

1 SB231  
2 145809-2  
3 By Senators Allen, Orr and Dial (Constitutional Amendment)  
4 RFD: Finance and Taxation General Fund  
5 First Read: 12-MAR-15

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8 SYNOPSIS: This bill would propose an amendment to the  
9 Constitution of Alabama of 1901, to create the  
10 Alabama Legacy Trust Fund.

11 The proposed amendment would require the  
12 Alabama Trust Fund Board of Trustees to administer  
13 the fund.

14 The proposed amendment provides for the  
15 distribution of certain payments received by the  
16 state from settlements and other monies.

17 The proposed amendment also provides that  
18 trust capital be held in perpetual trust and  
19 provides for the distribution of trust income.  
20

21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 Proposing an amendment to the Constitution of  
26 Alabama of 1901, to create the Alabama Legacy Trust Fund; to  
27 provide for the distribution of payments from settlements and

1 other monies; to provide for the holding of trust capital in  
2 perpetual trust; and to provide for the distribution of trust  
3 income.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. The following amendment to the  
6 Constitution of Alabama of 1901, as amended, is proposed and  
7 shall become valid as a part thereof when approved by a  
8 majority of the qualified electors voting thereon and in  
9 accordance with Sections 284 and 285 of the Constitution of  
10 Alabama of 1901, now appearing as Sections 284 and 285 of  
11 Official Recompilation of the Constitution of Alabama of 1901  
12 as amended:

13 PROPOSED AMENDMENT

14 Section I. For the continuing benefit of the State  
15 of Alabama and the citizens of the state, there is hereby  
16 created the Alabama Legacy Trust Fund, an irrevocable  
17 permanent trust fund, funded and administered in accordance  
18 with this amendment.

19 Section II. For the purposes of this amendment, the  
20 following terms shall have the following meanings:

21 (a) BOARD. The Board of Trustees of the Alabama  
22 Trust Fund.

23 (b) FISCAL YEAR. The fiscal year of the state as may  
24 from time to time be provided by law.

25 (c) STATE. The State of Alabama.

26 (d) SETTLEMENT PROCEEDS. Any payment of \$2,000,000  
27 or more received by the state or any agency of the state

1 pursuant to any court order or a negotiated settlement where  
2 the state or agency thereof is a party. The term shall also  
3 mean any payments that would have previously been distributed  
4 pursuant to Section 36-15-4.2, Code of Alabama, 1975.

5 (e) TRUST CAPITAL. All assets of the trust fund  
6 other than trust income.

7 (f) TRUSTEE. A member of the Board of Trustees of  
8 the Alabama Trust Fund.

9 (g) TRUST FUND. The Alabama Legacy Trust Fund.

10 (h) TRUST INCOME. The net income received by the  
11 state from the investment and reinvestment of assets of the  
12 trust fund, determined in accordance with this amendment.

13 Section III. The trust fund shall be under the  
14 management and control of the Board and all powers necessary  
15 or appropriate for the management and control of the trust  
16 fund shall be solely vested in the Board. All powers and  
17 duties granted to the Board for the investment of monies in  
18 the Alabama Trust Fund shall also apply to investment of  
19 monies in the Legacy Trust Fund.

20 Section IV. (a) Any settlement proceeds shall first  
21 be used to repay the Alabama Trust Fund Rainy Day Account for  
22 the \$161,565,874 transferred to the State General Fund in  
23 fiscal year 2010 pursuant to Amendment 803 of the Constitution  
24 of Alabama of 1901 and to repay the Alabama Trust Fund for the  
25 \$437,390,829 transferred to the State General Fund over fiscal  
26 years 2013, 2014 and 2015 pursuant to Amendment 856 of the  
27 Constitution of Alabama of 1901. Any remaining settlement

1 proceeds, after said repayment, shall be deposited into the  
2 Alabama Legacy Trust Fund.

3 (b) The trust fund shall be augmented by (1) other  
4 moneys or assets as the Legislature may by law appropriate and  
5 transfer to the trust fund as a permanent part thereof; (2)  
6 other moneys or assets as may be contributed to the trust fund  
7 from any source; and (3) trust income reinvested in the trust  
8 fund as provided in Section V of this amendment.

9 Section V. (a) Assets in the Fund shall be held in  
10 perpetual trust and shall not be appropriated by the  
11 Legislature or expended or disbursed for any purpose other  
12 than to acquire eligible investments in accordance with this  
13 amendment. All eligible investments acquired, in whole or in  
14 part, with moneys constituting part of the trust capital shall  
15 to the extent of such moneys constitute part of the trust  
16 capital. Beginning the first year the receipts are deposited  
17 into the fund, five percent of the market value of invested  
18 assets shall be used for distribution. The first year after  
19 the receipts are deposited into the fund, five percent of the  
20 average of the market value of the initial investment and the  
21 prior year's invested assets shall be used for distribution.  
22 The second year after the receipts are deposited into the  
23 fund, five percent of the average of the market value of the  
24 initial investment and two prior year's invested assets shall  
25 be used for distribution. Beginning the third year after  
26 receipts are deposited into the funds, and each fiscal year  
27 thereafter, five percent (5%) of the average market value of

1 invested assets of the Legacy Trust Fund as of the end of the  
2 three fiscal years ending one, two, and three years prior to  
3 the beginning of the fiscal year for which the distribution is  
4 being made shall be used for distribution. Distribution shall  
5 be as follows: 80 percent of 5% of the average market value  
6 invested shall be transferred to the State General Fund, 10  
7 percent shall be distributed to the Alabama Capital  
8 Improvement Trust Fund as set out in Section 219.04 of the  
9 Constitution of Alabama of 1901, (Amendment 666), and 10  
10 percent shall remain in the Alabama Legacy Trust Fund.

11 (b) To the extent appropriate and not at the time  
12 prohibited by law, the Board shall use the facilities of the  
13 Finance Director in the administration of the trust fund,  
14 including, but not limited to, the keeping of records, the  
15 management of bank accounts, the transfer of funds, and the  
16 safekeeping of securities evidencing investments.

17 (c) An annual audit of the trust fund shall be  
18 performed for each fiscal year by the Department of Examiners  
19 of Public Accounts, or, in the discretion of the Board, by an  
20 independent certified public accounting firm. A report of each  
21 audit shall be prepared in accordance with applicable  
22 accounting principles. The Board shall prepare and publicize  
23 financial and other information concerning the trust fund as  
24 may be provided by law. In the absence of any law directing  
25 the preparation and publication of reports, the Board shall  
26 prepare or cause to be prepared and publicize, within 30 days

1 after the end of each quarterly period in each fiscal year, a  
2 report containing all of the following:

3 (1) A statement of the trust capital then held in  
4 the trust fund showing any changes since the last quarterly  
5 report.

6 (2) A statement of the trust income received during  
7 the quarterly period in question.

8 (3) A statement of the investments then held in the  
9 trust fund including descriptions and respective values.

10 (4) A statement of the trust income received to date  
11 during the current fiscal year.

12 (5) Any other information determined by the Board to  
13 reflect a full and complete disclosure of the financial  
14 operations of the trust fund.

15 Section VI. No trustee shall be personally liable  
16 for any liability, loss, or expense suffered by the trust fund  
17 unless the liability, loss, or expense results from the  
18 willful misconduct or wrongdoing of the trustee.

19 Section VII. This amendment shall be self-executing.  
20 The Legislature may enact laws supplemental to this amendment  
21 that are in furtherance of the purposes and objectives of this  
22 amendment and not inconsistent with this amendment.

23 Section VIII. All laws or parts of laws in conflict  
24 with this amendment are repealed, including, without  
25 limitation, Section 36-15-4.2, Code of Alabama 1975, as  
26 amended.

1           Section 2. An election upon the proposed amendment  
2 shall be held in accordance with Sections 284 and 285 of the  
3 Constitution of Alabama of 1901, now appearing as Sections 284  
4 and 285 of Official Recompilation of the Constitution of  
5 Alabama of 1901 as amended, and the election laws of this  
6 state.

7           Section 3. The appropriate election official shall  
8 assign a ballot number for the proposed constitutional  
9 amendment on the election ballot and shall set forth the  
10 following description of the substance or subject matter of  
11 the proposed constitutional amendment:

12                   "Proposing an amendment to the Constitution of  
13 Alabama of 1901, to create the Alabama Legacy Trust Fund and  
14 to provide for the distribution of all settlement proceeds by  
15 the state to be deposited into the trust fund, to be held in  
16 perpetual trust for the benefit of the State of Alabama and  
17 its citizens.

18                   "Proposed by Act \_\_\_\_\_."

19           This description shall be followed by the following  
20 language:

21                   "Yes ( ) No ( )."