

1 SB431
2 136365-1
3 By Senator Bussman
4 RFD: Finance and Taxation Education
5 First Read: 20-MAR-12

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8 SYNOPSIS: This bill authorizes the Alabama Public
9 School and College Authority to sell and issue
10 \$37,828,007 in aggregate principal amount of
11 additional bonds for capital improvements for
12 schools which suffered catastrophic damage as a
13 result of the tornadoes on April 27, 2011. It
14 authorizes the Authority to reimburse the Building
15 Commission, the Department of Finance, and the
16 State Treasurer's office for costs incurred in
17 providing services for the Authority; it authorizes
18 the Authority to provide for the details of the
19 bonds and the sale and issuance thereof; it makes
20 an appropriation and pledge for payment of the
21 principal and interest on the bonds from specific
22 taxes necessary to pay the principal and interest
23 at their respective maturities and authorizes the
24 Authority to pledge for payment of the principal
25 and interest on the bonds the funds that are
26 appropriated and pledged; it provides for the
27 investment of funds by the State Treasurer; it

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

1 Authority by local boards of education and provides
2 that if any portion of this act should be held
3 invalid such holding shall not affect the validity
4 of any other portion thereof; and it requires all
5 projects using bond proceeds to have all plans,
6 specifications, construction, reconstruction,
7 alteration, improvement, and equipping of buildings
8 to be supervised by the State Building Commission
9 and provides for the payments of its reasonable
10 cost in reviewing contract documents and
11 supervising and inspecting the work.

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

17 To authorize the Alabama Public School and College
18 Authority to sell and issue \$37,828,007 in aggregate principal
19 amount of additional bonds for capital improvements for
20 schools which suffered catastrophic damage as a result of the
21 tornadoes on April 27, 2011. To authorize the Authority to
22 reimburse the Building Commission, the Department of Finance,
23 and the State Treasurer's office for costs incurred in
24 providing services for the Authority; to authorize the
25 Authority to provide for the details of the bonds and the sale
26 and issuance thereof; to make an appropriation and pledge for
27 payment of the principal and interest on the bonds from

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

1 Authority by local boards of education and to provide that if
2 any portion of this act should be held invalid such holding
3 shall not affect the validity of any other portion thereof;
4 and to require all projects using bond proceeds to have all
5 plans, specifications, construction, reconstruction,
6 alteration, improvement, and equipping of buildings to be
7 supervised by the State Building Commission and to provide for
8 the payments of its reasonable cost in reviewing contract
9 documents and supervising and inspecting the work.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Definitions. Wherever used in this act,
12 the following terms shall have the following meanings
13 respectively, unless the context clearly indicates otherwise:

14 (1) "1965 Act" means Act No. 243 enacted at the 1965
15 First Special Session of the Legislature, codified as Title
16 16, Chapter 16, Code of Alabama 1975.

17 (2) "1971 Acts" means Act No. 94 enacted at the 1971
18 First Special Session of the Legislature, Act No. 2428 enacted
19 at the 1971 Regular Session of the Legislature, and Act No. 56
20 enacted at the 1971 Second Special Session of the Legislature.

21 (3) "1973 Act" means Act No. 1277 enacted at the
22 1973 Regular Session of the Legislature as amended by Act No.
23 73 enacted at the 1975 Third Special Session of the
24 Legislature and Act No. 1223 enacted at the 1975 Regular
25 Session of the Legislature.

26 (4) "1978 Act" means Act No. 138 enacted at the 1978
27 Second Special Session of the Legislature, as amended by Act

1 No. 79-41 enacted at the 1979 Special Session of the
2 Legislature and Act No. 81-827 enacted at the 1981 Regular
3 Session of the Legislature.

4 (5) "1985 Act" means Act No. 85-943 enacted at the
5 1985 Second Special Session of the Legislature.

6 (6) "1990 Act" means Act No. 90-280 enacted at the
7 1990 Regular Session of the Legislature.

8 (7) "1995 Act" means Act No. 95-752 enacted at the
9 1995 Regular Session of the Legislature.

10 (8) "1998 Act" means Act No. 98-373 enacted at the
11 1998 Regular Session of the Legislature.

12 (9) "1999 Act" means Act No. 99-348 enacted at the
13 1999 Regular Session of the Legislature.

14 (10) "2001 Act" means Act No. 2001-668 enacted at
15 the 2001 Regular Session of the Legislature.

16 (11) "2002 Act" means Act No. 2002-240 enacted at
17 the 2002 Regular Session of the Legislature.

18 (12) "2003 Act" means Act No. 2003-436 enacted at
19 the 2003 Second Special Session of the Legislature.

20 (13) "2007 Act" means Act No. 2007-415 enacted at
21 the 2007 Regular Session of the Legislature.

22 (14) "2009 Act" means Act No. 2009-813 enacted at
23 the 2009 First Special Session of the Legislature.

24 (15) "2010 Act" means Act No. 2010-720 enacted at
25 the 2010 Regular Session of the Legislature.

26 (16) "Authority" means Alabama Public School and
27 College Authority.

1 (17) "Bonds" (except where that word is used with
2 reference to bonds issued under another act) means those
3 bonds, other than Refunding Bonds, issued under the provisions
4 of this act.

5 (18) "Capital Improvement" means capital outlay
6 projects that include the planning, designing, inspection,
7 purchasing, construction, reconstruction, enlargement,
8 improvement, repair, or renovation of permanent buildings
9 containing classrooms, offices, libraries, laboratories,
10 clinical or teaching facilities, dormitories, vocational and
11 professional and industrial training facilities, cafeterias,
12 alternative schools, physical education facilities, research
13 facilities, academic structures to reduce portable classrooms
14 or substandard classroom facilities, related improvements and
15 land as sites therefor, together with furnishings and
16 equipment required for the operation of the facilities and the
17 programs provided therein.

18 (19) "Commission" means the building commission
19 created by Section 41-9-140 Code of Alabama 1975, and its
20 successors as the state agency for awarding construction
21 contracts and supervising construction.

22 (20) "Government Securities" means any bonds or
23 other obligations which as to principal and interest
24 constitute direct obligations of, or are unconditionally
25 guaranteed by, the United States of America, including
26 obligations of any federal agency to the extent such
27 obligations are unconditionally guaranteed by the United

1 States of America and any certificates or any other evidences
2 of an ownership interest in such obligations of, or
3 unconditionally guaranteed by, the United States of America or
4 in specified portions thereof (which may consist of the
5 principal thereof or the interest thereon).

6 (21) "Legislature" means the Legislature of Alabama.

7 (22) "Permitted Investments" means (i) Government
8 Securities; (ii) bonds, debentures, notes or other evidences
9 of indebtedness issued by any of the following agencies: Bank
10 for Cooperatives; Federal Intermediate Credit Banks; Federal
11 Financing Bank; Federal Home Loan Banks; Federal Farm Credit
12 Bank; Export-Import Bank of the United States; Federal Land
13 Banks; or Farmers Home Administration or any other agency or
14 corporation which has been or may hereafter be created by or
15 pursuant to an act of the Congress of the United States as an
16 agency or instrumentality thereof; (iii) bonds, notes, pass
17 through securities or other evidences of indebtedness of
18 Government National Mortgage Association and participation
19 certificates of Federal Home Loan Mortgage Corporation; (iv)
20 full faith and credit obligations of any state, provided that
21 at the time of purchase such obligations are rated at least
22 "AA" by Standard & Poor's Ratings Group and at least "Aa" by
23 Moody's Investors Service; (v) public housing bonds issued by
24 public agencies or municipalities and fully secured as to the
25 payment of both principal and interest by contracts with the
26 United States of America, or temporary notes, preliminary
27 notes or project notes issued by public agencies or

1 municipalities, in each case fully secured as to the payment
2 to both principal and interest by a requisition or payment
3 agreement with the United States of America; (vi) time
4 deposits evidenced by certificates of deposit issued by banks
5 or savings and loan associations which are members of the
6 Federal Deposit Insurance Corporation, provided that, to the
7 extent such time deposits are not covered by federal deposit
8 insurance, such time deposits (including interest thereon) are
9 fully secured by a pledge of obligations described in clauses
10 (i), (ii), (iii), and (v) above, which at all times have a
11 market value not less than the amount of such bank time
12 deposits required to be so secured and which meet the greater
13 of 100% collateralization or the "AA" collateral levels
14 established by Standard & Poor's Ratings Group for structured
15 financings; (vii) repurchase agreements for obligations of the
16 type specified in clauses (i), (ii), (iii), and (v) above,
17 provided such repurchase agreements are fully collateralized
18 and secured by such obligations which have a market value at
19 least equal to the purchase price of such repurchase
20 agreements which are held by a depository satisfactory to the
21 State Treasurer in such manner as may be required to provide a
22 perfected security interest in such obligations, and which
23 meet the greater of 100% collateralization or the "AA"
24 collateral levels established by Standard & Poor's Ratings
25 Group for structured financings; and (viii) uncollateralized
26 investment agreements with, or certificates of deposit issued
27 by, banks or bank holding companies, the senior long-term

1 securities of which are rated at least "AA" by Standard &
2 Poor's Ratings Group and at least "Aa" by Moody's Investors
3 Service.

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

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

7 (25) "Trust Fund" means the Education Trust Fund,
8 formerly designated as the Alabama Special Educational Trust
9 Fund, the name of which was changed to the Education Trust
10 Fund, effective October 1, 1996, pursuant to Act No. 95-264
11 enacted at the 1995 Regular Session of the Legislature.

12 Nouns and pronouns when used in this act shall be
13 deemed to include both singular and plural and all applicable
14 genders.

15 Section 2. Authorization to Issue Additional Bonds
16 and Purposes Thereof.

17 (a) The Authority is hereby authorized to sell and
18 issue its Bonds in the aggregate principal amount of
19 \$37,828,007 and to apply the proceeds as provided in this act.

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

26 Section 3. Execution and Other Details of the Bonds.
27 The Bonds shall be signed by the president or vice-president

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

1 maturities, shall bear such rate or rates of interest payable
2 and evidenced in such manner, may be made subject to
3 redemption prior to their maturities, and may contain
4 provisions not inconsistent with this act, all as may be
5 provided by the resolution of the Authority under which the
6 Bonds may be issued; provided, that no Bonds shall have a
7 specified maturity date later than twenty years after their
8 date; and provided further, that those Bonds having maturities
9 more than ten years after their date shall be subject to
10 redemption at the option of the Authority on any date on and
11 after the tenth anniversary after their date at such
12 redemption price or prices and under such conditions as may be
13 prescribed in the proceedings of the Authority under which
14 they are issued. For the purpose of paying the principal of,
15 premium, if any, and interest on the Bonds or any Refunding
16 Bonds, the Authority shall designate the State Treasurer or
17 such bank or banks as the Authority, in its discretion,
18 determines to be appropriate and desirable. Funds for the
19 payment of debt service shall be transferred by the Authority
20 or the State Treasurer on behalf of the Authority to the
21 designated paying agent on the actual due date of such
22 principal, premium, if any, or interest.

23 Section 4. Sale of the Bonds. The Bonds may be sold
24 by the Authority from time to time in series, and if sold in
25 more than one series, may all be authorized in one initial
26 resolution of the Authority with the pledges therefor made by
27 the Authority in such initial resolution although some of the

1 details applicable to each series may be specified in the
2 respective resolutions under which the different series are
3 issued. The Authority, in the course of establishing, by
4 resolution, a principal amount of Bonds to be authorized for
5 sale at any given time, or to be sold in any series, may take
6 into account the existence of any unexpended proceeds of prior
7 issues of bonds of the Authority (and of any other issuer, if
8 such should be deemed by the Authority to be relevant), and
9 may structure the portions of the allocations provided for
10 this act to be distributed from the proceeds of a particular
11 series (constituting less than all the Bonds authorized by
12 this act) as the Authority deems necessary or prudent in order
13 to enable the Authority to comply with any tax covenants that
14 may be required of it, or that may be deemed by it to be
15 prudent to be given by it, in connection with the sale of any
16 series of the Bonds. Each series of the Bonds shall be sold
17 competitively only at public sale, on sealed bids which may be
18 submitted either electronically or in writing, after such
19 advertisement as shall be prescribed by the Authority and at
20 such time or times as the Authority may consider advantageous,
21 to the bidder whose bid reflects the lowest true interest cost
22 to the Authority computed to the respective maturities of the
23 Bonds being sold (considering mandatory redemption as
24 scheduled maturity); provided, that if no bid deemed
25 acceptable by the Authority is received it may reject all
26 bids. The Authority may fix the method and the terms and
27 conditions under which the sale of any series of the Bonds may

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

19 Section 5. Appropriation of Revenues to the
20 Authority; Pledge Thereof for the Benefit of the Bonds. For
21 the purpose of providing for payment of the principal, premium
22 (if any), and interest on the Bonds, and to accomplish the
23 objectives of this act, there is hereby irrevocably pledged to
24 those purposes, and hereby appropriated, such amount as may be
25 necessary therefor from the following sources:

26 (a) The residue of the receipts from the excise tax
27 ("the utility gross receipts tax") levied by Title 40, Chapter

1 21, Article 3, Code of Alabama 1975, as amended ("Article 3"),
2 remaining after payment of the expenses of administration and
3 enforcement of Article 3, being that portion of the tax that
4 is required by Article 3 to be deposited in the State Treasury
5 to the credit of the Trust Fund, after there shall have been
6 taken from the residue the amount necessary to pay at their
7 respective maturities the principal of and interest on those
8 bonds issued by the Authority under the 1965 Act, the 1971
9 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,
10 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the
11 2002 Act, the 2003 Act, the 2007 Act, the 2009 Act, the 2010
12 Act, or this Act that may be outstanding at the time of the
13 delivery of the respective series of the Bonds authorized
14 herein;

15 (b) The residue of the receipts from the excise tax
16 ("the utility service use tax") levied by Title 40, Chapter
17 21, Article 4, Code of Alabama 1975 ("Article 4"), remaining
18 after payment of the expenses of administration and
19 enforcement of Article 4, being that portion of the tax that
20 is required by Article 4 to be deposited in the State Treasury
21 to the credit of the Trust Fund, after there shall have been
22 taken from the residue the amount necessary to pay at their
23 respective maturities the principal of and interest on those
24 bonds issued by the Authority under the 1965 Act, the 1971
25 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,
26 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the
27 2002 Act, the 2003 Act, the 2007 Act, the 2009 Act, the 2010

1 Act, or this Act that may be outstanding at the time of the
2 delivery of the respective series of the Bonds authorized
3 herein;

4 (c) To the extent and to the extent only that the
5 revenues appropriated in the foregoing subsections (a) and (b)
6 of this Section may not be sufficient to pay at their
7 respective maturities the principal of, premium, if any, and
8 interest on the Bonds, the residue of the receipts from the
9 excise tax ("the sales tax") levied by Title 40, Chapter 23,
10 Article 1, Division 1, Code of Alabama 1975, as amended
11 ("Article 1"), after there shall have been taken from the
12 residue the amounts appropriated for other educational
13 purposes in Section 40-23-35, Code of Alabama 1975 (which
14 residue constitutes that portion of the receipts from the
15 sales tax that is now required by law to be paid into the
16 Trust Fund), and after there shall have been taken from the
17 residue amounts sufficient to meet all prior charges on the
18 residue including such amounts as may be necessary to pay at
19 their respective maturities the principal of and interest on
20 those bonds issued by the Authority under the 1965 Act, the
21 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990
22 Act, the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act,
23 the 2002 Act, the 2003 Act, the 2007 Act, the 2009 Act, the
24 2010 Act, or this Act that may be outstanding at the time of
25 the delivery of the respective series of the Bonds authorized
26 herein; and

1 (d) To the extent and to the extent only that the
2 revenues appropriated in the foregoing subsections (a), (b),
3 and (c) of this Section may not be sufficient to pay at their
4 respective maturities the principal of, premium, if any, and
5 the interest on the Bonds, the residue of the receipts from
6 the excise tax ("the use tax") levied by Title 40, Chapter 23,
7 Article 2, Code of Alabama 1975, as amended ("Article 2"),
8 after there shall have been taken from the residue the amount
9 necessary to meet the expenses of the State Department of
10 Revenue in collecting the use tax (which residue constitutes
11 that portion of the receipts from the use tax that is now
12 required by law to be paid into the Trust Fund), and after
13 there shall have been taken from the residue such amounts as
14 may be necessary to meet all prior charges on the use tax
15 including the amounts sufficient to pay at their respective
16 maturities the principal of and interest on those outstanding
17 bonds referred to in subsection (c) of this Section.

18 All monies hereby appropriated and pledged shall
19 constitute a sinking fund for the purpose of paying the
20 principal of, premium, if any, and interest on the Bonds. The
21 State Treasurer is authorized and directed to pay at their
22 respective maturities the principal of, premium, if any, and
23 interest on the Bonds out of this fund and out of the residues
24 of the tax receipts herein appropriated and pledged for the
25 benefit of the Bonds, and is further authorized and directed
26 to set up and maintain appropriate records pertaining thereto.

1 Section 6. Bonds to be Payable Solely out of the
2 Revenues Appropriated; Authorization for Authority to Pledge
3 Such Revenues for the Bonds. The Bonds shall not be general
4 obligations of the Authority but shall be limited obligations
5 payable solely out of the residues of the tax receipts
6 appropriated and pledged in Section 5 of this act. All Bonds
7 issued by the Authority pursuant to the provisions of this act
8 shall be solely and exclusively obligations of the Authority
9 and shall not constitute or create an obligation or debt of
10 the State. As security for the payment of the principal of,
11 premium, if any, and interest on the Bonds, the Authority is
12 hereby authorized and empowered to pledge the residues of the
13 tax receipts that are appropriated and pledged in Section 5
14 hereof for such purposes. All such pledges made by the
15 Authority shall take precedence in the order of the adoption
16 of the resolutions containing the pledges. All such pledges
17 shall be prior and superior to any pledges that may be made
18 for any refunding bonds hereafter issued by the Authority
19 under the provisions of any of the 1965 Act, the 1971 Acts,
20 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the
21 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002
22 Act, the 2003 Act, the 2007 Act, the 2009 Act, the 2010 Act,
23 or any other act heretofore enacted.

24 Section 7. Refunding Bonds. For the purpose of
25 refunding any Bonds or Refunding Bonds of the Authority issued
26 under the provisions of this act, the 1965 Act, the 1971 Acts,
27 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the

1 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002
2 Act, the 2003 Act, the 2007 Act, the 2009 Act, the 2010 Act,
3 or any other act previously enacted, or any combination
4 thereof, whether such refunding shall occur before, at or
5 after the maturity of the Bonds refunded and for the purpose
6 of paying all premiums and expenses of such refunding
7 (including, but not limited to, attorneys' fees, costs of
8 printing the Refunding Bonds, fiscal agents' fees, and
9 accountants' fees), the Authority is hereby authorized to sell
10 and issue its Refunding Bonds. Such Refunding Bonds may be
11 sold and issued from time to time, at public sale, on sealed
12 bids and on such other terms and conditions as the Authority
13 shall determine to be advantageous and shall adopt and provide
14 for in its proceedings for the sale and issuance of such
15 Refunding Bonds. Provided, however, no Refunding Bonds shall
16 be issued unless the present value of all debt service on the
17 Refunding Bonds (computed with a discount rate equal to the
18 true interest rate of the Refunding Bonds and taking into
19 account all underwriting discount and other issuance expenses)
20 shall not be greater than 95 percent of the present value of
21 all debt service on the Bonds to be refunded (computed using
22 the same discount rate and taking into account the
23 underwriting discount and other issuance expenses originally
24 applicable to such Bonds) determined as if such Bonds to be
25 refunded were paid and retired in accordance with the schedule
26 of maturities (considering mandatory redemption as scheduled
27 maturity) provided at the time of their issuance. Provided

1 further that the average maturity of the Refunding Bonds, as
2 measured from the date of issuance of such Refunding Bonds,
3 shall not exceed by more than three years the average maturity
4 of the Bonds to be refunded, as also measured from such date
5 of issuance, with the average maturity of any principal amount
6 of Bonds to be determined by multiplying the principal of each
7 maturity by the number of years (including any fractional part
8 of a year) intervening between such date of issuance and each
9 such maturity, taking the sum of all such products, and then
10 dividing such sum by the aggregate principal amount of Bonds
11 for which the average maturity is to be determined. For the
12 purpose of providing funds to enable the Authority to pay at
13 their respective maturities the principal of, premium, if any,
14 and interest on the Refunding Bonds issued under this act, the
15 Authority is hereby authorized to pledge irrevocably for such
16 purpose, and there is hereby appropriated for such purpose,
17 such amount as may be necessary of the residues of the
18 receipts from the excise taxes pledged and appropriated in
19 subsections (a), (b), (c), and (d) of Section 5 of this act,
20 any reserves or sinking funds established by the Authority, as
21 well as revenues of the Authority from any other sources
22 specified in the proceedings wherein the Refunding Bonds are
23 authorized to be issued. Pending the application of the
24 proceeds of Refunding Bonds issued in accordance with this
25 Section, the proceeds, together with investment earnings
26 therefrom, and amounts in any sinking fund, together with
27 investment earnings thereon, may be held by the State

1 Treasurer as treasurer of the Authority in trust, or may be
2 deposited by the State Treasurer in trust, on such terms as
3 the State Treasurer and the Authority shall approve, with a
4 trustee or escrow agent, which trustee or escrow agent shall
5 be a banking institution or trust company authorized to
6 exercise trust powers in Alabama, for investment in Permitted
7 Investments. Proceeds of Refunding Bonds shall be so invested
8 and applied as to assure that the principal, interest, and
9 redemption premium, if any, on the Bonds being refunded shall
10 be paid in full on the respective maturity, redemption, or
11 interest payment dates. Refunding Bonds issued by the
12 Authority shall not be general obligations of the Authority
13 but shall be payable solely from the sources specified in this
14 act and in the proceedings whereby the Refunding Bonds are
15 authorized to be issued. All Refunding Bonds issued by the
16 Authority shall be solely and exclusively obligations of the
17 Authority and shall not create debts of the State of Alabama.
18 The faith and credit of the State of Alabama shall never be
19 pledged for the payment of any Refunding Bonds issued by the
20 Authority under this act. The Authority may contract with
21 respect to the safekeeping and application of the proceeds of
22 Refunding Bonds and other funds included therewith and the
23 income therefrom, and shall have the right and power to
24 appoint a trustee therefore, which may be any bank or company
25 authorized to exercise trust powers and located within and/or
26 without the State. All other provisions of this act shall
27 apply to the Refunding Bonds issued hereunder except (a) the

1 limitation contained in Section 2 of this act on the amount of
2 Bonds that may be issued under this act and (b) the provisions
3 of Section 8 of this act. All pledges made by this act, or by
4 the Authority pursuant to the provisions of this act, for the
5 benefit of Refunding Bonds issued under this act, and all such
6 pledges for the benefit of Refunding Bonds which may be issued
7 to refund any bonds issued under any of the 1965 Act, the 1971
8 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,
9 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the
10 2002 Act, the 2003 Act, the 2007 Act, the 2009 Act, the 2010
11 Act, or this Act, shall take precedence in the order of the
12 adoption of the resolutions authorizing the issuance of such
13 Refunding Bonds. Bonds refunded prior to their maturity with
14 the proceeds of Refunding Bonds shall be deemed paid and the
15 pledges herein and by the Authority made for the payment
16 thereof defeased if the Authority, in its proceedings
17 regarding issuance of the Refunding Bonds shall provide for
18 and establish a trust or escrow fund comprised of monies or
19 Government Securities, or both, sufficient to pay, when due,
20 the entire principal of, premium, if any, and interest on the
21 Bonds to be refunded thereby; provided, that such Government
22 Securities shall not be subject to redemption prior to their
23 maturities other than at the option of the holder thereof.
24 Upon the establishment of such a trust or escrow fund, the
25 refunded Bonds shall no longer be deemed to be outstanding,
26 shall no longer be secured by the funds pledged therefor in
27 Section 5 of this act, shall no longer be obligations of the

1 Authority and shall be secured solely by and payable from
2 monies and Government Securities deposited in such trust or
3 escrow fund.

4 Section 8. Use of Bond Proceeds.

5 (a) The proceeds derived from each sale of the Bonds
6 issued pursuant to this act shall be deposited in the State
7 Treasury and shall be carried in a separate fund therein for
8 the account of the Authority, which shall pay the expenses of
9 issuance therefrom. The expenses of issuance of the Bonds
10 shall be prorated among the recipients of the proceeds from
11 the sale of the Bonds in proportion to the proceeds they
12 received thereunder. The proceeds from the sale of the Bonds
13 remaining after payment of the expenses of issuance thereof
14 shall be retained in said fund and, until they are paid out,
15 shall be invested by the State Treasurer at the direction of
16 the Authority in Permitted Investments maturing at such time
17 or times as the Authority shall direct.

18 (b) Proceeds from the sale of the Bonds and the
19 earnings thereon shall be paid out from time to time on orders
20 or warrants issued by or at the direction of the Authority for
21 any one or more of the purposes specified in this act, to in-
22 clude the following allocations:

- | | |
|---|--------------|
| 23 (1) DeKalb County Board of Education | |
| 24 (Plainview School) | \$3,837,857 |
| 25 (2) Franklin County Board of Education | \$11,673,678 |

1	(Phil Campbell High School)	
2	(3) Marion County Board of Education	
3	(Hackleburg Elementary School and	
4	Hackleburg High School)	\$13,836,740
5	(4) Tuscaloosa City Board of Education	
6	(Alberta Elementary School and University	
7	Place Elementary School)	\$2,440,607
8	(5) Tuscaloosa County Board of Education	
9	(Holt Elementary School)	\$1,119,125
10	(6) Wallace State Community College -	
11	Hanceville	\$4,920,000

12 Section 9. Notwithstanding any of the foregoing and
13 in addition to all powers heretofore granted to the Authority,
14 the Authority is hereby expressly authorized to use the
15 proceeds derived from the sale of Bonds and income on
16 Permitted Investments in accordance with the provisions of
17 this act. The preparation of all plans and specifications for
18 any building constructed wholly or in part with any of the
19 monies realized from the sale of any of the Bonds and all work
20 done pursuant to expenditure of the proceeds thereof in regard
21 to the construction, reconstruction, alteration, improvement,
22 and equipping of buildings shall be supervised by the State
23 Building Commission, and the Authority will reimburse the
24 Commission for its reasonable direct and administrative costs

1 in having plans, specifications, and contract documents
2 prepared and in supervising and inspecting the work.
3 Additionally, the Authority is hereby expressly permitted to
4 pay to the Department of Finance and the State Treasurer's
5 Office, from time to time and from any funds available to the
6 Authority, amounts to offset costs incurred in the
7 administration of the business of the Authority. The cost of
8 such compensation shall be prorated among the recipients of
9 proceeds of the Bonds in the same manner as the expenses of
10 issuance of the Bonds are required hereby to be prorated.

11 Section 10. The Authority shall hire or contract
12 with businesses or individuals which reflect the racial and
13 ethnic diversity of the State.

14 Section 11. Tax Exemption. The Authority shall have
15 the power to make such payments to the United States of
16 America as the board of directors of the Authority deems
17 necessary to cause the interest on any bonds of the Authority,
18 including the Bonds, to be and remain exempt from, or
19 excludible from gross income for purposes of, federal income
20 taxation. The Authority shall have the power to make such
21 agreements respecting the investment of funds of the Authority
22 as the Authority shall deem necessary in order that the
23 interest income on bonds of the Authority be and remain exempt
24 from, or excludible from gross income for purposes of, federal
25 income taxation.

26 Section 12. Issuance Expenses; Contracts and
27 Appointments. The Authority is authorized to pay out of

1 proceeds of any series of Bonds the costs and expenses
2 incurred in connection with the issuance of such Bonds,
3 including without limitation legal and accounting fees and
4 expenses, fees and expenses of any financial or fiscal advisor
5 employed by the Authority, printing costs, rating agency fees,
6 and premiums or charges for any credit enhancement or
7 liquidity providers. Notwithstanding any provision of this act
8 or the 1965 Act, in appointing, employing, or contracting with
9 attorneys, fiscal advisers, trustees, paying agents,
10 investment bankers, banks and underwriters, the Authority may
11 appoint, employ or contract with firms whose principal offices
12 are located without or within Alabama. The Authority shall
13 hire or contract with attorneys, fiscal advisors, trustees,
14 paying agents, investment bankers, banks, and underwriters
15 which shall reflect the racial and ethnic diversity of the
16 state. The Authority shall issue Requests For Proposals for
17 attorneys, fiscal advisors, trustees, paying agents,
18 investment bankers, banks, and underwriters. The Authority
19 shall evaluate each proposed bid publicly and award each
20 contract publicly. Minutes of the Authority's meeting shall
21 record the reasons for awarding each contract.

22 Section 13. Severability. In the event any section,
23 sentence, clause or provision of this act shall be declared
24 invalid by a court of competent jurisdiction, such action
25 shall not affect the validity of the remaining sections,
26 sentences, clauses, or provisions of this act, which shall
27 continue effective.

1 Section 14. Effective Date. This act shall become
2 effective immediately upon its passage and approval by the
3 Governor or upon its otherwise becoming a law.