

1 SB242
2 204965-3
3 By Senators Orr, Allen, Livingston, Price, Albritton, Marsh,
4 Holley, Butler, Chambliss, Jones, Figures, Smitherman, Gudger,
5 Coleman-Madison, Burkette, Chesteen, Beasley, Elliott,
6 Sanders-Fortier, Singleton, Reed, Sessions, Williams and
7 Whatley
8 RFD: Finance and Taxation Education
9 First Read: 27-FEB-20

1 SB242

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3
4 ENROLLED, An Act,

5 To authorize the Alabama Public School and College
6 Authority to sell and issue \$1,250,000,000 in aggregate
7 principal amount of additional bonds for capital improvements
8 for the support of public education and to use such funds for
9 repayment of certain debt incurred for capital improvements;
10 to provide funds for capital improvements for the public
11 schools, the Alabama Community College System, and public
12 institutions of higher education; to make an appropriation and
13 pledge for payment of the principal of and premium, if any,
14 and interest on the bonds from specific taxes necessary to pay
15 the principal and interest at their respective maturities and
16 to authorize the Authority to pledge for payment of the
17 principal of and premium, if any, and interest on the bonds
18 the funds that are appropriated and pledged; to provide that
19 the bonds shall not constitute a debt of the state but shall
20 be limited obligations payable out of the funds appropriated
21 and pledged therefor; to provide that the bonds and income
22 therefrom shall be exempt from all taxation in this state; to
23 authorize the Authority to issue refunding bonds and give
24 details of such refunding; to authorize the Authority to
25 allocate bond proceeds; and to provide that if any portion of

1 this Act should be held invalid such holding shall not affect
2 the validity of any other portion thereof.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Short Title.

5 This Act shall be known and may be cited as the
6 Investing in Alabama's Future Act.

7 Section 2. Definitions.

8 Wherever used in this Act, the following terms shall
9 have the following meanings respectively, unless the context
10 clearly indicates otherwise:

11 (1) "1965 Act" means Act No. 243 enacted at the 1965
12 First Special Session of the Legislature, codified as Title
13 16, Chapter 16, Code of Alabama 1975.

14 (2) "1971 Acts" means Act No. 94 enacted at the 1971
15 First Special Session of the Legislature, Act No. 2428 enacted
16 at the 1971 Regular Session of the Legislature, and Act No. 56
17 enacted at the 1971 Second Special Session of the Legislature.

18 (3) "1973 Act" means Act No. 1277 enacted at the
19 1973 Regular Session of the Legislature as amended by Act No.
20 73 enacted at the 1975 Third Special Session of the
21 Legislature and Act No. 1223 enacted at the 1975 Regular
22 Session of the Legislature.

23 (4) "1978 Act" means Act No. 138 enacted at the 1978
24 Second Special Session of the Legislature, as amended by Act
25 No. 79-41 enacted at the 1979 Special Session of the

1 Legislature and Act No. 81-827 enacted at the 1981 Regular
2 Session of the Legislature.

3 (5) "1985 Act" means Act No. 85-943 enacted at the
4 1985 Second Special Session of the Legislature.

5 (6) "1990 Act" means Act No. 90-280 enacted at the
6 1990 Regular Session of the Legislature.

7 (7) "1995 Act" means Act No. 95-752 enacted at the
8 1995 Regular Session of the Legislature.

9 (8) "1998 Act" means Act No. 98-373 enacted at the
10 1998 Regular Session of the Legislature.

11 (9) "1999 Act" means Act No. 99-348 enacted at the
12 1999 Regular Session of the Legislature.

13 (10) "2001 Act" means Act No. 2001-668 enacted at
14 the 2001 Regular Session of the Legislature.

15 (11) "2002 Act" means Act No. 2002-240 enacted at
16 the 2002 Regular Session of the Legislature.

17 (12) "2003 Act" means Act No. 2003-436 enacted at
18 the 2003 Second Special Session of the Legislature.

19 (13) "2007 Act" means Act No. 2007-415 enacted at
20 the 2007 Regular Session of the Legislature.

21 (14) "2009 Act" means Act No. 2009-813 enacted at
22 the 2009 Regular Session of the Legislature.

23 (15) "2010 Acts" means Act No. 2010-551 enacted at
24 the 2010 Regular Session of the Legislature, Act No. 2010-562
25 enacted at the 2010 Regular Session of the Legislature, and

1 Act No. 2010-720 enacted at the 2010 Regular Session of the
2 Legislature.

3 (16) "2012 Act" means Act No. 2012-560 enacted at
4 the 2007 Regular Session of the Legislature.

5 (17) "2013 Acts" means Act No. 2013-345 enacted at
6 the 2013 Regular Session of the Legislature and Act No.
7 2013-381 enacted at the 2013 Regular Session of the
8 Legislature.

9 (18) "Authority" means Alabama Public School and
10 College Authority.

11 (19) "Bonds" (except where that word is used with
12 reference to bonds issued under another act) means those
13 bonds, other than Refunding Bonds, issued under the provisions
14 of this Act.

15 (20) "Capital Improvement" means capital outlay
16 projects that include the planning, designing, inspection,
17 purchasing, construction, reconstruction, enlargement,
18 improvement, repair, or renovation of permanent buildings
19 containing classrooms, offices, libraries, laboratories,
20 clinical or teaching facilities, dormitories, vocational and
21 professional and industrial training facilities, cafeterias,
22 alternative schools, physical education facilities, research
23 facilities, academic structures to reduce portable classrooms
24 or substandard classroom facilities, related improvements and

1 land as sites therefor, together with tangible personal
2 property that becomes a permanent part of such facilities.

3 (21) "Government Securities" means any bonds or
4 other obligations which as to principal and interest
5 constitute direct obligations of, or are unconditionally
6 guaranteed by, the United States of America, including
7 obligations of any federal agency to the extent such
8 obligations are unconditionally guaranteed by the United
9 States of America and any certificates or any other evidences
10 of an ownership interest in such obligations of, or
11 unconditionally guaranteed by, the United States of America or
12 in specified portions thereof (which may consist of the
13 principal thereof or the interest thereon).

14 (22) "Legislature" means the Legislature of Alabama.

15 (23) "Permitted Investments" means (i) Government
16 Securities; (ii) bonds, debentures, notes or other evidences
17 of indebtedness issued by any of the following agencies: Bank
18 for Cooperatives; Federal Intermediate Credit Banks; Federal
19 Financing Bank; Federal Home Loan Banks; Federal Farm Credit
20 Bank; Export-Import Bank of the United States; Federal Land
21 Banks; or Farmers Home Administration or any other agency or
22 corporation which has been or may hereafter be created by or
23 pursuant to an act of the Congress of the United States as an
24 agency or instrumentality thereof; (iii) bonds, notes, pass
25 through securities or other evidences of indebtedness of

1 Government National Mortgage Association and participation
2 certificates of Federal Home Loan Mortgage Corporation; (iv)
3 time deposits evidenced by certificates of deposit issued by
4 banks or savings and loan associations which are members of
5 the Federal Deposit Insurance Corporation, provided that, to
6 the extent such time deposits are not covered by federal
7 deposit insurance, such time deposits (including interest
8 thereon) are fully secured in accordance with the SAFE Program
9 pursuant to Sections 41-14A-1 through 41-14A-14; (v)
10 government money market mutual funds; and (vi) repurchase
11 agreements for obligations of the type specified in clauses
12 (i), (ii), and (iii) above, provided such repurchase
13 agreements are fully collateralized and secured by such
14 obligations which have a market value at least equal to the
15 purchase price of such repurchase agreements which are held by
16 a depository satisfactory to the State Treasurer in such
17 manner as may be required to provide a perfected security
18 interest in such obligations, and which meet the greater of
19 100% collateralization or the "AA" or "Aa" collateral levels
20 established by Standard & Poor's Ratings Group or Moody's
21 Investors Service, respectively, for structured financings.

22 (24) "Prior Acts" means the 1965 Act, the 1971 Acts,
23 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the
24 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002

1 Act, the 2003 Act, the 2007 Act, the 2009 Act, the 2010 Acts,
2 the 2012 Act, and the 2013 Acts.

3 (25) "Refunding Bonds" means those refunding bonds
4 issued under the provisions of this act.

5 (26) "State" means the State of Alabama.

6 (27) "Trust Fund" means the Education Trust Fund,
7 formerly designated as the Alabama Special Educational Trust
8 Fund, the name of which was changed to the Education Trust
9 Fund, effective October 1, 1996, pursuant to Act No. 95-264
10 enacted at the 1995 Regular Session of the Legislature.

11 Nouns and pronouns when used in this Act shall be
12 deemed to include both singular and plural and all applicable
13 genders.

14 Section 3. Authorization to Issue Additional Bonds
15 and Purposes Thereof.

16 (a) The Authority is hereby authorized to sell and
17 issue its Bonds in the aggregate principal amount of
18 \$1,250,000,000 and to apply the proceeds as provided in this
19 Act, to include the following purposes: paying the costs of
20 capital improvements for public education purposes in the
21 State; and providing funds for the retirement of existing debt
22 that has been incurred by recipients of allocations to pay for
23 capital costs.

24 (b) The Bonds authorized by this Act to be issued by
25 the Authority shall be in addition to all other bonds

1 previously authorized to be issued by it, and the powers
2 conferred on the Authority by this Act are in addition to all
3 other powers heretofore conferred on the Authority by acts
4 heretofore enacted by the Legislature.

5 Section 4. Execution and Other Details of the Bonds.

6 The Bonds shall be signed by the president or
7 vice-president of the Authority, and the seal of the Authority
8 affixed thereto (or a facsimile thereof imprinted thereon) and
9 attested by its secretary. All signatures of the president,
10 vice-president, and secretary may be facsimile signatures if
11 the Authority, in its proceedings with respect to issuance,
12 provides for manual authentication (which may be in the form
13 of a certificate as to registration) of the Bonds by a
14 trustee, registrar or paying agent or by individuals named in
15 such proceedings who are employees of the State assigned to
16 the Finance Department or State Treasurer's Office of the
17 State. 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
25 eligible for investments of fiduciary funds, as provided in

1 the 1965 Act. The Bonds shall be construed to have all the
2 qualities and incidents of negotiable instruments subject to
3 any registration provisions pertaining to transfers. The
4 Authority and the Bonds shall be exempt from all laws of the
5 State governing usury including, without limitation, the
6 provisions of Title 8, Chapter 8, Code of Alabama 1975, or any
7 subsequent statute of similar import. The Bonds shall be in
8 such form or forms and denomination or denominations and of
9 such tenor and maturities, shall bear such rate or rates of
10 interest payable and evidenced in such manner, may be made
11 subject to redemption prior to their maturities, and may
12 contain provisions not inconsistent with this Act, all as may
13 be provided by the resolution of the Authority under which the
14 Bonds may be issued; provided, that no Bonds shall have a
15 specified maturity date later than twenty years after their
16 date; and provided further, that the period of time between
17 the date of issuance of any Bonds and the first date on which
18 such Bonds are subject to optional redemption by the Authority
19 shall not be longer than ten years, and such optional
20 redemption of Bonds shall be at such redemption price or
21 prices and under such conditions as may be prescribed in the
22 proceedings of the Authority under which they are issued. For
23 the purpose of paying the principal of, premium, if any, and
24 interest on the Bonds or any Refunding Bonds, the Authority
25 shall designate the State Treasurer or such bank or banks as

1 the Authority, in its discretion, determines to be appropriate
2 and desirable. Funds for the payment of debt service shall be
3 transferred by the Authority or the State Treasurer on behalf
4 of the Authority to the designated paying agent on the actual
5 due date of such principal, premium, if any, or interest;
6 provided, however, that if any bank has been designated as the
7 paying agent with respect to any bonds, the Authority or the
8 State Treasurer on behalf of the Authority shall make
9 available to such bank, not later than one business day prior
10 to the date on which any principal of or interest on such
11 bonds is due and payable, funds sufficient to pay such
12 principal and interest due on such date.

13 Section 5. Sale of the Bonds.

14 The Bonds may be sold by the Authority from time to
15 time in series, and if sold in more than one series, may all
16 be authorized in one initial resolution of the Authority with
17 the pledges therefor made by the Authority in such initial
18 resolution although some of the details applicable to each
19 series may be specified in the respective resolutions under
20 which the different series are issued. The Authority, in the
21 course of establishing, by resolution, a principal amount of
22 Bonds to be authorized for sale at any given time, or to be
23 sold in any series, may take into account the existence of any
24 unexpended proceeds of prior issues of bonds of the Authority
25 (and of any other issuer, if such should be deemed by the

1 Authority to be relevant), and may structure the portions of
2 the allocations provided for in Section 9 of this Act to be
3 distributed from the proceeds of a particular series
4 (constituting less than all the Bonds authorized by this Act)
5 as the Authority deems necessary or prudent in order to enable
6 the Authority to comply with any tax covenants that may be
7 required of it, or that may be deemed by it to be prudent to
8 be given by it, in connection with the sale of any series of
9 the Bonds. Each series of the Bonds shall be sold on a
10 competitive basis or on a negotiated basis, as determined by
11 the Authority. The Authority may fix the method and the terms
12 and conditions under which the sale of any series of the Bonds
13 may be held; provided that such terms and conditions shall not
14 conflict with any requirement of this Act. Approval by the
15 Governor of Alabama of the terms and conditions under which
16 any of the Bonds may be issued shall be requisite to their
17 validity. Before any series of the Bonds shall be offered for
18 sale by the Authority, the Governor shall first determine that
19 the issuance of that series of Bonds and the application of
20 the taxes pledged to the payment of the principal of the Bonds
21 as they mature and the interest thereon as the same shall come
22 due will not impair the adequacy of the Trust Fund to pay
23 appropriations therefrom and to support the public schools and
24 institutions of higher learning during the period over which
25 the Bonds will mature. The Governor's determination in this

1 regard shall be in writing signed by the Governor and such
2 determination shall be final and conclusive. Neither a public
3 hearing nor consent of the State Department of Finance or any
4 other department or agency shall be a prerequisite to the
5 issuance of any of the Bonds.

6 Section 6. Appropriation of Revenues to the
7 Authority; Pledge Thereof for the Benefit of the Bonds and the
8 Refunding Bonds.

9 For the purpose of providing for payment of the
10 principal, premium (if any), and interest on the Bonds and the
11 Refunding Bonds, and to accomplish the objectives of this Act,
12 there is hereby irrevocably pledged to those purposes, and
13 hereby appropriated, such amount as may be necessary therefor
14 from the following sources:

15 (a) The residue of the receipts from the excise tax
16 ("the utility gross receipts tax") levied by Title 40, Chapter
17 21, Article 3, Code of Alabama 1975, as amended ("Article 3"),
18 remaining after payment of the expenses of administration and
19 enforcement of Article 3, being that portion of the tax that
20 is required by Article 3 to be deposited in the State Treasury
21 to the credit of the Trust Fund, after there shall have been
22 taken from the residue the amount necessary to pay at their
23 respective maturities the principal of and interest on those
24 bonds issued by the Authority under this Act or under the
25 Prior Acts that may be outstanding at the time of the delivery

1 of the respective series of the Bonds or Refunding Bonds
2 authorized herein;

3 (b) The residue of the receipts from the excise tax
4 ("the utility service use tax") levied by Title 40, Chapter
5 21, Article 4, Code of Alabama 1975 ("Article 4"), remaining
6 after payment of the expenses of administration and
7 enforcement of Article 4, being that portion of the tax that
8 is required by Article 4 to be deposited in the State Treasury
9 to the credit of the Trust Fund, after there shall have been
10 taken from the residue the amount necessary to pay at their
11 respective maturities the principal of and interest on those
12 bonds issued by the Authority under this Act or under the
13 Prior Acts that may be outstanding at the time of the
14 delivery of the respective series of the Bonds or Refunding
15 Bonds authorized herein;

16 (c) To the extent only that the revenues
17 appropriated in the foregoing subsections (a) and (b) of this
18 Section may not be sufficient to pay at their respective
19 maturities the principal of, premium, if any, and interest on
20 the Bonds and the Refunding Bonds, the residue of the receipts
21 from the excise tax ("the sales tax") levied by Title 40,
22 Chapter 23, Article 1, Division 1, Code of Alabama 1975, as
23 amended ("Article 1"), after there shall have been taken from
24 the residue the amounts appropriated for other educational
25 purposes in Section 40-23-35, Code of Alabama 1975 (which

1 residue constitutes that portion of the receipts from the
2 sales tax that is now required by law to be paid into the
3 Trust Fund), and after there shall have been taken from the
4 residue amounts sufficient to meet all prior charges on the
5 residue including such amounts as may be necessary to pay at
6 their respective maturities the principal of and interest on
7 those bonds issued by the Authority under this Act or under
8 the Prior Acts that may be outstanding at the time of the
9 delivery of the respective series of the Bonds or Refunding
10 Bonds authorized herein; and

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

1 respective maturities the principal of and interest on those
2 bonds issued by the Authority under this Act or under the
3 Prior Acts that may be outstanding at the time of the delivery
4 of the respective series of the Bonds or Refunding Bonds
5 authorized herein. All monies hereby appropriated and pledged
6 shall constitute a sinking fund for the purpose of paying the
7 principal of and premium, if any, and interest on the Bonds
8 and the Refunding Bonds. The State Treasurer is authorized and
9 directed to pay at their respective maturities the principal
10 of and premium, if any, and interest on the Bonds and the
11 Refunding Bonds out of this fund and out of the residues of
12 the tax receipts herein appropriated and pledged for the
13 benefit of the Bonds and the Refunding Bonds, and is further
14 authorized and directed to set up and maintain appropriate
15 records pertaining thereto.

16 Section 7. Bonds and Refunding Bonds to be Payable
17 Solely out of the Revenues Appropriated; Authorization for
18 Authority to Pledge Such Revenues for the Bonds and the
19 Refunding Bonds.

20 The Bonds and the Refunding Bonds shall not be
21 general obligations of the Authority but shall be limited
22 obligations payable solely out of the residues of the tax
23 receipts appropriated and pledged in Section 6 of this Act.
24 All Bonds and Refunding Bonds issued by the Authority pursuant
25 to the provisions of this Act shall be solely and exclusively

1 obligations of the Authority and shall not constitute or
2 create an obligation or debt of the State. As security for the
3 payment of the principal of, premium, if any, and interest on
4 the Bonds and the Refunding Bonds, the Authority is hereby
5 authorized and empowered to pledge the residues of the tax
6 receipts that are appropriated and pledged in Section 6 hereof
7 for such purposes. All such pledges made by the Authority
8 shall take precedence in the order of the adoption of the
9 resolutions containing the pledges. For purposes of clarity, a
10 pledge made by the Authority pursuant to this Act shall be
11 prior and superior to any pledges made for any bonds issued by
12 the Authority under the provisions of any of the Prior Acts or
13 any other Act heretofore enacted, if such pledge made pursuant
14 to this Act is for Bonds or Refunding Bonds for which a
15 resolution is adopted prior to the adoption of the resolution
16 for the issuance of bonds issued by the Authority under the
17 provisions of any of the Prior Acts or any other Act
18 heretofore enacted.

19 Section 8. Refunding Bonds.

20 For the purpose of refunding any bonds or refunding
21 bonds of the Authority issued under the provisions of this
22 Act, the Prior Acts or any other Act previously enacted, or
23 any combination thereof, whether such refunding shall occur
24 before, at or after the maturity of the bonds refunded and for
25 the purpose of paying all premiums and expenses of such

1 refunding (including, but not limited to, attorneys' fees,
2 costs of printing the Refunding Bonds, financial or fiscal
3 advisors' fees, and accountants' fees), the Authority is
4 hereby authorized to sell and issue its Refunding Bonds in one
5 or more series, and if sold in more than one series, may all
6 be authorized in one initial resolution of the Authority with
7 the pledges therefor made by the Authority in such initial
8 resolution although some of the details applicable to each
9 series may be specified in the respective resolutions under
10 which the different series are issued. Such Refunding Bonds
11 shall be sold on a competitive basis or on a negotiated basis,
12 as determined by the Authority. The Authority may fix the
13 method and the terms and conditions under which the sale of
14 any series of the Refunding Bonds may be held; provided that
15 such terms and conditions shall not conflict with any
16 requirement of this Act. Provided, however, no Refunding Bonds
17 shall be issued unless the present value of the aggregate debt
18 service on the Refunding Bonds (computed with a discount rate
19 equal to the yield of the Refunding Bonds, calculated in
20 accordance with Section 148 of the Internal Revenue Code)
21 shall not be greater than 97 percent of the present value of
22 the aggregate debt service on the bonds to be refunded
23 (computed with a discount rate equal to the yield of the
24 Refunding Bonds, calculated in accordance with Section 148 of
25 the Internal Revenue Code) determined as if such bonds to be

1 refunded were paid and retired in accordance with the schedule
2 of maturities (considering mandatory redemption as scheduled
3 maturity) provided at the time of their issuance. Provided
4 further that the average maturity of the Refunding Bonds, as
5 measured from the date of issuance of such Refunding Bonds,
6 shall not exceed by more than three years the average maturity
7 of the bonds to be refunded, as also measured from such date
8 of issuance, with the average maturity of any principal amount
9 of bonds to be determined by multiplying the principal of each
10 maturity by the number of years (including any fractional part
11 of a year) intervening between such date of issuance and each
12 such maturity, taking the sum of all such products, and then
13 dividing such sum by the aggregate principal amount of bonds
14 for which the average maturity is to be determined. Pending
15 the application of the proceeds of Refunding Bonds issued in
16 accordance with this Section, the proceeds, together with
17 investment earnings therefrom, and amounts in any sinking
18 fund, together with investment earnings thereon, may be held
19 by the State Treasurer as treasurer of the Authority in trust,
20 or may be deposited by the State Treasurer in trust, on such
21 terms as the State Treasurer and the Authority shall approve,
22 with a trustee or escrow agent, which trustee or escrow agent
23 shall be a banking institution or trust company authorized to
24 exercise trust powers in Alabama, for investment in Permitted
25 Investments. Proceeds of Refunding Bonds shall be so invested

1 and applied as to assure that the principal, interest, and
2 redemption premium, if any, on the bonds being refunded shall
3 be paid in full on the respective maturity, redemption, or
4 interest payment dates. Refunding Bonds issued by the
5 Authority shall not be general obligations of the Authority
6 but shall be payable solely from the sources specified in this
7 Act and in the proceedings whereby the Refunding Bonds are
8 authorized to be issued. All Refunding Bonds issued by the
9 Authority shall be solely and exclusively obligations of the
10 Authority and shall not create debts of the State of Alabama.
11 The faith and credit of the State of Alabama shall never be
12 pledged for the payment of any Refunding Bonds issued by the
13 Authority under this Act. The Authority may contract with
14 respect to the safekeeping and application of the proceeds of
15 Refunding Bonds and other funds included therewith and the
16 income therefrom, and shall have the right and power to
17 appoint a trustee therefore, which may be any bank or company
18 authorized to exercise trust powers and located within and/or
19 without the State. All other provisions of this Act shall
20 apply to the Refunding Bonds issued hereunder except (a) the
21 limitation contained in Section 3 of this Act on the amount of
22 Bonds that may be issued under this Act and (b) the provisions
23 of Section 9 of this Act. Any bonds refunded prior to their
24 maturity with the proceeds of Refunding Bonds shall be deemed
25 paid and the pledges herein and by the Authority made for the

1 payment thereof defeased if the Authority, in its proceedings
2 regarding issuance of the Refunding Bonds shall provide for
3 and establish a trust or escrow fund comprised of monies or
4 Government Securities, or both, sufficient to pay, when due,
5 the entire principal of and premium, if any, and interest on
6 the bonds to be refunded thereby; provided, that such
7 Government Securities shall not be subject to redemption prior
8 to their maturities other than at the option of the holder
9 thereof. Upon the establishment of such a trust or escrow
10 fund, the refunded bonds shall no longer be deemed to be
11 outstanding, shall no longer be secured by the funds pledged
12 therefor in Section 6 of this Act, shall no longer be
13 obligations of the Authority and shall be secured solely by
14 and payable from monies and Government Securities deposited in
15 such trust or escrow fund.

16 Section 9. Use of Bond Proceeds.

17 (a) The proceeds derived from each sale of the Bonds
18 issued pursuant to this Act shall be deposited in the State
19 Treasury and shall be carried in a separate fund therein for
20 the account of the Authority, which shall pay the expenses of
21 issuance therefrom. The expenses of issuance of the Bonds
22 shall be prorated among the recipients of the proceeds from
23 the sale of the Bonds in proportions they receive allocations
24 of the proceeds thereunder. The proceeds from the sale of the
25 Bonds remaining after payment of the expenses of issuance

1 thereof shall be retained in said fund and, until they are
2 paid out, shall be invested by the State Treasurer at the
3 direction of the Authority in Permitted Investments maturing
4 at such time or times as the Authority shall direct.

5 (b) Proceeds from the sale of the Bonds and the
6 earnings thereon shall be paid out from time to time on orders
7 or warrants issued by or at the direction of the Authority for
8 any one or more of the purposes specified in this Act, to
9 include the following allocations:

10 (1) Nine hundred twelve million one hundred
11 twenty-five thousand dollars (\$912,125,000) to be allocated
12 and expended on behalf of the k-12 public schools in this
13 state, as follows:

14 a. Four hundred thousand dollars (\$400,000) to be
15 allocated and expended on behalf of each state-supported local
16 education agency, special department district, and separate
17 school with its own board of directors or trustees established
18 pursuant to legislative act, in the state.

19 b. Four hundred twenty-six million six hundred
20 sixty-two thousand five hundred dollars (\$426,662,500) to be
21 allocated and expended on behalf of state-supported local
22 education agencies, special department district, and separate
23 school with its own board of directors or trustees established
24 pursuant to legislative act pro rata, based on the 2019-2020
25 first 20 scholastic days after Labor Day of average daily

1 membership of public schools, or anticipated 2020 enrollment
2 of a separate school with no 2019-2020 average daily
3 membership, to pay the cost of capital improvements.

4 c. Four hundred twenty-six million six hundred
5 sixty-two thousand five hundred dollars (\$426,662,500) to be
6 allocated and expended on behalf of local education agencies,
7 and separate school with its own board of directors or
8 trustees established pursuant to legislative act based on
9 their respective share of the allocation of the Public School
10 Fund for the fiscal year ending September 30, 2020, to pay the
11 cost of capital improvements.

12 (2) One hundred twenty million fifty thousand eight
13 hundred seventy-nine dollars (\$120,050,879) to be allocated
14 and expended on behalf of the Alabama Community College System
15 for capital improvements.

16 (3) Two hundred seventeen million eight hundred
17 twenty-four thousand one hundred twenty-one dollars
18 (\$217,824,121) to be allocated and expended for capital im-
19 provements on behalf of higher education to colleges and uni-
20 versities as follows:

| | | |
|----|--------------------------|--------------|
| 21 | Alabama A & M University | \$7,412,935 |
| 22 | Alabama State University | \$5,675,936 |
| 23 | Athens State University | \$4,567,295 |
| 24 | Auburn University | \$36,414,835 |

| | | |
|----|-------------------------------------|--------------|
| 1 | Auburn University at Montgomery | \$7,574,052 |
| 2 | Jacksonville State University | \$11,979,462 |
| 3 | Tuskegee University | \$1,216,350 |
| 4 | Troy University | \$21,317,367 |
| 5 | University of Alabama | \$41,338,122 |
| 6 | University of Alabama at Birmingham | \$27,972,283 |
| 7 | University of Alabama in Huntsville | \$13,033,631 |
| 8 | University of Montevallo | \$3,744,829 |
| 9 | University of North Alabama | \$10,251,670 |
| 10 | University of South Alabama | \$18,159,466 |
| 11 | University of West Alabama | \$7,165,888 |

12 (c) The provision for the use of proceeds for the
13 purposes specified in Section 9(b) notwithstanding, each
14 recipient is permitted to use proceeds of the Bonds to retire
15 existing indebtedness that has been incurred by the recipient
16 to pay for capital improvements. The use of bond proceeds for
17 this purpose shall require specific approval of the Authority
18 and shall be subject to the Authority's policies and rules
19 governing this use.

20 Section 10. (a) Should Bond proceeds exceed
21 \$1,250,000,000 due to receipt of original issue premium in
22 connection with sale of Bonds or due to any other reason, such

1 Bond proceeds in excess of \$1,250,000,000 shall be allocated
2 by the Authority in a resolution adopted by the board of
3 directors of the Authority.

4 (b) Not later than three years following allocation
5 of Bond proceeds as provided herein, the Authority shall
6 review the status of any unexpended allocations, and, at its
7 sole discretion, determine if unexpended allocations or any
8 portion thereof shall revert to the Authority for reallocation
9 by the board of directors of the Authority.

10 Section 11. Notwithstanding any of the foregoing and
11 in addition to all powers heretofore granted to the Authority,
12 the Authority is hereby expressly authorized to use the
13 proceeds derived from the sale of Bonds and income on
14 Permitted Investments in accordance with the provisions of
15 this Act. The preparation of all plans and specifications for
16 any building constructed wholly or in part with any of the
17 monies realized from the sale of any of the Bonds and all work
18 done pursuant to expenditure of the proceeds thereof in regard
19 to the construction, reconstruction, alteration, improvement,
20 and equipping (not including furnishings) of buildings shall
21 comply with the requirements of Sections 39-1-1 through 39-8-8
22 Code of Alabama 1975 and Section 41-4-400 Code of Alabama
23 1975. Additionally, the Authority is hereby expressly
24 permitted to pay to the Department of Finance and the State
25 Treasurer's Office, from time to time and from any funds

1 available to the Authority, amounts to offset costs incurred
2 in the administration of the business of the Authority. The
3 cost of such compensation shall be prorated among the
4 recipients of proceeds of the Bonds in the same manner as the
5 expenses of issuance of the Bonds are required hereby to be
6 prorated.

7 Section 12. The Authority shall hire or contract
8 with businesses or individuals which reflect the racial and
9 ethnic diversity of the State.

10 Section 13. Tax Exemption.

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

22 Section 14. Issuance Expenses; Contracts and
23 Appointments.

24 The Authority is authorized to pay out of proceeds
25 of any series of Bonds or Refunding Bonds the costs and

1 expenses incurred in connection with the issuance of such
2 Bonds or Refunding Bonds, including without limitation legal
3 and accounting fees and expenses, fees and expenses of any
4 financial or fiscal advisor employed by the Authority,
5 printing costs, rating agency fees, and premiums or charges
6 for any credit enhancement or liquidity providers.

7 Notwithstanding any provision of this Act or the 1965 Act, in
8 appointing, employing, or contracting with attorneys,
9 financial or fiscal advisors, trustees, paying agents,
10 investment bankers, banks and underwriters, the Authority may
11 appoint, employ or contract with firms whose principal offices
12 are located without or within Alabama. The Authority shall
13 hire or contract with attorneys, financial or fiscal advisors,
14 trustees, paying agents, investment bankers, banks, and
15 underwriters which shall reflect the racial and ethnic
16 diversity of the state.

17 Section 15. Order of Issuance.

18 The Authority shall issue bonds under this Act or
19 under the Prior Acts in the same order the Authority adopts
20 resolutions authorizing such bonds to be issued. If the
21 Authority authorizes the issuance of multiple series of bonds
22 under this Act or under the Prior Acts in one resolution, all
23 bonds so authorized shall be issued simultaneously.

24 Section 16. Severability.

1 In the event any section, sentence, clause or
2 provision of this Act shall be declared invalid by a court of
3 competent jurisdiction, such action shall not affect the
4 validity of the remaining sections, sentences, clauses, or
5 provisions of this Act, which shall continue effective.

6 Section 17. This act shall become effective
7 immediately upon its passage and approval by the Governor, or
8 upon its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB242

Senate 04-MAY-20

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 07-MAY-20

By: Senator Orr