

1 SB277
2 115884-1
3 By Senator French
4 RFD: Finance and Taxation Education
5 First Read: 19-JAN-10

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8 SYNOPSIS: This bill provides for the maximum amount
9 that may be appropriated from the Education Trust
10 Fund; and provides for the establishment of a
11 budget stabilization fund, a capital fund, a
12 pension liability fund, and a retiree health
13 benefits liability fund for the Education Trust
14 Fund.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 To provide for the maximum amount that may be
21 appropriated from the Education Trust Fund; and to provide for
22 the establishment of a budget stabilization fund, a capital
23 fund, a pension liability fund, and a retiree health benefits
24 liability fund for the Education Trust Fund.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. This act shall be known and may be cited
27 as "The Education Trust Fund Rolling Reserve Act."

1 Section 2. For the purposes of this act, the
2 following terms shall have the following meanings:

3 (1) ALABAMA TRUST FUND. The Alabama Trust Fund
4 created by Amendment No. 450 to the Constitution of Alabama of
5 1901.

6 (2) EDUCATION TRUST FUND. An account in the State
7 Treasury into which are deposited certain revenues paid to the
8 State of Alabama that are earmarked or set aside for
9 appropriation for public educational purposes.

10 (3) FISCAL YEAR. The fiscal year of the State of
11 Alabama that begins on October 1 and ends on September 30.

12 (4) FISCAL YEAR APPROPRIATION CAP. The maximum
13 amount of appropriations that may be made from the Education
14 Trust Fund in any fiscal year pursuant to the provisions of
15 Section 2 of this act.

16 (5) NEW RECURRING REVENUE. Revenue of any kind or
17 type constituting a new annual source of money that has been
18 enacted, established or provided for prior to the first day of
19 the fiscal year of which it is to first be included in the
20 calculation of the Fiscal Year Appropriation Cap for the
21 Education Trust Fund.

22 (6) NONRECURRING REVENUE. Revenue of any kind or
23 type that is deposited into the Education Trust Fund and that
24 is not recurring revenue. Any balance remaining in the
25 Education Trust Fund at the end of any fiscal year and
26 transfers from the Education Trust Fund Proration Prevention
27 Account, the Education Trust Fund Rainy Day Account and the

1 Education Trust Fund Budget Stabilization Fund shall be
2 nonrecurring revenue.

3 (7) RECURRING REVENUE. Revenue of any kind or type
4 that has been enacted, established or provided for in fiscal
5 years prior to the fiscal year for which it is to be included
6 in the calculation of the Fiscal Year Appropriation Cap for
7 the Education Trust Fund. Recurring revenue shall not include
8 any balance remaining in the Education Trust Fund at the end
9 of any fiscal year. Once a new recurring revenue produces a
10 source of revenue for one complete fiscal year, it becomes a
11 recurring revenue.

12 Section 3. (a) Notwithstanding any other provision
13 of law, beginning with appropriations made for the fiscal year
14 ending September 30, 2012, appropriations from the Education
15 Trust Fund shall not exceed the Fiscal Year Appropriation Cap.

16 (b) The Fiscal Year Appropriation Cap (hereinafter
17 "the Cap") for the Education Trust Fund shall be computed as
18 follows:

19 (1) The Cap base shall be the total of recurring
20 revenues deposited into the Education Trust Fund in the last
21 fiscal year preceding the date on which the Cap is calculated.

22 (2) The Cap base shall be adjusted, either up or
23 down, by the average annual percent of change in the recurring
24 revenues deposited into the Education Trust Fund for the
25 fifteen completed fiscal years preceding the date on which the
26 cap is calculated.

1 (3) The following amounts shall be added to the Cap
2 for the fiscal years indicated only.

3 (a) For appropriations made for the fiscal year
4 ending September 30, 2012, one hundred percent (100%) of the
5 growth in revenues to the Education Trust Fund during the
6 fiscal year ending September 30, 2010.

7 (b) For appropriations made for the fiscal year
8 ending September 30, 2013, fifty percent (50%) of the growth
9 in revenues to the Education Trust Fund during the fiscal year
10 ending September 30, 2011.

11 (c) For appropriations made for the fiscal year
12 ending September 30, 2014, twenty-five percent (25%) of the
13 growth in revenues to the Education Trust Fund during the
14 fiscal year ending September 30, 2012.

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

1 (5) Nonrecurring revenue shall be added as a part of
2 the Cap for the fiscal year in which the nonrecurring revenue
3 is deposited into the Education Trust Fund.

4 (6) The Fiscal Year Appropriation Cap for the
5 Education Trust Fund is the sum of the Cap base, as provided
6 in subdivision (1); the Cap base growth, as provided in
7 subdivision (2); growth, as provided in subdivision (3); new
8 recurring revenue, as provided in subdivision (4); and
9 nonrecurring revenue, as provided subdivision (5).

10 Section 4. There is hereby created in the State
11 Treasury an Education Trust Fund Budget Stabilization Fund, an
12 Education Trust Fund Capital Fund, an Education Trust Fund
13 Pension Liability Fund, and an Education Trust Fund Retiree
14 Health Benefits Liability Fund. Within 30 days following the
15 end of each fiscal year, if the total revenues deposited into
16 the Education Trust Fund exceed the Fiscal Year Appropriation
17 Cap, then the excess shall be transferred to the
18 constitutional Education Trust Fund Rainy Day Account created
19 in Amendment No. 803 until all withdrawn funds are paid in
20 full. If all withdrawn funds have been paid in full, the
21 excess remaining shall be transferred to the Education Trust
22 Fund Budget Stabilization Fund created herein. The transfers
23 to the Education Trust Fund Budget Stabilization Fund shall be
24 made until the Fund reaches an amount which equals twenty
25 percent of the then current year's appropriations from the
26 Education Trust Fund. After the balance in the Education Trust
27 Fund Budget Stabilization Fund reaches a total of twenty

1 percent, any excess remaining shall be distributed as follows:
2 (1) thirty-five percent to the Education Trust Fund Capital
3 Fund; (2) thirty percent to the Education Trust Fund Pension
4 Liability Fund; and (3) thirty-five percent to the Education
5 Trust Fund Retiree Health Benefits Liability Fund.

6 Section 5. (a) Amounts in the Education Trust Fund
7 Budget Stabilization Fund may be withdrawn only to prevent
8 proration in the Education Trust Fund. The Governor must
9 certify to the State Comptroller and notify the Legislature
10 that proration would occur in the Education Trust Fund before
11 funds may be withdrawn. Following the certification and
12 notification by the Governor, withdrawals may be made from the
13 Education Trust Fund Budget Stabilization Fund; however,
14 withdrawals shall be limited to the amount of the anticipated
15 proration and funds allotted only to the extent necessary to
16 avoid proration of appropriations from the Education Trust
17 Fund.

18 (b) Amounts in the Education Trust Fund Capital Fund
19 shall be used only for capital improvements in public
20 education.

21 (c) Amounts in the Education Trust Fund Pension
22 Liability Fund shall be transferred to the Teachers'
23 Retirement System to be used to offset the unfunded actuarial
24 accrued liability of the system. In the event that there is no
25 unfunded liability, amounts in the Education Trust Fund
26 Pension Liability Fund shall revert to the Education Trust
27 Fund Capital Fund.

1 (d) Amounts in the Education Trust Fund Retiree
2 Health Benefits Liability Fund shall be transferred to the
3 Alabama Retired Education Employees' Health Care Trust to be
4 used to offset the unfunded actuarial accrued liability of the
5 Public Education Employees' Health Insurance Plan. In the
6 event that there is no unfunded liability, amounts in the
7 Education Trust Fund Retiree Health Benefits Fund shall revert
8 to the Education Trust Fund Capital Fund.

9 Section 6. All laws or parts of laws which conflict
10 with this act are repealed, and Section 40-1-32.1, Code of
11 Alabama 1975 is specifically repealed. Any funds remaining to
12 the credit of the Education Trust Fund Proration Prevention
13 Account shall be transferred to the Education Trust Fund
14 Budget Stabilization Fund.

15 Section 7. In the event that any section, sentence,
16 clause or provision of this act is determined to be
17 unconstitutional, such action shall not affect the validity of
18 the remaining sections, sentences, clauses or provisions,
19 which shall continue in full force and effect.

20 Section 8. This act shall become effective
21 immediately upon its passage and approval by the Governor, or
22 upon its otherwise becoming a law.