

1 SB179  
2 115370-10  
3 By Senators Mitchell and Marsh  
4 RFD: Governmental Affairs  
5 First Read: 12-JAN-10

1 SB179

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3  
4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to the 21st Century Authority; to provide  
12 further for the Alabama Construction Recruitment Institute and  
13 its powers and the Recruitment Training and Promotion Fund; to  
14 amend Sections 41-10-621, 41-10-622, 41-10-626, 41-10-629, and  
15 41-10-673, Code of Alabama 1975, as amended by Act 2009-563,  
16 2009 Regular Session (Acts 2009, p. 1762); to add Article 18  
17 (commencing with Section 41-10-720) to Chapter 10 of Title 41,  
18 Code of Alabama 1975; to amend and renumber Sections 1 to 6,  
19 inclusive, of Act 2009-561, 2009 Regular Session (Acts 2009,  
20 p. 1760), now appearing as Sections 41-10-700 to 41-10-705,  
21 inclusive, as Division 2 of Article 18 of Chapter 10, Title  
22 41, Code of Alabama 1975; to separate the institute from the  
23 authority; to authorize certain employees of the institute to  
24 receive certain retirement and health insurance benefits upon  
25 petition; to provide that employees of the institute are not  
26 state employees; to provide for deposit of certain  
27 construction craft industry fees into the Recruitment and

1 Promotion Fund in the State Treasury and appropriate the fund  
2 to the institute; to provide for the transfer to the  
3 Recruitment Training and Promotion Fund of certain fees  
4 previously collected and paid to the 21st Century Authority  
5 Fund; to clarify which employers are subject to the fee; to  
6 provide further for the powers of the institute; to authorize  
7 the board of the institute to expend the moneys in the  
8 Recruitment Training and Promotion Fund; to subject the  
9 institute to annual audit by the Department of Examiners of  
10 Public Accounts; and to provide further for the construction  
11 craft industry fee.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 41-10-621, 41-10-622, 41-10-626,  
14 41-10-629, and 41-10-673, Code of Alabama 1975, as amended by  
15 Act 2009-563, 2009 Regular Session (Acts 2009, p. 1762), are  
16 amended to read as follows:

17 "§41-10-621.

18 "(a) The Legislature finds and declares the  
19 following:

20 "(1) The State of Alabama has a great need from time  
21 to time to have access to financing for economic development  
22 and industrial recruitment that does not involve improvements  
23 to revenue-producing facilities.

24 "(2) It is desirable and in the public interest to  
25 establish a state-level authority with the power to issue  
26 bonds for such general purposes.

1           "(3) The Alabama Supreme Court has held, in effect,  
2           that only when the debt of a public corporation is payable out  
3           of a new revenue source will such debt not be considered a  
4           debt of the state in contravention of Section 213 of the  
5           Constitution of Alabama of 1901; the State of Alabama expects  
6           to receive in the near future new revenues from the settlement  
7           of certain litigation between the state and the tobacco  
8           industry ~~and construction industry fees dedicated for the~~  
9           ~~recruitment of, and the promotion of training programs and~~  
10          ~~opportunities for, new construction craft workers.~~

11          ~~"(4) The Legislature also recognizes that, at any~~  
12          ~~given time, the level of activity in our construction industry~~  
13          ~~is a primary yardstick for measuring the overall economic~~  
14          ~~health of this country and this state, and that the success~~  
15          ~~and stability of the building, manufacturing, and commercial~~  
16          ~~businesses are dependant upon a sufficient supply of skilled~~  
17          ~~artisans and craft persons that can produce quality products~~  
18          ~~that inspire public confidence. The State of Alabama and the~~  
19          ~~nation has a great need for a program that provides for the~~  
20          ~~recruitment of, and training programs and opportunities for,~~  
21          ~~new construction craft trade workers. It is desirable and in~~  
22          ~~the public interest to establish a state-level authority to~~  
23          ~~create and implement such a program.~~

24          ~~"(5) The Legislature further anticipates the passage~~  
25          ~~of a federal economic stimulus package providing substantial~~  
26          ~~funding for significant new highway, road, bridge, and public~~  
27          ~~infrastructure projects, and the Legislature recognizes that~~

1 ~~these projects will place additional demands for skilled~~  
2 ~~artisans and craft persons which the existing construction~~  
3 ~~workforce may not support.~~

4 ~~"(6)(4)~~ By the passage of this division, it is the  
5 intention of the Legislature to:

6 "a. Provide for the creation of a special fund known  
7 as the Alabama 21st Century Fund into which tobacco revenues  
8 ~~and construction industry fees dedicated for the recruitment~~  
9 ~~of and the promotion of training programs and opportunities~~  
10 ~~for new craft workers~~ will be deposited.

11 "b. Authorize the incorporation of the Alabama 21st  
12 Century Authority, which will have the power to issue bonds in  
13 limited amounts as provided in this division and for the  
14 purpose of promoting economic development and industrial  
15 recruitment, subject to legislative approval by separate act,  
16 which bonds may be payable out of specified monies held in the  
17 Alabama 21st Century Fund and other monies and property  
18 available to the authority, ~~except for construction industry~~  
19 ~~fees dedicated for the recruitment of and the promotion of~~  
20 ~~training programs and opportunities for new construction craft~~  
21 ~~workers.~~

22 "c. Appropriate annually for the payment of such  
23 bonds a portion of the revenues held in the Alabama 21st  
24 Century Fund.

25 ~~"d. Authorize the establishment and incorporation of~~  
26 ~~the Alabama Construction Recruitment Institute by the Alabama~~  
27 ~~21st Century Authority for the purpose of creating and~~

1 ~~implementing a program providing for the recruitment of and~~  
2 ~~the promotion of training programs and opportunities for new~~  
3 ~~construction craft trade workers.~~

4           "(b) The Legislature further finds and declares that  
5 it is desirable and in the public interest that tobacco  
6 revenues in an amount of up to \$60,000,000 in the fiscal year  
7 ending September 30, 2000, up to \$65,000,000 in the fiscal  
8 year ending September 30, 2001, and up to \$70,000,000 in the  
9 fiscal year ending September 30, 2002, and in each fiscal year  
10 thereafter be transferred to the Children First Trust Fund to  
11 be appropriated by the Legislature, upon the recommendation of  
12 the Governor, for programs authorized by the Children First  
13 Act, Section 41-15B-1.

14           "(c) The Legislature further finds and declares that  
15 it is desirable and in the public interest that tobacco  
16 revenues remaining each fiscal year after the distributions in  
17 subsection (a) (4)c. and subsection (b) be distributed to the  
18 Alabama Senior Services Trust Fund and the State General Fund  
19 for Medicaid purposes.

20           ~~"(d) The Legislature further finds and declares that~~  
21 ~~it is desirable and in the public interest that construction~~  
22 ~~industry fees dedicated for the recruitment of and the~~  
23 ~~promotion of training programs and opportunities for new~~  
24 ~~construction craft workers shall be annually appropriated to~~  
25 ~~the 21st Century Authority and dedicated for expenses incurred~~  
26 ~~or to be incurred by the Alabama Construction Recruitment~~  
27 ~~Institute.~~

1           "§41-10-622.

2           "When used in this division, the following terms  
3 shall have the following meanings, unless the context clearly  
4 indicates otherwise:

5           "(1) APPROPRIATED FUNDS. The tobacco revenues  
6 deposited in the special fund to the extent such revenues are  
7 appropriated to the authority pursuant to Section 41-10-630.

8           "(2) AUTHORITY. The Alabama 21st Century Authority  
9 authorized to be established pursuant to Section 41-10-623.

10          "(3) BONDS. Those bonds, including refunding bonds,  
11 issued pursuant to this division.

12          "~~(4) CONSTRUCTION INDUSTRY FEES. Revenues received~~  
13 ~~by the state in the form of federal, state, local, or private~~  
14 ~~sector grants for the purpose of providing for the recruitment~~  
15 ~~of, and the promotion of training programs and opportunities~~  
16 ~~for, new construction industry craft workers and fees enacted~~  
17 ~~for such purpose after January 1, 2009, specifically, but not~~  
18 ~~limited to, fees imposed under Division 4 of this article. No~~  
19 ~~fee shall be collected from any licensed home builder, as~~  
20 ~~defined in Title 34, Chapter 14A; from any subcontractor~~  
21 ~~working on a residential construction site, including~~  
22 ~~renovations to any residential structure; or from any person~~  
23 ~~or entity specifically exempt under the provisions of Title~~  
24 ~~34, Chapter 14A.~~

25          "~~(5)~~ (4) GOVERNMENT SECURITIES. Any bonds or other  
26 obligations which as the principal and interest constitute  
27 direct obligations of, or are unconditionally guaranteed by,

1 the United States of America, including obligations of any  
2 federal agency to the extent such obligations are  
3 unconditionally guaranteed by the United States of America and  
4 any certificates or any other evidences of an ownership  
5 interest in such obligations of, or unconditionally guaranteed  
6 by, the United States of America or in specified portions  
7 thereof, which may consist of the principal thereof or the  
8 interest thereon.

9 ~~"(6) INSTITUTE. The Alabama Construction Recruitment~~  
10 ~~Institute authorized to be established pursuant to Section~~  
11 ~~41-10-640.~~

12 ~~"(7) MEMBERS. Appointees of the Governor, Lieutenant~~  
13 ~~Governor, and Speaker of the House of Representatives, as~~  
14 ~~provided in Section 41-10-641, who shall serve as the~~  
15 ~~governing board of the institute.~~

16 ~~"(8)~~ (5) PERMITTED INVESTMENTS. (i) Government  
17 Securities; (ii) bonds, debentures, notes, or other evidences  
18 of indebtedness issued by any of the following agencies: Bank  
19 for Cooperatives; federal intermediate credit banks; Federal  
20 Financing Bank; federal home loan banks; Federal Farm Credit  
21 Bank; Export-Import Bank of the United States; federal land  
22 banks; or Farmers Home Administration or any other agency or  
23 corporation which has been or may hereafter be created by or  
24 pursuant to an act of the Congress of the United States as an  
25 agency or instrumentality thereof; (iii) bonds, notes, pass  
26 through securities or other evidences of indebtedness of the  
27 Government National Mortgage Association and participation



1 certificates of the Federal Home Loan Mortgage Corporation;  
2 (iv) full faith and credit obligations of any state, provided  
3 that at the time of purchase such obligations are rated at  
4 least "AA" by Standard & Poor's Ratings Group and at least  
5 "Aa" by Moody's Investors Service; (v) public housing bonds  
6 issued by public agencies or municipalities and fully secured  
7 as to the payment of both principal and interest by contracts  
8 with the United States of America, or temporary notes,  
9 preliminary notes, or project notes issued by public agencies  
10 or municipalities, in each case fully secured as to the  
11 payment of both principal and interest by contracts with the  
12 United States of America, or temporary notes, preliminary  
13 notes or project notes issued by public agencies or  
14 municipalities, in each case fully secured as to the payment  
15 of both principal and interest by a requisition or payment  
16 agreement with the United States of America; (vi) time  
17 deposits evidenced by certificates of deposit issued by banks  
18 or savings and loan associations which are members of the  
19 Federal Deposit Insurance Corporation, provided that, to the  
20 extent such time deposits are not covered by federal deposit  
21 insurance, such time deposits (including interest thereon) are  
22 fully secured by a pledge of obligations described in items  
23 (i), (ii), (iii), and (v) above, which at all times have a  
24 market value not less than the amount of such bank time  
25 deposits required to be so secured and which meet the greater  
26 of 100 percent collateralization or the "AA" collateral levels  
27 established by Standard & Poor's Ratings Group for structured

1 financings; (vii) repurchase agreements for obligations of the  
2 type specified in items (i), (ii), (iii), and (v) above,  
3 provided such repurchase agreements are fully collateralized  
4 and secured by such obligations which have a market value at  
5 least equal to the purchase price of such repurchase  
6 agreements which are held by a depository satisfactory to the  
7 State Treasurer in such manner as may be required to provide a  
8 perfected security interest in such obligations, and which  
9 meet the greater of 100 percent collateralization or the "AA"  
10 collateral levels established by Standard & Poor's Ratings  
11 Group for structured financings; and (viii) uncollateralized  
12 investment agreements with, or certificates of deposit issued  
13 by, banks or bank holding companies, the senior long-term  
14 securities of which are rated at least "AA" by Standard &  
15 Poor's Ratings Group and at least "Aa" by Moody's Investors  
16 Service.

17 ~~"(9) RECRUITMENT AND TRAINING PROMOTION FUND. The~~  
18 ~~fund established pursuant to Section 41-10-629(b).~~

19 ~~"(10) (6)~~ REFUNDING BONDS. Those refunding bonds  
20 issued pursuant to this division.

21 ~~"(11) (7)~~ SPECIAL FUND. The Alabama 21st Century Fund  
22 established pursuant to Section 41-10-629.

23 ~~"(12) (8)~~ STATE. The State of Alabama.

24 ~~"(13) (9)~~ TOBACCO REVENUES. Revenues received by the  
25 state pursuant to any federal tobacco-related settlement, any  
26 tobacco-related appropriations made by the United States  
27 Congress to the State of Alabama, or any revenues received by

1 the state from litigation against any tobacco-related  
2 industry.

3 "§41-10-626.

4 "(a) General. The authority is authorized from time  
5 to time to sell and issue its bonds in limited amounts and for  
6 the purpose of promoting economic development and industrial  
7 recruitment as specified by the Legislature from time to time  
8 by separate act, provided that refunding bonds may be issued  
9 by the authority pursuant to Section 41-10-627 without first  
10 obtaining separate authorization from the Legislature.

11 "(b) Sources of payment. Bonds issued by the  
12 authority shall be solely and exclusively an obligation of the  
13 authority and shall not create an obligation or debt of the  
14 state. Such bonds shall not be general obligations of the  
15 authority but shall be payable solely from one or more of the  
16 following sources:

17 "(1) Appropriated funds.

18 "(2) The income or proceeds realized by the  
19 authority under any mortgage or security granted to the  
20 authority.

21 "(3) Amounts derived from any letter of credit,  
22 insurance policy, or other form of credit enhancement  
23 applicable to the bonds.

24 "(4) Any reserve or other fund established for such  
25 purpose by the authority.

26 "(5) Any earnings on the proceeds of bonds invested  
27 by the authority pending their disbursement.

1           "(6) Any other revenues that may hereafter be  
2     available to the authority,~~except construction industry fees.~~

3           "All pledges of appropriated funds made by the  
4     authority shall be on a parity unless otherwise provided by  
5     the Legislature, it being the intention hereof that all bonds  
6     of the authority secured by a pledge of appropriated funds  
7     shall be equally and ratably so secured without regard to time  
8     of issuance. Bonds issued by the authority shall be construed  
9     to be negotiable instruments, although payable solely from a  
10    specified source, as provided herein.

11          "(c) Security for the bonds. The principal of and  
12    interest on any bonds issued by the authority shall be secured  
13    by a pledge of the appropriated funds or other monies,~~except~~  
14    ~~construction industry fees,~~ and property available to the  
15    authority and may be secured by a trust indenture evidencing  
16    such pledge or by a foreclosable mortgage and deed of trust  
17    conveying as security for such bonds all, or any part, of the  
18    authority's property. The resolution under which the bonds are  
19    authorized to be issued or any such trust indenture or  
20    mortgage may contain any agreements and provisions respecting  
21    the rights, duties, and remedies of the parties to any such  
22    instrument and the parties for the benefit for whom such  
23    instrument is made and the rights and remedies available in  
24    the event of default as the authority shall deem advisable and  
25    which are not in conflict with the provisions of this  
26    division.

1           "(d) General provisions respecting form, sale, and  
2       execution of the bonds. All bonds issued by the authority  
3       shall be signed by its president and attested by its secretary  
4       and the seal of the authority shall be affixed. A facsimile of  
5       the signature of one or both of the officers may be printed or  
6       otherwise reproduced on any such bonds in lieu of being  
7       manually subscribed thereon and a facsimile of the seal of the  
8       authority may be printed or otherwise reproduced on any of the  
9       bonds in lieu of being manually affixed thereto. Any bonds of  
10      the authority may be executed and delivered by it at any time  
11      and from time to time, and shall be in the form and  
12      denominations and of such tenor and maturities, shall bear  
13      such rate or rates of interest, shall be payable at such times  
14      and evidenced in such manner, may be made subject to  
15      redemption at the option of the authority at such times and  
16      after such notice and on such conditions and at such  
17      redemption price or prices, and may contain such other  
18      provisions not inconsistent herewith, all as may be provided  
19      by the resolution of the directors of the authority under  
20      which the bonds are authorized to be issued. Bonds of the  
21      authority may be sold at a public or private sale from time to  
22      time as the directors may consider advantageous. Such bonds  
23      may be issued in the form of current interest bonds or capital  
24      appreciation bonds and may be issued as serial bonds or term  
25      bonds, all as may be directed by the authority.

26           "(e) Other matters. Any bonds of the authority may  
27      be used by the holder as security for any funds belonging to

1 the state, or to any political subdivision, instrumentality,  
2 or agency of the state, in any instance where security for the  
3 deposits may be required by law. Unless otherwise directed by  
4 the court having jurisdiction, or the document that is the  
5 source of authority, a trustee, executor, administrator,  
6 guardian, or one acting in any other fiduciary capacity may,  
7 in addition to any other investment powers conferred by law  
8 and with the exercise of reasonable business prudence, invest  
9 trust funds and bonds of the authority. Neither a public  
10 hearing nor consent of the Department of Finance or any other  
11 department or agency shall be a prerequisite to the issuance  
12 of bonds by the authority. Bonds of the authority shall be  
13 legal investments for funds of the Teachers' Retirement System  
14 of Alabama, the Employees' Retirement System of Alabama, and  
15 the State Insurance Fund.

16 "§41-10-629.

17 "~~(a)~~ For the benefit of the State of Alabama and the  
18 citizens thereof, there is hereby created a special fund named  
19 the "Alabama 21st Century Fund" which shall be funded with  
20 tobacco revenues and administered in accordance with this di-  
21 vision. The following amounts shall be retained in the special  
22 fund in the following fiscal years and shall be used to pay  
23 principal, interest, and premium, if any, due on bonds issued  
24 by the authority.

25 "Fiscal Year

Amount to be Retained

1	2000	\$7,000,000
2	2001	9,000,000
3	2002	11,000,000
4	2003-2017	13,000,000
5	2018 and thereafter	16,000,000

6           "Pending the use of revenues in the special fund for  
7 the payment of debt service on the bonds, such revenues shall  
8 be invested by the State Treasurer in permitted investments  
9 until such revenues are needed for such purposes. Earnings on  
10 such permitted investments shall remain a part of the special  
11 fund.

12           ~~"(b) For the benefit of the State of Alabama and the~~  
13 ~~country, and the citizens thereof, there is hereby created a~~  
14 ~~special fund named the Alabama 21st Century Recruitment and~~  
15 ~~Training Promotion Fund which shall be funded with~~  
16 ~~construction industry fees and administered in accordance with~~  
17 ~~this division. Revenue received by the fund shall be invested~~  
18 ~~by the State Treasurer in permitted investments until the~~  
19 ~~revenue is needed by the institute for the purposes~~  
20 ~~established by this division. Earnings on any permitted~~  
21 ~~investments shall remain a part of the fund.~~

22           "§41-10-673.

1           "The authority shall have, in addition to all powers  
2 heretofore granted to the authority pursuant to the Enabling  
3 Act, the following powers ~~and duties~~:

4           "(1) To sell and issue the bonds authorized herein  
5 for the purposes specified herein.

6           "(2) To pledge the pledged revenues as security for  
7 the payment of the bonds.

8           "(3) To acquire any real or personal property and to  
9 convey the same to the companies or to any local governmental  
10 entity with or without consideration.

11           "(4) To lease any real or personal property to the  
12 companies or to any local governmental entity for use in any  
13 part of the projects.

14           "(5) To mortgage any part of the projects as  
15 security for the bonds.

16           "(6) To make, enter into, and execute contracts,  
17 agreements, or other instruments necessary to acquire or  
18 construct capital improvements to any part of the projects.

19           "(7) To incur ancillary costs, projects costs, and  
20 training costs and to pay for the same out of proceeds of the  
21 bonds, subject to the provisions of Section 41-10-677.

22           "(8) To cooperate with and provide financial  
23 assistance to local governmental entities in order to  
24 effectuate the reconstruction and improvement of the flood  
25 levees identified in subsection (a) of Section 41-10-674.



1           "(9) To reimburse any company for the payment of  
2 training costs incurred by such company pursuant to an  
3 agreement with the authority.

4           ~~"(10) To incorporate the Alabama Construction~~  
5 ~~Recruitment Institute pursuant to Section 41-10-640.~~

6           ~~"(11) To implement a program through the institute~~  
7 ~~providing for the recruitment of, and the promotion of~~  
8 ~~training programs and opportunities for, new construction~~  
9 ~~craft trade workers for the benefit of businesses and~~  
10 ~~industries.~~

11           ~~"(12) The authority shall dedicate all construction~~  
12 ~~industry fee proceeds to the institute through its secretary.~~

13           ~~"(13) To approve all financial transactions of the~~  
14 ~~institute through its secretary or other officer as authorized~~  
15 ~~by the authority."~~

16           Section 2. Article 18 (commencing with Section  
17 41-10-720) is added to Chapter 10 of Title 41, Code of Alabama  
18 1975, to read as follows:

19           Article 18. ALABAMA CONSTRUCTION RECRUITMENT  
20 INSTITUTE.

21           Division 1. Authority Generally.

22           §41-10-720.

23           The Legislature makes the following findings:

24           (1) At any given time, the level of activity in our  
25 construction industry is a primary yardstick for measuring the  
26 overall economic health of this country and this state, and  
27 that the success and stability of the building, manufacturing,

1 and commercial businesses are dependent upon a sufficient  
2 supply of skilled artisans and craft persons who can produce  
3 quality products that inspire public confidence. The State of  
4 Alabama and the nation has a great need for a program that  
5 provides for the recruitment of, and training programs and  
6 opportunities for, new construction craft trade workers. It is  
7 desirable and in the public interest to establish a public  
8 authority at the state level to create and implement such a  
9 program.

10 (2) The passage of a federal economic stimulus  
11 package provides substantial funding for significant new  
12 highway, road, bridge, and public infrastructure projects, and  
13 the Legislature recognizes that these projects will place  
14 additional demands for skilled artisans and craft persons  
15 which the existing construction workforce may not support.

16 (3) It is desirable and in the public interest that  
17 construction craft industry fees dedicated for the recruitment  
18 of and the promotion of training programs and opportunities  
19 for new construction craft workers shall be annually  
20 appropriated to the Recruitment and Training Promotion Fund  
21 and dedicated for expenses incurred or to be incurred by the  
22 Alabama Construction Recruitment Institute.

23 (4) By passage of this act, it is the intention of  
24 the Legislature to do all of the following:

25 a. Establish the Alabama Construction Recruitment  
26 Institute as an independent public authority that is separate  
27 and distinct from the Alabama 21st Century Authority.

1           b. Provide for the continuation of the special fund  
2 known as the Recruitment and Training Promotion Fund created  
3 pursuant to Act 2009-563 and provide for the deposit of  
4 certain construction craft industry fees into the Recruitment  
5 and Training Promotion Fund.

6           c. Provide that Alabama 21st Century Authority shall  
7 have no duties or powers related to the Recruitment and  
8 Training Promotion Fund.

9           d. Provide that the Alabama 21st Century Authority  
10 shall provide limited assistance to the institute for the  
11 purpose of enabling the institute to commence operations.

12           §41-10-721.

13           For purposes of this article, the following terms  
14 have the following meanings:

15           (1) CONSTRUCTION CRAFT INDUSTRY FEES. Revenues  
16 received by the state in the form of federal, state, local, or  
17 private sector grants for the purpose of providing for the  
18 recruitment of, and the promotion of training programs and  
19 opportunities for, new construction industry craft workers and  
20 fees enacted for such purpose after January 1, 2009,  
21 specifically, but not limited to, fees imposed under Division  
22 2 of this article. Except as provided in Section 41-10-732, no  
23 fee shall be collected from any licensed home builder, as  
24 defined in Chapter 14A of Title 34; from any subcontractor  
25 working on a residential construction site, including  
26 renovations to any residential structure; or from any person

1 or entity specifically exempt under Chapter 14A of Title 34,  
2 except for subdivision (3) of Section 34-14A-6.

3 (2) INSTITUTE. The Alabama Construction Recruitment  
4 Institute, a public corporation authorized to be established  
5 pursuant to Section 41-10-723.

6 (3) RECRUITMENT AND TRAINING PROMOTION FUND. The  
7 fund established pursuant to Act 2009-563 and continued  
8 pursuant to Section 41-10-722.

9 §41-10-722.

10 The Recruitment and Training Promotion Fund, created  
11 pursuant to Act 2009-563 for the benefit of the State of  
12 Alabama and the citizens thereof, shall continue to exist as a  
13 special fund in the State Treasury and shall be funded with  
14 construction craft industry fees administered in accordance  
15 with this article. The revenue received by the fund shall be  
16 invested by the State Treasurer in permitted investments until  
17 the institute uses money for the purposes established by this  
18 article. Earnings on permitted investments shall remain part  
19 of the fund.

20 Section 3. Section 2 of Act 2009-563, 2009 Regular  
21 Session (Acts 2009, p. 1762), now appearing as Sections  
22 41-10-640, 41-10-641, 41-10-642, and 41-10-643, Code of  
23 Alabama 1975, is amended and renumbered as part of Division 1  
24 of Article 18 of Chapter 10 of Title 41, Code of Alabama 1975,  
25 to read as follows:

26 "~~§41-10-640.~~ §41-10-723.

1           "(a) The Alabama Construction Recruitment Institute  
2 shall be incorporated as a public corporation ~~and~~  
3 ~~instrumentality of the state~~ with the powers herein provided.

4           "(b) The Governor, the state Commissioner of  
5 Revenue, and the Director of Finance, ~~on behalf of the~~  
6 ~~authority,~~ shall present to the Secretary of State of Alabama  
7 an application signed by them which shall set forth all of the  
8 following:

9           "(1) The name, official designation, and official  
10 residence of each of the applicants and the initial appointed  
11 members of the board, ~~together with a certified copy of the~~  
12 ~~commission evidencing each applicant and member's right to~~  
13 ~~office.~~

14           "(2) The date on which each applicant and member of  
15 the board took office or was appointed, respectively, by his  
16 or her respective appointing authority and the term of office  
17 of each member's respective appointing authority.

18           "(3) The location of the principal office of the  
19 proposed corporation, which shall be in the City of  
20 Montgomery.

21           "(4) Any other matter relating to the institute  
22 which the applicants may choose to insert and which is not  
23 inconsistent with this division or the laws of the state.

24           "~~(b)~~ (c) The application shall be subscribed and  
25 sworn to by each of the applicants and members before an  
26 officer authorized by the laws of the state to take  
27 acknowledgments to deeds. The Secretary of State shall examine

1 the application and, if he or she finds that it substantially  
2 complies with the requirements of this section, it shall be  
3 filed and recorded in an appropriate book of records in the  
4 office of the Secretary of State.

5 "~~(c)~~ (d) When the application has been made, filed,  
6 and recorded as provided in subsection ~~(b)~~ (c), the applicants  
7 shall constitute a corporation under the name stated in the  
8 application, and the Secretary of State shall make and issue  
9 to the applicants a certificate of incorporation pursuant to  
10 this division under the Great Seal of the State and shall  
11 record the certificate with the application. There shall be no  
12 fees paid to the Secretary of State for any work done in  
13 connection with the incorporation or dissolution of the  
14 institute.

15 "~~§41-10-641.~~ §41-10-724.

16 "(a) All powers of the institute shall be exercised  
17 by or under the authority of, and the business and affairs of  
18 the institute shall be managed and governed, under the  
19 direction of, a board of directors, constituted as provided  
20 for in this section.

21 "(b) The board of directors shall consist of three  
22 voting members selected as follows:

23 "(1) One member to be appointed by the Governor from  
24 a list of three names provided by the Alabama local users  
25 group of the Construction Users Roundtable.

26 "(2) One member to be appointed by the Lieutenant  
27 Governor from a list of three names provided by the Board of

1 Directors of the Alabama American Federation of Labor and  
2 Congress of Industrial Organizations.

3 "(3) One member to be appointed by the Speaker of  
4 the House from a list of nine names submitted as follows:  
5 Three from the Associated General Contractors, one from the  
6 Alabama Chapter of Associated Builders and Contractors, one  
7 from the Mid-Gulf Chapter of Associated Builders and  
8 Contractors, one from the North Alabama Chapter of Associated  
9 Builders and Contractors, and three from the American  
10 Subcontractors Association.

11 "(c) All initial members of the board shall be  
12 appointed as provided in subsection (b) within 30 days of May  
13 18, 2009. Members of the board of directors shall be selected  
14 for four-year terms expiring on June 30 four years thereafter  
15 and shall serve until a successor is appointed by the  
16 Governor, Speaker of the House, or Lieutenant Governor, as  
17 appropriate, pursuant to the same selection method described  
18 in subsection (b). Any vacancy on the board of directors shall  
19 be filled in the same manner within 45 days of the vacancy by  
20 appointment by the Governor, Speaker of the House, or  
21 Lieutenant Governor, as appropriate. Each director shall  
22 reside within the State of Alabama. Directors may be  
23 reappointed for successive terms. No director shall draw any  
24 salary for any service he or she may render or for any duty he  
25 or she may perform in connection with the institute, but shall  
26 be entitled to the reimbursement of reasonable expenses  
27 incurred that are directly related to the duties in serving as

1 a member of the board. No director shall continue to serve as  
2 a member of the board after ceasing to be an active member of  
3 the respective recommending organization from whose list the  
4 appointment was initially made as provided in subsection (b).

5 "(d) A director may or shall be removed from the  
6 board of directors as follows:

7 "(1) If, for any reason, other than an illness which  
8 shall be documented in writing to the ~~authority~~ institute by a  
9 physician, a director is absent for more than 25 percent of  
10 scheduled board meetings during the fiscal year of the  
11 institute, the director may be removed by a unanimous vote of  
12 the other two directors.

13 "(2) A director may be removed, with or without  
14 cause, by vote of the respective recommending organization  
15 from whose list the appointment was initially made.

16 "(3) If a director is found guilty by a court of  
17 competent jurisdiction of willful or wanton misconduct, fraud,  
18 gross negligence, or knowing violation of a criminal law, the  
19 director shall be automatically removed and shall cease to  
20 serve as a member of the board.

21 "(e) The first organizational meeting of the board  
22 shall be held within 30 days following the appointment of all  
23 of the directors. At the organizational meeting, the board  
24 shall elect officers of the board from among its members.  
25 Officers of the board shall serve for the terms and shall have  
26 the powers and duties as the board by rule may prescribe.



1           "(f) The presence of all members of the board of  
2           directors shall constitute a quorum for the transaction of  
3           business. Action of the board may only occur with (1)  
4           unanimous approval of all three members of the board, or (2)  
5           the approval of two members of the board upon the abstention  
6           of the third member. Any vacancy on the board of directors or  
7           the disqualification of any director thereof shall impair the  
8           right of the board of directors to act.

9           "(g) All resolutions adopted by the board of  
10          directors shall constitute actions of the institute, ~~however,~~  
11          ~~the secretary of the authority, or such other officer~~  
12          ~~designated by the authority, shall review and approve any~~  
13          ~~financial expenditures, and any legal documents associated~~  
14          ~~therewith, authorized or approved by the board.~~ All  
15          proceedings of the board shall be reduced to writing by the  
16          secretary and shall be recorded in a substantially bound book  
17          and filed in the office of the ~~Director of Finance~~ institute.  
18          Copies of such proceedings, when certified by the secretary of  
19          the ~~authority~~ institute under the seal of the ~~authority~~  
20          institute, shall be received in all courts as prima facie  
21          evidence of the matters and things therein certified. The  
22          board of directors of the institute shall meet at such times  
23          upon such notice as it shall determine or upon call of the  
24          chair.

25          "(h) The institute shall have the authority through  
26          its board to disburse funds appropriated to the fund for the  
27          purposes stated in this article.

1                   ~~"§41-10-642. §41-10-725.~~

2                   ~~"The institute, in addition to all powers granted to~~  
3 ~~the authority pursuant to Sections 41-10-625 and 41-10-673,~~  
4 ~~except for the power to issue bonds,~~ shall have the following  
5 powers:

6                   "(1) To design, implement, and amend a program or  
7 programs to provide for the recruitment of, and the promotion  
8 of training programs and opportunities for, new craft trade  
9 workers for the construction industry and the users of the  
10 construction industry.

11                   "(2) To educate the public about career  
12 opportunities as craft trade workers in the construction  
13 industry.

14                   "(3) To acquire, receive, and take title to, by  
15 purchase, gift, lease, license, devise, or otherwise, to hold,  
16 keep, improve, maintain, equip, furnish, develop and to  
17 transfer, convey, donate, sell, lease, license, grant options  
18 to, assign, or otherwise dispose of property of every kind and  
19 character, real, personal, mixed, tangible and intangible, and  
20 any and every interest therein, to any person or entity.

21                   "(4) To accept gifts, grants, bequests, or devises  
22 of money and tangible and intangible property.

23                   "(5) To make and alter bylaws, not inconsistent with  
24 the provisions of this division or laws of the State of  
25 Alabama, for the administration and regulation of the affairs  
26 of the institute.

1           "(6) To make, enter into, and execute contracts,  
2       agreements, leases, licenses, or other legal arrangements and  
3       to take such steps and actions as may be necessary or  
4       convenient in the furtherance of any purpose or the exercise  
5       of any power provided or granted to it by this section.

6           "(7) To engage in media advertising, marketing,  
7       website creation, website design, website maintenance,  
8       database creation, database design, database maintenance, data  
9       and information collection, and data and information  
10      dissemination and distribution, including the dissemination or  
11      distribution of data and information on potential construction  
12      workforce recruits, to the construction industry, users of the  
13      construction industry, and educational institutions, or other  
14      entities, as deemed necessary or appropriate by the institute  
15      in its sole discretion.

16          "(8) To conduct surveys, studies, metrics, and other  
17      analyses of the construction industry and its potential  
18      workforce, and to disseminate or distribute the surveys,  
19      studies, metrics, and other analyses of the construction  
20      industry and its potential workforce to the construction  
21      industry, users of the construction industry, and educational  
22      institutions, or other entities, as deemed necessary or  
23      appropriate by the institute in its sole discretion.

24          "(9) To incur ancillary costs, project costs,  
25      advertising costs, and recruitment costs and to pay these  
26      costs out of proceeds of the Recruitment and Training  
27      Promotion Fund.

1           "(10) To make application directly or indirectly to  
2           any federal, state, county, or municipal government or agency  
3           or to any other source, public or private, for grants or other  
4           similar financial assistance in furtherance of the ~~authority's~~  
5           institute's purpose and to accept and use the same upon the  
6           terms and conditions as are prescribed by the federal, state,  
7           county, or municipal government or agency or other source.

8           "(11) To employ and provide for the compensation of  
9           an executive director and staff and support personnel  
10          according to policies and procedures adopted by the institute.  
11          The executive director and the employees of the institute  
12          shall not be considered state employees; however, the director  
13          and employees may petition the Employees' Retirement System  
14          and the State Employees' Insurance Board for inclusion in  
15          these systems subject to terms and conditions of similarly  
16          situated persons who may petition for benefits from these  
17          entities.

18          "(12) To hire accountants, attorneys, engineers,  
19          consultants, and other professionals as the board shall deem  
20          necessary for the conduct of the business of the institute.

21          ~~"(13) To provide grants to craft training programs~~  
22          ~~and to provide scholarships for craft training programs~~  
23          ~~including, but not limited to, apprenticeship programs. To~~  
24          provide grants to educational, governmental, non-profit,  
25          community-based, workforce development, economic development,  
26          and other organizations and associations engaged in the  
27          education, recruitment, training, placement, and professional

1 development of persons engaged in activities leading to the  
2 furtherance of careers in commercial and industrial  
3 construction in accordance with the purposes of the institute.

4 "(14) To cooperate or partner, or both, with  
5 regional and national organizations promoting construction  
6 workforce development, including the sharing of non-monetary  
7 marketing and educational resources and databases, in  
8 furtherance of the purposes of the institute.

9 "(15) To do all things necessary or convenient to  
10 carry out the powers and purposes conferred by this section.

11 "(16) To exercise any and all powers permissible  
12 under state law not in conflict with the purposes of the  
13 institute.

14 "~~§41-10-643.~~§41-10-726.

15 "The records of the institute shall be subject to  
16 the public records laws of this state, as amended, with the  
17 exception of any personal information collected or received by  
18 the institute from any individual. The books and the  
19 expenditures of the institute shall be audited annually by the  
20 Department of Examiners of Public Accounts."

21 Section 4. Sections 1 to 6, inclusive, of Act  
22 2009-561, 2009 Regular Session (Acts 2009, p. 1760), now  
23 appearing as Division 4 (commencing with Section 41-10-700) of  
24 Article 17 of Chapter 10 of Title 41 of the Code of Alabama  
25 1975, are amended and renumbered as Division 2, consisting of  
26 Sections §41-10-727 to 41-10-732, inclusive, Article 18,

1 Chapter 10, Title 41, Code of Alabama 1975, to read as  
2 follows:

3 "Division 2. Construction Craft Industry Fee.

4 "~~\$41-10-700.~~\$41-10-727.

5 "As used in this division, the following words shall  
6 have the following meanings:

7 "(1) DEPARTMENT. The Department of Revenue.

8 "(2) EMPLOYEE. An employee, as defined in the  
9 Internal Revenue Code, as amended from time to time; however,  
10 except that any individual providing services to an employer  
11 on an hourly, part-time, full-time, salaried, or contractual  
12 basis shall ~~also~~ be considered ~~as such~~ an employee for  
13 purposes of this division.

14 "(3) EMPLOYER. An employer, as defined in the  
15 Internal Revenue Code, as amended from time to time, which  
16 that is either a general contractor, ~~contractor,~~ or  
17 subcontractor ~~who~~ that primarily holds itself out for hire to  
18 the general public as a general contractor, ~~contractor,~~ or  
19 subcontractor and who receives more than five percent of its  
20 ~~primary business~~ annual gross revenue from business described  
21 ~~under in~~ either North American Industry Classification System  
22 (NAICS) Code 236, 237, or 238 of the United States Department  
23 of Commerce in effect as of January 1, 2009. This definition  
24 does not apply to or include residential home building and  
25 licensed residential home builders contracting for home  
26 building as defined in Chapter 14A of Title 34, or those

1 specifically exempted under Chapter 14A of Title 34, except  
2 for subdivision (3) of Section 34-14A-6.

3 "(4) FEE. The tax levied by this division.

4 "(5) GENERAL CONTRACTOR. Any individual, person,  
5 corporation, limited liability entity, trust, association, or  
6 any other business enterprise other than home building  
7 projects by licensed residential home builders as defined in  
8 Chapter 14A of Title 34, or those specifically exempted under  
9 Chapter 14A of Title 34, except for subdivision (3) of Section  
10 34-14A-6, that for a price, commission, fee, or payment  
11 undertakes to construct or superintend or engage in the  
12 construction, alteration, maintenance, repair, rehabilitation,  
13 remediation, reclamation, ~~or~~ demolition of any building,  
14 highway, sewer, structure, site work, grading, or paving of  
15 any project, or any improvement, in the State of Alabama ~~where~~  
16 ~~the cost of the undertaking is or is expected to be fifty~~  
17 ~~thousand dollars (\$50,000) or more shall be deemed and held to~~  
18 ~~have engaged in the business of general contracting in the~~  
19 ~~State of Alabama.~~

20 "(6) SKILLED LABOR. Includes all labor or services  
21 performed by ~~payroll workers~~ employees directly engaged in  
22 construction operations at the location of any construction ~~or~~  
23 ~~maintenance site,~~ alteration, maintenance, repair,  
24 rehabilitation, remediation, reclamation, demolition, highway,  
25 sewer, structure, grading, paving, or improvement project in  
26 Alabama. The term does not include labor or services performed  
27 by supervisory employees above the working foreman level.

1           "(7) SUBCONTRACTOR. Any individual, person,  
2           corporation, limited liability entity, trust, association, or  
3           any other business enterprise performing work under contract  
4           to a general contractor, but not licensed residential home  
5           builders building homes as defined in Chapter 14A of Title 34,  
6           or those specifically exempted under Chapter 14A of Title 34,  
7           except for subdivision (3) of Section 34-14A-6.

8           "(8) WAGES. The gross earnings paid by an employer  
9           to an employee covered by this division, including all forms  
10          of compensation such as salaries, hourly payments,  
11          commissions, remuneration, dismissal pay, bonuses, and  
12          vacation and sick leave pay, prior to deductions for items  
13          such as Social Security contributions, withholding taxes,  
14          group health insurance, union dues, and savings bonds.

15          "~~§41-10-701.~~§41-10-728.

16          "(a) In addition to all other taxes now imposed by  
17          law, there is hereby levied and imposed a fee on the wages, as  
18          defined in this division, paid by the employer to ~~certain~~  
19          employees for engaged in skilled labor in the performance of a  
20          construction contract or job in the State of Alabama, which  
21          fee shall be assessed, collected, and paid quarterly at the  
22          rate and as specified in subsection (b) and for each year as  
23          hereinafter provided.

24          "(b) Each employer subject to this division shall  
25          remit to the department a fee for the purpose of funding a  
26          program providing for the recruitment of, and training  
27          opportunities for, new construction craft trade labor in an



1 amount equal to nine one-hundredths of one percent of the  
2 Alabama wages paid ~~quarterly each calendar year~~ during the  
3 preceding quarter to all employees of the employer ~~for the~~  
4 ~~performance of~~ engaged in skilled labor under a construction  
5 contract or on a job located in this state for the first five  
6 quarters following May 18, 2009.

7 "(c) Following the first five quarters following May  
8 18, 2009, the receipts of the fee, less cost of collection for  
9 the second through fifth quarters, shall be tabulated and the  
10 fee rate shall be adjusted in order for the aggregate net  
11 collections for the subsequent four quarters to amount to one  
12 million seven hundred fifty thousand dollars (\$1,750,000), and  
13 the revised fee rate shall be the fee rate utilized for each  
14 ~~collection~~ quarterly period thereafter.

15 "(d) The fee levied by this division shall be  
16 remitted in a manner and on forms prescribed by the  
17 department.

18 "~~\$41-10-702.~~\$41-10-729.

19 "It shall be the duty of the department to  
20 administer this division. The department may adopt, amend, or  
21 rescind rules and employ persons, make expenditures, require  
22 reports, make investigations, and take any other action as may  
23 be necessary or suitable to that end. The same penalties,  
24 interest, lien, and criminal provisions of Chapters 1, 2A, and  
25 18 of Title 40, shall apply to taxpayers failing to accurately  
26 compute and remit the fee owed as established by this division

1 to the department ~~in~~ within the time set forth by this  
2 division and as further prescribed by the department.

3 ~~"§41-10-703. §41-10-730.~~

4 "In the event an employer fails to pay to the  
5 department any amount required to be paid under this division,  
6 that amount may be assessed against the employer in the same  
7 manner, including interest and penalties, as is prescribed for  
8 the assessment of income tax under the provisions of Chapter  
9 2A of Title 40. The employer may appeal from any preliminary  
10 or final assessment in the same manner and subject to the same  
11 procedures prescribed for income tax appeals by Chapter 2A of  
12 Title 40. When no appeal ~~is taken~~ from a final assessment is  
13 timely filed by the employer, execution may be issued upon the  
14 final assessment in the same manner as is provided by law for  
15 the issuance of an execution by the department.

16 ~~"§41-10-704. §41-10-731.~~

17 "(a) Any fees required by this division shall be  
18 remitted to the department and, after the cost appropriation  
19 in subsection (c), shall be deposited to the credit of the  
20 ~~state 21st Century Authority and then to the credit of the~~  
21 Recruitment and Training Promotion Fund in the State Treasury  
22 which is hereby created for the purpose of funding a  
23 recruitment and training promotion program to be administered  
24 by the Alabama Construction Recruitment Institute.

25 "(b) ~~Fees collected pursuant to this division are~~  
26 ~~appropriated to the Alabama 21st Century Authority to the~~  
27 ~~credit of the~~ The Recruitment and Training Promotion Fund ~~for~~

1 ~~each fiscal year, or part thereof, following May 18, 2009, and~~  
2 ~~the proceeds from the fees~~ is continuously appropriated to the  
3 Alabama Construction Recruitment Institute for the purposes of  
4 this article and shall be expended, in whole or in part, ~~as~~  
5 ~~deemed appropriate~~ by vote of the Board of Directors of the  
6 Alabama Construction Recruitment Institute ~~and approved by the~~  
7 ~~secretary or other designee of the Alabama 21st Century~~  
8 ~~Authority.~~

9           "(c) In addition to all other appropriations  
10 heretofore or hereinafter made, there is hereby appropriated  
11 to the department for the fiscal year ending September 30,  
12 2009, such amount as is reasonably required to offset its  
13 administrative and collection costs as a first charge against  
14 the revenues from the fee levied by this division. For all  
15 subsequent fiscal years, there shall be appropriated to the  
16 department as a first charge against the revenues from the fee  
17 levied by this division an amount that will offset its actual  
18 costs in the administration and regulation of this fee.

19           "~~\$41-10-705.~~\$41-10-732.

20           "Nothing in this division, including the fees  
21 collected pursuant to this division, shall apply to ~~anyone~~ any  
22 person or entity licensed by the Alabama Home Builders  
23 Licensure Board or any subcontractor working on any  
24 residential project falling under the jurisdiction of the  
25 Alabama Home Builders Licensure Board. Further, nothing in  
26 this division shall apply to ~~anyone~~ any person or entity that  
27 is granted an exemption from the licensing requirements under

1 Chapter 14A of Title 34, ~~and except for subdivision (3) of~~  
2 Section 34-14A-6, or their subcontractors working on any  
3 residential project in Alabama. Notwithstanding ~~this provision~~  
4 any provision of this division, anyone any person or entity  
5 licensed by the Alabama Home Builders Licensure Board or  
6 subcontractors ~~working~~ that work on any commercial or  
7 industrial project shall be subject to the fee levied by this  
8 division."

9 Section 5. The Employees' Retirement System may  
10 elect to provide retirement benefits and the State Employees'  
11 Insurance Board may elect to provide health insurance benefits  
12 to the employees of the Construction Recruitment Institute  
13 upon petition of the employees and subject to terms and  
14 conditions for similarly situated employees of other public  
15 entities.

16 Section 6. (a) All the construction craft industry  
17 fees collected prior to the effective date of this act and  
18 deposited to the credit of the Alabama 21st Century Fund shall  
19 be transferred to the Recruitment and Training Promotion Fund.

20 (b) After the transfer under subsection (a), the  
21 Alabama 21st Century Authority shall have no further powers or  
22 duties related to the Recruitment and Training Promotion Fund.

23 Section 7. Division 2 of Article 18, Title 41, shall  
24 expire in accordance with the repeal date in Act 2009-561.

25 Section 8. This act shall become effective  
26 immediately following its passage and approval by the  
27 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to  
the Senate committee on Governmental Affairs ..... 12-JAN-10

Read for the second time and placed on  
the calendar 1 amendment ..... 14-JAN-10

Read for the third time and passed as  
amended ..... 16-FEB-10

Yeas 26  
Nays 4

McDowell Lee  
Secretary