

1 SB219  
2 127261-1  
3 By Senator Waggoner  
4 RFD: Finance and Taxation Education  
5 First Read: 22-MAR-11

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8 SYNOPSIS: This bill authorizes county and city boards  
9 of education, with the approval of the State  
10 Superintendent of Education, to issue  
11 interest-bearing warrants for educational purposes  
12 payable from such revenues or tax proceeds as are  
13 lawfully available. The warrants would be sold at  
14 public or private sale, and the warrants would be  
15 tax exempt.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

20  
21 Relating to financing for public education, to  
22 authorize county and city boards of education to issue  
23 interest-bearing warrants for educational purposes, with the  
24 approval of the State Superintendent of Education, and payable  
25 from such revenues or tax proceeds as are lawfully available;  
26 the warrants would be sold at public or private sale, and the  
27 warrants and interest thereon are tax exempt.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. (a) It is the intention of the  
3 Legislature by the adoption of this act to authorize each  
4 county board of education and each city board of education in  
5 the State of Alabama to issue and sell, at public or private  
6 sale, upon the prior written approval of the State  
7 Superintendent of Education, warrants payable from, and  
8 secured by a pledge of, any revenues of such board which are  
9 lawfully available therefor, for educational and public school  
10 purposes, including, without limitation, payment of the costs  
11 of public school facilities and the refunding of valid  
12 indebtedness of such board, regardless of whether such  
13 indebtedness was incurred under this act or under other  
14 provisions of law and regardless of whether such indebtedness  
15 is a direct or indirect obligation of such board and to  
16 authorize counties and municipalities to provide financial and  
17 other assistance to boards of education within the  
18 jurisdiction thereof.

19 (b) This act shall be liberally construed in  
20 conformity with the foregoing intention to effect the purposes  
21 of this act.

22 Section 2. The following terms, as used in this act,  
23 shall have the following meanings:

24 (1) BOARD. A county board of education or a city  
25 board of education

26 (2) COSTS. When used with reference to or in  
27 connection with any public school facility or any portion

1       thereof, all or any part of the cost of acquiring,  
2       constructing, altering, enlarging, extending, reconstructing,  
3       or remodeling such facility, including the cost of all lands,  
4       structures, real or personal property, rights, rights-of-way,  
5       franchises, easements, permits, licenses, and interests  
6       acquired or used for, in connection with, or with respect to  
7       such public school facility, the cost of demolishing or  
8       removing any buildings or structures on land so acquired,  
9       including the cost of acquiring land to which such buildings  
10      or structures may be moved, the cost of all machinery,  
11      equipment, furniture, furnishings, fixtures, and tangible and  
12      intangible personal property acquired or used for, in  
13      connection with, or with respect to such public school  
14      facility, the cost of architectural, engineering, financial,  
15      and legal services incurred in connection with the acquisition  
16      or construction of all or any part of such public school  
17      facility and the financing thereof, including the expenses of  
18      preparing plans, specifications, surveys, and studies to  
19      determine the financial or engineering feasibility of such  
20      public school facility, capitalized interest on money borrowed  
21      to pay the costs of such public school facility prior to,  
22      during, and for a period of not exceeding one year following  
23      the estimated completion of the acquisition or construction of  
24      such public school facility, amounts used to fund reserves for  
25      the payment of debt service, repair and replacement costs, and  
26      operating expenses, and such other expenses as may be incident

1 to the acquisition, construction, and financing of such public  
2 school facility and the placement thereof in operation.

3 (3) PUBLIC PERSON. An agency, board, commission,  
4 department, instrumentality, or corporation of the State of  
5 Alabama; a county, municipality, or other political  
6 subdivision of the State of Alabama; and a public authority,  
7 board, or corporation created by a county or municipality or  
8 of which a county or municipality is a member.

9 (4) PUBLIC SCHOOL FACILITIES. All tangible and  
10 intangible property and interests in property, whether real,  
11 personal, or mixed, used or useful for educational and public  
12 school purposes and related purposes, including, without  
13 limitation, land and rights or interests in land, school  
14 buildings and playgrounds, classrooms, libraries, auditoriums,  
15 gymnasiums, recreational and sport facilities, stadiums,  
16 arenas, facilities for the performing arts, offices, school  
17 buses, buildings for housing and repairing school buses,  
18 cafeterias and dining facilities, laboratories, office  
19 facilities, equipment, furniture and fixtures,  
20 telecommunication facilities, heating and cooling facilities,  
21 and related property.

22 (5) REFUNDABLE DEBT. With respect to any board, (i)  
23 any valid indebtedness of the board evidenced by warrants  
24 issued pursuant to this act, (ii) any valid indebtedness or  
25 obligations of the board issued pursuant to any provision of  
26 law other than this act, and (iii) any valid indebtedness or  
27 obligations of the board incurred pursuant to any agreement of

1 the board to pay the valid indebtedness or obligation of  
2 another public person.

3 (6) WARRANTS. The warrants authorized to be issued  
4 by a board pursuant to this act.

5 Section 3. (a) In addition to all other notes,  
6 obligations, warrants, and other forms or types of  
7 indebtedness which a board shall have the power to issue  
8 pursuant to laws other than this act, a board shall have full  
9 and continuing power from time to time to issue and sell  
10 warrants of the board under this act for educational and  
11 public school purposes, including, without limitation, the  
12 following:

13 (1) For the purpose of paying the costs of public  
14 school facilities.

15 (2) For the purpose of paying or refunding all or  
16 any portion, principal or interest or premium, of any  
17 refundable debt then outstanding, whether the refunding shall  
18 occur before, at, or after the maturity of the refundable debt  
19 to be refunded.

20 (3) For the payment of extraordinary, nonrecurring  
21 items that are not customarily payable from current revenues,  
22 including, without limitation, casualty losses, legal  
23 judgments, and payments due upon early termination of  
24 contractual agreements or prepayment of indebtedness.

25 (4) For the purpose of providing any money or moneys  
26 deemed necessary by the board to provide for the

1 administration and operation of the board to the expiration of  
2 the fiscal year.

3 (5) For other purposes for which a board is  
4 authorized by law to expend money.

5 (b) A board may issue refunding warrants in exchange  
6 for the instruments evidencing the refundable debt to be  
7 refunded, or a board may issue and sell refunding warrants and  
8 apply the proceeds thereof to the purchase, redemption, or  
9 payment of refundable debt. Refunding warrants may be issued  
10 in the principal amount determined by the board, including,  
11 without limitation, the following:

12 (1) The outstanding principal amount of the  
13 refundable debt to be refunded.

14 (2) The interest accrued or to accrue on the  
15 instruments evidencing the refundable debt to be refunded  
16 until the respective maturities thereof, or if any of the  
17 instruments evidencing the refundable debt to be refunded are  
18 to be called for redemption, either on the earliest date on  
19 which under their terms they may be redeemed or some later  
20 date or dates, the interest accrued or to accrue thereon until  
21 the date or dates on which they are to be called for  
22 redemption.

23 (3) The amount of any redemption premium required,  
24 by the terms of the instruments evidencing the refundable  
25 debt, to be paid as a condition to their redemption prior to  
26 their respective maturities.

1           (4) The amount of any costs, as defined in Section  
2 5(d) (2), incurred in connection with the refunding.

3           (c) Each board shall have the power to enter into  
4 and perform all contracts with banks or trust companies,  
5 insurance or surety companies, governmental entities,  
6 investment banking firms, and other persons to the extent that  
7 such board determines that the contracts are necessary or  
8 desirable to issue and sell warrants and to secure and provide  
9 for the payment thereof.

10           (d) Any court having jurisdiction shall issue  
11 mandamus for the payment of the principal of and interest on  
12 warrants issued under this act, when and as the same becomes  
13 due and payable, upon proper proof of nonpayment thereof, or  
14 noncompliance with the provisions of law with respect thereto,  
15 being furnished by or on behalf of any owner of any warrant  
16 issued under this act.

17           Section 4. (a) Warrants issued under this act shall  
18 not be general obligations of the board issuing the warrants,  
19 but shall be payable solely from any revenues or tax proceeds  
20 of the board which may be lawfully applied to the payment of  
21 indebtedness of the board, including funds derived from any  
22 one or more of the following sources:

23           (1) The proceeds of any ad valorem tax voted under  
24 the constitution for the purpose of paying such warrants, or  
25 for educational or public school purposes, and paid,  
26 apportioned, allocated, or distributed to or for the benefit  
27 of the board.



1           (2) The proceeds of any privilege, license, or  
2 excise tax or taxes that may be paid, apportioned, allocated,  
3 or distributed to or for the benefit of the board.

4           (3) The proceeds of any revenues of whatsoever kind  
5 or nature, including, without limitation, payments pursuant to  
6 agreements delivered pursuant to this act and payments in lieu  
7 of taxes, that may be paid, apportioned, allocated, or  
8 distributed to or for the benefit of the board by any  
9 governmental or taxing authority or public person pursuant to  
10 law or contractual agreement.

11           (b) Any board issuing any warrants under this act  
12 shall specify, in the proceedings authorizing the warrants,  
13 the tax proceeds or revenues out of which the warrants are to  
14 be payable and may secure payment of the principal thereof and  
15 the interest thereon by a pledge of so much as may be  
16 necessary therefor of any of the tax proceeds or revenues.

17           (c) The pledge of any tax proceeds or revenues for  
18 the payment of warrants issued by any board pursuant to this  
19 act, together with any covenants of the board relating to the  
20 pledge, shall have the force of contract between the board and  
21 the owners of the warrants. To the extent necessary and  
22 sufficient for making the payments secured by any pledge of  
23 pledged tax proceeds or revenues made pursuant to this act,  
24 the pledged tax proceeds or revenues shall constitute a trust  
25 fund or funds which shall be impressed with a lien in favor of  
26 the owners of the warrants to the payment of which the tax  
27 proceeds or revenues are pledged. All warrants for which any

1 pledge authorized by this act may be made shall constitute  
2 preferred claims against that portion of the tax proceeds or  
3 revenues so pledged for the benefit thereof, and shall have  
4 preference over any claims for salaries or other operating  
5 expenses or any other purpose whatsoever. If more than one  
6 pledge has been made with respect to the same portion of any  
7 tax proceeds or revenues, then the pledge shall take  
8 precedence in the order in which they are made; provided that,  
9 if in the proceedings authorizing any such warrants and making  
10 any pledge therefor the board reserves the privilege of  
11 issuing additional warrants secured on a parity of pledge with  
12 the warrants authorized by the proceedings, then the  
13 additional warrants subsequently issued may be secured by such  
14 parity pledge in accordance with the provisions of the  
15 proceedings in which such privilege is reserved.

16 (d) A board may not pledge, for the benefit of any  
17 warrants issued under this act, any portion of the Foundation  
18 Program Fund moneys paid, apportioned, allocated, or  
19 distributed to it by law, or any portion of Public School Fund  
20 moneys paid, apportioned, allocated, or distributed to it by  
21 law, or any other revenues or tax proceeds of the State of  
22 Alabama paid, allocated, apportioned, or distributed to or for  
23 the benefit of such board.

24 (e) A board may issue warrants under this act  
25 payable from revenues of the board lawfully available therefor  
26 and secured by a pledge of tax proceeds on an equal and  
27 proportionate basis and parity of lien with outstanding

1 warrants theretofore issued by the board pursuant to laws  
2 other than this act.

3 Section 5. (a) Warrants issued pursuant to this act  
4 may be in the denomination or denominations; shall have a  
5 maturity or maturities not exceeding 30 years from their date;  
6 may bear interest from their date at the rate or rates payable  
7 in the manner at the times specified; may be payable at the  
8 place or places within or without the State of Alabama; may be  
9 sold for the price, at the time or times, and in the manner,  
10 whether publicly or privately, as provided in this act; may be  
11 subject to prepayment and redemption, at the times, for such  
12 prices, and upon the notice; and may contain the terms not in  
13 conflict with this act; all as the board may provide in the  
14 proceedings pursuant to which the warrants are authorized to  
15 be issued. The board may provide that the warrants shall bear  
16 interest at a rate or rates fixed at the time of the issuance  
17 thereof, or at fixed rates which may be changed from time to  
18 time during the term of the warrants in accordance with an  
19 objective procedure determined by the board at the time of the  
20 issuance of the warrants, or at a rate or rates which may  
21 change from time to time in connection with published interest  
22 rates or indices that reflect an objective response to market  
23 changes in interest rates by banks, governmental agencies, or  
24 other generally recognized public or private sources of  
25 information concerning interest rates, and the board may also  
26 provide that interest on the warrants may be payable in cash  
27 at fixed intervals, or through one or more payments which

1 reflect compound interest computed at specified intervals on  
2 accrued but unpaid interest, or through a discount in the  
3 sales price for the warrants equivalent to compound interest  
4 on the warrants for all or part of the term thereof, or  
5 through any combination of the foregoing methods of providing  
6 for the payment of interest.

7 (b) All warrants issued hereunder shall be executed  
8 in the name of the issuing board by the president of the  
9 board, shall be sealed with the seal of the board, and  
10 attested by the secretary of the board. All warrants issued  
11 hereunder bearing the signatures of officers in office on the  
12 date of the signing thereof shall be valid and binding  
13 obligations notwithstanding that before the delivery and  
14 payment thereof, such officers whose signatures appear thereon  
15 shall have ceased to be officers of the board.

16 (c) (1) All warrants issued under the authority of  
17 this act shall be sold at public or private sale as the board  
18 may determine and at such price or prices as the board may  
19 deem advantageous.

20 (2) If the warrants are sold at public sale, the  
21 public sale may be either on sealed bids or at auction or on a  
22 basis determined by the board to enable it to effect the sale  
23 of the warrants being sold at the lowest effective borrowing  
24 cost to the board. Notice of any public sale shall be given in  
25 the form and published in the manner and at the times as the  
26 board of directors may determine and direct. The notice of  
27 public sale shall state whether the sale is to be on sealed

1 bids or at auction or on such other basis as determined by the  
2 board, and shall also recite the amount of the warrants to be  
3 sold, the maturities thereof, the sources of payment and any  
4 pledge of tax proceeds or revenues, the amount payable at each  
5 maturity, any redemption or prepayment privileges, the  
6 frequency with which interest will be payable, either the rate  
7 of interest which the warrants are to bear or that the bidders  
8 are invited to name the rate of interest in their bids, and  
9 the time and place of sale or for submitting sealed bids. The  
10 governing body shall have the right to reject any or all bids.  
11 In determining the winning bidder for warrants offered for  
12 sale at any public sale held pursuant to this act, the lowest  
13 net interest cost to the board, as determined by the board,  
14 shall govern. The determination of the board as to what  
15 constitutes the lowest net interest cost shall be final and  
16 conclusive.

17 (d) (1) The proceeds of warrants issued under this  
18 act shall be used solely for the purpose for which the  
19 warrants are authorized to be issued.

20 (2) The board may apply proceeds of warrants issued  
21 under this act to the payment of the costs of issuing and  
22 selling such warrants, including, without limitation,  
23 underwriters' commissions and discounts, printing costs, fees  
24 of rating services, fees and disbursements of attorneys,  
25 accountants, financial advisors, and other consultants, fees  
26 and disbursements of trustees and escrow agents, and other  
27 incidental expenses, the costs of insurance, letters of

1 credit, or other third party commitments for the payment of  
2 such warrants or other debt instruments obtained in order to  
3 enhance the marketability thereof.

4 (3) Any proceeds of refunding warrants issued under  
5 this act, together with investment income therefrom, and  
6 moneys in any sinking fund for the refundable debt to be  
7 refunded, together with investment income therefrom, may be  
8 deposited in trust, on the terms as the board shall approve,  
9 with one or more trustees or escrow agents, which trustees or  
10 escrow agents shall be trust companies or national or state  
11 banks having trust powers within or without the State of  
12 Alabama. The proceeds of refunding warrants, together with the  
13 investment income therefrom, and moneys in any sinking fund  
14 for the refundable debt to be refunded, together with  
15 investment income therefrom, shall be available for the  
16 payment of all or any part of the principal of and the  
17 interest on any of the refunding warrants or for the payment  
18 of all or any part of the principal of and the interest and  
19 redemption premium, if any, on the refundable debt to be  
20 refunded, as the board, in its discretion, shall prescribe.  
21 Proceeds of refunding warrants shall be so invested and  
22 applied as to assure that the principal of and the interest  
23 and redemption premium, if any, on the refundable debt to be  
24 refunded shall be paid in full on the respective due dates of  
25 such principal, interest, and premium.

26 (e) The proceeds of warrants issued under this act  
27 may be invested in any debt obligation or other investment in

1 which a county or municipality may legally invest public  
2 revenues at the time of investment by a board.

3 Section 6. (a) Before selling any warrants, the  
4 board by which such warrants are proposed to be issued shall  
5 cause an application for approval of the warrants to be filed  
6 with the State Superintendent of Education. The application  
7 shall be in such form and shall contain the information the  
8 State Superintendent of Education may prescribe, and the  
9 superintendent may require such further information relating  
10 to the proposed warrants or other financial or education  
11 matters under the control of such board of education. He or  
12 she may not approve the issuance of any warrants: (i) If it  
13 would jeopardize the state's Foundation Program of education,  
14 as prescribed by law and the rules and regulations of the  
15 State Board of Education, or (ii) When the principal of or  
16 interest on any other notes or warrants previously issued by  
17 the board are overdue and unpaid, except to refund the same.  
18 The written approval of the State Superintendent of Education  
19 of the amount, terms, and general purpose of the warrants  
20 shall be a sufficient approval, but he or she may approve any  
21 of the terms and provisions of the warrants which may not be  
22 issued without the approval.

23 (b) The written approval of the State Superintendent  
24 of Education of the issuance of any warrants shall be a  
25 conclusive and final determination that all necessary evidence  
26 has been presented to the superintendent and a conclusive and  
27 final determination in favor the validity of the warrants that

1 all the requirements of this act have been complied with. The  
2 State Superintendent of Education may also determine  
3 conclusively and finally for all purposes relating to the  
4 validity of any warrants issued whether any other warrants  
5 constitute a preferred claim against the tax proceeds or  
6 revenues out of which the proposed warrants are payable. In  
7 all matters connected with his or her approval of warrants,  
8 the State Superintendent of Education shall comply with any  
9 regulations or instructions of the State Board of Education,  
10 but his or her failure to do so shall not affect the validity  
11 of the warrants approved by the State Superintendent of  
12 Education.

13 Section 7. Warrants reciting that they are issued  
14 pursuant to the terms of this act, in any action or proceeding  
15 involving their validity, shall be conclusively deemed to be  
16 fully authorized by this act and to have been issued, sold,  
17 executed, and delivered in conformity with this act and with  
18 all other provisions of law applicable thereto and shall be  
19 incontestable. Anything in this act or in other statutes to  
20 the contrary notwithstanding, an action or proceeding the  
21 validity of warrants issued under this act must be begun  
22 before or within 30 days after the day upon which the warrants  
23 are issued and paid for. No irregularity in the proceedings to  
24 authorize the issuance of warrants nor the omission or neglect  
25 of any officer charged with any duties imposed by this act  
26 shall affect the validity of any warrants issued.



1           Section 8. All warrants and interest accruing  
2 thereon issued shall forever be exempt from all state, county,  
3 municipal, and other taxation under the laws of the State of  
4 Alabama.

5           Section 9. All warrants authorized by this act, in  
6 the discretion of the board of education, may be validated in  
7 a proceeding in accordance with Sections 6-6-750 through  
8 6-6-757, Code of Alabama 1975, or any similar proceedings  
9 prescribed by law, but such proceedings shall not be essential  
10 to the validity of such warrants.

11           Section 10. The warrants issued pursuant to this act  
12 shall be legal investments for executors, administrators,  
13 trustees, and other fiduciaries.

14           Section 11. A county, with respect to the county  
15 board of education within its jurisdiction, and a municipality  
16 having a city board of education within its jurisdiction, with  
17 respect to the board, and any municipality without a city  
18 board of education, with respect to the county board of  
19 education within the jurisdiction of which the municipality is  
20 located, upon the terms and with or without consideration, as  
21 it may determine, may:

22           (1) Lend or donate money to, guarantee all or any  
23 part of the indebtedness or operating expense of, or perform  
24 services for the benefit of, the board.

25           (2) Donate, sell, convey, transfer, lease, or grant  
26 to the board, without the necessity of authorization at any  
27 election of qualified voters, any property of any kind,

1 including, but without limitation, any project, any interest  
2 in any thereof, and any franchise.

3 (3) Do any and all things, whether or not  
4 specifically authorized in this section, not otherwise  
5 prohibited by law, that are necessary or convenient to aid and  
6 cooperate with the board in the planning, undertaking,  
7 acquisition, construction, financing, or operation of any of  
8 its public school facilities.

9 (4) Pay, or provide for the payment of, the  
10 principal of or interest on any then outstanding notes,  
11 warrants, or other obligations of the board.

12 (5) Issue its notes, warrants, bonds, and other  
13 forms or types of indebtedness in order to provide moneys to  
14 make any loan, donation, or payment authorized in this  
15 section.

16 Section 12. Insofar as the provisions of this act  
17 may be in conflict or inconsistent with any provisions of any  
18 other law concerning actions authorized by this act, this act  
19 shall control and govern, any other provision of law to the  
20 contrary notwithstanding. Subject to the foregoing, this act  
21 does and shall be construed to provide an additional and  
22 alternative method for the doing of the things authorized by  
23 this act and shall be regarded as supplemental and additional  
24 to other laws.

25 Section 13. This act shall become effective on the  
26 first day of the month following its passage and approval by  
27 the Governor, or its otherwise becoming law.

