

1 SB496
2 119009-1
3 By Senator Bedford
4 RFD: Finance and Taxation General Fund
5 First Read: 04-MAR-10

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8 SYNOPSIS: Under existing law, the Alabama Incentives
9 Financing Authority is authorized to borrow not in
10 excess of \$175,000,000 for research and training
11 facility projects and for the payment of training
12 facility management fees. This bill would provide
13 for the financing by the Authority and payment of
14 certain economic development costs, projects and
15 related expenses, increase the aggregate principal
16 amount of bonds that may be issued by the
17 Authority; permit the Authority to fund and
18 maintain a maintenance fund for the payment of
19 operating and maintenance expenses for projects
20 acquired or operated by the Authority and other
21 costs, expenses or other obligations of the
22 authority; and authorize the state to enter into a
23 funding agreement under which the state may agree,
24 in the event moneys are withdrawn during any fiscal
25 year of the State from any reserve fund established
26 by the authority for the payment of debt service on
27 any Authority bonds due to the inadequacy of

1 pledged revenues to timely pay such debt service,
2 to provide funds to the authority not in excess of
3 the amount so withdrawn from whatever source
4 lawfully available to the state for that purpose in
5 order to fully fund such reserve fund.

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 41-10-541, 41-10-547, 41-10-550,
12 and 41-10-551; to modify existing terms and to add additional
13 terms; to provide for the financing and payment of the costs
14 of certain economic development costs, projects and related
15 expenses; to provide authority for the entering into by the
16 Governor on behalf of the state of an agreement under which
17 the state may agree, in the event moneys are withdrawn during
18 any fiscal year of the State from any reserve fund established
19 by the authority for the payment of debt service on any
20 Authority bonds due to the inadequacy of pledged revenues to
21 timely pay such debt service, to provide funds to the
22 authority not in excess of the amount so withdrawn from
23 whatever source lawfully available to the state for that
24 purpose in order to fully fund such reserve fund; to permit
25 the Authority to transfer all the moneys not needed for
26 payment of debt service on the Authority's bonds or other
27 Authority obligations from the Special Fund created in Section

1 41-10-5 to the general fund of the State or to a fund to be
2 used to pay certain costs of acquiring, operating and
3 maintaining projects owned or operated by the Authority upon
4 certain conditions, and to increase the aggregate principal
5 amount of bonds that may be issued by the Authority.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 41-10-541, Code of Alabama 1975,
8 is hereby amended to read as follows:

9 "§41-10-541.

10 "(a) The following words and phrases used in this
11 division, and others evidently intended as the equivalent
12 thereof, shall, in the absence of clear implication herein
13 otherwise, be given the following respective interpretations
14 herein:

15 (1) APPROPRIATED FUNDS. Net TVA payments to the
16 extent such payments are pledged and appropriated to the
17 authority pursuant to Section 41-10-550.

18 (2) AUTHORITY. The public corporation organized
19 pursuant to this division.

20 (3) AUTHORITY GUARANTY. An agreement of the
21 authority pursuant to which the payment of debt service
22 referable to bonds, notes, or other evidences of indebtedness
23 of a development agency is guaranteed by the authority.

24 (4) AUTHORITY OBLIGATIONS. Bonds of the authority
25 and authority guaranties.

26 (5) AUTHORITY-GUARANTEED OBLIGATIONS. Bonds, notes,
27 or other evidences of indebtedness of a development agency

1 that are issued solely for the purpose in financing a project
2 and that are guaranteed, in whole or in part, by an authority
3 guaranty.

4 (6) BONDS. Bonds of the authority issued for any
5 authorized purpose.

6 (7) DEBT SERVICE. The principal of and interest (and
7 premium, if any) on an obligation (including, without
8 limitation, any principal required to be paid prior to its
9 stated maturity) and any ongoing trustee or paying agent fees
10 or fees of providers of credit enhancement or liquidity
11 facilities.

12 (8) DEVELOPMENT AGENCY. A county, municipality, or
13 industrial development authority organized under Chapter 92A
14 of Title 11; an industrial development board organized under
15 Article 4, Chapter 54 of Title 11, or the State Industrial
16 Development Authority.

17 (9) DIRECTORS. The Board of Directors of the Alabama
18 Incentives Financing Authority.

19 (10) ELIGIBLE INVESTMENTS. a. Bonds or other
20 obligations which as to principal and interest constitute
21 direct obligations of, or are unconditionally guaranteed by,
22 the United States of America, including obligations of any
23 federal agency to the extent such obligations are
24 unconditionally guaranteed by the United States of America and
25 any certificates or any other evidences of an ownership
26 interest in such obligations of, or unconditionally guaranteed
27 by, the United States of America or in specified portions

1 thereof (which may consist of the principal thereof or the
2 interest thereon); b. Bonds, debentures, notes, or other
3 evidences of indebtedness issued by any of the following
4 agencies: Bank of Cooperatives; federal intermediate credit
5 banks; Federal Financing Bank; federal home loan banks;
6 Federal Farm Credit Bank; Export-Import Bank of the United
7 States; federal land banks; Farmers Home Administration or any
8 other agency or corporation which has been or may hereafter be
9 created by or pursuant to an act of the Congress of the United
10 States as an agency or instrumentality thereof; c. Bonds,
11 notes, pass through securities, or other evidences of
12 indebtedness of Government National Mortgage Association and
13 participation certificates of Federal Home Loan Mortgage
14 Corporation; d. Full faith and credit obligations of any
15 state, provided that at the time of purchase such obligations
16 are rated as least "AA" by Standard & Poor's Ratings Group and
17 at least "Aa" by Moody's Investor Service; e. Public housing
18 bonds issued by public agencies or municipalities and fully
19 secured as to the payment of both principal and interest by
20 contracts with the United States of America, or temporary
21 notes, preliminary notes or project notes issued by public
22 agencies or municipalities, in each case fully secured as to
23 the payment of both principal and interest by a requisition or
24 payment agreement with the United States of America; f. Time
25 deposits evidenced by certificates of deposit issued by banks
26 or savings and loan associations which are members of the
27 Federal Deposit Insurance Corporation, provided that, to the

1 extent such time deposits are not covered by federal deposit
2 insurance, such time deposits (including interest thereon) are
3 fully secured by a pledge of obligations described in
4 paragraphs a., b., c., and e. above, which at all times have a
5 market value not less than the amount of such bank time
6 deposits required to be so secured and which meet the greater
7 of 100% collateralization or the "AA" collateral levels
8 established by Standard & Poor's Ratings Group for structured
9 financing; g. Repurchase agreements for obligations of the
10 type specified in paragraphs a., b., c., and e. above,
11 provided such repurchase agreements are fully collateralized
12 and secured by such obligations which have a market value at
13 least equal to the purchase price of such repurchase
14 agreements which are held by a depository satisfactory to the
15 State Treasurer in such manner as may be required to provide a
16 perfected security interest in such obligations, and which
17 meet the greater of 100% collateralization or the "AA"
18 collateral levels established by Standard & Poor's Rating
19 Group for structured financings; and h. Uncollateralized
20 investment agreements with, or certificates of deposit issued
21 by banks or bank holding companies, the senior long-term
22 securities of which are rated at least "AA" by Standard &
23 Poor's Rating Group and at least "Aa" by Moody's Investors
24 Service.

25 (11) FINANCED PROPERTY. All property whether real,
26 personal, or mixed, the costs of which were or are to be paid
27 or reimbursed in whole or in part with the proceeds of bonds

1 of the authority or the proceeds of authority-guaranteed
2 obligations.

3 (12) FINANCING AGREEMENT. Any loan, lease,
4 agreement, grant agreement, financing agreement, credit
5 agreement, security agreement, mortgage, indenture, guaranty
6 agreement, or other type of agreement entered into by the
7 authority in connection with the incurring of authority
8 obligations.

9 (13) FUNDING AGREEMENT. An agreement between the
10 state and the authority under which the state shall agree to
11 make funds available to the authority to be used for the
12 payment, or to enhance the payment, of debt service on bonds
13 issued by the authority; provided (i) such agreement shall
14 have an initial term from the date of execution thereof
15 through the September 30 immediately succeeding said date of
16 execution, and shall be subject to renewal, at the sole option
17 of the state, for successive terms of twelve (12) months each,
18 each such term to coincide with the fiscal year of the state
19 beginning on October 1 and continuing until and including the
20 next succeeding September 30, and (ii) any obligation on the
21 part of the state to pay amounts required to be paid during
22 any fiscal year of the state under such agreement shall
23 constitute a limited obligation of the state payable solely
24 out of the revenues and receipts appropriated to and received
25 by the state during the fiscal year of the state during which
26 any such amount is to be payable.

1 (13~~14~~) HEREIN, HEREBY, HEREUNDER, HEREOF, and OTHER
2 EQUIVALENT WORDS. Refer to this division as an entirety and
3 not solely to the particular section or portion thereof in
4 which any such word is used.

5 (~~14~~15) INDUSTRIAL OR RESEARCH ENTERPRISE. Any trade
6 or business described in 1987 Standard Industrial
7 Classification Major Groups 20 to 39, inclusive, 50 and 51,
8 Industrial Group Number 737, and Industry Numbers 8731, 8733,
9 and 8734, as set forth in the Standard Industrial
10 Classification Manual published by the United States
11 Government Office of Management and Budget, and includes such
12 trades and businesses as may be hereafter reclassified in any
13 subsequent publication of the Standard Industrial
14 Classification Manual.

15 (16) MAINTENANCE FUND. A fund established by
16 resolution of the directors for the purpose of holding amounts
17 directed by resolution of the authority to be maintained and
18 used to pay the costs and expenses of acquiring, operating,
19 and maintaining any project or other property owned, acquired
20 or operated by the authority and to pay any other costs,
21 expenses or obligations of the authority.

22 (~~15~~17) NET TVA PAYMENTS. With respect to any fiscal
23 year of the state, the in-lieu-of-taxes payments made by the
24 Tennessee Valley Authority to and retained by the state during
25 such fiscal year after distributions made pursuant to Section
26 40-28-2 and after compliance with Section 41-9-783.

1 (~~16~~18) PERSON. Unless limited to a natural person by
2 the context in which it is used, includes a private firm, a
3 private association, a public or private corporation, a
4 municipality, a county, or an agency, department, or
5 instrumentality of the state or of a county or municipality.

6 (~~17~~19) PROJECT. Any land, building, or other
7 improvement, and all real and personal properties deemed
8 necessary or useful in connection therewith, whether or not
9 now in existence, that are or are to be located in the state
10 and that have been or are to be acquired, constructed,
11 expanded, or installed for use (i) by an industrial, ~~or~~
12 research, manufacturing, aviation or transportation
13 enterprise, (ii) by any enterprise engaged in manufacturing,
14 processing, cultivating or assembling any agricultural or
15 manufactured product, (iii) or as a training facility, or (iv)
16 by any entity in promoting economic development or the
17 recruitment of industrial, research, manufacturing, aviation
18 or transportation prospects to the state.

19 (~~18~~20) PROJECT COSTS. All costs and expenses
20 incurred by the authority or any person in connection with the
21 acquisition, construction, installation, and equipping of a
22 project, including, without limitation, any of the following:

23 a. The costs of acquiring, constructing, installing,
24 and equipping a project, including all obligations incurred
25 for labor and to contractors, subcontractors, builders, and
26 materialmen.

1 b. The costs of acquiring land or rights in land and
2 any cost incidental thereto, including recording fees.

3 c. The costs of contract bonds and of insurance of
4 all kinds that may be required or necessary during the
5 acquisition, construction, or installation of a project.

6 d. The costs of architectural and engineering
7 services, including test borings, surveys, estimates, plans
8 and specifications, preliminary investigations, environmental
9 mitigation, and supervision of construction, as well as for
10 the performance of all the duties required by or consequent
11 upon the acquisition, construction, and installation of a
12 project.

13 e. The costs associated with installation of
14 fixtures and equipment, surveys, including archeological and
15 environmental surveys, site tests and inspections, subsurface
16 site work, excavation, removal of structures, roadways,
17 cemeteries, and other surface obstructions, filling, grading,
18 and provisions for drainage, storm water retention,
19 installation of utilities, including water, sewer, sewage
20 treatment, gas, electricity, communications, and similar
21 facilities, off-site construction of utility extensions to the
22 boundaries of the property, and paving.

23 f. Interest accruing with respect to bonds of the
24 authority or authority-guaranteed obligations for a period of
25 up to two years after the issuance of such bonds.

26 g. All costs, expenses, and fees incurred in
27 connection with the issuance of authority obligations and

1 authority-guaranteed obligations, including, without
2 limitation, all legal, accounting, financial, printing,
3 recording, filing, and other fees and expenses.

4 h. The costs for obtaining bond insurance, letters
5 of credit, or other forms of credit enhancement or liquidity
6 facilities.

7 i. Amounts to be deposited in any reserve fund
8 established with respect to such authority obligations or
9 authority-guaranteed obligations.

10 j. All other costs of a nature comparable to or
11 required in connection with those described.

12 k. Reimbursement to any person of any of the
13 foregoing costs incurred by the person either for its own
14 account, or for the account of the authority and without
15 regard to when incurred.

16 (21) RESERVE FUND. Any fund or account established
17 by the authority in which moneys are placed in reserve to be
18 used to pay the principal of or interest on bonds issued by
19 the authority in the event funds pledged for the payment of
20 debt service on such bonds are insufficient to timely satisfy
21 said payment requirements.

22 ~~(1922)~~ STATE INDUSTRIAL DEVELOPMENT AUTHORITY. The
23 public corporation created pursuant to Article 2, Chapter 10
24 of this title, as amended.

25 ~~(2023)~~ TRAINING FACILITY. Any facility to be used
26 for the purpose of providing vocational, technical, or other
27 training for employees or prospective employees of any

1 industry for the manufacturing, processing, cultivating, or
2 assembling of any agricultural or manufactured product.

3 (~~21~~24) TRAINING FACILITY MANAGEMENT FEES. Fees
4 payable to any person as compensation for managing a training
5 facility under a management agreement entered into pursuant to
6 Section 41-10-551, including payments to be made to reimburse
7 such person for the costs of operating and maintaining a
8 training facility.

9 (b) The definitions set forth in this section shall
10 be deemed applicable whether the words defined are used in the
11 singular or plural. Whenever used herein any pronoun or
12 pronouns shall be deemed to include both singular and plural
13 and to cover all genders."

14 Section 2. Section 41-10-547, Code of Alabama 1975,
15 is hereby amended to read as follows:

16 "§41-10-547.

17 "(a) The authority is authorized from time to time
18 to sell and issue its bonds for the purpose of financing
19 project costs pertaining to one or more projects or for the
20 purpose of providing funds to pay training facility management
21 fees, or any combination of the foregoing including, without
22 limitation, in the case of authority obligations issued for
23 the purpose of providing funds to pay training facility
24 management fees, costs, expenses, and other items of the type
25 described in paragraphs g., h., i., and j. of the definition
26 of project costs in Section 41-10-541 or to enter into
27 guaranty agreements wherein the authority guarantees payment,

1 in whole or in part, of debt service referable to obligations
2 issued by development agencies for the purpose of financing
3 project costs pertaining to one or more projects; provided,
4 however, that the principal amount of authority obligations
5 shall not exceed ~~one hundred seventy-five million dollars~~
6 ~~(\$175,000,000)~~three hundred million dollars (\$300,000,000).
7 For purposes of determining compliance with this section and
8 Section 41-10-550, (i) the principal amount of authority
9 guaranties outstanding shall be determined on the basis of the
10 outstanding principal of the authority-guaranteed obligations
11 to which such authority guaranties relate, (ii) bonds of the
12 authority (or, in the case of authority guaranties, the
13 authority-guaranteed obligations to which such authority
14 guaranties relate), the payment of debt service referable to
15 which at and prior to their respective stated maturities is
16 fully provided for by an irrevocable escrow consisting solely
17 of cash and direct obligations of the United States, shall not
18 be deemed to be outstanding, and (iii) in the case of bonds of
19 the authority or authority-guaranteed obligations with respect
20 to which interest is not payable on a current basis (generally
21 referred to as "capital appreciation bonds"), the principal
22 amount outstanding shall be computed on the basis of their
23 original principal amount and not on the basis of their
24 accreted value. The authorization granted in the first
25 sentence of this section shall include, but shall not be
26 limited to, (1) the power to issue authority obligations
27 related to financing project costs with respect to projects

1 that are under construction on the date of issuance of such
2 obligations and (2) the power to fund training facility
3 management fees in advance of their incurrence and for such
4 period as the directors deem appropriate based upon estimates
5 furnished to the authority.

6 (b) The bonds of the authority shall be signed by
7 its president and attested by its secretary and the seal of
8 the authority shall be affixed. A facsimile of the signature
9 of one or both of the officers may be printed or otherwise
10 reproduced on any such bonds in lieu of being manually
11 subscribed thereon and a facsimile of the seal of the
12 authority may be printed or otherwise reproduced on any of the
13 bonds in lieu of being manually affixed thereto. Any bonds of
14 the authority may be executed and delivered by it at any time
15 and from time to time, and shall be in the form and
16 denominations and of such tenor and maturities, shall bear
17 such rate or rates of interest, shall be payable at such times
18 and evidenced in such manner, may be made subject to
19 redemption at the option of the authority at such times and
20 after such notice and on such conditions and at such
21 redemption price or prices, and may contain such other
22 provisions not inconsistent herewith, all as may be provided
23 by the resolution of the directors of the authority under
24 which the bonds are authorized to be issued. Bonds of the
25 authority may be sold at public or private sale from time to
26 time as the directors may consider advantageous.

1 (c) Subject to the provisions and limitations
2 contained in this division, the authority may from time to
3 time sell and issue refunding bonds for the purpose of
4 refunding any matured or unmatured bonds of the authority or
5 authority-guaranteed obligations then outstanding. The
6 authority may pay out of the proceeds of the sale of refunding
7 bonds such fees and the expenses of issuance which the said
8 directors may deem necessary and advantageous in connection
9 with the issuance of the refunding bonds; provided, however,
10 that no refunding bonds shall be issued unless the present
11 value of all debt service on the refunding bonds (computed
12 with a discount rate equal to the true interest rate of the
13 refunding bonds and taking into account all underwriting
14 discount and other issuance expenses) shall not be greater
15 than 95% of the present value of all debt service on the bonds
16 to be refunded (computed using the same discount rate and
17 taking into account the underwriting discount and other
18 issuance expenses originally applicable to such bonds)
19 determined as if such bonds to be refunded were paid and
20 retired in accordance with the schedule of maturities
21 (considering mandatory redemption as a scheduled maturity)
22 provided at the time of their issuance.

23 (d) Authority obligations shall not be general
24 obligations of the authority but shall be payable solely from
25 one or more of the following sources: (1) appropriated funds;
26 (2) the revenues and receipts of the authority derived from
27 any financing agreement entered into by the authority with

1 respect to the project or projects financed by such authority
2 obligations; (3) the income or proceeds realized by the
3 authority under any mortgage or other security granted to the
4 authority; (4) amounts derived from any letter of credit,
5 insurance policy or other form of credit enhancement
6 applicable to the authority obligations; (5) any reserve or
7 other fund established for such purpose by the authority; (6)
8 any earnings on the proceeds of authority obligations invested
9 by the authority pending their disbursement; and (7) any other
10 amounts that may hereafter be appropriated to the authority.
11 As security for the payment of the debt service referable to
12 bonds issued by it and of its obligations under authority
13 guaranties, the authority is authorized and empowered to
14 pledge for payment of such debt service and such obligations
15 appropriated funds and other moneys and funds from which such
16 authority obligations are made payable. All contracts made and
17 all authority obligations issued or incurred by the authority
18 pursuant to this division shall be solely and exclusively
19 obligations of the authority and shall not constitute or
20 create an obligation or debt of the state. Bonds issued by the
21 authority shall be construed to be negotiable instruments,
22 although payable solely from a specified source, as provided
23 herein. The proceedings of the directors under which any
24 authority obligations are authorized to be issued and any such
25 mortgage and deed of trust or trust indenture may contain any
26 agreements and provisions respecting the collection and
27 disposition of appropriated funds, revenues, and receipts

1 subject to such mortgage and deed of trust or trust indenture,
2 the creation and maintenance of special funds from such
3 appropriated funds, revenues, and receipts, the rights,
4 duties, and remedies of the parties to any such instrument and
5 the parties for the benefit of whom the instrument is made and
6 the rights and remedies available in the event of default, all
7 as the directors shall deem advisable. Any pledge made with
8 respect to authority obligations shall be valid and binding
9 from the time such pledge is made; the appropriated funds,
10 revenues, receipts, funds, and other property so pledged shall
11 immediately be subject to the lien of such pledge without any
12 physical delivery thereof or further act; and the lien of
13 pledge shall be valid and binding as against all parties
14 having claims of any kind against the authority irrespective
15 of whether the parties have notice thereof. Neither the
16 proceedings of the directors authorizing the authority
17 obligations nor any other instrument by which a pledge is
18 created need be recorded. Each pledge, agreement, mortgage,
19 and deed of trust or trust indenture made for the benefit or
20 security of any of the authority obligations of the authority
21 shall continue effective until the authority obligations have
22 been fully paid or satisfied.

23 (e) Any bonds of the authority and any authority
24 guaranteed obligations may be used by the holder as security
25 for any funds belonging to the state, or to any political
26 subdivision, instrumentality, or agency of the state, in any
27 instance where security for the deposits may be required by

1 law. Unless otherwise directed by the court having
2 jurisdiction, or the document that is the source of authority,
3 a trustee, executor, administrator, guardian, or one acting in
4 any other fiduciary capacity may, in addition to any other
5 investment powers conferred by law and with the exercise of
6 reasonable business prudence, invest trust funds in bonds of
7 the authority and authority-guaranteed obligations. Neither a
8 public hearing nor consent of the Department of Finance or any
9 other department or agency shall be a prerequisite to the
10 issuance of bonds by the authority. Bonds of the authority and
11 authority-guaranteed obligations shall be legal investments
12 for funds of the Teachers' Retirement System of Alabama, the
13 Employees' Retirement System of Alabama, and the State
14 Insurance Fund.

15 (f) The State Treasurer shall be registrar, transfer
16 agent, and paying agent for the bonds. The State Treasurer may
17 designate named individuals who are employees of the state and
18 who are assigned to the State Treasurer's office to
19 authenticate the bonds."

20 Section 3. Section 41-10-550, Code of Alabama 1975,
21 is hereby amended to read as follows:

22 "§41-10-550.

23 "(a) For the purpose of providing funds to enable
24 the authority to pay debt service referable to any bonds
25 issued by it, amounts due on any authority guaranties entered
26 into by it under this division and other obligations incurred
27 by the authority pursuant to this division, and to pay the

1 costs of acquiring, operating and maintaining any project or
2 other property the authority may own, acquire or operate and
3 to pay any other costs, expenses or obligations of the
4 authority, there is irrevocably pledged to such purpose and is
5 appropriated to the authority so much as may be necessary
6 therefore of the appropriated funds. All moneys hereby
7 appropriated and pledged shall be deposited in a special fund
8 maintained by the State Treasurer separate and apart from all
9 other funds under his or her supervision, and the State
10 Treasurer is hereby directed to cause moneys in the special
11 fund to be disbursed solely for the following purposes:

12 (1) Prior to dissolution of the authority, moneys on
13 deposit in the special fund shall be disbursed by the State
14 Treasurer in payment of debt service referable to authority
15 obligations and in payment of other obligations of the
16 authority incurred pursuant to this division; provided,
17 however, that if directed so to do by a resolution of the
18 directors, the State Treasurer shall transfer from the special
19 fund to the General Fund of the state or to such Maintenance
20 Fund established by the authority for payment of the costs of
21 acquiring, operating and maintaining any project or other
22 facilities the authority may at any time own, acquire or
23 operate and to pay any other costs, expenses or obligations of
24 the authority, moneys and securities the directors determine
25 are not needed to meet the aforesaid obligations of the
26 authority; provided, however, that no such transfer to the
27 General Fund or Maintenance Fund shall be made during any year

1 in which any authority obligations are outstanding unless,
2 with respect to each of the two fiscal years immediately
3 preceding the fiscal year in which such transfer is proposed
4 to be made, the amount of money that had been deposited from
5 time to time into the special fund was not less than 1.3 times
6 the maximum annual debt service payable on all authority
7 obligations outstanding during such fiscal year.

8 (2) Promptly upon dissolution of the authority, the
9 State Treasurer shall transfer all cash and securities on
10 deposit in the special fund to the General Fund of the state.

11 (b) Pending disbursement for the above purposes,
12 moneys on deposit in the special fund shall be invested by the
13 State Treasurer in eligible investments as specified by the
14 directors.

15 (c) The Governor, on behalf of the state, and the
16 authority are hereby authorized to enter into a funding
17 agreement pursuant to which the state may agree, in the event
18 that moneys are withdrawn during any fiscal year of the state
19 from any reserve fund established by the authority for any of
20 its bonds owing to the inadequacy of pledged revenues to pay
21 when due debt service thereon as herein provided for, to
22 provide funds to the authority not in excess of the amount so
23 withdrawn from whatever source lawfully available to the state
24 for that purpose in order to fully fund such reserve fund in
25 accordance with the proceedings of the authority pursuant to
26 which the authority issued the bonds for which such reserve
27 fund was established. Any funding agreement entered into

1 pursuant hereto shall be executed by the Governor and
2 countersigned by the Finance Director of the state and by the
3 President of the authority and countersigned by the Secretary
4 of the authority."

5 Section 4. Section 41-10-551, Code of Alabama 1975,
6 is hereby amended to read as follows:

7 "§41-10-551.

8 "No authority obligations shall be incurred with
9 respect to any projecttraining facility and no funds of the
10 authority shall be applied to payment of training facility
11 management fees pursuant to Section 41-10-550 unless the
12 following conditions are met:

13 (1) Subject to subdivisions (3), (4), and (5) of
14 this subsection, in the case of any projecttraining facility
15 financed in whole or in part through the issuance of bonds of
16 the authority, title to the financed property shall be
17 acquired in the name of, or transferred promptly after
18 acquisition to, the authority and the title shall remain in
19 the authority.

20 (2) Subject to subdivisions (3), (4), and (5) of
21 this subsection, in the case of any projecttraining facility
22 financed in whole or in part through the issuance of
23 authority-guaranteed obligations, title to the financed
24 property shall be acquired in the name of, or transferred
25 promptly after acquisition to, the development agency issuing
26 such authority-guaranteed obligations and the title shall
27 remain in the development agency.

1 (3) In the case of any projecttraining facility
2 constituting an industrial or research facility and financed
3 in whole or in part through the issuance of bonds of the
4 authority or authority-guaranteed obligations, the financed
5 property may be leased to any person under an agreement
6 containing such provisions as the authority may require,
7 including without limitation, provisions for the payment of
8 nominal rental by the lessee.

9 (4) In the case of any projecttraining facility
10 constituting an industrial or research facility and financed
11 in whole or in part through the issuance of bonds of the
12 authority or authority-guaranteed obligations, the financed
13 property may be acquired and held in the name of any person,
14 provided that the authority may require such person to enter
15 into an agreement containing, among other things, an option by
16 the authority to purchase or otherwise acquire such
17 projecttraining facility if the operation of the
18 projecttraining facility by such person ceases.

19 (5) In the case of the issuance of bonds of the
20 authority to provide funds for payment of project costs
21 referable to a training facility or training facility
22 management fees or in the case of direct funding of training
23 facility management fees pursuant to the provisions of Section
24 41-10-549 without the issuance of bonds of the authority, the
25 authority may enter into an agreement with any person to
26 provide for operation and management of such training facility
27 by such person and to prescribe the terms and conditions upon

1 which training facility management fees are to be paid or
2 reimbursed by the authority from the proceeds of the bonds.
3 Such agreement shall contain such other provisions as the
4 authority may require. Without limiting the generality of the
5 foregoing, the authority shall have the power to lease or
6 convey title to any training facility to the Alabama Public
7 School and College Authority or to the State Board of
8 Education, acting by and through the Alabama Industrial
9 Development Training Institute, and such agencies shall have
10 the power to acquire title to or a leasehold interest in any
11 such training facility."

12 Section 5. This Act shall become effective upon its
13 signature by the Governor, or its otherwise becoming a law.