under Section 501(c) of the Internal
21 Revenue Code of 1986, as amended.

22 2. Has a record of, or can demonstrate that it is
23 capable of, serving the entire state on matters involving
24 economic development.

25 3. Has a record of, or can demonstrate that it is
26 capable of, managing startup competitions or related
27 programming designed to foster an innovation-based economy.

1 4. Has received, or is eligible to receive, grant
2 funding from the state or from federal or private sources.

3 b. In determining whether a nonprofit corporation
4 qualifies as an economic development and innovation entity,
5 the board may attribute to the nonprofit corporation the
6 experiences of its officers, staff, and directors with other
7 nonprofit corporations.

8 (5) ELIGIBLE INVESTMENTS. All of the following:

9 a. Demand deposits (interest bearing) in federally
10 insured banks, and interest bearing deposits, whether or not
11 evidenced by certificates of deposits, in federally insured
12 banks; provided, however, that the deposits plus interest
13 shall be fully secured by obligations described in paragraphs
14 b. and c., to the extent that the deposits plus interest
15 exceed insurance available from the Federal Deposit Insurance
16 Corporation, or from any agency of the United States of
17 America that may succeed to the functions of the Federal
18 Deposit Insurance Corporation.

19 b. Bonds, notes, and other evidences of indebtedness
20 that are direct obligations of the United States of America or
21 that are unconditionally guaranteed as to both principal and
22 interest by the United States of America.

23 c. Bonds, debentures, notes, or other evidences of
24 indebtedness issued or guaranteed by any federal agencies or
25 government sponsored enterprises authorized to issue their own
26 debt instruments including, without limitation, to any of the
27 following: Federal Farm Credit Bank, Federal Intermediate

1 Credit Banks, the Export-Import Bank of the United States,
2 Federal Land Banks, the Federal National Mortgage Association,
3 the Governmental National Mortgage Association, the Federal
4 Financing Bank, Federal Banks for Cooperatives, Federal Home
5 Loan Banks, Federal Home and Loan Mortgage Association, or the
6 Farmers Home Administration.

7 d. Repurchase agreements with federally insured
8 banks or with government bond dealers reporting to and trading
9 with the Federal Reserve Bank of New York, provided that the
10 repurchase agreements are secured by obligations described in
11 paragraphs b. and c.

12 e. Interest-bearing time deposits, whether or not
13 evidenced by certificates of deposit, in savings and loan
14 associations: (i) the deposits of which are insured to the
15 maximum extent possible by the Federal Savings and Loan
16 Insurance Corporation or any agency of the United States of
17 America that may succeed to its functions; and (ii) the
18 principal office of which is located in the state. The
19 deposits plus interest shall be secured by obligations
20 described in paragraphs b. and c., to the extent that the
21 deposits plus interest exceed insurance available from the
22 Federal Savings and Loan Insurance Corporation or from any
23 agency of the United States of America that may succeed to the
24 functions of the Federal Savings and Loan Insurance
25 Corporation.

1 f. Other legal investments which the corporation
2 determines will have the effect of growing an innovative
3 economy.

4 (6) FUND. The Alabama Innovation Fund.

5 (7) SMALL BUSINESS INNOVATION RESEARCH. The grants
6 and programs defined in 15 U.S.C. § 638(e)(4).

7 (8) SMALL BUSINESS TECHNOLOGY TRANSFER RESEARCH. The
8 grants and programs defined in 15 U.S.C. § 638(e)(6).

9 (9) STEM. Science, technology, engineering, and
10 mathematics.

11 §41-10-802. Incorporation.

12 (a) The Governor, the Speaker of the House of
13 Representatives, and the President Pro Tempore of the Senate
14 shall present to the Secretary of State an application, signed
15 by each of them, for the formation of the Alabama Innovation
16 Corporation, as a public corporation, having a legal existence
17 separate and apart from the state and any county,
18 municipality, or political subdivision, which shall set forth
19 all of the following:

20 (1) The name, official designation, and official
21 office location of each of the applicants, together with a
22 certified copy of the commission evidencing each applicant's
23 right to office.

24 (2) The date on which each applicant was sworn into
25 office and the term of office of each applicant.

26 (3) The name of the proposed public corporation,
27 which shall be the Alabama Innovation Corporation.

1 (4) The location of the principal office of the
2 proposed corporation.

3 (5) Any other matter relating to the corporation
4 that the applicants may choose to insert and that is not
5 inconsistent with this article or state law.

6 (b) The application shall be subscribed and sworn to
7 by each applicant before an officer authorized by the laws of
8 the state to take acknowledgments to deeds. The Secretary of
9 State shall examine the application, and, if he or she finds
10 that the application substantially complies with the
11 requirements of this section, the application shall be filed
12 and recorded in an appropriate book of records in the office
13 of the Secretary of State.

14 (c) When the application has been made, filed, and
15 recorded as provided in subsection (b), the applicants shall
16 constitute a public corporation under the name stated in the
17 application, and the Secretary of State shall make and issue
18 to the applicants a certificate of incorporation pursuant to
19 this article, under the Great Seal of the State, and shall
20 record the certificate with the application. There shall be no
21 fees paid to the Secretary of State in connection with the
22 corporation.

23 (d) Notwithstanding any provision of law to the
24 contrary, any corporation incorporated pursuant to this
25 section shall not be deemed to be a part of the state for any
26 purpose but shall be treated as a public corporation and body
27 politic separate and apart from the state.

1 §14-10-803. Board of directors.

2 (a) The corporation shall be under the management
3 and control of a board of directors, and all powers necessary
4 or appropriate for the management and control of the
5 corporation shall be vested solely in the board. The board
6 shall be comprised of both ex officio directors and at-large
7 directors, all of whom shall be voting members of the board
8 and shall be considered in determining whether a quorum is
9 present.

10 (b) The board shall have three ex officio directors,
11 consisting of the Governor, the Speaker of the House of
12 Representatives, and the President Pro Tempore of the Senate,
13 or their designees. The service of each ex officio director
14 shall begin and end concurrently with the beginning and end of
15 his or her tenure in office. Each ex officio director may
16 appoint a person to serve in his or her place at any meeting
17 of the board, or may designate a person to serve in his or her
18 place at all meetings of the board until the term of the ex
19 officio director should end, and the appointee or designee
20 shall be counted for purposes of a quorum and voting.

21 (c) The Governor shall select four at-large
22 directors, who shall be persons with experience relevant to
23 the purposes and activities of the corporation including, but
24 not limited to, experience with all of the following:

25 (1) Participating on boards of, or being employed
26 by, nonprofit corporations which promote business or economic
27 development throughout the state.

1 (2) Having other experience relevant to
2 entrepreneurship and innovation including, but not limited to,
3 all of the following:

4 a. Making more than one investment in seed or
5 pre-seed stage startup companies or managing, or making
6 investments in, one or more seed stage funds or venture
7 capital funds.

8 b. Founding, or working as an executive in, a
9 science or technology based business.

10 c. Founding, or working as an executive in, a
11 business which acquired or commercialized intellectual
12 property from a university or other research institution.

13 (3) In making appointments of at-large directors,
14 the Governor shall coordinate his or her appointments so that
15 diversity of gender, race, and geographical areas is
16 reflective of the makeup of the state. The service of each
17 at-large director shall begin upon written acceptance of his
18 or her appointment. The at-large directors selected by the
19 Governor shall serve on the board for a term ending on the
20 date of the second year following his or her appointment as an
21 at-large director. Each at-large director, regardless of
22 whether a prior Governor selected him or her, shall continue
23 to serve until the director is reappointed, or a successor is
24 appointed, to the office. An at-large director appointed by
25 the Governor may only serve a maximum of two consecutive terms
26 of office, but may be reappointed after he or she has spent at
27 least one year without serving as an at-large director.

1 At-large directors may resign or may be removed by the
2 Governor at any time and for any reason, at which time the
3 Governor shall appoint a different person to serve, so long as
4 that person satisfies the requirements set forth in this
5 section. A person appointed to fill a vacancy shall serve out
6 the remainder of the unexpired term and may be appointed to
7 serve two additional consecutive terms.

8 (d) No director shall receive additional
9 compensation because of his or her service as a director. Each
10 director shall be reimbursed for expenses actually incurred in
11 the performance of his or her duties as a director.

12 (e) Notwithstanding subsections (a) through (d),
13 inclusive, upon the incorporation of the corporation, the
14 Governor shall select as one of the initial at-large directors
15 the individual serving in the leadership of the Alabama
16 Innovation Commission as of January 1, 2021. As long as that
17 individual is serving on the board, he or she shall be the
18 chair and presiding officer of the board. The individual shall
19 serve on the board for a term ending on the date of the second
20 year following his or her appointment as an at-large director
21 and may be reappointed for an additional consecutive two-year
22 term as an at-large director. At that time, he or she shall
23 resign or otherwise be removed by the Governor, and,
24 thereafter, the position shall be subject to the appointment
25 provisions for at-large directors provided by this section and
26 the Governor shall appoint any member of the board to be the
27 chair of the board.

1 (f) Notwithstanding any provision of Chapter 25A of
2 Title 36, a majority of the directors shall constitute a
3 quorum for the transaction of business by the board, and
4 decisions shall be made on the basis of a majority of the
5 quorum then present and voting. No vacancy in the membership
6 of the board or the voluntary disqualification or abstention
7 of any director shall impair the right of a quorum to exercise
8 all of the powers and duties of the board. Members of the
9 board may participate in meetings of the board in person, by
10 means of telephone conference, video conference, or other
11 similar communications equipment, so that all individuals
12 participating in the meeting may hear each other at the same
13 time. Participation by any such means shall constitute
14 presence in person at a meeting for all purposes, including
15 for purposes of establishing a quorum.

16 (g) The board may appoint other officers to perform
17 duties not inconsistent with this article or applicable law,
18 as the board deems necessary or appropriate.

19 (h) In addition to regular meetings of the board, as
20 may be provided by law or by bylaws adopted by the board,
21 special meetings of the board may be called by the chair
22 acting alone or by any three other directors acting in
23 concert, in each case upon notice to each director given in
24 person, by email, by registered letter, or by other means.
25 Notice to each director may be waived by the director, either
26 before or after the meeting with respect to which the notice
27 would otherwise be required.

1 (i) All proceedings of the board, except executive
2 sessions, shall be reduced to writing on behalf of the board
3 and maintained in the permanent records of the corporation, a
4 copy of which shall be filed in the principal office of the
5 corporation and shall be open for public inspection there
6 during regular business hours. The principal office of the
7 corporation shall be the principal office of the director of
8 finance.

9 §41-10-804. Powers of the board.

10 (a) The board shall have all of the powers necessary
11 to carry out and effectuate the purposes of this article. The
12 foregoing sentence shall be construed broadly, so that the
13 failure to state a power of the board shall not be considered
14 a limitation upon the board, so long as the board shall find
15 that the power is necessary to allow the board to fulfill the
16 purpose of the corporation, as provided by this article. In
17 the event that the board should determine to add one or more
18 powers, they may do so by amending their application of
19 formation. Without limiting the generality of the foregoing,
20 the board shall have and exercise all of the following powers:

21 (1) Recognize that the economy of today will not
22 exist tomorrow and implement policies that help this state,
23 and residents of this state, embrace that future.

24 (2) Take actions to make this state a hub for
25 technology, innovation, and entrepreneurship by partnering
26 with the private sector, state agencies, and state policy
27 makers to develop and implement programs and policies that

1 will lead to a more robust and inclusive economy for this
2 state.

3 (3) Support, financially and otherwise, the
4 establishment or growth, or both, of all of the following:

5 a. Marketing and branding the state including, but
6 not limited to, the state's business climate, the state's tax
7 rates and structures, the state's innovation-focused
8 incentives and abatements, the state's business related
9 programs, and the state's innovation and entrepreneurial
10 ecosystems.

11 b. Pursuing and supporting commercialization,
12 entrepreneurship, research and development, and technology
13 transfer facilities, funding, incentives, partnerships, events
14 and programs including, but not limited to, all of the
15 following:

16 1. Creating, operating, and supporting accelerator
17 or similar programs including, but not limited to, university
18 and corporate focused accelerator or similar programs.

19 2. Developing programing, incubators, and
20 accelerators that serve this state's startups and their
21 founders, and disseminating both in person and online.

22 3. Creating, operating, and supporting industry
23 focused research and development centers established by public
24 universities in collaboration with existing industry in
25 Alabama.

1 c. Incentivizing and providing funding to innovative
2 businesses or programs that support innovation in this state's
3 economy including, but not limited to, the following:

4 1. Assisting recipients of Small Business Innovation
5 Research and Small Business Technology Transfer Research
6 funding.

7 2. Encouraging pre-seed, seed, venture capital, and
8 private equity funding activity in this state.

9 3. Supporting community development financial
10 institutions that serve residents of this state.

11 4. Supporting qualified STEM teachers and technology
12 staff teaching and working in rural or otherwise
13 under-performing or under-resourced schools in this state.

14 d. Engaging in rural initiatives that support
15 innovation including, but not limited to, the creation,
16 operation, and support of entrepreneurial centers, and
17 marketing rural quality of life and recreational
18 opportunities.

19 e. Creating, operating, and supporting research and
20 development of a 21st-Century transportation system that
21 reflects emerging technologies and multi-modal concepts.

22 f. Attracting, recruiting, and retaining skilled
23 workers, STEM workers, and other in-state and out-of-state
24 two-year and four-year college, university, and community
25 college graduates, and engaging in other innovation focused
26 workforce development activities.

1 g. Supporting businesses owned or led, or both, by
2 aspiring Alabamians.

3 h. Supporting businesses headquartered in census
4 tracts that satisfy the definition of low income communities
5 found in 26 U.S.C. § 45D(e).

6 (4) Adopt, alter, and repeal bylaws for the
7 regulation and conduct of the corporation's affairs and
8 business, and for the implementation of this article.

9 (5) Take actions as may be necessary or convenient
10 to accomplish any purpose of the corporation, or to exercise
11 any power of the corporation.

12 (6) Make and enter into contracts, leases,
13 agreements, and take other actions as may in its judgment be
14 necessary or desirable to accomplish any purpose, and to
15 exercise any power necessary for the accomplishment of the
16 purposes of the corporation or incidental to the powers
17 expressly set forth in this article.

18 (7) Appoint, employ, and contract with employees,
19 agents, advisors, consultants, and service providers
20 including, but not limited to, attorneys, accountants,
21 financial experts, and other advisors, consultants, and agents
22 as may in its judgment be necessary or desirable to accomplish
23 any purpose of the corporation or incidental to the powers
24 expressly set forth in this article, and to fix the
25 compensation of those persons.

1 (8) Manage, invest, and expend capital from the
2 fund, as provided in Section 41-10-806, and to provide for the
3 indemnification of directors.

4 (9) Use the financial resources of the corporation
5 to purchase, lease, or otherwise acquire real and personal
6 property, and to use, develop, operate, lease, or convey those
7 properties, as may in its judgment be necessary or desirable
8 to accomplish any purpose of the corporation or incidental to
9 the powers expressly set forth in this article.

10 (10) Lend its credit to, or grant public monies and
11 things of value in aid of or to, any individual, firm,
12 corporation, or other business entity, public or private, as
13 may in its judgment be necessary or desirable to accomplish
14 any purpose of the corporation or incidental to the powers
15 expressly set forth in this article.

16 (11) Promote and solicit taxpayer donations for tax
17 credits that promote innovation in the state.

18 (12) Take any action necessary to exercise its
19 rights or fulfill its obligations relevant to the corporation
20 under state law.

21 (b) The board shall create an advisory committee
22 which shall provide information and make recommendations to
23 the board concerning the implementation of this article. The
24 advisory committee shall have no legal authority or other
25 responsibility over the actions of the corporation. The board
26 shall coordinate its appointments so that diversity of gender,
27 race, and geographical areas is reflective of the makeup of

1 this state. The members of the advisory committee shall serve
2 at the pleasure of the board. The board shall appoint one
3 member of the advisory committee to serve as the chair of the
4 advisory committee, and meetings of the advisory committee may
5 be called by its chair or by the board. Members of the
6 advisory committee may participate in a meeting of the
7 committee in person, by means of telephone conference, video
8 conference, or other similar communications equipment so that
9 all individuals participating in the meeting may hear each
10 other at the same time. Participation by any such means shall
11 constitute presence in person at a meeting for all purposes,
12 including for purposes of establishing a quorum, and the
13 affirmative vote of a majority of the members in attendance
14 shall be necessary for any action of the advisory committee.
15 The committee and its members shall not be subject to Chapter
16 25 or 25A of Title 36 nor Section 36-12-40.

17 (c) The board may enter into agreements with one or
18 more economic development and innovation entities to exercise
19 all powers of the corporation, so long as, all of the
20 following:

21 (1) The agreement requires regular reporting to the
22 corporation by the economic development and innovation entity.

23 (2) The agreement allows for the overhead costs of
24 the economic development and innovation entity to be
25 reimbursed or otherwise paid only if directly related to the
26 fulfillment of the agreement, as determined by the
27 corporation.

1 (d) The board may make, enter into, and execute
2 contracts, agreements, and other instruments with, accept aid
3 and grants from, and cooperate with, any other person or
4 entity including, but not limited to, all of the following:

5 (1) The United States of America, the state, or any
6 agency, instrumentality, or political subdivision of either.

7 (2) For profit or nonprofit private entities.

8 (3) Public bodies, departments, or authorities
9 including, but not limited to, the executive departments of
10 the state, to act on behalf of the board in carrying out
11 functions which the board determines are consistent with the
12 corporation's powers.

13 (4) Without limiting the foregoing, the corporation
14 shall enter into a compact with the Alabama Department of
15 Economic and Community Affairs pursuant to which the
16 corporation shall exercise all rights, powers, and obligations
17 relating to opportunity funds of the department under Sections
18 40-18-6.1 and 41-10-46.01. Project agreements under Section
19 40-18-6.1, shall not be required to comply with Section
20 40-18-6.1(c).

21 (e) The corporation shall be, and shall operate as,
22 a public corporation and shall have a legal existence separate
23 and apart from the state and any county, municipality, or
24 political subdivision.

25 (f) Members of the board shall be subject to Chapter
26 25 of Title 36, but the corporation shall not be deemed to
27 have statewide jurisdiction for purposes of Section 36-25-14.

1 For the purposes of Chapter 25 of Title 36, the corporation
2 shall not be deemed a business, and no public official or
3 public employee shall be prohibited from taking actions
4 affecting the corporation, because of his or her service with
5 the corporation; provided that actual personal gain for the
6 individual or his or her family shall be subject to Chapter 25
7 of Title 36. For purposes of Chapter 25 of Title 36, a public
8 official or public employee holding a position with the
9 corporation is not precluded from taking official actions
10 affecting the corporation so long as there is no impermissible
11 personal gain. The board shall be subject to Chapter 25A of
12 Title 36.

13 §41-10-805. Corporation contracts.

14 The board may enter into contracts, leases,
15 agreements, investments, and may otherwise expend monies
16 without compliance with Article 2, commencing with Section
17 41-16-20, of Chapter 16 of Title 41, and Chapter 2 of Title
18 39, or any requirements relating to the procurement of
19 professional service providers in Section 41-16-72. Solely as
20 a result of entering into contracts, leases, agreements,
21 investments, or otherwise, no for-profit or nonprofit private
22 entity, nor the officers, employees, agents, or directors of
23 any of the foregoing, shall become subject to Chapter 25 or
24 Chapter 25A of Title 36; Article 2, commencing with Section
25 41-16-20, of Chapter 16 of Title 41; Chapter 2 of Title 39;
26 Section 36-12-40, or any requirements relating to the

1 procurement of professional service providers in Section 41-16-72.

2 §41-10-806. Alabama Innovation Fund creation.

3 (a) (1) For the benefit of the state and the
4 residents thereof, there is created an irrevocable fund named
5 the Alabama Innovation Fund, which shall be funded from all of
6 the following sources:

7 a. Proceeds of any gifts, grants, or contributions.

8 b. Revenue sources as directed by, and at the
9 discretion of, the Legislature.

10 c. Appropriations as directed by, and at the
11 discretion of, the Legislature.

12 d. Investment income.

13 e. Any other lawful sources.

14 (2) The fund shall be administered in accordance
15 with this article. All revenues received by the fund shall be
16 deposited in the fund upon receipt, shall be invested by the
17 board in a manner consistent with this article, and shall be
18 withdrawn and expended by the corporation for the purposes of
19 this article in a manner consistent with the powers granted to
20 the corporation by this article.

21 (b) The fund shall be under the management and
22 control of the board, and all powers necessary or appropriate
23 for the management and control of the fund shall be vested
24 solely in the board.

25 §41-10-807. Alabama Innovation Fund management.

26 (a) The fund shall be held in perpetual trust and
27 shall not be appropriated by the Legislature or expended or

1 disbursed for any purpose other than as provided in this
2 article. Earnings on the fund's investments shall remain a
3 part of the fund. The board may expend the fund's earnings and
4 principal in furtherance of its purposes.

5 (b) (1) To the extent practicable, the board shall
6 keep all monies at any time held in the fund invested in
7 eligible investments, in its sole and uncontrolled judgment,
8 as shall produce the greatest trust income over the term of
9 the investments while preserving the capital. In making any
10 investment of monies held in the fund, the board shall
11 exercise the judgment and care, under the circumstances
12 prevailing at the time of the investment, which an
13 institutional investor of the highest standard of prudence,
14 intelligence, and financial expertise would exercise in the
15 management and investment of large assets entrusted to it, not
16 for the purpose of speculative profit, but for the permanent
17 generation and disposition of the fund's financial resources,
18 considering the probable safety of capital, as well as the
19 expected amount and frequency of income.

20 (2) The board shall have full power and authority to
21 select the eligible investments in which monies held in the
22 fund shall at any time be invested, and, to the extent not
23 inconsistent with any express provision of this article, the
24 eligible investments so selected shall be acquired from those
25 issuers, underwriters, brokers, or other sellers on terms and
26 conditions; shall be acquired for purchase prices reflecting
27 such discount below or premium above the par or face amount

1 thereof; shall bear such dates and be in such form,
2 denominations, and series; shall mature or be subject to
3 mandatory redemption on such dates; shall bear interest at
4 such rate or rates payable at such intervals, or,
5 alternatively, shall provide income to the holder thereof in
6 such manner, including, without limitation thereto, the
7 purchase of such investments at a discount which represents
8 all or part of the income or profit derived therefrom; shall
9 be unsecured or secured in such manner; shall contain such
10 provisions for prepayment or redemption at the option of the
11 issuer or obligor; and shall contain or be subject to such
12 other provisions as shall, in all of the foregoing respects,
13 be determined by the board in exercise of its sole and
14 uncontrolled judgment.

15 (3) The board shall have full power and authority to
16 invest the fund capital in any eligible investments producing
17 trust income in accordance with the schedule as the board, in
18 the exercise of its sole and uncontrolled judgment, shall
19 determine to be in the best interests of the state, and in
20 determining the schedule the board may emphasize future
21 benefits in preference to near-term needs. The board shall
22 have complete discretion in making decisions as to when monies
23 in the fund shall be invested; as to the purchase price or
24 other acquisition cost to be paid or incurred in acquiring
25 investments for the fund; as to when investments constituting
26 part of the fund shall be sold, liquidated, or otherwise
27 disposed of; and as to the amount and nature of the price or

1 other consideration to be received by the fund upon the sale,
2 liquidation, or other disposition of investments constituting
3 part of the fund. No action may be taken by the executive
4 department of the state which impairs or interferes with the
5 power, authority, and discretion conferred upon the board by
6 this article with respect to the acquisition, management,
7 control, and disposition of investments at any time
8 constituting part of the fund. No member of the board may be
9 held personally liable for any liability, loss, or expense
10 suffered by the fund, unless the liability, loss, or expense
11 arises out of or results from the willful misconduct or
12 intentional wrongdoing of the director. No member of the board
13 shall be responsible for the adequacy of the fund to satisfy
14 and discharge any obligation of the corporation.

15 (c) The board shall cause an annual audit of the
16 fund to be performed for each fiscal year by the Department of
17 Examiners of Public Accounts or, in the discretion of the
18 board, by an independent certified public accounting firm. The
19 report of the audit shall be prepared in accordance with
20 applicable accounting principles. The board shall cause to be
21 prepared and publicized financial and other information
22 concerning the fund, as may from time to time be provided by
23 law duly enacted by the Legislature, but in the absence of any
24 law directing the preparation and publication of different
25 reports, the board shall cause to be prepared and made public,
26 within 30 days after the end of each quarterly period in each
27 fiscal year, a report containing all of the following:

1 (1) A statement of the capital then held in the fund
2 showing any changes since the last quarterly report.

3 (2) A statement of the trust income received during
4 the quarterly period in question.

5 (3) A statement of the investments then held in the
6 fund, including descriptions and respective values.

7 (4) A statement of the trust income received to date
8 during the current fiscal year.

9 (5) Any other information determined by the board to
10 reflect a full and complete disclosure of the financial
11 operations of the fund.

12 §41-10-808. Amendments.

13 At any time, the board, by majority vote, may cause
14 its application for formation to be amended by having three of
15 its directors file an amendment with the Secretary of State,
16 which shall be sworn to by each signatory thereto before an
17 officer authorized to take acknowledgments to deeds.

18 §41-10-809. Dissolution.

19 At any time, the board, by three-quarters vote, may
20 dissolve the corporation by having three-quarters of its
21 directors file with the Secretary of State an application for
22 dissolution, which shall be sworn to by each signatory thereto
23 by an officer authorized to take acknowledgments to deeds.

24 Upon the filing of the application for dissolution, the
25 corporation shall cease to exist. The Secretary of State shall
26 file and record the application for dissolution, and shall
27 make and issue, under the Great Seal of the State, a

1 certificate that the corporation is dissolved, and shall
2 record the certificate with the application for dissolution.
3 Title to all property held in the name of the corporation
4 shall be vested in the state upon dissolution of the
5 corporation, and the ex officio directors, by written consent,
6 shall direct how to dispose of the fund.

7 41-10-810. Liberal Construction.

8 This article shall be liberally construed to
9 effectuate its purpose.

10 Section 2. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.