

1 HB57  
2 125698-3  
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

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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

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

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

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

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

1 amount provided in this subdivision shall be added only if the  
2 percentage in the recurring revenues deposited into the  
3 Education Trust Fund for the last completed fiscal year  
4 exceeds the fifteen year average growth rate calculated in  
5 subdivision (b) (2).

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

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

1           (c) The Finance Director and the Legislative Fiscal  
2 Officer shall certify their computation of the Fiscal Year  
3 Appropriation Cap at the same time as the certification  
4 required by Amendment No. 803 to the Constitution of Alabama  
5 of 1901. If the computation results in a Fiscal Year  
6 Appropriation Cap that is less than the total appropriations  
7 from the Education Trust Fund for the fiscal year immediately  
8 preceding the fiscal year for which the Fiscal Year  
9 Appropriation Cap is being calculated, the Legislature may  
10 appropriate from the Education Trust Fund Budget Stabilization  
11 Fund created in this act an amount equal to the difference  
12 between the preceding fiscal year's total appropriations from  
13 the Education Trust Fund and the Fiscal Year Appropriation  
14 Cap.

15           Section 4. There is hereby created in the State  
16 Treasury an Education Trust Fund Budget Stabilization Fund and  
17 an Education Trust Fund Capital Fund. Any monetary interest  
18 which accrues in the Education Trust Fund Budget Stabilization  
19 Fund shall be retained in the fund from year to year and shall  
20 be subject only to the provisions of this act. On or before  
21 November 15 of each fiscal year, if the total revenues  
22 deposited into the Education Trust Fund during the immediately  
23 preceding fiscal year exceed the Fiscal Year Appropriation Cap  
24 for the immediately preceding fiscal year, the excess shall be  
25 transferred to the Education Trust Fund Rainy Day Account

1 until the Account has been repaid in full. If the Account has  
2 been repaid in full, any excess remaining shall be transferred  
3 to the Education Trust Fund Budget Stabilization Fund created  
4 in this act. The transfers to the Education Trust Fund Budget  
5 Stabilization Fund shall be made until the Fund reaches an  
6 amount which equals twenty percent of the then current year's  
7 appropriations from the Education Trust Fund. After the  
8 balance in the Education Trust Fund Budget Stabilization Fund  
9 reaches a total of twenty percent, any excess remaining shall  
10 be distributed to the Education Trust Fund Capital Fund.

11 Section 5. (a) Except as provided in Section 3,  
12 amounts in the Education Trust Fund Budget Stabilization Fund  
13 may be withdrawn only to prevent proration in the Education  
14 Trust Fund. The Governor must certify to the State Comptroller  
15 and notify the Legislature that proration would occur in the  
16 Education Trust Fund before funds may be withdrawn. Following  
17 the certification and notification by the Governor,  
18 withdrawals may be made from the Education Trust Fund Budget  
19 Stabilization Fund; however, withdrawals shall be limited to  
20 the amount of the anticipated proration and funds allotted  
21 only to the extent necessary to avoid proration of  
22 appropriations from the Education Trust Fund. Any funds  
23 withdrawn from the Budget Stabilization Fund in excess of the  
24 amount necessary to avoid proration shall be transferred back

1 to the Budget Stabilization Fund within thirty days after the  
2 end of the fiscal year in which withdrawals are made.

3 (b) Amounts in the Education Trust Fund Capital Fund  
4 shall be used only for construction, reconstruction,  
5 alteration and improvement of buildings and other facilities  
6 for public education purposes in the state, including the  
7 acquisition of sites and equipment for buildings and  
8 facilities, and for the payment of indebtedness incurred for  
9 any of those purposes. Amounts in the Education Trust Fund  
10 Capital Fund shall be budgeted and allotted in accordance with  
11 Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through  
12 41-19-12 but shall not be limited by the Fiscal Year  
13 Appropriation Cap.

14 Section 6. During the first quarter of a fiscal  
15 year, the Finance Director may temporarily transfer available  
16 funds in the Budget Stabilization Fund into the Education  
17 Trust Fund as necessary to alleviate cash flow problems in the  
18 Education Trust Fund. Any funds temporarily transferred shall  
19 be repaid to the Budget Stabilization Fund from funds in the  
20 Education Trust Fund within 90 days following the date the  
21 funds are transferred.

22 Section 7. All laws or parts of laws which conflict  
23 with this act are repealed, and Section 40-1-32.1, Code of  
24 Alabama 1975 is specifically repealed. Any funds remaining to  
25 the credit of the Education Trust Fund Proration Prevention



1 Account shall be transferred to the Education Trust Fund  
2 Budget Stabilization Fund.

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

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

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 08-MAR-11, as amended.

Greg Pappas  
Clerk

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Senate                      10-MAR-11                      Passed

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