

1 SB442
2 121760-2
3 By Senators Butler, Orr, Mitchem, Sanford, Bedford, and Barron
4 RFD: Finance and Taxation General Fund
5 First Read: 17-FEB-10

1 SB442

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4 ENROLLED, An Act,

5 To authorize the Alabama Public School and College
6 Authority to sell and issue bonds and to apply such proceeds
7 for the construction of new school facilities as well as the
8 renovation of existing school facilities in the several school
9 systems located in those areas of North Alabama that will be
10 directly impacted by the 2005 Base Realignment and Closure
11 together with subsequent Base Realignment and Closures; to
12 provide certain requirements; and to require that local school
13 districts provide a local dollar for dollar match in order to
14 qualify for receipt of any bond proceeds authorized by this
15 act.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Military installations are a major source
18 of economic stability for Alabama and, particularly, Madison
19 County and North Alabama and are important to our Nation's
20 defense. The United States Department of Defense was
21 legislatively directed to reorganize its military installation
22 infrastructure through the 2005 Base Realignment and Closure
23 (2005 BRAC) process. As a result of the 2005 BRAC and
24 anticipated future base realignment and closure activities,
25 Madison County and North Alabama have and are expected to

1 experience significant growth which demands modernizing and
2 expanding the infrastructure for schools, and school related
3 capital projects, in the areas impacted by the growth at
4 Redstone Arsenal. It is expected that Alabama will gain
5 thousands of high paying jobs because of the 2005 BRAC and
6 anticipated future Base Realignment and Closure processes. It
7 is found and declared to be necessary to foster business
8 growth and job creation and generate tax revenues by rendering
9 aid to the school districts impacted by the growth at Redstone
10 Arsenal.

11 Section 2. As used in this act, the following words
12 and phrases shall have the following meanings:

13 (1) AUTHORITY. The Public School and College
14 Authority.

15 (2) BASELINE DATE. January 1, 2010.

16 (3) 2005 BRAC. a. Closure actions according to the
17 2005 Base Closure and Realignment Commission Report of the
18 U.S. Department of Defense as they relate to Redstone Arsenal.

19 b. Subsequent BRAC Actions are closure actions
20 according to any Base Closure and Realignment Commission
21 Report of the U.S. Department of Defense subsequent to the
22 2005 Base Closure and Realignment Commission Report of the
23 U.S. Department of Defense or administrative actions by a
24 United States government agency, department, or organization
25 which positively impact the number of Redstone Arsenal jobs.

1 (4) BRAC DISTRIBUTIONS. Bond proceeds to be
2 distributed to the local school districts for purposes of and
3 as allocated by this act.

4 (5) BRAC IMPACTED AREA. The geographic area within
5 Madison County and the City of Huntsville described by a
6 closed perimeter boundary consisting of Cummings Research
7 Park, East and West, Thornton Research Park, Redstone Gateway
8 EUL Area, and Redstone Arsenal.

9 (6) DETERMINATION DATE. September 30 of the fiscal
10 year in which the Authority obtains certification that the
11 jobs requirements of this act have been satisfied.

12 (7) GARRISON. The Garrison located at Redstone
13 Arsenal, Alabama, and any successor thereto.

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

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

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

15 Section 3. For purposes of this act, the BRAC
16 Distribution provided by the Authority shall be the difference
17 calculated by subtracting the number of jobs in the BRAC
18 Impacted District on the Baseline Date from the number of jobs
19 in the BRAC Impacted Area on the Determination Date for any
20 year in which the Authority distributes bond proceeds. The
21 calculated difference shall be divided proportionately to
22 produce the BRAC Distribution for any distribution
23 calculation. The method for the Authority to distribute the
24 amount paid by the state shall be determined in accordance
25 with Section 4.

1 Section 4. The Authority shall distribute the BRAC
2 Distribution to a local school district based upon the
3 percentage of BRAC Impacted Area employees living in a city or
4 county served by that school district, in accordance with the
5 following:

6 (1) Prior to the distribution of any bond proceeds
7 authorized by this act, the City of Huntsville Federal
8 Building Authority shall obtain from the Garrison the number
9 of employees at Redstone Arsenal and the location of their
10 residence based upon the Zip Codes of the employees.

11 (2) The Authority shall allocate the portion of the
12 BRAC Distributions to each city or county school district
13 where the employees reside based on the percentage calculated
14 by the City of Huntsville Federal Building Authority using the
15 information referred to in subdivision (1) of Section 4. If an
16 employee resides in a city, any bond proceeds shall be
17 allocated to the school district of the city of residence. If
18 an employee does not reside in a city, any bond proceeds shall
19 be allocated to the county school district in which the
20 employee resides.

21 Section 5. The City of Huntsville Federal Building
22 Authority is hereby authorized to calculate the amount of BRAC
23 Distribution that is due to each county or city school system
24 and the Public School and College Authority shall specify

1 criteria and procedures for the application, approval, and
2 monitoring of the benefits under this act.

3 Section 6. The Authority shall not authorize any
4 bonds unless and until employers located in the BRAC Impacted
5 Area provide a certification and possess proof of the number
6 of employees in the BRAC Impacted Area directly existing
7 because of the 2005 BRAC or Subsequent BRAC Actions, or as a
8 result of administrative actions by a United States government
9 agency, department, or organization, as of January 1, 2010, to
10 the City of Huntsville Federal Building Authority and to the
11 Authority. The City of Huntsville Federal Building Authority
12 shall request of the Garrison, or its designee, the number of
13 persons employed at Redstone Arsenal and shall provide such
14 information to the Authority. In order to prevent
15 double-counting of employees in the BRAC Impacted Area in the
16 case of private employers, the certifications shall delineate
17 between employees located at Redstone Arsenal and those not
18 located at Redstone Arsenal. The number of jobs in the BRAC
19 Impacted Area shall be the sum of the number of employees
20 employed on Redstone Arsenal plus the total number of jobs not
21 on Redstone Arsenal but inside the BRAC Impacted Area directly
22 existing because of the 2005 BRAC or Subsequent BRAC Actions,
23 or as a result of administrative actions by a United States
24 government agency, department, or organization. On or before
25 December 31 of each year until the bond proceeds are issued,

1 the City of Huntsville Federal Building Authority shall submit
2 a report to the Governor and to the Director of Finance
3 detailing the number of jobs within the BRAC Impacted Area
4 created since the Baseline Date.

5 Section 7. (a) The Legislature finds that the number
6 of students attending the several school systems located in
7 those areas of North Alabama that will be directly impacted by
8 the 2005 BRAC and Subsequent BRAC Actions will collectively
9 increase by an estimated 9,000 students. As a result, there
10 will be a need for the construction of additional school
11 facilities as well as the renovation of existing school
12 facilities. The Legislature also finds that the 2005 BRAC and
13 Subsequent BRAC Actions will have a positive impact on future
14 receipts to the Education Trust Fund, as the significant
15 population growth in North Alabama will increase sales,
16 income, and other tax collections. Thus, it is an efficient
17 use of state funds to allow such revenue growth to help pay
18 for capital improvement costs associated with BRAC-related
19 school construction.

20 (b) The Alabama Public School and College Authority
21 is hereby authorized to sell and issue its Bonds in the
22 aggregate principal amount of up to one hundred seventy-five
23 million dollars (\$175,000,000) once proof is provided deemed
24 adequate by the Authority that 7,000 direct full-time jobs can
25 be attributed to 2005 BRAC, Subsequent BRAC Actions, and as a

1 result of administrative actions by a United States government
2 agency, department, or organization placed in service after
3 January 1, 2010, and paying an average salary or equivalent
4 wages equal to or exceeding eighty-five thousand dollars
5 (\$85,000) per year. Recipient school districts shall apply
6 such proceeds for either the renovation of existing school
7 facilities or the construction of new school facilities in the
8 several school districts located in the BRAC Impacted Area or
9 in the Primary Study Area, as such area was identified in the
10 Tennessee Valley Regional Growth Coordination Plan of March
11 2009.

12 (1) Provided, however, that in no event shall any
13 school district receive the proceeds of the bonds issued
14 herein unless such district or political subdivision including
15 the district has experienced, on or after July 1, 2008, an
16 increase in the sales tax rate of at least one-half cent, or
17 equivalent property tax rate increase, with the revenue
18 generated from such tax rate increase dedicated to schools
19 within that district or political subdivision. To the extent a
20 school district is located within a political subdivision with
21 a sales tax of nine percent or greater, that school district
22 may use any funds available to satisfy the local match
23 requirements in Section 7(b)(1) and (2).

24 (2) The bond proceeds of the Authority authorized by
25 this act shall be provided as a dollar for dollar match for

1 local support of such capital projects. School systems seeking
2 to participate in the bond issue program authorized by this
3 act shall remit to the Authority amounts equal to half of the
4 semi-annual debt service payments required to satisfy all
5 covenants of the debt issuance authorized under this act for
6 the satisfaction of such debt obligations attributable to the
7 cost of projects to be placed in service in such school system
8 at such times as the Authority shall require.

9 (3) In the event a school district fails to meet the
10 local revenue requirements in this act within 12 months of the
11 Determination Date, the aggregate amount authorized in this
12 act shall be reduced by the amount allocated to that school
13 district. In no event shall those proceeds be reallocated to
14 any remaining approved school system.

15 (4) The Bonds herein authorized shall be in addition
16 to all other bonds previously authorized to be issued by the
17 Alabama Public School and College Authority, and the powers
18 conferred herein are in addition to all other powers
19 heretofore conferred on the Alabama Public School and College
20 Authority by acts heretofore enacted by the Legislature.

21 (c) The Bonds shall be signed by the president or
22 vice-president of the Alabama Public School and College
23 Authority, and the seal of the Alabama Public School and
24 College Authority affixed thereto, or a facsimile thereof
25 imprinted thereon, and attested by its secretary. All

1 signatures of the president, vice-president, and secretary may
2 be facsimile signatures if the Alabama Public School and
3 College Authority, in its proceedings with respect to
4 issuance, provides for manual authentication, which may be in
5 the form of a certificate as to registration, of the Bonds by
6 a trustee, registrar, or paying agent, or by named individuals
7 who are employees of the state and who are assigned to the
8 Finance Department or State Treasurer's Office of the state.
9 All Bonds bearing signatures or facsimiles of the signatures
10 of officers of the Alabama Public School and College Authority
11 in office on the date of signing thereof shall be valid and
12 binding notwithstanding that before the delivery thereof and
13 payment therefor, any officer whose signature appears thereon
14 shall have ceased to be an officer of the Alabama Public
15 School and College Authority. The Bonds and the income
16 therefrom shall be exempt from all taxation in the State of
17 Alabama, may be used as security for deposits, and shall be
18 eligible for investments of fiduciary funds, as provided in
19 the 1965 Act. The Bonds shall be construed to have all the
20 qualities and incidents of negotiable instruments subject to
21 any registration provisions pertaining to transfers. The
22 Alabama Public School and College Authority and the Bonds
23 shall be exempt from all laws of the state governing usury
24 including, without limitation, the provisions of Title 8,
25 Chapter 8, Code of Alabama 1975, or any subsequent statute of

1 similar import. The Bonds shall be in such form or forms and
2 denomination or denominations and of such tenor and
3 maturities, shall bear such rate or rates of interest payable
4 and evidenced in such manner, may be made subject to
5 redemption prior to their maturities, and may contain
6 provisions not inconsistent with this act, all as may be
7 provided by the resolution of the Alabama Public School and
8 College Authority under which the Bonds may be issued;
9 provided, that no Bonds shall have a specified maturity date
10 later than twenty years after their date; and provided
11 further, that those Bonds having maturities more than ten
12 years after their date shall be subject to redemption at the
13 option of the Alabama Public School and College Authority on
14 any date on and after the tenth anniversary after their date
15 at such redemption price or prices and under such conditions
16 as may be prescribed in the proceedings of the Alabama Public
17 School and College Authority under which they are issued. For
18 the purpose of paying the principal of, premium, if any, and
19 interest on the Bonds or any Refunding Bonds, the Alabama
20 Public School and College Authority shall designate the State
21 Treasurer or such bank or banks as the Alabama Public School
22 and College Authority, in its discretion, determines to be
23 appropriate and desirable. Funds for the payment of debt
24 service shall be transferred by the Alabama Public School and
25 College Authority or the State Treasurer on behalf of the

1 Alabama Public School and College Authority to the designated
2 paying agent on the actual due date of such principal,
3 premium, if any, or interest.

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

1 comply with any tax covenants that may be required of it, or
2 that may be deemed by it to be prudent to be given by it, in
3 connection with the sale of any series of the Bonds. The
4 Alabama Public School and College Authority may fix the method
5 and the terms and conditions under which the sale of any
6 series of the Bonds may otherwise be held; provided that such
7 terms and conditions shall not conflict with any requirement
8 of this act. Approval by the Governor of Alabama of the terms
9 and conditions under which any of the Bonds may be issued
10 shall be requisite to their validity. Before any series of the
11 Bonds shall be offered for sale by the Alabama Public School
12 and College Authority, the Governor shall first determine that
13 the issuance of that series of Bonds and the application of
14 the taxes pledged to the payment of the principal of the Bonds
15 as they mature and the interest thereon as the same shall come
16 due will not impair the adequacy of the Trust Fund to pay
17 appropriations therefrom and to support the public schools and
18 institutions of higher learning during the period over which
19 the Bonds will mature. The Governor's determination in this
20 regard shall be in writing signed by the Governor and such
21 determination shall be final and conclusive. Neither a public
22 hearing nor consent of the State Department of Finance or any
23 other department or agency shall be a prerequisite to the
24 issuance of any of the Bonds.

1 (e) For the purpose of providing for payment of the
2 principal, premium, if any, and interest on the Bonds, and to
3 accomplish the objectives of this act, there is hereby
4 irrevocably pledged to those purposes, and hereby
5 appropriated, such amount as may be necessary therefor from
6 the following sources:

7 (1) The residue of the receipts from the excise tax,
8 "the utility gross receipts tax," levied by Title 40, Chapter
9 21, Article 3, Code of Alabama 1975, as amended, "Article 3,"
10 remaining after payment of the expenses of administration and
11 enforcement of Article 3, being that portion of the tax that
12 is required by Article 3 to be deposited in the State Treasury
13 to the credit of the Trust Fund, after there shall have been
14 taken from the residue the amount necessary to pay at their
15 respective maturities the principal of and interest on those
16 bonds issued by the Authority under this act or any prior act
17 that may be outstanding at the time of the delivery of the
18 respective series of the Bonds authorized herein.

19 (2) The residue of the receipts from the excise tax,
20 "the utility service use tax," levied by Title 40, Chapter 21,
21 Article 4, Code of Alabama 1975, "Article 4," remaining after
22 payment of the expenses of administration and enforcement of
23 Article 4, being that portion of the tax that is required by
24 Article 4 to be deposited in the State Treasury to the credit
25 of the Trust Fund, after there shall have been taken from the

1 residue the amount necessary to pay at their respective
2 maturities the principal of and interest on those bonds issued
3 by the Authority under this act or any prior act that may be
4 outstanding at the time of the delivery of the respective
5 series of the Bonds authorized herein.

6 (3) To the extent and to the extent only that the
7 revenues appropriated in the foregoing subdivisions (1) and
8 (2) of this subsection may not be sufficient to pay at their
9 respective maturities the principal of, premium, if any, and
10 interest on the Bonds, the residue of the receipts from the
11 excise tax, "the sales tax," levied by Title 40, Chapter 23,
12 Article 1, Division 1, Code of Alabama 1975, as amended,
13 "Article 1," after there shall have been taken from the
14 residue the amounts appropriated for other educational
15 purposes in Section 40-23-35, Code of Alabama 1975, which
16 residue constitutes that portion of the receipts from the
17 sales tax that is now required by law to be paid into the
18 Trust Fund, and after there shall have been taken from the
19 residue amounts sufficient to meet all prior charges on the
20 residue including such amounts as may be necessary to pay at
21 their respective maturities the principal of and interest on
22 those bonds issued by the Authority under this act or any
23 prior act that may be outstanding at the time of the delivery
24 of the respective series of the Bonds authorized herein.

1 (4) To the extent and to the extent only that the
2 revenues appropriated in the foregoing subdivisions (1), (2),
3 and (3) of this subsection may not be sufficient to pay at
4 their respective maturities the principal of, premium, if any,
5 and the interest on the Bonds, the residue of the receipts
6 from the excise tax, "the use tax," levied by Title 40,
7 Chapter 23, Article 2, Code of Alabama 1975, as amended,
8 "Article 2," after there shall have been taken from the
9 residue the amount necessary to meet the expenses of the State
10 Department of Revenue in collecting the use tax, which residue
11 constitutes that portion of the receipts from the use tax that
12 is now required by law to be paid into the Trust Fund, and
13 after there shall have been taken from the residue such
14 amounts as may be necessary to meet all prior charges on the
15 use tax including the amounts sufficient to pay at their
16 respective maturities the principal of and interest on those
17 outstanding bonds referred to in subdivision (3) of this
18 subsection.

19 (5) All monies hereby appropriated and pledged shall
20 constitute a sinking fund for the purpose of paying the
21 principal of, premium, if any, and interest on the Bonds. The
22 State Treasurer is authorized and directed to pay at their
23 respective maturities the principal of, premium, if any, and
24 interest on the Bonds out of this fund and out of the residues
25 of the tax receipts herein appropriated and pledged for the

1 benefit of the Bonds, and is further authorized and directed
2 to set up and maintain appropriate records pertaining thereto.

3 (f) The Bonds shall not be general obligations of
4 the State of Alabama but shall be limited obligations payable
5 solely out of the residues of the tax receipts appropriated
6 and pledged herein. All Bonds issued by the Alabama Public
7 School and College Authority pursuant to the provisions of
8 this act shall be solely and exclusively obligations of the
9 Alabama Public School and College Authority and shall not
10 constitute or create an obligation or debt of the State. As
11 security for the payment of the principal of, premium, if any,
12 and interest on the Bonds, the Alabama Public School and
13 College Authority is hereby authorized and empowered to pledge
14 the residues of the tax receipts that are appropriated and
15 pledged herein. All such pledges made by the Alabama Public
16 School and College Authority shall take precedence in the
17 order of the adoption of the resolutions containing the
18 pledges. All such pledges shall be prior and superior to any
19 pledges that may be made for any refunding bonds hereafter
20 issued by the Alabama Public School and College Authority
21 under the provisions of any act heretofore enacted.

22 (g) For the purpose of refunding any Bonds or
23 Refunding Bonds of the Alabama Public School and College
24 Authority issued under the provisions of this act, or any
25 other act previously enacted, or any combination thereof,

1 whether such refunding shall occur before, at, or after the
2 maturity of the Bonds refunded and for the purpose of paying
3 all premiums and expenses of such refunding, including, but
4 not limited to, attorneys' fees, costs of printing the
5 Refunding Bonds, fiscal agents' fees, and accountants' fees,
6 the Alabama Public School and College Authority is hereby
7 authorized to sell and issue its Refunding Bonds. Such
8 Refunding Bonds may be sold and issued from time to time, by
9 negotiated or public sale, and on such other terms and
10 conditions as the Alabama Public School and College Authority
11 shall determine to be advantageous and shall adopt and provide
12 for in its proceedings for the sale and issuance of such
13 Refunding Bonds. Provided, however, no Refunding Bonds shall
14 be issued unless the present value of all debt service on the
15 Refunding Bonds, computed with a discount rate equal to the
16 true interest rate of the Refunding Bonds and taking into
17 account all underwriting discount and other issuance expenses,
18 shall not be greater than 97 percent of the present value of
19 all debt service on the Bonds to be refunded, computed using
20 the same discount rate and taking into account the
21 underwriting discount and other issuance expenses originally
22 applicable to such Bonds, determined as if such Bonds to be
23 refunded were paid and retired in accordance with the schedule
24 of maturities, considering mandatory redemption as scheduled
25 maturity, provided at the time of their issuance. Provided

1 further that the average maturity of the Refunding Bonds, as
2 measured from the date of issuance of such Refunding Bonds,
3 shall not exceed by more than three years the average maturity
4 of the Bonds to be refunded, as also measured from such date
5 of issuance, with the average maturity of any principal amount
6 of Bonds to be determined by multiplying the principal of each
7 maturity by the number of years, including any fractional part
8 of a year, intervening between such date of issuance and each
9 such maturity, taking the sum of all such products, and then
10 dividing such sum by the aggregate principal amount of Bonds
11 for which the average maturity is to be determined. For the
12 purpose of providing funds to enable the Alabama Public School
13 and College Authority to pay at their respective maturities
14 the principal of, premium, if any, and interest on the
15 Refunding Bonds issued under this act, the Alabama Public
16 School and College Authority is hereby authorized to pledge
17 irrevocably for such purpose, and there is hereby appropriated
18 for such purpose, such amount as may be necessary of the
19 residues of the receipts from the excise taxes pledged and
20 appropriated herein, any reserves or sinking funds established
21 by the Alabama Public School and College Authority, as well as
22 revenues of the Alabama Public School and College Authority
23 from any other sources specified in the proceedings wherein
24 the Refunding Bonds are authorized to be issued. Pending the
25 application of the proceeds of Refunding Bonds issued in

1 accordance with this subsection, the proceeds, together with
2 investment earnings therefrom, and amounts in any sinking
3 fund, together with investment earnings thereon, may be held
4 by the State Treasurer as treasurer of the Alabama Public
5 School and College Authority in trust, or may be deposited by
6 the State Treasurer in trust, on such terms as the State
7 Treasurer and the Alabama Public School and College Authority
8 shall approve, with a trustee or escrow agent, which trustee
9 or escrow agent shall be a banking institution or trust
10 company authorized to exercise trust powers in Alabama, for
11 investment in Permitted Investments, as such term is defined
12 in Act 2007-415. Proceeds of Refunding Bonds shall be so
13 invested and applied as to assure that the principal,
14 interest, and redemption premium, if any, on the Bonds being
15 refunded shall be paid in full on the respective maturity,
16 redemption, or interest payment dates. Refunding Bonds issued
17 by the Alabama Public School and College Authority shall not
18 be general obligations of the Alabama Public School and
19 College Authority but shall be payable solely from the sources
20 specified in this act and in the proceedings whereby the
21 Refunding Bonds are authorized to be issued. All Refunding
22 Bonds issued by the Alabama Public School and College
23 Authority shall be solely and exclusively obligations of the
24 Alabama Public School and College Authority and shall not
25 create debts of the State of Alabama. The faith and credit of

1 the State of Alabama shall never be pledged for the payment of
2 any Refunding Bonds issued by the Alabama Public School and
3 College Authority under this act. The Alabama Public School
4 and College Authority may contract with respect to the
5 safekeeping and application of the proceeds of Refunding Bonds
6 and other funds included therewith and the income therefrom,
7 and shall have the right and power to appoint a trustee
8 therefor, which may be any bank or company authorized to
9 exercise trust powers and located within and/or without the
10 state. All pledges made by this act, or by the Alabama Public
11 School and College Authority pursuant to the provisions of
12 this act, for the benefit of Refunding Bonds issued under this
13 act, and all such pledges for the benefit of Refunding Bonds
14 which may be issued to refund any bonds issued under any prior
15 act, shall take precedence in the order of the adoption of the
16 resolutions authorizing the issuance of such Refunding Bonds.
17 Bonds refunded prior to their maturity with the proceeds of
18 Refunding Bonds shall be deemed paid and the pledges herein
19 and by the Alabama Public School and College Authority made
20 for the payment thereof defeased if the Alabama Public School
21 and College Authority, in its proceedings regarding issuance
22 of the Refunding Bonds, shall provide for and establish a
23 trust or escrow fund comprised of monies or Government
24 Securities, as such term is defined in Act 2007-415, or both,
25 sufficient to pay, when due, the entire principal of, premium,

1 if any, and interest on the Bonds to be refunded thereby;
2 provided, that such Government Securities, as such term is
3 defined in Act 2007-415, shall not be subject to redemption
4 prior to their maturities other than at the option of the
5 holder thereof. Upon the establishment of such a trust or
6 escrow fund, the refunded Bonds shall no longer be deemed to
7 be outstanding, shall no longer be secured by the funds
8 pledged therefor in this act, shall no longer be obligations
9 of the Alabama Public School and College Authority, and shall
10 be secured solely by and payable from monies and Government
11 Securities, as such term is defined in Act 2007-415, deposited
12 in such trust or escrow fund.

13 (h) The Alabama Public School and College Authority
14 is authorized to pay out of proceeds of any series of Bonds
15 the costs and expenses incurred in connection with the
16 issuance of such Bonds, including, without limitation, legal
17 and accounting fees and expenses, fees and expenses of any
18 financial or fiscal advisor employed by the Alabama Public
19 School and College Authority, printing costs, rating agency
20 fees, and premiums or charges for any credit enhancement or
21 liquidity providers. Notwithstanding any provision of this act
22 or any previous act, in appointing, employing, or contracting
23 with attorneys, fiscal advisers, trustees, paying agents,
24 investment bankers, banks, and underwriters, the Alabama
25 Public School and College Authority may appoint, employ, or

1 contract with firms whose principal offices are located
2 without or within Alabama. The Alabama Public School and
3 College Authority shall hire or contract with attorneys,
4 fiscal advisors, trustees, paying agents, investment bankers,
5 banks, and underwriters which shall reflect the racial and
6 ethnic diversity of the state. The Alabama Public School and
7 College Authority shall issue Requests For Proposals for
8 attorneys, fiscal advisors, trustees, paying agents,
9 investment bankers, banks, and underwriters. The Alabama
10 Public School and College Authority shall evaluate each
11 proposed bid publicly and award each contract publicly.
12 Minutes of the Alabama Public School and College Authority's
13 meeting shall record the reasons for awarding each contract.
14 The Alabama Public School and College Authority shall hire or
15 contract with businesses or individuals which reflect the
16 racial and ethnic diversity of the State. The Alabama Public
17 School and College Authority shall have the power to make such
18 payments to the United States of America as the board of
19 directors of the Alabama Public School and College Authority
20 deems necessary to cause the interest on any bonds of the
21 Alabama Public School and College Authority, including the
22 Bonds, to be and remain exempt from, or excludible from gross
23 income for purposes of, federal income taxation. The Alabama
24 Public School and College Authority shall have the power to
25 make such agreements respecting the investment of funds of the

1 Alabama Public School and College Authority as the Alabama
2 Public School and College Authority shall deem necessary in
3 order that the interest income on bonds of the Alabama Public
4 School and College Authority be and remain exempt from, or
5 excludible from gross income for purposes of, federal income
6 taxation.

7 Section 8. In addition to the counties participating
8 under Section 7, Jackson County and Marshall County may also
9 participate in the funding benefits of this bill. In addition,
10 in order to qualify for bond proceeds, a local school system
11 may redirect an existing tax not currently dedicated to
12 schools to qualify for bonds in lieu of the requirements
13 otherwise provided for in Section 7.

14 Section 9. (a) The proceeds derived from each sale
15 of the Bonds issued pursuant to this act shall be deposited in
16 the State Treasury and shall be carried in a separate fund
17 therein for the account of the Authority, which shall pay the
18 expenses of issuance therefrom. The expenses of issuance of
19 the Bonds shall be prorated among the recipients of the
20 proceeds from the sale of the Bonds in proportions they
21 receive allocations of the proceeds thereunder. The proceeds
22 from the sale of the Bonds remaining after payment of the
23 expenses of issuance thereof shall be retained in said fund
24 and, until they are paid out, shall be invested by the State
25 Treasurer at the direction of the Authority in Permitted

1 Investments maturing at such time or times as the Authority
2 shall direct.

3 (b) Proceeds from the sale of the Bonds and the
4 earnings thereon shall be paid out from time to time on orders
5 or warrants issued by or at the direction of the Authority for
6 any one or more of the purposes specified in this act, and for
7 reimbursement to the Alabama Building Commission for its
8 reasonable direct cost in reviewing plans, specifications and
9 contract documents prepared and in supervising and inspecting
10 the work."

11 Section 10. This act shall become effective
12 immediately upon signature of the Governor or otherwise
13 becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB442

Senate 06-APR-10

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

McDowell Lee
Secretary

House of Representatives
Amended and passed 14-APR-10

Senate concurred in House amendment 14-APR-10

By: Senators Butler and Orr