

1 HB165
2 140229-3
3 By Representative McClendon
4 RFD: Education Policy
5 First Read: 07-FEB-12

1 ENGROSSED

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

8 Relating to public 9-12 education; to provide all
9 students and teachers, where available, approved textbooks and
10 instructional materials in electronic format and, where
11 feasible, to provide a pen-enabled: tablet, mobile computer,
12 or similar wireless electronic device for storing, reading,
13 accessing, exploring, and interacting with digital textbooks
14 and other instructional materials; to authorize the Alabama
15 Public School and College Authority to sell and issue up to
16 \$100,000,000 in aggregate principal amount of additional bonds
17 for the support of public education and to use such funds for
18 the acquisition and maintenance of computer equipment,
19 software, and digital textbooks; to authorize the Authority to
20 reimburse the Department of Finance and the State Treasurer's
21 office for costs incurred in providing services for the
22 Authority; to authorize the Authority to provide for the
23 details of the bonds and the sale and issuance thereof; to
24 make an appropriation and pledge for payment of the principal
25 and interest on the bonds from specific taxes necessary to pay
26 the principal and interest at their respective maturities and
27 to authorize the Authority to pledge for payment of the

1 principal and interest on the bonds the funds that are
2 appropriated and pledged; to provide for the investment of
3 funds by the State Treasurer; to provide that the bonds shall
4 not constitute a debt of the state but shall be limited
5 obligations payable out of the funds appropriated and pledged
6 therefor; to provide that the bonds and income therefrom shall
7 be exempt from all taxation in this state and that the bonds
8 may be used to secure deposits of funds of this state and its
9 political subdivisions, instrumentalities, and agencies and
10 for investment of fiduciary funds; to authorize the Authority
11 to establish procedures and requirements to ensure compliance
12 with the tax covenants with which the Authority must comply;
13 to exempt the bonds from the usury laws of the state; to
14 authorize the Authority to issue refunding bonds and give the
15 details of such refunding; to provide for the employment of
16 attorneys, fiscal advisors, trustees, paying agents,
17 investment bankers, banks, and underwriters and for the
18 payment of all expenses incurred in the issuance of the bonds;
19 to provide that after payment of the expenses of the issuance
20 of the bonds the proceeds from the sale thereof shall be
21 disbursed on order or warrants issued by or under the
22 direction of the Authority for the purposes for which the
23 bonds are authorized to be issued; to provide for the timely
24 expenditure of the proceeds from the sale of the bonds; to
25 provide that if any portion of this act should be held invalid
26 such holding shall not affect the validity of any other

1 portion thereof; and to provide a contingent implementation
2 date for the bond issue.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. (a) This section shall be known and may
5 be cited as the Alabama Ahead Act.

6 (b) Commencing with the 2012-2013 school year,
7 students in grades 9-12 shall be provided in electronic format
8 to the local boards of education schools which choose to
9 participate in Alabama Ahead, to the extent practicable and
10 obtainable from the publisher, textbooks adopted pursuant to
11 Article 3, commencing with Section 16-36-60, of Chapter 36 of
12 Title 16, Code of Alabama 1975, and other instructional
13 materials through a phased-in process. Digital textbooks and
14 other instructional materials provided in electronic format
15 shall support the appropriate course or courses of study.

16 (c) Where feasible, each public ninth grade student
17 and teacher will be provided in lieu of or in addition to
18 hardbound textbooks and other instructional materials, in
19 whole or in part, a pen-enabled: tablet, mobile computer, or
20 other similar wireless electronic device for storing, reading,
21 accessing, exploring, and interacting with digital textbooks
22 and other instructional materials. Each student provided with
23 a pen-enabled: tablet, mobile computer, or other similar
24 wireless electronic device, and his or her parent or legal
25 guardian, is responsible for maintaining the assigned device
26 in good working order throughout the school year and for

1 returning the device to the providing school at the end of the
2 school year.

3 (d) The following school year, the providing school
4 shall reassign the pen-enabled: tablet, mobile computer, or
5 other similar wireless electronic device to the students in
6 the tenth grade public school system while continuing to
7 provide incoming ninth grade public school students with a
8 pen-enabled: tablet, mobile computer, or other similar
9 wireless electronic device. This process will be repeated in
10 participating school systems to ensure a planned roll-over of
11 devices and continued support.

12 (e) The Department of Education shall lead,
13 implement, provide oversight, and administer this act and
14 shall adopt such rules as necessary in accordance with an
15 implementation plan. This plan shall include, but is not
16 limited to, the following: Minimum specifications for devices;
17 learning management system; maintenance and support
18 requirements of the electronic devices authorized in this act;
19 current readiness of participating schools' wireless networks;
20 professional development for teachers; application process for
21 school systems participating.

22 (f) On or before October 1, 2012, and prior to
23 implementation of this section, the State Department of
24 Education shall provide a copy of the proposed implementation
25 plan to the Chair of the Senate Education Policy Committee and
26 the Chair of the House of Representatives Education Policy
27 Committee.

1 (g) The State Department of Education shall
2 establish an advisory committee to assist in the
3 implementation of this act. The membership of the committee
4 shall include, but not be limited to, the House of
5 Representatives and Senate sponsors of the primary legislation
6 establishing the Alabama Ahead Act, a member of the House of
7 Representatives as appointed by the Speaker of the House of
8 Representatives, and a member of the Senate as appointed by
9 the President Pro Tempore of the Senate.

10 (h) The membership shall be inclusive and shall
11 reflect the racial, gender, geographic, urban/rural, and
12 economic diversity of the state.

13 Section 2. Definitions. Wherever used in this act,
14 the following terms shall have the following meanings unless
15 the context clearly indicates otherwise:

16 (1) "1965 Act" means Act No. 243 enacted at the 1965
17 First Special Session of the Legislature, codified as Title
18 16, Chapter 16, Code of Alabama 1975.

19 (2) "1971 Acts" means Act No. 94 enacted at the 1971
20 First Special Session of the Legislature, Act No. 2428 enacted
21 at the 1971 Regular Session of the Legislature, and Act No. 56
22 enacted at the 1971 Second Special Session of the Legislature.

23 (3) "1973 Act" means Act No. 1277 enacted at the
24 1973 Regular Session of the Legislature as amended by Act No.
25 73 enacted at the 1975 Third Special Session of the
26 Legislature and Act No. 1223 enacted at the 1975 Regular
27 Session of the Legislature.

1 (4) "1978 Act" means Act No. 138 enacted at the 1978
2 Second Special Session of the Legislature, as amended by Act
3 No. 79-41 enacted at the 1979 Special Session of the
4 Legislature and Act No. 81-827 enacted at the 1981 Regular
5 Session of the Legislature.

6 (5) "1985 Act" means Act No. 85-943 enacted at the
7 1985 Second Special Session of the Legislature.

8 (6) "1990 Act" means Act No. 90-280 enacted at the
9 1990 Regular Session of the Legislature.

10 (7) "1995 Act" means Act No. 95-752 enacted at the
11 1995 Regular Session of the Legislature.

12 (8) "1998 Act" means Act No. 98-373 enacted at the
13 1998 Regular Session of the Legislature.

14 (9) "1999 Act" means Act No. 99-348 enacted at the
15 1999 Regular Session of the Legislature.

16 (10) "2001 Act" means Act No. 2001-668 enacted at
17 the 2001 Regular Session of the Legislature.

18 (11) "2002 Act" means Act No. 2002-240 enacted at
19 the 2002 Regular Session of the Legislature.

20 (12) "2003 Act" means Act No. 2003-436 enacted at
21 the 2003 Second Special Session of the Legislature.

22 (13) "2007 Act" means Act No. 2007-414 enacted at
23 the 2007 Regular Session of the Legislature.

24 (14) "Authority" means Alabama Public School and
25 College Authority.

26 (15) "Bonds" (except where that word is used with
27 reference to bonds issued under another act) means those

1 bonds, other than Refunding Bonds, issued under the provisions
2 of this act.

3 (16) "Computer Equipment and Software" means
4 pen-enabled: tablets, mobile computers, or similar wireless
5 electronic devices for storing, reading, accessing, exploring,
6 and interacting with digital textbooks and other instructional
7 material as well as software necessary for such equipment,
8 learning management system, and equipment necessary to support
9 wireless local area networks.

10 (17) "Digital Textbooks" means an interactive,
11 multimedia electronic book or digital resources that can be
12 used creatively by learners.

13 (18) "Government Securities" means any bonds or
14 other obligations which as to principal and interest
15 constitute direct obligations of, or are unconditionally
16 guaranteed by, the United States of America, including
17 obligations of any federal agency to the extent such
18 obligations are unconditionally guaranteed by the United
19 States of America and any certificates or any other evidences
20 of an ownership interest in such obligations of, or
21 unconditionally guaranteed by, the United States of America or
22 in specified portions thereof (which may consist of the
23 principal thereof or the interest thereon).

24 (19) "Legislature" means the Legislature of Alabama.

25 (20) "Permitted Investments" means (i) Government
26 Securities; (ii) bonds, debentures, notes or other evidences
27 of indebtedness issued by any of the following agencies: Bank

1 for Cooperatives; Federal Intermediate Credit Banks; Federal
2 Financing Bank; Federal Home Loan Banks; Federal Farm Credit
3 Bank; Export-Import Bank of the United States; Federal Land
4 Banks; or Farmers Home Administration or any other agency or
5 corporation which has been or may hereafter be created by or
6 pursuant to an act of the Congress of the United States as an
7 agency or instrumentality thereof; (iii) bonds, notes, pass
8 through securities or other evidences of indebtedness of
9 Government National Mortgage Association and participation
10 certificates of Federal Home Loan Mortgage Corporation; (iv)
11 full faith and credit obligations of any state, provided that
12 at the time of purchase such obligations are rated at least
13 "AA" by Standard & Poor's Ratings Group and at least "Aa" by
14 Moody's Investors Service; (v) public housing bonds issued by
15 public agencies or municipalities and fully secured as to the
16 payment of both principal and interest by contracts with the
17 United States of America, or temporary notes, preliminary
18 notes or project notes issued by public agencies or
19 municipalities, in each case fully secured as to the payment
20 to both principal and interest by a requisition or payment
21 agreement with the United States of America; (vi) time
22 deposits evidenced by certificates of deposit issued by banks
23 or savings and loan associations which are members of the
24 Federal Deposit Insurance Corporation, provided that, to the
25 extent such time deposits are not covered by federal deposit
26 insurance, such time deposits (including interest thereon) are
27 fully secured by a pledge of obligations described in clauses

1 (i), (ii), (iii), and (v) above, which at all times have a
2 market value not less than the amount of such bank time
3 deposits required to be so secured and which meet the greater
4 of 100 percent collateralization or the "AA" collateral levels
5 established by Standard & Poor's Ratings Group for structured
6 financings; (vii) repurchase agreements for obligations of the
7 type specified in clauses (i), (ii), (iii), and (v) above,
8 provided such repurchase agreements are fully collateralized
9 and secured by such obligations which have a market value at
10 least equal to the purchase price of such repurchase
11 agreements which are held by a depository satisfactory to the
12 State Treasurer in such manner as may be required to provide a
13 perfected security interest in such obligations, and which
14 meet the greater of 100 percent collateralization or the "AA"
15 collateral levels established by Standard & Poor's Ratings
16 Group for structured financings; and (viii) uncollateralized
17 investment agreements with, or certificates of deposit issued
18 by, banks or bank holding companies, the senior long-term
19 securities of which are rated at least "AA" by Standard &
20 Poor's Ratings Group and at least "Aa" by Moody's Investors
21 Service.

22 (21) "Refunding Bonds" means those refunding bonds
23 issued under the provisions of this act.

24 (22) "State" means the State of Alabama.

25 (23) "Trust Fund" means the Education Trust Fund,
26 formerly designated as the Alabama Special Educational Trust
27 Fund, the name of which was changed to the Education Trust

1 Fund, effective October 1, 1996, pursuant to Act No. 95-264
2 enacted at the 1995 Regular Session of the Legislature.

3 Nouns and pronouns when used in this act shall be
4 deemed to include both singular and plural and all applicable
5 genders.

6 Section 3. Authorization to Issue Additional Bonds
7 and Purposes Thereof.

8 (a) The Authority is hereby authorized to sell and
9 issue its Bonds in the aggregate principal amount of up to
10 \$100,000,000 and to apply the proceeds as provided in this
11 act, to include the following purposes: Paying the costs of
12 acquisition and maintaining computer equipment, software, and
13 digital textbooks for public education purposes in the State.

14 (b) The Bonds authorized by this act to be issued by
15 the Authority shall be in addition to all other bonds
16 previously authorized to be issued by it, and the powers
17 conferred on the Authority by this act are in addition to all
18 other powers heretofore conferred on the Authority by acts
19 heretofore enacted by the Legislature.

20 Section 4. Execution and Other Details of the Bonds.
21 The Bonds shall be signed by the president or vice-president
22 of the Authority, and the seal of the Authority affixed
23 thereto (or a facsimile thereof imprinted thereon) and
24 attested by its secretary. All signatures of the president,
25 vice-president, and secretary may be facsimile signatures if
26 the Authority, in its proceedings with respect to issuance,
27 provides for manual authentication (which may be in the form

1 of a certificate as to registration) of the Bonds by a
2 trustee, registrar or paying agent or by named individuals who
3 are employees of the State and who are assigned to the Finance
4 Department or State Treasurer's Office of the State. All Bonds
5 bearing signatures or facsimiles of the signatures of officers
6 of the Authority in office on the date of signing thereof
7 shall be valid and binding notwithstanding that before the
8 delivery thereof and payment therefor, any officer whose
9 signature appears thereon shall have ceased to be an officer
10 of the Authority. The Bonds and the income therefrom shall be
11 exempt from all taxation in the State of Alabama, may be used
12 as security for deposits, and shall be eligible for
13 investments of fiduciary funds, as provided in the 1965 Act.
14 The Bonds shall be construed to have all the qualities and
15 incidents of negotiable instruments subject to any
16 registration provisions pertaining to transfers. The Authority
17 and the Bonds shall be exempt from all laws of the State
18 governing usury including, without limitation, the provisions
19 of Title 8, Chapter 8, Code of Alabama 1975, or any subsequent
20 statute of similar import. The Bonds shall be in such form or
21 forms and denomination or denominations and of such tenor and
22 maturities, shall bear such rate or rates of interest payable
23 and evidenced in such manner, may be made subject to
24 redemption prior to their maturities, and may contain
25 provisions not inconsistent with this act, all as may be
26 provided by the resolution of the Authority under which the
27 Bonds may be issued; provided, that no Bonds shall have a

1 specified maturity date later than twenty years after their
2 date; and provided further, that those Bonds having maturities
3 more than ten years after their date shall be subject to
4 redemption at the option of the Authority on any date on and
5 after the tenth anniversary after their date at such
6 redemption price or prices and under such conditions as may be
7 prescribed in the proceedings of the Authority under which
8 they are issued. For the purpose of paying the principal of,
9 premium, if any, and interest on the Bonds or any Refunding
10 Bonds, the Authority shall designate the State Treasurer or
11 such bank or banks as the Authority, in its discretion,
12 determines to be appropriate and desirable. Funds for the
13 payment of debt service shall be transferred by the Authority
14 or the State Treasurer on behalf of the Authority to the
15 designated paying agent on the actual due date of such
16 principal, premium, if any, or interest.

17 Section 5. Sale of the Bonds. The Bonds may be sold
18 by the Authority from time to time in series, and if sold in
19 more than one series, may all be authorized in one initial
20 resolution of the Authority with the pledges therefor made by
21 the Authority in such initial resolution although some of the
22 details applicable to each series may be specified in the
23 respective resolutions under which the different series are
24 issued. The Authority, in the course of establishing, by
25 resolution, a principal amount of Bonds to be authorized for
26 sale at any given time, or to be sold in any series, may take
27 into account the existence of any unexpended proceeds of prior

1 issues of bonds of the Authority (and of any other issuer, if
2 such should be deemed by the Authority to be relevant), and
3 may structure the portions of the allocations provided for in
4 Section 9 of this act to be distributed from the proceeds of a
5 particular series (constituting less than all the Bonds
6 authorized by this act) as the Authority deems necessary or
7 prudent in order to enable the Authority to comply with any
8 tax covenants that may be required of it, or that may be
9 deemed by it to be prudent to be given by it, in connection
10 with the sale of any series of the Bonds. Each series of the
11 Bonds shall be sold competitively only at public sale, on
12 sealed bids which may be submitted either electronically or in
13 writing, after such advertisement as shall be prescribed by
14 the Authority and at such time or times as the Authority may
15 consider advantageous, to the bidder whose bid reflects the
16 lowest true interest cost to the Authority computed to the
17 respective maturities of the Bonds being sold (considering
18 mandatory redemption as scheduled maturity); provided, that if
19 no bid deemed acceptable by the Authority is received it may
20 reject all bids. The Authority may fix the method and the
21 terms and conditions under which the sale of any series of the
22 Bonds may otherwise be held; provided that such terms and
23 conditions shall not conflict with any requirement of this
24 act. Approval by the Governor of Alabama of the terms and
25 conditions under which any of the Bonds may be issued shall be
26 requisite to their validity. Before any series of the Bonds
27 shall be offered for sale by the Authority, the Governor shall

1 first determine that the issuance of that series of Bonds and
2 the application of the taxes pledged to the payment of the
3 principal of the Bonds as they mature and the interest thereon
4 as the same shall come due will not impair the adequacy of the
5 Trust Fund to pay appropriations therefrom and to support the
6 public schools and institutions of higher learning during the
7 period over which the Bonds will mature. The Governor's
8 determination in this regard shall be in writing signed by the
9 Governor and such determination shall be final and conclusive.
10 Neither a public hearing nor consent of the State Department
11 of Finance or any other department or agency shall be a
12 prerequisite to the issuance of any of the Bonds.

13 Section 6. Appropriation of Revenues to the
14 Authority; Pledge Thereof for the Benefit of the Bonds. For
15 the purpose of providing for payment of the principal, premium
16 (if any), and interest on the Bonds, and to accomplish the
17 objectives of this act, there is hereby irrevocably pledged to
18 those purposes, and hereby appropriated, such amount as may be
19 necessary therefor from the following sources:

20 (a) The residue of the receipts from the excise tax
21 ("the utility gross receipts tax") levied by Title 40, Chapter
22 21, Article 3, Code of Alabama 1975, as amended ("Article 3"),
23 remaining after payment of the expenses of administration and
24 enforcement of Article 3, being that portion of the tax that
25 is required by Article 3 to be deposited in the State Treasury
26 to the credit of the Trust Fund, after there shall have been
27 taken from the residue the amount necessary to pay at their

1 respective maturities the principal of and interest on those
2 bonds issued by the Authority under the 1965 Act, the 1971
3 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,
4 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the
5 2002 Act, the 2003 Act, the 2007 Act, or this Act that may be
6 outstanding at the time of the delivery of the respective
7 series of the Bonds authorized herein;

8 (b) The residue of the receipts from the excise tax
9 ("the utility service use tax") levied by Title 40, Chapter
10 21, Article 4, Code of Alabama 1975 ("Article 4"), remaining
11 after payment of the expenses of administration and
12 enforcement of Article 4, being that portion of the tax that
13 is required by Article 4 to be deposited in the State Treasury
14 to the credit of the Trust Fund, after there shall have been
15 taken from the residue the amount necessary to pay at their
16 respective maturities the principal of and interest on those
17 bonds issued by the Authority under the 1965 Act, the 1971
18 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,
19 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the
20 2002 Act, the 2003 Act, the 2007 Act, or this Act that may be
21 outstanding at the time of the delivery of the respective
22 series of the Bonds authorized herein;

23 (c) To the extent and to the extent only that the
24 revenues appropriated in the foregoing subsections (a) and (b)
25 of this Section may not be sufficient to pay at their
26 respective maturities the principal of, premium, if any, and
27 interest on the Bonds, the residue of the receipts from the

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

18 (d) To the extent and to the extent only that the
19 revenues appropriated in the foregoing subsections (a), (b),
20 and (c) of this Section may not be sufficient to pay at their
21 respective maturities the principal of, premium, if any, and
22 the interest on the Bonds, the residue of the receipts from
23 the excise tax ("the use tax") levied by Title 40, Chapter 23,
24 Article 2, Code of Alabama 1975, as amended ("Article 2"),
25 after there shall have been taken from the residue the amount
26 necessary to meet the expenses of the State Department of
27 Revenue in collecting the use tax (which residue constitutes

1 that portion of the receipts from the use tax that is now
2 required by law to be paid into the Trust Fund), and after
3 there shall have been taken from the residue such amounts as
4 may be necessary to meet all prior charges on the use tax
5 including the amounts sufficient to pay at their respective
6 maturities the principal of and interest on those outstanding
7 bonds referred to in subsection (c) of this Section.

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

17 Section 7. Bonds to be Payable Solely out of the
18 Revenues Appropriated; Authorization for Authority to Pledge
19 Such Revenues for the Bonds. The Bonds shall not be general
20 obligations of the Authority but shall be limited obligations
21 payable solely out of the residues of the tax receipts
22 appropriated and pledged in Section 6 of this act. All Bonds
23 issued by the Authority pursuant to the provisions of this act
24 shall be solely and exclusively obligations of the Authority
25 and shall not constitute or create an obligation or debt of
26 the State. As security for the payment of the principal of,
27 premium, if any, and interest on the Bonds, the Authority is

1 hereby authorized and empowered to pledge the residues of the
2 tax receipts that are appropriated and pledged in Section 6
3 hereof for such purposes. All such pledges made by the
4 Authority shall take precedence in the order of the adoption
5 of the resolutions containing the pledges. All such pledges
6 shall be prior and superior to any pledges that may be made
7 for any refunding bonds hereafter issued by the Authority
8 under the provisions of any of the 1965 Act, the 1971 Acts,
9 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the
10 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002
11 Act, the 2003 Act, the 2007 Act, or any other act heretofore
12 enacted.

13 Section 8. Refunding Bonds. For the purpose of
14 refunding any Bonds or Refunding Bonds of the Authority issued
15 under the provisions of this act, the 1965 Act, the 1971 Acts,
16 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the
17 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002
18 Act, the 2003 Act, the 2007 Act or any other act previously
19 enacted, or any combination thereof, whether such refunding
20 shall occur before, at or after the maturity of the Bonds
21 refunded and for the purpose of paying all premiums and
22 expenses of such refunding (including, but not limited to,
23 attorneys' fees, costs of printing the Refunding Bonds, fiscal
24 agents' fees, and accountants' fees), the Authority is hereby
25 authorized to sell and issue its Refunding Bonds. Such
26 Refunding Bonds may be sold and issued from time to time, at
27 public sale, on sealed bids and on such other terms and

1 conditions as the Authority shall determine to be advantageous
2 and shall adopt and provide for in its proceedings for the
3 sale and issuance of such Refunding Bonds. Provided, however,
4 no Refunding Bonds shall be issued unless the present value of
5 all debt service on the Refunding Bonds (computed with a
6 discount rate equal to the true interest rate of the Refunding
7 Bonds and taking into account all underwriting discount and
8 other issuance expenses) shall not be greater than 95 percent
9 of the present value of all debt service on the Bonds to be
10 refunded (computed using the same discount rate and taking
11 into account the underwriting discount and other issuance
12 expenses originally applicable to such Bonds) determined as if
13 such Bonds to be refunded were paid and retired in accordance
14 with the schedule of maturities (considering mandatory
15 redemption as scheduled maturity) provided at the time of
16 their issuance. Provided further that the average maturity of
17 the Refunding Bonds, as measured from the date of issuance of
18 such Refunding Bonds, shall not exceed by more than three
19 years the average maturity of the Bonds to be refunded, as
20 also measured from such date of issuance, with the average
21 maturity of any principal amount of Bonds to be determined by
22 multiplying the principal of each maturity by the number of
23 years (including any fractional part of a year) intervening
24 between such date of issuance and each such maturity, taking
25 the sum of all such products, and then dividing such sum by
26 the aggregate principal amount of Bonds for which the average
27 maturity is to be determined. For the purpose of providing

1 funds to enable the Authority to pay at their respective
2 maturities the principal of, premium, if any, and interest on
3 the Refunding Bonds issued under this act, the Authority is
4 hereby authorized to pledge irrevocably for such purpose, and
5 there is hereby appropriated for such purpose, such amount as
6 may be necessary of the residues of the receipts from the
7 excise taxes pledged and appropriated in subsections (a), (b),
8 (c), and (d) of Section 6 of this act, any reserves or sinking
9 funds established by the Authority, as well as revenues of the
10 Authority from any other sources specified in the proceedings
11 wherein the Refunding Bonds are authorized to be issued.
12 Pending the application of the proceeds of Refunding Bonds
13 issued in accordance with this Section, the proceeds, together
14 with investment earnings therefrom, and amounts in any sinking
15 fund, together with investment earnings thereon, may be held
16 by the State Treasurer as treasurer of the Authority in trust,
17 or may be deposited by the State Treasurer in trust, on such
18 terms as the State Treasurer and the Authority shall approve,
19 with a trustee or escrow agent, which trustee or escrow agent
20 shall be a banking institution or trust company authorized to
21 exercise trust powers in Alabama, for investment in Permitted
22 Investments. Proceeds of Refunding Bonds shall be so invested
23 and applied as to assure that the principal, interest, and
24 redemption premium, if any, on the Bonds being refunded shall
25 be paid in full on the respective maturity, redemption, or
26 interest payment dates. Refunding Bonds issued by the
27 Authority shall not be general obligations of the Authority

1 but shall be payable solely from the sources specified in this
2 act and in the proceedings whereby the Refunding Bonds are
3 authorized to be issued. All Refunding Bonds issued by the
4 Authority shall be solely and exclusively obligations of the
5 Authority and shall not create debts of the State of Alabama.
6 The faith and credit of the State of Alabama shall never be
7 pledged for the payment of any Refunding Bonds issued by the
8 Authority under this act. The Authority may contract with
9 respect to the safekeeping and application of the proceeds of
10 Refunding Bonds and other funds included therewith and the
11 income therefrom, and shall have the right and power to
12 appoint a trustee therefor, which may be any bank or company
13 authorized to exercise trust powers and located within and/or
14 without the State. All other provisions of this act shall
15 apply to the Refunding Bonds issued hereunder except (a) the
16 limitation contained in Section 3 of this act on the amount of
17 Bonds that may be issued under this act and (b) the provisions
18 of Section 9 of this act. All pledges made by this act, or by
19 the Authority pursuant to the provisions of this act, for the
20 benefit of Refunding Bonds issued under this act, and all such
21 pledges for the benefit of Refunding Bonds which may be issued
22 to refund any bonds issued under any of the 1965 Act, the 1971
23 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,
24 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the
25 2002 Act, the 2003 Act, the 2007 Act or this Act, shall take
26 precedence in the order of the adoption of the resolutions
27 authorizing the issuance of such Refunding Bonds. Bonds

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

18 Section 9. Use of Bond Proceeds.

19 (a) The proceeds derived from each sale of the Bonds
20 issued pursuant to this act shall be deposited in the State
21 Treasury and shall be carried in a separate fund therein for
22 the account of the Authority, which shall pay the expenses of
23 issuance therefrom. The expenses of issuance of the Bonds
24 shall be prorated among the recipients of the proceeds from
25 the sale of the Bonds in proportions they receive allocations
26 of the proceeds thereunder. The proceeds from the sale of the
27 Bonds remaining after payment of the expenses of issuance

1 thereof shall be retained in said fund and, until they are
2 paid out, shall be invested by the State Treasurer at the
3 direction of the Authority in Permitted Investments maturing
4 at such time or times as the Authority shall direct.

5 (b) Proceeds from the sale of the Bonds and the
6 earnings thereon shall be paid out from time to time on orders
7 or warrants issued by or at the direction of the Authority to
8 the State Department of Education to be expended for the
9 acquisition and maintenance of the computer equipment,
10 software, and digital textbooks authorized in Section 1 of
11 this act.

12 Section 10. Notwithstanding any of the foregoing and
13 in addition to all powers heretofore granted to the Authority,
14 the Authority is hereby expressly authorized to use the
15 proceeds derived from the sale of Bonds and income on
16 Permitted Investments in accordance with the provisions of
17 this act. The Authority is hereby expressly permitted to pay
18 to the Department of Finance and the State Treasurer's Office,
19 from time to time and from any funds available to the
20 Authority, amounts to offset costs incurred in the
21 administration of the business of the Authority. The cost of
22 such compensation shall be prorated among the recipients of
23 proceeds of the Bonds in the same manner as the expenses of
24 issuance of the Bonds are required hereby to be prorated.

25 Section 11. Tax Exemption. The Authority shall have
26 the power to make such payments to the United States of
27 America as the board of directors of the Authority deems

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

10 Section 12. Issuance Expenses; Contracts and
11 Appointments. The Authority is authorized to pay out of
12 proceeds of any series of Bonds the costs and expenses
13 incurred in connection with the issuance of such Bonds,
14 including without limitation legal and accounting fees and
15 expenses, fees and expenses of any financial or fiscal advisor
16 employed by the Authority, printing costs, rating agency fees,
17 and premiums or charges for any credit enhancement or
18 liquidity providers. Notwithstanding any provision of this act
19 or the 1965 Act, in appointing, employing, or contracting with
20 attorneys, fiscal advisers, trustees, paying agents,
21 investment bankers, banks and underwriters, the Authority may
22 appoint, employ or contract with firms whose principal offices
23 are located without or within Alabama. The Authority shall
24 hire or contract with attorneys, fiscal advisors, trustees,
25 paying agents, investment bankers, banks, and underwriters
26 which reflect the racial and ethnic diversity of the state.
27 The Authority shall issue Requests For Proposals for

1 attorneys, fiscal advisors, trustees, paying agents,
2 investment bankers, banks, and underwriters. The Authority
3 shall evaluate each proposed bid publicly and award each
4 contract publicly. Minutes of the Authority's meeting shall
5 record the reasons for awarding each contract.

6 Section 13. Severability. In the event any section,
7 sentence, clause or provision of this act shall be declared
8 invalid by a court of competent jurisdiction, such action
9 shall not affect the validity of the remaining sections,
10 sentences, clauses, or provisions of this act, which shall
11 continue effective.

12 Section 14. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.
15 Sections 2 to 12, inclusive, shall be implemented only upon
16 separate legislative enactment providing a specific date for
17 implementation.

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House of Representatives

Read for the first time and re-ferred to the House of Representatives committee on Education Policy 07-FEB-12

Read for the second time and placed on the calendar with 1 substitute and..... 01-MAR-12

Read for the third time and passed as amended..... 01-MAY-12
Yeas 99, Nays 0, Abstains 2

Motion to reconsider adopted by Voice Vote.....01-MAY-12

Read for the third time and passed as amended..... 01-MAY-12
Yeas 99, Nays 0, Abstains 2

Greg Pappas
Clerk