

1 HB4
2 215157-1
3 By Representative Clouse
4 RFD: Ways and Means General Fund
5 First Read: 27-SEP-21

8 SYNOPSIS: Under existing law, the Alabama Corrections
9 Institution Finance Authority is authorized to
10 issue bonds for prison construction purposes.

11 This bill would allow the authority to issue
12 additional bonds in an amount not to exceed \$785
13 million, as necessary, to implement a prison
14 modernization plan in a phased approach that would
15 replace existing bed space in Department of
16 Corrections facilities through the construction of
17 a new specialized men's prison facility on
18 state-owned land in Elmore County that would
19 provide enhanced medical, mental health, and other
20 health care, substance abuse and addiction
21 treatment, and educational and other programming
22 services to inmates; the construction of a new
23 prison facility for male inmates on state-owned
24 land in Escambia County; the construction of a new
25 women's prison facility on state-owned land in
26 Elmore County; and the renovation and improvement
27 of existing state-owned prison facilities in

1 Jefferson County, Limestone County, and an
2 additional existing facility to be selected by the
3 authority to be located in Barbour or Bullock
4 County.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to the finance and construction and
11 renovation of prisons; to provide legislative findings and
12 intent; to amend Sections 14-2-1, 14-2-6, 14-2-12, 14-2-13.1,
13 14-2-14, 14-2-16, 14-2-19, 14-2-21, 14-2-28, and 14-2-34, Code
14 of Alabama 1975, to allow the Alabama Corrections Institution
15 Finance Authority to issue bonds in an amount not to exceed
16 \$785 million for the purpose of implementing a prison
17 modernization plan in a phased approach that would replace
18 existing bed space in Department of Corrections facilities
19 through the construction of a new specialized men's prison
20 facility on state-owned land in Elmore County providing
21 specialized services to inmates; the construction of a new
22 prison facility for male inmates on state-owned land in
23 Escambia County; the construction of a new women's prison
24 facility on state-owned land in Elmore County; the renovation
25 and improvement of existing state-owned prison facilities in
26 certain counties and an additional existing facility to be
27 selected by the authority; to define certain terms; to revise

1 the membership of the authority; to require reporting to the
2 Joint Legislative Prison Oversight Committee; to further
3 provide for actions to be taken upon payment of all bonds
4 issued by the authority; to create the Correctional Facilities
5 Maintenance Fund; and to create the Department of Corrections
6 - Correctional Capital Improvement Fund.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. The Legislature finds and declares the
9 following:

10 (1) Many of the existing prison facilities in this
11 state are well beyond their normal design service life, most
12 existing prison facility infrastructure lacks sustained
13 maintenance, and lifecycle replacement has not been routinely
14 performed on all facilities. The average age of operational
15 prison facilities used by the Department of Corrections is 44
16 years. Additionally, the physical plant conditions have
17 continued to deteriorate in many facilities, and the design
18 and layout of the existing facilities is antiquated and not
19 optimally suited for the delivery of necessary services to
20 inmates or to fully realize the benefits of modern technology.
21 In many facilities, renovation would be uneconomical or
22 cost-prohibitive.

23 (2) It is the intent of this act to implement a plan
24 to replace existing prison facility capacity with new or
25 renovated capacity in the prison facilities using a phased
26 approach.

1 (3) It is necessary to prioritize the construction
2 of a men's prison facility to provide enhanced health care
3 services, including outpatient and inpatient medical and
4 mental health services, substance abuse and addiction
5 treatment, and educational services and programs, and to
6 increase delivery of these services efficiently.

7 (4) It is also necessary to prioritize the
8 construction of a 4,000-bed men's prison facility to provide
9 transition space for those inmates currently housed in
10 facilities that are in critical need of renovations and
11 improvements, and to construct a new women's prison facility.

12 (5) A phased approach in constructing new prison
13 facilities and renovating and improving some or portions of
14 existing prison facilities, coupled with the use of any
15 funding sources, available now or in the future, and
16 appropriated for these specific purposes, is a fiscally
17 responsible and practical approach to addressing the critical
18 needs of the current prison infrastructure.

19 (6) It is the intent of the Legislature to fully
20 fund Phase I of construction with a combination of issuing
21 bonds authorized by this act and direct appropriation of other
22 available funds. It is further the intent of the Legislature
23 that future phases of the plan set forth in this act shall be
24 funded on a pay-as-built basis or as otherwise authorized by
25 this act.

1 Section 2. Sections 14-2-1, 14-2-6, 14-2-12,
2 14-2-13.1, 14-2-14, 14-2-16, 14-2-19, 14-2-21, 14-2-28, and
3 14-2-34, Code of Alabama 1975, are amended to read as follows:

4 "§14-2-1.

5 "For the purposes of this chapter, the following
6 terms shall have the meanings respectively ascribed to them by
7 this section:

8 "(1) AUTHORITY. The public corporation organized
9 pursuant to the provisions of this chapter.

10 "(2) COMMISSION. The Building Commission created by
11 Section 41-9-140 and its successors as the state agency for
12 awarding construction contracts and supervising construction.

13 "(3) DEPARTMENT. The Alabama Department of
14 Corrections created by Section 14-1-1.1 and its successors as
15 the state agency responsible for supervising and controlling
16 the operation of the correctional institutions of the state.

17 "(4) ESCAMBIA MEN'S PRISON FACILITY. A prison
18 facility, including all real property, buildings, and
19 improvements, designed to house at least 4,000 male inmates
20 and with intake capability, to be located on land owned by the
21 state or the authority as of December 1, 2020, in Escambia
22 County, as provided in Section 14-2-12(c) (2) a.

23 "~~(4)~~ (5) STATE. The State of Alabama.

24 "~~(5)~~ (6) BONDS. The bonds issued under the provisions
25 of this chapter.

26 "~~(6)~~ (7) FACILITIES. Such term includes any one or
27 more of the following:

1 "a. Prisons;

2 "b. Buildings and enclosures for housing,
3 containing, or supervising prisoners; and

4 "c. Any facilities necessary or useful in connection
5 with prisons, buildings, or enclosures, including, without
6 limiting the generality of the foregoing, hospitals, offices,
7 correctional officers' quarters and residences, warehouses,
8 garages, storage facilities, abattoirs, cold storage plants,
9 canning plants, laundries, and manufacturing plants ~~for the~~
10 ~~employment of prison labor,~~ educational and other programming
11 facilities, medical, mental health, and other health care
12 facilities, and substance abuse and addiction treatment
13 facilities.

14 "~~(7)~~(8) KILBY PROPERTY. Such term includes all of
15 the real property commonly referred to as Kilby prison
16 property, embracing not only the real property owned by the
17 state on which Kilby prison is located, but also all real
18 property owned by the state used in connection with Kilby
19 prison and adjacent thereto, all located in sections 2, 3, 10,
20 11, 21, 22, 26, 27, 28, 29, 30, 33, 34, and 35 in township 17,
21 range 18 in Montgomery County, Alabama, together with all
22 personal property owned by the state and used in connection
23 with Kilby prison and the real property adjacent thereto.

24 "~~(8)~~(9) PERRY COUNTY FACILITY. The Perry County
25 Correctional Center, including all real property, buildings,
26 and improvements located at the facility in Perry County.

1 "(10) SPECIALIZED MEN'S PRISON FACILITY. A prison
2 facility, including all real property, buildings, and
3 improvements, designed to house at least 4,000 male inmates,
4 with intake capability, and with designated space for enhanced
5 medical, mental health, and other health care, substance abuse
6 and addiction treatment, and educational and other programming
7 services to inmates, to be located on land owned by the state
8 or the authority as of December 1, 2020, in Elmore County, as
9 provided in Section 14-2-12(c)(2)a.

10 "(11) WOMEN'S PRISON FACILITY. A prison facility
11 designed to house at least 1,000 female inmates to be located
12 on land owned by the state or the authority in Elmore County,
13 as provided in Section 14-2-12(c)(2)a.

14 "§14-2-6.

15 "(a) ~~The applicants named in the application and~~
16 ~~their respective successors in office shall constitute the~~
17 ~~members of the authority.~~ The membership of the authority
18 shall be as follows: The Governor shall be the president of
19 the authority, the Commissioner of Corrections shall be the
20 ~~vice-president~~ vice president of the authority, and the
21 Director of Finance shall be the secretary of the authority.
22 In addition to these three members, the Chair of the House
23 Ways and Means General Fund Committee, the Chair of the Senate
24 Finance and Taxation General Fund Committee, a member jointly
25 appointed by the House Minority Leader and the Senate Minority
26 Leader, and the Director of the Bureau of Pardons and Paroles

1 shall be members of the authority. The governing documents of
2 the authority shall be amended to reflect this membership.

3 "(b) The State Treasurer shall be the treasurer and
4 custodian of the funds of the authority, but shall not be a
5 member of the authority. ~~The members of the authority shall~~
6 ~~constitute all the members of the board of directors of the~~
7 ~~authority, which shall be the governing body of the authority.~~

8 "(c) A majority of the members of the ~~said board of~~
9 ~~directors~~ authority shall constitute a quorum for the
10 transaction of business.

11 "(d) Should any person holding any state office
12 named in this section cease to hold such office by reason of
13 death, resignation, expiration of his or her term of office,
14 or for any other reason, then his or her successor in office
15 shall take his or her place as a member, or officer ~~or~~
16 ~~director~~, as the case may be, of the authority.

17 "(e) No member, or officer ~~or director~~ of the
18 authority shall draw any salary in addition to that now
19 authorized by law for any service he or she may render or for
20 any duty he or she may perform in connection with the
21 authority.

22 "(f) No member, officer, ~~director~~ or employee of the
23 authority shall be personally liable for any debt, obligation,
24 or liability of the authority.

25 "(g) The authority may delegate any of its
26 administrative or reporting duties and obligations under this

1 chapter to the Department of Corrections or any other state
2 agency, department, or other state entity.

3 "§14-2-12.

4 "(a) For the purpose of providing funds for the
5 acquisition of sites, for the construction, reconstruction,
6 alteration, and improvement of facilities, for the procurement
7 and installation of equipment therefor, and for payment of
8 obligations incurred and the principal of and interest on any
9 temporary loans made for any of the ~~said~~ purposes, the
10 authority is hereby authorized, from time to time, to sell and
11 issue, in addition to all bonds heretofore authorized to be
12 issued by the authority, its bonds in such aggregate principal
13 amounts as may be determined by the corporation to be
14 necessary for the ~~said~~ purposes, but not to exceed
15 \$25,000,000, plus an additional seven million five hundred
16 thousand dollars (\$7,500,000) pursuant to Act 97-950, in
17 aggregate principal amount.

18 "(b) In addition to the authorization provided in
19 subsection (a), the authority is hereby authorized, from time
20 to time, to sell and issue its bonds in amounts determined by
21 the authority to be necessary for the acquisition,
22 construction, reconstruction, alteration, and improvement of
23 facilities. Additional bonds may be issued to provide for
24 additional bedspace by improving properties currently owned by
25 the Department of Corrections or the authority. The total
26 additional bonds authorized by this subsection shall not
27 exceed \$60 million.

1 "(c) (1) Subject to subdivision (2), in addition to
2 any other authorization provided in this chapter, the
3 authority is hereby authorized, from time to time, to sell and
4 issue bonds in multiple series and in amounts determined by
5 the authority to be necessary to replace existing bed space in
6 Department of Corrections facilities through the
7 implementation of the phased plan set forth in the act
8 amending this section. The total additional bonds authorized
9 by the act amending this section may not exceed \$785 million.

10 "(2) The additional bonds authorized under
11 subdivision (1) shall be issued by the authority as necessary
12 for the projects specified in each phase:

13 "a.1. PHASE 1: Immediately upon the effective date
14 of the act adding this amendatory language, the authority
15 shall be authorized to issue bonds as necessary, and subject
16 to the limitation in this subsection, to fund the following
17 Phase 1 projects:

18 "(i) The construction of the specialized men's
19 prison facility.

20 "(ii) The construction of the Escambia men's prison
21 facility.

22 "2. Within one year from the completion of the
23 specialized men's prison facility and the Escambia men's
24 prison facility, the Hamilton Aged and Infirm Center and the
25 Staton, Elmore, and Kilby facilities shall all be closed.

26 "3. At a time to be determined by the Department of
27 Corrections, and following the closure of the facilities

1 described in paragraph 2., the next major Department of
2 Corrections facility to be closed shall be the St. Clair
3 Correctional Facility.

4 "b. PHASE 2: Upon substantial completion of at least
5 60 percent of the construction of Phase 1 projects, in the
6 aggregate, or anytime thereafter, as certified by the
7 Commissioner of Corrections, and upon certification by the
8 Director of Finance, the chair of the House Ways and Means
9 General Fund Committee, and the chair of the Senate Finance
10 and Taxation General Fund Committee that the General Fund can
11 support additional lease payments from the department to the
12 authority or that the funding otherwise exists to complete any
13 of the Phase II projects and it is in the best interest of the
14 state to do so, the authority shall be authorized to issue
15 bonds as necessary, and subject to the limitation in this
16 subsection, to fund any of the following Phase 2 projects:

17 "1. The construction of a women's prison facility.
18 Within one year of completion of this women's facility, the
19 Julia Tutwiler Prison shall be closed.

20 "2. The renovation and improvement, or, if
21 necessary, the demolition and reconstruction, of existing
22 state-owned prison facilities in Jefferson and Limestone
23 Counties.

24 "3. The renovation and improvement, or, if
25 necessary, the demolition and reconstruction, of an existing
26 state-owned men's prison facility to be selected by the
27 authority and to be located in Barbour or Bullock County.

1 "c. PHASE 3: Prior to substantial completion of 75
2 percent of the renovation and improvement of Phase 2 projects,
3 in the aggregate, as certified by the Commissioner of
4 Corrections, the Department of Corrections, in consultation
5 with the Joint Legislative Prison Oversight Committee, shall
6 perform an evaluation of men's prison facilities based on a
7 current facilities assessment and inmate population trends to
8 determine if additional facility beds need to be replaced. A
9 copy of the evaluation shall be provided to the Legislature.

10 "(3) If bond proceeds exceed the amount authorized
11 in subdivision (1) due to receipt of original issue premium in
12 connection with the sale of bonds or due to any other reason,
13 the bond proceeds in excess of those amounts shall be
14 allocated by the authority for the expense of issuance,
15 including capitalized interest, or as determined necessary for
16 the purposes provided in subdivision (1).

17 "(4) Within 30 days of the completion of any bond
18 sale pursuant to this subsection, the authority shall provide
19 a report, in concise, simple language to the Legislature which
20 reflects the date of the issuance of the bonds pursuant to
21 this subsection, total amount of the bonds, maturity date,
22 schedule of payments, including interest and principal, amount
23 of attorney fees, architect fees and bond attorney fees,
24 underwriting fees, and all other costs incurred in the
25 issuance of and sale of the bonds herein authorized, and to
26 what person, firm, corporation, company, or other entity to
27 which any such fees or money is to be or has been paid.

1 "~~(c)~~(d) Any monetary transactions by the authority
2 completed pursuant to Act 2010-729 and the act adding this
3 amendatory language shall be fully disclosed to the public.

4 "~~(d)~~(e) Any bonds issued pursuant to this section
5 shall be sold ~~by competitive bid if practical and economically~~
6 ~~feasible as determined by the authority~~ pursuant to the terms
7 of Section 14-2-16.

8 "~~(e)~~(f) (1) The authority is strongly encouraged to
9 utilize businesses and companies in all aspects of the bond
10 and construction portions of this chapter that reflect the
11 racial and ethnic diversity of the state.

12 "(2) It is the intent of the Legislature that the
13 authority encourage participation by minority businesses in
14 the construction of prison facilities as provided by the act
15 adding this amendatory language. Accordingly, the authority
16 shall adopt a plan that achieves to the greatest extent
17 possible a level of participation by minority businesses, with
18 a focus on ethnic minority businesses, including prevailing
19 ethnic minority businesses. The authority shall administer
20 training programs and other educational activities to enable
21 eligible minority businesses to compete for participation on
22 an equal basis, and shall focus on developing ethnic minority
23 businesses, including prevailing ethnic minority businesses.
24 The authority shall monitor the results of minority business
25 participation and shall report at least on a quarterly basis
26 the results of minority business participation, with
27 specificity, to the Governor, the President Pro Tempore of the

1 Senate, the Speaker of the House of Representatives, the
2 Senate Minority Leader, and the House Minority Leader.

3 "§14-2-13.1.

4 "It is hereby further provided that no refunding
5 bonds as provided for by Section 14-2-13 shall be issued
6 unless the present value of all debt service on the refunding
7 bonds (computed with a discount rate equal to the ~~true~~
8 ~~interest rate~~ bond yield of the refunding bonds and taking
9 into account all underwriting discount and other issuance
10 expenses) shall not be greater than ~~95%~~ 98 percent of the
11 present value of all debt service on the bonds to be refunded
12 (computed using the same discount rate and taking into account
13 the underwriting discount and other issuance expenses
14 originally applicable to such bonds) determined as if such
15 bonds to be refunded were paid and retired in accordance with
16 the schedule of maturities (considering mandatory redemption
17 as a scheduled maturity) provided at the time of their
18 issuance. Provided further that the average maturity of the
19 refunding bonds, as measured from the date of issuance of such
20 refunding bonds, shall not exceed by more than three years the
21 average maturity of the bonds to be refunded, as also measured
22 from such date of issuance, with the average maturity of any
23 principal amount of bonds to be determined by multiplying the
24 principal of each maturity by the number of years (including
25 any fractional part of a year) intervening between such date
26 of issuance and each such maturity, taking the sum of all such
27 products, and then dividing such sum by the aggregate

1 principal amount of bonds for which the average maturity is to
2 be determined.

3 "§14-2-14.

4 "Any bonds of the authority may be executed and
5 delivered by it at any time and from time to time, shall be in
6 such form and denominations and of such tenor and maturities,
7 shall bear such rate or rates of interest payable and
8 evidenced in such manner, may contain provisions for
9 redemption prior to maturity and may contain other provisions
10 not inconsistent with this section, all as may be provided by
11 the resolution of the ~~board of directors~~ authority whereunder
12 such bonds are authorized to be issued; provided, that no bond
13 of the authority shall have a specified maturity date later
14 than ~~20~~ 30 years after its date. ~~In the event that the~~
15 ~~authority shall make more than one pledge of the same~~
16 ~~revenues, such pledges shall, unless otherwise provided in the~~
17 ~~resolution or resolutions authorizing the earlier issued~~
18 ~~bonds, take precedence in the order of the adoption of the~~
19 ~~resolutions in which the pledges are made; provided, that each~~
20 ~~pledge for the benefit of refunding bonds shall have the same~~
21 ~~priority as the pledge for the benefit of the bonds refunded~~
22 ~~thereby.~~

23 "§14-2-16.

24 "Bonds of the authority may be sold at such price or
25 prices and at such time or times as the ~~board of directors of~~
26 ~~the~~ authority may consider advantageous, ~~either~~ at public
27 sale, or private sale, or via negotiation. Bonds of the

1 authority sold by competitive bid must be sold, whether on
2 sealed bids or at public auction, to the bidder whose bid
3 reflects the lowest ~~effective borrowing~~ true interest cost to
4 the authority for the bonds being sold; provided, that if no
5 bid acceptable to the authority is received, it may reject all
6 bids. ~~Notice of each such sale by competitive bids shall be~~
7 ~~given by publication in either a financial journal or a~~
8 ~~financial newspaper published in the City of New York, New~~
9 ~~York, and also by publication in a newspaper published in the~~
10 ~~State of Alabama, each of which notices must be published at~~
11 ~~least one time not less than 10 days before the date for the~~
12 ~~sale.~~ The ~~board of directors~~ authority may fix the terms and
13 conditions under which such sale may be held; provided, that
14 such terms and conditions shall not conflict with any of the
15 requirements of this chapter. The authority may pay out of the
16 proceeds of the sale of its bonds all expenses, including
17 capitalized interest during a period not to exceed ~~one year~~
18 three years from the date of issuance of such bonds,
19 publication and printing charges, attorneys' fees and other
20 expenses which ~~said board of directors~~ the authority may deem
21 necessary and advantageous in connection with the
22 authorization, advertisement, sale, execution, and issuance of
23 such bonds. ~~Neither~~ Except as otherwise provided in paragraphs
24 (c) (2)b. and c. of Section 14-2-12, neither a public hearing
25 nor consent of the State Department of Finance or any other
26 department or agency of the state shall be a prerequisite to
27 the issuance or sale of bonds by the authority.

1 "§14-2-19.

2 "(a) All proceeds derived from the sale of any
3 bonds, except refunding bonds, sold by the authority,
4 remaining after payment of the expenses of issuance thereof,
5 shall be turned over to the State Treasurer, shall be carried
6 in a special account to the credit of the authority, and shall
7 be subject to be drawn on by the authority solely for the
8 purposes of:

9 "(1) Acquiring land for and constructing,
10 reconstructing, and equipping thereon one or more facilities;

11 "(2) Constructing additional improvements on
12 property currently owned by the Department of Corrections or
13 the authority in order to provide for additional or
14 replacement bedspace;

15 "(3) Paying all reasonable and necessary expenses
16 incidental thereto, including filing, recording, surveying,
17 legal and engineering fees, and expenses;

18 "(4) Paying the interest which will accrue on the
19 ~~said~~ bonds during the period required for the construction and
20 ~~equipment~~ equipping of the ~~said~~ facilities and for a period
21 not exceeding six months after the completion thereof; ~~and~~

22 "(5) Paying the principal of and interest on all
23 then outstanding notes theretofore issued by the authority
24 pursuant to the provisions of Section 14-2-107;

25 "(6) Paying for the cost of constructing the
26 specialized men's prison facility and the Escambia men's
27 prison facility; and

1 "(7) Paying for the cost of renovation and
2 improvement of existing state-owned prison facilities in
3 Jefferson and Limestone Counties and an additional men's
4 prison facility selected by the authority and to be located in
5 Barbour or Bullock County, and the construction of a women's
6 prison facility.

7 "The balance of the ~~said~~ proceeds thereafter
8 remaining, unless required for the construction of other
9 facilities by the authority as shall be determined by
10 resolution ~~of its board of directors~~ within six months after
11 completion of the facilities for which the bonds were issued,
12 shall be set aside as additional security for the bonds or
13 shall be used to pay, purchase, or redeem bonds as may be
14 provided in the proceedings authorizing their issuance. The
15 reasonable and necessary expenses incident to the construction
16 of any facility shall, if deemed advisable by the authority,
17 include all or any part of the expense of providing temporary
18 facilities, during the construction of a new facility, for any
19 penal or correctional institution facility which is demolished
20 or ~~rendered~~ unserviceable as such.

21 "(b) All proceeds from the sale of refunding bonds
22 issued by the authority that remain after paying the expenses
23 of their issuance may be used only for the purpose of
24 refunding the principal of and any unpaid and accrued interest
25 on the outstanding bonds of the authority for the refunding of
26 which the refunding bonds are authorized to be issued,

1 together with any premium that may be necessary to be paid in
2 order to redeem or retire such outstanding bonds.

3 "§14-2-21.

4 "(a) The principal of, premium, if any, and interest
5 on the bonds of the authority shall be secured by any or all
6 of the following, as the authority may determine:

7 "(1) The rent and revenue for the use of one or more
8 facilities of the authority;

9 "(2) The net rent or sale proceeds from the Kilby
10 property;

11 "(3) Any bond proceeds remaining unexpended upon
12 completion of all facilities to be constructed with such bond
13 proceeds and the payment of the cost thereof;

14 "(4) Any insurance proceeds which the authority may
15 receive by reason of its ownership of any of the facilities;
16 and

17 "(5) Any mortgage upon or security interest in one
18 or more facilities of the authority, granted in connection
19 with the issuance of such bonds.

20 "(b) The authority shall have authority to transfer
21 and assign any lease agreement of any of the facilities and
22 any lease or mortgage of the Kilby property as security for
23 the payment of such principal, premium, if any, and interest.
24 The bonds may be issued under, and secured by, a resolution
25 which may, but need not, provide for an indenture of trust
26 covering one or more facilities of the authority. Such
27 resolution or such indenture of trust may contain any

1 provision or agreement customarily contained in instruments
2 securing evidences of indebtedness, including, without
3 limiting the generality of the foregoing, provisions
4 respecting the collection and application of any lease
5 agreement revenues, or other receipts pledged to the payment
6 of bonds, the terms to be incorporated in lease agreements
7 respecting the facilities, the maintenance and insurance
8 thereof, the creation and maintenance of reserve and other
9 special funds from such receipts, and the rights and remedies
10 available in the event of default to the holders of the bonds
11 or to the trustee for the holders of the bonds or under any
12 indenture of trust, all as the authority may deem advisable
13 and as shall not be in conflict with the provisions of this
14 chapter; provided, however, that in making such agreements or
15 provisions the authority shall not have the power to obligate
16 itself except with respect to its facilities, the Kilby
17 property, and the application of the lease agreement revenues
18 and other receipts which it is authorized in this chapter to
19 pledge.

20 "(c) The Department of Corrections - Correctional
21 Capital Improvement Fund is created within the State Treasury,
22 to be administered by the Department of Corrections. The
23 Legislature shall make appropriations to this entity to be
24 used exclusively for the construction, renovation, and
25 improvement of the prison facilities as enumerated in Section
26 14-2-12(c).

1 "(d) The Correctional Facilities Maintenance Fund is
2 created within the State Treasury, to be administered by the
3 Department of Corrections. The Legislature shall make
4 appropriations to this fund to be used exclusively for
5 maintenance of the prison facilities as enumerated in Section
6 14-2-12 (c) .

7 "§14-2-28.

8 ~~"All facilities constructed by the authority shall~~
9 ~~be constructed according to plans and specifications of~~
10 ~~architects or engineers, or both, selected by the department.~~
11 ~~Such plans and specifications shall be approved by the~~
12 ~~department and by the commission. All work in the construction~~
13 ~~of facilities, or any part thereof, which is determined by the~~
14 ~~commission to be suitable and proper for construction by~~
15 ~~prison labor under force account shall be performed by such~~
16 ~~prison labor under such supervision and directions as shall be~~
17 ~~ordered by the department. All construction of facilities or~~
18 ~~any part thereof which the commission shall determine not to~~
19 ~~be suitable and proper for construction by prison labor shall~~
20 ~~be done under the supervision and direction of the commission~~
21 ~~following award for each part of the work to the lowest~~
22 ~~responsible bidder after advertising for, receipt and public~~
23 ~~opening of sealed bids. Each such invitation for bids and the~~
24 ~~bidding documents applicable thereto shall be so arranged that~~
25 ~~any alternates shall constitute cumulative deductions from the~~
26 ~~base bid rather than additions thereto. In determining the~~
27 ~~lowest bidder if funds are insufficient to construct the~~

1 ~~facility on the lowest base bid, then the commission may~~
2 ~~proceed to consider the bids upon the basis of the base bids~~
3 ~~of all bidders minus the respective reductions stated for the~~
4 ~~first alternate. If the lowest bid so determined is not then~~
5 ~~within the funds available, the commission shall proceed to~~
6 ~~consider the base bid minus the first and second alternates~~
7 ~~together to determine the lowest bid and in like manner~~
8 ~~throughout all alternates, if need be, so that in no event~~
9 ~~shall there be any discretion as to which alternate or~~
10 ~~alternates will be used in determining the lowest responsible~~
11 ~~bidder. If no bid deemed acceptable by the commission and the~~
12 ~~authority is received, all bids may be rejected, in which~~
13 ~~event bids may again from time to time be invited and acted on~~
14 ~~as provided in this section.~~

15 "(a) (1)a. Notwithstanding any other provision of
16 law, the contract for the design and construction of the
17 specialized men's prison facility and the Escambia men's
18 prison facility authorized in Section 14-2-12(c) (2)a. may be
19 awarded to either of the following:

20 "1. Any person that was part of a team qualified by
21 the department for any proposed facility pursuant to the
22 Request for Qualifications issued by the Department of
23 Corrections June 27, 2019, provided that the previously
24 qualified person may petition the department to add or
25 substitute members as needed.

26 "2. In the event the authority determines it is not
27 in the best interest of this state to enter into a contract

1 for the design and construction of one or both of the
2 specialized men's prison facility and the Escambia men's
3 prison facility pursuant to subparagraph (a)(1)a.1., the
4 authority may enter into contracts with any other public and
5 private parties for the design and construction of the
6 facilities not contracted for pursuant to subparagraph
7 (a)(1)a.1., including a design-build contract, in accordance
8 with the following:

9 "(i) The authority shall develop procedures to
10 implement this section, including, but not limited to,
11 proposal content, selection criteria, prequalification,
12 applicant interview, proposal evaluation, proposal
13 negotiation, selection, and award, which will be outlined in
14 each authority request for proposal.

15 "(ii) Notwithstanding any provision of law to the
16 contrary, proposals under this section shall be awarded by the
17 authority based on qualifications of participants and best
18 value as evaluated by procedures of the authority and taking
19 into consideration the best interest of this state.

20 "(iii) Proposals shall use the standard
21 specifications of the department or other specifications the
22 authority and the department determine necessary for the
23 facility.

24 "(iv) The authority may award a contract through any
25 other procurement authority, proposals, or other means of
26 procurement otherwise available for public works projects in
27 this state.

1 "b. Both the specialized men's prison facility and
2 the Escambia men's prison facility shall not be awarded to the
3 same person unless it is determined by the authority that to
4 award the contracts to the same person would be in the best
5 interest of this state.

6 "c. Unless the authority finds it is not in the best
7 interest of this state, the contract for the design and
8 construction of the specialized men's prison facility shall be
9 executed before execution of the contract for the design and
10 construction of the Escambia men's prison facility.

11 "d. Any contract for the design and construction of
12 the specialized men's prison facility or for the design and
13 construction of the Escambia men's prison facility shall
14 establish a guaranteed maximum price for each project.

15 "e. As a condition of entering into a contract for
16 the design and construction of either the specialized men's
17 prison facility or the Escambia men's prison facility, any
18 person entering into the contract shall agree to full
19 transparency and shall share all pricing information with the
20 authority. The authority, at its sole discretion, shall have
21 the right to require verification of competitive pricing for
22 any portion of the proposed scope of the design and
23 construction agreements.

24 "(2)a. Notwithstanding any other provision of law,
25 and except as provided in paragraph b., all other construction
26 contemplated by the act amending this section shall be subject
27 to the bid requirements for public works in Title 39.

1 "b. When two or more bids are received for contracts
2 referenced in paragraph a., and all bids exceed available
3 funding for the contract as provided in Section 14-2-12, the
4 authority may negotiate for the work with the lowest
5 responsible and responsive bidder provided that the authority
6 certifies a shortage of funding, that time is of the essence,
7 and that the negotiated changes are in the public interest and
8 do not materially alter the scope and nature of the project.

9 "(c) All such contracts shall be lump sum contracts.
10 The entire work on a prison facility may be divided into one
11 or more contracts. All contracts for the entire work on a
12 facility ~~shall~~ need not be awarded at the same time, ~~but~~
13 ~~notice to proceed may be withheld until~~ so that prior work
14 under another contract ~~has progressed~~ can progress to a point
15 where the joint or following work can best be coordinated for
16 the earliest completion of the entire project in a sound and
17 workmanlike manner. Each contract shall be executed by the
18 authority ~~upon the determination of the commission as to the~~
19 ~~lowest bidder.~~ Payments made by the authority under the
20 construction contracts shall be upon the contractor's written
21 sworn request only if endorsed as approved by the commission
22 or in any lesser amount the commission shall endorse as having
23 been then earned on ~~said~~ the contract. After the contracts for
24 a facility have been awarded, ~~such~~ the construction cost
25 estimate shall be revised and all extras on the contracts
26 shall be awarded within the funds available. The authority
27 shall pay to the commission as a part of the cost of

1 constructing the facility such sums for the services of its
2 employees as may be mutually agreed between the department and
3 the commission.

4 "§14-2-34.

5 "When all bonds and securities issued by the
6 authority and all obligations assumed by it under the
7 provisions of this chapter shall have been paid in full, the
8 then president of the authority shall thereupon execute and
9 deliver in the name of, and in behalf of, the authority an
10 appropriate deed or deeds, to which the seal of the authority
11 shall be affixed and attested by the secretary of the
12 authority, conveying all facilities and other assets then
13 owned by the authority to the state, except that no such
14 conveyance shall be required if the president of the authority
15 determines that the issuance of additional bonds to finance
16 improvements to existing facilities is contemplated. The ~~then~~
17 ~~officers and directors~~ of the authority may, in their
18 discretion, at such time file with the Secretary of State a
19 written statement, subscribed and sworn to by each of them,
20 reciting the payment in full of all bonds theretofore issued
21 by the authority and the execution and delivery of such deed
22 or deeds, which statement shall be filed by the Secretary of
23 State and recorded with the certificate of incorporation of
24 the authority, and thereupon the authority shall stand
25 dissolved."

26 Section 3. (a) Separate and apart from the power
27 granted to the authority in regard to the Kilby property in

1 Sections 14-2-26 and 14-2-27, Code of Alabama 1975, and in
2 addition to those powers, the authority shall have the power
3 to sell, convey, and lease all or any part of any real and
4 personal property now or hereafter owned by it, together with
5 the improvements thereon and ancillary thereto, that is not
6 being used by the department as a facility, and the sale of
7 which will not impair the outstanding obligations of the
8 authority, and as an aid to the sale or lease, to cause to be
9 prepared by competent real estate experts a land use map and
10 plan. The authority may lease or sell lands and property owned
11 by it without going through the Lands Division or in any other
12 way complying with the provisions of Title 9, Chapter 15,
13 Article 3, Code of Alabama 1975. The authority must have duly
14 adopted written policies and procedures governing the sale or
15 lease of the property which invoke open competition and
16 produce the best price, to include obtaining an appraisal,
17 advertising the sale or lease, and conducting the sale by
18 public auction or publicly sought sealed bid. The sale or
19 lease shall be made at public sale or private sale as the
20 authority shall determine to be necessary or desirable.

21 (b) The award of any property offered for public
22 sale or lease shall be made to the highest responsible bidder
23 unless all bids shall be rejected as inadequate and other
24 public offering shall be made upon notice republished as
25 prescribed above. Any sale shall be for all cash. Each deed or
26 lease to effectuate any sale or lease shall be signed in the

1 name of the authority by its president, to which the seal of
2 the authority shall be affixed and attested by its secretary.

3 (c) The proceeds of each sale or lease of any such
4 property shall be used first to pay the reasonable and
5 necessary expenses of the sale or lease, and the balance
6 remaining shall be deposited into the Correctional Facilities
7 Maintenance Fund.

8 (d) The department shall maintain all facilities not
9 being used for the purposes designated in Section 14-2-1(7),
10 Code of Alabama 1975, and designated for sale, lease,
11 demolition, or other disposition, so long as title thereto is
12 held by the authority, to enable the authority to achieve the
13 best possible price or other result upon the sale, lease, or
14 other disposition thereof.

15 (e) Upon request of the authority, the department
16 shall convey to the authority any real and personal property
17 to which the department holds title and acquired with proceeds
18 of the authority's bonds or income thereon.

19 Section 4. The state, through any of its departments
20 or agencies or a subdivision thereof, shall lease or purchase
21 upon commercially reasonable terms, or a combination thereof,
22 the existing prison facility in Perry County to be utilized by
23 the department or any other state department or agency using
24 funds appropriated for that purpose from the State General
25 Fund.

1 Section 5. A person or entity submitting a proposal
2 for any project under this act shall disclose both of the
3 following:

4 (1) The names of all lobbyists, attorneys, or other
5 professionals or professional firms hired or retained by the
6 person or entity on or after December 6, 2019.

7 (2) The names of all current or past elected
8 officials or family members as defined in Section 36-25-1(15),
9 Code of Alabama 1975, associated in any manner with the person
10 or entity submitting the proposal or associated in any manner
11 with a subcontractor of the person or entity on or after
12 December 6, 2019.

13 Section 6. Nothing in this act shall be construed to
14 limit the department from continuing to use third party or
15 private facilities for any program or housing of inmates that
16 are not under medium, maximum, or close security supervision.

17 Section 7. (a) Prior to the closure of any facility
18 as the result of the provisions of this act, there shall be
19 established a commission to study the economic impact of the
20 closure of the facility, any possible repurposing of the
21 facility, and any outstanding obligations of the facility to a
22 local governmental entity or utility board. The commission
23 shall report its findings to the Governor, the President Pro
24 Tempore of the Senate, the Speaker of the House of
25 Representatives, the Senate Minority Leader, and the House
26 Minority Leader.

1 (b) The Alabama Prison Repurposing Commission,
2 created by Executive Order No. 722, September 22, 2020, is
3 deemed to satisfy the requirements of subsection (a) for as
4 long as the commission exists.

5 Section 8. The provisions of this act are severable.
6 If any part of this act is declared invalid or
7 unconstitutional, that declaration shall not affect the part
8 which remains.

9 Section 9. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.