

1 HB2
2 197584-3
3 By Representative Poole
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 06-MAR-19

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To levy an additional excise tax on gasoline and
9 diesel fuel; to provide for the collection and distribution of
10 the proceeds from the additional excise tax for state, county,
11 municipal and Alabama State Port Authority transportation
12 infrastructure purposes; to amend Sections 11-6-4 and 11-6-23,
13 Code of Alabama 1975, to require the Department of
14 Transportation contribute to the salary of the county engineer
15 or chief engineer and modify the Department's reimbursement
16 cap for the county engineer trainee's salary; to amend Section
17 40-12-242, Code of Alabama 1975, to levy an additional
18 registration fee for certain motor vehicles and provide for
19 the distribution of the proceeds from the additional
20 registration fee to the Rebuild Alabama Fund; to amend Section
21 40-17-331, Code of Alabama 1975, to levy a floor stocks tax;
22 and to repeal Section 11-6-6, Code of Alabama 1975.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. This act shall be known and may be cited
25 as the Rebuild Alabama Act.

26 Section 2. The Legislature finds all of the
27 following:

1 (a) That consistent with the constitutional mandate
2 that navigable waterways are public highways, the Legislature
3 hereby finds as a fact that a portion of the gasoline and
4 diesel fuel sold in this state is used for marine purposes to
5 propel vessels on coastal and inland waterways of this state.

6 (b) That it is the policy of this state to use a
7 portion of the funds derived from the additional excise tax
8 levied by this act on each net gallon of gasoline and diesel
9 fuel for the programs and activities of the Alabama State Port
10 Authority.

11 (c) That the development and growth of electric
12 vehicle transportation infrastructure are considerations in
13 the construction, reconstruction, maintenance, and repair of a
14 modern-day public road, highway, and bridge system in this
15 state.

16 (d) That the State Department of Transportation is
17 the appropriate agency to initiate the comprehensive planning
18 and administrative duties associated with the development of
19 electric vehicle transportation infrastructure as a part of
20 its regular duties.

21 (e) That the development of electric vehicle
22 transportation infrastructure is a cost of construction,
23 reconstruction, maintenance, and repair of public roads,
24 highways, and bridges in this state and that the moneys of the
25 Rebuild Alabama Fund may be lawfully used for such purpose.

26 (f) It is the intention of the Legislature to
27 authorize the creation of, and to hereby create, the Electric

1 Transportation Charging Infrastructure Grant Program as a
2 program of the State Department of Transportation for the
3 purpose of providing grants, funds, and support for the
4 construction, reconstruction, maintenance, and repair of the
5 public roads, highways, and bridges in this state through the
6 procurement, installation, and implementation of electric
7 vehicle transportation infrastructure.

8 Section 3. Sections 11-6-4, 11-6-23, 40-12-242, and
9 40-17-331, Code of Alabama 1975, are amended to read as
10 follows:

11 "§11-6-4.

12 "When any county has established the office of
13 county engineer or chief engineer of the division of public
14 roads the Director of the Department of Transportation ~~may~~
15 shall, upon application of the county commission, authorize
16 the expenditure out of the available funds of the State
17 Department of Transportation , of an amount equal to 70
18 percent of the annual salary of said engineer to such county,
19 which shall apply to the payment of the annual salary of said
20 engineer, with such payments to be made in equal monthly
21 installments; provided, that the amount contributed or paid by
22 the State Department of Transportation to any county, not
23 including retirement contributions, shall not exceed 70
24 percent of step 18, or the top step, whichever is greater, of
25 the salary schedule under the pProfessional Civil Engineer II,
26 Senior classification in any one year. ~~The Director of the~~
27 ~~Department of Transportation may discontinue such payment~~

1 ~~after 30 days' notice in writing to the county commission and~~
2 ~~to the county engineer or chief engineer of the division of~~
3 ~~public roads, unless otherwise agreed to in writing with the~~
4 ~~county by contract made and entered upon the records of the~~
5 ~~county commission.~~

6 "§11-6-23.

7 "(a) Upon application of the county commission or
8 like governing body of the several counties of the state, the
9 Department of Transportation, ~~upon approval of the Director of~~
10 ~~Transportation,~~ shall participate in the salary of the
11 engineer trainee in the county in an amount equal to 50
12 percent of the annual salary of the engineer trainee. The
13 amount is to be paid to the county in equal monthly
14 installments to reimburse the fund of the county from which
15 the salary of the engineer trainee is paid.

16 "(b) The amount contributed or paid by the
17 Department of Transportation to any county under this article
18 shall not include retirement contributions, Social Security,
19 unemployment compensation, or other employee benefits, nor
20 shall the amount contributed or paid exceed ~~(1)~~ 50 percent of
21 the annual salary schedule of the Department of Transportation
22 under the ~~graduate~~ Professional cCivil eEngineer I
23 classification, step 18, or the top step, whichever is
24 greater, as established by the Department of Transportation
25 for the year in which applied, ~~or (2), in the case of an~~
26 ~~assistant to the county engineer who has served at least one~~
27 ~~year as an engineer trainee under this article and has~~

1 ~~qualified as a registered engineer in this state, 50 percent~~
2 ~~of the annual salary schedule of the Department of~~
3 ~~Transportation under the graduate registered engineer~~
4 ~~classification as established by the Department of~~
5 ~~Transportation for the year in which applied.~~

6 "§40-12-242.

7 "(a) The following annual license taxes and regis-
8 tration fees are hereby imposed and shall be charged on each
9 private passenger automobile operated on the public highways
10 of this state and on each motorcycle operated on the said pub-
11 lic highways:

12 (1) For each private passenger automobile \$13.00

13 (2) For each motorcycle \$7.00

14 " No private passenger automobile and no motorcycle
15 shall be used on any public highway in the state unless the
16 proper license tag therefor has been procured and is securely
17 attached to the rear end thereof, such tag to be so attached
18 right side up with the number thereof in an upright position
19 and plainly visible.

20 "(b) In addition to the annual license taxes and
21 registration fees imposed in subsection (a) above and
22 elsewhere in Article 5 of Chapter 12 of Title 40, there is
23 hereby imposed and shall be charged;

1 "(1) an annual license tax and registration fee of
2 \$200.00 on each battery electric vehicle operated on the
3 public highways of this state, and

4 "(2) an annual license tax and registration fee of
5 \$100.00 on each plug-in hybrid electric vehicle operated on
6 the public highways of this state.

7 " A battery electric vehicle is defined as any motor
8 vehicle which draws propulsion energy solely or primarily from
9 onboard sources of stored electric energy from a plug-in
10 rechargeable electric energy storage system and which does not
11 include an internal combustion or heat engine using
12 combustible fuel. A plug-in hybrid electric vehicle is defined
13 as any motor vehicle which draws propulsion energy from
14 onboard sources of stored electric energy that can be plugged
15 into an outlet or charging station, and which includes an
16 internal combustion or heat engine using combustible fuel.

17 "(c) Beginning on July 1, 2023 and every fourth year
18 thereafter, the additional license tax and registration fee
19 specified in this act shall increase by three dollars (\$3).

20 "(d) The annual battery electric vehicle fee imposed
21 in subsection (b) (1) shall be reduced by the amount of any
22 future additional annual federal surcharge or registration fee
23 placed on a battery electric vehicle, and the annual plug-in
24 hybrid electric vehicle fee imposed in subsection (b) (2) shall
25 be reduced by the amount of any future annual federal
26 surcharge or registration fee placed on a plug-in hybrid
27 electric vehicle, if the federal surcharge or registration fee

1 is used solely for highway transportation purposes in the
2 state of Alabama, but in no case shall the battery electric
3 vehicle fee be reduced to less than \$150 and the plug-in
4 hybrid electric vehicle fee be reduced to less than \$75.

5 "(e) The Electric Transportation Infrastructure
6 Grant Program is created within the State Department of
7 Transportation. The program shall be administered, conducted,
8 and managed, and its funds shall be dispersed by, the State
9 Department of Transportation, which shall have all the powers,
10 authorities, rights, privileges, and titles necessary to
11 enable it to accomplish the purpose of the Electric
12 Transportation Infrastructure Grant Program. The State
13 Department of Transportation is authorized and directed to
14 promulgate rules for the Electric Transportation
15 Infrastructure Grant Program including the solicitation,
16 application, evaluation, and selection of grant applicants,
17 the distribution of grants for electric vehicle charging
18 infrastructure, and the use of grant funds through the Alabama
19 Administrative Procedures Act.

20 "(f) Notwithstanding any other statute or law to the
21 contrary, all proceeds of the annual license taxes and
22 registration fees imposed and charged in subsection (b) above,
23 after deduction pursuant to Section 40-12-269 (a) (1), Code of
24 Alabama 1975, shall be distributed as follows:

25 "(1) The first \$150 collected from the annual
26 license tax and registration fee on each battery electric
27 vehicle and the first \$75 collected from the annual license

1 tax and registration fee on each plug-in hybrid electric
2 vehicle shall be distributed sixty-six and sixty-seven one
3 hundreths percent (66.67%) to the state, twenty-five percent
4 (25%) to counties, and eight and thirty-three one hundreths
5 percent (8.33%) to cities.

6 "(2) The remainder shall be deposited in the Rebuild
7 Alabama Fund established pursuant to the provisions of this
8 act, and shall be used by the State Department of
9 Transportation to fund electric vehicle transportation
10 charging infrastructure through the Electric Transportation
11 Infrastructure Grant Program established in this act until
12 such time as the total annual registrations of battery
13 electric vehicles plus plug-in hybrid electric vehicle exceed
14 four percent (4%) of the total annual registrations of all
15 motor vehicles within the state of Alabama, except trailers
16 and semitrailers, for which an annual license tax and
17 registration fee is paid. Thereafter the annual license taxes
18 and registration fees imposed by subsection (b) (1) and (b) (2)
19 shall be reduced to \$150 and \$75, respectively, and after such
20 reduction the receipts shall be deposited into the Rebuild
21 Alabama Fund and distributed sixty-six and sixty-seven one
22 hundreths percent (66.67%) to the state, twenty-five percent
23 (25%) to the counties, and eight and thirty-three one
24 hundreths percent (8.33%) to the cities to be used in the
25 construction, reconstruction, maintenance, and repair of
26 public roads, highways, and bridges in the state, and for any
27 other purpose for which moneys in the Rebuild Alabama Fund may

1 be lawfully used. All previously collected but unspent funds
2 dedicated to the Electric Transportation Infrastructure Grant
3 Program shall continue to be used to fund the Electric
4 Transportation Infrastructure Grant Program.

5 "(g) The annual license taxes and registration fees
6 pursuant to this act shall be effective January 1, 2020.

7 "§40-17-331.

8 ~~"(a) There is hereby imposed a floor-stocks tax on~~
9 ~~motor fuel held in inventory outside of the bulk~~
10 ~~transfer/terminal system on October 1, 2012, if:~~

11 ~~"(1) No tax was imposed on the motor fuel under~~
12 ~~Sections 40-17-2, 40-17-31, and 40-17-220, as of September 30,~~
13 ~~2012; and~~

14 ~~"(2) The tax would have been imposed on the motor~~
15 ~~fuel by this article had it been in effect for the periods~~
16 ~~prior to October 1, 2012.~~

17 ~~"(b) The rate of the tax imposed by this section~~
18 ~~shall be the amount of tax imposed under Sections 40-17-2,~~
19 ~~40-17-31, and 40-17-220, on September 30, 2012.~~

20 ~~"(c) Any person owning motor fuel on October 1,~~
21 ~~2012, to which the tax imposed by this section applies, shall~~
22 ~~be liable for the tax. The tax imposed by this section shall~~
23 ~~be paid on or before December 31, 2012, and shall be paid in~~
24 ~~the manner prescribed by the department.~~

25 "(a) There is hereby imposed a floor-stocks tax on
26 motor fuel held in inventory outside of the bulk
27 transfer/terminal system on the effective date of the tax

1 increase and on the date of each subsequent tax increase
2 levied by the amendatory language of this act.

3 "(b) Each rate of the tax imposed by this section
4 shall be the incremental amount of tax imposed under the
5 amendatory language of this act.

6 "(c) Any wholesale distributor holding motor fuel in
7 inventory outside of the bulk transfer/terminal system on the
8 effective date of each tax increase levied by the amendatory
9 language of this act shall be liable for the tax.

10 "(d) The tax imposed by the amendatory language of
11 this act shall be paid on or before the last day of the third
12 month following each tax increase and shall be paid in the
13 manner prescribed by the department."

14 Section 4. Definitions. When used in this act, the
15 following words and phrases shall have the following
16 respective meanings unless the context clearly indicates
17 otherwise:

18 (1) ALDOT. The Alabama State Department of
19 Transportation provided for in Section 23-1-20, Code of
20 Alabama 1975, as amended.

21 (2) ATRIP-II COMMITTEE. The Alabama Transportation
22 Rehabilitation and Improvement Program Committee-II
23 established pursuant to this act.

24 (3) ATRIP-II PROJECTS. Those Road and Bridge
25 Rehabilitation and Improvement Projects submitted to and
26 received by the ATRIP-II Committee for funding in accordance
27 with the provisions of this act.

1 (4) COSTS. As applied to any road and bridge
2 project, all costs of construction or acquisition of any part
3 thereof, including, but without limitation to, the costs of
4 supervising, inspecting and constructing any such project and
5 all costs and expenses incidental thereto, the costs of
6 locating, surveying and mapping, development of engineering
7 plans and specifications, resurfacing, restoration and
8 rehabilitation, acquisition of rights-of-way, utility
9 relocation, and improvements which directly facilitate and
10 control traffic flow, including grade separation of
11 intersections, widening of lanes, channelization of traffic,
12 and traffic-control systems.

13 (5) LEGISLATURE. The Legislature of Alabama.

14 (6) SPECIAL TAXES. (a) The excise taxes levied under
15 subdivisions (1), (2) and (3) of subsection (a) of Section
16 40-17-325, as amended hereby, with the exception of those
17 portions of those taxes levied on aviation fuel and marine
18 gasoline, and;

19 (b) the additional annual registration fees imposed
20 pursuant to Section ~~40-12-275~~ 40-12-274, as herein provided.

21 (7) STATE. The State of Alabama.

22 Section 5. There is hereby created the Rebuild
23 Alabama Fund in the State Treasury. All proceeds from the
24 revenues designated to the fund pursuant to this act less the
25 cost of collection authorized by law shall be deposited into
26 the fund to be expended only as provided in this act.

1 Section 6. (a) Effective for tax periods beginning
2 after August 31, 2019, an additional excise tax of six cents
3 (\$0.06) is imposed on each net gallon of gasoline and diesel
4 fuel.

5 (b) Effective October 1, 2020, this additional
6 excise tax is increased by two cents (\$.02) to eight cents
7 (\$0.08) on each net gallon of gasoline and diesel fuel.

8 (c) Effective October 1, 2021, this additional
9 excise tax is increased by two cents (\$.02) to ten cents
10 (\$0.10) on each net gallon of gasoline and diesel fuel.

11 (d) Beginning October 1, 2023, and on ~~June 1~~ July 1
12 of every other year thereafter, the excise tax rate provided
13 in this section shall be adjusted by the percentage change in
14 the yearly average of the National Highway Construction Cost
15 Index (NHCCI) issued by the U. S. Federal Highway
16 Administration (FHWA) for the most recent 12-month period
17 ending December 31, compared to the base year average, which
18 is the average for the 12-month period ending December 31,
19 2020 and rounded to the nearest whole cent. The maximum amount
20 of increase or decrease in the excise tax rate shall not
21 exceed \$.01 per net gallon of gasoline or diesel fuel and
22 shall take effect every other year. The Department of Revenue
23 shall notify each terminal supplier, position holder, licensed
24 ~~distributors~~ distributor, and importer of the tax rate
25 adjustment applicable under this paragraph ~~for the 12-month~~
26 ~~period beginning~~ on or before March 1.

1 (e) This additional excise tax shall be levied,
2 administered, and collected in accordance with the provisions
3 of Article 12 of Chapter 17 of Title 40 of the Code of Alabama
4 1975, provided that the due date for payment and filing of
5 returns for all motor fuel taxes, including the additional
6 amounts levied in this act, shall be the 20th day of the month
7 following the month in which the tax accrues, except as
8 otherwise provided in Section 40-17-340 (d), and the bond
9 required under Section 40-17-335 (a) (1) shall not exceed three
10 million dollars (\$3,000,000). The net tax proceeds, after the
11 cost of collection and distribution to the Alabama Highway
12 Finance Corporation authorized by this act shall be
13 distributed to the state and to each county and municipality
14 for transportation infrastructure purposes in accordance with
15 the provisions this act.

16 Section 7. (a) The Alabama Department of Revenue
17 shall retain one-quarter of one percent (0.25%) of the tax
18 proceeds, less any refunds, from this additional excise tax on
19 gasoline and diesel fuel for its cost of collection. The
20 department is authorized to adopt rules and such forms as may
21 be necessary for the administration of the excise tax provided
22 for in this act.

23 (b) Each month, prior to the remaining payments
24 provided in this act, up to \$750,000 of the tax proceeds from
25 the additional excise tax on gasoline and up to \$230,000 of
26 the tax proceeds from the additional excise tax on diesel fuel
27 shall be distributed first to the Alabama Highway Finance

1 Corporation for the payment of the principal of and interest
2 on bonds to be issued by it to finance improvements to the
3 ship channel providing access to the facilities of the Alabama
4 State Docks, to the extent necessary for such purpose. The
5 amount distributed pursuant to this section may be pledged as
6 security for any loan or debt proceeds as deemed necessary by
7 the Alabama Highway Finance Corporation to finance said
8 improvements, but not to exceed one-hundred fifty million
9 dollars (\$150,000,000) in aggregate principal amount to be
10 used for improvement projects. This distribution of tax
11 proceeds to the Alabama Highway Finance Corporation shall
12 terminate at the final maturity of the bonds secured by these
13 tax proceeds, provided that the bond term shall not exceed
14 twenty (20) years.

15 (c) Notwithstanding any other law to the contrary,
16 the net tax proceeds remaining after any refunds, the cost of
17 collection and the distribution to the Alabama Highway Finance
18 Corporation authorized above shall be distributed as follows:

19 (1) Sixty-six and sixty-seven one hundredths percent
20 (66.67%), shall be allocated to ALDOT and deposited in the
21 Rebuild Alabama Fund, to be used for transportation
22 infrastructure improvement, preservation and maintenance
23 projects pursuant to the provisions of this act. The net tax
24 proceeds may be used to match any available federal, state and
25 local transportation funding. The funds allocated to the
26 department shall be audited by the Examiners of Public
27 Accounts in the same manner as all other department funds. The

1 Director of ALDOT, with approval of the Governor, may also
2 pledge a share of the net tax proceeds not to exceed fifty
3 percent (50%) of said proceeds as security for the issuance or
4 refinancing of any loan or debt obligation used for
5 transportation infrastructure improvement, preservation and
6 maintenance of projects pursuant to the provisions of this
7 act. This pledge shall be irrevocable for the duration of the
8 loan or debt obligations for which the net tax proceeds are
9 pledged.

10 a. ALDOT shall not use the net tax proceeds for any
11 of the following purposes:

12 1. Salaries, benefits, or any other form of
13 compensation for state or contract employees except as
14 included as direct project Costs and subject to audit by the
15 Examiners of Public Accounts.

16 2. The purchase, lease, or maintenance of equipment,
17 other than equipment purchased and permanently installed as a
18 part of a road or bridge project.

19 3. The maintenance or construction of public
20 buildings or other structures that are not integral to the
21 system of roads and bridges.

22 b. Beginning on Oct. 1, 2019, (and each October 1
23 thereafter), ALDOT will allocate \$400,000 to each county in
24 exchange for the annual federal allocation of \$533,000 which
25 was being distributed to each county on the effective date of
26 this act. Nothing in this act shall prohibit ALDOT from
27 utilizing these exchanged federal funds at its discretion and

1 in a manner consistent with Federal Highway Administration
2 (FHWA) procedures.

3 c. The \$400,000 annual allocation to each county
4 shall be utilized first as matching funds for any balance in
5 the county's federal allocation not authorized by Sept. 30,
6 2019. Once these unexpended funds are authorized for an
7 individual county, all remaining and future allocations
8 established herein shall be expended for road and bridge
9 projects on county roads classified as minor collectors or
10 higher and/or for bridge structures on the National Bridge
11 Inspection inventory.

12 d. The provisions of this section notwithstanding,
13 counties shall retain the ability to be awarded and utilize
14 other federal funds or state grants which are or may become
15 available after the effective date of the exchange of current
16 federal funds. Further, the exchange of current federal funds
17 does not preclude a county from the award or utilization of
18 any federal funds earmarked in the future for local
19 governments through FHWA and/or any federal appropriation
20 legislation.

21 (2) Twenty-five percent (25%) shall be allocated to
22 counties of the state to be used for transportation
23 infrastructure improvement, preservation and maintenance as
24 provided for in this act. It shall be allocated and disbursed
25 among the 67 counties of the state as follows:

26 a. Forty five percent (45%) of the amount shall be
27 allocated equally among the 67 counties of the state.

1 b. Fifty-five percent (55%) of the amount shall be
2 allocated among the 67 counties of the state on the basis of
3 the ratio of the ~~population of each county to the total~~
4 ~~population of the state according to the then next preceding~~
5 ~~federal decennial census or any special federal census~~
6 ~~heretofore held in any county.~~ population of the state
7 according to population projections from the U.S. Census
8 Bureau Population and Housing Estimates Program or any special
9 federal census heretofore held in any county. Beginning in
10 2020, the ratio of the population of each county to the total
11 population of the state shall be updated every five years.

12 c. The net tax proceeds may be used to match any
13 available federal, state and local transportation funding. The
14 governing body of a county may also pledge its share of the
15 net tax proceeds not to exceed fifty percent (50%) of said
16 proceeds as security for the issuance or refinancing of any
17 loan or debt obligation used for transportation infrastructure
18 improvement, preservation and maintenance. This pledge shall
19 be irrevocable for the duration of the loan or debt
20 obligations for which the net tax proceeds are pledged.

21 d. Counties must ensure that at least fifty percent
22 (50%) of the funds are allocated for projects utilizing
23 established bidding procedures submitted by the Association of
24 County Engineers of Alabama and approved by the Department of
25 Examiners of Public Accounts. In addition, the county may
26 utilize such funds to meet any other project matching
27 requirements associated with other federally or state funded

1 transportation projects, upon approval of the county
2 commission. A county may utilize over fifty percent of their
3 annual allocation of these funds for project match if the
4 project follows the provisions for bidding herein described or
5 is let to contract through ALDOT.

6 (3) Eight and thirty-three one hundredths percent
7 (8.33%) shall be allocated and disbursed to the municipalities
8 of the state to be used for transportation infrastructure
9 improvement, preservation and maintenance, as provided for in
10 this act, as follows:

11 a. Twenty-five percent (25%) of this amount shall be
12 allocated equally among the municipalities of the state.

13 b. Seventy-five percent (75%) of this amount shall
14 be allocated among the municipalities of the state on the
15 basis of the ratio of the population of each municipality to
16 the total population of all municipalities of the state
17 ~~according to the last and any subsequent federal decennial~~
18 ~~census commencing April 1, 2010. The population of any~~
19 according to the population projections from the U.S. Census
20 Bureau Population and Housing Estimates Program or any special
21 federal census heretofore held in any municipality. Beginning
22 in 2020, the ratio of the population of each municipality to
23 the total population of the state shall be updated every five
24 years. The population of any municipality incorporated
25 subsequent to the taking of the last federal decennial census
26 shall be deemed to be the population shown by the census for
27 that municipality. Any municipality incorporated after the

1 effective date of this act shall not participate in the
2 distribution provided for in this subsection until the fiscal
3 year next succeeding the fiscal year during which it is
4 incorporated.

5 c. The net tax proceeds may be used to match any
6 available federal, state and local transportation funding. The
7 governing body of a municipality may also pledge its share of
8 the net tax proceeds as security for the issuance or
9 refinancing of any loan or debt obligation used for
10 transportation infrastructure improvement, preservation and
11 maintenance. This pledge shall be irrevocable for the duration
12 of the loan or debt obligations for which the net tax proceeds
13 are pledged. Any Class 1 through 4 municipality that provides
14 or operates public transportation services on the effective
15 date of this act, may utilize an amount not to exceed ten
16 percent (10%) of the net tax proceeds received annually by
17 that municipality pursuant to this act to match any available
18 federal or state transportation funding available for public
19 transportation infrastructure improvements.

20 (d) The distribution prescribed by Section 7 of this
21 act shall begin no later than January 2020.

22 Section 8. The net tax proceeds allocated to ALDOT
23 in subsection (c) of Section 7 above shall be used for the
24 following program purposes and ALDOT shall annually report the
25 results of the programs and itemize the specific projects to
26 the Permanent Joint Transportation Committee of the Alabama

1 Legislature in compliance with such procedures established by
2 or for the committee:

3 (a) Congestion Relief Program - The purpose of this
4 program is to add capacity to State, US and Interstate routes
5 in highly congested areas of the state. ALDOT shall develop an
6 assessment and prioritization plan to allocate funds for
7 congestion relief projects on the state's transportation
8 infrastructure.

9 (b) Economic Development Roads Program - The purpose
10 of this program is to develop and improve transportation
11 infrastructure to enhance economic development efforts in the
12 State of Alabama. ALDOT shall develop an assessment and
13 prioritization plan to allocate funds for economic development
14 road projects with priority given to projects in economically
15 underserved areas of the state.

16 (c) System Preservation - The purpose of this
17 program is to address the ongoing and growing preservation and
18 maintenance needs of the state's transportation
19 infrastructure.

20 (d) ALDOT shall create an annual grant program of no
21 less than ten million dollars (\$10,000,000) for use on any
22 classified system of roads and bridges for which any city
23 government or county government may apply. All projects
24 granted under this program are to be bid and let by the
25 respective county or municipality following procedures
26 approved by ALDOT. ALDOT shall develop and publish rules to
27 establish funding criteria and create an application process

1 to receive and select projects for funding by September 30,
2 2019. The first round of grant applications shall be due by
3 November 30, 2019 and award of the grants shall be made by
4 ALDOT on or before January 15, 2020.

5 (e) There is hereby created an Alabama
6 Transportation Rehabilitation and Improvement Program-II
7 (ATRIP-II) to fund projects of local interest on the state
8 maintained highway system, which may also include local roads
9 and bridges essential to such projects. All ATRIP-II Projects
10 shall be developed and let to contract by ALDOT. The ATRIP-II
11 program shall be an annual program beginning in fiscal year
12 2020 and shall be funded at an amount of not less than thirty
13 million dollars (\$30,000,000) and not more than fifty million
14 dollars (\$50,000,000) which amount shall be at the discretion
15 of the Director of ALDOT.

16 ~~(f) All ALDOT Projects funded pursuant to this~~
17 ~~section shall be let to contract by ALDOT. ALDOT shall~~
18 ~~establish and apply Disadvantaged Business Enterprise (DBE)~~
19 ~~goals in the same manner and consistent with the requirements~~
20 ~~respecting DBEs of the Federal Highway Administration (FHWA)~~
21 ~~for road and bridge and other similar contracts funded with~~
22 ~~federal funds. The DBE goal for ALDOT Projects funded pursuant~~
23 ~~to this section shall, to the extent reasonably possible, be~~
24 ~~the same as the goal established annually by ALDOT for~~
25 ~~contracts funded with federal funds and approved by FHWA.~~
26 ~~ALDOT shall, to the greatest extent possible, ensure that DBE~~
27 ~~firms are included in the procurement process as early as~~

1 possible with the objective of ensuring participation levels
2 can be met. ALDOT will identify qualified DBE vendors during
3 the design process and communicate that list to the
4 prospective prime contractors prior to the bidding
5 process. ALDOT shall provide, on October 1 of every fiscal year
6 of the state, beginning December 1, 2021, for the year
7 commencing October 1, 2020, a report of ALDOT Projects let to
8 contract pursuant to this section, including information on
9 the established DBE goals for ALDOT Projects, to the Chair of
10 the Joint Transportation Committee, the Governor, the Senate
11 Pro Tempore, the Speaker of the Alabama House of
12 Representatives, the Alabama Senate Minority Leader, and the
13 Alabama House of Representatives Minority Leader.

14 "(f) All ALDOT Projects funded pursuant to this
15 section shall be let to contract by ALDOT and subject to the
16 following requirements:

17 a. ALDOT shall establish and apply Disadvantaged
18 Business Enterprise (DBE) goals in the same manner and
19 consistent with the requirements respecting DBEs of the
20 Federal Highway Administration (FHWA) for road and bridge and
21 other similar contracts funded with federal funds. The DBE
22 goal for ALDOT Projects funded pursuant to this section shall,
23 to the extent reasonably possible, be the same as the goal
24 established annually by ALDOT for contracts funded with
25 federal funds and approved by FHWA. ALDOT shall, to the
26 greatest extent possible, ensure that DBE firms are included
27 in the procurement process as early as possible with the

1 objective of ensuring participation levels can be met. ALDOT
2 will identify qualified DBE vendors during the design process
3 and communicate that list to the prospective prime contractors
4 prior to the bidding process. ALDOT shall provide, on October
5 1 of every fiscal year of the state, beginning December 1,
6 2021, for the year commencing October 1, 2020, a report of
7 ALDOT Projects let to contract pursuant to this section,
8 including information on the established DBE goals for ALDOT
9 Projects, to the Chair of the Joint Transportation Committee,
10 the Governor, the Senate Pro Tempore, the Speaker of the
11 Alabama House of Representatives, the Alabama Senate Minority
12 Leader, and the Alabama House of Representatives Minority
13 Leader.

14 In the event ALDOT was not successful in meeting
15 their DBE goals in a particular fiscal year, ALDOT will be
16 required to provide to the Joint Transportation Committee a
17 written strategy along with the annual project report that
18 will outline how the goals will be addressed in the coming
19 fiscal year, including an analysis of the primary reasons that
20 DBEs were unsuccessful bidders and the impediments to
21 successful DBE bids.

22 b. ALDOT shall utilize its GFO dated August 14,
23 2018, for the next four years to design equivalent pavement
24 sections. At that time the Department shall evaluate what
25 procedures to adopt going forward in consultation with, or
26 otherwise informing as soon as practicable, the Permanent

1 Joint Transportation Committee. Any exception to the GFO shall
2 be presented to the Joint Transportation Committee.

3 c. For the next four years, where feasible and
4 practical, ALDOT will provide alternative pavement designs
5 utilizing asphalt or concrete materials and shall seek bids."

6 Section 9. (a) All county and municipal projects let
7 to contract, as the case may be, shall utilize contractors and
8 material suppliers listed on the ALDOT's list of approved
9 contractors and suppliers. ALDOT's list of approved
10 contractors and material suppliers shall include the ALDOT's
11 Certified Disadvantaged Business Enterprise List. Beginning
12 October 1, 2020, and October 1 of every other year, each
13 county and municipality shall provide a list of all
14 contractors who have been awarded projects under this section
15 to the Senate President Pro Tempore, the Speaker of the House,
16 and the Chair of the Joint Transportation Committee.

17 Notwithstanding any provision of law to the contrary, no
18 bidding shall be required by the county for asphalt or other
19 road construction or repair materials if the county has an
20 annual contract for providing such materials.

21 (b) For all municipal projects, the appropriate
22 plans and bid opening date shall be published in electronic
23 form no later than the tenth day of the month preceding the
24 bid opening on a website maintained for that purpose by the
25 Alabama League of Municipalities.

26 (c) Bids for county and municipal contracts awarded
27 under this section shall only be awarded in accordance with

1 Section 39-2-6, Code of Alabama 1975, as amended, during a
2 regularly-scheduled meeting of the governmental body of the
3 county or city, as the case may be. Immediately after the
4 completion of each project, the publication notifications
5 required by Section 39-1-1(f), Code of Alabama 1975, as
6 amended, shall be satisfied by posting on the same website
7 utilized for the posting of specifications and notice of bid
8 openings.

9 Section 10. (a) There is hereby created the Alabama
10 Transportation Rehabilitation and Improvement Program-II
11 (ATRIP-II) Committee. The appointing authorities shall
12 coordinate their appointments to assure the committee
13 membership is inclusive and reflects the racial, gender,
14 geographic, urban, rural, and economic diversity of the state.
15 All members of the ATRIP-II Committee shall be appointed
16 within 30 days after the effective date of this act and shall
17 serve until a successor is named. Members of the ATRIP-II
18 Committee shall consist of:

19 (1) The Director of the State Department of
20 Transportation who shall serve as Chair of the ATRIP-II
21 Committee.

22 (2) The Lieutenant Governor or his or her designee.

23 (3) One member appointed by the President Pro
24 Tempore of the Senate.

25 (4) One member appointed by the Speaker of the House
26 of Representatives.

1 (5) ~~Three~~ Four members appointed by the Governor, at
2 least one of which shall be a representative of local
3 ~~governments.~~ governments, and at least one of which shall be a
4 minority.

5 (b) The ATRIP-II Committee is authorized to enter an
6 agreement with any funding authority or bank that is
7 authorized to issue tax exempt debt for infrastructure
8 purposes to pledge any of the annual revenue proceeds
9 allocated for its use in subsection (c) of Section 7 above as
10 payment for any loan or debt indenture.

11 (c) Within 60 days after the effective date of this
12 act, the ATRIP-II Committee shall convene to develop and adopt
13 procedures for the allocation of any revenue proceeds
14 allocated for its use and for the selection and authorization
15 of projects to be funded from the revenue dedicated by the
16 Director of ALDOT for the ATRIP-II program in accordance with
17 subsection (e) of Section 8. The procedures shall ensure that
18 project selection shall be for projects related to the state
19 maintained highway system, which may also include local roads
20 and bridges essential to such projects, proposed by one or
21 more local governments. In addition, the policies shall be
22 developed with an emphasis on the economic growth, public
23 safety, and stability of this state. The procedures shall also
24 include provisions to ensure that all projects selected by the
25 ATRIP-II Committee shall be bid and let to contract by ALDOT
26 in accordance with any applicable provisions of law. After the
27 ATRIP-II Committee develops and adopts procedures for the

1 allocation of any revenue proceeds and the selection and
2 authorization of projects to be funded from the revenue
3 proceeds, a copy of the procedures shall be distributed to
4 each of the counties and municipalities of the state and shall
5 be posted on the ALDOT website.

6 (d) The ATRIP-II Committee, in reviewing ATRIP-II
7 Projects submitted to it for funding pursuant to the
8 provisions of this section, shall appraise and consider
9 information that may be submitted by counties and
10 municipalities in the applications with respect to those
11 projects concerning their contracting with businesses or
12 individuals in carrying out such projects which reflect the
13 racial and ethnic diversity of the state. A report on the
14 contracting information submitted by counties and
15 municipalities shall be distributed by the ATRIP-II Committee
16 annually to the Governor, the Senate Pro Tempore, the Speaker
17 of the Alabama House of Representatives, the Chair of the
18 Joint Transportation Committee, the Alabama Senate Minority
19 Leader, and the Alabama House of Representatives Minority
20 Leader no later than October 1 of each year, beginning on
21 October 1, 2020.

22 Section 11. (a) The monies paid to counties or
23 municipalities pursuant to Section 7 of this act shall be
24 deposited into a separate fund maintained by the county or
25 municipality and expended only for one or more of the
26 following:

1 (1) The maintenance, improvement, replacement, and
2 construction of roads and bridges maintained by a qualified
3 county.

4 (2) The maintenance, improvement, replacement, and
5 construction of roads and bridges maintained by a qualified
6 municipality.

7 (3) As matching funds for federal road or bridge
8 projects.

9 (4) The payment of any debt associated with a road
10 or bridge project.

11 (5) For a joint road or bridge project with one or
12 more adjoining counties pursuant to any agreement executed
13 under the authority of state law.

14 (6) For a joint road or bridge project with one or
15 more municipalities pursuant to any agreement executed under
16 the authority of state law.

17 (7) For a joint road or bridge project with one or
18 more counties and municipalities pursuant to any agreement
19 executed under the authority of state law.

20 (b) The county or municipality shall not use any
21 monies from the fund for any of the following purposes:

22 (1) Salaries, benefits, or any other form of
23 compensation for county, municipal, or contract employees or
24 for county or municipal officials except as included as
25 project Costs and subject to audit by the Examiners of Public
26 Accounts.

1 (2) The purchase, lease, or maintenance of
2 equipment, other than equipment purchased and permanently
3 installed as a part of a road or bridge project.

4 (3) The maintenance or construction of public
5 buildings or other structures that are not integral to the
6 system of roads or bridges.

7 (c) All fund records shall be audited by the
8 Examiners of Public Accounts in the same manner as all other
9 county or municipal funds.

10 (d) The county commission of each qualified county
11 or municipal governing body of each qualified municipality
12 shall adopt an annual Transportation Plan no later than August
13 31 for the next fiscal year, which plan shall be approved by
14 affirmative vote of a majority of the members of the county
15 commission or municipal governing body. The plan shall provide
16 a detailed list of projects for which expenditures are
17 intended to be made in the next fiscal year and shall be based
18 upon an estimate of the revenues anticipated from the fund
19 during the fiscal year. Once adopted, the annual plan shall at
20 all times be posted in conspicuous places at the county
21 courthouse, the county commission office, the county highway
22 department, municipal hall, the mayor's office, the municipal
23 highway department, and any other places deemed appropriate by
24 the county commission or municipal governing body.
25 Additionally, the plan shall be posted on their respective
26 official government website, if available.

1 (e) At the first meeting in January of each year
2 following the creation of the fund, the county or municipal
3 engineer or other person designated by the county commission
4 or municipal governing body shall present to the county
5 commission or municipal governing body an annual written
6 report detailing expenditures made from the fund during the
7 previous fiscal year, which report shall include the status of
8 each project included in the previous fiscal year's
9 Transportation Plan. The report shall be entered into the
10 minutes of the county commission or municipal governing body
11 meeting and shall be made available to the public for
12 inspection, including posting on the county's or
13 municipality's website, if available.

14 (f) By January 15 of each year, the county engineer
15 will submit a certificate of compliance verifying that at
16 least fifty percent (50%) of funding for the last fiscal year
17 was let to contract, and shall file such certificate with the
18 Chair of the Joint Transportation Committee, the Alabama
19 Senate Pro Tempore, and the Speaker of the Alabama House of
20 Representatives.

21 Section 12. Section 11-6-6, Code of Alabama 1975 is
22 hereby repealed.

23 Section 13. The provisions of this act shall not be
24 superseded, amended, altered, violated, or overridden by any
25 provision of the state general fund appropriation act or any
26 other annual or supplemental appropriation act, administrative
27 rule, inter-agency transfer, or executive order or directive.

1 Section 14. Pursuant to Section 1-1-16, Code of
2 Alabama 1975, if any provision of this act is held by a court
3 of competent jurisdiction to be invalid, such invalidity shall
4 not affect the remaining provisions of this act, and to this
5 end the provisions of this act are declared severable.

6 Section 15. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Transportation,
Utilities and Infrastructure 06-MAR-19

Read for the second time and placed
on the calendar..... 07-MAR-19

Read for the third time and passed
as amended..... 08-MAR-19

Yeas 83, Nays 20, Abstains 0

Jeff Woodard
Clerk