

1 SB339
2 135911-2
3 By Senators Bussman, Whatley, Ward, Allen, Reed, Orr,
4 Scofield, Williams, Taylor, Holtzclaw, Pittman, Keahey, Marsh,
5 Waggoner, Sanford, McGill and Bedford
6 RFD: Agriculture, Conservation, and Forestry
7 First Read: 16-FEB-12

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8 SYNOPSIS: Under existing law, the Alabama Highway
9 Authority may issue bonds from time to time for the
10 financing and construction of public roads and
11 bridges.

12 This bill would provide for the financing
13 and construction of public roads and bridges in the
14 state by the issuance of additional bonds by the
15 Alabama Highway Authority; authorize the authority
16 to sell and issue from time to time not exceeding,
17 in the case of bonds other than refunding bonds,
18 six hundred fifty million dollars (\$650,000,000) in
19 aggregate principal amount of bonds; authorize the
20 authority, subject to certain findings and
21 determinations, to issue and sell refunding bonds
22 to refund bonds issued by the authority under this
23 act; provide for the details and the method of
24 execution of the bonds; provide for the bonds to be
25 sold at public sale and for the authority to
26 determine the manner, terms, and conditions of the
27 sale, and make other provisions respecting the sale

1 and the permitted uses, applications, and
2 investments of proceeds from the sale of bonds
3 including refunding bonds; provide for the
4 establishment, from the proceeds, of certain funds
5 and for the use of the funds and any investment
6 earnings thereon; create the Public Road and Bridge
7 Construction Council to review proposals and
8 authorize funding for projects; allocate proceeds
9 of bonds to pay construction costs for projects
10 authorized by the Council; permit the authority and
11 the Department of Transportation to enter into
12 agreements respecting the disbursement of proceeds
13 of bonds; provide that bonds issued under this act
14 shall not create an obligation or debt of the state
15 but shall be limited obligations payable solely out
16 of the revenues of the authority pledged therefor;
17 provide that the bonds may be used to secure
18 deposits of funds of the state and its
19 instrumentalities and agencies and shall be lawful
20 for the investment of trust funds; provide a
21 mechanism for defeasance of the bonds; appropriate
22 and pledge funds identified in this act to the
23 extent necessary to pay the principal of, premium,
24 if any, and interest on the bonds; authorize the
25 authority to pledge for payment of the principal
26 of, premium, if any, and interest on the bonds the
27 moneys appropriated and pledged in this act for the

1 purpose; preserve prior pledges and covenants by
2 the state; adopt certain provisions of the act of
3 the Legislature creating the authority; provide for
4 a covenant of the Legislature not to reduce below
5 certain levels appropriated and pledged taxes while
6 any of the bonds are outstanding and unpaid;
7 authorize the disbursement of moneys pledged for
8 payment of the bonds; provide that if any portion
9 of this act is held invalid the holding shall not
10 affect the validity of any other portion hereof;
11 and specify the effective date of this act.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 To make further provision for the financing and
18 construction of public roads and bridges in the state by the
19 issuance of bonds by the Alabama Highway Authority; to
20 authorize the authority to sell and issue from time to time
21 not exceeding, in the case of bonds other than refunding
22 bonds, six hundred fifty million dollars (\$650,000,000)
23 aggregate principal amount of bonds; to authorize the
24 authority, subject to certain findings and determinations, to
25 issue and sell refunding bonds to refund bonds issued by the
26 authority under this act; to provide for the details and the
27 method of execution of the bonds; to provide that the bonds

1 shall be sold at public sale and that the authority shall
2 determine the manner, terms, and conditions of the sale, and
3 to make other provisions respecting the sale and the permitted
4 uses, applications, and investments of proceeds from the sale
5 of the bonds including refunding bonds; to provide for the
6 establishment, from the proceeds, of certain funds and for the
7 use of the funds and any investment earnings thereon; to
8 create the Public Road and Bridge Construction Council to
9 review proposals and authorize funding for projects; to
10 allocate proceeds of bonds to pay construction costs for
11 projects authorized by the Council; to permit the authority
12 and the Department of Transportation to enter into agreements
13 respecting the disbursement of proceeds of bonds; to provide
14 that bonds issued under this act shall not create an
15 obligation or debt of the state but shall be limited
16 obligations payable solely out of the revenues of the
17 authority appropriated and pledged therefor; to provide that
18 the bonds may be used to secure deposits of funds of the state
19 and its instrumentalities and agencies and shall be lawful for
20 the investment of trust funds; to provide a mechanism for
21 defeasance of the bonds; to appropriate and pledge funds
22 identified in this act to the extent necessary to pay the
23 principal of, premium, if any, and interest on the bonds; to
24 authorize the authority to pledge for payment of the principal
25 of, premium, if any, and interest on the bonds the moneys
26 appropriated and pledged in this act for such purpose; to
27 preserve prior pledges and covenants by the state; to adopt

1 certain provisions of the act of the Legislature creating the
2 authority; to provide for a covenant of the Legislature not to
3 reduce below certain levels appropriated and pledged taxes
4 while any of the bonds are outstanding and unpaid; to
5 authorize the disbursement of moneys pledged for payment of
6 the bonds; to provide that if any portion of this act is held
7 invalid the holding shall not affect the validity of any other
8 portion hereof; and to specify the effective date of this act.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Where used in this act the following
11 words and terms shall be given the following respective
12 meanings unless the context clearly indicates otherwise:

13 (1) AUTHORITY. The Alabama Highway Authority, a
14 public corporation and instrumentality of the state which was
15 organized and is existing under the provisions of the 1955
16 Act.

17 (2) BOARD OF DIRECTORS. The board of directors of
18 the authority.

19 (3) BONDS. The bonds authorized in Section 2 of this
20 act to be sold and issued by the authority, and includes all
21 refunding bonds issued hereunder.

22 (4) CODE. The Code of Alabama 1975.

23 (5) CONSTRUCTION COSTS. All costs associated with
24 the construction, improvement, and rehabilitation of roads and
25 bridges, including engineering and feasibility studies and the
26 acquisition of real property and interests therein, and all
27 other costs of the type normally incurred with the

1 construction, improvement, and rehabilitation of roads and
2 bridges in the state.

3 (6) CONSTRUCTION FUND. The Alabama Highway
4 Authority Road and Bridge Construction Fund provided for in
5 Section 7 of this act.

6 (7) COUNCIL. The Public Road and Bridge Construction
7 Council provided for in Section 8.

8 (8) DEPARTMENT. The Department of Transportation
9 created in Article 2 of Chapter 1 of Title 23 of the Code.

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

21 (10) MOTOR FUEL TAX. The \$.13 per gallon excise tax
22 on motor fuel levied in Chapter 17 of Title 40 of the Code, as
23 amended.

24 (11) NET MOTOR FUEL TAX PROCEEDS. The entire
25 proceeds from the \$.13 per gallon motor fuel tax, less the
26 cost of collection and less any refunds of the proceeds
27 pursuant to Chapter 17 of Title 40.

1 (12) PERMITTED INVESTMENTS. a. Government
2 securities; b. bonds, debentures, notes, or other evidences
3 of indebtedness issued by any of the following agencies: Bank
4 for Cooperatives; Federal Intermediate Credit Banks; Federal
5 Financing Bank; Federal Home Loan Banks; Federal Farm Credit
6 Bank; Export-Import Bank of the United States; Federal Land
7 Banks, or Farmers Home Administration or any other agency or
8 corporation which has been or may hereafter be created by or
9 pursuant to an act of the Congress of the United States as an
10 agency or instrumentality thereof; c. bonds, notes, pass
11 through securities, or other evidences of indebtedness of GNMA
12 and participation certificates of FHLMC; d. full faith and
13 credit obligations of any state, provided that at the time of
14 purchase the obligations are rated at least AA by Standard
15 & Poor's Ratings Services and at least Aa by Moody's
16 Investors Service, Inc., or comparable successor ratings; e.
17 public housing bonds issued by public agencies or
18 municipalities and fully secured as to the payment of both
19 principal and interest by contracts with the United States of
20 America, or temporary notes, preliminary notes, or project
21 notes issued by public agencies or municipalities, in each
22 case fully secured as to the payment of both principal and
23 interest by a requisition or payment agreement with the United
24 States of America; f. time deposits evidenced by certificates
25 of deposit issued by banks or savings associations whose
26 deposits are insured by the Federal Deposit Insurance
27 Corporation, provided that, to the extent the time deposits

1 exceed available federal deposit insurance, the time deposits
2 are fully secured by obligations described in paragraphs a.,
3 b., c., and e. above, which at all times have a market value,
4 exclusive of accrued interest, at least equal to the bank time
5 deposits so secured, including interest, and g. repurchase
6 agreements for obligations of the type specified in paragraphs
7 a., b., c., and e. above, provided the repurchase agreements
8 are fully collateralized and secured by the obligations which
9 have a market value, exclusive of accrued interest, at least
10 equal to the purchase price of the repurchase agreements and
11 which are held by a depository satisfactory to the State
12 Treasurer in the manner as may be required to provide a
13 perfected security interest in the obligation, and which meet
14 the greater of 100% collateralization or the AA collateral
15 levels established by Standard & Poor's Ratings Services
16 for structured financing.

17 (13) PLEDGED AMOUNTS. a. Pledged revenues; b.
18 proceeds of bonds; c. income derived from investment and
19 reinvestment of proceeds of the bonds; and d. proceeds from
20 any bond insurance policy, letter of credit, or other credit
21 enhancement arrangement.

22 (14) PLEDGED REVENUES. The entire \$.13 per gallon
23 net motor fuel tax proceeds.

24 (15) PROJECTS. The construction provided for in
25 Section 8.

26 (16) REFUNDING BONDS. Bonds issued by the authority
27 to refund bonds issued pursuant to the provisions hereof and

1 authorized by Section 3 to be sold and issued by the
2 authority.

3 (17) RURAL AREA. Any areas classified as such by the
4 United States Census Bureau, and includes any areas that may
5 be hereafter reclassified.

6 (18) STATE. The State of Alabama.

7 (19) STATE TREASURER. The State Treasurer of the
8 state.

9 (20) 1955 ACT. Act 43 enacted at the 1955 First
10 Special Session of the Legislature, as amended.

11 Section 2. The Alabama Highway Authority, a public
12 corporation heretofore incorporated pursuant to the 1955 Act,
13 may sell and issue its bonds in an aggregate principal amount
14 not exceeding six hundred fifty million dollars
15 (\$650,000,000); provided, that the limitation shall not apply
16 to refunding bonds. The powers conferred on the authority by
17 this act are in addition to all powers heretofore conferred on
18 the authority by the 1955 Act or any other act heretofore
19 adopted by the Legislature. The authority shall have
20 succession by its corporate name until all principal,
21 interest, and premium, if any, on all bonds issued hereunder
22 shall have been paid in full.

23 Section 3. (a) The bonds herein authorized may be
24 sold by the authority as soon as practical in a series, and if
25 sold in more than one series may all be authorized in one
26 initial resolution of the board of directors as parity bonds
27 with the pledges therefor made in the initial resolution

1 although some of the details applicable to each series may be
2 specified in the respective resolutions under which the
3 different series are issued. Each series of the bonds shall
4 be sold at public sale either on sealed bids or at a public
5 auction, on a basis determined by the authority to enable it
6 to effect the sale of the bonds being sold at the lowest
7 effective borrowing cost to the authority; provided, that if
8 no bid acceptable to the authority is received it may reject
9 all bids. Notice of each public sale shall be given by
10 publication in one or more newspapers published in the state
11 or by distribution of a summary notice of sale or both, in
12 such form and published in such manner and at such times as
13 the board of directors may determine. The board of directors
14 may fix the terms and conditions under which each such sale
15 may be held; provided, that all bonds must be issued within
16 one year following the effective date of this act.

17 (b) Any bonds issued by the authority may from time
18 to time be refunded by the issuance, sale, or exchange of
19 refunding bonds payable from the same or different sources for
20 the purpose of paying all or any part of the principal of the
21 bonds to be refunded, any redemption premium required to be
22 paid as a condition to the redemption prior to maturity of the
23 bonds that are to be so redeemed in connection with the
24 refunding, any accrued and unpaid interest on the bonds to be
25 refunded, any interest to accrue on each bond to be refunded
26 to the date on which it is to be paid, whether at maturity or

1 by redemption prior to maturity, and the expenses incurred in
2 connection with the refunding.

3 (c) Refunding bonds shall be issued only if the
4 authority determines that (1) the present value of all debt
5 service on the refunding bonds to be issued, computed by
6 applying a discount rate equal to the true interest rate or
7 cost of the refunding bonds and taking into account all
8 underwriting discount and other issuance expenses, is not
9 greater than 95 percent of the present value of all debt
10 service on the bonds to be refunded, computed by applying the
11 same discount rate and taking into account the underwriting
12 discount and other issuance expenses originally applicable to
13 such bonds, determined as if the bonds to be refunded were
14 paid and retired in accordance with the schedule of
15 maturities, considering mandatory redemption as scheduled
16 maturity, provided at the time of their issuance, and (2) the
17 average maturity of the refunding bonds, measured from the
18 date of issuance of the refunding bonds, does not exceed by
19 more than three years the average maturity of the bonds to be
20 refunded, measured from the date of issuance, with the average
21 maturity of the principal amount of the refunding bonds and
22 the bonds to be refunded to be determined by multiplying the
23 principal of each maturity by the number of years, including
24 any fractional part of a year, intervening between the date of
25 issuance and each maturity, taking the sum of all products and
26 dividing the sum by the aggregate principal amount of bonds
27 for which the average maturity is computed.

1 (d) The bonds of the authority may be executed and
2 delivered by it at anytime and from time to time, shall be in
3 such forms and denominations and of such tenor and maturities,
4 either serial or term or a combination thereof, shall bear
5 such rate or rates of interest payable and evidenced in such
6 manner, and may contain other provisions not inconsistent with
7 this act, all as may be provided in the resolution or
8 resolutions of the board of directors in which the bonds are
9 authorized to be issued; provided, that no bond shall have a
10 specified maturity date, including sinking fund redemptions,
11 later than 20 years after its date.

12 (e) The board of directors and the State Treasurer
13 may in connection with the issuance of bonds designate and
14 engage one or more paying agents with respect to the bonds and
15 may enter into contracts with banks and trust companies to act
16 as registrars, paying agents, escrow agents, transfer agents,
17 depositories for safekeeping, agents for the delivery and
18 payment of bonds, authenticating agents, or otherwise.

19 (f) The authority may, in any resolution or
20 resolutions under which any bonds are issued, retain an option
21 to redeem all or any thereof at the redemption price or prices
22 and after the notice or notices and on such terms and
23 conditions and at such time or times as may be set forth in
24 the resolution or resolutions and as may be briefly recited on
25 the bonds with respect to which the option of redemption is
26 retained.

1 (g) In addition to all other powers granted to the
2 authority in this act, the authority shall have the power to
3 do any and all things necessary, convenient, or desirable to
4 carry out its purposes and exercise the powers given and
5 granted in this act.

6 (h) Approval by the Governor of the terms and
7 conditions under which any of the bonds may be issued shall be
8 requisite to their validity, which approval signed by the
9 Governor shall be entered on the minutes of the respective
10 meetings of the board of directors at which the series of the
11 bonds proposed to be issued are authorized or sold.

12 (i) Neither a public hearing nor consent of the
13 State Department of Finance or any other department or agency
14 shall be prerequisite to the issuance of bonds by the
15 authority.

16 (j) All bonds issued by the authority and the income
17 therefrom shall be exempt from all taxation in the state. Any
18 bonds issued by the authority may be used by the holder
19 thereof as security for any funds belonging to the state or to
20 any instrumentality or agency of the state in any instance
21 where security for the deposits may be required by law.

22 (k) Unless otherwise directed by the court having
23 jurisdiction thereof or by the document that is the source of
24 authority, a trustee, executor, administrator, guardian, or
25 one acting in any other fiduciary capacity may, in addition to
26 any other investment powers conferred by law and with the

1 exercise of reasonable business prudence, invest trust and
2 other fiduciary funds in bonds of the authority.

3 Section 4. All bonds of the authority shall be
4 signed by its president, and the seal of the authority shall
5 be affixed thereto and attested by its secretary. The
6 signatures of the president and secretary may be facsimile
7 signatures and a facsimile of the seal of the authority may be
8 imprinted on the bonds if the board of directors, in its
9 proceedings with respect to issuance of the bonds, provides
10 for manual authentication of the bonds by a trustee or paying
11 agent or by named individuals who are employees of the state
12 and who are assigned to the Department of Finance or office of
13 the State Treasurer. Delivery of bonds so executed shall be
14 valid notwithstanding any changes in officers or in the seal
15 of the authority after the signing and sealing of the bonds.

16 Section 5. (a) For the purpose of providing funds to
17 enable the authority to pay at their respective maturities,
18 sinking fund redemption dates, or due dates the principal of,
19 premium, if any, and interest on any bonds, including
20 refunding bonds, that may be issued by the authority under the
21 provisions of this act, there is hereby irrevocably pledged to
22 said purpose and appropriated, and the authority is authorized
23 to pledge the entire proceeds of the pledged revenue.
24 Provided, however, all amounts of the pledged revenue in
25 excess of the amounts required for this purpose shall be
26 allocated as provided in Chapter 17 of Title 40.

1 (b) All moneys hereby appropriated and pledged shall
2 constitute a sinking fund for the purpose of paying the
3 principal of, premium, if any, and the interest on the bonds.
4 As security for the payment of the principal of, premium, if
5 any, and interest on the bonds issued under this act, the
6 authority is authorized to pledge the pledged amounts.

7 (c) Each pledge of the pledged amounts made pursuant
8 to this act shall be valid and binding from the time the
9 pledge is made. The income or revenue from the pledged
10 amounts so pledged shall immediately be subject to the lien of
11 the pledge without any physical delivery thereof or further
12 act, and the lien of any pledge shall be valid and binding as
13 against all parties having claims of any kind in tort,
14 contract, or otherwise against the state or the authority,
15 irrespective of whether the parties have notice thereof.
16 Neither the resolution nor any other instrument by which a
17 pledge is created need be filed or recorded, except in the
18 records of the authority.

19 (d) The state hereby covenants and agrees with the
20 holders of any bonds issued pursuant to this act that while
21 the bonds are outstanding and unpaid, unless provisions shall
22 have been made for the payment thereof in accordance with
23 Section 10, (1) the state shall not appropriate or pledge any
24 portion of the pledged revenues for the benefit of any
25 obligations that may at any time be issued pursuant to any
26 statute superior to the pledge made herein for the benefit of
27 bonds herein authorized, and (2) the state will not

1 appropriate or pledge any portion of the pledged revenues for
2 the benefit of any obligations that may at any time be issued
3 pursuant to any statute other than this act on a parity with
4 the pledge made herein for the benefit of bonds herein
5 authorized. Nothing contained herein shall be construed so as
6 to limit the ability of the Legislature to appropriate or
7 pledge any portion of the pledged revenues for the benefit of
8 any obligations that may at any time be issued pursuant to any
9 statute subordinate to the pledge made herein for the benefit
10 of bonds.

11 (e) The authority is hereby authorized in any
12 resolution authorizing the issuance of bonds to establish a
13 debt service coverage test or tests which must be met as a
14 condition precedent to the issuance of any bonds secured by a
15 parity pledge of the pledged revenues.

16 Section 6. The bonds shall not be general
17 obligations of the authority but shall be payable solely out
18 of the funds of the authority appropriated and pledged
19 therefor in Section 5. As security for the payment of the
20 principal of, premium, if any, and interest on the bonds
21 issued by it under this act, the authority may pledge for
22 payment of the principal of, premium, if any, and interest on
23 the funds that are pledged in Section 5. All contracts made
24 and all bonds issued by the authority pursuant to this act
25 shall be solely and exclusively obligations of the authority
26 and shall not be an obligation or debt of the state.

1 Section 7. (a) The authority shall pay out of the
2 proceeds from the sale of any of the bonds all expenses that
3 the board of directors may deem necessary or advantageous in
4 connection with the sale and issuance of the bonds, including
5 without limitation, the expenses of selling and issuing the
6 bonds, fees, and disbursements of attorneys, accountants,
7 fiscal agents, financial advisors, and other consultants, fees
8 and disbursements of trustees, escrow agents, registrars,
9 paying agents, transfer agents, depositories for safekeeping,
10 authenticating agents, agents for the delivery and payment of
11 bonds, fees, and commissions of bond insurers and credit
12 enhancers, printing costs, and other customary bond issuance
13 expenses. The amount paid for these expenses shall be limited
14 to no more than two percent of the amount of bonds issued. The
15 proceeds of the bonds, other than refunding bonds, remaining
16 after paying the expenses of their sale and issuance and the
17 establishment of reserve accounts, if any, shall be deposited
18 in the State Treasury in a special fund called the Alabama
19 Highway Authority Road and Bridge Construction Fund, which
20 fund shall be kept separate and apart from all other amounts
21 on deposit in the Public Road and Bridge Fund.

22 (b) The proceeds of refunding bonds shall be
23 applied, together with any other moneys legally available
24 therefor, to the payment of any expenses of issuance
25 authorized by this act to be paid in connection with the
26 issuance of bonds issued hereunder and to the payment of the
27 principal of, premium, if any, and interest due and to become

1 due on any bonds to be refunded thereby in accordance with the
2 provision of a trust agreement or other document or documents
3 executed and delivered at the time of the issuance of the
4 refunding bonds.

5 (c) Amounts on deposit in the road and bridge
6 construction fund shall be used for the payment of
7 construction costs for the projects and uses provided for in
8 Section 8 or otherwise determined by the authority pursuant to
9 subsection (d).

10 (d) The authority may at any time following the
11 delivery of the bonds allocate and reallocate proceeds of
12 bonds permitted or required to be used for one or more
13 projects provided for in Section 8 to payment of construction
14 costs of any other road or bridge project provided for in
15 Section 8, upon a finding by the authority that it would be
16 advantageous to the state to expend the funds available or to
17 be available from the United States of America in payment of
18 costs of the projects in lieu of proceeds of bonds. Further,
19 in order to enable the authority to comply with the provisions
20 of the Internal Revenue Code of 1986, as amended, and to make
21 appropriate covenants with respect to the disposition and
22 expenditure of proceeds of bonds, the authority may, not
23 earlier than three years following the date of issuance and
24 delivery of any bonds, review the status of any projects with
25 respect to which any proceeds of bonds allocated to pay costs
26 of the projects remain unexpended. Any provisions of this act
27 to the contrary notwithstanding, the authority shall have the

1 right, at anytime and from time to time following the
2 expiration of the two years, to (1) allocate and reallocate
3 the unexpended proceeds to one or more projects provided for
4 in Section 8 which, in the judgment of the authority, shall
5 result in the most rapid expenditure of the unexpended
6 proceeds, (2) withdraw all or any portion of unexpended
7 proceeds from the road and bridge construction fund to be
8 deposited and held in an escrow fund and applied to the
9 redemption of bonds from which the unexpended proceeds were
10 derived, or (3) a combination of the foregoing.

11 (e) The road and bridge construction fund shall be
12 drawn on by order of the authority, but only for the purpose
13 of paying the expenses of issuing the bonds, paying debt
14 service on the bonds and paying construction costs, in
15 accordance with Section 8.

16 (f) Moneys on deposit in the bridge construction
17 fund and any reserve account shall be invested by the State
18 Treasurer at the direction of the authority in permitted
19 investments which mature at the time or times as the authority
20 shall direct. Interest income earned from the investment of
21 the proceeds of bonds deposited into the construction fund
22 shall be credited to the construction fund and applied for
23 payment of costs of projects and to make rebate payments to
24 the United State of America to the extent required by the
25 Internal Revenue Code of 1986, as amended. Interest income
26 from any reserve account established in connection with the
27 issuance of bonds shall be credited to the reserve account and

1 applied in accordance with the proceedings of the authority
2 pursuant to which the bonds are issued.

3 Section 8. (a) There is hereby created the Public
4 Road and Bridge Construction Council. The Council shall be
5 made up of the Director of the Department of Transportation,
6 and one member appointed by each of the following: the
7 Lieutenant Governor, Commissioner of Agriculture and
8 Industries, President Pro Tempore of the Senate, and Speaker
9 of the House of Representatives. The Lieutenant Governor and
10 legislative members of the Council shall be entitled to their
11 regular per diem unless they are already being paid, when
12 attending council meetings. The Council created by this
13 section shall review proposals and authorize funding from the
14 Road and Bridge Construction Fund on a project by project
15 basis. Counties applying for project funds shall make
16 application to the department and members of the Council. The
17 Council may require local match for certain projects. Each
18 county may not receive more than five percent of bond proceeds
19 pursuant to this section. Upon the deposit of the monies into
20 the Road and Bridge Construction Fund, the Council shall meet
21 at least quarterly to consider project applications. The
22 Council shall review all proposals and authorize funding for
23 all approved projects within one year of program initiation.
24 Three members of the Council shall constitute a quorum and
25 three members must be present and vote affirmatively for the
26 approval of any project application. The Council shall hold
27 its first meeting within the first quarter following the

1 deposit of the first monies into the Road and Bridge
2 Construction Fund. The Council shall elect a chairperson at
3 its first meeting. the chairperson shall call subsequent
4 meetings of the Council. If the chairperson fails to call a
5 meeting at least quarterly, a meeting shall be held upon
6 written request by at least three members of the Council.
7 Subject to the provisions of Section 7, amounts on deposit in
8 the bridge construction fund are allocated for the payment of
9 construction costs as follows, provided, that no funds
10 allocated shall be expended for the acquisition of machinery
11 and equipment.

12 (b) Amounts allocated pursuant to subsection (a)
13 shall not be disbursed from the road and bridge construction
14 fund unless all of the following conditions are satisfied:

15 (1) One or more projects shall have been designated
16 by the county and a request for funding submitted in writing
17 to the department and the council. The request must contain
18 clearly defined rationale that includes priority given to
19 rural economic development and rural education. Factors
20 affecting the priority should include distances from primary,
21 secondary, or tertiary roads, schools, manufacturing
22 facilities, farming operations, the number of school age
23 children affected by time and mileage savings, the solution
24 proposed, the condition of the road and bridge infrastructure
25 as determined by the Department of Transportation guidelines
26 and the ability of the county to provide matching funds.

1 (2) Plans and specifications for the project or
2 projects prepared by or under the supervision of the county
3 engineer or other licensed engineer registered in this state
4 designated by the county, shall have been submitted to the
5 department.

6 (3) The project or projects designated by the county
7 shall meet guidelines set by the Department of Transportation
8 and an agreement respecting the administration and
9 construction of the project or projects, in such form as shall
10 be prescribed by the department, shall have been entered into
11 between the department and the county undertaking such
12 projects.

13 (4) The construction of the project or projects
14 shall conform to the department standard specifications and
15 shall be carried out under the inspection and supervision of
16 the county engineer or other licensed civil engineer
17 registered in this state designated by the county.

18 (5) The project or projects approved for funding
19 shall be completed within one year of initial funding (within
20 two years after all bonds authorized by this act have been
21 issued).

22 (c) Amounts allocated pursuant to this section shall
23 be applied for payment of construction costs as the work
24 progresses, and the amounts shall be disbursed from the road
25 and bridge construction fund according to procedures
26 prescribed by the department and the authority. The
27 department shall, with respect to each series of bonds issued

1 hereunder, give notice to the counties of the availability of
2 amounts on deposit in the road and bridge construction fund.

3 (d) The authority and the department are hereby
4 authorized to enter into agreements setting forth the
5 procedures for the disbursement of amounts on deposit in the
6 construction fund in accordance with this section and Section
7 7.

8 (e) Up to twenty-five percent of funds allocated
9 under this section shall be expended on road projects in lieu
10 of bridges.

11 (f) The Council shall report to the Legislature and
12 the public on a quarterly basis regarding (1) the projects
13 approved for funding from this act; (2) the status of each
14 project approved; and (3) outcomes of completed projects. The
15 Council shall also be subject to an annual audit by the
16 Examiners of Public Accounts.

17 Section 9. It is the intention of the Legislature in
18 enacting this act to preserve inviolate all appropriations and
19 pledges heretofore made of any portion of the pledged revenues
20 for the benefit of the outstanding bonds.

21 Section 10. In addition to Section 8, the provisions
22 of Section 8 of the 1955 Act with respect to highway and
23 bridge construction, the letting and approval of contracts
24 therefor, the supervision of construction, the making of rules
25 and regulations for protection of public ways and of the
26 traveling public shall apply to the projects the construction

1 costs with respect to which are funded in whole or in part
2 with proceeds of the bonds.

3 Section 11. (a) The Legislature of the state agrees
4 that while any bonds are outstanding and unpaid, unless
5 provision shall have been made for the payment thereof in
6 accordance with the provisions of this section, it will not
7 repeal, amend, or modify any law pertaining to the pledged
8 revenues herein pledged to the payment of the bonds pursuant
9 to Section 5 hereof if the effect thereof would be to result
10 in a reduction in the amount of pledged revenues so
11 appropriated and pledged, unless, assuming the repeal,
12 amendment, or modification had been in effect throughout the
13 immediately preceding fiscal year of the state, the remaining
14 pledged revenues after giving effect to the repeal, amendment,
15 or modification would have equaled at least two and one-half
16 times the maximum principal and interest requirement which
17 will fall due in any subsequent period of 12 months on all
18 then outstanding bonds and any other bonds to which such taxes
19 and fees are pledged on a parity with the bonds.

20 (b) For purposes of this section and subsection (d)
21 of Section 5, bonds shall be deemed to be not outstanding if
22 there shall be filed with the State Treasurer and any paying
23 agent with respect to the bonds being refunded each of the
24 following: (1) a trust agreement making provision for the
25 retirement of the bonds by creating for that purpose an
26 irrevocable trust fund sufficient to provide for payment and
27 retirement of the bonds, including payment of the interest

1 that will mature thereon until and on the dates they are
2 retired, as such interest becomes due and payable, either by
3 redemption prior to their respective maturities, by payment at
4 their respective maturities, or by payment of part thereof at
5 their respective maturities and redemption of the remainder
6 prior to their respective maturities, which trust fund shall
7 consist of a. government securities which are not subject to
8 redemption prior to their respective maturities at the option
9 of the issuer and which, if the principal thereof and the
10 interest thereon are paid at their respective maturities, will
11 produce funds sufficient so to provide for payment and
12 retirement of such bonds, or b. both cash and securities
13 which together will produce funds sufficient for the purpose,
14 or c. cash sufficient for the purpose; (2) a certified copy
15 of a resolution calling for redemption those of the bonds
16 that, according to the trust agreement, are to be redeemed
17 prior to their respective maturities; (3) evidence that
18 required notice of the redemption has been given pursuant to
19 the proceedings under which the bonds to be refunded were
20 issued or that irrevocable powers for the giving of the
21 redemption notice have been conferred on any paying agent or
22 trustee with respect to the bonds.

23 Section 12. Out of the moneys pledged in Section 5
24 of this act, the State Treasurer is authorized and directed to
25 pay the principal of, premium, if any, and interest on the
26 bonds as provided in the resolution of the authority pursuant
27 to which the bonds are issued.

1 Section 13. The authority shall have the power to
2 make the payments to the United States of America required to
3 be made to cause the interest on bonds of the authority to be
4 and remain exempt from federal income taxation. The authority
5 shall have the power to make agreements respecting the
6 investment of funds and to create separate accounts within the
7 construction fund to the extent that the authority shall deem
8 necessary in order that the interest income on bonds of the
9 authority be and remain exempt from federal income taxation.

10 Section 14. All laws or parts of laws which conflict
11 with this act are repealed.

12 Section 15. The provisions of this act are
13 severable. If any part of this act is declared invalid or
14 unconstitutional, that declaration shall not affect the part
15 which remains.

16 Section 16. This act shall become effective
17 immediately upon approval by the Governor or upon its
18 otherwise becoming law.