

1 HB671
2 120063-3
3 By Representative Knight
4 RFD: Government Appropriations
5 First Read: 03-MAR-10

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ENROLLED, An Act,

To amend Sections 41-10-541, 41-10-547, 41-10-550, and 41-10-551; to modify existing terms and to add additional terms; to provide for the financing and payment of the costs of certain economic development costs, projects and related expenses; to provide authority for the entering into by the Governor on behalf of the state of an agreement under which the state may agree, in the event moneys are withdrawn during any fiscal year of the State from any reserve fund established by the authority for the payment of debt service on any Authority bonds due to the inadequacy of pledged revenues to timely pay such debt service, to provide funds to the authority not in excess of the amount so withdrawn from whatever source lawfully available to the state for that purpose in order to fully fund such reserve fund; to permit the Authority to transfer all the moneys not needed for payment of debt service on the Authority's bonds or other Authority obligations from the Special Fund created in Section 41-10-5 to the general fund of the State or to a fund to be used to pay certain costs of acquiring, operating and maintaining projects owned or operated by the Authority upon certain conditions, and to increase the aggregate principal amount of bonds that may be issued by the Authority.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§41-10-541.

4 "(a) The following words and phrases used in this
5 division, and others evidently intended as the equivalent
6 thereof, shall, in the absence of clear implication herein
7 otherwise, be given the following respective interpretations
8 herein:

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

12 (2) AUTHORITY. The public corporation organized
13 pursuant to this division.

14 (3) AUTHORITY GUARANTY. An agreement of the
15 authority pursuant to which the payment of debt service
16 referable to bonds, notes, or other evidences of indebtedness
17 of a development agency is guaranteed by the authority.

18 (4) AUTHORITY OBLIGATIONS. Bonds of the authority
19 and authority guaranties.

20 (5) AUTHORITY-GUARANTEED OBLIGATIONS. Bonds, notes,
21 or other evidences of indebtedness of a development agency
22 that are issued solely for the purpose in financing a project
23 and that are guaranteed, in whole or in part, by an authority
24 guaranty.

1 (6) BONDS. Bonds of the authority issued for any
2 authorized purpose.

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

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

14 (9) DIRECTORS. The Board of Directors of the Alabama
15 Incentives Financing Authority.

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

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

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

1 (11) FINANCED PROPERTY. All property whether real,
2 personal, or mixed, the costs of which were or are to be paid
3 or reimbursed in whole or in part with the proceeds of bonds
4 of the authority or the proceeds of authority-guaranteed
5 obligations.

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

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

1 constitute a limited obligation of the state payable solely
2 out of the revenues and receipts appropriated to and received
3 by the state during the fiscal year of the state during which
4 any such amount is to be payable.

5 (13~~14~~) HEREIN, HEREBY, HEREUNDER, HEREOF, and OTHER
6 EQUIVALENT WORDS. Refer to this division as an entirety and
7 not solely to the particular section or portion thereof in
8 which any such word is used.

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

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

1 (~~1517~~) NET TVA PAYMENTS. With respect to any fiscal
2 year of the state, the in-lieu-of-taxes payments made by the
3 Tennessee Valley Authority to and retained by the state during
4 such fiscal year after distributions made pursuant to Section
5 40-28-2 and after compliance with Section 41-9-783.

6 (~~1618~~) PERSON. Unless limited to a natural person by
7 the context in which it is used, includes a private firm, a
8 private association, a public or private corporation, a
9 municipality, a county, or an agency, department, or
10 instrumentality of the state or of a county or municipality.

11 (~~1719~~) PROJECT. Any land, building, or other
12 improvement, and all real and personal properties deemed
13 necessary or useful in connection therewith, whether or not
14 now in existence, that are or are to be located in the state
15 and that have been or are to be acquired, constructed,
16 ~~expanded, or installed for use (i) by an industrial, or~~
17 ~~research, manufacturing, aviation or transportation~~
18 ~~enterprise, (ii) by any enterprise engaged in manufacturing,~~
19 ~~processing, cultivating or assembling any agricultural or~~
20 ~~manufactured product, (iii) or as a training facility, or (iv)~~
21 ~~by any entity in promoting economic development or the~~
22 ~~recruitment of industrial, research, manufacturing, aviation~~
23 ~~or transportation prospects to the state. expanded, or~~
24 installed for use (i) by an industrial or research enterprise,
25 (ii) by a manufacturing, aviation or transportation

1 enterprise, (iii) by any enterprise engaged in manufacturing,
2 processing, cultivating or assembling any agricultural or
3 manufactured product, (iv) as a training facility, or (v) by
4 any entity in promoting economic development or the
5 recruitment of industrial, research, manufacturing, aviation
6 or transportation prospects to the state.

7 (1820) PROJECT COSTS. All costs and expenses
8 incurred by the authority or any person in connection with the
9 acquisition, construction, installation, and equipping of a
10 project, including, without limitation, any of the following:

11 a. The costs of acquiring, constructing, installing,
12 and equipping a project, including all obligations incurred
13 for labor and to contractors, subcontractors, builders, and
14 materialmen.

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

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

20 d. The costs of architectural and engineering
21 services, including test borings, surveys, estimates, plans
22 and specifications, preliminary investigations, environmental
23 mitigation, and supervision of construction, as well as for
24 the performance of all the duties required by or consequent

1 upon the acquisition, construction, and installation of a
2 project.

3 e. The costs associated with installation of
4 fixtures and equipment, surveys, including archeological and
5 environmental surveys, site tests and inspections, subsurface
6 site work, excavation, removal of structures, roadways,
7 cemeteries, and other surface obstructions, filling, grading,
8 and provisions for drainage, storm water retention,
9 installation of utilities, including water, sewer, sewage
10 treatment, gas, electricity, communications, and similar
11 facilities, off-site construction of utility extensions to the
12 boundaries of the property, and paving.

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

16 g. All costs, expenses, and fees incurred in
17 connection with the issuance of authority obligations and
18 authority-guaranteed obligations, including, without
19 limitation, all legal, accounting, financial, printing,
20 recording, filing, and other fees and expenses.

21 h. The costs for obtaining bond insurance, letters
22 of credit, or other forms of credit enhancement or liquidity
23 facilities.

1 i. Amounts to be deposited in any reserve fund
2 established with respect to such authority obligations or
3 authority-guaranteed obligations.

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

6 k. Reimbursement to any person of any of the
7 foregoing costs incurred by the person either for its own
8 account, or for the account of the authority and without
9 regard to when incurred.

10 (21) RESERVE FUND. Any fund or account established
11 by the authority in which moneys are placed in reserve to be
12 used to pay the principal of or interest on bonds issued by
13 the authority in the event funds pledged for the payment of
14 debt service on such bonds are insufficient to timely satisfy
15 said payment requirements.

16 ~~(1922)~~ STATE INDUSTRIAL DEVELOPMENT AUTHORITY. The
17 public corporation created pursuant to Article 2, Chapter 10
18 of this title, as amended.

19 ~~(2023)~~ TRAINING FACILITY. Any facility to be used
20 for the purpose of providing vocational, technical, or other
21 training for employees or prospective employees of any
22 industry for the manufacturing, processing, cultivating, or
23 assembling of any agricultural or manufactured product.

24 ~~(2124)~~ TRAINING FACILITY MANAGEMENT FEES. Fees
25 payable to any person as compensation for managing a training

1 facility under a management agreement entered into pursuant to
2 Section 41-10-551, including payments to be made to reimburse
3 such person for the costs of operating and maintaining a
4 training facility.

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

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

12 "§41-10-547.

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

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

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

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

1 authority may be sold at public or private sale from time to
2 time as the directors may consider advantageous.

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

1 (d) Authority obligations shall not be general
2 obligations of the authority but shall be payable solely from
3 one or more of the following sources: (1) appropriated funds;
4 (2) the revenues and receipts of the authority derived from
5 any financing agreement entered into by the authority with
6 respect to the project or projects financed by such authority
7 obligations; (3) the income or proceeds realized by the
8 authority under any mortgage or other security granted to the
9 authority; (4) amounts derived from any letter of credit,
10 insurance policy or other form of credit enhancement
11 applicable to the authority obligations; (5) any reserve or
12 other fund established for such purpose by the authority; (6)
13 any earnings on the proceeds of authority obligations invested
14 by the authority pending their disbursement; and (7) any other
15 amounts that may hereafter be appropriated to the authority.
16 As security for the payment of the debt service referable to
17 bonds issued by it and of its obligations under authority
18 guaranties, the authority is authorized and empowered to
19 pledge for payment of such debt service and such obligations
20 appropriated funds and other moneys and funds from which such
21 authority obligations are made payable. All contracts made and
22 all authority obligations issued or incurred by the authority
23 pursuant to this division shall be solely and exclusively
24 obligations of the authority and shall not constitute or
25 create an obligation or debt of the state. Bonds issued by the

1 authority shall be construed to be negotiable instruments,
2 although payable solely from a specified source, as provided
3 herein. The proceedings of the directors under which any
4 authority obligations are authorized to be issued and any such
5 mortgage and deed of trust or trust indenture may contain any
6 agreements and provisions respecting the collection and
7 disposition of appropriated funds, revenues, and receipts
8 subject to such mortgage and deed of trust or trust indenture,
9 the creation and maintenance of special funds from such
10 appropriated funds, revenues, and receipts, the rights,
11 duties, and remedies of the parties to any such instrument and
12 the parties for the benefit of whom the instrument is made and
13 the rights and remedies available in the event of default, all
14 as the directors shall deem advisable. Any pledge made with
15 respect to authority obligations shall be valid and binding
16 from the time such pledge is made; the appropriated funds,
17 revenues, receipts, funds, and other property so pledged shall
18 immediately be subject to the lien of such pledge without any
19 physical delivery thereof or further act; and the lien of
20 pledge shall be valid and binding as against all parties
21 having claims of any kind against the authority irrespective
22 of whether the parties have notice thereof. Neither the
23 proceedings of the directors authorizing the authority
24 obligations nor any other instrument by which a pledge is
25 created need be recorded. Each pledge, agreement, mortgage,

1 and deed of trust or trust indenture made for the benefit or
2 security of any of the authority obligations of the authority
3 shall continue effective until the authority obligations have
4 been fully paid or satisfied.

5 (e) Any bonds of the authority and any authority
6 guaranteed obligations may be used by the holder as security
7 for any funds belonging to the state, or to any political
8 subdivision, instrumentality, or agency of the state, in any
9 instance where security for the deposits may be required by
10 law. Unless otherwise directed by the court having
11 jurisdiction, or the document that is the source of authority,
12 a trustee, executor, administrator, guardian, or one acting in
13 any other fiduciary capacity may, in addition to any other
14 investment powers conferred by law and with the exercise of
15 reasonable business prudence, invest trust funds in bonds of
16 the authority and authority-guaranteed obligations. Neither a
17 public hearing nor consent of the Department of Finance or any
18 other department or agency shall be a prerequisite to the
19 issuance of bonds by the authority. Bonds of the authority and
20 authority-guaranteed obligations shall be legal investments
21 for funds of the Teachers' Retirement System of Alabama, the
22 Employees' Retirement System of Alabama, and the State
23 Insurance Fund.

24 (f) The State Treasurer shall be registrar, transfer
25 agent, and paying agent for the bonds. The State Treasurer may

1 designate named individuals who are employees of the state and
 2 who are assigned to the State Treasurer's office to
 3 authenticate the bonds."

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

6 "§41-10-550.

7 "(a) For the purpose of providing funds to enable
 8 the authority to pay debt service referable to any bonds
 9 issued by it, amounts due on any authority guaranties entered
 10 into by it under this division and other obligations incurred
 11 by the authority pursuant to this division, and to pay the
 12 costs of acquiring, operating and maintaining any project or
 13 other property the authority may own, acquire or operate and
 14 to pay any other costs, expenses or obligations of the
 15 authority, there is irrevocably pledged to such purpose and is
 16 appropriated to the authority so much as may be necessary
 17 therefore of the appropriated funds. All moneys hereby
 18 appropriated and pledged shall be deposited in a special fund
 19 maintained by the State Treasurer separate and apart from all
 20 other funds under his or her supervision, and the State
 21 Treasurer is hereby directed to cause moneys in the special
 22 fund to be disbursed solely for the following purposes:

23 (1) Prior to dissolution of the authority, moneys on
 24 deposit in the special fund shall be disbursed by the State
 25 Treasurer in payment of debt service referable to authority

1 obligations and in payment of other obligations of the
2 authority incurred pursuant to this division; provided,
3 however, that if directed so to do by a resolution of the
4 directors, the State Treasurer shall transfer from the special
5 fund to the General Fund of the state or to such Maintenance
6 Fund established by the authority for payment of the costs of
7 acquiring, operating and maintaining any project or other
8 facilities the authority may at any time own, acquire or
9 operate and to pay any other costs, expenses or obligations of
10 the authority, moneys and securities the directors determine
11 are not needed to meet the aforesaid obligations of the
12 authority; provided, however, that no such transfer to the
13 General Fund or Maintenance Fund shall be made during any year
14 in which any authority obligations are outstanding unless,
15 with respect to each of the two fiscal years immediately
16 preceding the fiscal year in which such transfer is proposed
17 to be made, the amount of money that had been deposited from
18 time to time into the special fund was not less than 1.3 times
19 the maximum annual debt service payable on all authority
20 obligations outstanding during such fiscal year.

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

24 (b) Pending disbursement for the above purposes,
25 moneys on deposit in the special fund shall be invested by the

1 State Treasurer in eligible investments as specified by the
2 directors.

3 (c) The Governor, on behalf of the state, and the
4 authority are hereby authorized to enter into a funding
5 agreement pursuant to which the state may agree, in the event
6 that moneys are withdrawn during any fiscal year of the state
7 from any reserve fund established by the authority for any of
8 its bonds owing to the inadequacy of pledged revenues to pay
9 when due debt service thereon as herein provided for, to
10 provide funds to the authority not in excess of the amount so
11 withdrawn from whatever source lawfully available to the state
12 for that purpose in order to fully fund such reserve fund in
13 accordance with the proceedings of the authority pursuant to
14 which the authority issued the bonds for which such reserve
15 fund was established. Any funding agreement entered into
16 pursuant hereto shall be executed by the Governor and
17 countersigned by the Finance Director of the state and by the
18 President of the authority and countersigned by the Secretary
19 of the authority."

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

22 "§41-10-551.

23 "No authority obligations shall be incurred with
24 respect to any ~~project~~training facility and no funds of the
25 authority shall be applied to payment of training facility

1 management fees pursuant to Section 41-10-550 unless the
2 following conditions are met:

3 (1) Subject to subdivisions (3), (4), and (5) of
4 this subsection, in the case of any ~~project~~training facility
5 financed in whole or in part through the issuance of bonds of
6 the authority, title to the financed property shall be
7 acquired in the name of, or transferred promptly after
8 acquisition to, the authority and the title shall remain in
9 the authority.

10 (2) Subject to subdivisions (3), (4), and (5) of
11 this subsection, in the case of any ~~project~~training facility
12 financed in whole or in part through the issuance of
13 authority-guaranteed obligations, title to the financed
14 property shall be acquired in the name of, or transferred
15 promptly after acquisition to, the development agency issuing
16 such authority-guaranteed obligations and the title shall
17 remain in the development agency.

18 (3) In the case of any ~~project~~training facility
19 constituting an industrial or research facility and financed
20 in whole or in part through the issuance of bonds of the
21 authority or authority-guaranteed obligations, the financed
22 property may be leased to any person under an agreement
23 containing such provisions as the authority may require,
24 including without limitation, provisions for the payment of
25 nominal rental by the lessee.

1 (4) In the case of any projecttraining facility
2 constituting an industrial or research facility and financed
3 in whole or in part through the issuance of bonds of the
4 authority or authority-guaranteed obligations, the financed
5 property may be acquired and held in the name of any person,
6 provided that the authority may require such person to enter
7 into an agreement containing, among other things, an option by
8 the authority to purchase or otherwise acquire such
9 projecttraining facility if the operation of the
10 projecttraining facility by such person ceases.

11 (5) In the case of the issuance of bonds of the
12 authority to provide funds for payment of project costs
13 referable to a training facility or training facility
14 management fees or in the case of direct funding of training
15 facility management fees pursuant to the provisions of Section
16 41-10-549 without the issuance of bonds of the authority, the
17 authority may enter into an agreement with any person to
18 provide for operation and management of such training facility
19 by such person and to prescribe the terms and conditions upon
20 which training facility management fees are to be paid or
21 reimbursed by the authority from the proceeds of the bonds.
22 Such agreement shall contain such other provisions as the
23 authority may require. Without limiting the generality of the
24 foregoing, the authority shall have the power to lease or
25 convey title to any training facility to the Alabama Public

1 School and College Authority or to the State Board of
2 Education, acting by and through the Alabama Industrial
3 Development Training Institute, and such agencies shall have
4 the power to acquire title to or a leasehold interest in any
5 such training facility."

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

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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 06-APR-10, as amended.

Greg Pappas
Clerk

Senate 22-APR-10 Passed