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3 SENATE T&E COMMITTEE SUBSTITUTE FOR SB178  
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8 SYNOPSIS: Under existing law, the Department of  
9 Transportation has no authority to enter into road  
10 construction projects and financial agreements with  
11 public companies, partnerships, or ventures.

12 This bill would authorize the Department of  
13 Transportation to enter into various types of  
14 construction agreements and financing agreements  
15 with other public and private entities for  
16 construction of a public road, bridge and tunnel,  
17 and work related or incidental thereto, under the  
18 jurisdiction of the Department of Transportation.

19 This bill would require the Department to  
20 develop a process for evaluating and selecting  
21 public road, bridge and tunnel projects under these  
22 provisions.  
23

24 A BILL  
25 TO BE ENTITLED  
26 AN ACT

1  
2 To amend Section 23-1-40, Code of Alabama 1975; to  
3 authorize the Department of Transportation to enter into  
4 various types of construction agreements and financing  
5 agreements for construction of a public road, bridge or  
6 tunnel, and work related or incidental thereto, under the  
7 jurisdiction of the Department of Transportation; and to  
8 require the Department to develop an evaluation process and  
9 procedures for selecting public road, bridge and tunnel  
10 projects under these provisions.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 23-1-40 of the Code of Alabama  
13 1975, is amended to read as follows:

14 "§23-1-40.

15 "(a) It shall be the duty of the ~~State~~ Department of  
16 Transportation to designate the roads to be constructed,  
17 repaired, and maintained and to construct, standardize,  
18 repair, and maintain roads and bridges of this state; and it  
19 shall have authority to make contracts or agreements to  
20 construct or pave the roadway only of the street or streets  
21 which will serve to connect the state highway constructed or  
22 repaired by the ~~State~~ Department of Transportation within any  
23 municipality in the State of Alabama.

24 "(b) In such municipalities in which the ~~State~~  
25 Department of Transportation has not designated the street or  
26 streets which are a part of the state highways constructed or

1 repaired by the ~~State~~ Department of Transportation, it shall  
2 be the duty of the ~~State~~ Department of Transportation to  
3 designate such street or streets. The ~~State~~ Department of  
4 Transportation may also cooperate or contract with any  
5 municipality or county in the paving or improving of any  
6 street or streets, highway or highways, or walkway or walkways  
7 upon which a state educational or eleemosynary institution, or  
8 the property thereof, may front or abut; provided, that where  
9 ~~said the~~ state educational or eleemosynary institution or the  
10 property thereof fronts or abuts on both sides of such street  
11 or streets, highway or highways, or walkway or walkways, the  
12 ~~State~~ Department of Transportation is hereby authorized to and  
13 shall expend an amount of money sufficient to cover the entire  
14 cost thereof; provided further, that where such institution or  
15 the property thereof fronts or abuts on only one side of such  
16 street or streets, highway or highways or walkway or walkways,  
17 the ~~said department~~ Department shall expend an amount of money  
18 sufficient to cover only one half of the cost thereof;  
19 provided, that in such case, with the special approval of the  
20 Governor, ~~said department~~ the Department shall be authorized  
21 to expend a sum of money sufficient for the entire cost and,  
22 provided further, the ~~said department~~ Department may also,  
23 with the special approval of the Governor, improve or pave any  
24 street or streets, driveway or driveways, including curb and  
25 gutter, and walkway or walkways on, by or through the grounds

1 upon which a state educational or eleemosynary institution is  
2 located and to pay the entire cost thereof.

3 "(c) The ~~State~~ Department of Transportation shall  
4 cause to be made and kept in its office a general highway map  
5 of the state which shall show all state roads.

6 "(d) The ~~State~~ Department of Transportation shall  
7 collect information and prepare statistics relative to the  
8 mileage, character, and condition of the roads and bridges in  
9 all counties of the state.

10 "(e) The ~~State~~ Department of Transportation shall  
11 investigate and determine the methods of road construction  
12 best adapted to the various sections of the state and shall  
13 establish standards for the maintenance of roads and bridges  
14 which have been constructed with state aid.

15 "(f) The ~~State~~ Department of Transportation may, at  
16 all reasonable times, be consulted by county and municipal  
17 officials relative to any matter relating to the construction  
18 of roads and bridges or culverts, and the ~~department~~  
19 Department may also call on all county and municipal officials  
20 for any information or assistance it may require and it shall  
21 be their duty to supply the same.

22 "(g) The ~~State~~ Department of Transportation shall  
23 determine the character and have the general supervision over  
24 the construction and maintenance of all the public roads,  
25 bridges, and culverts in the state where the funds of the  
26 state are used and shall have a general supervision over the

1 expenditure of any funds apportioned to any county of the  
2 state for the construction and maintenance of all public  
3 roads, bridges, and culverts in each county.

4 "(h) (1) In addition to any other authority to enter  
5 into contracts for construction of a public road, bridge or  
6 tunnel and work incidental or related thereto, as may be  
7 provided by law, the Department of Transportation may enter  
8 into contracts, agreements, or understandings with any other  
9 public and private parties including, but not limited to, all  
10 of the following: individuals, corporations, partnerships,  
11 joint ventures, limited liability companies, and other private  
12 parties; public or private partnerships, or both, or other  
13 similar joint ventures; the federal government; any  
14 department, agency, governmental or quasi-governmental body,  
15 public corporation, instrumentality, or subdivision of the  
16 United States, the State of Alabama, or any other state of the  
17 United States, or any agency, governmental or  
18 quasi-governmental body, instrumentality, or subdivision  
19 thereof, for the construction of a public road, bridge or  
20 tunnel and work incidental or related thereto, under the  
21 jurisdiction of the Department, or any part thereof,  
22 including, but not limited to, the following:

23 "a. Design-build, design-build-operate,  
24 design-build-own-operate, design-build-own-operate-maintain,  
25 design-build-finance-operate-maintain, construction management  
26 at-risk, construction manager general contractor or other

1 similar arrangements or agreements pursuant to which the  
2 design, right-of-way acquisition, relocation of structures or  
3 utilities, construction, financing, ownership, management,  
4 maintenance, and operation, or any combination thereof, of a  
5 public road, bridge or tunnel project is accomplished by the  
6 Department or on behalf of the Department by any of the  
7 aforementioned entities or methods.

8 "b. Leases, licenses, franchises, concessions, or  
9 other agreements for the development, operation, management,  
10 or undertaking of all or any part of a public road, bridge or  
11 tunnel project.

12 "(2) The public road, bridge or tunnel project may  
13 be awarded through any existing procurement authority,  
14 proposals, or other means of procurement used for public works  
15 projects delivered as provided in subdivision (1).

16 "(3) The Department may enter into a contract for a  
17 public road, bridge or tunnel project under this section when  
18 the estimated, projected, or budgeted construction cost is not  
19 less than one hundred million dollars (\$100,000,000). The  
20 Department shall not group projects that are more than one  
21 mile apart in order to meet the \$100 million construction cost  
22 requirement. This section shall not apply to asphalt pavement  
23 resurfacing projects.

24 "(4) The Department shall develop procedures to  
25 implement this section, including, but not limited to,  
26 proposal content, selection criteria, prequalification,

1 applicant interview, proposal evaluation, proposal  
2 negotiation, selection, and award, which will be outlined in  
3 each Department request for proposal.

4 "(5) Notwithstanding any provision of law to the  
5 contrary, proposals under this section with respect to public  
6 road, bridge or tunnel projects that the Department determines  
7 can be more efficiently accomplished by any of the means  
8 enumerated in subdivision (1), may be evaluated and awarded by  
9 the Department based on qualifications of participants or best  
10 value, or both, as evaluated by procedures of the Department  
11 and taking into consideration the best interest of the State  
12 of Alabama."

13 Section 2. This act shall become effective  
14 immediately following its passage and approval by the  
15 Governor, or its otherwise becoming law.