

1 SB121
2 125698-1
3 By Senators Pittman, Orr, Waggoner, Ward, Holtzclaw, Glover,
4 Taylor, Williams, Bussman, Scofield, Whatley, Allen,
5 Brewbaker, McGill, Reed, Sanford, Smith, Holley and Brooks
6 RFD: Finance and Taxation Education
7 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.