

1 SB242
2 204965-2
3 By Senators Orr, Allen, Livingston, Price, Albritton, Marsh,
4 Holley, Butler, Chambliss, Jones, Figures, Smitherman, Gudger,
5 Coleman-Madison, Burkette, Chesteen, Beasley, Elliott,
6 Sanders-Fortier, Singleton, Reed, Sessions, Williams and
7 Whatley
8 RFD: Finance and Taxation Education
9 First Read: 27-FEB-20

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3
4 ENGROSSED

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6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To authorize the Alabama Public School and College
12 Authority to sell and issue \$1,250,000,000 in aggregate
13 principal amount of additional bonds for capital improvements
14 for the support of public education and to use such funds for
15 repayment of certain debt incurred for capital improvements;
16 to provide funds for capital improvements for the public
17 schools, the Alabama Community College System, and public
18 institutions of higher education; to make an appropriation and
19 pledge for payment of the principal of and premium, if any,
20 and interest on the bonds from specific taxes necessary to pay
21 the principal and interest at their respective maturities and
22 to authorize the Authority to pledge for payment of the
23 principal of and premium, if any, and interest on the bonds
24 the funds that are appropriated and pledged; to provide that
25 the bonds shall not constitute a debt of the state but shall
26 be limited obligations payable out of the funds appropriated
27 and pledged therefor; to provide that the bonds and income

1 therefrom shall be exempt from all taxation in this state; to
2 authorize the Authority to issue refunding bonds and give
3 details of such refunding; to authorize the Authority to
4 allocate bond proceeds; and to provide that if any portion of
5 this Act should be held invalid such holding shall not affect
6 the validity of any other portion thereof.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Short Title.

9 This Act shall be known and may be cited as the
10 Investing in Alabama's Future Act.

11 Section 2. Definitions.

12 Wherever used in this Act, the following terms shall
13 have the following meanings respectively, unless the context
14 clearly indicates otherwise:

15 (1) "1965 Act" means Act No. 243 enacted at the 1965
16 First Special Session of the Legislature, codified as Title
17 16, Chapter 16, Code of Alabama 1975.

18 (2) "1971 Acts" means Act No. 94 enacted at the 1971
19 First Special Session of the Legislature, Act No. 2428 enacted
20 at the 1971 Regular Session of the Legislature, and Act No. 56
21 enacted at the 1971 Second Special Session of the Legislature.

22 (3) "1973 Act" means Act No. 1277 enacted at the
23 1973 Regular Session of the Legislature as amended by Act No.
24 73 enacted at the 1975 Third Special Session of the
25 Legislature and Act No. 1223 enacted at the 1975 Regular
26 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. 2007-415 enacted at
23 the 2007 Regular Session of the Legislature.

24 (14) "2009 Act" means Act No. 2009-813 enacted at
25 the 2009 Regular Session of the Legislature.

26 (15) "2010 Acts" means Act No. 2010-551 enacted at
27 the 2010 Regular Session of the Legislature, Act No. 2010-562

1 enacted at the 2010 Regular Session of the Legislature, and
2 Act No. 2010-720 enacted at the 2010 Regular Session of the
3 Legislature.

4 (16) "2012 Act" means Act No. 2012-560 enacted at
5 the 2007 Regular Session of the Legislature.

6 (17) "2013 Acts" means Act No. 2013-345 enacted at
7 the 2013 Regular Session of the Legislature and Act No.
8 2013-381 enacted at the 2013 Regular Session of the
9 Legislature.

10 (18) "Authority" means Alabama Public School and
11 College Authority.

12 (19) "Bonds" (except where that word is used with
13 reference to bonds issued under another act) means those
14 bonds, other than Refunding Bonds, issued under the provisions
15 of this Act.

16 (20) "Capital Improvement" means capital outlay
17 projects that include the planning, designing, inspection,
18 purchasing, construction, reconstruction, enlargement,
19 improvement, repair, or renovation of permanent buildings
20 containing classrooms, offices, libraries, laboratories,
21 clinical or teaching facilities, dormitories, vocational and
22 professional and industrial training facilities, cafeterias,
23 alternative schools, physical education facilities, research
24 facilities, academic structures to reduce portable classrooms
25 or substandard classroom facilities, related improvements and
26 land as sites therefor, together with tangible personal
27 property that becomes a permanent part of such facilities.

1 (21) "Government Securities" means any bonds or
2 other obligations which as to principal and interest
3 constitute direct obligations of, or are unconditionally
4 guaranteed by, the United States of America, including
5 obligations of any federal agency to the extent such
6 obligations are unconditionally guaranteed by the United
7 States of America and any certificates or any other evidences
8 of an ownership interest in such obligations of, or
9 unconditionally guaranteed by, the United States of America or
10 in specified portions thereof (which may consist of the
11 principal thereof or the interest thereon).

12 (22) "Legislature" means the Legislature of Alabama.

13 (23) "Permitted Investments" means (i) Government
14 Securities; (ii) bonds, debentures, notes or other evidences
15 of indebtedness issued by any of the following agencies: Bank
16 for Cooperatives; Federal Intermediate Credit Banks; Federal
17 Financing Bank; Federal Home Loan Banks; Federal Farm Credit
18 Bank; Export-Import Bank of the United States; Federal Land
19 Banks; or Farmers Home Administration or any other agency or
20 corporation which has been or may hereafter be created by or
21 pursuant to an act of the Congress of the United States as an
22 agency or instrumentality thereof; (iii) bonds, notes, pass
23 through securities or other evidences of indebtedness of
24 Government National Mortgage Association and participation
25 certificates of Federal Home Loan Mortgage Corporation; (iv)
26 time deposits evidenced by certificates of deposit issued by
27 banks or savings and loan associations which are members of

1 the Federal Deposit Insurance Corporation, provided that, to
2 the extent such time deposits are not covered by federal
3 deposit insurance, such time deposits (including interest
4 thereon) are fully secured in accordance with the SAFE Program
5 pursuant to Sections 41-14A-1 through 41-14A-14; (v)
6 government money market mutual funds; and (vi) repurchase
7 agreements for obligations of the type specified in clauses
8 (i), (ii), and (iii) above, provided such repurchase
9 agreements are fully collateralized and secured by such
10 obligations which have a market value at least equal to the
11 purchase price of such repurchase agreements which are held by
12 a depository satisfactory to the State Treasurer in such
13 manner as may be required to provide a perfected security
14 interest in such obligations, and which meet the greater of
15 100% collateralization or the "AA" or "Aa" collateral levels
16 established by Standard & Poor's Ratings Group or Moody's
17 Investors Service, respectively, for structured financings.

18 (24) "Prior Acts" means the 1965 Act, the 1971 Acts,
19 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the
20 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002
21 Act, the 2003 Act, the 2007 Act, the 2009 Act, the 2010 Acts,
22 the 2012 Act, and the 2013 Acts.

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

25 (26) "State" means the State of Alabama.

26 (27) "Trust Fund" means the Education Trust Fund,
27 formerly designated as the Alabama Special Educational Trust

1 Fund, the name of which was changed to the Education Trust
2 Fund, effective October 1, 1996, pursuant to Act No. 95-264
3 enacted at the 1995 Regular Session of the Legislature.

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

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

9 (a) The Authority is hereby authorized to sell and
10 issue its Bonds in the aggregate principal amount of
11 \$1,250,000,000 and to apply the proceeds as provided in this
12 Act, to include the following purposes: paying the costs of
13 capital improvements for public education purposes in the
14 State; and providing funds for the retirement of existing debt
15 that has been incurred by recipients of allocations to pay for
16 capital costs.

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

23 Section 4. Execution and Other Details of the Bonds.

24 The Bonds shall be signed by the president or
25 vice-president of the Authority, and the seal of the Authority
26 affixed thereto (or a facsimile thereof imprinted thereon) and
27 attested by its secretary. All signatures of the president,

1 vice-president, and secretary may be facsimile signatures if
2 the Authority, in its proceedings with respect to issuance,
3 provides for manual authentication (which may be in the form
4 of a certificate as to registration) of the Bonds by a
5 trustee, registrar or paying agent or by individuals named in
6 such proceedings who are employees of the State assigned to
7 the Finance Department or State Treasurer's Office of the
8 State. All Bonds bearing signatures or facsimiles of the
9 signatures of officers of the Authority in office on the date
10 of signing thereof shall be valid and binding notwithstanding
11 that before the delivery thereof and payment therefor, any
12 officer whose signature appears thereon shall have ceased to
13 be an officer of the Authority. The Bonds and the income
14 therefrom shall be exempt from all taxation in the State of
15 Alabama, may be used as security for deposits, and shall be
16 eligible for investments of fiduciary funds, as provided in
17 the 1965 Act. The Bonds shall be construed to have all the
18 qualities and incidents of negotiable instruments subject to
19 any registration provisions pertaining to transfers. The
20 Authority and the Bonds shall be exempt from all laws of the
21 State governing usury including, without limitation, the
22 provisions of Title 8, Chapter 8, Code of Alabama 1975, or any
23 subsequent statute of similar import. The Bonds shall be in
24 such form or forms and denomination or denominations and of
25 such tenor and maturities, shall bear such rate or rates of
26 interest payable and evidenced in such manner, may be made
27 subject to redemption prior to their maturities, and may

1 contain provisions not inconsistent with this Act, all as may
2 be provided by the resolution of the Authority under which the
3 Bonds may be issued; provided, that no Bonds shall have a
4 specified maturity date later than twenty years after their
5 date; and provided further, that the period of time between
6 the date of issuance of any Bonds and the first date on which
7 such Bonds are subject to optional redemption by the Authority
8 shall not be longer than ten years, and such optional
9 redemption of Bonds shall be at such redemption price or
10 prices and under such conditions as may be prescribed in the
11 proceedings of the Authority under which they are issued. For
12 the purpose of paying the principal of, premium, if any, and
13 interest on the Bonds or any Refunding Bonds, the Authority
14 shall designate the State Treasurer or such bank or banks as
15 the Authority, in its discretion, determines to be appropriate
16 and desirable. Funds for the payment of debt service shall be
17 transferred by the Authority or the State Treasurer on behalf
18 of the Authority to the designated paying agent on the actual
19 due date of such principal, premium, if any, or interest;
20 provided, however, that if any bank has been designated as the
21 paying agent with respect to any bonds, the Authority or the
22 State Treasurer on behalf of the Authority shall make
23 available to such bank, not later than one business day prior
24 to the date on which any principal of or interest on such
25 bonds is due and payable, funds sufficient to pay such
26 principal and interest due on such date.

27 Section 5. Sale of the Bonds.

1 The Bonds may be sold by the Authority from time to
2 time in series, and if sold in more than one series, may all
3 be authorized in one initial resolution of the Authority with
4 the pledges therefor made by the Authority in such initial
5 resolution although some of the details applicable to each
6 series may be specified in the respective resolutions under
7 which the different series are issued. The Authority, in the
8 course of establishing, by resolution, a principal amount of
9 Bonds to be authorized for sale at any given time, or to be
10 sold in any series, may take into account the existence of any
11 unexpended proceeds of prior issues of bonds of the Authority
12 (and of any other issuer, if such should be deemed by the
13 Authority to be relevant), and may structure the portions of
14 the allocations provided for in Section 9 of this Act to be
15 distributed from the proceeds of a particular series
16 (constituting less than all the Bonds authorized by this Act)
17 as the Authority deems necessary or prudent in order to enable
18 the Authority to comply with any tax covenants that may be
19 required of it, or that may be deemed by it to be prudent to
20 be given by it, in connection with the sale of any series of
21 the Bonds. Each series of the Bonds shall be sold on a
22 competitive basis or on a negotiated basis, as determined by
23 the Authority. The Authority may fix the method and the terms
24 and conditions under which the sale of any series of the Bonds
25 may be held; provided that such terms and conditions shall not
26 conflict with any requirement of this Act. Approval by the
27 Governor of Alabama of the terms and conditions under which

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

16 Section 6. Appropriation of Revenues to the
17 Authority; Pledge Thereof for the Benefit of the Bonds and the
18 Refunding Bonds.

19 For the purpose of providing for payment of the
20 principal, premium (if any), and interest on the Bonds and the
21 Refunding Bonds, and to accomplish the objectives of this Act,
22 there is hereby irrevocably pledged to those purposes, and
23 hereby appropriated, such amount as may be necessary therefor
24 from the following sources:

25 (a) The residue of the receipts from the excise tax
26 ("the utility gross receipts tax") levied by Title 40, Chapter
27 21, Article 3, Code of Alabama 1975, as amended ("Article 3"),

1 remaining after payment of the expenses of administration and
2 enforcement of Article 3, being that portion of the tax that
3 is required by Article 3 to be deposited in the State Treasury
4 to the credit of the Trust Fund, after there shall have been
5 taken from the residue the amount necessary to pay at their
6 respective maturities the principal of and interest on those
7 bonds issued by the Authority under this Act or under the
8 Prior Acts that may be outstanding at the time of the delivery
9 of the respective series of the Bonds or Refunding Bonds
10 authorized herein;

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

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

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

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

1 is now required by law to be paid into the Trust Fund), and
2 after there shall have been taken from the residue such
3 amounts as may be necessary to meet all prior charges on the
4 use tax including the amounts sufficient to pay at their
5 respective maturities the principal of and interest on those
6 bonds issued by the Authority under this Act or under the
7 Prior Acts that may be outstanding at the time of the delivery
8 of the respective series of the Bonds or Refunding Bonds
9 authorized herein. All monies hereby appropriated and pledged
10 shall constitute a sinking fund for the purpose of paying the
11 principal of and premium, if any, and interest on the Bonds
12 and the Refunding Bonds. The State Treasurer is authorized and
13 directed to pay at their respective maturities the principal
14 of and premium, if any, and interest on the Bonds and the
15 Refunding Bonds out of this fund and out of the residues of
16 the tax receipts herein appropriated and pledged for the
17 benefit of the Bonds and the Refunding Bonds, and is further
18 authorized and directed to set up and maintain appropriate
19 records pertaining thereto.

20 Section 7. Bonds and Refunding Bonds to be Payable
21 Solely out of the Revenues Appropriated; Authorization for
22 Authority to Pledge Such Revenues for the Bonds and the
23 Refunding Bonds.

24 The Bonds and the Refunding Bonds shall not be
25 general obligations of the Authority but shall be limited
26 obligations payable solely out of the residues of the tax
27 receipts appropriated and pledged in Section 6 of this Act.

1 All Bonds and Refunding Bonds issued by the Authority pursuant
2 to the provisions of this Act shall be solely and exclusively
3 obligations of the Authority and shall not constitute or
4 create an obligation or debt of the State. As security for the
5 payment of the principal of, premium, if any, and interest on
6 the Bonds and the Refunding Bonds, the Authority is hereby
7 authorized and empowered to pledge the residues of the tax
8 receipts that are appropriated and pledged in Section 6 hereof
9 for such purposes. All such pledges made by the Authority
10 shall take precedence in the order of the adoption of the
11 resolutions containing the pledges. For purposes of clarity, a
12 pledge made by the Authority pursuant to this Act shall be
13 prior and superior to any pledges made for any bonds issued by
14 the Authority under the provisions of any of the Prior Acts or
15 any other Act heretofore enacted, if such pledge made pursuant
16 to this Act is for Bonds or Refunding Bonds for which a
17 resolution is adopted prior to the adoption of the resolution
18 for the issuance of bonds issued by the Authority under the
19 provisions of any of the Prior Acts or any other Act
20 heretofore enacted.

21 Section 8. Refunding Bonds.

22 For the purpose of refunding any bonds or refunding
23 bonds of the Authority issued under the provisions of this
24 Act, the Prior Acts or any other Act previously enacted, or
25 any combination thereof, whether such refunding shall occur
26 before, at or after the maturity of the bonds refunded and for
27 the purpose of paying all premiums and expenses of such

1 refunding (including, but not limited to, attorneys' fees,
2 costs of printing the Refunding Bonds, financial or fiscal
3 advisors' fees, and accountants' fees), the Authority is
4 hereby authorized to sell and issue its Refunding Bonds in one
5 or more series, and if sold in more than one series, may all
6 be authorized in one initial resolution of the Authority with
7 the pledges therefor made by the Authority in such initial
8 resolution although some of the details applicable to each
9 series may be specified in the respective resolutions under
10 which the different series are issued. Such Refunding Bonds
11 shall be sold on a competitive basis or on a negotiated basis,
12 as determined by the Authority. The Authority may fix the
13 method and the terms and conditions under which the sale of
14 any series of the Refunding Bonds may be held; provided that
15 such terms and conditions shall not conflict with any
16 requirement of this Act. Provided, however, no Refunding Bonds
17 shall be issued unless the present value of the aggregate debt
18 service on the Refunding Bonds (computed with a discount rate
19 equal to the yield of the Refunding Bonds, calculated in
20 accordance with Section 148 of the Internal Revenue Code)
21 shall not be greater than 97 percent of the present value of
22 the aggregate debt service on the bonds to be refunded
23 (computed with a discount rate equal to the yield of the
24 Refunding Bonds, calculated in accordance with Section 148 of
25 the Internal Revenue Code) determined as if such bonds to be
26 refunded were paid and retired in accordance with the schedule
27 of maturities (considering mandatory redemption as scheduled

1 maturity) provided at the time of their issuance. Provided
2 further that the average maturity of the Refunding Bonds, as
3 measured from the date of issuance of such Refunding Bonds,
4 shall not exceed by more than three years the average maturity
5 of the bonds to be refunded, as also measured from such date
6 of issuance, with the average maturity of any principal amount
7 of bonds to be determined by multiplying the principal of each
8 maturity by the number of years (including any fractional part
9 of a year) intervening between such date of issuance and each
10 such maturity, taking the sum of all such products, and then
11 dividing such sum by the aggregate principal amount of bonds
12 for which the average maturity is to be determined. Pending
13 the application of the proceeds of Refunding Bonds issued in
14 accordance with this Section, the proceeds, together with
15 investment earnings therefrom, and amounts in any sinking
16 fund, together with investment earnings thereon, may be held
17 by the State Treasurer as treasurer of the Authority in trust,
18 or may be deposited by the State Treasurer in trust, on such
19 terms as the State Treasurer and the Authority shall approve,
20 with a trustee or escrow agent, which trustee or escrow agent
21 shall be a banking institution or trust company authorized to
22 exercise trust powers in Alabama, for investment in Permitted
23 Investments. Proceeds of Refunding Bonds shall be so invested
24 and applied as to assure that the principal, interest, and
25 redemption premium, if any, on the bonds being refunded shall
26 be paid in full on the respective maturity, redemption, or
27 interest payment dates. Refunding Bonds issued by the

1 Authority shall not be general obligations of the Authority
2 but shall be payable solely from the sources specified in this
3 Act and in the proceedings whereby the Refunding Bonds are
4 authorized to be issued. All Refunding Bonds issued by the
5 Authority shall be solely and exclusively obligations of the
6 Authority and shall not create debts of the State of Alabama.
7 The faith and credit of the State of Alabama shall never be
8 pledged for the payment of any Refunding Bonds issued by the
9 Authority under this Act. The Authority may contract with
10 respect to the safekeeping and application of the proceeds of
11 Refunding Bonds and other funds included therewith and the
12 income therefrom, and shall have the right and power to
13 appoint a trustee therefore, which may be any bank or company
14 authorized to exercise trust powers and located within and/or
15 without the State. All other provisions of this Act shall
16 apply to the Refunding Bonds issued hereunder except (a) the
17 limitation contained in Section 3 of this Act on the amount of
18 Bonds that may be issued under this Act and (b) the provisions
19 of Section 9 of this Act. Any bonds refunded prior to their
20 maturity with the proceeds of Refunding Bonds shall be deemed
21 paid and the pledges herein and by the Authority made for the
22 payment thereof defeased if the Authority, in its proceedings
23 regarding issuance of the Refunding Bonds shall provide for
24 and establish a trust or escrow fund comprised of monies or
25 Government Securities, or both, sufficient to pay, when due,
26 the entire principal of and premium, if any, and interest on
27 the bonds to be refunded thereby; provided, that such

1 Government Securities shall not be subject to redemption prior
2 to their maturities other than at the option of the holder
3 thereof. Upon the establishment of such a trust or escrow
4 fund, the refunded bonds shall no longer be deemed to be
5 outstanding, shall no longer be secured by the funds pledged
6 therefor in Section 6 of this Act, shall no longer be
7 obligations of the Authority and shall be secured solely by
8 and payable from monies and Government Securities deposited in
9 such trust or escrow fund.

10 Section 9. Use of Bond Proceeds.

11 (a) The proceeds derived from each sale of the Bonds
12 issued pursuant to this Act shall be deposited in the State
13 Treasury and shall be carried in a separate fund therein for
14 the account of the Authority, which shall pay the expenses of
15 issuance therefrom. The expenses of issuance of the Bonds
16 shall be prorated among the recipients of the proceeds from
17 the sale of the Bonds in proportions they receive allocations
18 of the proceeds thereunder. The proceeds from the sale of the
19 Bonds remaining after payment of the expenses of issuance
20 thereof shall be retained in said fund and, until they are
21 paid out, shall be invested by the State Treasurer at the
22 direction of the Authority in Permitted Investments maturing
23 at such time or times as the Authority shall direct.

24 (b) Proceeds from the sale of the Bonds and the
25 earnings thereon shall be paid out from time to time on orders
26 or warrants issued by or at the direction of the Authority for

1 any one or more of the purposes specified in this Act, to
2 include the following allocations:

3 (1) Nine hundred twelve million one hundred
4 twenty-five thousand dollars (\$912,125,000) to be allocated
5 and expended on behalf of the k-12 public schools in this
6 state, as follows:

7 a. Four hundred thousand dollars (\$400,000) to be
8 allocated and expended on behalf of each state-supported local
9 education agency, special department district, and separate
10 school with its own board of directors or trustees established
11 pursuant to legislative act, in the state.

12 b. Four hundred twenty-six million six hundred
13 sixty-two thousand five hundred dollars (\$426,662,500) to be
14 allocated and expended on behalf of state-supported local
15 education agencies, special department district, and separate
16 school with its own board of directors or trustees established
17 pursuant to legislative act pro rata, based on the 2019-2020
18 first 20 scholastic days after Labor Day of average daily
19 membership of public schools, or anticipated 2020 enrollment
20 of a separate school with no 2019-2020 average daily
21 membership, to pay the cost of capital improvements.

22 c. Four hundred twenty-six million six hundred
23 sixty-two thousand five hundred dollars (\$426,662,500) to be
24 allocated and expended on behalf of local education agencies,
25 and separate school with its own board of directors or
26 trustees established pursuant to legislative act based on
27 their respective share of the allocation of the Public School

1 Fund for the fiscal year ending September 30, 2020, to pay the
2 cost of capital improvements.

3 (2) One hundred twenty million fifty thousand eight
4 hundred seventy-nine dollars (\$120,050,879) to be allocated
5 and expended on behalf of the Alabama Community College System
6 for capital improvements.

7 (3) Two hundred seventeen million eight hundred
8 twenty-four thousand one hundred twenty-one dollars
9 (\$217,824,121) to be allocated and expended for capital im-
10 provements on behalf of higher education to colleges and uni-
11 versities as follows:

| | | |
|----|-------------------------------------|--------------|
| 12 | Alabama A & M University | \$7,412,935 |
| 13 | Alabama State University | \$5,675,936 |
| 14 | Athens State University | \$4,567,295 |
| 15 | Auburn University | \$36,414,835 |
| 16 | Auburn University at Montgomery | \$7,574,052 |
| 17 | Jacksonville State University | \$11,979,462 |
| 18 | Tuskegee University | \$1,216,350 |
| 19 | Troy University | \$21,317,367 |
| 20 | University of Alabama | \$41,338,122 |
| 21 | University of Alabama at Birmingham | \$27,972,283 |
| 22 | University of Alabama in Huntsville | \$13,033,631 |
| 23 | University of Montevallo | \$3,744,829 |

| | | |
|---|-----------------------------|--------------|
| 1 | University of North Alabama | \$10,251,670 |
| 2 | University of South Alabama | \$18,159,466 |
| 3 | University of West Alabama | \$7,165,888 |

4 (c) The provision for the use of proceeds for the
5 purposes specified in Section 9(b) notwithstanding, each
6 recipient is permitted to use proceeds of the Bonds to retire
7 existing indebtedness that has been incurred by the recipient
8 to pay for capital improvements. The use of bond proceeds for
9 this purpose shall require specific approval of the Authority
10 and shall be subject to the Authority's policies and rules
11 governing this use.

12 Section 10. (a) Should Bond proceeds exceed
13 \$1,250,000,000 due to receipt of original issue premium in
14 connection with sale of Bonds or due to any other reason, such
15 Bond proceeds in excess of \$1,250,000,000 shall be allocated
16 by the Authority in a resolution adopted by the board of
17 directors of the Authority.

18 (b) Not later than three years following allocation
19 of Bond proceeds as provided herein, the Authority shall
20 review the status of any unexpended allocations, and, at its
21 sole discretion, determine if unexpended allocations or any
22 portion thereof shall revert to the Authority for reallocation
23 by the board of directors of the Authority.

24 Section 11. Notwithstanding any of the foregoing and
25 in addition to all powers heretofore granted to the Authority,

1 the Authority is hereby expressly authorized to use the
2 proceeds derived from the sale of Bonds and income on
3 Permitted Investments in accordance with the provisions of
4 this Act. The preparation of all plans and specifications for
5 any building constructed wholly or in part with any of the
6 monies realized from the sale of any of the Bonds and all work
7 done pursuant to expenditure of the proceeds thereof in regard
8 to the construction, reconstruction, alteration, improvement,
9 and equipping (not including furnishings) of buildings shall
10 comply with the requirements of Sections 39-1-1 through 39-8-8
11 Code of Alabama 1975 and Section 41-4-400 Code of Alabama
12 1975. Additionally, the Authority is hereby expressly
13 permitted to pay to the Department of Finance and the State
14 Treasurer's Office, from time to time and from any funds
15 available to the Authority, amounts to offset costs incurred
16 in the administration of the business of the Authority. The
17 cost of such compensation shall be prorated among the
18 recipients of proceeds of the Bonds in the same manner as the
19 expenses of issuance of the Bonds are required hereby to be
20 prorated.

21 Section 12. The Authority shall hire or contract
22 with businesses or individuals which reflect the racial and
23 ethnic diversity of the State.

24 Section 13. Tax Exemption.

25 The Authority shall have the power to make such
26 payments to the United States of America as the board of
27 directors of the Authority deems necessary to cause the

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

9 Section 14. Issuance Expenses; Contracts and
10 Appointments.

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

1 underwriters which shall reflect the racial and ethnic
2 diversity of the state.

3 Section 15. Order of Issuance.

4 The Authority shall issue bonds under this Act or
5 under the Prior Acts in the same order the Authority adopts
6 resolutions authorizing such bonds to be issued. If the
7 Authority authorizes the issuance of multiple series of bonds
8 under this Act or under the Prior Acts in one resolution, all
9 bonds so authorized shall be issued simultaneously.

10 Section 16. Severability.

11 In the event any section, sentence, clause or
12 provision of this Act shall be declared invalid by a court of
13 competent jurisdiction, such action shall not affect the
14 validity of the remaining sections, sentences, clauses, or
15 provisions of this Act, which shall continue effective.

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

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Senate

Read for the first time and referred to the Senate
committee on Finance and Taxation Education 27-FEB-20

Read for the second time and placed on the calen-
dar 2 amendments..... 05-MAR-20

Read for the third time and passed as amended 04-MAY-20

Yeas 29
Nays 0

Patrick Harris,
Secretary.