

1 SB5  
2 170776-1  
3 By Senator Pittman  
4 RFD: Finance and Taxation Education  
5 First Read: 13-JUL-15

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8 SYNOPSIS: This bill amends the Education Trust Fund  
9 Rolling Reserve Act of 2011 to provide further for  
10 the determination of the annual appropriation cap,  
11 for the disposition of revenues received in excess  
12 of the cap, for the appropriation of funds in the  
13 Education Trust Fund Capital and Technology Fund,  
14 and for the temporary transfer of funds from the  
15 Education Trust Fund Budget Stabilization Fund.  
16 This bill amends the Wallace-Folsom College Savings  
17 Investment Plan Act to delete certain obsolete  
18 provisions concerning PSCA debt service. This bill  
19 further clarifies the fiscal status of holding or  
20 clearing accounts created as an administrative  
21 convenience to implement the statutory and/or  
22 constitutional distribution of earmarked tax  
23 revenues so as to prohibit the appropriation of  
24 such funds.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 To provide further for the calculation of the annual  
4 appropriation cap for the Education Trust Fund Rolling Reserve  
5 Act to include payments to the Prepaid Affordable College  
6 Tuition (PACT) Trust Fund; to provide further for the use of  
7 revenues from the Education Trust Fund Budget Stabilization  
8 Fund and the Education Trust Fund Capital and Technology Fund;  
9 to delete certain obsolete provisions concerning PSCA debt  
10 service; and to prohibit appropriations from holding or  
11 clearing accounts.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 29-9-3, 29-9-4, 29-9-5, and  
14 29-9-6 Code of Alabama 1975, are hereby amended to read as  
15 follows:

16 "§29-9-3.

17 "(a) Notwithstanding any other provision of law to  
18 the contrary, beginning with appropriations made for the  
19 fiscal year ending September 30, 2013, appropriations from the  
20 Education Trust Fund shall not exceed the fiscal year  
21 appropriation cap.

22 "(b) The fiscal year appropriation cap for the  
23 Education Trust Fund shall be equal to the sum of all of the  
24 following:

25 "(1) The total of recurring revenues deposited into  
26 the Education Trust Fund in the last completed fiscal year

1 preceding the date on which the fiscal year appropriation cap  
2 is calculated.

3 "(2) An amount equal to the amount in subdivision  
4 (1) multiplied by the average annual percent of change in the  
5 recurring revenues deposited into the Education Trust Fund for  
6 the 14 highest of the 15 completed fiscal years preceding the  
7 date on which the fiscal year appropriation cap is calculated.

8 ~~"(3) An amount equal to 40 percent of the increase  
9 in recurring revenues deposited into the Education Trust Fund  
10 for the last completed fiscal year over the recurring revenues  
11 deposited into the Education Trust Fund for the fiscal year  
12 immediately preceding the last completed fiscal year. The  
13 amount provided in this subdivision shall be added only if the  
14 percentage in the recurring revenues deposited into the  
15 Education Trust Fund for the last completed fiscal year  
16 exceeds the 15 year average growth rate calculated in  
17 subdivision (b) (2).~~

18 ~~"(4) (3)~~ If new recurring revenue measures are  
19 enacted that will be deposited into the Education Trust Fund,  
20 or if existing revenue sources are amended to increase the  
21 amount of money deposited into the Education Trust Fund, for  
22 the first time during the year for which the fiscal year  
23 appropriation cap is being calculated, then 95 percent of the  
24 amount projected in the enacted fiscal note accompanying the  
25 legislative act creating the new recurring revenue shall be  
26 added as a part of the fiscal year appropriation cap. If a  
27 recurring revenue source is removed from the Education Trust

1 Fund during the year for which the fiscal year appropriation  
2 cap is being calculated, the negative impact, based on the  
3 enacted fiscal note, of the removal of the recurring revenue  
4 shall be included in the calculation of the fiscal year  
5 appropriation cap. Any new recurring revenue measures and any  
6 changes in the distribution of Education Trust Fund recurring  
7 revenues enacted during the First Special Session of 2015  
8 shall not require any addition or reduction in the fiscal year  
9 appropriation cap for the fiscal year ending September 30,  
10 2016.

11 "~~(5)~~ (4) Nonrecurring revenue shall be added as a  
12 part of the fiscal year appropriation cap for the fiscal year  
13 in which the nonrecurring revenue is deposited into the  
14 Education Trust Fund.

15 " (5) The amount required to be appropriated from  
16 the Education Trust Fund to the Prepaid Affordable College  
17 Tuition (PACT) Trust Fund pursuant to Code of Alabama 1975,  
18 Section 16-33C-16.

19 "(c) The Director of Finance and the Director of the  
20 Fiscal Office shall certify their computation of the fiscal  
21 year appropriation cap at the same time as the certification  
22 required by Amendment No. 803 to the Constitution of Alabama  
23 of 1901. If the computation results in a fiscal year  
24 appropriation cap that is less than the total appropriations  
25 from the Education Trust Fund for the fiscal year immediately  
26 preceding the fiscal year for which the fiscal year  
27 appropriation cap is being calculated, the Legislature may

1 appropriate from the Education Trust Fund Budget Stabilization  
2 Fund created in this chapter an amount equal to the difference  
3 between the preceding fiscal year's total appropriations from  
4 the Education Trust Fund and the fiscal year appropriation  
5 cap, provided that any such amount shall be in the  
6 determination of the Legislature not to compromise the fiscal  
7 integrity of the Fund to offset any future proration of the  
8 Education Trust Fund.

9 "(d) Amendment No. 803 to the Constitution of 1901  
10 requires an estimate of available revenue for the Education  
11 Trust Fund which is to be certified by the Finance Director  
12 and the Legislative Fiscal Officer prior to the third  
13 legislative day of each Regular Session. If, however, the  
14 average of the estimated available revenue is less than the  
15 fiscal year appropriation cap calculated in subsection (b),  
16 the Legislature shall appropriate no more than the lesser  
17 amount of the average of the estimated available revenue or  
18 the fiscal year appropriation cap as required to be determined  
19 by this Section."

20 "§29-9-4.

21 "There is hereby created in the State Treasury an  
22 Education Trust Fund Budget Stabilization Fund and an  
23 Education Trust Fund Capital and Technology Fund. Any monetary  
24 interest which accrues in the Education Trust Fund Budget  
25 Stabilization Fund shall be retained in the fund from year to  
26 year and shall be subject only to the provisions of this  
27 chapter. On or before November 15 of each fiscal year, if the

1 total revenues deposited into the Education Trust Fund during  
2 the immediately preceding fiscal year exceed the fiscal year  
3 appropriation cap for the immediately preceding fiscal year,  
4 the excess shall be transferred to the Education Trust Fund  
5 Rainy Day Account until the account has been repaid in full.  
6 If the account has been repaid in full, any excess remaining  
7 shall be transferred to the Education Trust Fund Budget  
8 Stabilization Fund and the Education Trust Fund Capital and  
9 Technology Fund created in this chapter. The transfers to the  
10 Education Trust Fund Budget Stabilization Fund and the  
11 Education Trust Fund Capital and Technology Fund shall be made  
12 annually as follows:

13 "(1) An amount equal to one percent of the previous  
14 year's Education Trust Fund appropriations shall be  
15 transferred to the Education Trust Fund Budget Stabilization  
16 Fund annually until the Fund reaches ten percent of the  
17 previous year's appropriations from the Education Trust Fund.

18 "(2) Funds in excess of those transferred in (1)  
19 shall be transferred to the Education Trust Fund Capital and  
20 Technology Fund each year. Amounts in the Education Trust Fund  
21 Capital and Technology Fund shall be appropriated for the  
22 planning, construction, reconstruction, enlargement,  
23 improvement, repair or renovation of facilities for public  
24 education purposes in the state, including the purchase of  
25 land and equipment for facilities, for existing debt payments  
26 related to facilities, for classroom instructional support as  
27 provided in Section 16-13-231(b) (2)c. and Section 16-13-231.3,

1 for insuring facilities, for transportation as provided in  
2 Section 16-13-233, for deferred maintenance and for the  
3 acquisition and/or purchase of education technology and  
4 equipment. These funds, however, shall not be used as a pledge  
5 for the issuance of new debt. No funds shall be appropriated  
6 until the balance of the Education Trust Fund Capital and  
7 Technology Fund at the end of the previous fiscal year equals  
8 or exceeds \$10 million. Amounts in the Education Trust Fund  
9 Capital and Technology Fund shall be budgeted and allotted in  
10 accordance with Sections 41-4-80 through 41-4-96 and Sections  
11 41-19-1 through 41-19-12, but shall not be limited by the  
12 fiscal year appropriation cap. until the Fund reaches an  
13 amount which equals 20 percent of the then current year's  
14 appropriations from the Education Trust Fund. After the  
15 balance in the Education Trust Fund Budget Stabilization Fund  
16 reaches a total of 20 percent, any excess remaining shall be  
17 distributed to the Education Trust Fund Capital Fund.

18 "(3) The annual appropriation of these funds for  
19 capital outlay purposes shall be divided between the public  
20 schools and institutions of higher education in the state in  
21 accordance with the percentage split between these two sectors  
22 of education as certified by the Legislative Fiscal Office at  
23 the end of the preceding fiscal year. Public schools shall be  
24 interpreted to include the Alabama School of Math and Science,  
25 the Alabama School of Fine Arts, the portion of the Alabama  
26 Institute for Deaf and Blind providing appropriate



1 Elementary/Secondary instruction, and may include the  
2 Department of Youth Services School District."

3 "§29-9-5.

4 ~~"(a)~~ Except as provided in Section 29-9-3, amounts  
5 in the Education Trust Fund Budget Stabilization Fund may be  
6 withdrawn only to prevent proration in the Education Trust  
7 Fund. The Governor must certify to the state Comptroller and  
8 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 30 days after the end  
19 of the fiscal year in which withdrawals are made.

20 ~~"(b) Amounts in the Education Trust Fund Capital~~  
21 ~~Fund 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 "§29-9-6.

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

13 Section 2. Sections 16-33C-14 and 16-33C-15 Code of  
14 Alabama 1975, are hereby repealed.

15 Section 3. Section 16-33C-16 is hereby amended to  
16 read as follows:

17 "§16-33C-16.

18 ~~"In addition to the appropriations made in Section~~  
19 ~~16-33C-14 and Section 16-33C-15, t~~ (a) There is annually  
20 appropriated from the Education Trust Fund to the PACT Trust  
21 Fund the following amounts in the following fiscal years:

22 (1) For the fiscal year ending 2016 -- ~~\$10,000,000~~  
23 ~~\$43,952,000~~ \$33,952,000;

24 (2) For the fiscal year ending 2017 -- ~~\$20,000,000~~  
25 ~~\$62,622,000~~ \$63,622,000;

26 (3) For the fiscal year ending 2018 -- ~~\$20,000,000~~  
27 ~~\$61,783,000~~ \$62,783,000;

1 (4) For the fiscal year ending 2019 -- ~~\$13,000,000~~  
2 ~~\$60,539,000~~ \$61,539,000.

3 (5) For the fiscal year ending 2020 -- \$53,738,300  
4 \$60,738,300 ;

5 (6) For the fiscal year ending 2021 -- \$31,881,600;

6 (7) For the fiscal year ending 2022 -- \$32,181,600;

7 (8) For the fiscal year ending 2023 -- \$33,494,400;

8 (9) For the fiscal year ending 2024 -- \$33,728,700;

9 (10) For the fiscal year ending 2025 -- \$38,449,500;

10 (11) For the fiscal year ending 2026 -- \$39,201,000;

11 (12) For the fiscal year ending 2027 -- \$32,500,000.

12 "(b) For Beginning with the fiscal year ending  
13 September 30, 2017, for budgetary purposes and annual budget  
14 calculations, forty-five percent (45%) of the appropriations  
15 made in this section shall be considered to be a portion of  
16 the funding received by colleges and universities, and the  
17 remainder shall be considered to be the same as appropriations  
18 made for debt service."

19 Section 4. The Legislature shall not appropriate any  
20 funds from any of the several clearing or holding accounts  
21 into which the Department of Revenue deposits tax revenues on  
22 a timely basis and from which the State Comptroller makes  
23 disbursements, which are limited by statutes to the purpose of  
24 legal expenditure of such tax revenues. Such accounts are not  
25 the end destination of such tax revenues, but a clearinghouse  
26 for immediate deposit of tax revenues into the State Treasury  
27 as a matter of convenience until the State Comptroller makes

1 such disbursements, including the processing of tax refunds as  
2 may be necessary. Nothing in this Section, however, shall be  
3 construed to limit the authority of the Legislature to amend  
4 current statutes to further provide for the distribution of  
5 tax revenues.

6 Section 5. All laws or parts of laws in direct  
7 conflict with this Act are hereby repealed.

8 Section 6. If a court of competent jurisdiction  
9 shall adjudge to be invalid or unconstitutional any clause,  
10 sentence, paragraph, section or part of this act, such  
11 judgment or decree shall not affect, impair, invalidate or  
12 nullify the remainder of this act, but the effect thereof  
13 shall be confined to the clause, sentence, paragraph, section,  
14 part of this act so adjudged to be invalid or  
15 unconstitutional.

16 Section 7. This act shall become effective upon its  
17 passage and approval by the Governor, or its otherwise  
18 becoming law.