HB2

197584-4

By Representative Poole

RFD: Transportation, Utilities and Infrastructure

First Read: 06-MAR-19
ENROLLED, An Act,

To levy an additional excise tax on gasoline and diesel fuel; to provide for the collection and distribution of the proceeds from the additional excise tax for state, county, municipal and Alabama State Port Authority transportation infrastructure purposes; to amend Sections 11-6-4 and 11-6-23, Code of Alabama 1975, to require the Department of Transportation contribute to the salary of the county engineer or chief engineer and modify the Department's reimbursement cap for the county engineer trainee's salary; to amend Section 40-12-242, Code of Alabama 1975, to levy an additional registration fee for certain motor vehicles and provide for the distribution of the proceeds from the additional registration fee to the Rebuild Alabama Fund; to amend Section 40-17-331, Code of Alabama 1975, to levy a floor stocks tax; and to repeal Section 11-6-6, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Rebuild Alabama Act.

Section 2. The Legislature finds all of the following:

(a) That consistent with the constitutional mandate that navigable waterways are public highways, the Legislature hereby finds as a fact that a portion of the gasoline and
diesel fuel sold in this state is used for marine purposes to propel vessels on coastal and inland waterways of this state.

(b) That it is the policy of this state to use a portion of the funds derived from the additional excise tax levied by this act on each net gallon of gasoline and diesel fuel for the programs and activities of the Alabama State Port Authority.

(c) That the development and growth of electric vehicle transportation infrastructure are considerations in the construction, reconstruction, maintenance, and repair of a modern-day public road, highway, and bridge system in this state.

(d) That the State Department of Transportation is the appropriate agency to initiate the comprehensive planning and administrative duties associated with the development of electric vehicle transportation infrastructure as a part of its regular duties.

(e) That the development of electric vehicle transportation infrastructure is a cost of construction, reconstruction, maintenance, and repair of public roads, highways, and bridges in this state and that the moneys of the Rebuild Alabama Fund may be lawfully used for such purpose.

(f) It is the intention of the Legislature to authorize the creation of, and to hereby create, the Electric Transportation Charging Infrastructure Grant Program as a
program of the State Department of Transportation for the
purpose of providing grants, funds, and support for the
construction, reconstruction, maintenance, and repair of the
public roads, highways, and bridges in this state through the
procurement, installation, and implementation of electric
vehicle transportation infrastructure.

Section 3. Sections 11-6-4, 11-6-23, 40-12-242, and
40-17-331, Code of Alabama 1975, are amended to read as
follows:

"§11-6-4.

"When any county has established the office of
county engineer or chief engineer of the division of public
roads the Director of the Department of Transportation may
shall, upon application of the county commission, authorize
the expenditure out of the available funds of the State
Department of Transportation , of an amount equal to 70
percent of the annual salary of said engineer to such county,
which shall apply to the payment of the annual salary of said
engineer, with such payments to be made in equal monthly
installments; provided, that the amount contributed or paid by
the State Department of Transportation to any county, not
including retirement contributions, shall not exceed 70
percent of step 18, or the top step, whichever is greater, of
the salary schedule under the Professional Civil Engineer II,
Senior classification in any one year. The Director of the
Department of Transportation may discontinue such payment after 30 days' notice in writing to the county commission and to the county engineer or chief engineer of the division of public roads, unless otherwise agreed to in writing with the county by contract made and entered upon the records of the county commission.

"§11-6-23.

"(a) Upon application of the county commission or like governing body of the several counties of the state, the Department of Transportation, upon approval of the Director of Transportation, shall participate in the salary of the engineer trainee in the county in an amount equal to 50 percent of the annual salary of the engineer trainee. The amount is to be paid to the county in equal monthly installments to reimburse the fund of the county from which the salary of the engineer trainee is paid.

"(b) The amount contributed or paid by the Department of Transportation to any county under this article shall not include retirement contributions, Social Security, unemployment compensation, or other employee benefits, nor shall the amount contributed or paid exceed (1) 50 percent of the annual salary schedule of the Department of Transportation under the graduate Professional Civil Engineer I classification, step 18, or the top step, whichever is greater, as established by the Department of Transportation
for the year in which applied, or (2), in the case of an
assistant to the county engineer who has served at least one
year as an engineer trainee under this article and has
qualified as a registered engineer in this state, 50 percent
of the annual salary schedule of the Department of
Transportation under the graduate registered engineer
classification as established by the Department of
Transportation for the year in which applied.

"§40-12-242.

"(a) The following annual license taxes and regis-
tration fees are hereby imposed and shall be charged on each
private passenger automobile operated on the public highways
of this state and on each motorcycle operated on the said pub-
lic highways:

(1) For each private passenger automobile $13.00
(2) For each motorcycle $7.00

" No private passenger automobile and no motorcycle
shall be used on any public highway in the state unless the
proper license tag therefor has been procured and is securely
attached to the rear end thereof, such tag to be so attached
right side up with the number thereof in an upright position
and plainly visible.
"(b) In addition to the annual license taxes and registration fees imposed in subsection (a) above and elsewhere in Article 5 of Chapter 12 of Title 40, there is hereby imposed and shall be charged;

"(1) an annual license tax and registration fee of $200.00 on each battery electric vehicle operated on the public highways of this state, and

"(2) an annual license tax and registration fee of $100.00 on each plug-in hybrid electric vehicle operated on the public highways of this state.

"A battery electric vehicle is defined as any motor vehicle which draws propulsion energy solely or primarily from onboard sources of stored electric energy from a plug-in rechargeable electric energy storage system and which does not include an internal combustion or heat engine using combustible fuel. A plug-in hybrid electric vehicle is defined as any motor vehicle which draws propulsion energy from onboard sources of stored electric energy that can be plugged into an outlet or charging station, and which includes an internal combustion or heat engine using combustible fuel.

"(c) Beginning on July 1, 2023 and every fourth year thereafter, the additional license tax and registration fee specified in this act shall increase by three dollars ($3).

"(d) The annual battery electric vehicle fee imposed in subsection (b)(1) shall be reduced by the amount of any
future additional annual federal surcharge or registration fee
placed on a battery electric vehicle, and the annual plug-in
hybrid electric vehicle fee imposed in subsection (b)(2) shall
be reduced by the amount of any future annual federal
surcharge or registration fee placed on a plug-in hybrid
electric vehicle, if the federal surcharge or registration fee
is used solely for highway transportation purposes in the
state of Alabama, but in no case shall the battery electric
vehicle fee be reduced to less than $150 and the plug-in
hybrid electric vehicle fee be reduced to less than $75.

"(e) The Electric Transportation Infrastructure
Grant Program is created within the State Department of
Transportation. The program shall be administered, conducted,
and managed, and its funds shall be dispersed by, the State
Department of Transportation, which shall have all the powers,
authorities, rights, privileges, and titles necessary to
enable it to accomplish the purpose of the Electric
Transportation Infrastructure Grant Program. The State
Department of Transportation is authorized and directed to
promulgate rules for the Electric Transportation
Infrastructure Grant Program including the solicitation,
application, evaluation, and selection of grant applicants,
the distribution of grants for electric vehicle charging
infrastructure, and the use of grant funds through the Alabama
Administrative Procedures Act."
"(f) Notwithstanding any other statute or law to the contrary, all proceeds of the annual license taxes and registration fees imposed and charged in subsection (b) above, after deduction pursuant to Section 40-12-269 (a)(1), Code of Alabama 1975, shall be distributed as follows:

"(1) The first $150 collected from the annual license tax and registration fee on each battery electric vehicle and the first $75 collected from the annual license tax and registration fee on each plug-in hybrid electric vehicle shall be distributed sixty-six and sixty-seven one hundredths percent (66.67%) to the state, twenty-five percent (25%) to counties, and eight and thirty-three one hundredths percent (8.33%) to cities.

"(2) The remainder shall be deposited in the Rebuild Alabama Fund established pursuant to the provisions of this act, and shall be used by the State Department of Transportation to fund electric vehicle transportation charging infrastructure through the Electric Transportation Infrastructure Grant Program established in this act until such time as the total annual registrations of battery electric vehicles plus plug-in hybrid electric vehicle exceed four percent (4%) of the total annual registrations of all motor vehicles within the state of Alabama, except trailers and semitrailers, for which an annual license tax and registration fee is paid. Thereafter the annual license taxes
and registration fees imposed by subsection (b)(1) and (b)(2) shall be reduced to $150 and $75, respectively, and after such reduction the receipts shall be deposited into the Rebuild Alabama Fund and distributed sixty-six and sixty-seven one hundredths percent (66.67%) to the state, twenty-five percent (25%) to the counties, and eight and thirty-three one hundredths percent (8.33%) to the cities to be used in the construction, reconstruction, maintenance, and repair of public roads, highways, and bridges in the state, and for any other purpose for which moneys in the Rebuild Alabama Fund may be lawfully used. All previously collected but unspent funds dedicated to the Electric Transportation Infrastructure Grant Program shall continue to be used to fund the Electric Transportation Infrastructure Grant Program.

"(g) The annual license taxes and registration fees pursuant to this act shall be effective January 1, 2020.

"§40-17-331.

"(a) There is hereby imposed a floor-stocks tax on motor fuel held in inventory outside of the bulk transfer/terminal system on October 1, 2012, if:

"(1) No tax was imposed on the motor fuel under Sections 40-17-2, 40-17-31, and 40-17-220, as of September 30, 2012, and
"(2) The tax would have been imposed on the motor fuel by this article had it been in effect for the periods prior to October 1, 2012.

"(b) The rate of the tax imposed by this section shall be the amount of tax imposed under Sections 40-17-2, 40-17-31, and 40-17-220, on September 30, 2012.

"(c) Any person owning motor fuel on October 1, 2012, to which the tax imposed by this section applies, shall be liable for the tax. The tax imposed by this section shall be paid on or before December 31, 2012, and shall be paid in the manner prescribed by the department.

"(a) There is hereby imposed a floor-stocks tax on motor fuel held in inventory outside of the bulk transfer/terminal system on the effective date of the tax increase and on the date of each subsequent tax increase levied by the amendatory language of this act.

"(b) Each rate of the tax imposed by this section shall be the incremental amount of tax imposed under the amendatory language of this act.

"(c) Any wholesale distributor holding motor fuel in inventory outside of the bulk transfer/terminal system on the effective date of each tax increase levied by the amendatory language of this act shall be liable for the tax.

"(d) The tax imposed by the amendatory language of this act shall be paid on or before the last day of the third
month following each tax increase and shall be paid in the manner prescribed by the department."

Section 4. Definitions. When used in this act, the following words and phrases shall have the following respective meanings unless the context clearly indicates otherwise:

(1) ALDOT. The Alabama State Department of Transportation provided for in Section 23-1-20, Code of Alabama 1975, as amended.

(2) ATRIP-II COMMITTEE. The Alabama Transportation Rehabilitation and Improvement Program Committee-II established pursuant to this act.

(3) ATRIP-II PROJECTS. Those Road and Bridge Rehabilitation and Improvement Projects submitted to and received by the ATRIP-II Committee for funding in accordance with the provisions of this act.

(4) COSTS. As applied to any road and bridge project, all costs of construction or acquisition of any part thereof, including, but without limitation to, the costs of supervising, inspecting and constructing any such project and all costs and expenses incidental thereto, the costs of locating, surveying and mapping, development of engineering plans and specifications, resurfacing, restoration and rehabilitation, acquisition of rights-of-way, utility relocation, and improvements which directly facilitate and
control traffic flow, including grade separation of
intersections, widening of lanes, channelization of traffic,
and traffic-control systems.

(5) LEGISLATURE. The Legislature of Alabama.

(6) SPECIAL TAXES. (a) The excise taxes levied under
subdivisions (1), (2) and (3) of subsection (a) of Section
40-17-325, as amended hereby, with the exception of those
portions of those taxes levied on aviation fuel and marine
gasoline, and;

(b) the additional annual registration fees imposed
pursuant to Section 40-12-275 40-12-274, as herein provided.

(7) STATE. The State of Alabama.

Section 5. There is hereby created the Rebuild
Alabama Fund in the State Treasury. All proceeds from the
revenues designated to the fund pursuant to this act less the
cost of collection authorized by law shall be deposited into
the fund to be expended only as provided in this act.

Section 6. (a) Effective for tax periods beginning
after August 31, 2019, an additional excise tax of six cents
($0.06) is imposed on each net gallon of gasoline and diesel
fuel.

(b) Effective October 1, 2020, this additional
excise tax is increased by two cents ($0.02) to eight cents
($0.08) on each net gallon of gasoline and diesel fuel.
(c) Effective October 1, 2021, this additional excise tax is increased by two cents ($0.02) to ten cents ($0.10) on each net gallon of gasoline and diesel fuel.

(d) Beginning October 1, 2023, and on June 1 July 1 of every other year thereafter, the excise tax rate provided in this section shall be adjusted by the percentage change in the yearly average of the National Highway Construction Cost Index (NHCCI) issued by the U. S. Federal Highway Administration (FHWA) for the most recent 12-month period ending December 31, compared to the base year average, which is the average for the 12-month period ending December 31, 2020 and rounded to the nearest whole cent. The maximum amount of increase or decrease in the excise tax rate shall not exceed $.01 per net gallon of gasoline or diesel fuel and shall take effect every other year. The Department of Revenue shall notify each terminal supplier, position holder, licensed distributor, and importer of the tax rate adjustment applicable under this paragraph for the 12-month period beginning on or before March 1.

(e) This additional excise tax shall be levied, administered, and collected in accordance with the provisions of Article 12 of Chapter 17 of Title 40 of the Code of Alabama 1975, provided that the due date for payment and filing of returns for all motor fuel taxes, including the additional amounts levied in this act, shall be the 20th day of the month
following the month in which the tax accrues, except as otherwise provided in Section 40-17-340 (d), and the bond required under Section 40-17-335 (a)(1) shall not exceed three million dollars ($3,000,000). The net tax proceeds, after the cost of collection and distribution to the Alabama Highway Finance Corporation authorized by this act shall be distributed to the state and to each county and municipality for transportation infrastructure purposes in accordance with the provisions this act.

Section 7. (a) The Alabama Department of Revenue shall retain one-quarter of one percent (0.25%) of the tax proceeds, less any refunds, from this additional excise tax on gasoline and diesel fuel for its cost of collection. The department is authorized to adopt rules and such forms as may be necessary for the administration of the excise tax provided for in this act.

(b) Each month, prior to the remaining payments provided in this act, up to $750,000 of the tax proceeds from the additional excise tax on gasoline and up to $230,000 of the tax proceeds from the additional excise tax on diesel fuel shall be distributed first to the Alabama Highway Finance Corporation for the payment of the principal of and interest on bonds to be issued by it to finance improvements to the ship channel providing access to the facilities of the Alabama State Docks, to the extent necessary for such purpose. The
amount distributed pursuant to this section may be pledged as
security for any loan or debt proceeds as deemed necessary by
the Alabama Highway Finance Corporation to finance said
improvements, but not to exceed one-hundred fifty million
dollars ($150,000,000) in aggregate principal amount to be
used for improvement projects. This distribution of tax
proceeds to the Alabama Highway Finance Corporation shall
terminate at the final maturity of the bonds secured by these
tax proceeds, provided that the bond term shall not exceed
twenty (20) years.

(c) Notwithstanding any other law to the contrary,
the net tax proceeds remaining after any refunds, the cost of
collection and the distribution to the Alabama Highway Finance
Corporation authorized above shall be distributed as follows:

(1) Sixty-six and sixty-seven one hundreths percent
(66.67%), shall be allocated to ALDOT and deposited in the
Rebuild Alabama Fund, to be used for transportation
infrastructure improvement, preservation and maintenance
projects pursuant to the provisions of this act. The net tax
proceeds may be used to match any available federal, state and
local transportation funding. The funds allocated to the
department shall be audited by the Examiners of Public
Accounts in the same manner as all other department funds. The
Director of ALDOT, with approval of the Governor, may also
pledge a share of the net tax proceeds not to exceed fifty
percent (50%) of said proceeds as security for the issuance or refinancing of any loan or debt obligation used for transportation infrastructure improvement, preservation and maintenance of projects pursuant to the provisions of this act. This pledge shall be irrevocable for the duration of the loan or debt obligations for which the net tax proceeds are pledged.

a. ALDOT shall not use the net tax proceeds for any of the following purposes:

1. Salaries, benefits, or any other form of compensation for state or contract employees except as included as direct project Costs and subject to audit by the Examiners of Public Accounts.

2. The purchase, lease, or maintenance of equipment, other than equipment purchased and permanently installed as a part of a road or bridge project.

3. The maintenance or construction of public buildings or other structures that are not integral to the system of roads and bridges.

b. Beginning on Oct. 1, 2019, (and each October 1 thereafter), ALDOT will allocate $400,000 to each county in exchange for the annual federal allocation of $533,000 which was being distributed to each county on the effective date of this act. Nothing in this act shall prohibit ALDOT from utilizing these exchanged federal funds at its discretion and
in a manner consistent with Federal Highway Administration (FHWA) procedures.

c. The $400,000 annual allocation to each county shall be utilized first as matching funds for any balance in the county's federal allocation not authorized by Sept. 30, 2019. Once these unexpended funds are authorized for an individual county, all remaining and future allocations established herein shall be expended for road and bridge projects on county roads classified as minor collectors or higher and/or for bridge structures on the National Bridge Inspection inventory.

d. The provisions of this section notwithstanding, counties shall retain the ability to be awarded and utilize other federal funds or state grants which are or may become available after the effective date of the exchange of current federal funds. Further, the exchange of current federal funds does not preclude a county from the award or utilization of any federal funds earmarked in the future for local governments through FHWA and/or any federal appropriation legislation.

(2) Twenty-five percent (25%) shall be allocated to counties of the state to be used for transportation infrastructure improvement, preservation and maintenance as provided for in this act. It shall be allocated and disbursed among the 67 counties of the state as follows:
a. Forty five percent (45%) of the amount shall be allocated equally among the 67 counties of the state.

b. Fifty-five percent (55%) of the amount shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each county to the total population of the state according to the then next preceding federal decennial census or any special federal census heretofore held in any county. Population of the state according to population projections from the U.S. Census Bureau Population and Housing Estimates Program or any special federal census heretofore held in any county. Beginning in 2020, the ratio of the population of each county to the total population of the state shall be updated every five years.

c. The net tax proceeds may be used to match any available federal, state and local transportation funding. The governing body of a county may also pledge its share of the net tax proceeds not to exceed fifty percent (50%) of said proceeds as security for the issuance or refinancing of any loan or debt obligation used for transportation infrastructure improvement, preservation and maintenance. This pledge shall be irrevocable for the duration of the loan or debt obligations for which the net tax proceeds are pledged.

d. Counties must ensure that at least fifty percent (50%) of the funds are allocated for projects utilizing established bidding procedures submitted by the Association of
County Engineers of Alabama and approved by the Department of Examiners of Public Accounts. In addition, the county may utilize such funds to meet any other project matching requirements associated with other federally or state funded transportation projects, upon approval of the county commission. A county may utilize over fifty percent of their annual allocation of these funds for project match if the project follows the provisions for bidding herein described or is let to contract through ALDOT.

(3) Eight and thirty-three one hundredths percent (8.33%) shall be allocated and disbursed to the municipalities of the state to be used for transportation infrastructure improvement, preservation and maintenance, as provided for in this act, as follows:

   a. Twenty-five percent (25%) of this amount shall be allocated equally among the municipalities of the state.

   b. Seventy-five percent (75%) of this amount shall be allocated among the municipalities of the state on the basis of the ratio of the population of each municipality to the total population of all municipalities of the state according to the last and any subsequent federal decennial census commencing April 1, 2010. The population of any municipality, according to the population projections from the U.S. Census Bureau Population and Housing Estimates Program or any special federal census heretofore held in any municipality. Beginning
in 2020, the ratio of the population of each municipality to
the total population of the state shall be updated every five
years. The population of any municipality incorporated
subsequent to the taking of the last federal decennial census
shall be deemed to be the population shown by the census for
that municipality. Any municipality incorporated after the
effective date of this act shall not participate in the
distribution provided for in this subsection until the fiscal
year next succeeding the fiscal year during which it is
incorporated.

c. The net tax proceeds may be used to match any
available federal, state and local transportation funding. The
governing body of a municipality may also pledge its share of
the net tax proceeds as security for the issuance or
refinancing of any loan or debt obligation used for
transportation infrastructure improvement, preservation and
maintenance. This pledge shall be irrevocable for the duration
of the loan or debt obligations for which the net tax proceeds
are pledged. Any Class 1 through 4 municipality that provides
or operates public transportation services on the effective
date of this act, may utilize an amount not to exceed ten
percent (10%) of the net tax proceeds received annually by
that municipality pursuant to this act to match any available
federal or state transportation funding available for public
transportation infrastructure improvements.
(d) The distribution prescribed by Section 7 of this act shall begin no later than January 2020.

Section 8. The net tax proceeds allocated to ALDOT in subsection (c) of Section 7 above shall be used for the following program purposes and ALDOT shall annually report the results of the programs and itemize the specific projects to the Permanent Joint Transportation Committee of the Alabama Legislature in compliance with such procedures established by or for the committee:

(a) Congestion Relief Program - The purpose of this program is to add capacity to State, US and Interstate routes in highly congested areas of the state. ALDOT shall develop an assessment and prioritization plan to allocate funds for congestion relief projects on the state's transportation infrastructure.

(b) Economic Development Roads Program - The purpose of this program is to develop and improve transportation infrastructure to enhance economic development efforts in the State of Alabama. ALDOT shall develop an assessment and prioritization plan to allocate funds for economic development road projects with priority given to projects in economically underserved areas of the state.

(c) System Preservation - The purpose of this program is to address the ongoing and growing preservation and
maintenance needs of the state's transportation infrastructure.

(d) ALDOT shall create an annual grant program of no less than ten million dollars ($10,000,000) for use on any classified system of roads and bridges for which any city government or county government may apply. All projects granted under this program are to be bid and let by the respective county or municipality following procedures approved by ALDOT. ALDOT shall develop and publish rules to establish funding criteria and create an application process to receive and select projects for funding by September 30, 2019. The first round of grant applications shall be due by November 30, 2019 and award of the grants shall be made by ALDOT on or before January 15, 2020.

(e) There is hereby created an Alabama Transportation Rehabilitation and Improvement Program-II (ATRIP-II) to fund projects of local interest on the state maintained highway system, which may also include local roads and bridges essential to such projects. All ATRIP-II Projects shall be developed and let to contract by ALDOT. The ATRIP-II program shall be an annual program beginning in fiscal year 2020 and shall be funded at an amount of not less than thirty million dollars ($30,000,000) and not more than fifty million dollars ($50,000,000) which amount shall be at the discretion of the Director of ALDOT.
(f) All ALDOT Projects funded pursuant to this section shall be let to contract by ALDOT. ALDOT shall establish and apply Disadvantaged Business Enterprise (DBE) goals in the same manner and consistent with the requirements respecting DBEs of the Federal Highway Administration (FHWA) for road and bridge and other similar contracts funded with federal funds. The DBE goal for ALDOT Projects funded pursuant to this section shall, to the extent reasonably possible, be the same as the goal established annually by ALDOT for contracts funded with federal funds and approved by FHWA. ALDOT shall, to the greatest extent possible, ensure that DBE firms are included in the procurement process as early as possible with the objective of ensuring participation levels can be met. ALDOT will identify qualified DBE vendors during the design process and communicate that list to the prospective prime contractors prior to the bidding process. ALDOT shall provide, on October 1 of every fiscal year of the state, beginning December 1, 2021, for the year commencing October 1, 2020, a report of ALDOT Projects let to contract pursuant to this section, including information on the established DBE goals for ALDOT Projects, to the Chair of the Joint Transportation Committee, the Governor, the Senate Pro Tempore, the Speaker of the Alabama House of Representatives, the Alabama Senate Minority Leader, and the Alabama House of Representatives Minority Leader.
"(f) All ALDOT Projects funded pursuant to this section shall be let to contract by ALDOT and subject to the following requirements:

a. ALDOT shall establish and apply Disadvantaged Business Enterprise (DBE) goals in the same manner and consistent with the requirements respecting DBEs of the Federal Highway Administration (FHWA) for road and bridge and other similar contracts funded with federal funds. The DBE goal for ALDOT Projects funded pursuant to this section shall, to the extent reasonably possible, be the same as the goal established annually by ALDOT for contracts funded with federal funds and approved by FHWA. ALDOT shall, to the greatest extent possible, ensure that DBE firms are included in the procurement process as early as possible with the objective of ensuring participation levels can be met. ALDOT will identify qualified DBE vendors during the design process and communicate that list to the prospective prime contractors prior to the bidding process. ALDOT shall provide, on October 1 of every fiscal year of the state, beginning December 1, 2021, for the year commencing October 1, 2020, a report of ALDOT Projects let to contract pursuant to this section, including information on the established DBE goals for ALDOT Projects, to the Chair of the Joint Transportation Committee, the Governor, the Senate Pro Tempore, the Speaker of the Alabama House of Representatives, the Alabama Senate Minority
Leader, and the Alabama House of Representatives Minority Leader.

In the event ALDOT was not successful in meeting their DBE goals in a particular fiscal year, ALDOT will be required to provide to the Joint Transportation Committee a written strategy along with the annual project report that will outline how the goals will be addressed in the coming fiscal year, including an analysis of the primary reasons that DBEs were unsuccessful bidders and the impediments to successful DBE bids.

b. ALDOT shall utilize its GFO dated August 14, 2018, for the next four years to design equivalent pavement sections. At that time the Department shall evaluate what procedures to adopt going forward in consultation with, or otherwise informing as soon as practicable, the Permanent Joint Transportation Committee. Any exception to the GFO shall be presented to the Joint Transportation Committee.

c. For the next four years, where feasible and practical, ALDOT will provide alternative pavement designs utilizing asphalt or concrete materials and shall seek bids."

Section 9. (a) All county and municipal projects let to contract, as the case may be, shall utilize contractors and material suppliers listed on the ALDOT's list of approved contractors and suppliers. ALDOT's list of approved contractors and material suppliers shall include the ALDOT's
Certified Disadvantaged Business Enterprise List. Beginning October 1, 2020, and October 1 of every other year, each county and municipality shall provide a list of all contractors who have been awarded projects under this section to the Senate President Pro Tempore, the Speaker of the House, and the Chair of the Joint Transportation Committee. Notwithstanding any provision of law to the contrary, no bidding shall be required by the county for asphalt or other road construction or repair materials if the county has an annual contract for providing such materials.

(b) For all municipal projects, the appropriate plans and bid opening date shall be published in electronic form no later than the tenth day of the month preceding the bid opening on a website maintained for that purpose by the Alabama League of Municipalities.

(c) Bids for county and municipal contracts awarded under this section shall only be awarded in accordance with Section 39-2-6, Code of Alabama 1975, as amended, during a regularly-scheduled meeting of the governmental body of the county or city, as the case may be. Immediately after the completion of each project, the publication notifications required by Section 39-1-1(f), Code of Alabama 1975, as amended, shall be satisfied by posting on the same website utilized for the posting of specifications and notice of bid openings.
Section 10. (a) There is hereby created the Alabama Transportation Rehabilitation and Improvement Program-II (ATRIP-II) Committee. The appointing authorities shall coordinate their appointments to assure the committee membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state. All members of the ATRIP-II Committee shall be appointed within 30 days after the effective date of this act and shall serve until a successor is named. Members of the ATRIP-II Committee shall consist of:

(1) The Director of the State Department of Transportation who shall serve as Chair of the ATRIP-II Committee.

(2) The Lieutenant Governor or his or her designee.

(3) One member appointed by the President Pro Tempore of the Senate.

(4) One member appointed by the Speaker of the House of Representatives.

(5) Three members appointed by the Governor, at least one of which shall be a representative of local governments, and at least one of which shall be a minority.

(b) The ATRIP-II Committee is authorized to enter an agreement with any funding authority or bank that is authorized to issue tax exempt debt for infrastructure
purposes to pledge any of the annual revenue proceeds
allocated for its use in subsection (c) of Section 7 above as
payment for any loan or debt indenture.

(c) Within 60 days after the effective date of this act, the ATRIP-II Committee shall convene to develop and adopt
procedures for the allocation of any revenue proceeds
allocated for its use and for the selection and authorization
of projects to be funded from the revenue dedicated by the
Director of ALDOT for the ATRIP-II program in accordance with
subsection (e) of Section 8. The procedures shall ensure that
project selection shall be for projects related to the state
maintained highway system, which may also include local roads
and bridges essential to such projects, proposed by one or
more local governments. In addition, the policies shall be
developed with an emphasis on the economic growth, public
safety, and stability of this state. The procedures shall also
include provisions to ensure that all projects selected by the
ATRIP-II Committee shall be bid and let to contract by ALDOT
in accordance with any applicable provisions of law. After the
ATRIP-II Committee develops and adopts procedures for the
allocation of any revenue proceeds and the selection and
authorization of projects to be funded from the revenue
proceeds, a copy of the procedures shall be distributed to
each of the counties and municipalities of the state and shall
be posted on the ALDOT website.
(d) The ATRIP-II Committee, in reviewing ATRIP-II Projects submitted to it for funding pursuant to the provisions of this section, shall appraise and consider information that may be submitted by counties and municipalities in the applications with respect to those projects concerning their contracting with businesses or individuals in carrying out such projects which reflect the racial and ethnic diversity of the state. A report on the contracting information submitted by counties and municipalities shall be distributed by the ATRIP-II Committee annually to the Governor, the Senate Pro Tempore, the Speaker of the Alabama House of Representatives, the Chair of the Joint Transportation Committee, the Alabama Senate Minority Leader, and the Alabama House of Representatives Minority Leader no later than October 1 of each year, beginning on October 1, 2020.

Section 11. (a) The monies paid to counties or municipalities pursuant to Section 7 of this act shall be deposited into a separate fund maintained by the county or municipality and expended only for one or more of the following:

(1) The maintenance, improvement, replacement, and construction of roads and bridges maintained by a qualified county.
(2) The maintenance, improvement, replacement, and construction of roads and bridges maintained by a qualified municipality.

(3) As matching funds for federal road or bridge projects.

(4) The payment of any debt associated with a road or bridge project.

(5) For a joint road or bridge project with one or more adjoining counties pursuant to any agreement executed under the authority of state law.

(6) For a joint road or bridge project with one or more municipalities pursuant to any agreement executed under the authority of state law.

(7) For a joint road or bridge project with one or more counties and municipalities pursuant to any agreement executed under the authority of state law.

(b) The county or municipality shall not use any monies from the fund for any of the following purposes:

(1) Salaries, benefits, or any other form of compensation for county, municipal, or contract employees or for county or municipal officials except as included as project Costs and subject to audit by the Examiners of Public Accounts.
(2) The purchase, lease, or maintenance of equipment, other than equipment purchased and permanently installed as a part of a road or bridge project.

(3) The maintenance or construction of public buildings or other structures that are not integral to the system of roads or bridges.

(c) All fund records shall be audited by the Examiners of Public Accounts in the same manner as all other county or municipal funds.

(d) The county commission of each qualified county or municipal governing body of each qualified municipality shall adopt an annual Transportation Plan no later than August 31 for the next fiscal year, which plan shall be approved by affirmative vote of a majority of the members of the county commission or municipal governing body. The plan shall provide a detailed list of projects for which expenditures are intended to be made in the next fiscal year and shall be based upon an estimate of the revenues anticipated from the fund during the fiscal year. Once adopted, the annual plan shall at all times be posted in conspicuous places at the county courthouse, the county commission office, the county highway department, municipal hall, the mayor's office, the municipal highway department, and any other places deemed appropriate by the county commission or municipal governing body.
Additionally, the plan shall be posted on their respective official government website, if available.

(e) At the first meeting in January of each year following the creation of the fund, the county or municipal engineer or other person designated by the county commission or municipal governing body shall present to the county commission or municipal governing body an annual written report detailing expenditures made from the fund during the previous fiscal year, which report shall include the status of each project included in the previous fiscal year's Transportation Plan. The report shall be entered into the minutes of the county commission or municipal governing body meeting and shall be made available to the public for inspection, including posting on the county's or municipality's website, if available.

(f) By January 15 of each year, the county engineer will submit a certificate of compliance verifying that at least fifty percent (50%) of funding for the last fiscal year was let to contract, and shall file such certificate with the Chair of the Joint Transportation Committee, the Alabama Senate Pro Tempore, and the Speaker of the Alabama House of Representatives.

Section 12. Section 11-6-6, Code of Alabama 1975 is hereby repealed.
Section 13. The provisions of this act shall not be superseded, amended, altered, violated, or overridden by any provision of the state general fund appropriation act or any other annual or supplemental appropriation act, administrative rule, inter-agency transfer, or executive order or directive.

Section 14. Pursuant to Section 1-1-16, Code of Alabama 1975, if any provision of this act is held by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining provisions of this act, and to this end the provisions of this act are declared severable.

Section 15. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 08-MAR-19, as amended.

Jeff Woodard
Clerk

Senate 12-MAR-19 Passed