

1 SB147  
2 140050-4  
3 By Senators Orr and Pittman (Constitutional Amendment)  
4 RFD: Finance and Taxation General Fund  
5 First Read: 07-FEB-12

1 SB147

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4 ENROLLED, An Act,

5 To propose an amendment to the Constitution of  
6 Alabama of 1901, to provide a new procedure for distributions  
7 made from the Alabama Trust Fund beginning with the 2012-2013  
8 fiscal year; to provide further for distributions made from  
9 the County and Municipal Government Capital Improvement Trust  
10 Fund; to remove the requirement for additional transfers to  
11 the County and Municipal Government Capital Improvement Trust  
12 Fund under certain circumstances; to create an advisory  
13 committee for the County and Municipal Government Capital  
14 Improvement Trust Fund; to provide for the transfer of funds  
15 from the Alabama Trust Fund to the State General Fund  
16 beginning with the state's 2012-2013 fiscal year and  
17 concluding with the state's 2014-2015 fiscal year; to repeal  
18 conflicting provisions of the Constitution of Alabama of 1901;  
19 and to repeal Sections 11-29-5 and 11-66-5, Code of Alabama  
20 1975.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. The following amendment to the  
23 Constitution of Alabama of 1901, as amended, is proposed and  
24 shall become valid as a part thereof when approved by a  
25 majority of the qualified electors voting thereon and in

1 accordance with Sections 284, 285, and 287 of the Constitution  
2 of Alabama of 1901, as amended:

3 PROPOSED AMENDMENT

4 Section 1. (a) Notwithstanding any other provision  
5 of this constitution, beginning with the state's 2012-2013  
6 fiscal year, the following distributions shall be made  
7 annually from the Alabama Trust Fund in lieu of any other  
8 distributions of trust income, realized capital gains, or  
9 unrealized capital gains provided by law:

10 (1) An amount equal to thirty-three percent (33%) of  
11 the oil and gas capital payments paid into the Alabama Trust  
12 Fund for the fiscal year ending one year prior to the  
13 beginning of the fiscal year for which the distribution is  
14 being made plus five percent (5%) of the average market value  
15 of invested assets of the Alabama Trust Fund as of the end of  
16 the three fiscal years ending one, two, and three years prior  
17 to the beginning of the fiscal year for which the distribution  
18 is being made shall be distributed as follows:

19 a. Ten percent (10%) of the amount distributed shall  
20 be paid to the County Government Capital Improvement Fund and  
21 shall be distributed pursuant to Section 11-29-6, Code of  
22 Alabama 1975, as amended.

23 b. Ten percent (10%) of the amount distributed shall  
24 be paid to the Municipal Government Capital Improvement Fund

1 and shall be distributed pursuant to Section 11-66-6, Code of  
2 Alabama 1975, as amended.

3 c. If the constitutional amendment proposed by Act  
4 2011-315 is ratified, then ten percent (10%) of the amount  
5 distributed, but not more than fifteen million dollars  
6 (\$15,000,000) in any one fiscal year, shall be paid to the  
7 Forever Wild Land Trust. This distribution shall continue  
8 through the fiscal year ending September 30, 2032, and shall  
9 not be made after the end of that fiscal year. If the  
10 constitutional amendment proposed by Act 2011-315 is not  
11 ratified, then one percent (1%) of the amount distributed, but  
12 not more than one million dollars (\$1,000,000) in any one  
13 fiscal year, shall be paid to the Forever Wild Land Trust  
14 Stewardship Account.

15 d. One percent (1%) of the amount distributed, but  
16 not more than five million dollars (\$5,000,000) in any one  
17 fiscal year, shall be paid to the Alabama Senior Services  
18 Trust Fund.

19 e. The remainder of the amount distributed shall be  
20 paid to the State General Fund.

21 (b) Beginning with the state's 2012-2013 fiscal  
22 year, an amount equal to five percent (5%) of the average  
23 market value of invested assets of the County and Municipal  
24 Government Capital Improvement Trust Fund as of the end of the  
25 three fiscal years ending one, two, and three years prior to

1 the beginning of the fiscal year for which the distribution is  
2 being made shall be distributed as follows:

3 (1) Fifty percent (50%) of the amount distributed  
4 shall be paid to the County Government Capital Improvement  
5 Fund and shall be distributed pursuant to Section 11-29-6,  
6 Code of Alabama 1975, as amended.

7 (2) Fifty percent (50%) of the amount distributed  
8 shall be paid to the Municipal Government Capital Improvement  
9 Fund and shall be distributed pursuant to Section 11-66-6,  
10 Code of Alabama 1975, as amended.

11 (c) Notwithstanding the provisions of subsections  
12 (a) and (b) of this Section, if market or financial conditions  
13 dictate that distributing the entire amounts authorized by  
14 this amendment would be detrimental to the preservation of the  
15 invested assets of the Alabama Trust Fund, the preservation of  
16 the invested assets of the County and Municipal Government  
17 Capital Improvement Trust Fund, or both, the Board of Trustees  
18 of the Alabama Trust Fund in its sole discretion may, by a  
19 two-thirds recorded vote of the entire membership of the  
20 Board, elect to distribute a smaller percentage of the oil and  
21 gas capital payments, a smaller percentage of the average  
22 amount of invested assets, or both. The Board shall make this  
23 election at least six months prior to the beginning of the  
24 fiscal year for which the distributions will be made.

1           (d) For purposes of this amendment, "invested  
2 assets" means all assets which are invested in accordance with  
3 the investment policy statement adopted by the Board of  
4 Trustees of the Alabama Trust Fund. Invested assets shall not  
5 include investments in land or properties acquired for the  
6 Forever Wild Land Trust and vested in the Alabama Trust Fund  
7 and shall not include any outstanding and unpaid amounts due  
8 to the Education Trust Fund Rainy Day Account or to the  
9 General Fund Rainy Day Account.

10           Section 2. A County and Municipal Government Capital  
11 Improvement Trust Fund Advisory Committee is created. The  
12 Committee shall be composed of three members appointed by the  
13 Alabama League of Municipalities and three members appointed  
14 by the Association of County Commissions of Alabama. The  
15 Committee shall serve in an advisory role, and the Board of  
16 Trustees of the Alabama Trust Fund shall define the duties of  
17 the Committee.

18           Section 3. Beginning with the state's 2012-2013  
19 fiscal year, whenever funds are withdrawn from the Education  
20 Trust Fund Rainy Day Account or the General Fund Rainy Day  
21 Account, there shall not be any additional transfer of funds  
22 into the County and Municipal Government Capital Improvement  
23 Trust Fund, and investment income earned on amounts repaid to  
24 the Education Trust Fund Rainy Day Account and the General

1 Fund Rainy Day Account shall not be distributed to the State  
2 General Fund.

3 Section 4. Beginning with the state's 2012-2013  
4 fiscal year and continuing through the state's 2014-2015  
5 fiscal year, there is hereby transferred \$145,796,943 annually  
6 to the State General Fund from the Alabama Trust Fund.

7 Section 5. All laws or parts of laws in conflict  
8 with this amendment are repealed, including, but not limited  
9 to: Those portions of Amendments 450, 543, and 666 to the  
10 Constitution of Alabama of 1901, relating to the distribution  
11 of trust income, realized capital gains, and unrealized  
12 capital gains; Amendment 668 to the Constitution of Alabama of  
13 1901, relating to the distribution of trust income; those  
14 portions of Amendment 803 to the Constitution of Alabama of  
15 1901, relating to additional transfers to the County and  
16 Municipal Government Capital Improvement Fund and the  
17 distribution of investment income on repayments to the  
18 Education Trust Fund and State General Fund Rainy Day  
19 Accounts; and Sections 11-66-5 and 11-29-5 of the Code of  
20 Alabama 1975, as amended, relating to appropriations of trust  
21 income to the County and Municipal Government Capital  
22 Improvement Trust Funds.

23  
24 END OF PROPOSED AMENDMENT

1           Section 2. A special election upon the proposed  
2 amendment shall be held on September 18, 2012 in accordance  
3 with Sections 284 and 285 of the Constitution of Alabama of  
4 1901, now appearing as Sections 284 and 285 of the Official  
5 Recompilation of the Constitution of Alabama of 1901, as  
6 amended, and the election laws of this 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 provide adequate funding for the State  
14 General Fund budget, to prevent the mass release of prisoners  
15 from Alabama prisons, and to protect critical health services  
16 to Alabama children, elderly, and mothers by transferring  
17 funds from the Alabama Trust Fund to the State General Fund  
18 beginning with the state's 2012-2013 fiscal year and  
19 concluding with the state's 2014-2015 fiscal year; to provide  
20 a new procedure for distributions made from the Alabama Trust  
21 Fund beginning 2012-2013 fiscal year; to create a County and  
22 Municipal Government Capital Improvement Trust Fund advisory  
23 committee; and to provide further for distributions made from  
24 the County and Municipal Government Capital Improvement Trust  
25 Fund.



1 "Proposed by Act \_\_\_\_\_."

2 This description shall be followed by the following

3 language:

4 "Yes ( ) No ( )."

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB147

Senate 12-APR-12

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Amended and passed 16-MAY-12

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Senate concurred in House amendment 16-MAY-12

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By: Senator Orr