HB2

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ACT #2019- 2

By Representative Poole

RFD: Transportation, Utilities and Infrastructure

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GOVERNOR'S OFFICE

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2 ENROLLED, An Act,

3 To levy an additional excise tax on gasoline and
4 diesel fuel; to provide for the collection and distribution of
5 the proceeds from the additional excise tax for state, county,
6 municipal and Alabama State Port Authority transportation
7 infrastructure purposes; to amend Sections 11-6-4 and 11-6-23,
8 Code of Alabama 1975, to require the Department of
9 Transportation contribute to the salary of the county engineer
10 or chief engineer and modify the Department's reimbursement
11 cap for the county engineer trainee's salary; to amend Section
12 40-12-242, Code of Alabama 1975, to levy an additional
13 registration fee for certain motor vehicles and provide for
14 the distribution of the proceeds from the additional
15 registration fee to the Rebuild Alabama Fund; to amend Section
16 40-17-331, Code of Alabama 1975, to levy a floor stocks tax;
17 and to repeal Section 11-6-6, Code of Alabama 1975.
18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
19 Section 1. This act shall be known and may be cited
20 as the Rebuild Alabama Act.
21 Section 2. The Legislature finds all of the
22 following:
23 (a) That consistent with the constitutional mandate
24 that navigable waterways are public highways, the Legislature
25 hereby finds as a fact that a portion of the gasoline and

diesel fuel sold in this state is used for marine purposes to propel vessels on coastal and inland waterways of this state.

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

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

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

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

(f) It is the intention of the Legislature to authorize the creation of, and to hereby create, the Electric Transportation Charging Infrastructure Grant Program as a

program of the State Department of Transportation for the purpose of providing grants, funds, and support for the construction, reconstruction, maintenance, and repair of the public roads, highways, and bridges in this state through the procurement, installation, and implementation of electric vehicle transportation infrastructure.

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

"§11-6-4.

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

~~Department of Transportation may discontinue such payment after 30 days' notice in writing to the county commission and to the county engineer or chief engineer of the division of public roads, unless otherwise agreed to in writing with the county by contract made and entered upon the records of the county commission.~~

"§11-6-23.

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

"(b) The amount contributed or paid by the Department of Transportation to any county under this article shall not include retirement contributions, Social Security, unemployment compensation, or other employee benefits, nor shall the amount contributed or paid exceed ~~(1)~~ 50 percent of the annual salary schedule of the Department of Transportation under the ~~graduate~~ Professional ~~c~~Civil ~~e~~Engineer I classification, step 18, or the top step, whichever is greater, as established by the Department of Transportation

for the year in which applied~~, or (2), in the case of an assistant to the county engineer who has served at least one year as an engineer trainee under this article and has qualified as a registered engineer in this state, 50 percent of the annual salary schedule of the Department of Transportation under the graduate registered engineer classification as established by the Department of Transportation for the year in which applied.~~

"§40-12-242.

"(a) The following annual license taxes and registration fees are hereby imposed and shall be charged on each private passenger automobile operated on the public highways of this state and on each motorcycle operated on the said public highways:

(1) For each private passenger automobile	$13.00
(2) For each motorcycle	$7.00

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

1 "(b) In addition to the annual license taxes and
2 registration fees imposed in subsection (a) above and
3 elsewhere in Article 5 of Chapter 12 of Title 40, there is
4 hereby imposed and shall be charged;
5 "(1) an annual license tax and registration fee of
6 $200.00 on each battery electric vehicle operated on the
7 public highways of this state, and
8 "(2) an annual license tax and registration fee of
9 $100.00 on each plug-in hybrid electric vehicle operated on
10 the public highways of this state.
11 " A battery electric vehicle is defined as any motor
12 vehicle which draws propulsion energy solely or primarily from
13 onboard sources of stored electric energy from a plug-in
14 rechargeable electric energy storage system and which does not
15 include an internal combustion or heat engine using
16 combustible fuel. A plug-in hybrid electric vehicle is defined
17 as any motor vehicle which draws propulsion energy from
18 onboard sources of stored electric energy that can be plugged
19 into an outlet or charging station, and which includes an
20 internal combustion or heat engine using combustible fuel.
21 "(c) Beginning on July 1, 2023 and every fourth year
22 thereafter, the additional license tax and registration fee
23 specified in this act shall increase by three dollars ($3).
24 "(d) The annual battery electric vehicle fee imposed
25 in subsection (b)(1) shall be reduced by the amount of any

1 future additional annual federal surcharge or registration fee
2 placed on a battery electric vehicle, and the annual plug-in
3 hybrid electric vehicle fee imposed in subsection (b)(2) shall
4 be reduced by the amount of any future annual federal
5 surcharge or registration fee placed on a plug-in hybrid
6 electric vehicle, if the federal surcharge or registration fee
7 is used solely for highway transportation purposes in the
8 state of Alabama, but in no case shall the battery electric
9 vehicle fee be reduced to less than $150 and the plug-in
10 hybrid electric vehicle fee be reduced to less than $75.
11 "(e) The Electric Transportation Infrastructure
12 Grant Program is created within the State Department of
13 Transportation. The program shall be administered, conducted,
14 and managed, and its funds shall be dispersed by, the State
15 Department of Transportation, which shall have all the powers,
16 authorities, rights, privileges, and titles necessary to
17 enable it to accomplish the purpose of the Electric
18 Transportation Infrastructure Grant Program. The State
19 Department of Transportation is authorized and directed to
20 promulgate rules for the Electric Transportation
21 Infrastructure Grant Program including the solicitation,
22 application, evaluation, and selection of grant applicants,
23 the distribution of grants for electric vehicle charging
24 infrastructure, and the use of grant funds through the Alabama
25 Administrative Procedures Act.

1 "(f) Notwithstanding any other statute or law to the
2 contrary, all proceeds of the annual license taxes and
3 registration fees imposed and charged in subsection (b) above,
4 after deduction pursuant to Section 40-12-269 (a)(1), Code of
5 Alabama 1975, shall be distributed as follows:
6 "(1) The first $150 collected from the annual
7 license tax and registration fee on each battery electric
8 vehicle and the first $75 collected from the annual license
9 tax and registration fee on each plug-in hybrid electric
10 vehicle shall be distributed sixty-six and sixty-seven one
11 hundreths percent (66.67%) to the state, twenty-five percent
12 (25%) to counties, and eight and thirty-three one hundreths
13 percent (8.33%) to cities.
14 "(2) The remainder shall be deposited in the Rebuild
15 Alabama Fund established pursuant to the provisions of this
16 act, and shall be used by the State Department of
17 Transportation to fund electric vehicle transportation
18 charging infrastructure through the Electric Transportation
19 Infrastructure Grant Program established in this act until
20 such time as the total annual registrations of battery
21 electric vehicles plus plug-in hybrid electric vehicle exceed
22 four percent (4%) of the total annual registrations of all
23 motor vehicles within the state of Alabama, except trailers
24 and semitrailers, for which an annual license tax and
25 registration fee is paid. Thereafter the annual license taxes

and registration fees imposed by subsection (b)(1) and (b)(2) shall be reduced to $150 and $75, respectively, and after such reduction the receipts shall be deposited into the Rebuild Alabama Fund and distributed sixty-six and sixty-seven one hundreths percent (66.67%) to the state, twenty-five percent (25%) to the counties, and eight and thirty-three one hundreths percent (8.33%) to the cities to be used in the construction, reconstruction, maintenance, and repair of public roads, highways, and bridges in the state, and for any other purpose for which moneys in the Rebuild Alabama Fund may be lawfully used. All previously collected but unspent funds dedicated to the Electric Transportation Infrastructure Grant Program shall continue to be used to fund the Electric Transportation Infrastructure Grant Program.

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

"§40-17-331.

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

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

1 "~~(2) The tax would have been imposed on the motor~~
2 ~~fuel by this article had it been in effect for the periods~~
3 ~~prior to October 1, 2012~~.
4 "~~(b) The rate of the tax imposed by this section~~
5 ~~shall be the amount of tax imposed under Sections 40-17-2,~~
6 ~~40-17-31, and 40-17-220, on September 30, 2012.~~
7 "~~(c) Any person owning motor fuel on October 1,~~
8 ~~2012, to which the tax imposed by this section applies, shall~~
9 ~~be liable for the tax. The tax imposed by this section shall~~
10 ~~be paid on or before December 31, 2012, and shall be paid in~~
11 ~~the manner prescribed by the department.~~
12 "(a) There is hereby imposed a floor-stocks tax on
13 motor fuel held in inventory outside of the bulk
14 transfer/terminal system on the effective date of the tax
15 increase and on the date of each subsequent tax increase
16 levied by the amendatory language of this act.
17 "(b) Each rate of the tax imposed by this section
18 shall be the incremental amount of tax imposed under the
19 amendatory language of this act.
20 "(c) Any wholesale distributor holding motor fuel in
21 inventory outside of the bulk transfer/terminal system on the
22 effective date of each tax increase levied by the amendatory
23 language of this act shall be liable for the tax.
24 "(d) The tax imposed by the amendatory language of
25 this act shall be paid on or before the last day of the third

1 month following each tax increase and shall be paid in the
2 manner prescribed by the department."
3 Section 4. Definitions. When used in this act, the
4 following words and phrases shall have the following
5 respective meanings unless the context clearly indicates
6 otherwise:
7 (1) ALDOT. The Alabama State Department of
8 Transportation provided for in Section 23-1-20, Code of
9 Alabama 1975, as amended.
10 (2) ATRIP-II COMMITTEE. The Alabama Transportation
11 Rehabilitation and Improvement Program Committee-II
12 established pursuant to this act.
13 (3) ATRIP-II PROJECTS. Those Road and Bridge
14 Rehabilitation and Improvement Projects submitted to and
15 received by the ATRIP-II Committee for funding in accordance
16 with the provisions of this act.
17 (4) COSTS. As applied to any road and bridge
18 project, all costs of construction or acquisition of any part
19 thereof, including, but without limitation to, the costs of
20 supervising, inspecting and constructing any such project and
21 all costs and expenses incidental thereto, the costs of
22 locating, surveying and mapping, development of engineering
23 plans and specifications, resurfacing, restoration and
24 rehabilitation, acquisition of rights-of-way, utility
25 relocation, and improvements which directly facilitate and

control traffic flow, including grade separation of intersections, widening of lanes, channelization of traffic, and traffic-control systems.

(5) LEGISLATURE. The Legislature of Alabama.

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

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

(7) STATE. The State of Alabama.

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

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

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

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

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

(e) This additional excise tax shall be levied, administered, and collected in accordance with the provisions of Article 12 of Chapter 17 of Title 40 of the Code of Alabama 1975, provided that the due date for payment and filing of returns for all motor fuel taxes, including the additional amounts levied in this act, shall be the 20th day of the month

following the month in which the tax accrues, except as otherwise provided in Section 40-17-340 (d), and the bond required under Section 40-17-335 (a)(1) shall not exceed three million dollars ($3,000,000). The net tax proceeds, after the cost of collection and distribution to the Alabama Highway Finance Corporation authorized by this act shall be distributed to the state and to each county and municipality for transportation infrastructure purposes in accordance with the provisions this act.

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

(b) Each month, prior to the remaining payments provided in this act, up to $750,000 of the tax proceeds from the additional excise tax on gasoline and up to $230,000 of the tax proceeds from the additional excise tax on diesel fuel shall be distributed first to the Alabama Highway Finance Corporation for the payment of the principal of and interest on bonds to be issued by it to finance improvements to the ship channel providing access to the facilities of the Alabama State Docks, to the extent necessary for such purpose. The

1 amount distributed pursuant to this section may be pledged as
2 security for any loan or debt proceeds as deemed necessary by
3 the Alabama Highway Finance Corporation to finance said
4 improvements, but not to exceed one-hundred fifty million
5 dollars ($150,000,000) in aggregate principal amount to be
6 used for improvement projects. This distribution of tax
7 proceeds to the Alabama Highway Finance Corporation shall
8 terminate at the final maturity of the bonds secured by these
9 tax proceeds, provided that the bond term shall not exceed
10 twenty (20) years.
11 (c) Notwithstanding any other law to the contrary,
12 the net tax proceeds remaining after any refunds, the cost of
13 collection and the distribution to the Alabama Highway Finance
14 Corporation authorized above shall be distributed as follows:
15 (1) Sixty-six and sixty-seven one hundreths percent
16 (66.67%), shall be allocated to ALDOT and deposited in the
17 Rebuild Alabama Fund, to be used for transportation
18 infrastructure improvement, preservation and maintenance
19 projects pursuant to the provisions of this act. The net tax
20 proceeds may be used to match any available federal, state and
21 local transportation funding. The funds allocated to the
22 department shall be audited by the Examiners of Public
23 Accounts in the same manner as all other department funds. The
24 Director of ALDOT, with approval of the Governor, may also
25 pledge a share of the net tax proceeds not to exceed fifty

1 percent (50%) of said proceeds as security for the issuance or
2 refinancing of any loan or debt obligation used for
3 transportation infrastructure improvement, preservation and
4 maintenance of projects pursuant to the provisions of this
5 act. This pledge shall be irrevocable for the duration of the
6 loan or debt obligations for which the net tax proceeds are
7 pledged.
8 a. ALDOT shall not use the net tax proceeds for any
9 of the following purposes:
10 1. Salaries, benefits, or any other form of
11 compensation for state or contract employees except as
12 included as direct project Costs and subject to audit by the
13 Examiners of Public Accounts.
14 2. The purchase, lease, or maintenance of equipment,
15 other than equipment purchased and permanently installed as a
16 part of a road or bridge project.
17 3. The maintenance or construction of public
18 buildings or other structures that are not integral to the
19 system of roads and bridges.
20 b. Beginning on Oct. 1, 2019, (and each October 1
21 thereafter), ALDOT will allocate $400,000 to each county in
22 exchange for the annual federal allocation of $533,000 which
23 was being distributed to each county on the effective date of
24 this act. Nothing in this act shall prohibit ALDOT from
25 utilizing these exchanged federal funds at its discretion and

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

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

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

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

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

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

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

d. Counties must ensure that at least fifty percent (50%) of the funds are allocated for projects utilizing established bidding procedures submitted by the Association of

County Engineers of Alabama and approved by the Department of Examiners of Public Accounts. In addition, the county may utilize such funds to meet any other project matching requirements associated with other federally or state funded transportation projects, upon approval of the county commission. A county may utilize over fifty percent of their annual allocation of these funds for project match if the project follows the provisions for bidding herein described or is let to contract through ALDOT.

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

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

b. Seventy-five percent (75%) of this amount shall be allocated among the municipalities of the state on the basis of the ratio of the population of each municipality to the total population of all municipalities of the state ~~according to the last and any subsequent federal decennial census commencing April 1, 2010. The population of any~~ <u>according to the population projections from the U.S. Census Bureau Population and Housing Estimates Program or any special federal census heretofore held in any municipality. Beginning</u>

1 in 2020, the ratio of the population of each municipality to
2 the total population of the state shall be updated every five
3 years. The population of any municipality incorporated
4 subsequent to the taking of the last federal decennial census
5 shall be deemed to be the population shown by the census for
6 that municipality. Any municipality incorporated after the
7 effective date of this act shall not participate in the
8 distribution provided for in this subsection until the fiscal
9 year next succeeding the fiscal year during which it is
10 incorporated.
11 c. The net tax proceeds may be used to match any
12 available federal, state and local transportation funding. The
13 governing body of a municipality may also pledge its share of
14 the net tax proceeds as security for the issuance or
15 refinancing of any loan or debt obligation used for
16 transportation infrastructure improvement, preservation and
17 maintenance. This pledge shall be irrevocable for the duration
18 of the loan or debt obligations for which the net tax proceeds
19 are pledged. Any Class 1 through 4 municipality that provides
20 or operates public transportation services on the effective
21 date of this act, may utilize an amount not to exceed ten
22 percent (10%) of the net tax proceeds received annually by
23 that municipality pursuant to this act to match any available
24 federal or state transportation funding available for public
25 transportation infrastructure improvements.

1 (d) The distribution prescribed by Section 7 of this
2 act shall begin no later than January 2020.
3 Section 8. The net tax proceeds allocated to ALDOT
4 in subsection (c) of Section 7 above shall be used for the
5 following program purposes and ALDOT shall annually report the
6 results of the programs and itemize the specific projects to
7 the Permanent Joint Transportation Committee of the Alabama
8 Legislature in compliance with such procedures established by
9 or for the committee:
10 (a) Congestion Relief Program - The purpose of this
11 program is to add capacity to State, US and Interstate routes
12 in highly congested areas of the state. ALDOT shall develop an
13 assessment and prioritization plan to allocate funds for
14 congestion relief projects on the state's transportation
15 infrastructure.
16 (b) Economic Development Roads Program - The purpose
17 of this program is to develop and improve transportation
18 infrastructure to enhance economic development efforts in the
19 State of Alabama. ALDOT shall develop an assessment and
20 prioritization plan to allocate funds for economic development
21 road projects with priority given to projects in economically
22 underserved areas of the state.
23 (c) System Preservation - The purpose of this
24 program is to address the ongoing and growing preservation and

1 maintenance needs of the state's transportation
2 infrastructure.
3 (d) ALDOT shall create an annual grant program of no
4 less than ten million dollars ($10,000,000) for use on any
5 classified system of roads and bridges for which any city
6 government or county government may apply. All projects
7 granted under this program are to be bid and let by the
8 respective county or municipality following procedures
9 approved by ALDOT. ALDOT shall develop and publish rules to
10 establish funding criteria and create an application process
11 to receive and select projects for funding by September 30,
12 2019. The first round of grant applications shall be due by
13 November 30, 2019 and award of the grants shall be made by
14 ALDOT on or before January 15, 2020.
15 (e) There is hereby created an Alabama
16 Transportation Rehabilitation and Improvement Program-II
17 (ATRIP-II) to fund projects of local interest on the state
18 maintained highway system, which may also include local roads
19 and bridges essential to such projects. All ATRIP-II Projects
20 shall be developed and let to contract by ALDOT. The ATRIP-II
21 program shall be an annual program beginning in fiscal year
22 2020 and shall be funded at an amount of not less than thirty
23 million dollars ($30,000,000) and not more than fifty million
24 dollars ($50,000,000) which amount shall be at the discretion
25 of the Director of ALDOT.

~~(f) All ALDOT Projects funded pursuant to this section shall be let to contract by ALDOT. ALDOT shall establish and apply Disadvantaged Business Enterprise (DBE) goals in the same manner and consistent with the requirements respecting DBEs of the Federal Highway Administration (FHWA) for road and bridge and other similar contracts funded with federal funds. The DBE goal for ALDOT Projects funded pursuant to this section shall, to the extent reasonably possible, be the same as the goal established annually by ALDOT for contracts funded with federal funds and approved by FHWA. ALDOT shall, to the greatest extent possible, ensure that DBE firms are included in the procurement process as early as possible with the objective of ensuring participation levels can be met. ALDOT will identify qualified DBE vendors during the design process and communicate that list to the prospective prime contractors prior to the bidding process.ALDOT shall provide, on October 1 of every fiscal year of the state, beginning December 1, 2021, for the year commencing October 1, 2020, a report of ALDOT Projects let to contract pursuant to this section, including information on the established DBE goals for ALDOT Projects, to the Chair of the Joint Transportation Committee, the Governor, the Senate Pro Tempore, the Speaker of the Alabama House of Representatives, the Alabama Senate Minority Leader, and the Alabama House of Representatives Minority Leader.~~

1 "(f) All ALDOT Projects funded pursuant to this
2 section shall be let to contract by ALDOT and subject to the
3 following requirements:
4 a. ALDOT shall establish and apply Disadvantaged
5 Business Enterprise (DBE) goals in the same manner and
6 consistent with the requirements respecting DBEs of the
7 Federal Highway Administration (FHWA) for road and bridge and
8 other similar contracts funded with federal funds. The DBE
9 goal for ALDOT Projects funded pursuant to this section shall,
10 to the extent reasonably possible, be the same as the goal
11 established annually by ALDOT for contracts funded with
12 federal funds and approved by FHWA. ALDOT shall, to the
13 greatest extent possible, ensure that DBE firms are included
14 in the procurement process as early as possible with the
15 objective of ensuring participation levels can be met. ALDOT
16 will identify qualified DBE vendors during the design process
17 and communicate that list to the prospective prime contractors
18 prior to the bidding process. ALDOT shall provide, on October
19 1 of every fiscal year of the state, beginning December 1,
20 2021, for the year commencing October 1, 2020, a report of
21 ALDOT Projects let to contract pursuant to this section,
22 including information on the established DBE goals for ALDOT
23 Projects, to the Chair of the Joint Transportation Committee,
24 the Governor, the Senate Pro Tempore, the Speaker of the
25 Alabama House of Representatives, the Alabama Senate Minority

1 Leader, and the Alabama House of Representatives Minority
2 Leader.
3 In the event ALDOT was not successful in meeting
4 their DBE goals in a particular fiscal year, ALDOT will be
5 required to provide to the Joint Transportation Committee a
6 written strategy along with the annual project report that
7 will outline how the goals will be addressed in the coming
8 fiscal year, including an analysis of the primary reasons that
9 DBEs were unsuccessful bidders and the impediments to
10 successful DBE bids.
11 b. ALDOT shall utilize its GFO dated August 14,
12 2018, for the next four years to design equivalent pavement
13 sections. At that time the Department shall evaluate what
14 procedures to adopt going forward in consultation with, or
15 otherwise informing as soon as practicable, the Permanent
16 Joint Transportation Committee. Any exception to the GFO shall
17 be presented to the Joint Transportation Committee.
18 c. For the next four years, where feasible and
19 practical, ALDOT will proide alternative pavement designs
20 utilizing asphalt or concrete materials and shall seek bids."
21 Section 9. (a) All county and municipal projects let
22 to contract, as the case may be, shall utilize contractors and
23 material suppliers listed on the ALDOT's list of approved
24 contractors and suppliers. ALDOT's list of approved
25 contractors and material suppliers shall include the ALDOT's

1 Certified Disadvantaged Business Enterprise List. Beginning
2 October 1, 2020, and October 1 of every other year, each
3 county and municipality shall provide a list of all
4 contractors who have been awarded projects under this section
5 to the Senate President Pro Tempore, the Speaker of the House,
6 and the Chair of the Joint Transportation Committee.
7 Notwithstanding any provision of law to the contrary, no
8 bidding shall be required by the county for asphalt or other
9 road construction or repair materials if the county has an
10 annual contract for providing such materials.
11 (b) For all municipal projects, the appropriate
12 plans and bid opening date shall be published in electronic
13 form no later than the tenth day of the month preceding the
14 bid opening on a website maintained for that purpose by the
15 Alabama League of Municipalities.
16 (c) Bids for county and municipal contracts awarded
17 under this section shall only be awarded in accordance with
18 Section 39-2-6, Code of Alabama 1975, as amended, during a
19 regularly-scheduled meeting of the governmental body of the
20 county or city, as the case may be. Immediately after the
21 completion of each project, the publication notifications
22 required by Section 39-1-1(f), Code of Alabama 1975, as
23 amended, shall be satisfied by posting on the same website
24 utilized for the posting of specifications and notice of bid
25 openings.

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

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

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

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

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

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

(b) The ATRIP-II Committee is authorized to enter an agreement with any funding authority or bank that is authorized to issue tax exempt debt for infrastructure

1 purposes to pledge any of the annual revenue proceeds
2 allocated for its use in subsection (c) of Section 7 above as
3 payment for any loan or debt indenture.
4 (c) Within 60 days after the effective date of this
5 act, the ATRIP-II Committee shall convene to develop and adopt
6 procedures for the allocation of any revenue proceeds
7 allocated for its use and for the selection and authorization
8 of projects to be funded from the revenue dedicated by the
9 Director of ALDOT for the ATRIP-II program in accordance with
10 subsection (e) of Section 8. The procedures shall ensure that
11 project selection shall be for projects related to the state
12 maintained highway system, which may also include local roads
13 and bridges essential to such projects, proposed by one or
14 more local governments. In addition, the policies shall be
15 developed with an emphasis on the economic growth, public
16 safety, and stability of this state. The procedures shall also
17 include provisions to ensure that all projects selected by the
18 ATRIP-II Committee shall be bid and let to contract by ALDOT
19 in accordance with any applicable provisions of law. After the
20 ATRIP-II Committee develops and adopts procedures for the
21 allocation of any revenue proceeds and the selection and
22 authorization of projects to be funded from the revenue
23 proceeds, a copy of the procedures shall be distributed to
24 each of the counties and municipalities of the state and shall
25 be posted on the ALDOT website.

1 (d) The ATRIP-II Committee, in reviewing ATRIP-II
2 Projects submitted to it for funding pursuant to the
3 provisions of this section, shall appraise and consider
4 information that may be submitted by counties and
5 municipalities in the applications with respect to those
6 projects concerning their contracting with businesses or
7 individuals in carrying out such projects which reflect the
8 racial and ethnic diversity of the state. A report on the
9 contracting information submitted by counties and
10 municipalities shall be distributed by the ATRIP-II Committee
11 annually to the Governor, the Senate Pro Tempore, the Speaker
12 of the Alabama House of Representatives, the Chair of the
13 Joint Transportation Committee, the Alabama Senate Minority
14 Leader, and the Alabama House of Representatives Minority
15 Leader no later than October 1 of each year, beginning on
16 October 1, 2020.
17 Section 11. (a) The monies paid to counties or
18 municipalities pursuant to Section 7 of this act shall be
19 deposited into a separate fund maintained by the county or
20 municipality and expended only for one or more of the
21 following:
22 (1) The maintenance, improvement, replacement, and
23 construction of roads and bridges maintained by a qualified
24 county.

1 (2) The maintenance, improvement, replacement, and
2 construction of roads and bridges maintained by a qualified
3 municipality.
4 (3) As matching funds for federal road or bridge
5 projects.
6 (4) The payment of any debt associated with a road
7 or bridge project.
8 (5) For a joint road or bridge project with one or
9 more adjoining counties pursuant to any agreement executed
10 under the authority of state law.
11 (6) For a joint road or bridge project with one or
12 more municipalities pursuant to any agreement executed under
13 the authority of state law.
14 (7) For a joint road or bridge project with one or
15 more counties and municipalities pursuant to any agreement
16 executed under the authority of state law.
17 (b) The county or municipality shall not use any
18 monies from the fund for any of the following purposes:
19 (1) Salaries, benefits, or any other form of
20 compensation for county, municipal, or contract employees or
21 for county or municipal officials except as included as
22 project Costs and subject to audit by the Examiners of Public
23 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.

1 Additionally, the plan shall be posted on their respective
2 official government website, if available.
3 (e) At the first meeting in January of each year
4 following the creation of the fund, the county or municipal
5 engineer or other person designated by the county commission
6 or municipal governing body shall present to the county
7 commission or municipal governing body an annual written
8 report detailing expenditures made from the fund during the
9 previous fiscal year, which report shall include the status of
10 each project included in the previous fiscal year's
11 Transportation Plan. The report shall be entered into the
12 minutes of the county commission or municipal governing body
13 meeting and shall be made available to the public for
14 inspection, including posting on the county's or
15 municipality's website, if available.
16 (f) By January 15 of each year, the county engineer
17 will submit a certificate of compliance verifying that at
18 least fifty percent (50%) of funding for the last fiscal year
19 was let to contract, and shall file such certificate with the
20 Chair of the Joint Transportation Committee, the Alabama
21 Senate Pro Tempore, and the Speaker of the Alabama House of
22 Representatives.
23 Section 12. Section 11-6-6, Code of Alabama 1975 is
24 hereby repealed.

1 Section 13. The provisions of this act shall not be
2 superseded, amended, altered, violated, or overridden by any
3 provision of the state general fund appropriation act or any
4 other annual or supplemental appropriation act, administrative
5 rule, inter-agency transfer, or executive order or directive.
6 Section 14. Pursuant to Section 1-1-16, Code of
7 Alabama 1975, if any provision of this act is held by a court
8 of competent jurisdiction to be invalid, such invalidity shall
9 not affect the remaining provisions of this act, and to this
10 end the provisions of this act are declared severable.
11 Section 15. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.

1
2
3 Mac McCutcheon
4 Speaker of the House of Representatives
5
6 President and Presiding Officer of the Senate

7 House of Representatives
8 I hereby certify that the within Act originated in
9 and was passed by the House 08-MAR-19, as amended.
10
11 Jeff Woodard
12 Clerk
13

14
15
16 Senate 12-MAR-19 Passed
17

APPROVED March 12, 2019
TIME 3:50 p.m.
Kay Ivey
GOVERNOR

Alabama Secretary Of State
Act Num....: 2019-2
Bill Num...: H-2
Recv'd 03/12/19 04:05pmSLF

SOR

ode

PONSORS

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. _____

YEAS _____ NAYS _____

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. _____ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees _____

_____

_____

SENATE ACTION

DATE:	3-8	2019
RD 1 RFD	T & E	

This Bill was referred to the Standing Committee of the Senate on T + E and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) – w/sub – by a vote of yeas 12 nays 0 abstain 0 this 11 day of March 2019

[signature], Chairperson

DATE: 3-11		2019
RF FAU		RD 2 CAL

DATE: 20__

RE-REFERRED ☐ RE-COMMITTED ☐

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB _____.

YEAS _____ NAYS _____

PATRICK HARRIS, Secretary