

1 SB302  
2 183959-3  
3 By Senators Ward and Albritton  
4 RFD: Judiciary  
5 First Read: 14-MAR-17

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to the finance and construction of prisons;  
12 to amend the heading of Chapter 101A (commencing with Section  
13 11-101A-1) of Title 11 and Sections 11-101A-1, 11-101A-2,  
14 11-101A-4, and 11-101A-8 of and to add Section 11-101A-8.1 to  
15 the Code of Alabama 1975; to authorize counties and  
16 municipalities to create authorities to construct prisons; to  
17 authorize the Department of Corrections to enter into a lease  
18 of up to three prisons from authorities; to amend Sections  
19 14-2-1, 14-2-6, 14-2-12, 14-2-13.1, 14-2-14, 14-2-16, 14-2-19,  
20 14-2-21, 14-2-28, and 14-2-34, Code of Alabama 1975, to allow  
21 the Alabama Corrections Institution Finance Authority to issue  
22 up to \$350 million in bonds for the purpose of the renovation  
23 of existing prison facilities and the construction of a new  
24 prison upon the lease of two prison facilities from a local  
25 authority; to revise the membership of the authority; to  
26 require reporting to the Joint Legislative Prison Committee;  
27 to further provide for actions to be taken upon payment of all

1 bonds issued by the authority; to amend Section 29-2-20, Code  
2 of Alabama 1975, to revise the membership of the Joint  
3 Legislative Prison Committee; to amend Sections 28-3-201,  
4 28-3-202, 28-3-204, and 40-8-3, Code of Alabama 1975, relating  
5 to the allocation of a portion of the proceeds of the one mill  
6 tax and the tax on all spirituous or vinous liquors as a  
7 second and third priority security for the authority's bonds;  
8 to amend Section 38-4-12, Code of Alabama 1975, relating to  
9 the priority of the use of the one mill tax; and to define  
10 certain terms.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall be known and may be cited  
13 as the Corrections Construction and Renovation Public Safety  
14 Act.

15 Section 2. The heading of Chapter 101A (commencing  
16 with Section 11-101A-1, of Title 11) of the Code of Alabama  
17 1975, is amended to read as follows:

18 "CHAPTER 101A.

19 "ACQUISITION OF REAL AND PERSONAL PROPERTY FOR LEASE  
20 TO THE UNITED STATES OR TO THE STATE OF ALABAMA FOR A PRISON."

21 Section 3. Sections 11-101A-1, 11-101A-2, 11-101A-4,  
22 and 11-101A-8 of the Code of Alabama 1975, are amended to read  
23 as follows:

24 "§11-101A-1.

25 "It is the intent of the Legislature to authorize  
26 the several counties and municipalities in the state  
27 effectively to form public corporations whose corporate

1 purpose shall be to provide buildings, facilities, and other  
2 property for lease to and use by the United States of America,  
3 its departments, agencies, and instrumentalities, or for  
4 buildings, facilities, and other property for lease to and use  
5 by the State of Alabama acting through the Department of  
6 Corrections as a prison facility, to invest those public  
7 corporations with all powers that may be necessary to enable  
8 them to accomplish that purpose, and to authorize each county  
9 and municipality forming each public corporation to provide  
10 financial support and to take other action as may be necessary  
11 to enable the public corporation to carry out the purposes of  
12 this chapter. This chapter shall be liberally construed in  
13 conformity with this intent.

14 "§11-101A-2.

15 "As used in this chapter, the following terms shall  
16 have the following meanings, respectively, unless the context  
17 clearly indicates otherwise:

18 "(1) APPLICANT. A natural person who files a written  
19 application with the governing body of a county or  
20 municipality, or two or more thereof, in accordance with  
21 Section 11-101A-3.

22 "(2) AUTHORITY. A public corporation organized  
23 pursuant to this chapter.

24 "(3) AUTHORIZING RESOLUTION. A resolution adopted by  
25 the governing body of an authorizing subdivision in accordance  
26 with Section 11-101A-3, that authorizes the incorporation of  
27 an authority under this chapter.

1           "(4) AUTHORIZING SUBDIVISION. Each county and  
2 municipality with the governing body of which an application  
3 for the incorporation of an authority under this chapter is  
4 filed.

5           "(5) BOARD. The board of directors of an authority.

6           "(6) BONDS. Any bonds authorized to be issued by an  
7 authority hereunder, including refunding bonds.

8           "(7) CODE. The Code of Alabama 1975.

9           "(8) COUNTY. Any county in the state.

10          "(9) DEPARTMENT. The Alabama Department of  
11 Corrections and its successors as the state agency responsible  
12 for supervising and controlling the operation of the  
13 correctional institutions of the state.

14          "~~(9)~~ (10) DIRECTOR. A member of the board of an  
15 authority.

16          "(11) DIVISION. The Division of Construction  
17 Management of the Department of Finance.

18          "~~(10)~~ (12) FEDERAL SECURITIES. Direct obligations of  
19 the United States of America for the payment of which the full  
20 faith and credit of the United States of America is pledged,  
21 or obligations issued by a person controlled or supervised by  
22 and acting as an instrumentality of the United States of  
23 America, the payment of the principal of, premium, if any, and  
24 interest on which is fully and unconditionally guaranteed as a  
25 full faith and credit obligation by the United States of  
26 America.

1           "~~(11)~~(13) FISCAL YEAR. A fiscal year of an  
2 authorizing subdivision.

3           "~~(12)~~(14) GOVERNING BODY. With respect to a county,  
4 its county commission or other like governing body, and with  
5 respect to a municipality, its city or town council, board of  
6 commissioners, or other like governing body.

7           "~~(13)~~(15) INCORPORATORS. The persons forming a  
8 public corporation organized pursuant to this chapter.

9           "~~(14)~~(16) INDENTURE. A mortgage, mortgage indenture,  
10 mortgage and trust indenture, or trust indenture executed by  
11 an authority as security for any of its securities.

12           "~~(15)~~(17) LEGISLATURE. The Legislature of the state.

13           "~~(16)~~(18) MUNICIPALITY. An incorporated city or town  
14 of the state.

15           "~~(17)~~(19) PRINCIPAL OFFICE. The place at which the  
16 certificate of incorporation and amendments thereto, the  
17 bylaws, and the minutes of the proceedings of the board of an  
18 authority are kept.

19           "(20) PRISON FACILITY. The term includes any one or  
20 more of the following:

21           "a. A prison.

22           "b. A building and enclosure for housing,  
23 containing, or supervising prisoners.

24           "c. A facility necessary or useful in connection  
25 with a prison, building, or enclosure, including, but not  
26 limited to, a hospital, office, correctional officers'  
27 quarters and residence, warehouse, garage, storage facility,

1 abattoir, cold storage plant, canning plant, laundry, and  
2 manufacturing plant for the employment of prison labor.

3 "~~(18)~~(21) PROJECT. Any land and any buildings or  
4 other improvements thereon and all real and personal  
5 properties deemed necessary in connection therewith, whether  
6 or not now in existence, which shall be suitable for use by  
7 the United States or use as a prison facility by the state,  
8 acting through the department.

9 "(22) PROJECT MANAGEMENT TEAM. Includes, but is not  
10 limited to, in-house staff, design professionals, consulting  
11 firms, and other experts to develop and manage prison facility  
12 construction projects.

13 "~~(19)~~(23) SECURITIES. Bonds, notes, warrants,  
14 certificates of indebtedness, or other evidences of  
15 indebtedness, including, without limiting the generality of  
16 the foregoing, notes issued in anticipation of the sale of any  
17 of the foregoing.

18 "~~(20)~~(24) STATE. The State of Alabama.

19 "~~(21)~~(25) UNITED STATES. The United States of  
20 America or any of its departments, agencies, or  
21 instrumentalities.

22 "§11-101A-4.

23 "(a) Within 60 days following the adoption of the  
24 authorizing resolution, or, if there is more than one, the  
25 last adopted thereof, the applicants shall proceed to  
26 incorporate an authority by filing for record, in the office  
27 of the judge of probate of the county in which the principal

1 office of the authority is to be located, a certificate of  
2 incorporation complying in form and substance with this  
3 action, being in the form and executed in the manner herein  
4 provided and being in the form approved by the governing body  
5 of each authorizing subdivision.

6 "(b) In addition to any other provisions required by  
7 this chapter to be included therein, the certificate of  
8 incorporation of an authority shall state:

9 "(1) The names of the incorporators, together with  
10 the address of the residence of each thereof, and that each of  
11 them is a duly qualified elector of the authorizing  
12 subdivision, or, if there is more than one, at least one  
13 thereof.

14 "(2) The name of the authority, which shall be "The  
15 \_\_\_\_\_ Federal Building Authority," or "The Prison Building  
16 Authority of \_\_\_\_\_," as appropriate, with the insertion of  
17 the name of one or more of the authorizing subdivisions,  
18 unless the Secretary of State determines that the name is  
19 identical to the name of any other corporation organized under  
20 the laws of the state or so nearly similar thereto as to lead  
21 to confusion and uncertainty, in which case the incorporators  
22 may insert additional identifying words to eliminate the  
23 duplication or similarity or adopt some other similar name  
24 that is available.

25 "(3) The period for the duration of the authority.  
26 If the duration is to be perpetual, subject to Section  
27 11-101A-24, that fact shall be stated.



1           "(4) The name of each authorizing subdivision  
2 together with the date on which the governing body thereof  
3 adopted an authorizing resolution.

4           "(5) The location of the principal office of the  
5 authority, which shall be within the boundaries of the  
6 authorizing subdivision, or, if there is more than one, at  
7 least one thereon.

8           "(6) That the authority is organized pursuant to  
9 this chapter.

10          "(7) If the exercise by the authority of its powers  
11 is to be in any way prohibited, limited, or conditioned, a  
12 statement of that prohibition, limitation, or condition.

13          "(8) The number of directors, which shall be an odd  
14 number not less than three, the duration of their respective  
15 terms of office, which shall not be in excess of six years,  
16 and, subject to Section 11-101A-6, the manner of their  
17 election or appointment.

18          "(9) Any provisions, not inconsistent with Section  
19 11-101A-24, relating to the vesting of title to its assets and  
20 properties upon its dissolution.

21          "(10) Any other matters relating to the authority  
22 that the incorporators may choose to insert and that are not  
23 inconsistent with this chapter or with the laws of the state.

24          "(c) The certificate of incorporation shall be  
25 signed and acknowledged by each of the incorporators before an  
26 officer authorized by the laws of the state to take  
27 acknowledgments to deeds. When the certificate of

1 incorporation is filed for record, there shall be attached to  
2 it a certified copy of each authorizing resolution and a  
3 certificate by the Secretary of State that the name proposed  
4 for the authority is not identical to that of any other  
5 corporation organized under the laws of the state or so nearly  
6 similar thereto as to lead to confusion and uncertainty. Upon  
7 the filing for record of the certificate of incorporation and  
8 the documents required by the preceding sentence to be  
9 attached thereto, the authority shall come into existence and  
10 shall constitute a public corporation under the name set forth  
11 in its certificate of incorporation. The judge of probate  
12 shall record the certificate of incorporation in an  
13 appropriate book in his or her office and send a notice to the  
14 Secretary of State that the certificate of incorporation of  
15 the authority has been filed for record.

16 "§11-101A-8.

17 "(a) In addition to all other powers granted  
18 elsewhere in this chapter, and subject to the express  
19 provisions of its certificate of incorporation, an authority  
20 shall have the following powers, together with all powers  
21 incidental thereto or necessary to the discharge thereof in  
22 corporate form:

23 "(1) To have succession by its corporate name for  
24 the duration of time, which may be in perpetuity, specified in  
25 its certificate of incorporation, or until dissolved as  
26 provided in Section 11-101A-24.

1           "(2) To sue and be sued in its own name in civil  
2 suits and actions, and to defend suits and actions against it,  
3 subject, however, to Chapter 93 of this title, which chapter  
4 is hereby made applicable to the authority.

5           "(3) To adopt, alter, amend, and repeal bylaws,  
6 regulations, and rules for the regulation and conduct of its  
7 affairs and business.

8           "(4) To adopt and make use of a corporate seal and  
9 to alter the same at pleasure.

10           "(5) To acquire, whether by purchase, construction,  
11 exchange, gift, lease, or otherwise and to improve, maintain,  
12 equip, and furnish one or more projects, including all real  
13 and personal properties which the board deems necessary in  
14 connection therewith, regardless of whether any projects are  
15 then in existence, at such place or places, within and without  
16 the boundaries of its authorizing subdivisions, as it  
17 considers necessary or advisable.

18           "(6) To lease or otherwise make available its  
19 projects or other of its properties or assets, with or without  
20 charge, to the United States or to one or more of its  
21 authorizing subdivisions, for sublease to the United States,  
22 or to the state, acting through the department, as a prison  
23 facility, on such terms as the board deems appropriate, to  
24 charge and collect rent or other fees or charges therefor, if  
25 any, and to terminate any lease or other agreement upon the  
26 failure of the lessee or other party to comply with any of its  
27 obligations thereunder.

1           "(7) To receive, acquire, take, and hold, whether by  
2 purchase, gift, transfer, foreclosure, lease, devise, option,  
3 or otherwise, real and personal property of every description,  
4 or any interest therein, and to manage, improve, and dispose  
5 of the same by any form of legal conveyance or transfer.  
6 Notwithstanding the foregoing, the authority shall not,  
7 without the prior approval of the governing body of each  
8 authorizing subdivision, dispose of all or substantially all  
9 its assets. The foregoing provision shall not be construed to  
10 require the prior approval of any governing body for the  
11 mortgage or pledge of all or substantially all its assets or  
12 for the foreclosure of any mortgage or sale or for any sale or  
13 other disposition thereunder.

14           "(8) To mortgage, pledge, or otherwise convey its  
15 property and its revenues from any source, including, without  
16 limitation, any amounts payable to the authority by the state  
17 pursuant to a year-to-year lease of a prison facility or by an  
18 authorizing subdivision in accordance with an agreement  
19 entered into pursuant to Section 11-101A-10.

20           "(9) To borrow money in order to provide funds for  
21 any lawful corporate function, use, or purpose and, in  
22 evidence of such borrowing, to sell and issue interest-bearing  
23 securities in the manner provided and subject to the  
24 limitations set forth in this chapter.

25           "(10) To pledge for payment of any of its securities  
26 its revenues from any source, including, without limitation,  
27 any amounts payable to the authority by the state pursuant to

1 a year-to-year lease of a prison facility or by an authorizing  
2 subdivision in accordance with an agreement entered into  
3 pursuant to Section 11-101A-10, and to mortgage or pledge any  
4 or all of its projects or other assets or properties or any  
5 part or parts thereof, whether then owned or thereafter  
6 acquired, as security for the payment of the principal of and  
7 the interest and premium, if any, on any securities so issued  
8 and any agreements made in connection therewith.

9 "(11) To enter into agreements with any person,  
10 firm, or corporation for the management by the person, firm,  
11 or corporation on behalf of the authority of any of its  
12 projects or other properties or for the more efficient or  
13 economical performance of clerical, accounting,  
14 administrative, and other functions relating to its projects  
15 or other properties.

16 "(12) To make all needful or appropriate rules and  
17 regulations for the conduct of any properties owned or  
18 operated by it and to alter those rules and regulations.

19 "(13) To provide for any insurance the business of  
20 the authority requires.

21 "(14) To receive and accept from any source aid or  
22 contributions in the form of money, property, labor, or other  
23 things of value, to be held, used, and applied to carry out  
24 the purposes of this chapter, subject to any lawful condition  
25 upon which any aid or contributions may be given or made.

26 "(15) To enter into contracts with, to accept aid,  
27 loans, and grants from, to cooperate with, and to do any and

1 all things not specifically prohibited by this chapter or the  
2 Constitution of Alabama of 1901, that may be necessary to  
3 avail itself of the aid and cooperation of the United States  
4 of America, the state, any county or municipality, or any  
5 agency, instrumentality, or political subdivision of any of  
6 the foregoing in furtherance of the purposes of this chapter;  
7 to give such assurances, contractual or otherwise, to or for  
8 the benefit of any of the foregoing as may be required in  
9 connection with, or as conditions precedent to the receipt of,  
10 any such aid, loan, or grant; and to take other action not in  
11 violation of law necessary to qualify the authority to receive  
12 funds appropriated by any of the foregoing.

13 "(16) To give assurances, contractual or otherwise,  
14 and to make commitments and agreements necessary or desirable  
15 to preclude the exercise of any rights of recovery with  
16 respect to, or the forfeiture of title to, any of its projects  
17 or other property or any project or other property proposed to  
18 be acquired by it.

19 "(17) To assume any obligations of any entity that  
20 conveys and transfers to the authority any project or other  
21 property, or interest therein, provided that those obligations  
22 appertain to the project, property, or interest so conveyed  
23 and transferred to the authority.

24 "(18) To appoint, employ, contract with, and provide  
25 for the compensation of, such employees and agents, including,  
26 but not limited to, architects, attorneys, consultants,  
27 engineers, accountants, financial experts, fiscal agents, and

1 other advisers, consultants, and agents as the business of the  
2 authority may require.

3 "(19) To invest, in any trust fund established under  
4 and subject to the general laws of the state for investment or  
5 self-insurance purposes with investment authority as may be  
6 authorized by law for such trusts, any funds of the authority  
7 available therefor.

8 "(20) To the extent permitted by its contracts with  
9 the holders of its securities, to purchase securities out of  
10 any of its funds or moneys available therefor and to hold,  
11 cancel, or resell those securities.

12 "(21) To make any expenditure of any moneys under  
13 its control that would, if the authority were generally  
14 subject to state corporate income taxation, be considered an  
15 ordinary and necessary expense of the authority within the  
16 meaning of Section 40-18-35, and applicable regulations  
17 promulgated thereunder.

18 "(22) To enter into such contracts, agreements,  
19 leases, and other instruments, and to take such other actions,  
20 as may be necessary or convenient to accomplish any purpose  
21 for which the authority was organized or to exercise any power  
22 expressly granted hereunder.

23 "(23) To expend funds in support of federal  
24 facilities located in Alabama including support for the  
25 promotion of such facilities and support for the growth of  
26 such facilities and the activities performed at those  
27 facilities.

1           "(b) The Legislature declares that no expenditure  
2 permitted by subdivision (21) of subsection (a) to be made by  
3 or on behalf of an authority shall be considered to be a  
4 lending of credit or a granting of public money or thing of  
5 value to or in aid of any individual, association, or  
6 corporation within the meaning of any constitutional or  
7 statutory provision. Nothing herein contained shall be  
8 construed as prohibiting or rendering unlawful any otherwise  
9 lawful expenditure made by or on behalf of an authority,  
10 solely because that expenditure is not expressly permitted by  
11 the terms of subdivision (21) of subsection (a)."

12           Section 4. Section 11-101A-8.1 is added to the Code  
13 of Alabama 1975, to read as follows:

14           §11-101A-8.1.

15           (a) Any prison facility constructed by an authority  
16 shall be constructed on land leased from the state or donated  
17 by the county or municipality creating the authority. The  
18 Governor may enter into a lease of state property with an  
19 authority. Upon the final payment of any indebtedness incurred  
20 by the authority for the construction of the prison facility,  
21 the lease shall terminate and title to the prison facility  
22 shall be vested in the state. To enter a lease under this  
23 section, an authority, or county or municipality contemplating  
24 the creation of an authority must send a letter of intent to  
25 enter a lease to the department within 90 days of the  
26 effective date of the act adding this section. If a letter of  
27 intent is from a county or municipality that has not created



1 an authority for purposes of constructing a prison facility  
2 under this section, the county or municipality shall adopt an  
3 authorizing resolution within 60 days of sending the letter of  
4 intent. An authority may not enter into the lease later than  
5 the date established by rule of the department after the plans  
6 and specifications for the prison facility are approved by the  
7 department and the division.

8 (b) The construction shall be done according to  
9 plans and specifications of architects or engineers, or both,  
10 selected by the department. Such plans and specifications  
11 shall be developed in cooperation with any authority or  
12 authorities that have filed a letter of intent and shall be  
13 approved by the department and by the division. The department  
14 shall adopt rules under the Administrative Procedure Act  
15 providing for the selection of a project management team and  
16 site selection for any prison facility constructed under this  
17 chapter.

18 Provided however, that the rule for site selection  
19 shall include a preference for locations that meet the  
20 following criteria:

21 (1) locations or authorities encompassing  
22 communities where two or more major prison facilities are  
23 currently being operated by the department;

24 (2) any location where at least 200 trained  
25 correctional officers reside within a 75 mile radius;

1                   (3) locations that have already invested in any  
2 necessary infrastructure that are currently used to operate a  
3 major prison facility;

4                   (4) the relative unemployment rates of the locations  
5 with preference given to geographic locations with higher  
6 unemployment rates;

7                   (5) if the Department constructs a regional prison  
8 facility, locations that are in communities without the  
9 financial resources to form an authority shall be given  
10 priority; and

11                   (6) locations which presently have available medical  
12 care within a reasonable distance shall be given preference in  
13 the DOC site selection procedures.

14                   All work in the construction of any prison facility,  
15 or any part thereof, which is determined by the division to be  
16 suitable and proper for construction by prison labor under  
17 force account shall be performed by prison labor under the  
18 supervision and directions as shall be ordered by the  
19 department. All construction of any prison facility or any  
20 part thereof which the division shall determine not to be  
21 suitable and proper for construction by prison labor shall be  
22 done under the supervision and direction of the division  
23 following award for each part of the work to the lowest  
24 responsible bidder after advertising for, receipt, and public  
25 opening of sealed bids. Deductive alternate bids may be used  
26 in order to reduce the base bid to an amount within the funds  
27 available for the project. Additive alternate bids may be used

1 in order to obtain prices for the addition of items not  
2 included in the base bid. The alternate bids shall be listed  
3 in the bid documents in the order of priority in which they  
4 shall cumulatively deduct from or add to the base bid for  
5 determining the lowest responsible and responsive bidder.  
6 After the lowest responsible and responsive bidder has been  
7 determined, any alternates may be accepted or rejected  
8 provided that the combination of accepted alternates results  
9 in the same lowest bidder. If no bid is deemed acceptable by  
10 the division and the authority, all bids may be rejected, in  
11 which event bids may again from time to time be invited and  
12 acted on as provided in this section. All contracts shall be  
13 lump sum contracts. The entire work on a prison facility may  
14 be divided into one or more contracts. All contracts for the  
15 entire work on a prison facility shall be awarded at the same  
16 time, but notice to proceed may be withheld until prior work  
17 under another contract has progressed to a point where the  
18 joint or following work can best be coordinated for the  
19 earliest completion of the entire project in a sound and  
20 workmanlike manner. Each contract shall be executed by an  
21 authority upon the determination of the division as to the  
22 lowest bidder. Payments made by an authority under the  
23 construction contracts shall be upon the contractor's written  
24 sworn request only if endorsed as approved by the division or  
25 in any lesser amount the division shall endorse as having been  
26 then earned on the contract. After the contracts for a prison  
27 facility have been awarded, the construction cost estimate

1 shall be revised and all extras on the contracts shall be  
2 awarded within the funds available. An authority shall pay to  
3 the division as a part of the cost of constructing the prison  
4 facility the sums for the services of its employees as may be  
5 mutually agreed between the department and the division.

6 (c) Beginning January 2, 2018, and every six months  
7 thereafter until construction is complete, the local public  
8 authority shall prepare a report on the progress of prison  
9 construction activities during the previous six-month period.  
10 The report shall include, but not be limited to, the identity  
11 of the incorporators, the term of and total amount of bond  
12 acquired, if any, the number of agreements entered into,  
13 including construction, architectural, and legal agreements.  
14 The report shall be submitted to the Joint Legislative Prison  
15 Committee, the House Ways and Means General Fund Committee,  
16 the Senate Committee on Finance and Taxation General Fund, and  
17 any other appropriate House and Senate Standing Committee.

18 ~~(c)~~(d) (1) Each authority is hereby authorized to  
19 enter into a lease or leases of any prison facility  
20 constructed by the authority under this chapter with the  
21 department.

22 (2) The department may enter into a lease of a  
23 prison facility with up to three separate authorities.

24 (3) A lease shall be on the following terms:

25 a. no lease shall be for a term longer than the then  
26 current fiscal year of the state;

1           b. any lease may contain a grant to the department  
2 of successive options of renewing the lease on the terms  
3 specified therein for any subsequent fiscal year or years of  
4 the state; and

5           c. liability for the payment of the rent under the  
6 lease shall never be for a term longer than the then current  
7 fiscal year of the state.

8           (4) In addition to any rent or lease payments to be  
9 made by the department, any lease with the department shall  
10 require the department to be responsible for all operation,  
11 maintenance, upkeep, and liability for the facility and  
12 surrounding premises throughout the term of the lease  
13 including any renewals thereof. The department shall also be  
14 financially and legally responsible throughout the term of the  
15 lease and any renewals for all prisoners residing in the  
16 facility and all personnel working within the facility.

17           ~~(4)~~ (5) (a) Payment of rent by the department for any  
18 fiscal year shall be due in accordance with the provisions of  
19 any lease by an authority of any prison facility and upon  
20 being so paid, shall entitle the department to quick  
21 possession of the prison facility leased for the remainder of  
22 the fiscal year. The rent for each fiscal year during the  
23 lease agreement is in effect shall be due in accordance with  
24 the provisions of the lease and the rent for the fiscal year  
25 shall be payable, and any such covenant on the part of the  
26 department shall be performed, solely out of the current  
27 revenues of the state for the fiscal year. ~~Rent may not exceed~~

1        The annual rent payment shall be thirteen million five hundred  
2        thousand dollars (\$13,500,000) per year per prison facility,  
3        or the cost of the principal and interest on the bonds for the  
4        construction of each prison facility, whichever is less. The  
5        rent payable and the covenants to be performed by the  
6        department under the provisions of the lease shall never  
7        create a debt of the state within the meaning of the  
8        Constitution of Alabama of 1901, as amended.

9                "(b) An authority that enters a lease agreement with  
10               the department shall be subject to examination and audit by  
11               the Examiners of Public Accounts on a periodic basis.

12               ~~(5)~~(6) In the event that there shall be any default  
13        in the payment of any rent required to be paid or in the  
14        performance of any covenant required to be performed by the  
15        department under the provisions of the lease while the lease  
16        is in effect, an authority and any pledgee of the lease, by  
17        any appropriate proceedings instituted within the time  
18        permitted by law, may enforce and compel the payment of the  
19        rent and the performance of the covenants in accordance with  
20        the terms of the lease. No free use shall be made of any  
21        prison facility of an authority so long as the principal of or  
22        interest on any bonds, including refunding bonds, issued by  
23        the authority remains unpaid.

24               ~~(6)~~(7) If a prison facility of an authority becomes  
25        vacant or is not used by the department, the department may  
26        not rent, purchase, acquire, construct, or lease any facility  
27        for penal or correctional use or renew any lease of a facility

1 for penal or correctional use which may be used for any  
2 purpose for which any prison facility of the authority may be  
3 used, so long as the prison facility of the authority remains  
4 vacant or unused. Notwithstanding the foregoing, in the event  
5 a prison facility becomes uninhabitable, the department may  
6 move inmates to other facilities; however, the terms and  
7 conditions of the lease shall remain unchanged and lease  
8 payments shall continue uninterrupted.

9 ~~(d)~~ (e) If at any time a prison facility constructed  
10 by an authority is or about to be vacant or unused as a result  
11 of there being no lease for the prison facility in effect for  
12 the current fiscal year, the authority may lease the prison  
13 facility to any other agency, board, or department of the  
14 state, any municipal corporation, public corporation, county,  
15 or other public body in the state, or any agency of the  
16 federal government other than the original lessee of the  
17 prison facility. Any such lease shall not be for the purpose  
18 of lending public credit but shall be solely to avoid default  
19 on the authority's bonds and to insure the prompt payment of  
20 the principal thereof and interest thereon when due.

21 Section 5. The Alabama Corrections Institution  
22 Finance Authority shall report to the Joint Legislative Prison  
23 Committee on any plans for the demolition or disposal of any  
24 existing prison facilities pursuant to this act. In addition,  
25 the Department of Corrections shall report to the Joint  
26 Legislative Prison Committee and the Chairmen of the House  
27 Ways and Means General Fund Committee and the Senate Finance

1 and Taxation General Fund Committee on the operational savings  
2 directly realized as a result of the consolidation of prisons  
3 pursuant to this act. This operational savings report shall be  
4 made annually beginning on the date on which the first bond or  
5 lease payment is due, and continuing until all bonds  
6 authorized by this act have matured, been redeemed, or are  
7 otherwise no longer outstanding.

8 Section 6. Sections 14-2-1, 14-2-6, 14-2-12,  
9 14-2-13.1, 14-2-14, 14-2-16, 14-12-19, 14-2-21, 14-2-28, and  
10 14-2-34, Code of Alabama 1975, are amended to read as follows:

11 "§14-2-1.

12 "For the purposes of this chapter, the following  
13 terms shall have the meanings respectively ascribed to them by  
14 this section:

15 "(1) AUTHORITY. The public corporation organized  
16 pursuant to the provisions of this chapter.

17 "(2) COMMISSION. The Building Commission created by  
18 Section 41-9-140 and its successors as the state agency for  
19 awarding construction contracts and supervising construction.

20 "(3) DEPARTMENT. The Alabama Department of  
21 Corrections created by Section 14-1-1.1 and its successors as  
22 the state agency responsible for supervising and controlling  
23 the operation of the correctional institutions of the state.

24 "(4) STATE. The State of Alabama.

25 "(5) BONDS. The bonds issued under the provisions of  
26 this chapter.



1           "(6) FACILITIES. Such term includes any one or more  
2 of the following:

3           "a. Prisons;

4           "b. Buildings and enclosures for housing, containing  
5 or supervising prisoners; and

6           "c. Any facilities necessary or useful in connection  
7 with prisons, buildings or enclosures, including, without  
8 limiting the generality of the foregoing, hospitals, offices,  
9 correctional officers' quarters and residences, warehouses,  
10 garages, storage facilities, abattoirs, cold storage plants,  
11 canning plants, laundries and manufacturing plants for the  
12 employment of prison labor.

13           "(7) KILBY PROPERTY. Such term includes all of the  
14 real property commonly referred to as Kilby prison property,  
15 embracing not only the real property owned by the state on  
16 which Kilby prison is located, but also all real property  
17 owned by the state used in connection with Kilby prison and  
18 adjacent thereto, all located in sections 2, 3, 10, 11, 21,  
19 22, 26, 27, 28, 29, 30, 33, 34, and 35 in township 17, range  
20 18 in Montgomery County, Alabama, together with all personal  
21 property owned by the state and used in connection with Kilby  
22 prison and the real property adjacent thereto.

23           "~~(8) PERRY COUNTY FACILITY. The Perry County~~  
24 ~~Correctional Center, including all real property, buildings~~  
25 ~~and improvements located at the facility in Perry County.~~

26           "(8) NET PROCEEDS OF THE ONE MILL TAX. The portion  
27 of the proceeds of the tax levied under Section 40-8-3 at the

1 rate of \$.10 on each \$100 of the assessed value of taxable  
2 property, remaining after payment of one percent of the  
3 proceeds thereof to the Alabama Historical Commission for the  
4 purposes set forth therein.

5 "(9) REGIONAL PRISON FACILITY. A prison facility  
6 designed to house at least 3,500 inmates with a construction  
7 project cost of at least \$100 million procured by the bond  
8 issue or a prison facility meeting those requirements  
9 constructed by an authority under Chapter 101A of Title 11.

10 "§14-2-6.

11 "The applicants named in the application and their  
12 respective successors in office shall constitute the members  
13 of the authority. The Governor shall be the president of the  
14 authority, the Commissioner of Corrections shall be the  
15 vice-president of the authority and the Director of Finance  
16 shall be the secretary of the authority. In addition, one  
17 member of the House of Representatives appointed by the  
18 Speaker of the House and one member of the Senate appointed by  
19 the President Pro Tempore of the Senate shall be members of  
20 the authority. The State Treasurer shall be the treasurer and  
21 custodian of the funds of the authority, but shall not be a  
22 member of the authority. The members of the authority shall  
23 constitute all the members of the board of directors of the  
24 authority, which shall be the governing body of the authority.  
25 A majority of the members of the ~~said~~ board of directors shall  
26 constitute a quorum for the transaction of business. Should  
27 any person holding any state office named in this section

1       cease to hold such office by reason of death, resignation,  
2       expiration of his or her term of office or for any other  
3       reason, then his successor in office shall take his place as a  
4       member, officer or director, as the case may be, of the  
5       authority. No member, officer or director of the authority  
6       shall draw any salary in addition to that now authorized by  
7       law for any service he may render or for any duty he may  
8       perform in connection with the authority. No member, officer,  
9       director or employee of the authority shall be personally  
10      liable for any debt, obligation or liability of the authority.

11               "§14-2-12.

12              "(a) For the purpose of providing funds for the  
13      acquisition of sites, for the construction, reconstruction,  
14      alteration and improvement of facilities, for the procurement  
15      and installation of equipment therefor and for payment of  
16      obligations incurred and the principal of and interest on any  
17      temporary loans made for any of the ~~said~~ purposes, the  
18      authority is hereby authorized, from time to time, to sell and  
19      issue, in addition to all bonds heretofore authorized to be  
20      issued by the authority, its bonds in such aggregate principal  
21      amounts as may be determined by the corporation to be  
22      necessary for the ~~said~~ purposes but not to exceed \$25,000,000,  
23      plus an additional seven million five hundred thousand dollars  
24      (\$7,500,000) pursuant to Act 97-950, in aggregate principal  
25      amount.

26              "(b) In addition to the authorization provided in  
27      subsection (a), the authority is hereby authorized, from time

1 to time, to sell and issue its bonds in amounts determined by  
2 the authority to be necessary for the acquisition,  
3 construction, reconstruction, alteration, and improvement of  
4 facilities. Additional bonds may be issued to provide for  
5 additional bedspace by improving properties currently owned by  
6 the Department of Corrections or the authority. The total  
7 additional bonds authorized by this subsection shall not  
8 exceed \$60 million.

9 "(c) (1) In addition to any other authorization  
10 provided in this chapter, the authority is hereby authorized,  
11 from time to time, to sell and issue bonds in amounts  
12 determined by the authority to be necessary for the  
13 alteration, demolition, and improvement of facilities owned  
14 and operated by the Department of Corrections or the Alabama  
15 Corrections Institution Finance Authority, and for the  
16 procurement and installation of equipment therefor. The total  
17 additional bonds authorized by this subsection shall not  
18 exceed three hundred fifty million dollars (\$350,000,000) and  
19 shall be reduced to one hundred million dollars (\$100,000,000)  
20 if the department leases three facilities under Chapter 101A  
21 of Title 11. The authority may not issue the bonds authorized  
22 by this subsection until the department has an agreement in  
23 place to lease at least two facilities under Chapter 101A of  
24 Title 11. Bonds authorized by this subsection shall be sold as  
25 provided in Section 14-2-16.

26 "(2) The bonding authority provided herein must file  
27 a report, in concise, simple language to each legislator

1 between the first and the twelfth legislative day of each  
2 legislative session which shall reflect the date of the  
3 issuance of the bonds, total amount of the bonds, maturity  
4 date, schedule of payments, including interest and principal,  
5 amount of attorney fees, architect fees and bond attorney  
6 fees, discount points and all other costs incurred in the  
7 issuance of and sale of the bonds herein authorized, and to  
8 what person, firm, corporation, company, or other entity to  
9 which any such fees or money is to be or has been paid.

10 ~~"(e)~~ (d) Any monetary transactions completed pursuant  
11 to Act 2010-729 shall be fully disclosed to the public.

12 ~~"(d)~~ (e) Any bonds issued pursuant to this section  
13 shall be sold by competitive bid if practical and economically  
14 feasible as determined by the authority.

15 ~~"(e)~~ (f) The authority is strongly encouraged to  
16 utilize businesses and companies in all aspects of the bond  
17 and construction portions of this chapter that reflect the  
18 racial and ethnic diversity of the state.

19 "§14-2-13.1.

20 "It is hereby further provided that no refunding  
21 bonds as provided for by Section 14-2-13 shall be issued  
22 unless the present value of all debt service on the refunding  
23 bonds (computed with a discount rate equal to the true  
24 interest rate of the refunding bonds and taking into account  
25 all underwriting discount and other issuance expenses) shall  
26 not be greater than ~~95%~~ 98 percent of the present value of all  
27 debt service on the bonds to be refunded (computed using the

1 same discount rate and taking into account the underwriting  
2 discount and other issuance expenses originally applicable to  
3 such bonds) determined as if such bonds to be refunded were  
4 paid and retired in accordance with the schedule of maturities  
5 (considering mandatory redemption as a scheduled maturity)  
6 provided at the time of their issuance. Provided further that  
7 the average maturity of the refunding bonds, as measured from  
8 the date of issuance of such refunding bonds, shall not exceed  
9 by more than three years the average maturity of the bonds to  
10 be refunded, as also measured from such date of issuance, with  
11 the average maturity of any principal amount of bonds to be  
12 determined by multiplying the principal of each maturity by  
13 the number of years (including any fractional part of a year)  
14 intervening between such date of issuance and each such  
15 maturity, taking the sum of all such products, and then  
16 dividing such sum by the aggregate principal amount of bonds  
17 for which the average maturity is to be determined.

18 "§14-2-14.

19 "Any bonds of the authority may be executed and  
20 delivered by it at any time and from time to time, shall be in  
21 such form and denominations and of such tenor and maturities,  
22 shall bear such rate or rates of interest payable and  
23 evidenced in such manner, may contain provisions for  
24 redemption prior to maturity and may contain other provisions  
25 not inconsistent with this section, all as may be provided by  
26 the resolution of the board of directors whereunder such bonds  
27 are authorized to be issued; provided, that no bond of the

1 authority shall have a specified maturity date later than ~~20~~  
2 30 years after its date. In the event that the authority shall  
3 make more than one pledge of the same revenues, such pledges  
4 shall, unless otherwise provided in the resolution or  
5 resolutions authorizing the earlier issued bonds, take  
6 precedence in the order of the adoption of the resolutions in  
7 which the pledges are made; provided, that each pledge for the  
8 benefit of refunding bonds shall have the same priority as the  
9 pledge for the benefit of the bonds refunded thereby.

10 "§14-2-16.

11 "Bonds of the authority may be sold at such price or  
12 prices and at such time or times as the board of directors of  
13 the authority may consider advantageous, either at public sale  
14 or private sale. Bonds of the authority sold by competitive  
15 bid must be sold, whether on sealed bids or at public auction,  
16 to the bidder whose bid reflects the lowest effective  
17 borrowing cost to the authority for the bonds being sold;  
18 provided, that if no bid acceptable to the authority is  
19 received, it may reject all bids. Notice of each such sale by  
20 competitive bids shall be given by publication in either a  
21 financial journal or a financial newspaper published in the  
22 City of New York, New York, and also by publication in a  
23 newspaper published in the State of Alabama, each of which  
24 notices must be published at least one time not less than 10  
25 days before the date for the sale. The board of directors may  
26 fix the terms and conditions under which such sale may be  
27 held; provided, that such terms and conditions shall not

1 conflict with any of the requirements of this chapter. The  
2 authority may pay out of the proceeds of the sale of its bonds  
3 all expenses, including capitalized interest during a period  
4 not to exceed ~~one year~~ three years from the date of issuance  
5 of such bonds, publication and printing charges, attorneys'  
6 fees and other expenses which said board of directors may deem  
7 necessary and advantageous in connection with the  
8 authorization, advertisement, sale, execution and issuance of  
9 such bonds. Neither a public hearing nor consent of the State  
10 Department of Finance or any other department or agency of the  
11 state shall be a prerequisite to the issuance or sale of bonds  
12 by the authority.

13 "§14-2-19.

14 "(a) All proceeds derived from the sale of any  
15 bonds, except refunding bonds, sold by the authority,  
16 remaining after payment of the expenses of issuance thereof,  
17 shall be turned over to the State Treasurer, shall be carried  
18 in a special account to the credit of the authority, and shall  
19 be subject to be drawn on by the authority solely for the  
20 purposes of:

21 "(1) Acquiring land for and constructing,  
22 reconstructing and equipping thereon one or more facilities;

23 "(2) Constructing additional improvements on  
24 property currently owned by the Department of Corrections or  
25 the authority in order to provide for additional bedspace;



1           "(3) Paying all reasonable and necessary expenses  
2 incidental thereto, including filing, recording, surveying,  
3 legal and engineering fees and expenses;

4           "(4) Paying the interest which will accrue on the  
5 ~~said~~ bonds during the period required for the construction and  
6 ~~equipment~~ equipping of the ~~said~~ facilities and for a period  
7 not exceeding six months after the completion thereof; ~~and~~

8           "(5) Paying the principal of and interest on all  
9 then outstanding notes theretofore issued by the authority  
10 pursuant to the provisions of Section 14-2-107;

11           "(6) Paying for costs of alteration, remodeling, and  
12 renovation of facilities of the department, as determined by  
13 the department; and

14           "(7) Paying for the cost of constructing a regional  
15 prison facility if two, and only two, prison facilities are  
16 leased pursuant to Chapter 101A of Title 11.

17           "The balance of the ~~said~~ proceeds thereafter  
18 remaining, unless required for the construction of other  
19 facilities by the authority as shall be determined by  
20 resolution of its board of directors within six months after  
21 completion of the facilities for which the bonds were issued,  
22 shall be set aside as additional security for the bonds or  
23 shall be used to pay, purchase or redeem bonds as may be  
24 provided in the proceedings authorizing their issuance. The  
25 reasonable and necessary expenses incident to the construction  
26 of any facility shall, if deemed advisable by the authority,  
27 include all or any part of the expense of providing temporary

1 facilities, during the construction of a new facility, for any  
2 penal or correctional institution facility which is demolished  
3 or ~~rendered~~ unserviceable as such.

4 "(b) All proceeds from the sale of refunding bonds  
5 issued by the authority that remain after paying the expenses  
6 of their issuance may be used only for the purpose of  
7 refunding the principal of and any unpaid and accrued interest  
8 on the outstanding bonds of the authority for the refunding of  
9 which the refunding bonds are authorized to be issued,  
10 together with any premium that may be necessary to be paid in  
11 order to redeem or retire such outstanding bonds.

12 "§14-2-21.

13 "(a) The principal of, premium, if any, and interest  
14 on the bonds of the authority shall be secured, first, by any  
15 or all of the following, as the authority may determine:

16 "(1) The rent and revenue for the use of one or more  
17 facilities of the authority;

18 "(2) The net rent or sale proceeds from the Kilby  
19 property;

20 "(3) Any bond proceeds remaining unexpended upon  
21 completion of all facilities to be constructed with such bond  
22 proceeds and the payment of the cost thereof;

23 "(4) Any insurance proceeds which the authority may  
24 receive by reason of its ownership of any of the facilities;  
25 ~~and~~

1           "(5) Any mortgage upon or security interest in one  
2 or more facilities of the authority, granted in connection  
3 with the issuance of such bonds~~;~~ and

4           "(6) Operational savings realized from the  
5 consolidation of prison facilities as a result of this  
6 amendatory act.

7           "(b) To such extent and to such extent only as the  
8 revenues described in subsection (a) may not be sufficient to  
9 pay at their respective maturities the principal of and  
10 interest on the bonds of the authority, there is irrevocably  
11 pledged and appropriated, as a second priority security, so  
12 much of the portion of the net proceeds of the one mill tax  
13 allocated to the Department of Human Resources under Section  
14 38-4-12 as may be necessary, when added to the amounts  
15 described in subsection (a), for the purpose of providing  
16 funds to enable the authority to pay at their respective  
17 maturities and due dates the principal of and interest on the  
18 bonds that may be issued by it under this article at any time.  
19 The revenues pledged by this subsection shall be limited to  
20 the payment of debt service on the bonds authorized by this  
21 amendatory act, including debt service on any refunding bonds  
22 issued to refund the bonds authorized by this amendatory act.

23           "(c) To such extent and to such extent only as the  
24 revenues described in subsections (a) and (b) may not be  
25 sufficient to pay at their respective maturities the principal  
26 of and interest on the bonds of the authority, there is  
27 irrevocably pledged and appropriated, as a third priority

1 security, so much of the net proceeds of the net proceeds of  
2 the tax levied on spirituous or vinous liquors allocated to  
3 the Public Welfare Trust Fund under Sections 28-3-201,  
4 28-3-202, and 28-3-204, as may be necessary, when added to the  
5 amounts described in subsections (a) and (b), for the purpose  
6 of providing funds to enable the authority to pay at their  
7 respective maturities and due dates the principal of and  
8 interest on the bonds that may be issued by it under this  
9 article at any time. The revenues pledged by this subsection  
10 shall be limited to the payment of debt service on the bonds  
11 authorized by this amendatory act, including debt service on  
12 any refunding bonds issued to refund the bonds authorized by  
13 this amendatory act.

14 "(d) In the event that revenues pledged by  
15 subsection (b) or (c) are used to pay debt service on bonds  
16 authorized by this amendatory act, including debt service on  
17 refunding bonds issued to refund the bonds authorized by this  
18 amendatory act, the Legislature shall provide for the  
19 reimbursement of the amount used for those debt service  
20 payments to the Department of Human Resources.

21 "(e) The authority shall have authority to transfer  
22 and assign any lease of any of the facilities and any lease or  
23 mortgage of the Kilby property as security for the payment of  
24 such principal, premium, if any, and interest. The bonds may  
25 be issued under, and secured by, a resolution which may, but  
26 need not, provide for an indenture of trust covering one or  
27 more facilities of the authority. Such resolution or such

1 indenture of trust may contain any provision or agreement  
2 customarily contained in instruments securing evidences of  
3 indebtedness, including, without limiting the generality of  
4 the foregoing, provisions respecting the collection and  
5 application of any receipts pledged to the payment of bonds,  
6 the terms to be incorporated in lease agreements respecting  
7 the facilities, the maintenance and insurance thereof, the  
8 creation and maintenance of reserve and other special funds  
9 from such receipts and the rights and remedies available in  
10 the event of default to the holders of the bonds or to the  
11 trustee for the holders of the bonds or under any indenture of  
12 trust, all as the authority may deem advisable and as shall  
13 not be in conflict with the provisions of this chapter;  
14 provided, however, that in making such agreements or  
15 provisions the authority shall not have the power to obligate  
16 itself except with respect to its facilities, the Kilby  
17 property and the application of the receipts which it is  
18 authorized in this chapter to pledge.

19 "(f) For each fiscal year in which the department,  
20 under a lease agreement with the authority, is required to pay  
21 rent to the authority in an amount at least equal to the  
22 annual debt service on bonds issued pursuant to the act adding  
23 this amendatory language, the department, from the amount  
24 appropriated to it in each annual general fund appropriations  
25 act, shall pay the rent payments as a first priority  
26 expenditure, and all other expenditures of the department for  
27 each fiscal year shall be adjusted accordingly.

1           "§14-2-28.

2           "All facilities constructed by the authority shall  
3 be constructed according to plans and specifications of  
4 architects or engineers, or both, selected by the department.  
5 Such plans and specifications shall be approved by the  
6 department and by the commission. All work in the construction  
7 of facilities, or any part thereof, which is determined by the  
8 commission to be suitable and proper for construction by  
9 prison labor under force account shall be performed by such  
10 prison labor under such supervision and directions as shall be  
11 ordered by the department. All construction of facilities or  
12 any part thereof which the commission shall determine not to  
13 be suitable and proper for construction by prison labor shall  
14 be done under the supervision and direction of the commission  
15 following award for each part of the work to the lowest  
16 responsible bidder after advertising for, receipt and public  
17 opening of sealed bids. ~~Each such invitation for bids and the  
18 bidding documents applicable thereto shall be so arranged that  
19 any alternates shall constitute cumulative deductions from the  
20 base bid rather than additions thereto. In determining the  
21 lowest bidder if funds are insufficient to construct the  
22 facility on the lowest base bid, then the commission may  
23 proceed to consider the bids upon the basis of the base bids  
24 of all bidders minus the respective reductions stated for the  
25 first alternate. If the lowest bid so determined is not then  
26 within the funds available, the commission shall proceed to  
27 consider the base bid minus the first and second alternates~~

1 ~~together to determine the lowest bid and in like manner~~  
2 ~~throughout all alternates, if need be, so that in no event~~  
3 ~~shall there be any discretion as to which alternate or~~  
4 ~~alternates will be used in determining the lowest responsible~~  
5 ~~bidder.~~ Deductive alternate bids may be used in order to  
6 reduce the base bid to an amount within the funds available  
7 for the project. Additive alternate bids may be used in order  
8 to obtain prices for the addition of items not included in the  
9 base bid. The alternate bids shall be listed in the bid  
10 documents in the order of priority in which they shall  
11 cumulatively deduct from or add to the base bid for  
12 determining the lowest responsible and responsive bidder.  
13 After the lowest responsible and responsive bidder has been  
14 determined, any alternates may be accepted or rejected  
15 provided that the combination of accepted alternates results  
16 in the same lowest bidder. If no bid deemed acceptable by the  
17 commission and the authority is received, all bids may be  
18 rejected, in which event bids may again from time to time be  
19 invited and acted on as provided in this section. All such  
20 contracts shall be lump sum contracts. The entire work on a  
21 prison facility may be divided into one or more contracts. All  
22 contracts for the entire work on a facility shall be awarded  
23 at the same time, but notice to proceed may be withheld until  
24 prior work under another contract has progressed to a point  
25 where the joint or following work can best be coordinated for  
26 the earliest completion of the entire project in a sound and  
27 workmanlike manner. Each contract shall be executed by the

1 authority upon the determination of the commission as to the  
2 lowest bidder. Payments made by the authority under the  
3 construction contracts shall be upon the contractor's written  
4 sworn request only if endorsed as approved by the commission  
5 or in any lesser amount the commission shall endorse as having  
6 been then earned on said contract. After the contracts for a  
7 facility have been awarded, such construction cost estimate  
8 shall be revised and all extras on the contracts shall be  
9 awarded within the funds available. The authority shall pay to  
10 the commission as a part of the cost of constructing the  
11 facility such sums for the services of its employees as may be  
12 mutually agreed between the department and the commission.

13 "§14-2-34.

14 "When all bonds and securities issued by the  
15 authority and all obligations assumed by it under the  
16 provisions of this chapter shall have been paid in full, the  
17 then president of the authority shall thereupon execute and  
18 deliver in the name of, and in behalf of, the authority an  
19 appropriate deed or deeds, to which the seal of the authority  
20 shall be affixed and attested by the secretary of the  
21 authority, conveying all facilities and other assets then  
22 owned by the authority to the state, except that no such  
23 conveyance shall be required if the president of the authority  
24 determines that the issuance of additional bonds to finance  
25 improvements to existing facilities is contemplated. The then  
26 officers and directors of the authority may, in their  
27 discretion, at such time file with the Secretary of State a



1 written statement, subscribed and sworn to by each of them,  
2 reciting the payment in full of all bonds theretofore issued  
3 by the authority and the execution and delivery of such deed  
4 or deeds, which statement shall be filed by the Secretary of  
5 State and recorded with the certificate of incorporation of  
6 the authority, and thereupon the authority shall stand  
7 dissolved."

8 Section 7. (a) Separate and apart from the power  
9 granted to the authority in regard to the Kilby property in  
10 Section 14-2-26 and 14-2-27, and in addition to those powers,  
11 the authority shall have the power to sell, convey and lease  
12 all or any part of any real and personal property now or  
13 hereafter owned by it, together with the improvements thereon  
14 and ancillary thereto, that is not being used by the  
15 department as a facility, and the sale of which will not  
16 impair the outstanding obligations of the authority, and as an  
17 aid to the sale or lease, to cause to be prepared by competent  
18 real estate experts a land use map and plan. The authority may  
19 lease or sell lands and property owned by it without going  
20 through the Lands Division or in any other way complying with  
21 the provisions of Title 9, Chapter 15, Article 3, Code of  
22 Alabama, 1975. The authority must have duly adopted written  
23 policies and procedures governing the sale or lease of the  
24 property which invoke open competition and produce the best  
25 price, to include obtaining an appraisal, advertising the sale  
26 or lease and conducting the sale by public auction or publicly  
27 sought sealed bid. No such sale or lease shall be made except

1 at public offering, on sealed bids or at auction, and upon  
2 such published notice as the authority shall determine to be  
3 necessary or desirable in order to attract the greatest  
4 interest from prospective bidders.

5 (b) The award of any property offered for sale or  
6 lease shall be made to the highest responsible bidder unless  
7 all bids shall be rejected as inadequate and other public  
8 offering shall be made upon notice republished as prescribed  
9 above. Any sale shall be for all cash. Each deed or lease to  
10 effectuate any sale or lease shall be signed in the name of  
11 the authority by its president, to which the seal of the  
12 authority shall be affixed and attested by its secretary.

13 (c) The proceeds of each sale or lease of any such  
14 property shall be used first to pay the reasonable and  
15 necessary expenses of the sale or lease, and the balance  
16 remaining shall be paid to the State Treasurer and held by him  
17 in a special account and disbursed on order of the authority  
18 for any one or more of the following purposes:

19 (1) To acquire land for, and to construct,  
20 reconstruct, renovate, repair, maintain and equip one or more  
21 facilities; or

22 (2) To pay for such services, goods, repairs,  
23 renovations, construction, demolition, or other activities in  
24 or about facilities as may be deemed necessary by the board of  
25 the authority in the exercise of its sole discretion, to  
26 further the purposes of the authority or the department,  
27 including developing of a master plan for the use of the real

1 or personal property that is owned by or which may be acquired  
2 by the authority for its statutory purposes, the preparation  
3 for sale or lease, or the preservation of, facilities or  
4 excess unimproved property owned for the authority; or

5 (3) To pay the principal of, and interest on, its  
6 bonds at maturity or upon refunding or redemption.

7 (d) The department will maintain all facilities not  
8 being used for the purposes designated in Section 14-2-1(6),  
9 and designated for sale, lease, demolition or other  
10 disposition, so long as title thereto is held by the  
11 authority, to enable the authority to achieve the best  
12 possible price or other result upon the sale, lease or other  
13 disposition thereof.

14 (e) Upon request of the authority the department  
15 shall convey to the authority any real and personal property  
16 to which the department holds title and acquired with proceeds  
17 of the authority's bonds or income thereon.

18 Section 8. Upon the regional prison facilities built  
19 by local prison authorities becoming operational, the  
20 department shall consolidate all operations housing medium or  
21 higher custody level male inmates into not more than six  
22 independent facilities.

23 Section 9. Prior to the closing of a prison or  
24 correctional facility, the Department of Corrections shall  
25 determine whether a governmental entity has undertaken or  
26 incurred any debt to serve the existing facility. Any existing  
27 obligation of the Department of Corrections to the

1 governmental entity shall continue unless negotiated  
2 otherwise.

3 Section 10. The construction or lease of new prison  
4 facilities and the renovation of existing facilities as  
5 provided for in this act, shall not commence until the Alabama  
6 Corrections Institution Finance Authority or the state, or a  
7 subdivision thereof, shall have leased or purchased, or a  
8 combination thereof, the existing prison facility in Perry  
9 County to be utilized by the department or the state, or a  
10 subdivision thereof, for inmate reentry, rehabilitative,  
11 educational, medical treatment, mental health programs, or  
12 other purposes. The requirement to purchase the prison  
13 facility in Perry County is not required to be satisfied if:

14 (1) The Commissioner of Corrections certifies in  
15 writing to the Legislative Council that he or she has  
16 negotiated in good faith, but has failed to reach an agreement  
17 with the owner of the facility for the purpose of the purchase  
18 of the prison facility located in Perry County; and

19 (2) By a recorded majority vote of the members of  
20 the Legislative Council following review of the certification  
21 under subdivision (1), the council determines that the  
22 facility need not be purchased as provided in this section.

23 Section 11. A person or entity submitting a proposal  
24 for a project under this act shall disclose both of the  
25 following:

1           (1) The names of all lobbyists, attorneys, or other  
2 professionals or professional firms hired or retained by the  
3 person or entity on or after January 1, 2014.

4           (2) The names of all current or past elected  
5 officials or family members as defined in Section 36-25-1(15),  
6 Code of Alabama 1975, associated in any manner with the person  
7 or entity submitting the proposal or associated in any manner  
8 with a subcontractor of the person or entity on or after  
9 January 1, 2014.

10           Section 12. Nothing in this act shall be construed  
11 to limit the department from continuing to use third party or  
12 private facilities for any program or housing of inmates that  
13 are not under medium, maximum, or close security supervision.

14           Section 13. Sections 28-3-201, 28-3-202, 28-3-204,  
15 29-2-20, 38-4-12, and 40-8-3, Code of Alabama 1975, are  
16 amended to read as follows:

17           "§28-3-201.

18           "In addition to all other taxes of every kind now  
19 imposed by law and in addition to any marked-up price  
20 authorized or required by law, there is hereby levied and  
21 shall be collected a tax at the rate of 10 percent upon the  
22 selling price of all spirituous or vinous liquors sold by the  
23 Alabama Alcoholic Beverage Control Board. The tax hereby  
24 imposed shall be collected by the board from the purchaser at  
25 the time the purchase price is paid. In computing the proceeds  
26 of this tax, the board shall divide the total sales of  
27 spirituous and vinous liquors made by it by a factor of 110

1 and multiply the quotient by 100 and by 10. An amount equal to  
2 the quotient multiplied by 100 shall be deposited in the State  
3 Treasury to the credit of the Alcoholic Beverage Control Board  
4 Store Fund and an amount equal to the quotient multiplied by  
5 10 shall be deposited in the State Treasury to ~~the credit of~~  
6 ~~the Public Welfare Trust Fund and shall be used for general~~  
7 ~~welfare purposes and is hereby appropriated therefor.~~ be  
8 distributed as follows:

9 "(1) A sum equal to the amount necessary to pay the  
10 principal of and interest on bonds issued by the Alabama  
11 Corrections Institution Finance Authority as and to the extent  
12 provided in Section 14-2-21 shall be distributed to the  
13 authority.

14 "(2) The remainder shall be distributed to the  
15 Public Welfare Trust Fund.

16 "§28-3-202.

17 "(a) Repealed by Acts 1986, No. 86-212, p. 264, §3.

18 "(b) Levy; collection; disposition of proceeds. In  
19 addition to all other taxes of every kind now imposed by law  
20 and in addition to any marked-up price authorized or required  
21 by law, there is hereby levied and shall be collected a tax at  
22 the rate of 10 percent upon the selling price of all  
23 spirituous or vinous liquors sold by the board. The tax  
24 imposed by this subsection shall be collected by the board  
25 from the purchaser at the time the purchase price is paid. One  
26 half of the proceeds derived from the tax shall be deposited  
27 in the State Treasury to the credit of the Public Welfare

1 Trust Fund and shall be used for general welfare purposes and  
2 is hereby appropriated therefor. The remainder of such  
3 proceeds from the tax levied by this subsection shall be  
4 deposited in the State Treasury to be distributed as follows:  
5 (1) A sum equal to the amount necessary to pay the principal  
6 of and interest on bonds issued by the Alabama Corrections  
7 Institution Finance Authority as and to the extent provided in  
8 Section 14-2-21, shall be distributed to the authority; and  
9 (2) the remainder shall be distributed to the credit of a  
10 special fund which shall be designated the Alabama Special  
11 Mental Health Fund and shall be used only for mental health  
12 purposes, including the prevention of mental illness, the care  
13 and treatment of the mentally ill and the mentally deficient  
14 and the acquisition, equipment, operation and maintenance of  
15 facilities for mental health purposes.

16 "The markup as currently established by the board on  
17 spirituous or vinous liquors shall not be reduced by the board  
18 for the purpose of absorbing the tax levied by this  
19 subsection, it being the intention of this provision that the  
20 said tax shall be passed on to the purchaser.

21 "§28-3-204.

22 "(a) Repealed by Acts 1986, No. 86-212, p. 264, §3.

23 "(b) Levy and collection. In addition to all other  
24 taxes of every kind now imposed by law and in addition to any  
25 marked-up price authorized or required by law, there is hereby  
26 levied and shall be collected a tax at the rate of three

1 percent upon the selling price of all spirituous or vinous  
2 liquors sold by the board.

3 "The board shall have the authority to examine the  
4 books and records of any wine wholesaler to determine the  
5 accuracy of any return required to be filed with the board.

6 "The markup as currently established by the board on  
7 spirituous or vinous liquors shall not be reduced by the board  
8 for the purpose of absorbing the tax levied in this  
9 subsection, it being the intention of this provision that the  
10 ~~said~~ tax shall be passed on to the purchaser.

11 "(c) Distribution of proceeds. One half of the  
12 proceeds derived from the tax shall be deposited in the State  
13 Treasury to be distributed as follows: (1) a sum equal to the  
14 amount necessary to pay the principal of and interest on bonds  
15 issued by the Alabama Corrections Institution Finance  
16 Authority as and to the extent provided in Section 14-2-21,  
17 shall be distributed to the authority; and (2) the remainder  
18 shall be distributed to the credit of the Public Welfare Trust  
19 Fund and shall be used for general welfare purposes and is  
20 hereby appropriated therefor. The remainder of such proceeds  
21 from the tax levied by this section shall be deposited in the  
22 State Treasury to the credit of a special fund which shall be  
23 designated the Special Mental Health Fund and shall be used  
24 only for mental health purposes, including the prevention of  
25 mental illness, the care and treatment of the mentally ill and  
26 the mentally deficient and the acquisition, equipment,



1 operation and maintenance of facilities for mental health  
2 purposes.

3 "§29-2-20.

4 "(a) A permanent legislative committee which shall  
5 be composed of ~~eight~~ 12 members, two of whom shall be ex  
6 officio members and ~~six~~ 10 of whom shall be appointed members,  
7 ~~three~~ five each to be appointed by the President of the Senate  
8 and Speaker of the House, who shall both serve as the ex  
9 officio members, shall be formed to assist in realizing the  
10 recommendations of the Legislative Prison Task Force and  
11 examine all aspects of the operations of the Department of  
12 Corrections. The four additional members appointed on or after  
13 the effective date of the act adding this amendatory language  
14 shall include two members from the majority party and two  
15 members from the minority party. The ~~chairman~~ chair of the  
16 committee shall be selected by and from among the membership.  
17 The committee shall make diligent inquiry and a full  
18 examination of Alabama's present and long term prison needs  
19 and they shall file reports of their findings and  
20 recommendations to the ~~Alabama~~ Legislature not later than the  
21 fifteenth legislative day of each regular session that the  
22 committee continues to exist.

23 "(b) The committee shall study and address mental  
24 health issues for prisoners reentering the community after a  
25 term of imprisonment in order to streamline the sharing of  
26 critical mental health information and in order to address  
27 barriers to accessing mental health treatment for such

1 prisoners. The committee shall report such findings to the  
2 Legislature no later than April 20, 2016, and shall work in  
3 conjunction with the following in studying and addressing such  
4 issues:

- 5 "(1) Department of Corrections;
- 6 "(2) Board of Pardons and Paroles;
- 7 "(3) Department of Mental Health;
- 8 "(4) Administrative Office of Courts;
- 9 "(5) Office of Prosecution Services;
- 10 "(6) Office of the Attorney General;
- 11 "(7) Alabama State Law Enforcement Agency;
- 12 "(8) Association of County Commissions of Alabama;
- 13 "(9) Alabama Probate Judges Association;
- 14 "(10) Alabama Sheriffs' Association;
- 15 "(11) Alabama Criminal Defense Lawyers Association;
- 16 "(12) Alabama Circuit Judges' Association;
- 17 "(13) Department of Public Health;
- 18 "(14) Office of the Governor;
- 19 "(15) Alabama District Attorneys Association;
- 20 "(16) Alabama Drug Abuse Task Force; and
- 21 "(17) Any other advocacy groups as determined by the

22 committee.

23 "(c) The committee shall study and address issues  
24 related to felony restitution collection in order to improve  
25 rates of collection for restitution obligations in felony  
26 cases and establish best practices relating to a defendant's  
27 ability to pay obligations owed. The committee shall report

1 such findings to the Legislature no later than April 20, 2016,  
2 and shall work in conjunction with the following in studying  
3 and addressing such issues:

4 "(1) Department of Corrections;

5 "(2) Board of Pardons and Paroles;

6 "(3) Administrative Office of Courts;

7 "(4) Office of Prosecution Services;

8 "(5) Office of the Attorney General;

9 "(6) Alabama State Law Enforcement Agency;

10 "(7) Alabama Criminal Defense Lawyers Association;

11 "(8) Alabama Circuit Judges' Association;

12 "(9) Association of County Commissions of Alabama;

13 "(10) Alabama Sheriffs' Association;

14 "(11) Alabama Crime Victims Compensation Commission;

15 "(12) The Alabama Circuit Clerk's Association;

16 "(13) Two crime victims' rights advocates designated  
17 by the Attorney General;

18 "(14) Two members from the Alabama District  
19 Attorneys Association, of ~~which~~ whom one shall be from a  
20 largely populated metropolitan judicial circuit and the other  
21 shall be from a small, rurally populated judicial circuit; and

22 "(15) Any other advocacy groups as determined by the  
23 committee.

24 "(d) The committee shall study and address capacity  
25 issues within the Department of Corrections to include, but  
26 not limited to, the issue of design capacity and operational  
27 or functional capacity, as well as the construction of new

1 prison facilities and the renovation of current correctional  
2 facilities as they relate to prison overcrowding and public  
3 safety. The committee shall report such findings to the  
4 Legislature no later than April 20, 2016, and shall work in  
5 conjunction with the following in studying and addressing such  
6 issues:

7 "(1) Department of Corrections;

8 "(2) Board of Pardons and Paroles;

9 "(3) Department of Mental Health;

10 "(4) Department of Public Health;

11 "(5) Administrative Office of Courts;

12 "(6) Office of Prosecution Services;

13 "(7) Office of the Attorney General;

14 "(8) Alabama State Law Enforcement Agency;

15 "(9) Alabama Drug Abuse Task Force;

16 "(10) Alabama Criminal Defense Lawyers Association;

17 "(11) Alabama Circuit Judges' Association;

18 "(12) Association of County Commissions of Alabama;

19 "(13) Two members from the Alabama Sheriffs'

20 Association, of ~~which~~ whom one shall be from a largely  
21 populated metropolitan judicial circuit and the other shall be  
22 from a small, rurally populated judicial circuit; and

23 "(14) Two members from the Alabama District

24 Attorneys Association, of ~~which~~ whom one shall be from a  
25 largely populated metropolitan judicial circuit and the other  
26 shall be from a small, rurally populated judicial circuit.

1           "(e) The studies and collaborating partners provided  
2 for in this section shall reflect the racial, gender,  
3 geographic, urban/rural, and economic diversity of the state.

4           "§38-4-12.

5           "(a) Except as provided in subsection (b), there is  
6 appropriated, beginning with the fiscal year ending September  
7 30, 1998, ~~to the state department, for old age pension~~  
8 ~~purposes,~~ out of the proceeds from the levy of the one mill  
9 tax ~~for the relief of needy Confederate soldiers and sailors~~  
10 ~~and their widows,~~ a sum not to exceed \$20,773,500 annually of  
11 the surplus or residue from the tax after the payment in full  
12 of the pensions to the widows of Confederate soldiers and  
13 sailors, to pay the principal of and interest on bonds issued  
14 by the Alabama Corrections Institution Finance Authority as  
15 and to the extent provided in Section 14-2-21, and then to the  
16 state department, for old-age pension purposes other charges  
17 against the fund set out in the laws authorizing the payment  
18 of the pensions to the widows, and annually to the Department  
19 of Revenue, as a first charge against the proceeds of the one  
20 mill tax, funds for the annual costs of the Department of  
21 Revenue for administering the tax. In making this  
22 appropriation, it is declared to be the legislative policy  
23 that the Department of Human Resources shall expend its  
24 portion of the surplus or residue hereby appropriated and all  
25 moneys received by it from the federal government as matching  
26 funds for all funds expended for Confederate pensions or as  
27 matching funds for the surplus or residue hereby appropriated

1 under this section, for old age pension purposes exclusively  
2 insofar as is possible under existing laws and the rules and  
3 regulations of the federal government and of the Department of  
4 Human Resources in regard thereto, before any part thereof may  
5 be expended for any other purposes of the Department of Human  
6 Resources.

7 "(b) Beginning with the fiscal year ending September  
8 30, 1997, all of the remaining surplus or residue from the tax  
9 provided in (a) ~~above~~, after deducting the amounts  
10 appropriated to the Department of Human Resources and the  
11 Department of Revenue under the annual appropriations act for  
12 the fiscal year ending September 30, 1997, and under  
13 subsection (a) ~~of this section~~ for each year thereafter, is  
14 hereby appropriated to the State Veterans' Assistance Fund to  
15 be expended for veterans' programs approved by the State Board  
16 of Veterans' Affairs, including expenditures for emergencies  
17 and needs in the state's veterans' nursing homes.

18 "§40-8-3.

19 "There is hereby levied for the purpose and upon the  
20 property hereinafter named and not specifically exempted from  
21 taxation annual taxes, as follows:

22 "(1) For the maintenance of the public schools of  
23 this state, \$.30 on each \$100 of the assessed value of taxable  
24 property.

25 "(2) For the relief of needy Confederate soldiers  
26 and sailors, resident citizens of Alabama and their widows,  
27 and to secure the obligations of the Alabama Corrections

1 Institution Finance Authority as provided in Title 14, Chapter  
2 2, \$ .10 on each \$100 of the assessed value of taxable property  
3 of which one percent of the gross amount collected will be  
4 expended by the Alabama Historical Commission to provide for  
5 capital improvements and maintenance at the Confederate  
6 Memorial Park at Mountain Creek, Chilton County, Alabama.

7 "(3) For the use of the state and to raise revenue  
8 therefor, \$.25 on each \$100 of the assessed value of taxable  
9 property."

10 Section 14. (a) Beginning January 2, 2018, and every  
11 six months thereafter until the annual reports begin on the  
12 date on which the first bond issue payment is due, the  
13 Commissioner of the Department of Corrections shall prepare a  
14 report on the progress of prison construction activities in  
15 the state during the previous six-month period. The report  
16 shall include, but not be limited to, expenditures, savings,  
17 cost-analyses, and the number of agreements entered into,  
18 including construction, architectural, and legal agreements.  
19 The report shall also contain the overtime costs of the  
20 department, correctional officer staffing ratios, the number  
21 of mental health and medical personnel, and  
22 inmate-on-correctional officer and inmate-on-inmate incidents  
23 of violence, available educational, vocational, and substance  
24 use treatment programming for the preceding six months.

25 (b) The Commissioner of the Department of  
26 Corrections shall report his or her findings to the Joint  
27 Legislative Prison Committee, the House Ways and Means General

1 Fund Committee, the Senate Committee on Finance and Taxation  
2 General Fund, and any other appropriate House and Senate  
3 Standing Committee.

4 Section 15. The provisions of this act are  
5 severable. If any part of this act is declared invalid or  
6 unconstitutional, that declaration shall not affect the part  
7 which remains.

8 Section 16. This act shall become effective  
9 immediately following its passage and approval by the  
10 Governor, or its otherwise becoming law.



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Senate

Read for the first time and referred to the Senate committee on Judiciary.....	14-MAR-17
Read for the second time and placed on the calen- dar 1 amendment.....	15-MAR-17
Read for the third time and passed as amended ....	16-MAR-17

Yeas 23  
Nays 11

Patrick Harris  
Secretary