

1 SB331
2 219306-3
3 By Senator Orr
4 RFD: Finance and Taxation Education
5 First Read: 29-MAR-22

1 SB331

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4 ENROLLED, An Act,

5 To amend Sections 29-9-2, 29-9-3, 29-9-4, as last
6 amended by Act 2022-139 of the 2022 Regular Session, and
7 29-9-6, Code of Alabama 1975, relating to the Education Trust
8 Fund Rolling Reserve Act, to clarify current practices for the
9 calculation of the annual appropriation cap for the
10 disposition of revenues in excess of the cap, and for the
11 appropriation of funds in the Education Trust Fund Advancement
12 and Technology Fund; to delete certain obsolete provisions;
13 and to modify certain transfer dates to improve cash flow for
14 the Education Trust Fund.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 29-9-2, 29-9-3, 29-9-4, as last
17 amended by Act 2022-139 of the 2022 Regular Session, and
18 29-9-6, Code of Alabama 1975, are amended to read as follows:

19 "§29-9-2.

20 "For the purposes of this chapter, the following
21 terms shall have the following meanings:

22 "(1) ALABAMA TRUST FUND. The Alabama Trust Fund
23 created by Amendment No. 450 to the Constitution of Alabama of
24 1901.

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

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

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

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

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

19 "(7) NONRECURRING REVENUE. Revenue of any kind or
20 type that is deposited into or causes one-time abnormal
21 revenue impacts on the Education Trust Fund and that is not
22 recurring revenue, including one-time enhancements to revenues
23 resulting from one-time assistance to individuals or
24 businesses provided by the federal government. Any balance
25 remaining in the Education Trust Fund at the end of any fiscal

1 year, and transfers from the Education Trust Fund Proration
2 Prevention Account, the Education Trust Fund Rainy Day
3 Account, and the Education Trust Fund Budget Stabilization
4 Fund shall be nonrecurring revenue.

5 "(8) RECURRING REVENUE. Any permanent and continuing
6 source of revenue of any kind or type that has been enacted,
7 established, or provided for in fiscal years prior to the
8 fiscal year for which it is to be included in the calculation
9 of the fiscal year appropriation cap for the Education Trust
10 Fund. Recurring revenue shall not include any balance
11 remaining in the Education Trust Fund at the end of any fiscal
12 year. Once a new recurring revenue produces a source of
13 revenue for one complete fiscal year, it becomes a recurring
14 revenue.

15 "§29-9-3.

16 "(a) Notwithstanding any other provision of law to
17 the contrary, beginning with appropriations made for the
18 fiscal year ending September 30, 2013, appropriations from the
19 Education Trust Fund shall not exceed the fiscal year
20 appropriation cap.

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

24 "(1) The total of recurring revenues deposited into
25 the Education Trust Fund in the last completed fiscal year

1 preceding the date on which the fiscal year appropriation cap
2 is calculated.

3 "(2) An amount equal to the amount in subdivision
4 (1) multiplied by the average annual percent of change in the
5 recurring revenues deposited into the Education Trust Fund for
6 the 14 highest of the 15 completed fiscal years preceding the
7 date on which the fiscal year appropriation cap is calculated.

8 "(3) If new recurring revenue measures are enacted
9 that will be deposited into the Education Trust Fund, or if
10 existing revenue sources are amended to increase the amount of
11 money deposited into the Education Trust Fund, for the first
12 time during the year for which the fiscal year appropriation
13 cap is being calculated, then 95 percent of the amount
14 projected in the enacted fiscal note accompanying the
15 legislative act creating the new recurring revenue shall be
16 added or subtracted as a part of the fiscal year appropriation
17 cap. If a recurring revenue source ~~is removed from~~ to the
18 Education Trust Fund is removed or reduced during the year for
19 which the fiscal year appropriation cap is being calculated,
20 the negative impact, based on the enacted fiscal note, of the
21 removal or reduction of the recurring revenue shall be
22 included in the calculation of the fiscal year appropriation
23 cap. ~~Any new recurring revenue measures and any changes in the~~
24 ~~distribution of Education Trust Fund recurring revenues~~
25 ~~enacted during the First or Second Special Session of 2015~~

1 ~~shall not require any addition or reduction in the fiscal year~~
2 ~~appropriation cap for the fiscal year ending September 30,~~
3 ~~2016.~~

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

8 ~~"(5) The amount required to be appropriated from the~~
9 ~~Education Trust Fund to the Prepaid Affordable College Tuition~~
10 ~~Trust Fund pursuant to Section 16-33C-16, Code of Alabama~~
11 ~~1975.~~

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

1 shall be in the determination of the Legislature not to
2 compromise the fiscal integrity of the fund to offset any
3 future proration of the Education Trust Fund.

4 "(d) Amendment No. 803 to the Constitution of 1901,
5 requires an estimate of available revenue for the Education
6 Trust Fund which is to be certified by the Finance Director
7 and the Legislative Fiscal Officer prior to the third
8 legislative day of each regular session. If, however, the
9 average of the estimated available revenue is less than the
10 fiscal year appropriation cap calculated in subsection (b),
11 the Legislature shall appropriate no more than the lesser
12 amount of the average of the estimated available revenue or
13 the fiscal year appropriation cap as required to be determined
14 by this section.

15 "§29-9-4.

16 "There is hereby created in the State Treasury an
17 Education Trust Fund Budget Stabilization Fund and an
18 Education Trust Fund Advancement and Technology Fund. Any
19 monetary interest which accrues in the Education Trust Fund
20 Budget Stabilization Fund shall be retained in the fund from
21 year to year and shall be subject only to the provisions of
22 this chapter. If total revenues deposited into the Education
23 Trust Fund during the immediately preceding fiscal year exceed
24 the fiscal year appropriation cap for the immediately
25 preceding fiscal year, and total Education Trust Fund

1 appropriations for the immediately preceding fiscal year are
2 less than the fiscal year appropriation cap for the
3 immediately preceding fiscal year, the excess revenues shall
4 remain in the Education Trust Fund as nonrecurring revenue. On
5 or before ~~November 15~~ May 31 of each fiscal year, if the total
6 revenues deposited into the Education Trust Fund during the
7 immediately preceding fiscal year exceed the fiscal year
8 appropriation cap for the immediately preceding fiscal year,
9 and Education Trust Fund appropriations for the immediately
10 preceding fiscal year were equal to the fiscal year
11 appropriation cap, the excess revenues shall be transferred to
12 the Education Trust Fund Rainy Day Account until the account
13 has been repaid in full. If the account has been repaid in
14 full, any excess revenues remaining shall be transferred to
15 the Education Trust Fund Budget Stabilization Fund and the
16 Education Trust Fund Advancement and Technology Fund created
17 in this chapter. The transfers to the Education Trust Fund
18 Budget Stabilization Fund and the Education Trust Fund
19 Advancement and Technology Fund shall be made annually as
20 follows:

21 ~~"(a)(1)~~ Any excess revenues remaining for ~~the any~~
22 fiscal year ~~ending September 30, 2015, up to two percent of~~
23 ~~the previous year's Education Trust Fund appropriations,~~ shall
24 be transferred to the Education Trust Fund Budget
25 Stabilization Fund. ~~Thereafter,~~ in an amount up to one percent

1 of the previous year's Education Trust Fund appropriations
2 ~~shall be transferred to the Education Trust Fund Budget~~
3 ~~Stabilization Fund annually~~ until the fund reaches seven and
4 one-half percent of the previous year's appropriations from
5 the Education Trust Fund.

6 "~~(b) (2) Funds Revenues~~ in excess of those
7 transferred in ~~subsection~~ subdivision (a) (1) shall be
8 transferred to the Education Trust Fund Advancement and
9 Technology Fund each year. ~~Amounts~~ Any amount of the available
10 balance in the Education Trust Fund Advancement and Technology
11 Fund ~~shall~~ may be ~~appropriated~~ available for appropriation
12 only by and through an independent supplemental appropriation
13 bill for the following nonrecurring expenses: repairs or
14 deferred maintenance of facilities for public education
15 purposes in the state, capital outlay, for classroom
16 instructional support as provided in Section 16-13-231(b) (2)c.
17 and Section 16-13-231.3, for insuring facilities, for
18 transportation as provided in Section 16-13-233, for school
19 security measures, and for the acquisition or purchase of
20 education technology and equipment, or both. These funds,
21 however, shall not be used as a pledge for the issuance or
22 payment of debt service. No funds shall be appropriated ~~until~~
23 in years when the balance of the Education Trust Fund
24 Advancement and Technology Fund at the end of the previous
25 fiscal year ~~equals or exceeds~~ is less than ten million dollars

1 (\$10,000,000) ~~\$10 million~~. Amounts in the Education Trust Fund
2 Advancement and Technology Fund shall be budgeted and allotted
3 in accordance with Sections 41-4-80 through 41-4-96 and
4 Sections 41-19-1 through 41-19-12, but shall not be limited by
5 the fiscal year appropriation cap.

6 "~~(c)~~ (3) The annual appropriation of these funds
7 shall be divided between the public schools and institutions
8 of higher education in the state in accordance with the
9 percentage split, based on the fiscal year in which an
10 appropriation is made, between these two sectors of education
11 as certified by the ~~Legislative Services Agency, Fiscal~~
12 ~~Division,~~ Legislative Fiscal Officer at the end of the
13 preceding fiscal year. Public schools shall be interpreted to
14 include any school in operation for the current fiscal year,
15 the Alabama School of Math and Science, the Alabama School of
16 Fine Arts, the Alabama School of Cyber Technology and
17 Engineering, the portion of the Alabama Institute for Deaf and
18 Blind providing appropriate elementary/secondary instruction,
19 and may include the Department of Youth Services School
20 District.

21 "§29-9-6.

22 "During the first six months of a fiscal year, the
23 Director of Finance may temporarily transfer available funds
24 in the Budget Stabilization Fund into the Education Trust Fund
25 as necessary to alleviate cash flow problems in the Education

1 Trust Fund. Any funds temporarily transferred shall be repaid
2 to the Budget Stabilization Fund from funds in the Education
3 Trust Fund ~~within 90 days following the date the funds are~~
4 ~~transferred~~ by September 30 of the fiscal year in which the
5 transfer was made."

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB331
Senate 31-MAR-22
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 07-APR-22

By: Senator Orr