

1 HB407  
2 136177-3  
3 By Representatives McCutcheon, Williams (D), Greer, Ball,  
4 Long, Johnson (W), Rich, Patterson, Collins, Williams (P),  
5 Buttram, Johnson (K), Hall, Morrow and Black  
6 RFD: Ways and Means Education  
7 First Read: 23-FEB-12

1 ENGROSSED

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

8 To amend Sections 16-16A-2, 16-16A-7, and 16-16A-8,  
9 Code of Alabama 1975, to change the baseline date to January  
10 1, 2006; to provide that the average salary or equivalent wage  
11 can be attributed to 2005 BRAC that is equal to or exceeding  
12 \$80,000; to remove the provision that a school district may  
13 not receive the proceeds of the bonds issued by the Public  
14 School and College Authority unless the district or political  
15 subdivision has experienced an increase in the sales tax rate;  
16 to provide funds for transportation as it relates to fleet  
17 renewal; and to remove the provision that in order to qualify  
18 for bond proceeds, a local school system may redirect an  
19 existing tax not currently dedicated to schools to qualify for  
20 bonds.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 16-16A-2, 16-16A-7, and  
23 16-16A-8, Code of Alabama 1975, are amended to read as  
24 follows:

25 "§16-16A-2.

26 "As used in this chapter, the following words and  
27 phrases shall have the following meanings:

1           "(1) AUTHORITY. The Public School and College  
2 Authority.

3           "(2) BASELINE DATE. January 1, ~~2010~~ 2006.

4           "(3) 2005 BRAC. a. Closure actions according to the  
5 2005 Base Closure and Realignment Commission Report of the  
6 U.S. Department of Defense as they relate to Redstone Arsenal.

7           "b. Subsequent BRAC Actions are closure actions  
8 according to any Base Closure and Realignment Commission  
9 Report of the U.S. Department of Defense subsequent to the  
10 2005 Base Closure and Realignment Commission Report of the  
11 U.S. Department of Defense or administrative actions by a  
12 United States government agency, department, or organization  
13 which positively impact the number of Redstone Arsenal jobs.

14           "(4) BRAC DISTRIBUTIONS. Bond proceeds to be  
15 distributed to the local school districts for purposes of and  
16 as allocated by this chapter.

17           "(5) BRAC IMPACTED AREA. The geographic area within  
18 Madison County and the City of Huntsville described by a  
19 closed perimeter boundary consisting of Cummings Research  
20 Park, East and West, Thornton Research Park, Redstone Gateway  
21 EUL Area, and Redstone Arsenal.

22           "(6) DETERMINATION DATE. September 30 of the fiscal  
23 year in which the Authority obtains certification that the  
24 jobs requirements of this chapter have been satisfied.

25           "(7) GARRISON. The Garrison located at Redstone  
26 Arsenal, Alabama, and any successor thereto.

1                   "(8) PERMITTED INVESTMENTS. (i) Government  
2                   Securities; (ii) bonds, debentures, notes or other evidences  
3                   of indebtedness issued by any of the following agencies: Bank  
4                   for Cooperatives; Federal Intermediate Credit Banks; Federal  
5                   Financing Bank; Federal Home Loan Banks; Federal Farm Credit  
6                   Bank; Export-Import Bank of the United States; Federal Land  
7                   Banks; or Farmers Home Administration or any other agency or  
8                   corporation which has been or may hereafter be created by or  
9                   pursuant to an act of Congress of the United States as an  
10                  agency or instrumentality thereof; (iii) bonds, notes, pass  
11                  through securities or other evidences of indebtedness of  
12                  Government National Mortgage Association and participation  
13                  certificates of Federal Home Loan Mortgage Corporation; (iv)  
14                  full faith and credit obligations of any state, provided that  
15                  at the time of purchase such obligations are rated at least  
16                  "AA" by Standard & Poor's Rating Group and at least "Aa" by  
17                  Moody's Investors Service; (v) public housing bonds issued by  
18                  public agencies or municipalities and fully secured as to the  
19                  payment of both principal and interest by contracts with the  
20                  United States of America, or temporary notes, preliminary  
21                  notes or project notes issued by public agencies or  
22                  municipalities, in each case fully secured as to the payment  
23                  to both principal and interest by a requisition or payment  
24                  agreement with the United States of America; (vi) 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 clauses  
4 (i), (ii), (iii), and (v) 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 financings; (vii) repurchase agreements for obligations of the  
10 type specified in clauses (i), (ii), (iii), and (v) 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 Ratings  
19 Group for structured financings; and (viii) 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 Ratings Group and at least "Aa" by Moody's Investors  
24 Service.

25 "§16-16A-7.

26 "(a) The Legislature finds that the number of  
27 students attending the several school systems located in those

1 areas of North Alabama that will be directly impacted by the  
2 2005 BRAC and Subsequent BRAC Actions will collectively  
3 increase by an estimated 9,000 students. As a result, there  
4 will be a need for the construction of additional school  
5 facilities as well as the renovation of existing school  
6 facilities. The Legislature also finds that the 2005 BRAC and  
7 Subsequent BRAC Actions will have a positive impact on future  
8 receipts to the Education Trust Fund, as the significant  
9 population growth in North Alabama will increase sales,  
10 income, and other tax collections. Thus, it is an efficient  
11 use of state funds to allow such revenue growth to help pay  
12 for capital improvement costs associated with BRAC-related  
13 school construction.

14 "(b) The Alabama Public School and College Authority  
15 is hereby authorized to sell and issue its Bonds in the  
16 aggregate principal amount of up to ~~one hundred seventy-five~~  
17 ~~million dollars (\$175,000,000)~~ two hundred eight million  
18 dollars (\$208,000,000) to provide funds for school bus fleet  
19 renewal and to provide funds for the renovation of existing  
20 school facilities or construction of new school facilities  
21 once proof is provided deemed adequate by the Authority that  
22 ~~7,000~~ 4,700 direct full-time jobs can be attributed to 2005  
23 BRAC, Subsequent BRAC Actions, and as a result of  
24 administrative actions by a United States government agency,  
25 department, or organization placed in service after January 1,  
26 ~~2010~~ 2006, and paying an average salary or equivalent wages  
27 equal to or exceeding ~~eighty-five thousand dollars (\$85,000)~~

1 eighty thousand dollars (\$80,000) per year. Recipient school  
2 districts shall apply such proceeds for either the renovation  
3 of existing school facilities or the construction of new  
4 school facilities in the several school districts located in  
5 the BRAC Impacted Area or in the Primary Study Area, as such  
6 area was identified in the Tennessee Valley Regional Growth  
7 Coordination Plan of March 2009.

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

20 "(1) Of the total aggregate principal amount of  
21 bonds authorized to be sold and issued, thirty-three million  
22 dollars (\$33,000,000) shall be allocated and expended for  
23 local boards of education for the purpose of school bus fleet  
24 renewal by January 1, 2013. This allocation shall be  
25 distributed by the State Department of Education to the  
26 various local boards of education in the same manner that

1 fleet renewal funds are distributed for purposes of the  
2 Foundation Program.

3 "~~(2)~~(1)(2) The bond proceeds of the Authority  
4 authorized by this chapter, except for the bond proceeds  
5 allocated and expended pursuant to subdivision (1) of this  
6 subsection, shall be provided as a dollar for dollar match for  
7 local support of such capital projects. ~~School~~ Except for the  
8 bond proceeds allocated and expended pursuant to subdivision  
9 (1) of this subsection, school systems seeking to participate  
10 in the bond issue program authorized by this chapter shall  
11 remit to the Authority amounts equal to half of the  
12 semi-annual debt service payments required to satisfy all  
13 covenants of the debt issuance authorized under this chapter  
14 for the satisfaction of such debt obligations attributable to  
15 the cost of projects to be placed in service in such school  
16 system at such times as the Authority shall require.

17 "~~(3)~~(2)(3) In the event a school district fails to  
18 meet the local revenue requirements in this chapter within 12  
19 months of the Determination Date, the aggregate amount  
20 authorized in this chapter for the renovation of existing  
21 school facilities, or the construction of new school  
22 facilities shall be reduced by the amount allocated to that  
23 school district. ~~In no event shall,~~ and those proceeds shall  
24 be reallocated to any remaining approved school system.

25 "~~(4)~~(3)(4) The Bonds herein authorized shall be in  
26 addition to all other bonds previously authorized to be issued  
27 by the Alabama Public School and College Authority, and the



1 powers conferred herein are in addition to all other powers  
2 heretofore conferred on the Alabama Public School and College  
3 Authority by acts heretofore enacted by the Legislature.

4 "(c) The Bonds shall be signed by the president or  
5 vice-president of the Alabama Public School and College  
6 Authority, and the seal of the Alabama Public School and  
7 College Authority affixed thereto, or a facsimile thereof  
8 imprinted thereon, and attested by its secretary. All  
9 signatures of the president, vice-president, and secretary may  
10 be facsimile signatures if the Alabama Public School and  
11 College Authority, in its proceedings with respect to  
12 issuance, provides for manual authentication, which may be in  
13 the form of a certificate as to registration, of the Bonds by  
14 a trustee, registrar, or paying agent, or by named individuals  
15 who are employees of the state and who are assigned to the  
16 Finance Department or State Treasurer's Office of the state.  
17 All Bonds bearing signatures or facsimiles of the signatures  
18 of officers of the Alabama Public School and College Authority  
19 in office on the date of signing thereof shall be valid and  
20 binding notwithstanding that before the delivery thereof and  
21 payment therefor, any officer whose signature appears thereon  
22 shall have ceased to be an officer of the Alabama Public  
23 School and College Authority. The Bonds and the income  
24 therefrom shall be exempt from all taxation in the State of  
25 Alabama, may be used as security for deposits, and shall be  
26 eligible for investments of fiduciary funds, as provided in  
27 the 1965 Act. The Bonds shall be construed to have all the

1 qualities and incidents of negotiable instruments subject to  
2 any registration provisions pertaining to transfers. The  
3 Alabama Public School and College Authority and the Bonds  
4 shall be exempt from all laws of the state governing usury  
5 including, without limitation, the provisions of Title 8,  
6 Chapter 8, or any subsequent statute of similar import. The  
7 Bonds shall be in such form or forms and denomination or  
8 denominations and of such tenor and maturities, shall bear  
9 such rate or rates of interest payable and evidenced in such  
10 manner, may be made subject to redemption prior to their  
11 maturities, and may contain provisions not inconsistent with  
12 this chapter, all as may be provided by the resolution of the  
13 Alabama Public School and College 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 those Bonds having maturities  
17 more than ten years after their date shall be subject to  
18 redemption at the option of the Alabama Public School and  
19 College Authority on any date on and after the tenth  
20 anniversary after their date at such redemption price or  
21 prices and under such conditions as may be prescribed in the  
22 proceedings of the Alabama Public School and College Authority  
23 under which they are issued. For the purpose of paying the  
24 principal of, premium, if any, and interest on the Bonds or  
25 any Refunding Bonds, the Alabama Public School and College  
26 Authority shall designate the State Treasurer or such bank or  
27 banks as the Alabama Public School and College Authority, in

1 its discretion, determines to be appropriate and desirable.  
2 Funds for the payment of debt service shall be transferred by  
3 the Alabama Public School and College Authority or the State  
4 Treasurer on behalf of the Alabama Public School and College  
5 Authority to the designated paying agent on the actual due  
6 date of such principal, premium, if any, or interest.

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

1 order to enable the Alabama Public School and College  
2 Authority to comply with any tax covenants that may be  
3 required of it, or that may be deemed by it to be prudent to  
4 be given by it, in connection with the sale of any series of  
5 the Bonds. The Alabama Public School and College Authority may  
6 fix the method and the terms and conditions under which the  
7 sale of any series of the Bonds may otherwise be held;  
8 provided that such terms and conditions shall not conflict  
9 with any requirement of this chapter. Approval by the Governor  
10 of Alabama of the terms and conditions under which any of the  
11 Bonds may be issued shall be requisite to their validity.  
12 Before any series of the Bonds shall be offered for sale by  
13 the Alabama Public School and College Authority, the Governor  
14 shall first determine that the issuance of that series of  
15 Bonds and the application of the taxes pledged to the payment  
16 of the principal of the Bonds as they mature and the interest  
17 thereon as the same shall come due will not impair the  
18 adequacy of the Trust Fund to pay appropriations therefrom and  
19 to support the public schools and institutions of higher  
20 learning during the period over which the Bonds will mature.  
21 The Governor's determination in this regard shall be in  
22 writing signed by the Governor and such determination shall be  
23 final and conclusive. Neither a public hearing nor consent of  
24 the State Department of Finance or any other department or  
25 agency shall be a prerequisite to the issuance of any of the  
26 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 chapter, 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  
8 tax, "the utility gross receipts tax," levied by Title 40,  
9 Chapter 21, Article 3, as amended, "Article 3," remaining  
10 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 chapter or any prior  
17 act 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  
20 tax, "the utility service use tax," levied by Title 40,  
21 Chapter 21, Article 4, "Article 4," remaining after payment of  
22 the expenses of administration and enforcement of Article 4,  
23 being that portion of the tax that is required by Article 4 to  
24 be deposited in the State Treasury to the credit of the Trust  
25 Fund, after there shall have been taken from the residue the  
26 amount necessary to pay at their respective maturities the  
27 principal of and interest on those bonds issued by the

1 Authority under this chapter or any prior act that may be  
2 outstanding at the time of the delivery of the respective  
3 series of the Bonds authorized herein.

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

23 "(4) To the extent and to the extent only that the  
24 revenues appropriated in the foregoing subdivisions (1), (2),  
25 and (3) of this subsection may not be sufficient to pay at  
26 their respective maturities the principal of, premium, if any,  
27 and the interest on the Bonds, the residue of the receipts

1 from the excise tax, "the use tax," levied by Title 40,  
2 Chapter 23, Article 2, as amended, "Article 2," after there  
3 shall have been taken from the residue the amount necessary to  
4 meet the expenses of the State Department of Revenue in  
5 collecting the use tax, which residue constitutes that portion  
6 of the receipts from the use tax that is now required by law  
7 to be paid into the Trust Fund, and after there shall have  
8 been taken from the residue such amounts as may be necessary  
9 to meet all prior charges on the use tax including the amounts  
10 sufficient to pay at their respective maturities the principal  
11 of and interest on those outstanding bonds referred to in  
12 subdivision (3) of this subsection.

13 "(5) All monies hereby appropriated and pledged  
14 shall constitute a sinking fund for the purpose of paying the  
15 principal of, premium, if any, and interest on the Bonds. The  
16 State Treasurer is authorized and directed to pay at their  
17 respective maturities the principal of, premium, if any, and  
18 interest on the Bonds out of this fund and out of the residues  
19 of the tax receipts herein appropriated and pledged for the  
20 benefit of the Bonds, and is further authorized and directed  
21 to set up and maintain appropriate records pertaining thereto.

22 "(f) The Bonds shall not be general obligations of  
23 the State of Alabama but shall be limited obligations payable  
24 solely out of the residues of the tax receipts appropriated  
25 and pledged herein. All Bonds issued by the Alabama Public  
26 School and College Authority pursuant to the provisions of  
27 this chapter shall be solely and exclusively obligations of

1 the Alabama Public School and College Authority and shall not  
2 constitute or create an obligation or debt of the State. As  
3 security for the payment of the principal of, premium, if any,  
4 and interest on the Bonds, the Alabama Public School and  
5 College Authority is hereby authorized and empowered to pledge  
6 the residues of the tax receipts that are appropriated and  
7 pledged herein. All such pledges made by the Alabama Public  
8 School and College Authority shall take precedence in the  
9 order of the adoption of the resolutions containing the  
10 pledges. All such pledges shall be prior and superior to any  
11 pledges that may be made for any refunding bonds hereafter  
12 issued by the Alabama Public School and College Authority  
13 under the provisions of any act heretofore enacted.

14 "(g) For the purpose of refunding any Bonds or  
15 Refunding Bonds of the Alabama Public School and College  
16 Authority issued under the provisions of this chapter, or any  
17 other act previously enacted, or any combination thereof,  
18 whether such refunding shall occur before, at, or after the  
19 maturity of the Bonds refunded and for the purpose of paying  
20 all premiums and expenses of such refunding, including, but  
21 not limited to, attorneys' fees, costs of printing the  
22 Refunding Bonds, fiscal agents' fees, and accountants' fees,  
23 the Alabama Public School and College Authority is hereby  
24 authorized to sell and issue its Refunding Bonds. Such  
25 Refunding Bonds may be sold and issued from time to time, by  
26 negotiated or public sale, and on such other terms and  
27 conditions as the Alabama Public School and College Authority



1 shall determine to be advantageous and shall adopt and provide  
2 for in its proceedings for the sale and issuance of such  
3 Refunding Bonds. Provided, however, no Refunding Bonds shall  
4 be issued unless the present value of all debt service on the  
5 Refunding Bonds, computed with a discount rate equal to the  
6 true interest rate of the Refunding Bonds and taking into  
7 account all underwriting discount and other issuance expenses,  
8 shall not be greater than 97 percent of the present value of  
9 all debt service on the Bonds to be refunded, computed using  
10 the same discount rate and taking into account the  
11 underwriting discount and other issuance expenses originally  
12 applicable to such Bonds, determined as if such Bonds to be  
13 refunded were paid and retired in accordance with the schedule  
14 of maturities, considering mandatory redemption as scheduled  
15 maturity, provided at the time of their issuance. Provided  
16 further that the average maturity of the Refunding Bonds, as  
17 measured from the date of issuance of such Refunding Bonds,  
18 shall not exceed by more than three years the average maturity  
19 of the Bonds to be refunded, as also measured from such date  
20 of issuance, with the average maturity of any principal amount  
21 of Bonds to be determined by multiplying the principal of each  
22 maturity by the number of years, including any fractional part  
23 of a year, intervening between such date of issuance and each  
24 such maturity, taking the sum of all such products, and then  
25 dividing such sum by the aggregate principal amount of Bonds  
26 for which the average maturity is to be determined. For the  
27 purpose of providing funds to enable the Alabama Public School

1 and College Authority to pay at their respective maturities  
2 the principal of, premium, if any, and interest on the  
3 Refunding Bonds issued under this chapter, the Alabama Public  
4 School and College Authority is hereby authorized to pledge  
5 irrevocably for such purpose, and there is hereby appropriated  
6 for such purpose, such amount as may be necessary of the  
7 residues of the receipts from the excise taxes pledged and  
8 appropriated herein, any reserves or sinking funds established  
9 by the Alabama Public School and College Authority, as well as  
10 revenues of the Alabama Public School and College Authority  
11 from any other sources specified in the proceedings wherein  
12 the Refunding Bonds are authorized to be issued. Pending the  
13 application of the proceeds of Refunding Bonds issued in  
14 accordance with this subsection, the proceeds, together with  
15 investment earnings therefrom, and amounts in any sinking  
16 fund, together with investment earnings thereon, may be held  
17 by the State Treasurer as treasurer of the Alabama Public  
18 School and College Authority in trust, or may be deposited by  
19 the State Treasurer in trust, on such terms as the State  
20 Treasurer and the Alabama Public School and College Authority  
21 shall approve, with a trustee or escrow agent, which trustee  
22 or escrow agent shall be a banking institution or trust  
23 company authorized to exercise trust powers in Alabama, for  
24 investment in Permitted Investments, as such term is defined  
25 in Act 2007-415. Proceeds of Refunding Bonds shall be so  
26 invested and applied as to assure that the principal,  
27 interest, and redemption premium, if any, on the Bonds being

1 refunded shall be paid in full on the respective maturity,  
2 redemption, or interest payment dates. Refunding Bonds issued  
3 by the Alabama Public School and College Authority shall not  
4 be general obligations of the Alabama Public School and  
5 College Authority but shall be payable solely from the sources  
6 specified in this chapter and in the proceedings whereby the  
7 Refunding Bonds are authorized to be issued. All Refunding  
8 Bonds issued by the Alabama Public School and College  
9 Authority shall be solely and exclusively obligations of the  
10 Alabama Public School and College Authority and shall not  
11 create debts of the State of Alabama. The faith and credit of  
12 the State of Alabama shall never be pledged for the payment of  
13 any Refunding Bonds issued by the Alabama Public School and  
14 College Authority under this chapter. The Alabama Public  
15 School and College Authority may contract with respect to the  
16 safekeeping and application of the proceeds of Refunding Bonds  
17 and other funds included therewith and the income therefrom,  
18 and shall have the right and power to appoint a trustee  
19 therefor, which may be any bank or company authorized to  
20 exercise trust powers and located within and/or without the  
21 state. All pledges made by this chapter, or by the Alabama  
22 Public School and College Authority pursuant to the provisions  
23 of this chapter, for the benefit of Refunding Bonds issued  
24 under this chapter, and all such pledges for the benefit of  
25 Refunding Bonds which may be issued to refund any bonds issued  
26 under any prior act, shall take precedence in the order of the  
27 adoption of the resolutions authorizing the issuance of such

1 Refunding Bonds. Bonds refunded prior to their maturity with  
2 the proceeds of Refunding Bonds shall be deemed paid and the  
3 pledges herein and by the Alabama Public School and College  
4 Authority made for the payment thereof defeased if the Alabama  
5 Public School and College Authority, in its proceedings  
6 regarding issuance of the Refunding Bonds, shall provide for  
7 and establish a trust or escrow fund comprised of monies or  
8 Government Securities, as such term is defined in Act  
9 2007-415, or both, sufficient to pay, when due, the entire  
10 principal of, premium, if any, and interest on the Bonds to be  
11 refunded thereby; provided, that such Government Securities,  
12 as such term is defined in Act 2007-415, shall not be subject  
13 to redemption prior to their maturities other than at the  
14 option of the holder thereof. Upon the establishment of such a  
15 trust or escrow fund, the refunded Bonds shall no longer be  
16 deemed to be outstanding, shall no longer be secured by the  
17 funds pledged therefor in this chapter, shall no longer be  
18 obligations of the Alabama Public School and College  
19 Authority, and shall be secured solely by and payable from  
20 monies and Government Securities, as such term is defined in  
21 Act 2007-415, deposited in such trust or escrow fund.

22 "(h) The Alabama Public School and College Authority  
23 is authorized to pay out of proceeds of any series of Bonds  
24 the costs and expenses incurred in connection with the  
25 issuance of such Bonds, including, without limitation, legal  
26 and accounting fees and expenses, fees and expenses of any  
27 financial or fiscal advisor employed by the Alabama Public

1 School and College Authority, printing costs, rating agency  
2 fees, and premiums or charges for any credit enhancement or  
3 liquidity providers. Notwithstanding any provision of this  
4 chapter or any previous act, in appointing, employing, or  
5 contracting with attorneys, fiscal advisers, trustees, paying  
6 agents, investment bankers, banks, and underwriters, the  
7 Alabama Public School and College Authority may appoint,  
8 employ, or contract with firms whose principal offices are  
9 located without or within Alabama. The Alabama Public School  
10 and College Authority shall hire or contract with attorneys,  
11 fiscal advisors, trustees, paying agents, investment bankers,  
12 banks, and underwriters which shall reflect the racial and  
13 ethnic diversity of the state. The Alabama Public School and  
14 College Authority shall issue Requests For Proposals for  
15 attorneys, fiscal advisors, trustees, paying agents,  
16 investment bankers, banks, and underwriters. The Alabama  
17 Public School and College Authority shall evaluate each  
18 proposed bid publicly and award each contract publicly.  
19 Minutes of the Alabama Public School and College Authority's  
20 meeting shall record the reasons for awarding each contract.  
21 The Alabama Public School and College Authority shall hire or  
22 contract with businesses or individuals which reflect the  
23 racial and ethnic diversity of the State. The Alabama Public  
24 School and College Authority shall have the power to make such  
25 payments to the United States of America as the board of  
26 directors of the Alabama Public School and College Authority  
27 deems necessary to cause the interest on any bonds of the

1 Alabama Public School and College Authority, including the  
2 Bonds, to be and remain exempt from, or excludible from gross  
3 income for purposes of, federal income taxation. The Alabama  
4 Public School and College Authority shall have the power to  
5 make such agreements respecting the investment of funds of the  
6 Alabama Public School and College Authority as the Alabama  
7 Public School and College Authority shall deem necessary in  
8 order that the interest income on bonds of the Alabama Public  
9 School and College Authority be and remain exempt from, or  
10 excludible from gross income for purposes of, federal income  
11 taxation.

12 "§16-16A-8.

13 "In addition to the counties participating under  
14 Section 16-16A-7, Jackson County and Marshall County may also  
15 participate in the funding benefits of this chapter. ~~In~~  
16 ~~addition, in order to qualify for bond proceeds, a local~~  
17 ~~school system may redirect an existing tax not currently~~  
18 ~~dedicated to schools to qualify for bonds in lieu of the~~  
19 ~~requirements otherwise provided for in Section 16-16A-7."~~

20 Section 2. This act shall become effective  
21 immediately following its passage and approval by the  
22 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Ways and Means  
Education..... . . . . . 23-FEB-12

Read for the second time and placed  
on the calendar..... . . . . . 19-APR-12

Read for the third time and passed  
as amended..... . . . . . 03-MAY-12

Yeas 100, Nays 0, Abstains 0

Greg Pappas  
Clerk