

1 SB242  
2 204965-3  
3 By Senators Orr, Allen, Livingston, Price, Albritton, Marsh,  
4 Holley, Butler, Chambliss, Jones, Figures, Smitherman, Gudger,  
5 Coleman-Madison, Burkette, Chesteen, Beasley, Elliott,  
6 Sanders-Fortier, Singleton, Reed, Sessions, Williams and  
7 Whatley  
8 RFD: Finance and Taxation Education  
9 First Read: 27-FEB-20

1 SB242

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3  
4 ENROLLED, An Act,

5 To authorize the Alabama Public School and College  
6 Authority to sell and issue \$1,250,000,000 in aggregate  
7 principal amount of additional bonds for capital improvements  
8 for the support of public education and to use such funds for  
9 repayment of certain debt incurred for capital improvements;  
10 to provide funds for capital improvements for the public  
11 schools, the Alabama Community College System, and public  
12 institutions of higher education; to make an appropriation and  
13 pledge for payment of the principal of and premium, if any,  
14 and interest on the bonds from specific taxes necessary to pay  
15 the principal and interest at their respective maturities and  
16 to authorize the Authority to pledge for payment of the  
17 principal of and premium, if any, and interest on the bonds  
18 the funds that are appropriated and pledged; to provide that  
19 the bonds shall not constitute a debt of the state but shall  
20 be limited obligations payable out of the funds appropriated  
21 and pledged therefor; to provide that the bonds and income  
22 therefrom shall be exempt from all taxation in this state; to  
23 authorize the Authority to issue refunding bonds and give  
24 details of such refunding; to authorize the Authority to  
25 allocate bond proceeds; and to provide that if any portion of

1       this Act should be held invalid such holding shall not affect  
2       the validity of any other portion thereof.

3       BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4               Section 1. Short Title.

5               This Act shall be known and may be cited as the  
6       Investing in Alabama's Future Act.

7               Section 2. Definitions.

8               Wherever used in this Act, the following terms shall  
9       have the following meanings respectively, unless the context  
10      clearly indicates otherwise:

11              (1) "1965 Act" means Act No. 243 enacted at the 1965  
12      First Special Session of the Legislature, codified as Title  
13      16, Chapter 16, Code of Alabama 1975.

14              (2) "1971 Acts" means Act No. 94 enacted at the 1971  
15      First Special Session of the Legislature, Act No. 2428 enacted  
16      at the 1971 Regular Session of the Legislature, and Act No. 56  
17      enacted at the 1971 Second Special Session of the Legislature.

18              (3) "1973 Act" means Act No. 1277 enacted at the  
19      1973 Regular Session of the Legislature as amended by Act No.  
20      73 enacted at the 1975 Third Special Session of the  
21      Legislature and Act No. 1223 enacted at the 1975 Regular  
22      Session of the Legislature.

23              (4) "1978 Act" means Act No. 138 enacted at the 1978  
24      Second Special Session of the Legislature, as amended by Act  
25      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" means Act No. 85-943 enacted at the 1985 Second Special Session of the Legislature.

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

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

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

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

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

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

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

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

(14) "2009 Act" means Act No. 2009-813 enacted at the 2009 Regular Session of the Legislature.

(15) "2010 Acts" means Act No. 2010-551 enacted at the 2010 Regular Session of the Legislature, Act No. 2010-562 enacted at the 2010 Regular Session of the Legislature, and

1 Act No. 2010-720 enacted at the 2010 Regular Session of the  
2 Legislature.

3 (16) "2012 Act" means Act No. 2012-560 enacted at  
4 the 2007 Regular Session of the Legislature.

5 (17) "2013 Acts" means Act No. 2013-345 enacted at  
6 the 2013 Regular Session of the Legislature and Act No.  
7 2013-381 enacted at the 2013 Regular Session of the  
8 Legislature.

9 (18) "Authority" means Alabama Public School and  
10 College Authority.

11 (19) "Bonds" (except where that word is used with  
12 reference to bonds issued under another act) means those  
13 bonds, other than Refunding Bonds, issued under the provisions  
14 of this Act.

15 (20) "Capital Improvement" means capital outlay  
16 projects that include the planning, designing, inspection,  
17 purchasing, construction, reconstruction, enlargement,  
18 improvement, repair, or renovation of permanent buildings  
19 containing classrooms, offices, libraries, laboratories,  
20 clinical or teaching facilities, dormitories, vocational and  
21 professional and industrial training facilities, cafeterias,  
22 alternative schools, physical education facilities, research  
23 facilities, academic structures to reduce portable classrooms  
24 or substandard classroom facilities, related improvements and

1 land as sites therefor, together with tangible personal  
2 property that becomes a permanent part of such facilities.

3 (21) "Government Securities" means any bonds or  
4 other obligations which as to principal and interest  
5 constitute direct obligations of, or are unconditionally  
6 guaranteed by, the United States of America, including  
7 obligations of any federal agency to the extent such  
8 obligations are unconditionally guaranteed by the United  
9 States of America and any certificates or any other evidences  
10 of an ownership interest in such obligations of, or  
11 unconditionally guaranteed by, the United States of America or  
12 in specified portions thereof (which may consist of the  
13 principal thereof or the interest thereon).

14 (22) "Legislature" means the Legislature of Alabama.

15 (23) "Permitted Investments" means (i) Government  
16 Securities; (ii) bonds, debentures, notes or other evidences  
17 of indebtedness issued by any of the following agencies: Bank  
18 for Cooperatives; Federal Intermediate Credit Banks; Federal  
19 Financing Bank; Federal Home Loan Banks; Federal Farm Credit  
20 Bank; Export-Import Bank of the United States; Federal Land  
21 Banks; or Farmers Home Administration or any other agency or  
22 corporation which has been or may hereafter be created by or  
23 pursuant to an act of the Congress of the United States as an  
24 agency or instrumentality thereof; (iii) bonds, notes, pass  
25 through securities or other evidences of indebtedness of

1 Government National Mortgage Association and participation  
2 certificates of Federal Home Loan Mortgage Corporation; (iv)  
3 time deposits evidenced by certificates of deposit issued by  
4 banks or savings and loan associations which are members of  
5 the Federal Deposit Insurance Corporation, provided that, to  
6 the extent such time deposits are not covered by federal  
7 deposit insurance, such time deposits (including interest  
8 thereon) are fully secured in accordance with the SAFE Program  
9 pursuant to Sections 41-14A-1 through 41-14A-14; (v)  
10 government money market mutual funds; and (vi) repurchase  
11 agreements for obligations of the type specified in clauses  
12 (i), (ii), and (iii) above, provided such repurchase  
13 agreements are fully collateralized and secured by such  
14 obligations which have a market value at least equal to the  
15 purchase price of such repurchase agreements which are held by  
16 a depository satisfactory to the State Treasurer in such  
17 manner as may be required to provide a perfected security  
18 interest in such obligations, and which meet the greater of  
19 100% collateralization or the "AA" or "Aa" collateral levels  
20 established by Standard & Poor's Ratings Group or Moody's  
21 Investors Service, respectively, for structured financings.

22 (24) "Prior Acts" means the 1965 Act, the 1971 Acts,  
23 the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the  
24 1995 Act, the 1998 Act, the 1999 Act, the 2001 Act, the 2002

1 Act, the 2003 Act, the 2007 Act, the 2009 Act, the 2010 Acts,  
2 the 2012 Act, and the 2013 Acts.

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

5 (26) "State" means the State of Alabama.

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

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

14 Section 3. Authorization to Issue Additional Bonds  
15 and Purposes Thereof.

16 (a) The Authority is hereby authorized to sell and  
17 issue its Bonds in the aggregate principal amount of  
18 \$1,250,000,000 and to apply the proceeds as provided in this  
19 Act, to include the following purposes: paying the costs of  
20 capital improvements for public education purposes in the  
21 State; and providing funds for the retirement of existing debt  
22 that has been incurred by recipients of allocations to pay for  
23 capital costs.

24 (b) The Bonds authorized by this Act to be issued by  
25 the Authority shall be in addition to all other bonds

1 previously authorized to be issued by it, and the powers  
2 conferred on the Authority by this Act are in addition to all  
3 other powers heretofore conferred on the Authority by acts  
4 heretofore enacted by the Legislature.

5 Section 4. Execution and Other Details of the Bonds.

6 The Bonds shall be signed by the president or  
7 vice-president of the Authority, and the seal of the Authority  
8 affixed thereto (or a facsimile thereof imprinted thereon) and  
9 attested by its secretary. All signatures of the president,  
10 vice-president, and secretary may be facsimile signatures if  
11 the Authority, in its proceedings with respect to issuance,  
12 provides for manual authentication (which may be in the form  
13 of a certificate as to registration) of the Bonds by a  
14 trustee, registrar or paying agent or by individuals named in  
15 such proceedings who are employees of the State assigned to  
16 the Finance Department or State Treasurer's Office of the  
17 State. All Bonds bearing signatures or facsimiles of the  
18 signatures of officers of the Authority in office on the date  
19 of signing thereof shall be valid and binding notwithstanding  
20 that before the delivery thereof and payment therefor, any  
21 officer whose signature appears thereon shall have ceased to  
22 be an officer of the Authority. The Bonds and the income  
23 therefrom shall be exempt from all taxation in the State of  
24 Alabama, may be used as security for deposits, and shall be  
25 eligible for investments of fiduciary funds, as provided in

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

1 the Authority, in its discretion, determines to be appropriate  
2 and desirable. Funds for the payment of debt service shall be  
3 transferred by the Authority or the State Treasurer on behalf  
4 of the Authority to the designated paying agent on the actual  
5 due date of such principal, premium, if any, or interest;  
6 provided, however, that if any bank has been designated as the  
7 paying agent with respect to any bonds, the Authority or the  
8 State Treasurer on behalf of the Authority shall make  
9 available to such bank, not later than one business day prior  
10 to the date on which any principal of or interest on such  
11 bonds is due and payable, funds sufficient to pay such  
12 principal and interest due on such date.

13 Section 5. Sale of the Bonds.

14 The Bonds may be sold by the Authority from time to  
15 time in series, and if sold in more than one series, may all  
16 be authorized in one initial resolution of the Authority with  
17 the pledges therefor made by the Authority in such initial  
18 resolution although some of the details applicable to each  
19 series may be specified in the respective resolutions under  
20 which the different series are issued. The Authority, in the  
21 course of establishing, by resolution, a principal amount of  
22 Bonds to be authorized for sale at any given time, or to be  
23 sold in any series, may take into account the existence of any  
24 unexpended proceeds of prior issues of bonds of the Authority  
25 (and of any other issuer, if such should be deemed by the

1 Authority to be relevant), and may structure the portions of  
2 the allocations provided for in Section 9 of this Act to be  
3 distributed from the proceeds of a particular series  
4 (constituting less than all the Bonds authorized by this Act)  
5 as the Authority deems necessary or prudent in order to enable  
6 the Authority to comply with any tax covenants that may be  
7 required of it, or that may be deemed by it to be prudent to  
8 be given by it, in connection with the sale of any series of  
9 the Bonds. Each series of the Bonds shall be sold on a  
10 competitive basis or on a negotiated basis, as determined by  
11 the Authority. The Authority may fix the method and the terms  
12 and conditions under which the sale of any series of the Bonds  
13 may be held; provided that such terms and conditions shall not  
14 conflict with any requirement of this Act. Approval by the  
15 Governor of Alabama of the terms and conditions under which  
16 any of the Bonds may be issued shall be requisite to their  
17 validity. Before any series of the Bonds shall be offered for  
18 sale by the Authority, the Governor shall first determine that  
19 the issuance of that series of Bonds and the application of  
20 the taxes pledged to the payment of the principal of the Bonds  
21 as they mature and the interest thereon as the same shall come  
22 due will not impair the adequacy of the Trust Fund to pay  
23 appropriations therefrom and to support the public schools and  
24 institutions of higher learning during the period over which  
25 the Bonds will mature. The Governor's determination in this

1        regard shall be in writing signed by the Governor and such  
2        determination shall be final and conclusive. Neither a public  
3        hearing nor consent of the State Department of Finance or any  
4        other department or agency shall be a prerequisite to the  
5        issuance of any of the Bonds.

6                Section 6. Appropriation of Revenues to the  
7        Authority; Pledge Thereof for the Benefit of the Bonds and the  
8        Refunding Bonds.

9                For the purpose of providing for payment of the  
10       principal, premium (if any), and interest on the Bonds and the  
11       Refunding Bonds, and to accomplish the objectives of this Act,  
12       there is hereby irrevocably pledged to those purposes, and  
13       hereby appropriated, such amount as may be necessary therefor  
14       from the following sources:

15                (a) The residue of the receipts from the excise tax  
16       ("the utility gross receipts tax") levied by Title 40, Chapter  
17       21, Article 3, Code of Alabama 1975, as amended ("Article 3"),  
18       remaining after payment of the expenses of administration and  
19       enforcement of Article 3, being that portion of the tax that  
20       is required by Article 3 to be deposited in the State Treasury  
21       to the credit of the Trust Fund, after there shall have been  
22       taken from the residue the amount necessary to pay at their  
23       respective maturities the principal of and interest on those  
24       bonds issued by the Authority under this Act or under the  
25       Prior Acts that may be outstanding at the time of the delivery

1 of the respective series of the Bonds or Refunding Bonds  
2 authorized herein;

3 (b) The residue of the receipts from the excise tax  
4 ("the utility service use tax") levied by Title 40, Chapter  
5 21, Article 4, Code of Alabama 1975 ("Article 4"), remaining  
6 after payment of the expenses of administration and  
7 enforcement of Article 4, being that portion of the tax that  
8 is required by Article 4 to be deposited in the State Treasury  
9 to the credit of the Trust Fund, after there shall have been  
10 taken from the residue the amount necessary to pay at their  
11 respective maturities the principal of and interest on those  
12 bonds issued by the Authority under this Act or under the  
13 Prior Acts that may be outstanding at the time of the  
14 delivery of the respective series of the Bonds or Refunding  
15 Bonds authorized herein;

16 (c) To the extent only that the revenues  
17 appropriated in the foregoing subsections (a) and (b) of this  
18 Section may not be sufficient to pay at their respective  
19 maturities the principal of, premium, if any, and interest on  
20 the Bonds and the Refunding Bonds, the residue of the receipts  
21 from the excise tax ("the sales tax") levied by Title 40,  
22 Chapter 23, Article 1, Division 1, Code of Alabama 1975, as  
23 amended ("Article 1"), after there shall have been taken from  
24 the residue the amounts appropriated for other educational  
25 purposes in Section 40-23-35, Code of Alabama 1975 (which

1       residue constitutes that portion of the receipts from the  
2       sales tax that is now required by law to be paid into the  
3       Trust Fund), and after there shall have been taken from the  
4       residue amounts sufficient to meet all prior charges on the  
5       residue including such amounts as may be necessary to pay at  
6       their respective maturities the principal of and interest on  
7       those bonds issued by the Authority under this Act or under  
8       the Prior Acts that may be outstanding at the time of the  
9       delivery of the respective series of the Bonds or Refunding  
10      Bonds authorized herein; and

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

1        respective maturities the principal of and interest on those  
2        bonds issued by the Authority under this Act or under the  
3        Prior Acts that may be outstanding at the time of the delivery  
4        of the respective series of the Bonds or Refunding Bonds  
5        authorized herein. All monies hereby appropriated and pledged  
6        shall constitute a sinking fund for the purpose of paying the  
7        principal of and premium, if any, and interest on the Bonds  
8        and the Refunding Bonds. The State Treasurer is authorized and  
9        directed to pay at their respective maturities the principal  
10       of and premium, if any, and interest on the Bonds and the  
11       Refunding Bonds out of this fund and out of the residues of  
12       the tax receipts herein appropriated and pledged for the  
13       benefit of the Bonds and the Refunding Bonds, and is further  
14       authorized and directed to set up and maintain appropriate  
15       records pertaining thereto.

16                Section 7. Bonds and Refunding Bonds to be Payable  
17       Solely out of the Revenues Appropriated; Authorization for  
18       Authority to Pledge Such Revenues for the Bonds and the  
19       Refunding Bonds.

20                The Bonds and the Refunding Bonds shall not be  
21       general obligations of the Authority but shall be limited  
22       obligations payable solely out of the residues of the tax  
23       receipts appropriated and pledged in Section 6 of this Act.  
24       All Bonds and Refunding Bonds issued by the Authority pursuant  
25       to the provisions of this Act shall be solely and exclusively

1 obligations of the Authority and shall not constitute or  
2 create an obligation or debt of the State. As security for the  
3 payment of the principal of, premium, if any, and interest on  
4 the Bonds and the Refunding Bonds, the Authority is hereby  
5 authorized and empowered to pledge the residues of the tax  
6 receipts that are appropriated and pledged in Section 6 hereof  
7 for such purposes. All such pledges made by the Authority  
8 shall take precedence in the order of the adoption of the  
9 resolutions containing the pledges. For purposes of clarity, a  
10 pledge made by the Authority pursuant to this Act shall be  
11 prior and superior to any pledges made for any bonds issued by  
12 the Authority under the provisions of any of the Prior Acts or  
13 any other Act heretofore enacted, if such pledge made pursuant  
14 to this Act is for Bonds or Refunding Bonds for which a  
15 resolution is adopted prior to the adoption of the resolution  
16 for the issuance of bonds issued by the Authority under the  
17 provisions of any of the Prior Acts or any other Act  
18 heretofore enacted.

19 Section 8. Refunding Bonds.

20 For the purpose of refunding any bonds or refunding  
21 bonds of the Authority issued under the provisions of this  
22 Act, the Prior Acts or any other Act previously enacted, or  
23 any combination thereof, whether such refunding shall occur  
24 before, at or after the maturity of the bonds refunded and for  
25 the purpose of paying all premiums and expenses of such

1     refunding (including, but not limited to, attorneys' fees,  
2     costs of printing the Refunding Bonds, financial or fiscal  
3     advisors' fees, and accountants' fees), the Authority is  
4     hereby authorized to sell and issue its Refunding Bonds in one  
5     or more series, and if sold in more than one series, may all  
6     be authorized in one initial resolution of the Authority with  
7     the pledges therefor made by the Authority in such initial  
8     resolution although some of the details applicable to each  
9     series may be specified in the respective resolutions under  
10    which the different series are issued. Such Refunding Bonds  
11    shall be sold on a competitive basis or on a negotiated basis,  
12    as determined by the Authority. The Authority may fix the  
13    method and the terms and conditions under which the sale of  
14    any series of the Refunding Bonds may be held; provided that  
15    such terms and conditions shall not conflict with any  
16    requirement of this Act. Provided, however, no Refunding Bonds  
17    shall be issued unless the present value of the aggregate debt  
18    service on the Refunding Bonds (computed with a discount rate  
19    equal to the yield of the Refunding Bonds, calculated in  
20    accordance with Section 148 of the Internal Revenue Code)  
21    shall not be greater than 97 percent of the present value of  
22    the aggregate debt service on the bonds to be refunded  
23    (computed with a discount rate equal to the yield of the  
24    Refunding Bonds, calculated in accordance with Section 148 of  
25    the Internal Revenue Code) determined as if such bonds to be

1       refunded were paid and retired in accordance with the schedule  
2       of maturities (considering mandatory redemption as scheduled  
3       maturity) provided at the time of their issuance. Provided  
4       further that the average maturity of the Refunding Bonds, as  
5       measured from the date of issuance of such Refunding Bonds,  
6       shall not exceed by more than three years the average maturity  
7       of the bonds to be refunded, as also measured from such date  
8       of issuance, with the average maturity of any principal amount  
9       of bonds to be determined by multiplying the principal of each  
10      maturity by the number of years (including any fractional part  
11      of a year) intervening between such date of issuance and each  
12      such maturity, taking the sum of all such products, and then  
13      dividing such sum by the aggregate principal amount of bonds  
14      for which the average maturity is to be determined. Pending  
15      the application of the proceeds of Refunding Bonds issued in  
16      accordance with this Section, the proceeds, together with  
17      investment earnings therefrom, and amounts in any sinking  
18      fund, together with investment earnings thereon, may be held  
19      by the State Treasurer as treasurer of the Authority in trust,  
20      or may be deposited by the State Treasurer in trust, on such  
21      terms as the State Treasurer and the Authority shall approve,  
22      with a trustee or escrow agent, which trustee or escrow agent  
23      shall be a banking institution or trust company authorized to  
24      exercise trust powers in Alabama, for investment in Permitted  
25      Investments. Proceeds of Refunding Bonds shall be so invested

1 and applied as to assure that the principal, interest, and  
2 redemption premium, if any, on the bonds being refunded shall  
3 be paid in full on the respective maturity, redemption, or  
4 interest payment dates. Refunding Bonds issued by the  
5 Authority shall not be general obligations of the Authority  
6 but shall be payable solely from the sources specified in this  
7 Act and in the proceedings whereby the Refunding Bonds are  
8 authorized to be issued. All Refunding Bonds issued by the  
9 Authority shall be solely and exclusively obligations of the  
10 Authority and shall not create debts of the State of Alabama.  
11 The faith and credit of the State of Alabama shall never be  
12 pledged for the payment of any Refunding Bonds issued by the  
13 Authority under this Act. The Authority may contract with  
14 respect to the safekeeping and application of the proceeds of  
15 Refunding Bonds and other funds included therewith and the  
16 income therefrom, and shall have the right and power to  
17 appoint a trustee therefore, which may be any bank or company  
18 authorized to exercise trust powers and located within and/or  
19 without the State. All other provisions of this Act shall  
20 apply to the Refunding Bonds issued hereunder except (a) the  
21 limitation contained in Section 3 of this Act on the amount of  
22 Bonds that may be issued under this Act and (b) the provisions  
23 of Section 9 of this Act. Any bonds refunded prior to their  
24 maturity with the proceeds of Refunding Bonds shall be deemed  
25 paid and the pledges herein and by the Authority made for the

1 payment thereof defeased if the Authority, in its proceedings  
2 regarding issuance of the Refunding Bonds shall provide for  
3 and establish a trust or escrow fund comprised of monies or  
4 Government Securities, or both, sufficient to pay, when due,  
5 the entire principal of and premium, if any, and interest on  
6 the bonds to be refunded thereby; provided, that such  
7 Government Securities shall not be subject to redemption prior  
8 to their maturities other than at the option of the holder  
9 thereof. Upon the establishment of such a trust or escrow  
10 fund, the refunded bonds shall no longer be deemed to be  
11 outstanding, shall no longer be secured by the funds pledged  
12 therefor in Section 6 of this Act, shall no longer be  
13 obligations of the Authority and shall be secured solely by  
14 and payable from monies and Government Securities deposited in  
15 such trust or escrow fund.

16 Section 9. Use of Bond Proceeds.

17 (a) The proceeds derived from each sale of the Bonds  
18 issued pursuant to this Act shall be deposited in the State  
19 Treasury and shall be carried in a separate fund therein for  
20 the account of the Authority, which shall pay the expenses of  
21 issuance therefrom. The expenses of issuance of the Bonds  
22 shall be prorated among the recipients of the proceeds from  
23 the sale of the Bonds in proportions they receive allocations  
24 of the proceeds thereunder. The proceeds from the sale of the  
25 Bonds remaining after payment of the expenses of issuance

1       thereof shall be retained in said fund and, until they are  
2       paid out, shall be invested by the State Treasurer at the  
3       direction of the Authority in Permitted Investments maturing  
4       at such time or times as the Authority shall direct.

5               (b) Proceeds from the sale of the Bonds and the  
6       earnings thereon shall be paid out from time to time on orders  
7       or warrants issued by or at the direction of the Authority for  
8       any one or more of the purposes specified in this Act, to  
9       include the following allocations:

10              (1) Nine hundred twelve million one hundred  
11       twenty-five thousand dollars (\$912,125,000) to be allocated  
12       and expended on behalf of the k-12 public schools in this  
13       state, as follows:

14              a. Four hundred thousand dollars (\$400,000) to be  
15       allocated and expended on behalf of each state-supported local  
16       education agency, special department district, and separate  
17       school with its own board of directors or trustees established  
18       pursuant to legislative act, in the state.

19              b. Four hundred twenty-six million six hundred  
20       sixty-two thousand five hundred dollars (\$426,662,500) to be  
21       allocated and expended on behalf of state-supported local  
22       education agencies, special department district, and separate  
23       school with its own board of directors or trustees established  
24       pursuant to legislative act pro rata, based on the 2019-2020  
25       first 20 scholastic days after Labor Day of average daily

1 membership of public schools, or anticipated 2020 enrollment  
 2 of a separate school with no 2019-2020 average daily  
 3 membership, to pay the cost of capital improvements.

4 c. Four hundred twenty-six million six hundred  
 5 sixty-two thousand five hundred dollars (\$426,662,500) to be  
 6 allocated and expended on behalf of local education agencies,  
 7 and separate school with its own board of directors or  
 8 trustees established pursuant to legislative act based on  
 9 their respective share of the allocation of the Public School  
 10 Fund for the fiscal year ending September 30, 2020, to pay the  
 11 cost of capital improvements.

12 (2) One hundred twenty million fifty thousand eight  
 13 hundred seventy-nine dollars (\$120,050,879) to be allocated  
 14 and expended on behalf of the Alabama Community College System  
 15 for capital improvements.

16 (3) Two hundred seventeen million eight hundred  
 17 twenty-four thousand one hundred twenty-one dollars  
 18 (\$217,824,121) to be allocated and expended for capital im-  
 19 provements on behalf of higher education to colleges and uni-  
 20 versities as follows:

|    |                          |              |
|----|--------------------------|--------------|
| 21 | Alabama A & M University | \$7,412,935  |
| 22 | Alabama State University | \$5,675,936  |
| 23 | Athens State University  | \$4,567,295  |
| 24 | Auburn University        | \$36,414,835 |

|    |                                     |              |
|----|-------------------------------------|--------------|
| 1  | Auburn University at Montgomery     | \$7,574,052  |
| 2  | Jacksonville State University       | \$11,979,462 |
| 3  | Tuskegee University                 | \$1,216,350  |
| 4  | Troy University                     | \$21,317,367 |
| 5  | University of Alabama               | \$41,338,122 |
| 6  | University of Alabama at Birmingham | \$27,972,283 |
| 7  | University of Alabama in Huntsville | \$13,033,631 |
| 8  | University of Montevallo            | \$3,744,829  |
| 9  | University of North Alabama         | \$10,251,670 |
| 10 | University of South Alabama         | \$18,159,466 |
| 11 | University of West Alabama          | \$7,165,888  |

12           (c) The provision for the use of proceeds for the  
 13 purposes specified in Section 9(b) notwithstanding, each  
 14 recipient is permitted to use proceeds of the Bonds to retire  
 15 existing indebtedness that has been incurred by the recipient  
 16 to pay for capital improvements. The use of bond proceeds for  
 17 this purpose shall require specific approval of the Authority  
 18 and shall be subject to the Authority's policies and rules  
 19 governing this use.

20           Section 10. (a) Should Bond proceeds exceed  
 21 \$1,250,000,000 due to receipt of original issue premium in  
 22 connection with sale of Bonds or due to any other reason, such

1 Bond proceeds in excess of \$1,250,000,000 shall be allocated  
2 by the Authority in a resolution adopted by the board of  
3 directors of the Authority.

4 (b) Not later than three years following allocation  
5 of Bond proceeds as provided herein, the Authority shall  
6 review the status of any unexpended allocations, and, at its  
7 sole discretion, determine if unexpended allocations or any  
8 portion thereof shall revert to the Authority for reallocation  
9 by the board of directors of the Authority.

10 Section 11. Notwithstanding any of the foregoing and  
11 in addition to all powers heretofore granted to the Authority,  
12 the Authority is hereby expressly authorized to use the  
13 proceeds derived from the sale of Bonds and income on  
14 Permitted Investments in accordance with the provisions of  
15 this Act. The preparation of all plans and specifications for  
16 any building constructed wholly or in part with any of the  
17 monies realized from the sale of any of the Bonds and all work  
18 done pursuant to expenditure of the proceeds thereof in regard  
19 to the construction, reconstruction, alteration, improvement,  
20 and equipping (not including furnishings) of buildings shall  
21 comply with the requirements of Sections 39-1-1 through 39-8-8  
22 Code of Alabama 1975 and Section 41-4-400 Code of Alabama  
23 1975. Additionally, the Authority is hereby expressly  
24 permitted to pay to the Department of Finance and the State  
25 Treasurer's Office, from time to time and from any funds

1       available to the Authority, amounts to offset costs incurred  
2       in the administration of the business of the Authority. The  
3       cost of such compensation shall be prorated among the  
4       recipients of proceeds of the Bonds in the same manner as the  
5       expenses of issuance of the Bonds are required hereby to be  
6       prorated.

7               Section 12. The Authority shall hire or contract  
8       with businesses or individuals which reflect the racial and  
9       ethnic diversity of the State.

10              Section 13. Tax Exemption.

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

22              Section 14. Issuance Expenses; Contracts and  
23       Appointments.

24              The Authority is authorized to pay out of proceeds  
25       of any series of Bonds or Refunding Bonds the costs and

1 expenses incurred in connection with the issuance of such  
2 Bonds or Refunding Bonds, including without limitation legal  
3 and accounting fees and expenses, fees and expenses of any  
4 financial or fiscal advisor employed by the Authority,  
5 printing costs, rating agency fees, and premiums or charges  
6 for any credit enhancement or liquidity providers.  
7 Notwithstanding any provision of this Act or the 1965 Act, in  
8 appointing, employing, or contracting with attorneys,  
9 financial or fiscal advisors, trustees, paying agents,  
10 investment bankers, banks and underwriters, the Authority may  
11 appoint, employ or contract with firms whose principal offices  
12 are located without or within Alabama. The Authority shall  
13 hire or contract with attorneys, financial or fiscal advisors,  
14 trustees, paying agents, investment bankers, banks, and  
15 underwriters which shall reflect the racial and ethnic  
16 diversity of the state.

17 Section 15. Order of Issuance.

18 The Authority shall issue bonds under this Act or  
19 under the Prior Acts in the same order the Authority adopts  
20 resolutions authorizing such bonds to be issued. If the  
21 Authority authorizes the issuance of multiple series of bonds  
22 under this Act or under the Prior Acts in one resolution, all  
23 bonds so authorized shall be issued simultaneously.

24 Section 16. Severability.

1           In the event any section, sentence, clause or  
2           provision of this Act shall be declared invalid by a court of  
3           competent jurisdiction, such action shall not affect the  
4           validity of the remaining sections, sentences, clauses, or  
5           provisions of this Act, which shall continue effective.

6           Section 17. This act shall become effective  
7           immediately upon its passage and approval by the Governor, or  
8           upon its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB242  
Senate 04-MAY-20  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 07-MAY-20

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By: Senator Orr