

1 HB612  
2 151874-5  
3 By Representative Treadaway  
4 RFD: Ways and Means Education  
5 First Read: 11-APR-13

1 ENGROSSED

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

8 To provide for the Secure School Facilities Act; to  
9 authorize the Alabama Public School and College Authority to  
10 sell and issue up to \$50,000,000 in aggregate principal amount  
11 of additional bonds to provide funds for building renovations  
12 for local boards of education; to authorize the authority to  
13 provide for the details of the bonds and the sale and issuance  
14 thereof; to make an appropriation and pledge for payment of  
15 the principal of and interest on the bonds from specific taxes  
16 necessary to pay the principal and interest at their  
17 respective maturities; to authorize the authority to pledge  
18 for payment of the principal of and interest on the bonds the  
19 funds that are appropriated and pledged; to provide for the  
20 investment of funds by the State Treasurer; to provide that  
21 the bonds not constitute a debt of the state but shall be  
22 limited obligations payable out of the funds appropriated and  
23 pledged therefor; to provide that the bonds and the income  
24 therefrom shall be exempt from taxation in this state and that  
25 the bonds may be used to secure deposits of funds of this  
26 state and its political subdivisions, instrumentalities, and  
27 agencies, and for investment of fiduciary funds; to authorize

1 the authority to establish procedures and requirements to  
2 ensure compliance with tax covenants with which the authority  
3 must comply; to exempt the bonds from the usury laws of the  
4 state; to authorize the authority to issue refunding bonds and  
5 give details of such refunding; to provide for the employment  
6 of attorneys, fiscal advisors, trustees, paying agents,  
7 investment bankers, banks and underwriters and for the payment  
8 of all expenses incurred in the issuance of the bonds; to  
9 provide that after payment of the expenses of the issuance of  
10 the bonds the proceeds from the sale thereof shall be  
11 disbursed on orders or warrants issued by or under the  
12 direction of the authority for the purposes for which the  
13 bonds are authorized to be issued; to provide for the timely  
14 expenditure of the proceeds from the sale of the bonds; to  
15 provide that if any portion of this act should be held invalid  
16 such holding shall not affect the validity of any other  
17 portion thereof; and to authorize the authority to reimburse  
18 the Building Commission, the Department of Finance, and the  
19 State Treasurer's Office for costs incurred in providing  
20 services for the authority.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. (a) This act shall be known and may be  
23 cited as the Secure School Facilities Act. Wherever used in  
24 this act, the following terms shall have the following  
25 meanings respectively, unless the context clearly indicates  
26 otherwise:

1           (1) 1965 Act. Act No. 243 enacted at the 1965 First  
2 Special Session of the Legislature, codified as Chapter 16,  
3 Title 16, Code of Alabama 1975.

4           (2) 1971 Acts. Act No. 94 enacted at the 1971 First  
5 Special Session of the Legislature, Act No. 2428 enacted at  
6 the 1971 Regular Session of the Legislature, and Act No. 56  
7 enacted at the 1971 Second Special Session of the Legislature.

8           (3) 1973 Act. Act No. 1277 enacted at the 1973  
9 Regular Session of the Legislature as amended by Act No. 73  
10 enacted at the 1975 Third Special Session of the Legislature  
11 and Act No. 1223 enacted at the 1975 Regular Session of the  
12 Legislature.

13           (4) 1978 Act. Act No. 138 enacted at the 1978 Second  
14 Special Session of the Legislature, as amended by Act No.  
15 79-41 enacted at the 1979 Special Session of the Legislature  
16 and Act No. 81-827 enacted at the 1981 Regular Session of the  
17 Legislature.

18           (5) 1985 Act. Act No. 85-943 enacted at the 1985  
19 Second Special Session of the Legislature.

20           (6) 1990 Act. Act No. 90-280 enacted at the 1990  
21 Regular Session of the Legislature.

22           (7) 1995 Act. Act No. 95-752 enacted at the 1995  
23 Regular Session of the Legislature.

24           (8) 1998 Act. Act No. 98-373 enacted at the 1998  
25 Regular Session of the Legislature.

26           (9) 1999 Act. Act No. 99-348 enacted at the 1999  
27 Regular Session of the Legislature.

1           (10) 2001 Act. Act No. 2001-668 enacted at the 2001  
2 Regular Session of the Legislature.

3           (11) 2002 Act. Act No. 2002-240 enacted at the 2002  
4 Regular Session of the Legislature.

5           (12) 2003 Act. Act No. 2003-436 enacted at the 2003  
6 Second Special Session of the Legislature.

7           (13) 2007 Act. Act No. 2007-415 enacted at the 2007  
8 Regular Session of the Legislature.

9           (14) 2010 Act. Act No. 2010-720 enacted at the 2010  
10 Regular Session of the Legislature.

11           (15) AUTHORITY. The Public School and College  
12 Authority.

13           (16) BONDS. Except where that word is used with  
14 reference to bonds issued under another act, those bonds,  
15 other than refunding bonds, issued under the provisions of  
16 this act.

17           (17) CAPITAL IMPROVEMENT. Capital outlay projects  
18 that include the planning, designing, inspection, purchasing,  
19 construction, reconstruction, enlargement, improvement,  
20 repair, or renovation of permanent buildings containing  
21 classrooms, offices, libraries, laboratories, clinical or  
22 teaching facilities, dormitories, vocational and professional  
23 and industrial training facilities, research facilities,  
24 academic structures to reduce portable classrooms or  
25 substandard classroom facilities, related improvements and  
26 land as sites therefor, together with furnishings and

1 equipment required for the operation of the facilities and the  
2 programs provided therein.

3 (18) COMMISSION. The Building Commission created by  
4 Section 41-9-140, Code of Alabama 1975, and its successors as  
5 the state agency for awarding construction contracts and  
6 supervising construction.

7 (19) DEPARTMENT. Alabama Department of Education.

8 (20) GOVERNMENT SECURITIES. Any bonds or other  
9 obligations which as to principal and interest constitute  
10 direct obligations of, or are unconditionally guaranteed by,  
11 the United States of America, including obligations of any  
12 federal agency to the extent such obligations are  
13 unconditionally guaranteed by the United States of America and  
14 any certificates or any other evidences of an ownership  
15 interest in such obligations of, or unconditionally guaranteed  
16 by, the United States of America or in specified portions  
17 thereof (which may consist of the principal thereof or the  
18 interest thereon).

19 (21) LEGISLATURE. The Legislature of Alabama.

20 (22) PERMITTED INVESTMENTS. (i) Government  
21 Securities; (ii) bonds, debentures, notes, or other evidences  
22 of indebtedness issued by any of the following agencies: Bank  
23 for Cooperatives; Federal Intermediate Credit Banks; Federal  
24 Financing Bank; Federal Home Loan Banks; Federal Farm Credit  
25 Bank; Export-Import Bank of the United States; Federal Land  
26 Banks; or Farmers Home Administration or any other agency or  
27 corporation which has been or may hereafter be created by or

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

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

17 (23) REFUNDING BONDS. Those refunding bonds issued  
18 under the provisions of this act.

19 (24) STATE. The State of Alabama.

20 (25) TRUST FUND. The Education Trust Fund, formerly  
21 designated as the Alabama Special Educational Trust Fund, the  
22 name of which was changed to the Education Trust Fund,  
23 effective October 1, 1996, pursuant to Act No. 95-264 enacted  
24 at the 1995 Regular Session of the Legislature.

25 (b) Nouns and pronouns when used in this act shall  
26 be deemed to include both singular and plural and all  
27 applicable genders.



1           Section 2. The purpose of this act is to provide  
2 funds for renovating entrances to certain public K-12 school  
3 facilities to minimize unrestricted access by intruders and  
4 unauthorized adults.

5           Section 3. The Legislature finds that students are  
6 attending certain K-12 school facilities that do not have  
7 entrances that would impede access by adults bent on  
8 inflicting physical or emotional harm to students or school  
9 staff.

10           Section 4. (a) The authority is hereby authorized to  
11 sell and issue its bonds in the aggregate principal amount of  
12 up to fifty million dollars (\$50,000,000) to provide funds to  
13 secure entrances in certain public K-12 school facilities. The  
14 bonds authorized in this act to be issued by the authority  
15 shall be in addition to all other bonds previously authorized  
16 to be issued by the authority, and the powers conferred on the  
17 authority by this act are in addition to all other powers  
18 heretofore conferred on the authority by acts heretofore  
19 enacted by the Legislature.

20           (b) Proceeds from the sale of the bonds and the  
21 earnings thereon shall be paid out from time to time on orders  
22 or warrants issued by or at the direction of the authority to  
23 reimburse local boards of education and the Alabama Institute  
24 for Deaf and Blind for authorized expenditures for renovations  
25 to existing public school facilities in order to enhance the  
26 security of entrances that are needed to ensure the safety of  
27 students. Specifically, the proceeds from the sale of the

1 bonds and the earnings thereof shall be distributed to the  
2 State Department of Education to be allocated as follows:

3 (1) Ten million dollars (\$10,000,000) to be  
4 allocated to each local board of education, pro rata, based on  
5 the number of students in each local board of education's  
6 Foundation Program Fund calculation for the 2013-2014 school  
7 year; and

8 (2) Forty million dollars (\$40,000,000) to be  
9 allocated by utilizing needs assessments provided to the  
10 ~~department~~ Department by local education agencies. The  
11 authority shall authorize grants to reimburse local boards of  
12 education for facility renovations as specified in subsection  
13 (c).

14 (c) The State Superintendent of Education shall  
15 designate the priority and amounts of grants to be provided to  
16 local boards of education to ~~providing~~ provide secure  
17 entrances for certain facilities based on a needs assessment.  
18 The needs assessment shall give priority to renovation of  
19 entrances in the schools ~~for~~ of local boards of education that  
20 could not afford the renovation costs without access to the  
21 grants provided by this act.

22 (1) Local education agencies applying for grants  
23 from the ~~department~~ Department shall provide detailed cost  
24 estimates and other information required by the ~~department~~  
25 Department to determine the allocation of grants provided by  
26 this act.

1           ~~(4)~~ (2) Funds allocated to local education agencies  
2 in subdivision (1) of subsection (b) may be expended for other  
3 demonstrated security needs including, but not limited to,  
4 surveillance cameras, metal detectors, and other safety  
5 equipment, if the local education agency certifies to the  
6 Department that all public K-12 school facilities have secure  
7 entrances that prevent unrestricted access to the school  
8 facilities.

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

1 eligible for investments of fiduciary funds, as provided in  
2 the 1965 Act. The bonds shall be construed to have all the  
3 qualities and incidents of negotiable instruments subject to  
4 any registration provisions pertaining to transfers. The  
5 authority and the bonds shall be exempt from all laws of the  
6 state governing usury including, without limitation, the  
7 provisions of Chapter 8, Title 8, Code of Alabama 1975, or any  
8 subsequent statute of similar import. The bonds shall be in  
9 such form or forms and denomination or denominations and of  
10 such tenor and maturities, shall bear such rate or rates of  
11 interest payable and evidenced in such manner, may be made  
12 subject to redemption prior to their maturities, and may  
13 contain provisions not inconsistent with this act, all as may  
14 be provided by the resolution of the authority under which the  
15 bonds may be issued; provided, that no bonds shall have a  
16 specified maturity date later than 20 years after their date;  
17 and provided further, that those bonds having maturities more  
18 than 10 years after their date shall be subject to redemption  
19 at the option of the authority on any date on and after the  
20 tenth 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 authority under which they are issued. For  
23 the purpose of paying the principal of, premium, if any, and  
24 interest on the bonds or any refunding bonds, the authority  
25 shall designate the State Treasurer or such bank or banks as  
26 the authority, in its discretion, determines to be appropriate  
27 and desirable. Funds for the payment of debt service shall be

1 transferred by the authority or the State Treasurer on behalf  
2 of the authority to the designated paying agent on the actual  
3 due date of such principal, premium, if any, or interest.

4 Section 6. The bonds may be sold by the authority  
5 from time to time in series, and if sold in more than one  
6 series, may all be authorized in one initial resolution of the  
7 authority with the pledges therefor made by the authority in  
8 such initial resolution although some of the details  
9 applicable to each series may be specified in the respective  
10 resolutions under which the different series are issued. The  
11 authority, in the course of establishing, by resolution, a  
12 principal amount of bonds to be authorized for sale at any  
13 given time, or to be sold in any series, may take into account  
14 the existence of any unexpended proceeds of prior issues of  
15 bonds of the authority (and of any other issuer, if such  
16 should be deemed by the authority to be relevant), and may  
17 structure the portions of the allocations provided for in  
18 Section 10 to be distributed from the proceeds of a particular  
19 series (constituting less than all the bonds authorized by  
20 this act) as the authority deems necessary or prudent in order  
21 to enable the authority to comply with any tax covenants that  
22 may be required of it, or that may be deemed by it to be  
23 prudent to be given by it, in connection with the sale of any  
24 series of the bonds. Each series of the bonds shall be sold at  
25 competitive bid and at such price or prices and at such time  
26 or times as the authority may consider advantageous. Bonds  
27 sold by competitive bid shall be sold to the bidder whose bid

1 reflects the lowest effective borrowing cost to the authority  
2 on the series of the bonds being sold; provided, that if no  
3 bid acceptable to the authority is received it may reject all  
4 bids. Notice or summary notice of each such sale by  
5 competitive bids shall be given by publication in either a  
6 financial journal or a financial newspaper published in the  
7 City of New York, New York, and also by publication in a  
8 newspaper published in the state which is customarily  
9 published not less often than five days during each calendar  
10 week, each of which notices must be published at least one  
11 time not less than 10 days prior to the date fixed for the  
12 sale or, in the event no bid acceptable to the authority is  
13 received at any such sale and the bonds so offered are  
14 thereafter reoffered on the same terms and conditions, not  
15 less than five days prior to the date fixed for sale. The  
16 authority may fix the method and the terms and conditions  
17 under which the sale of any series of the bonds may otherwise  
18 be held; provided, that the terms and conditions shall not  
19 conflict with any requirement of this act. Approval by the  
20 Governor of the terms and conditions under which any bonds may  
21 be issued shall be requisite to their validity. Before any  
22 series of the bonds shall be offered for sale by the  
23 authority, the Governor shall first determine that the  
24 issuance of that series of bonds and the application of the  
25 taxes pledged to the payment of the principal of the bonds as  
26 they mature and interest thereon as the same shall come due  
27 will not impair the adequacy of the trust fund to pay

1 appropriations therefrom and to support the public schools and  
2 institutions of higher learning during the period over which  
3 the bonds will mature. The Governor's determination shall be  
4 in writing signed by the Governor and that determination shall  
5 be final and conclusive. Neither a public hearing nor consent  
6 of the state Department of Finance or any other department or  
7 agency shall be a prerequisite to the issuance of any of the  
8 bonds.

9 Section 7. For the purpose of providing for payment  
10 of the principal of, premium, if any, and interest on the  
11 bonds and to accomplish the objectives of this act, there is  
12 hereby irrevocably pledged to those purposes, and hereby  
13 appropriated, such amount as may be necessary therefor from  
14 the following sources:(a) The residue of the receipts from the  
15 excise tax ("the utility gross receipts tax") levied by  
16 Article 3, commencing with Section 40-21-80, Chapter 21, Title  
17 40, Code of Alabama 1975, as amended ("Article 3"), remaining  
18 after payment of the expenses of administration and  
19 enforcement of Article 3, being that portion of the tax that  
20 is required by Article 3 to be deposited in the State Treasury  
21 to the credit of the trust fund, after there shall have been  
22 taken from the residue the amount necessary to pay at their  
23 respective maturities the principal of and interest on those  
24 bonds issued by the authority under the 1965 Act, 1971 Acts,  
25 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the  
26 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002  
27 Act, the 2003 Act, the 2007 Act, the 2010 Act, or this act

1 that may be outstanding at the time of the delivery of the  
2 respective series of the bonds authorized herein;

3 (b) The residue of the receipts from the excise tax  
4 ("the utility service use tax") levied by Article 4,  
5 commencing with Section 40-21-100, Chapter 21, Title 40, Code  
6 of Alabama 1975 ("Article 4"), remaining after payment of the  
7 expenses of administration and enforcement of Article 4, being  
8 that portion of the tax that is required by Article 4 to be  
9 deposited in the State Treasury to the credit of the trust  
10 fund, after there shall have been taken from the residue the  
11 amount necessary to pay at their respective maturities the  
12 principal of and interest on those bonds issued by the  
13 authority under the 1965 Act, the 1971 Acts, the 1973 Act, the  
14 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act, the 1998  
15 Act, the 1999 Act, the 2001 Act, the 2002 Act, the 2003 Act,  
16 the 2007 Act, the 2010 Act, or this act that may be  
17 outstanding at the time of the delivery of the respective  
18 series of the bonds authorized herein;

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



1 purposes in Section 40-23-35, Code of Alabama 1975 (which  
2 residue constitutes that portion of the receipts from the  
3 sales tax that is now required by law to be paid into the  
4 trust fund), and after there shall have been taken from the  
5 residue amounts sufficient to meet all prior charges on the  
6 residue including such amounts as may be necessary to pay at  
7 their respective maturities the principal of and interest on  
8 those bonds issued by the authority under the 1965 Act, the  
9 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990  
10 Act, the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act,  
11 the 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or  
12 this act that may be outstanding at the time of the delivery  
13 of the respective series of the bonds authorized herein; and

14 (d) To the extent and to the extent only that the  
15 revenues appropriated in the foregoing subsections (a), (b),  
16 and (c) may not be sufficient to pay at their respective  
17 maturities the principal of, premium, if any, and the interest  
18 on the bonds, the residue of the receipts from the excise tax  
19 ("the use tax") levied by Article 2, commencing with Section  
20 40-23-60, Chapter 23, Title 40, Code of Alabama 1975, as  
21 amended ("Article 2"), after there shall have been taken from  
22 the residue the amount necessary to meet the expenses of the  
23 state Department of Revenue in collecting the use tax (which  
24 residue constitutes that portion of the receipts from the use  
25 tax that is now required by law to be paid into the trust  
26 fund), and after there shall have been taken from the residue  
27 such amounts as may be necessary to meet all prior charges on

1 the use tax including the amounts sufficient to pay at their  
2 respective maturities the principal of and interest on those  
3 outstanding bonds referred to in subsection (c).

4 (e) All monies hereby appropriated and pledged shall  
5 constitute a sinking fund for the purpose of paying the  
6 principal of, premium, if any, and interest on the bonds. The  
7 State Treasurer is authorized and directed to pay at their  
8 respective maturities the principal of, premium, if any, and  
9 interest on the bonds out of this fund and out of the residues  
10 of the tax receipts herein appropriated and pledged for the  
11 benefit of the bonds, and is further authorized and directed  
12 to set up and maintain appropriate records pertaining thereto.

13 Section 8. The bonds shall not be general  
14 obligations of the authority but shall be limited obligations  
15 payable solely out of the residues of the tax receipts  
16 appropriated and pledged in Section 7. All bonds issued by the  
17 authority pursuant to this act shall be solely and exclusively  
18 obligations of the authority and shall not constitute or  
19 create an obligation or debt of the state. As security for the  
20 payment of the principal of, premium, if any, and interest on  
21 the bonds, the authority is hereby authorized and empowered to  
22 pledge the residues of the tax receipts that are appropriated  
23 and pledged in Section 7 for such purposes. All such pledges  
24 made by the authority shall take precedence in the order of  
25 the adoption of the resolutions containing the pledges. All  
26 such pledges shall be prior and superior to any pledges that  
27 may be made for any refunding bonds hereafter issued by the

1 authority under the provisions of any of the 1965 Act, the  
2 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990  
3 Act, the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act,  
4 the 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or any  
5 other act heretofore enacted.

6 Section 9. For the purpose of refunding any bonds or  
7 refunding bonds of the authority issued under the provisions  
8 of this act, the 1965 Act, the 1971 Acts, the 1973 Act, the  
9 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act, the 1998  
10 Act, the 1999 Act, the 2001 Act, the 2002 Act, the 2003 Act,  
11 the 2007 Act, the 2010 Act, or any other act previously  
12 enacted, or any combination thereof, whether such refunding  
13 shall occur before, at or after the maturity of the bonds  
14 refunded and for the purpose of paying all premiums and  
15 expenses of the refunding (including, but not limited to,  
16 attorneys' fees, costs of printing the refunding bonds, fiscal  
17 agents' fees, and accountants' fees), the authority is hereby  
18 authorized to sell and issue its refunding bonds. Such  
19 refunding bonds may be sold and issued from time to time, at  
20 public sale, on sealed bids and on such other terms and  
21 conditions as the authority shall determine to be advantageous  
22 and shall adopt and provide for in its proceedings for the  
23 sale and issuance of such refunding bonds. Provided, however,  
24 that no refunding bonds shall be issued unless the present  
25 value of all debt service on the refunding bonds (computed  
26 with a discount rate equal to the true interest rate of the  
27 refunding bonds and taking into account all underwriting

1 discount and other issuance expenses) shall not be greater  
2 than 97 percent of the present value of all debt service on  
3 the bonds to be refunded (computed using the same discount  
4 rate and taking into account the underwriting discount and  
5 other issuance expenses originally applicable to such bonds)  
6 determined as if such bonds to be refunded were paid and  
7 retired in accordance with the schedule of maturities  
8 (considering mandatory redemption as scheduled maturity)  
9 provided at the time of their issuance. Provided further that  
10 the average maturity of the refunding bonds, as measured from  
11 the date of issuance of such refunding bonds, shall not exceed  
12 by more than three years the average maturity of the bonds to  
13 be refunded, as also measured from such date of issuance, with  
14 the average maturity of any principal amount of bonds to be  
15 determined by multiplying the principal of each maturity by  
16 the number of years (including any fractional part of a year)  
17 intervening between such date of issuance and each such  
18 maturity, taking the sum of all such products, and then  
19 dividing such sum by the aggregate principal amount of bonds  
20 for which the average maturity is to be determined. For the  
21 purpose of providing funds to enable the authority to pay at  
22 their respective maturities the principal of, premium, if any,  
23 and interest on the refunding bonds issued under this act, the  
24 authority is hereby authorized to pledge irrevocably for such  
25 purpose, and there is hereby appropriated for such purpose,  
26 such amount as may be necessary of the residues of the  
27 receipts from the excise taxes pledged and appropriated in

1 subsections (a), (b), (c), and (d) of Section 7, any reserves  
2 or sinking funds established by the authority, as well as  
3 revenues of the authority from any other sources specified in  
4 the proceedings wherein the refunding bonds are authorized to  
5 be issued. Pending the application of the proceeds of  
6 refunding bonds issued in accordance with this section, the  
7 proceeds, together with investment earnings therefrom, and  
8 amounts in any sinking fund, together with investment earnings  
9 thereon, may be held by the State Treasurer as treasurer of  
10 the authority in trust, or may be deposited by the State  
11 Treasurer in trust, on such terms as the State Treasurer and  
12 the authority shall approve, with a trustee or escrow agent,  
13 which trustee or escrow agent shall be a banking institution  
14 or trust company authorized to exercise trust powers in  
15 Alabama, for investment in permitted investments. Proceeds of  
16 refunding bonds shall be so invested and applied as to assure  
17 that the principal, interest, and redemption premium, if any,  
18 on the bonds being refunded shall be paid in full on the  
19 respective maturity, redemption, or interest payment dates.  
20 Refunding bonds issued by the authority shall not be general  
21 obligations of the authority but shall be payable solely from  
22 the sources specified in this act and in the proceedings  
23 whereby the refunding bonds are authorized to be issued. All  
24 refunding bonds issued by the authority shall be solely and  
25 exclusively obligations of the authority and shall not create  
26 debts of the State of Alabama. The faith and credit of the  
27 State of Alabama shall never be pledged for the payment of any

1 refunding bonds issued by the authority under this act. The  
2 authority may contract with respect to the safekeeping and  
3 application of the refunding bonds and other funds included  
4 therewith and the income therefrom which may be any bank or  
5 trust company authorized to exercise trust powers and located  
6 within and/or without the state. All other provisions of this  
7 act shall apply to the refunding bonds issued hereunder except  
8 (1) the limitation contained in Section 4 on the amount of  
9 bonds that may be issued under this act and (2) the provisions  
10 of Section 10. All pledges made by this act or by the  
11 authority pursuant to the provisions of this act, for the  
12 benefit of refunding bonds issued under this act, and all such  
13 pledges for the benefit of refunding bonds which may be issued  
14 to refund any bonds issued under any of the 1965 Act, the 1971  
15 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,  
16 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the  
17 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or this  
18 act, shall take precedence in the order of the adoption of the  
19 resolutions authorizing the issuance of such refunding bonds.  
20 Bonds refunded prior to their maturity with the proceeds of  
21 refunding bonds shall be deemed paid and the pledges herein  
22 and by the authority made for the payment thereof defeased if  
23 the authority, in its proceedings regarding issuance of the  
24 refunding bonds shall provide for and establishes a trust or  
25 escrow fund comprised of monies or government securities, or  
26 both, sufficient to pay, when due, the entire principal of,  
27 premium, if any, and interest on the bonds to be refunded

1       thereby; provided, that such government securities shall not  
2       be subject to redemption prior to their maturities other than  
3       at the option of the holder thereof. Upon the establishment of  
4       such a trust or escrow fund, the refunded bonds shall no  
5       longer be deemed to be outstanding, shall no longer be secured  
6       by the funds pledged therefore in Section 7, shall no longer  
7       be obligations of the authority and shall be secured solely by  
8       and payable from monies and government securities deposited in  
9       such trust or escrow fund.

10               Section 10. (a) The proceeds derived from each sale  
11       of the bonds issued pursuant to this act shall be deposited  
12       into the State Treasury and shall be carried in a separate  
13       fund therein for the account of the authority, which shall pay  
14       the expenses of issuance therefrom. The expenses of issuance  
15       of the bonds shall be prorated among the recipients of the  
16       proceeds from the sale of the bonds in the same proportions as  
17       the allocations received of the proceeds thereunder. The  
18       proceeds from the sale of the bonds remaining after payment of  
19       the expenses of issuance thereof shall be retained in the  
20       funds and, until they are paid out, shall be invested by the  
21       State Treasurer at the direction of the authority in permitted  
22       investments maturing at such time or times as the authority  
23       shall direct.

24               (b) Proceeds from the sale of the bonds and the  
25       earnings thereon shall be paid out from time to time on orders  
26       or warrants issued by or at the discretion of the authority  
27       for the purposes specified in this act.

1           Section 11. Not later than three years following  
2 allocation of bond proceeds as provided herein, the authority  
3 shall review the status of any unexpended allocations, and, at  
4 its sole discretion, determine if unexpended allocations or  
5 any portion thereof shall revert to the authority.

6           Section 12. Notwithstanding any of the foregoing and  
7 in addition to all powers heretofore granted to the authority,  
8 the authority is hereby expressly authorized to use the  
9 proceeds derived from the sale of bonds and income on  
10 permitted investments in accordance with the provisions of  
11 this act. The preparation of all plans and specifications for  
12 any building constructed wholly or in part with any of the  
13 monies realized from the sale of any of the bonds and all work  
14 done pursuant to expenditure of the proceeds thereof in regard  
15 to the construction, reconstruction, alteration, improvement,  
16 and equipping of buildings shall be supervised by the State  
17 Building Commission, and the authority will reimburse the  
18 commission for its reasonable direct and administrative costs  
19 in having plans, specifications, and contract documents  
20 prepared and in supervising and inspecting the work.

21 Additionally, the authority is hereby expressly permitted to  
22 pay to the Department of Finance and the State Treasurer's  
23 Office, from time to time and from any funds available to the  
24 authority, amounts to offset costs incurred in the  
25 administration of the business of the authority. The cost of  
26 such compensation shall be prorated among the recipients of



1 proceeds of the bonds in the same manner as the expenses of  
2 issuance of the bonds are required hereby to be prorated.

3 Section 13. The authority shall hire or contract  
4 with businesses or individuals which reflect the racial and  
5 ethnic diversity of the state.

6 Section 14. The authority shall have the power to  
7 make such payments to the United States of America as the  
8 board of directors of the authority deems necessary to cause  
9 the interest on any bonds of the authority, including the  
10 bonds, to be and remain exempt from, or excludible from gross  
11 income for purposes of, federal income taxation. The authority  
12 shall have the power to make such agreements respecting the  
13 investment of funds of the authority as the authority shall  
14 deem necessary in order that the interest income on bonds of  
15 the authority be and remain exempt from, or excludible from  
16 gross income for purposes of, federal income taxation.

17 Section 15. The authority is authorized to pay out  
18 of proceeds of any series of bonds the costs and expenses  
19 incurred in connection with the issuance of such bonds,  
20 including without limitation legal and accounting fees and  
21 expenses, fees, and expenses of any financial or fiscal  
22 advisor employed by the authority, printing costs, rating  
23 agency fees, and premiums or charges for any credit  
24 enhancement or liquidity providers. Notwithstanding any  
25 provision of this act or the 1965 Act, in appointing,  
26 employing, or contracting with attorneys, fiscal advisors,  
27 trustees, paying agents, investment bankers, banks and

1 underwriters, the authority may appoint, employ, or contract  
2 with firms whose principal offices are located without and/or  
3 within Alabama. The authority shall hire or contract with  
4 attorneys, fiscal advisors, trustees, paying agents,  
5 investment bankers, banks and underwriters which shall reflect  
6 the racial and ethnic diversity of the state. The authority  
7 shall issue requests for proposals for attorneys, fiscal  
8 advisors, trustees, paying agents, investment bankers, banks,  
9 and underwriters. The authority shall evaluate each proposed  
10 bid publicly and award each contract publicly. Minutes of the  
11 authority's meeting shall record the reasons for awarding each  
12 contract.

13 Section 16. In the event any section, sentence,  
14 clause or provision of this act shall be declared invalid by a  
15 court of competent jurisdiction, such action shall not affect  
16 the validity of the remaining sections, sentences, clauses, or  
17 provisions of this act, which shall continue effective.

18 Section 17. This act shall become effective  
19 immediately following its passage and approval by the  
20 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..... . . . . . 11-APR-13

Read for the second time and placed  
on the calendar 2 amendments ..... . . . . . 18-APR-13

Read for the third time and passed  
as amended..... . . . . . 25-APR-13

Yeas 96, Nays 0, Abstains 0

Jeff Woodard  
Clerk