

1 SB580
2 142250-1
3 By Senators Bedford, Keahey, Fielding, Coleman, Irons,
4 Beasley, Figures and Ross
5 RFD: Finance and Taxation Education
6 First Read: 02-MAY-12

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8 SYNOPSIS: This bill would establish an in lieu of
9 payment based on amounts exceeding amounts
10 appropriated from the Education Trust Fund pursuant
11 to Act 2007-361, 2007 Regular Session, which would
12 otherwise be required for repayment of the
13 Education Trust Fund Rainy Day Account. The in lieu
14 of payment would be used for the benefit of the
15 State General Fund.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Sections 29-9-2 and 29-9-3 of the Code of
22 Alabama 1975, relating to the fiscal year appropriation cap
23 for the Education Trust Fund rolling reserve; to provide for
24 an alternative schedule of payments to the Education Trust
25 Fund Rainy Day Account, by allowing for an in lieu of payment
26 to be made to the State General Fund; to provide for the

1 restoration to the Education Trust Fund of an amount up to and
2 including the appropriation level as appropriated under Act
3 2007-361, 2007 Regular Session; and to add Section 29-9-4.1 to
4 the Code of Alabama 1975, relating to the Education Trust Fund
5 and the State General Fund, to provide that revenues in excess
6 of the fiscal year appropriation cap for the Education Trust
7 Fund rolling reserve may be transferred to the State General
8 Fund and to provide a source for repayment to the Education
9 Trust Fund.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 29-9-2 and 29-9-3 of the Code of
12 Alabama 1975, are amended to read as follows:

13 "§29-9-2.

14 "For the purposes of this chapter, the following
15 terms shall have the following meanings:

16 "(1) ALABAMA TRUST FUND. The Alabama Trust Fund
17 created by Amendment No. 450 to the Constitution of Alabama of
18 1901.

19 "(2) EDUCATION TRUST FUND. An account in the State
20 Treasury into which are deposited certain revenues paid to the
21 State of Alabama that are earmarked or set aside for
22 appropriation for public educational purposes.

23 "(3) EDUCATION TRUST FUND RAINY DAY ACCOUNT. The
24 special account created within the Alabama Trust Fund by
25 Amendment No. 803 to the Constitution of Alabama of 1901.

1 "(4) FISCAL YEAR. The fiscal year of the State of
2 Alabama that begins on October 1 and ends on September 30.

3 "(5) FISCAL YEAR APPROPRIATION CAP. The maximum
4 amount of appropriations that may be made from the Education
5 Trust Fund for any fiscal year pursuant to this chapter.

6 "(6) IN LIEU OF PAYMENT. An amount dedicated for the
7 repayment to the Education Trust Fun Rainy Day Account that is
8 used for the benefit of the State General Fund.

9 "~~(6)~~ (7) NEW RECURRING REVENUE. Revenue of any kind
10 or type constituting a new or enhanced annual source of money
11 that has been enacted, established, or provided for prior to
12 the first day of the fiscal year of which it is to first be
13 included in the calculation of the Fiscal Year Appropriation
14 Cap for the Education Trust Fund.

15 "~~(7)~~ (8) NONRECURRING REVENUE. Revenue of any kind or
16 type that is deposited into the Education Trust Fund and that
17 is not recurring revenue. Any balance remaining in the
18 Education Trust Fund at the end of any fiscal year, and
19 transfers from the Education Trust Fund Proration Prevention
20 Account, the Education Trust Fund Rainy Day Account, and the
21 Education Trust Fund Budget Stabilization Fund shall be
22 nonrecurring revenue.

23 "~~(8)~~ (9) RECURRING REVENUE. Any permanent and
24 continuing source of revenue of any kind or type that has been
25 enacted, established, or provided for in fiscal years prior to
26 the fiscal year for which it is to be included in the

1 calculation of the fiscal year appropriation cap for the
2 Education Trust Fund. Recurring revenue shall not include any
3 balance remaining in the Education Trust Fund at the end of
4 any fiscal year. Once a new recurring revenue produces a
5 source of revenue for one complete fiscal year, it becomes a
6 recurring revenue.

7 "§29-9-3.

8 "(a) Notwithstanding any other provision of law to
9 the contrary, beginning with appropriations made for ~~the~~ any
10 fiscal year in which Education Trust Fund appropriations will
11 exceed the amount as appropriated under Act 2007-361 from the
12 Education Trust Fund or in any fiscal year when the Education
13 Trust Fund repayment to the Education Trust Fund Rainy Day
14 Account or in lieu of repayment to the General Fund pursuant
15 to Section 29-9-4.1 does not equal at least one hundred
16 million dollars (\$100,000,000) or more in annual repayment
17 beginning with fiscal year ending September 30, 2013,
18 appropriations from the Education Trust Fund shall not exceed
19 the fiscal year appropriation cap.

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

23 "(1) The total of recurring revenues deposited into
24 the Education Trust Fund in the last completed fiscal year
25 preceding the date on which the fiscal year appropriation cap
26 is calculated.

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

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

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

1 cap is being calculated, the negative impact, based on the
2 enacted fiscal note, of the removal of the recurring revenue
3 shall be included in the calculation of the fiscal year
4 appropriation cap.

5 "(5) Nonrecurring revenue shall be added as a part
6 of the fiscal year appropriation cap for the fiscal year in
7 which the nonrecurring revenue is deposited into the Education
8 Trust Fund.

9 "(c) The Director of Finance and the Director of the
10 Fiscal Office shall certify their computation of the fiscal
11 year appropriation cap at the same time as the certification
12 required by Amendment No. 803 to the Constitution of Alabama
13 of 1901. If the computation results in a fiscal year
14 appropriation cap that is less than the total appropriations
15 from the Education Trust Fund for the fiscal year immediately
16 preceding the fiscal year for which the fiscal year
17 appropriation cap is being calculated, the Legislature may
18 appropriate from the Education Trust Fund Budget Stabilization
19 Fund created in this chapter an amount equal to the difference
20 between the preceding fiscal year's total appropriations from
21 the Education Trust Fund and the fiscal year appropriation
22 cap."

23 Section 2. Section 29-9-4.1 is added to the Code of
24 Alabama 1975, to read as follows:

25 §29-9-4.1.

1 (a) The Legislature may transfer a portion of the
2 excess revenues in the Education Trust Fund to the General
3 Fund in lieu of payment to the Education Rainy Day Account or
4 Education Trust Fund Stabilization Account.

5 (b) The Education Trust Fund shall have first
6 priority on any funds received by the state from litigation
7 involving the 2010 gulf oil spill for any amounts transferred
8 to the General Fund pursuant to subsection (a).

9 Section 3. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.