

1 HB57  
2 125698-2  
3 By Representatives Canfield, Oden, Love, Collins, Rich,  
4 Merrill, Treadaway, Clouse, Wallace, Johnson (R), Patterson,  
5 Roberts, Henry, Bridges, Gaston, Johnson (K), Chesteen,  
6 Sanderford, Williams (D), McClendon, Wren, Williams (J),  
7 Hubbard (M), Williams (P), Baughn, Moore (B), Long, McClurkin  
8 and Lee  
9 RFD: Ways and Means Education  
10 First Read: 01-MAR-11  
11 PFD: 02/25/2011

1 ENGROSSED

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

8 To provide for the maximum amount that may be  
9 appropriated annually from the Education Trust Fund; and to  
10 provide for the establishment and operation of a budget  
11 stabilization fund and a capital fund for the Education Trust  
12 Fund.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. This act shall be known and may be cited  
15 as "The Education Trust Fund Rolling Reserve Act."

16 Section 2. For the purposes of this act, the  
17 following terms shall have the following meanings:

18 (1) ALABAMA TRUST FUND. The Alabama Trust Fund  
19 created by Amendment No. 450 to the Constitution of Alabama of  
20 1901.

21 (2) EDUCATION TRUST FUND. An account in the State  
22 Treasury into which are deposited certain revenues paid to the  
23 State of Alabama that are earmarked or set aside for  
24 appropriation for public educational purposes.

25 (3) EDUCATION TRUST FUND RAINY DAY ACCOUNT. The  
26 special account created within the Alabama Trust Fund by  
27 Amendment No. 803 to the Constitution of Alabama of 1901.

1 (4) FISCAL YEAR. The fiscal year of the State of  
2 Alabama that begins on October 1 and ends on September 30.

3 (5) FISCAL YEAR APPROPRIATION CAP. The maximum  
4 amount of appropriations that may be made from the Education  
5 Trust Fund for any fiscal year pursuant to the provisions of  
6 this act.

7 (6) NEW RECURRING REVENUE. Revenue of any kind or  
8 type constituting a new annual source of money that has been  
9 enacted, established or provided for prior to the first day of  
10 the fiscal year of which it is to first be included in the  
11 calculation of the Fiscal Year Appropriation Cap for the  
12 Education Trust Fund.

13 (7) NONRECURRING REVENUE. Revenue of any kind or  
14 type that is deposited into the Education Trust Fund and that  
15 is not recurring revenue. Any balance remaining in the  
16 Education Trust Fund at the end of any fiscal year and  
17 transfers from the Education Trust Fund Proration Prevention  
18 Account, the Education Trust Fund Rainy Day Account and the  
19 Education Trust Fund Budget Stabilization Fund shall be  
20 nonrecurring revenue.

21 (8) RECURRING REVENUE. Any permanent and continuing  
22 source of revenue of any kind or type that has been enacted,  
23 established or provided for in fiscal years prior to the  
24 fiscal year for which it is to be included in the calculation  
25 of the Fiscal Year Appropriation Cap for the Education Trust  
26 Fund. Recurring revenue shall not include any balance  
27 remaining in the Education Trust Fund at the end of any fiscal

1 year. Once a new recurring revenue produces a source of  
2 revenue for one complete fiscal year, it becomes a recurring  
3 revenue.

4 Section 3. (a) Notwithstanding any other provision  
5 of law to the contrary, beginning with appropriations made for  
6 the fiscal year ending September 30, 2013, appropriations from  
7 the Education Trust Fund shall not exceed the Fiscal Year  
8 Appropriation Cap.

9 (b) The Fiscal Year Appropriation Cap for the  
10 Education Trust Fund shall be equal to the sum of all of the  
11 following:

12 (1) The total of recurring revenues deposited into  
13 the Education Trust Fund in the last completed fiscal year  
14 preceding the date on which the Fiscal Year Appropriation Cap  
15 is calculated.

16 (2) An amount equal to the amount in subdivision (1)  
17 multiplied by the average annual percent of change in the  
18 recurring revenues deposited into the Education Trust Fund for  
19 the fifteen completed fiscal years preceding the date on which  
20 the Fiscal Year Appropriation Cap is calculated.

21 (3) An amount equal to forty percent of the increase  
22 in recurring revenues deposited into the Education Trust Fund  
23 for the last completed fiscal year over the recurring revenues  
24 deposited into the Education Trust Fund for the fiscal year  
25 immediately preceding the last completed fiscal year. The  
26 amount provided in this subdivision shall be added only if the  
27 percentage in the recurring revenues deposited into the

1 Education Trust Fund for the last completed fiscal year  
2 exceeds the fifteen year average growth rate calculated in  
3 subdivision (b) (2).

4 (4) If new recurring revenue measures are enacted  
5 that will be deposited into the Education Trust Fund, or if  
6 existing revenue sources are amended to increase the amount of  
7 money deposited into the Education Trust Fund, for the first  
8 time during the year for which the Fiscal Year Appropriation  
9 Cap is being calculated, then ninety-five percent (95%) of the  
10 amount projected in the enacted fiscal note accompanying the  
11 legislative act creating the new recurring revenue shall be  
12 added as a part of the Fiscal Year Appropriation Cap. If a  
13 recurring revenue source is removed from the Education Trust  
14 Fund during the year for which the Fiscal Year Appropriation  
15 Cap is being calculated, the negative impact, based on the  
16 enacted fiscal note, of the removal of the recurring revenue  
17 shall be included in the calculation of the Fiscal Year  
18 Appropriation Cap.

19 (5) Nonrecurring revenue shall be added as a part of  
20 the Fiscal Year Appropriation Cap for the fiscal year in which  
21 the nonrecurring revenue is deposited into the Education Trust  
22 Fund.

23 (c) The Finance Director and the Legislative Fiscal  
24 Officer shall certify their computation of the Fiscal Year  
25 Appropriation Cap at the same time as the certification  
26 required by Amendment No. 803 to the Constitution of Alabama  
27 of 1901. If the computation results in a Fiscal Year

1 Appropriation Cap that is less than the total appropriations  
2 from the Education Trust Fund for the fiscal year immediately  
3 preceding the fiscal year for which the Fiscal Year  
4 Appropriation Cap is being calculated, the Legislature may  
5 appropriate from the Education Trust Fund Budget Stabilization  
6 Fund created in this act an amount equal to the difference  
7 between the preceding fiscal year's total appropriations from  
8 the Education Trust Fund and the Fiscal Year Appropriation  
9 Cap.

10 Section 4. There is hereby created in the State  
11 Treasury an Education Trust Fund Budget Stabilization Fund and  
12 an Education Trust Fund Capital Fund. Any monetary interest  
13 which accrues in the Education Trust Fund Budget Stabilization  
14 Fund shall be retained in the fund from year to year and shall  
15 be subject only to the provisions of this act. On or before  
16 November 15 of each fiscal year, if the total revenues  
17 deposited into the Education Trust Fund during the immediately  
18 preceding fiscal year exceed the Fiscal Year Appropriation Cap  
19 for the immediately preceding fiscal year, the excess shall be  
20 transferred to the Education Trust Fund Rainy Day Account  
21 until the Account has been repaid in full. If the Account has  
22 been repaid in full, any excess remaining shall be transferred  
23 to the Education Trust Fund Budget Stabilization Fund created  
24 in this act. The transfers to the Education Trust Fund Budget  
25 Stabilization Fund shall be made until the Fund reaches an  
26 amount which equals twenty percent of the then current year's  
27 appropriations from the Education Trust Fund. After the

1 balance in the Education Trust Fund Budget Stabilization Fund  
2 reaches a total of twenty percent, any excess remaining shall  
3 be distributed to the Education Trust Fund Capital Fund.

4 Section 5. (a) Except as provided in Section 3,  
5 amounts in the Education Trust Fund Budget Stabilization Fund  
6 may be withdrawn only to prevent proration in the Education  
7 Trust Fund. The Governor must certify to the State Comptroller  
8 and notify the Legislature that proration would occur in the  
9 Education Trust Fund before funds may be withdrawn. Following  
10 the certification and notification by the Governor,  
11 withdrawals may be made from the Education Trust Fund Budget  
12 Stabilization Fund; however, withdrawals shall be limited to  
13 the amount of the anticipated proration and funds allotted  
14 only to the extent necessary to avoid proration of  
15 appropriations from the Education Trust Fund. Any funds  
16 withdrawn from the Budget Stabilization Fund in excess of the  
17 amount necessary to avoid proration shall be transferred back  
18 to the Budget Stabilization Fund within thirty days after the  
19 end of the fiscal year in which withdrawals are made.

20 (b) Amounts in the Education Trust Fund Capital Fund  
21 shall be used only for construction, reconstruction,  
22 alteration and improvement of buildings and other facilities  
23 for public education purposes in the state, including the  
24 acquisition of sites and equipment for buildings and  
25 facilities, and for the payment of indebtedness incurred for  
26 any of those purposes. Amounts in the Education Trust Fund  
27 Capital Fund shall be budgeted and allotted in accordance with

1 Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through  
2 41-19-12 but shall not be limited by the Fiscal Year  
3 Appropriation Cap.

4 Section 6. During the first quarter of a fiscal  
5 year, the Finance Director may temporarily transfer available  
6 funds in the Budget Stabilization Fund into the Education  
7 Trust Fund as necessary to alleviate cash flow problems in the  
8 Education Trust Fund. Any funds temporarily transferred shall  
9 be repaid to the Budget Stabilization Fund from funds in the  
10 Education Trust Fund within 90 days following the date the  
11 funds are transferred.

12 Section 7. All laws or parts of laws which conflict  
13 with this act are repealed, and Section 40-1-32.1, Code of  
14 Alabama 1975 is specifically repealed. Any funds remaining to  
15 the credit of the Education Trust Fund Proration Prevention  
16 Account shall be transferred to the Education Trust Fund  
17 Budget Stabilization Fund.

18 Section 8. In the event that any section, sentence,  
19 clause or provision of this act is determined to be  
20 unconstitutional, such action shall not affect the validity of  
21 the remaining sections, sentences, clauses or provisions,  
22 which shall continue in full force and effect.

23 Section 9. This act shall become effective  
24 immediately upon its passage and approval by the Governor, or  
25 upon its otherwise becoming a law.



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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Ways and Means  
Education..... . . . . . 01-MAR-11

Read for the second time and placed  
on the calendar..... . . . . . 03-MAR-11

Read for the third time and passed  
as amended..... . . . . . 08-MAR-11

Yeas 67, Nays 33, Abstains 0

Greg Pappas  
Clerk