

1 SB100  
2 188217-1  
3 By Senators Orr and Reed  
4 RFD: Transportation and Energy  
5 First Read: 09-JAN-18

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8 SYNOPSIS:

9 Under existing law, the Alabama  
10 Transportation Infrastructure Bank was established  
11 pursuant to Act 2015-50. Various sources of funding  
12 were authorized to capitalize the bank including  
13 revenue from one cent of the gasoline tax and a  
14 portion of the revenue from the license and  
15 registration fees on trucks and truck tractors. The  
16 bank is authorized to make loans to units of  
17 government to construct, operate, or own  
18 transportation projects. The bank is authorized to  
19 raise funds for qualified projects by the issuance  
20 of bonds. At the current time, funding has not been  
21 made available to capitalize the bank.

22 This bill would further provide for the  
23 Alabama Transportation Infrastructure Bank. The  
24 bill authorizes additional tax revenue to be  
25 pledged to pay and secure revenue bonds issued by  
26 the bank as determined by the Director of  
27 Transportation and approved by the Governor,  
including certain taxes on motor vehicle licenses

1 and registration, certain taxes on diesel fuel and  
2 gasoline, and certain fees on identification  
3 markers. These taxes and fees and the prior taxes  
4 and fees authorized to capitalize the bank would be  
5 irrevocably appropriated to capitalize the bank and  
6 pay the debt service on bonds as determined by the  
7 director and approved by the Governor. Under  
8 certain conditions, pledges of the revenue would be  
9 subordinate to the pledges of the revenue by the  
10 Alabama Federal Aid Highway Finance Authority and  
11 the Alabama Highway Finance Corporation.

12 The bill would otherwise provide for the  
13 operation of the bank, including the following: (1)  
14 Provide for the definitions of government unit,  
15 permitted investments, qualified project, and  
16 qualified borrower; (2) Specify that a borrower may  
17 pledge any revenue and, if authorized, its full  
18 faith and credit for obligations of the bank; (3)  
19 Permit the bank to establish funds and accounts  
20 with the State Treasurer or a commercial bank; (4)  
21 Provide that the state Finance Director would be  
22 responsible for directing the withholding of funds  
23 upon a default by a government unit; (5) Authorize  
24 audits by the Department of Examiners of Public  
25 Accounts in addition to independent auditors; (6)  
26 Authorize bonds of the bank to be secured by other  
27 forms of credit instruments; (7) Clarify the bonds

1 would not be a debt of the state; (8) Delete the  
2 requirement that bonds be issued by the State  
3 Treasurer; and (9) Specify that any pledge to  
4 secure bonds applies to a pledge to secure other  
5 financial assistance.

6 The bill would also add provisions relating  
7 to the granting of other financial assistance and  
8 the execution of other financial instruments,  
9 specify that the bank would be a nonprofit  
10 corporation, and provide for the dissolution of the  
11 bank.

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

17 Relating to the Alabama Transportation  
18 Infrastructure Bank; to amend Sections 23-7-2, 23-7-6, 23-7-7,  
19 23-7-9, 23-7-11, 23-7-14, 23-7-15, 23-7-17, 23-7-18, 23-7-19,  
20 23-7-20, and 23-7-21, Code of Alabama 1975, and to add  
21 Sections 23-7-29, 23-7-30, and 23-7-31 to the Code of Alabama  
22 1975, to further provide for definitions; to provide further  
23 for the exercise of the powers of the bank; to provide for the  
24 appropriation and pledge of certain gasoline tax revenues,  
25 motor vehicle license taxes and registration fees, diesel fuel  
26 tax revenues, motor carrier tax revenues, and identification  
27 marker fees to capitalize the bank and for the bank to carry

1 out its purposes; to provide for the administration of the  
2 bank; to provide that a pledge of the revenues of the bank to  
3 secure its bonds or other financial assistance would continue  
4 until such obligations have been paid or terminated unless the  
5 instrument providing the pledge provides otherwise; to provide  
6 that under certain conditions pledges of revenues would be  
7 subordinate to the pledges of the revenues by the Alabama  
8 Federal Aid Highway Finance Authority and the Alabama Highway  
9 Finance Corporation; to provide for the priority of pledges by  
10 the bank; to provide for the irrevocable appropriation to the  
11 bank of the taxes and fees as recommended by the Director of  
12 the Department of Transportation and approved by the Governor  
13 for the purpose of providing funds to capitalize the bank and  
14 for the bank to carry out its purposes including the pledging  
15 for the payment of debt service on bonds; to provide further  
16 for the establishment of funds and accounts of the bank; to  
17 provide further that a government unit may pledge additional  
18 types of tax revenues and, if authorized, its full faith and  
19 credit to secure its obligations to the bank; to provide  
20 further for the withholding of funds if a government unit  
21 fails to pay amounts due to the bank; to provide further for  
22 the investment of money of the bank; to provide further that  
23 an audit of the books of the bank may be performed by the  
24 Department of Examiners of Public Accounts; to provide further  
25 that bonds issued by the bank may be secured by other  
26 financial assistance provided by the bank as well as by bond  
27 insurance, guarantees, letters of credit, or other forms of

1 credit enhancement purchased or otherwise obtained by the bank  
2 from any public or private entity; to provide further that  
3 bonds and other financial assistance issued by the bank would  
4 not constitute an obligation or debt of the state or any of  
5 its political subdivisions, but would be limited obligations  
6 of the bank payable solely from the revenue, money, or  
7 property of the bank pledged for the purpose of the  
8 instruments; to provide further that neither the full faith  
9 and credit nor the taxing power of the state, or any of its  
10 political subdivisions would be pledged for payment of bonds  
11 or other financial assistance of the bank; to remove the  
12 requirement that the bank's bonds be issued by the State  
13 Treasurer and that a trustee for the bank's bonds would be  
14 designated by the State Treasurer; to provide that bonds of  
15 the bank may be secured by a pledge of specific revenues and  
16 assets; to provide further that any pledge to secure the  
17 bank's bonds or other financial assistance would be valid and  
18 binding from the time it is made and that no recording or  
19 filing is necessary to create or perfect any such pledge or  
20 security interest; to provide further for the provision of  
21 other financial assistance; to provide that the net earnings  
22 of the bank shall not inure to the benefit of any individual,  
23 firm, or corporation; and to provide for the dissolution of  
24 the bank.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 23-7-2, 23-7-6, 23-7-7, 23-7-9,  
27 23-7-11, 23-7-14, 23-7-15, 23-7-17, 23-7-18, 23-7-19, 23-7-20,

1 and 23-7-21, Code of Alabama 1975, are amended to read as  
2 follows:

3 "§23-7-2.

4 "For the purposes of this chapter, the following  
5 words shall have the following meanings:

6 "(1) BANK. The Alabama Transportation Infrastructure  
7 Bank.

8 "(2) BOARD. The board of directors of the bank.

9 "(3) BONDS. Includes bonds, notes, or other evidence  
10 of indebtedness except as otherwise provided in this chapter.

11 "(4) DEPARTMENT or DEPARTMENT OF TRANSPORTATION. The  
12 Alabama Department of Transportation.

13 "(5) ELIGIBLE COST. As applied to a qualified  
14 project to be financed from the federal highway account, the  
15 costs that are permitted under applicable federal laws,  
16 requirements, procedures, and guidelines in regard to  
17 establishing, operating, and providing assistance from the  
18 bank. As applied to a qualified project to be financed from  
19 the state highway account, these costs include the costs of  
20 preliminary engineering, traffic, and revenue studies;  
21 environmental studies; right-of-way acquisition; legal and  
22 financial services associated with the development of the  
23 qualified project; construction; construction management;  
24 facilities; and other costs necessary for the qualified  
25 project.

26 "(6) ELIGIBLE PROJECT. Highways, roads, bridges, and  
27 mass transit capital projects which provide public benefits by

1 either enhancing mobility and safety, promoting economic  
2 development, or increasing the quality of life and general  
3 welfare of the public.

4 "(7) FINANCING AGREEMENT. Any agreement entered into  
5 between the bank and a qualified borrower pertaining to a loan  
6 or other financial assistance. This agreement may contain, in  
7 addition to financial terms, provisions relating to the  
8 regulation and supervision of a qualified project, or other  
9 provisions as the board may determine. The term includes,  
10 without limitation, a loan agreement, trust indenture,  
11 security agreement, reimbursement agreement, guarantee  
12 agreement, bond or note, ordinance or resolution, or similar  
13 instrument.

14 "(8) GOVERNMENT UNIT. A municipal corporation,  
15 county, or another public body, instrumentality, or agency of  
16 the state including combinations of two or more of these  
17 entities acting jointly to construct, own, or operate a  
18 qualified project, and any other state or local authority,  
19 public corporation, board, commission, agency, department, or  
20 other political subdivision created by the Legislature or  
21 pursuant to the Constitution of Alabama of 1901, and laws of  
22 this state which may finance, construct, own, or operate a  
23 qualified project.

24 "(9) LOAN. An obligation subject to repayment which  
25 is provided by the bank to a qualified borrower for all or a  
26 part of the eligible cost of a qualified project. A loan may



1 be disbursed in anticipation of reimbursement for or direct  
2 payment of eligible costs of a qualified project.

3 "(10) LOAN OBLIGATION. A bond, note, or other  
4 evidence of an obligation issued by a qualified borrower.

5 "(11) OTHER FINANCIAL ASSISTANCE. Includes, but is  
6 not limited to, grants, contributions, credit enhancement,  
7 capital or debt reserves for bonds or debt instrument  
8 financing, interest rate subsidies, provision of letters of  
9 credit and credit instruments, provision of bond or other debt  
10 financing instrument security, and other lawful forms of  
11 financing and methods of leveraging funds that are approved by  
12 the board, and in the case of federal funds, as allowed by  
13 federal law.

14 "(12) PERMITTED INVESTMENTS. Includes any of the  
15 following:

16 "a. Certificates of deposit, savings accounts,  
17 deposit accounts or money market deposits that are 1. secured  
18 as provided in Chapter 14A of Title 41; 2. fully insured by  
19 the FDIC; or 3. made with a bank whose unsecured, long-term  
20 obligations are rated by at least one nationally recognized  
21 securities rating agency in one of the three highest rating  
22 categories assigned by that rating agency.

23 "b. Direct obligations of, or obligations the full  
24 and timely payment of which is guaranteed by, the United  
25 States of America, including unit investment trusts and mutual  
26 funds that invest solely in such obligations.

1           "c. Bonds, debentures, notes, pass through  
2 securities, or other obligations issued or guaranteed by any  
3 federal agency or corporation which has been or may hereafter  
4 be created by or pursuant to an act of the Congress of the  
5 United States of America as an agency or instrumentality  
6 thereof if such obligations are either of the following:

7           "1. Backed by the full faith and credit of the  
8 United States of America.

9           "2. Rated by at least one nationally recognized  
10 securities rating agency in one of the three highest rating  
11 categories assigned by the rating agency.

12           "d. Commercial paper which is rated not less than  
13 "P-1" by Moody's Investor Service or "A-1+" by Standard and  
14 Poor's at the time of purchase.

15           "e. Money market funds rated by at least one  
16 nationally recognized securities rating agency in one of the  
17 three highest rating categories assigned by that rating  
18 agency.

19           "f. Bonds, warrants, notes, or other obligations  
20 issued by any state, county, or municipality that are rated by  
21 at least one nationally recognized securities rating agency in  
22 one of the three highest rating categories assigned by that  
23 rating agency.

24           "g. Investment agreements, including, without  
25 limitation, guaranteed investment contracts, repurchase  
26 agreements, and forward purchase agreements, provided that all  
27 of the following are satisfied:

1           "1. Any securities purchased or held pursuant to the  
2 agreements are otherwise permitted investments.

3           "2. The counterparty's long-term debt obligations  
4 are rated by at least one nationally recognized securities  
5 rating agency in one of the three highest rating categories  
6 assigned by that rating agency.

7           "3. The securities, if purchased, are owned by the  
8 bank or a trustee for any of the bank's obligations and are  
9 held by the bank, the trustee or a third-party custodian  
10 acceptable to the bank or, if held as collateral, are held by  
11 the bank, the trustee, or a third-party custodian acceptable  
12 to the bank with a perfected first security interest in the  
13 collateral.

14           "h. Investment or cash management agreements with a  
15 commercial bank whose senior long-term debt obligations, at  
16 the time of the acquisition of any investment or cash  
17 management agreement for the account of the bank, are rated by  
18 at least one nationally recognized securities rating agency in  
19 one of the three highest rating categories assigned by that  
20 rating agency, or with a commercial bank that is owned or  
21 controlled by a bank holding company whose senior long-term  
22 debt obligations, at the time of the acquisition of any  
23 investment or cash management agreement for the account of the  
24 bank, are rated by at least one nationally recognized  
25 securities rating agency in one of the three highest rating  
26 categories assigned by that rating agency.

1           "~~(12)~~(13) PROJECT REVENUES. All rates, rents, fees,  
2 assessments, charges, and other receipts derived or to be  
3 derived by a qualified borrower from a qualified project or  
4 made available from a special source, and, as provided in the  
5 applicable financing agreement, derived from any system of  
6 which the qualified project is a part of, from any other  
7 revenue producing facility under the ownership or control of  
8 the qualified borrower including, without limitation, proceeds  
9 of grants, gifts, appropriations, and loans, including the  
10 proceeds of loans made by the bank, investment earnings,  
11 reserves for capital and current expenses, proceeds of  
12 insurance or condemnation and proceeds from the sale or other  
13 disposition of property and from any other special source as  
14 may be provided by the qualified borrower.

15           "~~(13)~~(14) QUALIFIED BORROWER. Any government unit  
16 which is authorized to finance, construct, operate, or own a  
17 qualified project or the applicable portion thereof in the  
18 case of a qualified project consisting of a pool of eligible  
19 projects for more than one government unit.

20           "~~(14)~~(15) QUALIFIED PROJECT. ~~An~~ Includes either of  
21 the following:

22           "a. An eligible project or combination of eligible  
23 projects of a government unit the aggregate total cost of  
24 which exceeds five million dollars (\$5,000,000) which has been  
25 selected by the bank to receive a loan or other financial  
26 assistance from the bank to defray an eligible cost.

1           "b. A pool of eligible projects of government units  
2 the aggregate total cost of which exceeds five million dollars  
3 (\$5,000,000) which government units have been selected by the  
4 bank to receive a loan funded from the proceeds of bonds  
5 issued by the bank for the pool of eligible projects to defray  
6 an eligible cost.

7           "~~(15)~~(16) REVENUES. When used with respect to the  
8 bank, any receipts, fees, income, or other payments received  
9 or to be received by the bank including, without limitation,  
10 receipts and other payments deposited in the bank and  
11 investment earnings on its funds and accounts.

12           "§23-7-6.

13           "(a) The following sources may be used to capitalize  
14 the bank and for the bank to carry out its purposes:

15           "(1) An annual contribution, as determined by the  
16 Director of the Department of Transportation and approved by  
17 the Governor, of an amount not to exceed revenues produced by  
18 one cent (\$.01) a gallon of the tax on gasoline imposed  
19 pursuant to ~~Act 2011-565, 2011 Regular Session~~ subdivision (1)  
20 of subsection (a) of Section 40-17-325. Any funds contributed  
21 pursuant to this subdivision shall be derived from the  
22 gasoline tax proceeds collected during the fiscal year  
23 remaining in the Public Road and Bridge Fund after  
24 distributions of the tax to the cities and counties. ~~Any~~  
25 ~~contributions which are to provide funds for debt service on~~  
26 ~~bonds issued by the bank shall continue until the bonds have~~  
27 ~~been fully repaid.~~

1           "(2) An annual contribution, as determined by the  
2 Director of the Department of Transportation and approved by  
3 the Governor, of an amount of the revenues collected during  
4 the fiscal year pursuant to Section 40-12-248, not to exceed  
5 the balance remaining in the Public Road and Bridge Fund  
6 pursuant to Section 40-12-270(d)(3), after the distributions  
7 required pursuant to Sections 40-12-270(d)(1) and  
8 40-12-270(d)(2). ~~Any contributions which are to provide funds~~  
9 ~~for debt service on bonds issued by the bank shall continue~~  
10 ~~until the bonds have been fully repaid.~~ The limitation in this  
11 subdivision on the amount of any cash contributions to the  
12 bank out of the revenues from the truck and truck tractor  
13 license tax and registration fees levied pursuant to Section  
14 40-12-248 is not intended to limit the bank's authority to pay  
15 bonds and other financial assistance from the motor vehicle  
16 license tax and registration fee revenues authorized to be  
17 used for such purpose in subdivision (1) of subsection (b) or  
18 to limit the bank's ability to pledge the motor vehicle  
19 license tax and registration fee revenue for that purpose.

20           "(3) Federal funds made available to the state.

21           "(4) Federal funds made available to the state for  
22 the bank.

23           "(5) Contributions and donations from government  
24 units, and any other source as may become available to the  
25 bank including, but not limited to, appropriations from the  
26 Legislature.

1           "(6) All monies paid or credited to the bank, by  
2 contract or otherwise, payments of principal and interest on  
3 loans or other financial assistance made from the bank, and  
4 interest earnings which may accrue from the investment or  
5 reinvestment of the bank's monies.

6           "(7) Proceeds from the issuance of bonds as provided  
7 in this chapter.

8           "(8) Other lawful sources as determined appropriate  
9 by the board.

10          "(9) Loans from the department to the bank to be  
11 repaid from revenues committed to the bank for the following  
12 year.

13          "(b) With the recommendation of the Director of the  
14 Department of Transportation and approval by the Governor, the  
15 following revenue sources may be used to pay and secure bonds  
16 and other financial assistance issued by the bank:

17          "(1) The motor vehicle license taxes and  
18 registration fees that are provided to be distributed to the  
19 state pursuant to the provisions of Division 1 of Article 5 of  
20 Chapter 12 of Title 40, remaining after the costs of  
21 collection thereof.

22          "(2) The excise taxes levied by subdivision (2) of  
23 subsection (a) of Section 40-17-325 on distributors and  
24 storers of diesel fuel, except for the portion required to be  
25 distributed to municipalities and counties pursuant to  
26 subsection (b) of Section 40-17-361, remaining after payment  
27 of the costs of collection thereof. The term "costs of

1 collection," as used in this subdivision, shall mean that  
2 portion of the excise taxes referred to in this subdivision  
3 that may be appropriated by the Legislature to the Department  
4 of Revenue for its operating expenses.

5 "(3) The excise tax levied by Article 3 of Chapter  
6 17 of Title 40, remaining after payment of the costs of  
7 collection thereof, exclusive of that portion of the tax in  
8 respect of gasoline. The term "costs of collection," as used  
9 in this subdivision, shall mean that portion of the excise tax  
10 referred to in this subdivision that may be appropriated by  
11 the Legislature to the Department of Revenue for its operating  
12 expenses.

13 "(4) The receipts from the fee in respect of  
14 identification markers on motor vehicles that is provided for  
15 in Section 40-17-150.

16 "(c) Any pledge of the revenues and amounts  
17 described in subsection (a) or (b) to provide funds for  
18 payment of debt service on bonds issued by the bank or to pay  
19 obligations of the bank with respect to other financial  
20 assistance shall continue until the bonds have been fully  
21 repaid or the bank's obligation with respect to the other  
22 financial assistance has terminated, unless the trust  
23 indenture, financing agreement, or other related instrument  
24 providing for the pledge expressly provides that the pledge  
25 may be terminated earlier or otherwise limited by the bank.

26 "(d) Any pledge by the bank of revenues described in  
27 subdivision (1) of subsection (a) shall be subordinate to the



1 pledges thereof for the benefit of bonds of Alabama Federal  
2 Aid Highway Finance Authority and Alabama Highway Finance  
3 Corporation. Any pledge by the bank of revenues described in  
4 subdivision (2) of subsection (a) and subsection (b) shall be  
5 subordinate to the pledges thereof for the benefit of bonds of  
6 the Alabama Highway Finance Corporation. Pledges by the bank  
7 of the revenue sources described in subsections (a) and (b)  
8 for its bonds or other financial assistance shall take  
9 precedence among themselves in the order of the instruments  
10 making the pledges, except as otherwise provided in the  
11 instruments.

12 "(e) There is irrevocably appropriated to the bank  
13 so much of the taxes and fees described in subdivisions (1)  
14 and (2) of subsection (a) and subsection (b) as the Director  
15 of the Department of Transportation shall from time to time  
16 determine and the Governor shall approve for the purpose of  
17 providing funds to capitalize the bank and for the bank to  
18 carry out its purposes, including, without limitation, amounts  
19 pledged for payment of debt service on the bonds of the bank  
20 or pledged to pay amounts owed by it under any other financial  
21 assistance.

22 "§23-7-7.

23 "(a) Earnings on balances in the federal highway  
24 account, as created by this chapter, must be credited and  
25 invested according to federal law. The bank may establish  
26 accounts and subaccounts within the state highway account and  
27 the federal highway account as considered desirable to

1 effectuate the purposes of this chapter, or to meet the  
2 requirements of any state or federal programs. ~~All accounts~~  
3 ~~shall be held in trust by the State Treasurer.~~

4 ~~"(b) For necessary and convenient administration of~~  
5 ~~the bank, the board shall direct the State Treasurer to~~  
6 ~~establish federal and state accounts and subaccounts within~~  
7 ~~the bank necessary to meet any applicable federal law~~  
8 ~~requirements or as the bank shall determine necessary or~~  
9 ~~desirable in order to implement this chapter.~~

10 ~~"(c)(b)~~ The bank shall comply with all applicable  
11 federal laws and regulations prohibiting the commingling of  
12 certain federal funds deposited in the bank.

13 "(c) The operations of the bank shall be  
14 administered by the department, as agent for the bank, and the  
15 department may establish procedures and adopt rules necessary  
16 to administer the operations of the bank in accordance with  
17 applicable law and to enter into contracts and other  
18 agreements in connection with the operation of the bank  
19 including, but not limited to, contracts and agreements with  
20 federal agencies, public bodies, the bank, and other parties  
21 to the extent necessary or convenient for administration of  
22 the bank's operations. Except as provided in this chapter,  
23 acting as agent for the bank, the department shall maintain  
24 full authority for the administration of the bank's operations  
25 in accordance with applicable federal and state law.

26 "§23-7-9.

1           "(a) Qualified borrowers may obtain loans or other  
2 financial assistance from the bank through financing  
3 agreements. Qualified borrowers entering into financing  
4 agreements and issuing loan obligations to the bank may  
5 perform any acts, take any action, adopt any proceedings, and  
6 make and carry out any contracts or agreements with the bank  
7 as may be agreed to by the bank and any qualified borrower for  
8 the carrying out the purposes of this chapter.

9           "(b) In addition to the authorizations contained in  
10 this chapter, all other statutes or provisions permitting  
11 government units to borrow money and issue obligations may be  
12 utilized by any government unit in obtaining a loan or other  
13 financial assistance from the bank to the extent determined  
14 necessary or useful by the government unit in connection with  
15 any financing agreement and the issuance, securing, or sale of  
16 loan obligations to the bank.

17           "(c) A qualified borrower may receive, apply,  
18 pledge, assign, and grant a security interest in project  
19 revenues, and, in the case of a government unit, its project  
20 revenues, revenues derived from a special source, ~~or~~ ad  
21 valorem or other taxes, or, if the government unit is  
22 authorized, its full faith and credit, to secure its  
23 obligations as provided in this chapter, and may fix, revise,  
24 charge, and collect fees, rates, rents, assessments, and other  
25 charges of general or special application for the operation or  
26 services of a qualified project, the system of which it is a  
27 part, and any other revenue producing facilities from which

1 the qualified borrower derives project revenues, to meet its  
2 obligations under a financing agreement or to provide for the  
3 construction and improving of a qualified project.

4 "§23-7-11.

5 "(a) If a government unit fails to collect and remit  
6 in full all amounts due to the bank on the date these amounts  
7 are due under the terms of any note or other obligation of the  
8 government unit, the bank shall notify the ~~State Treasurer~~  
9 State Finance Director who shall ~~withhold~~ direct the  
10 withholding of all or a portion of the funds of the state and  
11 all funds administered by the state, its agencies, boards, and  
12 instrumentalities allotted or appropriated to the government  
13 unit and apply an amount necessary to the payment of the  
14 amount due.

15 "(b) Nothing contained in this section mandates the  
16 withholding of funds allocated to a government unit the  
17 withholding of which would violate contracts to which the  
18 state is a party, the requirements of federal law imposed on  
19 the state, or judgments of a court binding on the state.

20 "§23-7-14.

21 ~~"All money of the bank, except as authorized by law~~  
22 ~~or provided in this chapter, shall be deposited with and~~  
23 ~~invested by the State Treasurer. Funds of the bank not needed~~  
24 ~~for immediate use or disbursement may be invested by the State~~  
25 ~~Treasurer in obligations or securities which are declared to~~  
26 ~~be legal obligations by general law. All federal funds shall~~  
27 ~~be invested as required by applicable federal law. Money in~~

1 funds or accounts of the bank may be invested in permitted  
2 investments; provided, the investment of any federal funds  
3 shall comply with any applicable federal requirements.

4 "§23-7-15.

5 "Following the close of each state fiscal year, the  
6 bank shall submit an annual report of its activities for the  
7 preceding year to the Governor and to the Legislature. The  
8 bank also shall submit an annual report to the appropriate  
9 federal agency in accordance with requirements of any federal  
10 program. An independent certified public accountant or the  
11 Department of Examiners of Public Accounts shall perform an  
12 audit of the books and accounts of the bank at least once in  
13 each state fiscal year.

14 "§23-7-17.

15 "(a) Whenever it shall become necessary that monies  
16 be raised for qualified projects, including monies to be used  
17 to refund any bonds then outstanding, the bank may issue bonds  
18 as provided in this chapter.

19 "(b) The bank may pledge any of its revenue or funds  
20 to the payment of its bonds, subject ~~only~~ to any prior  
21 ~~agreements with the holders of particular bonds which may have~~  
22 ~~pledged specific money or revenue~~ pledges for other  
23 outstanding bonds or other financial assistance of the bank  
24 and, in the case of those revenues described in subdivisions  
25 (1) and (2) of subsection (a) and subsection (b) of Section  
26 23-7-6, pledges by Alabama Federal Aid Highway Finance  
27 Authority and Alabama Highway Finance Corporation of the

1 revenues for bonds issued by those entities. Bonds may be  
2 secured by a pledge of any loan obligation owned by the bank,  
3 any grant, contribution, or guaranty from the United States,  
4 the state, or any corporation, association, institution, or  
5 person, any other financial assistance provided by the bank,  
6 any bond insurance, guarantees, letters of credit or other  
7 forms of credit enhancement purchased or otherwise obtained by  
8 the bank from any public or private entity, any other property  
9 or assets of the bank, or a pledge of any money, income, or  
10 revenue of the bank from any source.

11 "§23-7-18.

12 "Bonds, other financial assistance, and other  
13 obligations issued by the bank shall not constitute ~~a~~ an  
14 obligation or debt or a pledge of the full faith and credit of  
15 this state, or any of its political subdivisions ~~other than~~  
16 ~~the bank,~~ but ~~are~~ shall be limited obligations of the bank  
17 payable solely from the revenue, money, or property of the  
18 bank pledged for such purpose as provided in this chapter. ~~The~~  
19 Any bonds, other financial assistance, or other obligations of  
20 the bank issued do not constitute an indebtedness of the state  
21 or any of its political subdivisions within the meaning of any  
22 constitutional or statutory limitation, and neither the full  
23 faith and credit nor the taxing power of the state, or any of  
24 its political subdivisions, is pledged to the payment thereof.  
25 No member of the bank or any person executing bonds, other  
26 financial assistance, or other obligations of the bank is  
27 liable personally ~~on the bonds~~ thereon by reason of their

1 issuance or execution. Each bond, other financial assistance,  
2 and other obligation issued under this chapter shall contain  
3 on its face a statement to the effect of the following:

4 "(1) ~~Neither the state, any of its political~~  
5 ~~subdivisions, nor the bank is obligated to pay the principal~~  
6 ~~of or interest on the bond or other costs incident to the bond~~  
7 ~~except~~ The instrument is not a general obligation of the bank,  
8 but is a limited obligation of the bank payable solely from  
9 the revenue, money, or property of the bank pledged.

10 "(2) ~~Neither~~ The instrument is not an obligation or  
11 debt of the state, or any of its subdivisions, and neither the  
12 full faith and credit nor the taxing power of the state, or  
13 any of its political subdivisions, is pledged to the payment  
14 of the ~~principal of or interest on the bond~~ instrument.

15 "(3) The bank does not have taxing power.

16 "§23-7-19.

17 "(a) The bonds of the bank must be authorized by a  
18 resolution of the bank.

19 "(b) The bonds shall bear the date and mature at the  
20 time which the resolution provides, except that no bond may  
21 mature more than 40 years from its date of issue.

22 "(c) The bonds may be in the denominations, be  
23 executed in the manner, be payable in the medium of payment,  
24 be payable at the place and at the time, and be subject to  
25 redemption or repurchase and contain other provisions  
26 determined by the bank prior to their issuance.

1           "(d) The bonds may bear interest payable at a time  
2 and at a rate as determined by the bank, including the  
3 determination by agents designated by the bank under  
4 guidelines established by it.

5           "(e) Bonds may be sold by the bank at public or  
6 private sale at the price it determines and approves.

7           "~~(f) The State Treasurer shall issue the bonds of~~  
8 ~~the bank not later than 60 days upon the resolution of the~~  
9 ~~bank authorizing the issuance of the bonds.~~

10           "§23-7-20.

11           "(a) Bonds may be secured by a trust indenture  
12 between the bank and a corporate trustee, which may be the  
13 State Treasurer or any bank having trust powers or any trust  
14 company, ~~designated by the State Treasurer~~ doing business in  
15 this state. A trust indenture may contain provisions for  
16 protecting and enforcing the rights and remedies of the  
17 bondholders which are reasonable and proper, including  
18 covenants setting forth the duties of the bank in relation to  
19 the exercise of its powers and the custody, safekeeping, and  
20 application of its money. The bank may provide by the trust  
21 indenture for the payment of the proceeds of the bonds and all  
22 or any part of the revenues of the bank to the trustee under  
23 the trust indenture or to some other depository, and for the  
24 method of its disbursement with safeguards and restrictions  
25 prescribed by it. All expenses incurred in performing the  
26 obligations of the bank under the trust indenture may be  
27 treated as part of its operating expenses.



1           "(b) Any resolution or trust indenture pursuant to  
2 which bonds are issued may contain provisions which are part  
3 of the contract with the holders of the bonds and which  
4 include the following:

5           "(1) Pledging ~~all or any part of the revenue~~  
6 specific revenues of the bank to secure the payment of the  
7 bonds.

8           "(2) Pledging ~~all or any part of the~~ specific assets  
9 of the bank including loan obligations owned by it to secure  
10 the payment of the bonds.

11           "(3) The use and disposition of the gross income  
12 from, and payment of the principal of, and interest on loan  
13 obligations owned by the bank.

14           "(4) The establishment of reserves, sinking funds,  
15 and other funds and accounts, and their regulation and  
16 disposition.

17           "(5) Limitations on the purposes to which the  
18 proceeds from the sale of the bonds may be applied, and  
19 limitations on pledging the proceeds to secure the payment of  
20 the bonds.

21           "(6) Limitations on the issuance of additional  
22 bonds, the terms upon which additional bonds may be issued and  
23 secured, and the refunding of outstanding or other bonds.

24           "(7) The procedure, if any, by which the terms of  
25 any contract with bondholders may be amended or abrogated, the  
26 amount of bonds, if any, the holders of which must consent to,  
27 and the manner in which any consent may be given.

1           "(8) Limitations on the amount of money to be  
2 expended by the bank for its operating expenses.

3           "(9) Vesting in a trustee property, rights, powers,  
4 and duties as the bank may determine, limiting or abrogating  
5 the right of bondholders to appoint a trustee, and limiting  
6 the rights, powers, and duties of the trustee.

7           "(10) Defining the acts or omissions which  
8 constitute a default, the obligations or duties of the bank to  
9 the holders of the bonds, and the rights and remedies of the  
10 holders of the bonds in the event of default, including as a  
11 matter of right the appointment of a receiver, and all other  
12 rights generally available to creditors.

13           "(11) Requiring the bank or the trustee under the  
14 trust indenture to take any and all other action to obtain  
15 payment of all sums required to eliminate any default as to  
16 any principal of and interest on loan obligations owned by the  
17 bank or held by a trustee, which may be authorized by the laws  
18 of this state.

19           "(12) Any other matter relating to the terms of the  
20 bonds or the security or protection of the holders of the  
21 bonds which may be considered appropriate.

22           "§23-7-21.

23           "(a) Any pledge made by the bank to secure its  
24 obligations with respect to bonds or other financial  
25 assistance is valid and binding from the time the pledge is  
26 made. The revenue, money, or property pledged and received by  
27 the bank is immediately subject to the lien of the pledge

1 without any physical delivery or further act. The lien of any  
2 pledge is valid and binding as against all parties having  
3 claims of any kind in tort, contract, or otherwise against the  
4 bank, irrespective of whether the parties have notice of the  
5 pledge.

6 "(b) No recording or filing of the resolution  
7 authorizing the issuance of bonds or other financial  
8 assistance, the trust indenture or other financing agreement  
9 securing the bonds or other financial assistance, or any other  
10 instrument including filings under the Uniform Commercial Code  
11 is necessary to create or perfect any pledge or security  
12 interest granted by the bank to secure any bonds or other  
13 financial assistance."

14 Section 2. Sections 23-7-29, 23-7-30, and 23-7-31  
15 are added to the Code of Alabama 1975, to read as follows:

16 §23-7-29.

17 (a) The granting of other financial assistance by  
18 the bank shall be authorized by a resolution of the bank.

19 (b) The bank may execute instruments and enter into  
20 financing agreements, including, without limitation, a trust  
21 indenture between the bank and a corporate trustee, which may  
22 be the State Treasurer or any bank having trust powers or any  
23 trust company doing business in this state, containing the  
24 terms and conditions as the bank shall determine in connection  
25 with the provision of other financial assistance and the  
26 securing its obligations with respect to other financial  
27 assistance.

1           (c) The bank may pledge any of its revenues or funds  
2 to the payment of other financial assistance provided by the  
3 bank, subject to any prior pledges for outstanding bonds or  
4 other financial assistance of the bank and, in the case of  
5 those revenues described in subdivisions (1) and (2) of  
6 subsection (a) and subsection (b) of Section 23-7-6, the  
7 pledges by Alabama Federal Aid Highway Finance Authority and  
8 Alabama Highway Finance Corporation of the revenues for bonds  
9 issued by the entities. Other financial assistance may be  
10 secured by a pledge of any loan obligation owned by the bank,  
11 any grant, contribution, or guaranty from the United States,  
12 the state, or any corporation, association, institution, or  
13 person, any other property or assets of the bank, or a pledge  
14 of any money, income, or revenue of the bank from any source.

15           §23-7-30.

16           The bank shall be a nonprofit corporation and no  
17 part of its net earnings remaining after payment of its  
18 expenses shall inure to the benefit of any individual, firm,  
19 or corporation, except that in the event its board of  
20 directors shall determine that sufficient provision has been  
21 made for the full payment of the expenses, bonds, other  
22 financial assistance and other obligations of the bank, then  
23 any net earnings of the bank thereafter accruing shall be paid  
24 to the state.

25           §23-7-31.

26           At any time when no bonds, other financial  
27 assistance, or other obligations of the bank are outstanding,

1 the bank may be dissolved upon the filing with the Secretary  
2 of State of an application for dissolution, which shall be  
3 subscribed by each of the directors of the bank and which  
4 shall be sworn to by each director before an officer  
5 authorized to take acknowledgments to deeds. Upon the filing  
6 of the application for dissolution, the bank shall cease and  
7 any property owned by it at the time of its dissolution shall  
8 pass to the state. The Secretary of State shall file and  
9 record the application for dissolution in an appropriate book  
10 of record in his or her office and shall make and issue, under  
11 the Great Seal of the State, a certificate that the bank is  
12 dissolved and shall record the certificate with the  
13 application for dissolution.

14 Section 3. The provisions of this act are severable.  
15 If any part of this act is declared invalid or  
16 unconstitutional, that declaration shall not affect the part  
17 which remains.

18 Section 4. This act shall become effective  
19 immediately following its passage and approval by the  
20 Governor, or its otherwise becoming law.