

1 HB57  
2 125698-1  
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),  
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8 and Lee  
9 RFD: Ways and Means Education  
10 First Read: 01-MAR-11  
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8 SYNOPSIS: Under current law, there is no maximum  
9 amount that may be appropriated annually from the  
10 Education Trust Fund. Appropriations are based on  
11 estimates of the amount of revenue that will be  
12 available from all revenue sources to the Education  
13 Trust Fund.

14 This bill provides for the maximum amount  
15 that may be appropriated annually from the  
16 Education Trust Fund; and provides for the  
17 establishment and operation of a budget  
18 stabilization fund and a capital fund for the  
19 Education Trust Fund.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 To provide for the maximum amount that may be  
26 appropriated annually from the Education Trust Fund; and to  
27 provide for the establishment and operation of a budget

1 stabilization fund and a capital fund for the Education Trust  
2 Fund.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

8 (1) ALABAMA TRUST FUND. The Alabama Trust Fund  
9 created by Amendment No. 450 to the Constitution of Alabama of  
10 1901.

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

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

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

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

24 (6) NEW RECURRING REVENUE. Revenue of any kind or  
25 type constituting a new annual source of money that has been  
26 enacted, established or provided for prior to the first day of  
27 the fiscal year of which it is to first be included in the

1 calculation of the Fiscal Year Appropriation Cap for the  
2 Education Trust Fund.

3 (7) NONRECURRING REVENUE. Revenue of any kind or  
4 type that is deposited into the Education Trust Fund and that  
5 is not recurring revenue. Any balance remaining in the  
6 Education Trust Fund at the end of any fiscal year and  
7 transfers from the Education Trust Fund Proration Prevention  
8 Account, the Education Trust Fund Rainy Day Account and the  
9 Education Trust Fund Budget Stabilization Fund shall be  
10 nonrecurring revenue.

11 (8) RECURRING REVENUE. Any permanent and continuing  
12 source of revenue of any kind or type that has been enacted,  
13 established or provided for in fiscal years prior to the  
14 fiscal year for which it is to be included in the calculation  
15 of the Fiscal Year Appropriation Cap for the Education Trust  
16 Fund. Recurring revenue shall not include any balance  
17 remaining in the Education Trust Fund at the end of any fiscal  
18 year. Once a new recurring revenue produces a source of  
19 revenue for one complete fiscal year, it becomes a recurring  
20 revenue.

21 Section 3. (a) Notwithstanding any other provision  
22 of law to the contrary, beginning with appropriations made for  
23 the fiscal year ending September 30, 2013, appropriations from  
24 the Education Trust Fund shall not exceed the Fiscal Year  
25 Appropriation Cap.

1 (b) The Fiscal Year Appropriation Cap for the  
2 Education Trust Fund shall be equal to the sum of all of the  
3 following:

4 (1) The total of recurring revenues deposited into  
5 the Education Trust Fund in the last completed fiscal year  
6 preceding the date on which the Fiscal Year Appropriation Cap  
7 is calculated.

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

13 (3) An amount equal to forty percent of the increase  
14 in recurring revenues deposited into the Education Trust Fund  
15 for the last completed fiscal year over the recurring revenues  
16 deposited into the Education Trust Fund for the fiscal year  
17 immediately preceding the last completed fiscal year. The  
18 amount provided in this subdivision shall be added only if the  
19 percentage in the recurring revenues deposited into the  
20 Education Trust Fund for the last completed fiscal year  
21 exceeds the fifteen year average growth rate calculated in  
22 subdivision (b) (2).

23 (4) If new recurring revenue measures are enacted  
24 that will be deposited into the Education Trust Fund, or if  
25 existing revenue sources are amended to increase the amount of  
26 money deposited into the Education Trust Fund, for the first  
27 time during the year for which the Fiscal Year Appropriation

1 Cap is being calculated, then ninety-five percent (95%) of the  
2 amount projected in the enacted fiscal note accompanying the  
3 legislative act creating the new recurring revenue shall be  
4 added as a part of the Fiscal Year Appropriation Cap. If a  
5 recurring revenue source is removed from the Education Trust  
6 Fund during the year for which the Fiscal Year Appropriation  
7 Cap is being calculated, the negative impact, based on the  
8 enacted fiscal note, of the removal of the recurring revenue  
9 shall be included in the calculation of the Fiscal Year  
10 Appropriation Cap.

11 (5) Nonrecurring revenue shall be added as a part of  
12 the Fiscal Year Appropriation Cap for the fiscal year in which  
13 the nonrecurring revenue is deposited into the Education Trust  
14 Fund.

15 (c) The Finance Director and the Legislative Fiscal  
16 Officer shall certify their computation of the Fiscal Year  
17 Appropriation Cap at the same time as the certification  
18 required by Amendment No. 803 to the Constitution of Alabama  
19 of 1901. If the computation results in a Fiscal Year  
20 Appropriation Cap that is less than the total appropriations  
21 from the Education Trust Fund for the fiscal year immediately  
22 preceding the fiscal year for which the Fiscal Year  
23 Appropriation Cap is being calculated, the Legislature may  
24 appropriate from the Education Trust Fund Budget Stabilization  
25 Fund created in this act an amount equal to the difference  
26 between the preceding fiscal year's total appropriations from

1 the Education Trust Fund and the Fiscal Year Appropriation  
2 Cap.

3 Section 4. There is hereby created in the State  
4 Treasury an Education Trust Fund Budget Stabilization Fund and  
5 an Education Trust Fund Capital Fund. On or before November 15  
6 of each fiscal year, if the total revenues deposited into the  
7 Education Trust Fund during the immediately preceding fiscal  
8 year exceed the Fiscal Year Appropriation Cap for the  
9 immediately preceding fiscal year, the excess shall be  
10 transferred to the Education Trust Fund Rainy Day Account  
11 until the Account has been repaid in full. If the Account has  
12 been repaid in full, any excess remaining shall be transferred  
13 to the Education Trust Fund Budget Stabilization Fund created  
14 in this act. The transfers to the Education Trust Fund Budget  
15 Stabilization Fund shall be made until the Fund reaches an  
16 amount which equals twenty percent of the then current year's  
17 appropriations from the Education Trust Fund. After the  
18 balance in the Education Trust Fund Budget Stabilization Fund  
19 reaches a total of twenty percent, any excess remaining shall  
20 be distributed to the Education Trust Fund Capital Fund.

21 Section 5. (a) Except as provided in Section 3,  
22 amounts in the Education Trust Fund Budget Stabilization Fund  
23 may be withdrawn only to prevent proration in the Education  
24 Trust Fund. The Governor must certify to the State Comptroller  
25 and notify the Legislature that proration would occur in the  
26 Education Trust Fund before funds may be withdrawn. Following  
27 the certification and notification by the Governor,

1 withdrawals may be made from the Education Trust Fund Budget  
2 Stabilization Fund; however, withdrawals shall be limited to  
3 the amount of the anticipated proration and funds allotted  
4 only to the extent necessary to avoid proration of  
5 appropriations from the Education Trust Fund. Any funds  
6 withdrawn from the Budget Stabilization Fund in excess of the  
7 amount necessary to avoid proration shall be transferred back  
8 to the Budget Stabilization Fund within thirty days after the  
9 end of the fiscal year in which withdrawals are made.

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

21 Section 6. During the first quarter of a fiscal  
22 year, the Finance Director may temporarily transfer available  
23 funds in the Budget Stabilization Fund into the Education  
24 Trust Fund as necessary to alleviate cash flow problems in the  
25 Education Trust Fund. Any funds temporarily transferred shall  
26 be repaid to the Budget Stabilization Fund from funds in the



1 Education Trust Fund within 90 days following the date the  
2 funds are transferred.

3 Section 7. All laws or parts of laws which conflict  
4 with this act are repealed, and Section 40-1-32.1, Code of  
5 Alabama 1975 is specifically repealed. Any funds remaining to  
6 the credit of the Education Trust Fund Proration Prevention  
7 Account shall be transferred to the Education Trust Fund  
8 Budget Stabilization Fund.

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

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