

1           HB102  
2        147733-3  
3        By Representative Buttram  
4        RFD: Ways and Means Education  
5        First Read: 05-FEB-13  
6        PFD: 02/01/2013

ENGROSSED

A BILL

TO BE ENTITLED

## AN ACT

To provide for The 21st Century Workforce Act; to authorize the Alabama Public School and College Authority to sell and issue up to \$50,000,000 in aggregate principal amount of additional bonds to provide funds for career and technical education equipment for local boards of education; to authorize the authority to provide for the details of the bonds and the sale and issuance thereof; to make an appropriation and pledge for payment of the principal of and interest on the bonds from specific taxes necessary to pay the principal and interest at their respective maturities; to authorize the authority to pledge for payment of the principal of and interest on the bonds the funds that are appropriated and pledged; to provide for the investment of funds by the State Treasurer; to provide that the bonds not constitute a debt of the state but shall be limited obligations payable out of the funds appropriated and pledged therefor; to provide that the bonds and the income therefrom shall be exempt from taxation in this state and that the bonds may be used to secure deposits of funds of this state and its political subdivisions, instrumentalities, and agencies, and for

1 investment of fiduciary funds; to authorize the authority to  
2 establish procedures and requirements to ensure compliance  
3 with tax covenants with which the authority must comply; to  
4 exempt the bonds from the usury laws of the state; to  
5 authorize the authority to issue refunding bonds and give  
6 details of such refunding; to provide for the employment of  
7 attorneys, fiscal advisors, trustees, paying agents,  
8 investment bankers, banks and underwriters and for the payment  
9 of all expenses incurred in the issuance of the bonds; to  
10 provide that after payment of the expenses of the issuance of  
11 the bonds the proceeds from the sale thereof shall be  
12 disbursed on orders or warrants issued by or under the  
13 direction of the authority for the purposes for which the  
14 bonds are authorized to be issued; to provide for the timely  
15 expenditure of the proceeds from the sale of the bonds; to  
16 provide that if any portion of this act should be held invalid  
17 such holding shall not affect the validity of any other  
18 portion thereof; and to authorize the authority to reimburse  
19 the Building Commission, the Department of Finance, and the  
20 State Treasurer's Office for costs incurred in providing  
21 services for the authority.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23                   Section 1. This act shall be known as The 21st  
24 Century Workforce Act. Wherever used in this act, the  
25 following terms shall have the following meanings  
26 respectively, unless the context clearly indicates otherwise:

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

(2) 1971 Acts. Act No. 94 enacted at the 1971 First Special Session of the Legislature, Act No. 2428 enacted at the 1971 Regular Session of the Legislature, and Act No. 56 enacted at the 1971 Second Special Session of the Legislature.

(3) 1973 Act. Act No. 1277 enacted at the 1973 Regular Session of the Legislature as amended by Act No. 73 enacted at the 1975 Third Special Session of the Legislature and Act No. 1223 enacted at the 1975 Regular Session of the Legislature.

(4) 1978 Act. Act No. 138 enacted at the 1978 Second Special Session of the Legislature, as amended by Act No. 79-41 enacted at the 1979 Special Session of the Legislature and Act No. 81-827 enacted at the 1981 Regular Session of the Legislature.

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

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

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

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

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

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

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

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

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

(14) 2010 Act. Act No. 2010-720 enacted at the 2010 Regular Session of the Legislature.

(15) AUTHORITY. The Public School and College Authority.

(16) ACCELERATE ALABAMA PLAN. The plan developed by the Economic Development Partnership of Alabama (EDPA) .

(17) BONDS. Except where that word is used with reference to bonds issued under another act, those bonds, other than refunding bonds, issued under the provisions of this act.

(18) CAPITAL IMPROVEMENT. Capital outlay projects that include the planning, designing, inspection, purchasing, construction, reconstruction, enlargement, improvement, repair, or renovation of permanent buildings containing classrooms, offices, libraries, laboratories, clinical or teaching facilities, dormitories, vocational and professional and industrial training facilities, research facilities, academic structures to reduce portable classrooms or substandard classroom facilities, related improvements and

1 land as sites therefor, together with furnishings and  
2 equipment required for the operation of the facilities and the  
3 programs provided therein.

4 (19) CAREER AND TECHNICAL EDUCATION. Education that  
5 prepares youth (K-12) and adults for careers as related to  
6 industry needs in jobs that may not require a college degree.

7 (20) COMMISSION. The Building Commission created by  
8 Section 41-9-140, Code of Alabama 1975, and its successors as  
9 the state agency for awarding construction contracts and  
10 supervising construction.

11 (21) DEPARTMENT. Alabama Department of Education.

12 (22) GOVERNMENT SECURITIES. Any bonds or other  
13 obligations which as to principal and interest constitute  
14 direct obligations of, or are unconditionally guaranteed by,  
15 the United States of America, including obligations of any  
16 federal agency to the extent such obligations are  
17 unconditionally guaranteed by the United States of America and  
18 any certificates or any other evidences of an ownership  
19 interest in such obligations of, or unconditionally guaranteed  
20 by, the United States of America or in specified portions  
21 thereof (which may consist of the principal thereof or the  
22 interest thereon).

23 (23) LEGISLATURE. The Legislature of Alabama.

24 (24) PERMITTED INVESTMENTS. (i) Government  
25 Securities; (ii) bonds, debentures, notes, or other evidences  
26 of indebtedness issued by any of the following agencies: Bank  
27 for Cooperatives; Federal Intermediate Credit Banks; Federal

1 Financing Bank; Federal Home Loan Banks; Federal Farm Credit  
2 Bank; Export-Import Bank of the United States; Federal Land  
3 Banks; or Farmers Home Administration or any other agency or  
4 corporation which has been or may hereafter be created by or  
5 pursuant to an act of the Congress of the United States as an  
6 agency or instrumentality thereof; (iii) bonds, notes, pass  
7 through securities, or other evidences of indebtedness of  
8 Government National Mortgage Association and participation  
9 certificates of Federal Home Loan Mortgage Corporation; (iv)  
10 full faith and credit obligations of any state, provided that  
11 at the time of purchase such obligations are rated at least  
12 "AA" by Standard & Poor's Ratings Group and at least "Aa" by  
13 Moody's Investors Service; (v) public housing bonds issued by  
14 public agencies or municipalities and fully secured as to the  
15 payment of both principal and interest by contracts with the  
16 United States of America, or temporary notes, preliminary  
17 notes, or project notes issued by public agencies or  
18 municipalities, in each case fully secured as to the payment  
19 to both principal and interest by a requisition or payment  
20 agreement with the United States of America; (vi) time  
21 deposits evidenced by certificates of deposit issued by banks  
22 or savings and loan associations which are members of the  
23 Federal Deposit Insurance Corporation, provided that, to the  
24 extent such time deposits are not covered by federal deposit  
25 insurance, such time deposits (including interest thereon) are  
26 fully secured by a pledge of obligations described in clauses  
27 (i), (ii), (iii), and (v) above, which at all times have a

1 market value not less than the amount of such bank time  
2 deposits required to be so secured and which meet the greater  
3 of 100 percent collateralization or the "AA" collateral levels  
4 established by Standard & Poor's Ratings Group for structured  
5 financings; (vii) repurchase agreements for obligations of the  
6 type specified in clauses (i), (ii), (iii), and (v) above,  
7 provided such repurchase agreements are fully collateralized  
8 and secured by such obligations which have a market value at  
9 least equal to the purchase price of such repurchase  
10 agreements which are held by a depository satisfactory to the  
11 State Treasurer in such manner as may be required to provide a  
12 perfected security interest in such obligations, and which  
13 meet the greater of 100 percent collateralization or the "AA"  
14 collateral levels established by Standard & Poor's Ratings  
15 Group for structured financings; and (viii) uncollateralized  
16 investment agreements with, or certificates of deposit issued  
17 by, banks or bank holding companies, the senior long-term  
18 securities of which are rated at least "AA" by Standard &  
19 Poor's Ratings Group and at least "Aa" by Moody's Investors  
20 Service.

21 (25) REGIONAL WORKFORCE DATA. Economic data  
22 assessing current and anticipated jobs requiring workforce  
23 readiness skills compiled for each of the 10 workforce regions  
24 in Alabama by the Department of Labor and other entities.

25 (26) REFUNDING BONDS. Those refunding bonds issued  
26 under the provisions of this act.

27 (27) STATE. The State of Alabama.

(28) TRUST FUND. The Education Trust Fund, formerly designated as the Alabama Special Educational Trust Fund, the name of which was changed to the Education Trust Fund, effective October 1, 1996, pursuant to Act No. 95-264 enacted at the 1995 Regular Session of the Legislature.

(29) WORKFORCE READY SKILLS. Academic and employability skills, providing opportunities to students for preparation and assessment, and connecting with business and industry.

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

Section 2. The purpose of this act is to provide new equipment purchases for career and technical education programs in local boards of education in order to ensure that programs meet current business and industry standards to provide students with the training and skills necessary to provide a workforce for new, existing, or expanding jobs.

Section 3. The Legislature finds that the number of students receiving Alabama Secondary Workforce Development training will need to increase if alignment of industry training is expected to meet the needs of each workforce region based on industry sectors and regional workforce data. Workforce development training begins in secondary schools where a need for current industry defined equipment is critical to meet the training defined by industry in a 21st century training environment.

Section 4. (a) The authority is hereby authorized to sell and issue its bonds in the aggregate principal amount of up to fifty million dollars (\$50,000,000) to provide funds for career and technical education equipment for local boards of education. The bonds authorized in this act to be issued by the authority shall be in addition to all other bonds previously authorized to be issued by the authority, and the powers conferred on the authority by this act are in addition to all other powers heretofore conferred on the authority by acts heretofore enacted by the Legislature.

(b) Proceeds from the sale of the bonds and the earnings thereon shall be paid out from time to time on orders or warrants issued by or at the direction of the authority to provide equipment for career and technical education programs in order to meet industry standards by utilizing needs assessments provided by local education agencies (LEAs) that reference industry developed equipment lists. Program offerings will be determined based upon regional workforce data utilizing the Accelerate Alabama Plan and identifying local program needs as they relate to addressing industry skills, gaps, and needs. Specifically, the proceeds from the sale of the bonds and the earnings thereof shall be distributed to the State Department of Education to be allocated as follows:

(1) Ten million dollars (\$10,000,000) to be allocated to each local board of education, pro rata, based on the number of Career Technical Education units operating in

1 each local board of education during the 2012-2013 school  
2 year;

3 (2) Twenty million dollars (\$20,000,000) to be  
4 allocated to each local board of education, pro rata, based on  
5 the number of students in each local board of education's  
6 Career Technical Education program during the 2012-2013 school  
7 year; and

8 (3) Twenty million dollars (\$20,000,000) to be  
9 allocated to the 21st Century Workforce Fund created in  
10 subsection (c).

11 (c) (1) There is hereby created the 21st Century  
12 Workforce Fund. Twenty million dollars (\$20,000,000) from the  
13 first series of bonds issued pursuant to this act shall be  
14 deposited into the fund. Distributions from the fund may only  
15 be made by the 21st Century Workforce Grant Committee created  
16 in subsection (c) (2).

17 (2) There is hereby created the 21st Century  
18 Workforce Grant Committee. The committee shall be made up of  
19 the State Superintendent of Education, who shall serve as  
20 chair of the committee; the Secretary of Commerce, who shall  
21 serve as vice-chair of the committee; the Director of the  
22 Alabama Industrial Development Training Institute; the  
23 Director of the State Department of Education's Office of  
24 Career Technical Education and Workforce Development; the  
25 Chancellor of the Alabama College System; and one member,  
26 appointed by the Governor, who serves on the Governor's  
27 College and Career Ready Task Force. The committee shall

1       allocate funds deposited into the 21st Century Workforce Fund,  
2       but only to reimburse career and technical education programs  
3       for expenses related to purchasing equipment necessary for  
4       those programs to meet industry standards, as determined by  
5       needs assessments provided by local education agencies that  
6       reference industry developed equipment lists. Authorized  
7       reimbursements from the 21st Century Workforce Fund will be  
8       determined by the committee based upon regional workforce data  
9       utilizing the Accelerate Alabama Plan and local program  
10      equipment purchases as they relate to addressing industry  
11      skills, gaps, and needs.

12                    The membership of the committee shall be inclusive  
13                    and shall reflect the racial, gender, geographic, urban/rural,  
14                    and economic diversity of the state.

15                    (3) Local education agencies applying for grants  
16        from the committee shall make application to members of the  
17        committee on a form or in a format prescribed by the chair of  
18        the committee. Upon the deposit of monies into the 21st  
19        Century Workforce Fund, the committee shall meet at least  
20        quarterly to consider grant applications. Meetings of the  
21        committee shall be called by the chair or the vice-chair.  
22                    Three Four members of the committee shall constitute a quorum  
23                    and three four members of the committee must be present and  
24                    vote affirmatively for the approval of any grant application.  
25        Meetings of the committee shall be open to the public and  
26        notice of such meetings shall comply with all applicable open  
27        records and open meetings laws.

(4) Within 10 calendar days after the committee authorizes any distributions from the fund, the chair of the committee shall report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Senate President Pro Tempore, the Chair of the House Ways and Means - Education Committee, and the Chair of the Senate Finance and Taxation - Education Committee the recipient of each distribution, the amounts provided to each recipient, and the purpose of each allocation.

Section 5. The bonds shall be signed by the president or vice president of the authority and the seal of the authority shall be affixed thereto (or a facsimile thereof imprinted thereon) and attested by its secretary. All signatures of the president, vice president, and secretary may be facsimile signatures if the authority, in its proceedings with respect to issuance, provides for manual authentication (which may be in the form of a certificate as to registration) of the bonds by a trustee, registrar, or paying agent or by named individuals who are employees of the state and who are assigned to the Finance Department or State Treasurer's Office. All bonds bearing signatures or facsimiles of the signatures of officers of the authority in office on the date of signing thereof shall be valid and binding notwithstanding that before the delivery thereof and payment therefor, any officer whose signature appears thereon shall have ceased to be an officer of the authority. The bonds and the income therefrom shall be exempt from all taxation in the State of

1 Alabama, may be used as security for deposits, and shall be  
2 eligible for investments of fiduciary funds, as provided in  
3 the 1965 Act. The bonds shall be construed to have all the  
4 qualities and incidents of negotiable instruments subject to  
5 any registration provisions pertaining to transfers. The  
6 authority and the bonds shall be exempt from all laws of the  
7 state governing usury including, without limitation, the  
8 provisions of Title 8, Chapter 8, Code of Alabama 1975, or any  
9 subsequent statute of similar import. The bonds shall be in  
10 such form or forms and denomination or denominations and of  
11 such tenor and maturities, shall bear such rate or rates of  
12 interest payable and evidenced in such manner, may be made  
13 subject to redemption prior to their maturities, and may  
14 contain provisions not inconsistent with this act, all as may  
15 be provided by the resolution of the authority under which the  
16 bonds may be issued; provided, that no bonds shall have a  
17 specified maturity date later than twenty years after their  
18 date; and provided further, that those bonds having maturities  
19 more than ten years after their date shall be subject to  
20 redemption at the option of the authority on any date on and  
21 after the tenth anniversary after their date at such  
22 redemption price or prices and under such conditions as may be  
23 prescribed in the proceedings of the authority under which  
24 they are issued. For the purpose of paying the principal of,  
25 premium, if any, and interest on the bonds or any refunding  
26 bonds, the authority shall designate the State Treasurer or  
27 such bank or banks as the authority, in its discretion,

determines to be appropriate and desirable. Funds for the payment of debt service shall be transferred by the authority or the State Treasurer on behalf of the authority to the designated paying agent on the actual due date of such principal, premium, if any, or interest.

Section 6. The bonds may be sold by the authority from time to time in series, and if sold in more than one series, may all be authorized in one initial resolution of the authority with the pledges therefor made by the authority in such initial resolution although some of the details applicable to each series may be specified in the respective resolutions under which the different series are issued. The authority, in the course of establishing, by resolution, a principal amount of bonds to be authorized for sale at any given time, or to be sold in any series, may take into account the existence of any unexpended proceeds of prior issues of bonds of the authority (and of any other issuer, if such should be deemed by the authority to be relevant), and may structure the portions of the allocations provided for in Section 10 of this act to be distributed from the proceeds of a particular series (constituting less than all the bonds authorized by this act) as the authority deems necessary or prudent in order to enable the authority to comply with any tax covenants that may be required of it, or that may be deemed by it to be prudent to be given by it, in connection with the sale of any series of the bonds. Each series of the bonds shall be sold at competitive bid and at such price or

1       prices and at such time or times as the authority may consider  
2       advantageous. Bonds sold by competitive bid must be sold to  
3       the bidder whose bid reflects the lowest effective borrowing  
4       cost to the authority on the series of the bonds being sold;  
5       provided, that if no bid acceptable to the authority is  
6       received it may reject all bids. Notice or summary notice of  
7       each such sale by competitive bids shall be given by  
8       publication in either a financial journal or a financial  
9       newspaper published in the City of New York, New York, and  
10       also by publication in a newspaper published in the state  
11       which is customarily published not less often than five days  
12       during each calendar week, each of which notices must be  
13       published at least one time not less than ten days prior to  
14       the date fixed for the sale or, in the event no bid acceptable  
15       to the authority is received at any such sale and the bonds so  
16       offered are thereafter reoffered on the same terms and  
17       conditions, not less than five days prior to the date fixed  
18       for sale. The authority may fix the method and the terms and  
19       conditions under which the sale of any series of the bonds may  
20       otherwise be held; provided, that the terms and conditions  
21       shall not conflict with any requirement of this act. Approval  
22       by the Governor of Alabama of the terms and conditions under  
23       which any bonds may be issued shall be requisite to their  
24       validity. Before any series of the bonds shall be offered for  
25       sale by the authority, the Governor shall first determine that  
26       the issuance of that series of bonds and the application of  
27       the taxes pledged to the payment of the principal of the bonds

as they mature and interest thereon as the same shall come due will not impair the adequacy of the trust fund to pay appropriations therefrom and to support the public schools and institutions of higher learning during the period over which the bonds will mature. The Governor's determination shall be in writing signed by the Governor and that determination shall be final and conclusive. Neither a public hearing nor consent of the state Department of Finance or any other department or agency shall be a prerequisite to the issuance of any of the bonds.

Section 7. For the purpose of providing for payment of the principal of, premium, if any, and interest on the bonds and to accomplish the objectives of this act, there is hereby irrevocably pledged to those purposes, and hereby appropriated, such amount as may be necessary therefor from the following sources:

(a) The residue of the receipts from the excise tax ("the utility gross receipts tax") levied by Title 40, Chapter 21, Article 3, Code of Alabama 1975, as amended ("Article 3"), remaining after payment of the expenses of administration and enforcement of Article 3, being that portion of the tax that is required by Article 3 to be deposited in the State Treasury to the credit of the trust fund, after there shall have been taken from the residue the amount necessary to pay at their respective maturities the principal of and interest on those bonds issued by the authority under the 1965 Act, 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the

1 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002  
2 Act, the 2003 Act, the 2007 Act, the 2010 Act, or this act  
3 that may be outstanding at the time of the delivery of the  
4 respective series of the bonds authorized herein;

5 (b) The residue of the receipts from the excise tax  
6 ("the utility service use tax") levied by Title 40, Chapter  
7 21, Article 4, Code of Alabama 1975 ("Article 4"), remaining  
8 after payment of the expenses of administration and  
9 enforcement of Article 4, being that portion of the tax that  
10 is required by Article 4 to be deposited in the State Treasury  
11 to the credit of the trust fund, after there shall have been  
12 taken from the residue the amount necessary to pay at their  
13 respective maturities the principal of and interest on those  
14 bonds issued by the authority under the 1965 Act, the 1971  
15 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,  
16 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the  
17 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or this  
18 act that may be outstanding at the time of the delivery of the  
19 respective series of the bonds authorized herein;

20 (c) To the extent and to the extent only that the  
21 revenues appropriated in the foregoing subsections (a) and (b)  
22 of this section may not be sufficient to pay at their  
23 respective maturities the principal of, premium, if any, and  
24 interest on the bonds, the residue of the receipts from the  
25 excise tax ("the sales tax") levied by Title 40, Chapter 23,  
26 Article 1, Division 1, Code of Alabama 1975, as amended  
27 ("Article 1"), after there shall have been taken from the

1 residue the amounts appropriated for other educational  
2 purposes in Section 40-23-35, Code of Alabama 1975 (which  
3 residue constitutes that portion of the receipts from the  
4 sales tax that is now required by law to be paid into the  
5 trust fund), and after there shall have been taken from the  
6 residue amounts sufficient to meet all prior charges on the  
7 residue including such amounts as may be necessary to pay at  
8 their respective maturities the principal of and interest on  
9 those bonds issued by the authority under the 1965 Act, the  
10 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990  
11 Act, the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act,  
12 the 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or  
13 this act that may be outstanding at the time of the delivery  
14 of the respective series of the bonds authorized herein; and

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

1 may be necessary to meet all prior charges on the use tax  
2 including the amounts sufficient to pay at their respective  
3 maturities the principal of and interest on those outstanding  
4 bonds referred to in subsection (c) of this section.

5 (e) All monies hereby appropriated and pledged shall  
6 constitute a sinking fund for the purpose of paying the  
7 principal of, premium, if any, and interest on the bonds. The  
8 State Treasurer is authorized and directed to pay at their  
9 respective maturities the principal of, premium, if any, and  
10 interest on the bonds out of this fund and out of the residues  
11 of the tax receipts herein appropriated and pledged for the  
12 benefit of the bonds, and is further authorized and directed  
13 to set up and maintain appropriate records pertaining thereto.

14 Section 8. The bonds shall not be general  
15 obligations of the authority but shall be limited obligations  
16 payable solely out of the residues of the tax receipts  
17 appropriated and pledged in Section 7. All bonds issued by the  
18 authority pursuant to the provisions of this act shall be  
19 solely and exclusively obligations of the authority and shall  
20 not constitute or create an obligation or debt of the state.  
21 As security for the payment of the principal of, premium, if  
22 any, and interest on the bonds, the authority is hereby  
23 authorized and empowered to pledge the residues of the tax  
24 receipts that are appropriated and pledged in Section 7 hereof  
25 for such purposes. All such pledges made by the authority  
26 shall take precedence in the order of the adoption of the  
27 resolutions containing the pledges. All such pledges shall be

1 prior and superior to any pledges that may be made for any  
2 refunding bonds hereafter issued by the authority under the  
3 provisions of any of the 1965 Act, the 1971 Acts, the 1973  
4 Act, the 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act,  
5 the 1998 Act, the 1999 Act, the 2001 Act, the 2002 Act, the  
6 2003 Act, the 2007 Act, the 2010 Act, or any other act  
7 heretofore enacted.

8 Section 9. For the purpose of refunding any bonds or  
9 refunding bonds of the authority issued under the provisions  
10 of this act, the 1965 Act, the 1971 Acts, the 1973 Act, the  
11 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act, the 1998  
12 Act, the 1999 Act, the 2001 Act, the 2002 Act, the 2003 Act,  
13 the 2007 Act, the 2010 Act, or any other act previously  
14 enacted, or any combination thereof, whether such refunding  
15 shall occur before, at or after the maturity of the bonds  
16 refunded and for the purpose of paying all premiums and  
17 expenses of the refunding (including, but not limited to,  
18 attorneys' fees, costs of printing the refunding bonds, fiscal  
19 agents' fees, and accountants' fees), the authority is hereby  
20 authorized to sell and issue its refunding bonds. Such  
21 refunding bonds may be sold and issued from time to time, at  
22 public sale, on sealed bids and on such other terms and  
23 conditions as the authority shall determine to be advantageous  
24 and shall adopt and provide for in its proceedings for the  
25 sale and issuance of such refunding bonds. Provided, however,  
26 that no refunding bonds shall be issued unless the present  
27 value of all debt service on the refunding bonds (computed

1 with a discount rate equal to the true interest rate of the  
2 refunding bonds and taking into account all underwriting  
3 discount and other issuance expenses) shall not be greater  
4 than 97 percent of the present value of all debt service on  
5 the bonds to be refunded (computed using the same discount  
6 rate and taking into account the underwriting discount and  
7 other issuance expenses originally applicable to such bonds)  
8 determined as if such bonds to be refunded were paid and  
9 retired in accordance with the schedule of maturities  
10 (considering mandatory redemption as scheduled maturity)  
11 provided at the time of their issuance. Provided further that  
12 the average maturity of the refunding bonds, as measured from  
13 the date of issuance of such refunding bonds, shall not exceed  
14 by more than three years the average maturity of the bonds to  
15 be refunded, as also measured from such date of issuance, with  
16 the average maturity of any principal amount of bonds to be  
17 determined by multiplying the principal of each maturity by  
18 the number of years (including any fractional part of a year)  
19 intervening between such date of issuance and each such  
20 maturity, taking the sum of all such products, and then  
21 dividing such sum by the aggregate principal amount of bonds  
22 for which the average maturity is to be determined. For the  
23 purpose of providing funds to enable the authority to pay at  
24 their respective maturities the principal of, premium, if any,  
25 and interest on the refunding bonds issued under this act, the  
26 authority is hereby authorized to pledge irrevocably for such  
27 purpose, and there is hereby appropriated for such purpose,

1 such amount as may be necessary of the residues of the  
2 receipts from the excise taxes pledged and appropriated in  
3 subsections (a), (b), (c), and (d) of Section 7 of this act,  
4 any reserves or sinking funds established by the authority, as  
5 well as revenues of the authority from any other sources  
6 specified in the proceedings wherein the refunding bonds are  
7 authorized to be issued. Pending the application of the  
8 proceeds of refunding bonds issued in accordance with this  
9 section, the proceeds, together with investment earnings  
10 therefrom, and amounts in any sinking fund, together with  
11 investment earnings thereon, may be held by the State  
12 Treasurer as treasurer of the authority in trust, or may be  
13 deposited by the State Treasurer in trust, on such terms as  
14 the State Treasurer and the authority shall approve, with a  
15 trustee or escrow agent, which trustee or escrow agent shall  
16 be a banking institution or trust company authorized to  
17 exercise trust powers in Alabama, for investment in permitted  
18 investments. Proceeds of refunding bonds shall be so invested  
19 and applied as to assure that the principal, interest, and  
20 redemption premium, if any, on the bonds being refunded shall  
21 be paid in full on the respective maturity, redemption, or  
22 interest payment dates. Refunding bonds issued by the  
23 authority shall not be general obligations of the authority  
24 but shall be payable solely from the sources specified in this  
25 act and in the proceedings whereby the refunding bonds are  
26 authorized to be issued. All refunding bonds issued by the  
27 authority shall be solely and exclusively obligations of the

1 authority and shall not create debts of the State of Alabama.  
2 The faith and credit of the State of Alabama shall never be  
3 pledged for the payment of any refunding bonds issued by the  
4 authority under this act. The authority may contract with  
5 respect to the safekeeping and application of the refunding  
6 bonds and other funds included therewith and the income  
7 therefrom which may be any bank or trust company authorized to  
8 exercise trust powers and located within and/or without the  
9 state. All other provisions of this act shall apply to the  
10 refunding bonds issued hereunder except (a) the limitation  
11 contained in Section 4 of this act on the amount of bonds that  
12 may be issued under this act and (b) the provisions of Section  
13 10 of this act. All pledges made by this act or by the  
14 authority pursuant to the provisions of this act, for the  
15 benefit of refunding bonds issued under this act, and all such  
16 pledges for the benefit of refunding bonds which may be issued  
17 to refund any bonds issued under any of the 1965 Act, the 1971  
18 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act,  
19 the 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the  
20 2002 Act, the 2003 Act, the 2007 Act, the 2010 Act, or this  
21 act, shall take precedence in the order of the adoption of the  
22 resolutions authorizing the issuance of such refunding bonds.  
23 Bonds refunded prior to their maturity with the proceeds of  
24 refunding bonds shall be deemed paid and the pledges herein  
25 and by the authority made for the payment thereof defeased if  
26 the authority, in its proceedings regarding issuance of the  
27 refunding bonds shall provide for and establishes a trust or

escrow fund comprised of monies or government securities, or both, sufficient to pay, when due, the entire principal of, premium, if any, and interest on the bonds to be refunded thereby; provided, that such government securities shall not be subject to redemption prior to their maturities other than at the option of the holder thereof. Upon the establishment of such a trust or escrow fund, the refunded bonds shall no longer be deemed to be outstanding, shall no longer be secured by the funds pledged therefore in Section 7 of this act, shall no longer be obligations of the authority and shall be secured solely by and payable from monies and government securities deposited in such trust or escrow fund.

Section 10. (a) The proceeds derived from each sale of the bonds issued pursuant to this act shall be deposited into the State Treasury and shall be carried in a separate fund therein for the account of the authority, which shall pay the expenses of issuance therefrom. The expenses of issuance of the bonds shall be prorated among the recipients of the proceeds from the sale of the bonds in the same proportions as the allocations received of the proceeds thereunder. The proceeds from the sale of the bonds remaining after payment of the expenses of issuance thereof shall be retained in the funds and, until they are paid out, shall be invested by the State Treasurer at the direction of the authority in permitted investments maturing at such time or times as the authority shall direct.

(b) Proceeds from the sale of the bonds and the earnings thereon shall be paid out from time to time on orders or warrants issued by or at the discretion of the authority for the purposes specified in this act.

Section 11. Not later than three years following allocation of bond proceeds as provided herein, the authority shall review the status of any unexpended allocations, and, at its sole discretion, determine if unexpended allocations or any portion thereof shall revert to the authority.

Section 12. Notwithstanding any of the foregoing and in addition to all powers heretofore granted to the authority, the authority is hereby expressly authorized to use the proceeds derived from the sale of bonds and income on permitted investments in accordance with the provisions of this act. Additionally, the authority is hereby expressly permitted to pay to the Department of Finance and the State Treasurer's Office, from time to time and from any funds available to the authority, amounts to offset costs incurred in the administration of the business of the authority. The cost of such compensation shall be prorated among the recipients of proceeds of the bonds in the same manner as the expenses of issuance of the bonds are required hereby to be prorated.

Section 13. The authority shall hire or contract with businesses or individuals which reflect the racial and ethnic diversity of the state.

Section 14. The authority shall have the power to make such payments to the United States of America as the board of directors of the authority deems necessary to cause the interest on any bonds of the authority, including the bonds, to be and remain exempt from, or excludable from gross income for purposes of, federal income taxation. The authority shall have the power to make such agreements respecting the investment of funds of the authority as the authority shall deem necessary in order that the interest income on bonds of the authority be and remain exempt from, or excludable from gross income for purposes of, federal income taxation.

Section 15. The authority is authorized to pay out of proceeds of any series of bonds the costs and expenses incurred in connection with the issuance of such bonds, including without limitation legal and accounting fees and expenses, fees, and expenses of any financial or fiscal advisor employed by the authority, printing costs, rating agency fees, and premiums or charges for any credit enhancement or liquidity providers. Notwithstanding any provision of this act or the 1965 Act, in appointing, employing, or contracting with attorneys, fiscal advisors, trustees, paying agents, investment bankers, banks and underwriters, the authority may appoint, employ, or contract with firms whose principal offices are located without and/or within Alabama. The authority shall hire or contract with attorneys, fiscal advisors, trustees, paying agents, investment bankers, banks and underwriters which shall reflect

1 the racial and ethnic diversity of the state. The authority  
2 shall issue requests for proposals for attorneys, fiscal  
3 advisors, trustees, paying agents, investment bankers, banks,  
4 and underwriters. The authority shall evaluate each proposed  
5 bid publicly and award each contract publicly. Minutes of the  
6 authority's meeting shall record the reasons for awarding each  
7 contract.

8 Section 16. In the event any section, sentence,  
9 clause or provision of this act shall be declared invalid by a  
10 court of competent jurisdiction, such action shall not affect  
11 the validity of the remaining sections, sentences, clauses, or  
12 provisions of this act, which shall continue effective.

13 Section 17. This act shall become effective  
14 immediately following its passage and approval by the  
15 Governor, or its otherwise becoming law.

1

2

3

## House of Representatives

4            Read for the first time and re-  
5            ferred to the House of Representa-  
6            tives committee on Ways and Means  
7            Education..... 05-FEB-13

8

9            Read for the second time and placed  
10          on the calendar..... . . . . . 06-FEB-13

11

12            Read for the third time and passed  
13            as amended..... 12-FEB-13

14

15

16

17

18

Jeff Woodard  
Clerk