

1 HB322
2 164443-3
3 By Representative Poole
4 RFD: Ways and Means Education
5 First Read: 18-MAR-15

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

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To provide further for the calculation of the annual
2 appropriation cap for the Education Trust Fund Rolling Reserve
3 Act and for the uses of revenues from the Education Trust Fund
4 Budget Stabilization Fund including payments to the PACT Fund
5 and to prohibit appropriations from holding or clearing
6 accounts.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 29-9-3 and 29-9-4, Code of
9 Alabama 1975, are hereby amended to read as follows:

10 "§29-9-3.

11 "(a) Notwithstanding any other provision of law to
12 the contrary, beginning with appropriations made for the
13 fiscal year ending September 30, 2013, appropriations from the
14 Education Trust Fund shall not exceed the fiscal year
15 appropriation cap.

16 "(b) The fiscal year appropriation cap for the
17 Education Trust Fund shall be equal to the sum of all of the
18 following:

19 "(1) The total of recurring revenues deposited into
20 the Education Trust Fund in the last completed fiscal year
21 preceding the date on which the fiscal year appropriation cap
22 is calculated.

23 "(2) An amount equal to the amount in subdivision
24 (1) multiplied by the average annual percent of change in the
25 recurring revenues deposited into the Education Trust Fund for
26 the 15 completed fiscal years preceding the date on which the
27 fiscal year appropriation cap is calculated.

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

11 ~~"(4) (3)~~ If new recurring revenue measures are
12 enacted that will be deposited into the Education Trust Fund,
13 or if existing revenue sources are amended to increase the
14 amount of money deposited into the Education Trust Fund, for
15 the first time during the year for which the fiscal year
16 appropriation cap is being calculated, then 95 percent of the
17 amount projected in the enacted fiscal note accompanying the
18 legislative act creating the new recurring revenue shall be
19 added as a part of the fiscal year appropriation cap. If a
20 recurring revenue source is removed from the Education Trust
21 Fund during the year for which the fiscal year appropriation
22 cap is being calculated, the negative impact, based on the
23 enacted fiscal note, of the removal of the recurring revenue
24 shall be included in the calculation of the fiscal year
25 appropriation cap.

26 ~~"(5) (4)~~ Nonrecurring revenue shall be added as a
27 part of the fiscal year appropriation cap for the fiscal year

1 in which the nonrecurring revenue is deposited into the
2 Education Trust Fund.

3 " (5) The amount required to be appropriated from
4 the Education Trust Fund to the Prepaid Affordable College
5 Tuition Program (PACT) pursuant to Code of Alabama 1975,
6 Sections 16-33C-14 through Section 16-33C-16.

7 "(c) The Director of Finance and the Director of the
8 Fiscal Office shall certify their computation of the fiscal
9 year appropriation cap at the same time as the certification
10 required by Amendment No. 803 to the Constitution of Alabama
11 of 1901. If the computation results in a fiscal year
12 appropriation cap that is less than the total appropriations
13 from the Education Trust Fund for the fiscal year immediately
14 preceding the fiscal year for which the fiscal year
15 appropriation cap is being calculated, the Legislature may
16 appropriate from the Education Trust Fund Budget Stabilization
17 Fund created in this chapter an amount equal to the difference
18 between the preceding fiscal year's total appropriations from
19 the Education Trust Fund and the fiscal year appropriation
20 cap, provided that any such amount shall be in the
21 determination of the Legislature not to compromise the fiscal
22 integrity of the Fund to offset any future proration of the
23 Education Trust Fund.

24 "(d) Amendment No. 803 to the Constitution of 1901
25 requires an estimate of available revenue for the Education
26 Trust Fund which is to be certified by the Finance Director
27 and the Legislative Fiscal Officer prior to the third

1 legislative day of each Regular Session. If, however, the
2 average of the estimated available revenue is less than the
3 fiscal year appropriation cap having being calculated in (c)
4 above, the Legislature shall appropriate no more than the
5 lesser amount of the average of the estimated available
6 revenue or the fiscal year appropriation cap as required to be
7 determined by this Section."

8 "§29-9-4.

9 There is hereby created in the State Treasury an
10 Education Trust Fund Budget Stabilization Fund and an
11 Education Trust Fund Capital Fund. Any monetary interest which
12 accrues in the Education Trust Fund Budget Stabilization Fund
13 shall be retained in the fund from year to year and shall be
14 subject only to the provisions of this chapter. On or before
15 November 15 of each fiscal year, if the total revenues
16 deposited into the Education Trust Fund during the immediately
17 preceding fiscal year exceed the fiscal year appropriation cap
18 for the immediately preceding fiscal year, the excess shall be
19 transferred to the Education Trust Fund Rainy Day Account
20 until the account has been repaid in full. If the account has
21 been repaid in full, any excess remaining shall be transferred
22 to the Education Trust Fund Budget Stabilization Fund and the
23 Education Trust Fund Capital Fund created in this chapter. The
24 transfers to the Education Trust Fund Budget Stabilization
25 Fund and the Education Trust Fund Capital Fund shall be made
26 annually as follows:

1 "(1) An amount equal to one percent of the previous
2 year Education Trust Fund appropriations shall be transferred
3 to the Budget Stabilization Fund. An additional one percent of
4 each previous years' appropriation shall be transferred
5 annually until the fund reaches five percent of the previous
6 year appropriations from the Education Trust Fund.

7 "(2) Funds in excess of those transferred in (1)
8 shall be transferred to the Education Trust Fund Capital Fund
9 each year. These funds shall be available as a supplemental
10 appropriation of non-recurring revenues in the next succeeding
11 fiscal year for capital outlay purposes as provided below. The
12 purposes for which entities receive appropriations for capital
13 outlay shall include, but not be limited to, the planning,
14 construction, reconstruction, enlargement, improvement, repair
15 or renovation of facilities, for the purchase of land for
16 facilities, for existing debt payments related to facilities,
17 for insuring facilities, for transportation, for deferred
18 maintenance and for the acquisition and/or purchase of
19 education technology and equipment. These funds, however,
20 shall not be used as a pledge for any issuance of new debt. No
21 funds shall be appropriated until the balance of the Education
22 Trust Fund Capital Fund at the end of the previous fiscal year
23 equals or exceeds \$10 million.

24 "The appropriation of these funds for capital outlay
25 purposes shall be divided between Elementary/Secondary and
26 Higher Education in accordance with the percentage split
27 between these two sectors of education as certified by the

1 Legislative Fiscal Office at the end of the preceding fiscal
2 year. Unless specifically provided otherwise, the allocation
3 within each sector shall be by formulae developed by the
4 Council of University Presidents as defined in §16-5-5 for
5 Higher Education, and the State Board of Education as defined
6 in §16-3-1 for Elementary/Secondary Schools.
7 Elementary/Secondary Schools shall be interpreted to include
8 the High School of Math and Science, the High School for Fine
9 Arts, the portion of the Institute for Deaf and Blind
10 providing appropriate Elementary/Secondary instruction, and
11 may include the Department of Youth Services School District."

12 ~~until the Fund reaches an amount which equals 20~~
13 ~~percent of the then current year's appropriations from the~~
14 ~~Education Trust Fund. After the balance in the Education Trust~~
15 ~~Fund Budget Stabilization Fund reaches a total of 20 percent,~~
16 ~~any excess remaining shall be distributed to the Education~~
17 ~~Trust Fund Capital Fund.~~

18 Section 2. Sections 16-33C-14, 16-33C-15, and
19 16-33C-16 Code of Alabama 1975, are amended to read as
20 follows:

21 "§16-33C-14.

22 "(a) There is annually appropriated from the
23 Education Trust Fund to the Trust Fund of the Prepaid
24 Affordable College Tuition (PACT) Program the following
25 amounts in the following fiscal years:

26 "(1) For the fiscal year ending 2015 -- \$23,558,000

27 "(2) For the fiscal year ending 2016 -- \$23,952,000

1 "(3) For the fiscal year ending 2017 -- \$22,622,000

2 "(4) For the fiscal year ending 2018 -- \$41,783,000

3 "(5) For the fiscal year ending 2019 -- \$42,539,000

4 "(6) For the fiscal year ending 2020 -- \$81,646,000

5 "~~(b) These appropriations represent an amount that~~
6 ~~as of May 1, 2010, is less than or equal to the difference~~
7 ~~between the Education Trust Fund's portion of the FY 2014 debt~~
8 ~~service obligations of the Alabama Public School and College~~
9 ~~Authority (APSCA) and the Education Trust Fund's portion of~~
10 ~~the debt service obligations of the APSCA for the applicable~~
11 ~~fiscal year."~~

12 "\$16-33C-15.

13 "(a) In addition to the appropriations made in
14 Section 16-33C-14, there is also annually appropriated from
15 the Education Trust Fund to the PACT Trust Fund the following
16 amounts in the following fiscal years:

17 "(1) For the fiscal year ending 2020 -- \$7,092,300

18 "(2) For the fiscal year ending 2021 -- \$31,881,600

19 "(3) For the fiscal year ending 2022 -- \$32,181,600

20 "(4) For the fiscal year ending 2023 -- \$33,494,400

21 "(5) For the fiscal year ending 2024 -- \$33,728,700

22 "(6) For the fiscal year ending 2025 -- \$38,449,500

23 "(7) For the fiscal year ending 2026 -- \$39,201,000

24 "(8) For the fiscal year ending 2027 -- \$32,500,000

25 "~~(b) These appropriations represent an amount that~~
26 ~~as of May 1, 2010, is less than or equal to 30 percent of the~~
27 ~~difference between the Education Trust Fund's portion of the~~

1 ~~FY 2014 debt service obligations of the Alabama Public School~~
2 ~~and College Authority (APSCA) and the Education Trust Fund's~~
3 ~~portion of the debt service obligations of the APSCA for the~~
4 ~~applicable fiscal year. Traditionally, approximately 70~~
5 ~~percent of the appropriations in the annual Education Trust~~
6 ~~Fund budget have been allocated to agencies and entities~~
7 ~~providing educational services for K-12 students while~~
8 ~~approximately 30 percent of the appropriations in the annual~~
9 ~~Education Trust Fund budget have been allocated to agencies~~
10 ~~and entities providing postsecondary educational services. The~~
11 ~~appropriations made in subsection (a) represent, as of May 1,~~
12 ~~2010, the portion of the difference between the Education~~
13 ~~Trust Fund's portion of the FY 2014 debt service obligations~~
14 ~~of the Alabama Public School and College Authority (APSCA) and~~
15 ~~the Education Trust Fund's portion of the debt service~~
16 ~~obligations of the APSCA for the applicable fiscal year that~~
17 ~~would normally be appropriated to agencies and entities~~
18 ~~providing postsecondary educational services. As a result, the~~
19 ~~remaining 70 percent of the difference between the Education~~
20 ~~Trust Fund's portion of the FY 2014 debt service obligations~~
21 ~~of the Alabama Public School and College Authority (APSCA) and~~
22 ~~the Education Trust Fund's portion of the debt service~~
23 ~~appropriation to APSCA for the applicable fiscal year shall be~~
24 ~~appropriated to K-12. Appropriations made in this section~~
25 ~~shall be appropriated entirely from funds that would otherwise~~
26 ~~be appropriated for or received by colleges and universities.~~
27 ~~For budgetary purposes and calculations, the appropriations~~

1 ~~made in this section shall be considered to be a portion of~~
2 ~~the funding received by colleges and universities. In no event~~
3 ~~shall the K-12 portions of the Education Trust Fund budget be~~
4 ~~reduced or altered in any manner as a result of appropriations~~
5 ~~made in this section."~~

6 Section 3. The several clearing or holding accounts
7 into which the Department of Revenue deposits tax revenues in
8 a timely basis and from which the State Comptroller makes
9 disbursements, said disbursement are limited by statutes to
10 the purpose of legal expenditure of such tax revenues. Such
11 accounts are not the end destination of such tax revenues, but
12 a clearinghouse for immediate deposit of tax revenues into the
13 State Treasury as a matter of convenience until the State
14 Comptroller implements such statutes, including the processing
15 of tax refunds as may be necessary. Appropriations from these
16 accounts shall not be made by the Legislature in any
17 appropriations bill. Nothing in this Section, however, shall
18 be construed to limit the authority of the Legislature to
19 amend current statutes to further provide for the distribution
20 of tax revenues should an Act of the Legislature be approved
21 by the Governor, or otherwise becoming law.

22 Section 4. All laws or parts of laws in direct
23 conflict with this Act are hereby repealed.

24 Section 5. If a court of competent jurisdiction
25 shall adjudge to be invalid or unconstitutional any clause,
26 sentence, paragraph, section or part of this act, such
27 judgment or decree shall not affect, impair, invalidate or

1 nullify the remainder of this act, but the effect thereof
2 shall be confined to the clause, sentence, paragraph, section,
3 part of this act so adjudged to be invalid or
4 unconstitutional.

5 Section 6. This act shall become effective upon its
6 passage and approval by the Governor, or its otherwise
7 becoming law.