

SB101 INTRODUCED



1 XQ8T7E-1
2 By Senator Orr
3 RFD: Finance and Taxation Education
4 First Read: 21-Mar-23
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SYNOPSIS:

This bill amends the Education Trust Fund Rolling Reserve Act of 2011 to provide additional definitions, to provide further for annual Education Trust Fund appropriations, to provide further for the distribution of revenues received in excess of appropriations, to create the Educational Opportunities Reserve Fund and provide for the funding and appropriations from the fund, and to delete obsolete provisions.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 29-9-2, 29-9-3, and 29-9-4, Code of Alabama 1975, as last amended by Acts 2022-139 and 2022-358 of the 2022 Regular Session, relating to the Education Trust Fund Rolling Reserve Act, to provide additional definitions; to provide further for annual Education Trust Fund appropriations; to provide further for the distribution of revenues received in excess of appropriations; to create the Educational Opportunities Reserve Fund and provide for the funding and appropriations from the fund; and to repeal obsolete Section 29-9-2.1 of the Code of Alabama of 1975.



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29 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

30 Section 1. Sections 29-9-2, 29-9-3, and 29-9-4, Code of
31 Alabama 1975, as last amended by Acts 2022-139 and 2022-538 of
32 the 2022 Regular Session, are hereby amended to read as
33 follows:

34 "§29-9-2

35 For the purposes of this chapter, the following terms
36 have the following meanings:

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

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

43 (3) EDUCATION TRUST FUND BASE APPROPRIATIONS. The
44 Education Trust Fund appropriations for the current fiscal
45 year that were enacted in a prior legislative session,
46 excluding reversions reappropriated and any supplemental
47 appropriations.

48 ~~(3)~~ (4) EDUCATION TRUST FUND RAINY DAY ACCOUNT. The
49 special account created within the Alabama Trust Fund by
50 ~~Amendment No. 803 to the Constitution of Alabama of 1901~~
51 Section 260.02 of the Constitution of Alabama of 2022.

52 (5) EDUCATION TRUST FUND TOTAL APPROPRIATIONS. The
53 total amount of funds appropriated from the Education Trust
54 Fund for a fiscal year, including reversions reappropriated
55 and supplemental appropriations.

56 (6) EXCESS REVENUES. The difference in the total amount



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57 of revenue deposited in the Education Trust Fund in the
58 immediately preceding fiscal year, including nonrecurring
59 revenue, less the Education Trust Fund Total Appropriations
60 for the same fiscal year.

61 ~~(4)~~ (7) FISCAL YEAR. The fiscal year of the State of
62 Alabama that begins on October 1 and ends on September 30.

63 ~~(5)~~ (8) FISCAL YEAR APPROPRIATION CAP. The maximum
64 amount of appropriations that may be made from the Education
65 Trust Fund for any fiscal year under certain conditions
66 pursuant to this chapter.

67 ~~(6)~~ (9) NEW RECURRING REVENUE. Revenue of any kind or
68 type constituting a new annual source of money that has been
69 enacted, established, or provided for prior to the first day
70 of the fiscal year of which it is to first be included in the
71 calculation of the Fiscal Year Appropriation Cap for the
72 Education Trust Fund.

73 ~~(7)~~ (10) NONRECURRING REVENUE. Revenue of any kind or
74 type that is deposited into or causes one-time abnormal
75 revenue impacts on the Education Trust Fund and that is not
76 recurring revenue, including one-time enhancements to revenues
77 resulting from one-time assistance to individuals or
78 businesses provided by the federal government. Any balance
79 remaining in the Education Trust Fund at the end of any fiscal
80 year, and transfers from ~~the Education Trust Fund Proration~~
81 ~~Prevention Account~~, the Education Trust Fund Rainy Day
82 Account, and the Education Trust Fund Budget Stabilization
83 Fund shall be nonrecurring revenue.

84 ~~(8)~~ (11) RECURRING REVENUE. Any permanent and continuing



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85 source of revenue of any kind or type that has been enacted,
86 established, or provided for in fiscal years prior to the
87 fiscal year for which it is to be included in the calculation
88 of the fiscal year appropriation cap for the Education Trust
89 Fund. Recurring revenue shall not include any balance
90 remaining in the Education Trust Fund at the end of any fiscal
91 year. Once a new recurring revenue produces a source of
92 revenue for one complete fiscal year, it becomes a recurring
93 revenue.

94 (12) SECONDARY SPENDING LIMIT. An amount equal to 106.5
95 percent of the Education Trust Fund Base Appropriations for
96 the fiscal year ending September 30, 2024; 106 percent of
97 Education Trust Fund Base Appropriations for the fiscal year
98 ending September 30, 2025; 105.5 percent of the Education
99 Trust Fund Base Appropriations for the fiscal year ending
100 September 30, 2026; and 105 percent of the Education Trust
101 Fund Base Appropriations for the fiscal year ending September
102 30, 2027 and each fiscal year thereafter."

103 "§29-9-3

104 (a) Notwithstanding any other provision of law to the
105 contrary, beginning with appropriations made for the fiscal
106 year ending September 30, ~~2013~~2024, appropriations from the
107 Education Trust Fund shall not exceed the fiscal year
108 appropriation cap, or the secondary spending limit, whichever
109 is less.

110 (b) The fiscal year appropriation cap for the Education
111 Trust Fund shall be equal to the sum of all of the following:

112 (1) The total of recurring revenues deposited into the



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113 Education Trust Fund in the last completed fiscal year
114 preceding the date on which the fiscal year appropriation cap
115 is calculated.

116 (2) An amount equal to the amount in subdivision (1)
117 multiplied by the average annual percent of change in the
118 recurring revenues deposited into the Education Trust Fund for
119 ~~the 14 highest of~~ the 15 most recently completed fiscal years
120 preceding the date on which the fiscal year appropriation cap
121 is calculated, excluding the highest and lowest years from the
122 calculation.

123 (3) If new recurring revenue measures are enacted that
124 will be deposited into the Education Trust Fund, or if
125 existing revenue sources are amended to increase the amount of
126 money deposited into the Education Trust Fund, for the first
127 time during the year for which the fiscal year appropriation
128 cap is being calculated, then 95 percent of the amount
129 projected in the enacted fiscal note accompanying the
130 legislative act creating the new recurring revenue shall be
131 added or subtracted as a part of the fiscal year appropriation
132 cap. If a recurring revenue source to the Education Trust Fund
133 is removed or reduced during the year for which the fiscal
134 year appropriation cap is being calculated, the negative
135 impact, based on the enacted fiscal note, of the removal or
136 reduction of the recurring revenue shall be included in the
137 calculation of the fiscal year appropriation cap.

138 (4) Nonrecurring revenue shall be added or subtracted
139 as a part of the fiscal year appropriation cap for the fiscal
140 year in which the nonrecurring revenue is deposited into the



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141 Education Trust Fund.

142 (c) The Director of Finance and the Legislative Fiscal
143 Officer shall certify their computation of the fiscal year
144 appropriation cap and secondary spending limit at the same
145 time as the certification required by ~~Amendment No. 803 to the~~
146 ~~Constitution of Alabama of 1901~~ Section 260.02 of the
147 Constitution of Alabama of 2022. ~~If the computation results in~~
148 ~~a fiscal year appropriation cap that is less than the total~~
149 ~~appropriations from the Education Trust Fund for the fiscal~~
150 ~~year immediately preceding the fiscal year for which the~~
151 ~~fiscal year appropriation cap is being calculated, the~~
152 ~~Legislature may appropriate from the Education Trust Fund~~
153 ~~Budget Stabilization Fund created in this chapter an amount~~
154 ~~equal to the difference between the preceding fiscal year's~~
155 ~~total appropriations from the Education Trust Fund and the~~
156 ~~fiscal year appropriation cap, provided that any such amount~~
157 ~~shall be in the determination of the Legislature not to~~
158 ~~compromise the fiscal integrity of the fund to offset any~~
159 ~~future proration of the Education Trust Fund.~~

160 (d) ~~Amendment No. 803 to the Constitution of 1901~~
161 Section 260.02 of the Constitution of Alabama of 2022,
162 requires an estimate of available revenue for the Education
163 Trust Fund which is to be certified by the Finance Director
164 and the Legislative Fiscal Officer prior to the third
165 legislative day of each regular session. If, however, the
166 average of the estimated available revenue is less than the
167 fiscal year appropriation cap calculated in subsection (b) or
168 the secondary spending limit, the Legislature shall



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169 appropriate no more than the lesser amount of the average of
170 the estimated available revenue or the fiscal year
171 appropriation cap or secondary spending limit as required to
172 be determined by this section."

173 "§29-9-4

174 (a) There is hereby created in the State Treasury an
175 Education Trust Fund Budget Stabilization Fund and an
176 Education Trust Fund Advancement and Technology Fund. Any
177 monetary interest which accrues in the Education Trust Fund
178 Budget Stabilization Fund shall be retained in the fund from
179 year to year and shall be subject only to the provisions of
180 this chapter. If total revenues deposited into the Education
181 Trust Fund during the immediately preceding fiscal year exceed
182 the fiscal year appropriation cap for the immediately
183 preceding fiscal year, and total Education Trust Fund
184 appropriations for the immediately preceding fiscal year are
185 less than the fiscal year appropriation cap for the
186 immediately preceding fiscal year, the excess revenues shall
187 remain in the Education Trust Fund as nonrecurring revenue. On
188 or before May 31 of each fiscal year through the fiscal year
189 ending September 30, 2023, if the total revenues deposited
190 into the Education Trust Fund during the immediately preceding
191 fiscal year exceed the fiscal year appropriation cap for the
192 immediately preceding fiscal year, and Education Trust Fund
193 appropriations for the immediately preceding fiscal year were
194 equal to the fiscal year appropriation cap, the excess
195 revenues shall be transferred to the Education Trust Fund
196 Rainy Day Account until the account has been repaid in full.



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197 If the account has been repaid in full, any excess revenues
198 remaining shall be transferred to the Education Trust Fund
199 Budget Stabilization Fund and the Education Trust Fund
200 Advancement and Technology Fund created in this chapter. The
201 transfers to the Education Trust Fund Budget Stabilization
202 Fund and the Education Trust Fund Advancement and Technology
203 Fund shall be made annually as follows:

204 (1) ~~Any excess revenues remaining for any fiscal year~~
205 ~~shall be transferred to~~ To the Education Trust Fund Budget
206 Stabilization Fund in an amount up to one percent of the
207 previous year's Education Trust Fund total appropriations
208 until the fund reaches seven and one-half percent of the
209 previous year's appropriations from the Education Trust Fund.

210 (2) ~~Revenues a.~~ Any excess revenues remaining after ~~in~~
211 ~~excess of~~ those transferred in subdivision (1) shall be
212 transferred to the Education Trust Fund Advancement and
213 Technology Fund each year. Any amount of the available balance
214 in the Education Trust Fund Advancement and Technology Fund
215 may be available for appropriation only by and through an
216 independent supplemental appropriation bill for the following
217 nonrecurring expenses: repairs or deferred maintenance of
218 facilities for public education purposes in the state, capital
219 outlay, for classroom instructional support as provided in
220 Section 16-13-231(b) (2)c. and Section 16-13-231.3, for
221 insuring facilities, for transportation as provided in Section
222 16-13-233, for school security measures, and for the
223 acquisition or purchase of education technology and equipment,
224 or both. These funds, however, shall not be used as a pledge



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225 for the issuance or payment of debt service. No funds shall be
226 appropriated in years when the balance of the Education Trust
227 Fund Advancement and Technology Fund at the end of the
228 previous fiscal year is less than ten million dollars
229 (\$10,000,000). Amounts in the Education Trust Fund Advancement
230 and Technology Fund shall be budgeted and allotted in
231 accordance with Sections 41-4-80 through 41-4-96 and Sections
232 41-19-1 through 41-19-12, but shall not be limited by the
233 fiscal year appropriation cap.

234 ~~(3)~~b. The annual appropriation of ~~these~~ funds from the
235 Education Trust Fund Advancement and Technology Fund shall be
236 divided between the public schools and institutions of higher
237 education in the state in accordance with the percentage
238 split, based on the fiscal year in which an appropriation is
239 made, between these two sectors of education as certified by
240 the Legislative Fiscal Officer at the end of the preceding
241 fiscal year. Public schools shall be interpreted to include
242 any public school in operation for the current fiscal year,
243 the Alabama School of Math and Science, the Alabama School of
244 Fine Arts, the Alabama School of Cyber Technology and
245 Engineering, the portion of the Alabama Institute for Deaf and
246 Blind providing appropriate elementary/secondary instruction,
247 and may include the Department of Youth Services School
248 District.

249 (b) There is hereby created within the State Treasury
250 the Educational Opportunities Reserve Fund into which monies
251 shall be deposited as provided in this chapter and as
252 appropriated by the Legislature. Any monetary interest that



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253 accrues to the Educational Opportunities Reserve Fund shall be
254 retained in the fund from year to year and shall be subject
255 only to this chapter.

256 (c) On or before May 31 of each fiscal year beginning
257 with the fiscal year ending September 30, 2024, if the total
258 available revenues in the Education Trust Fund during the
259 immediately preceding fiscal year exceed Education Trust Fund
260 total appropriations for the immediately preceding fiscal
261 year, and there is an unpaid balance owed to the Education
262 Trust Fund Rainy Day Account, the excess revenues shall be
263 transferred to the Education Trust Fund Rainy Day Account
264 until the account has been repaid in full. If the account has
265 been repaid in full, any excess revenues remaining shall be
266 transferred to the Education Trust Fund Budget Stabilization
267 Fund, the Education Trust Fund Advancement and Technology
268 Fund, and the Educational Opportunities Reserve Fund created
269 in this chapter. The transfers to the Education Trust Fund
270 Budget Stabilization Fund, the Education Trust Fund
271 Advancement and Technology Fund, and the Educational
272 Opportunities Reserve Fund shall be made annually as follows:

273 (1) To the Education Trust Fund Budget Stabilization
274 Fund in an amount up to one percent of the previous year's
275 Education Trust Fund total appropriations until the fund
276 reaches 10 percent of the previous year's appropriations from
277 the Education Trust Fund.

278 (2)a. Fifty percent of the excess revenues remaining
279 after those transferred in subdivision (1) shall be
280 transferred to the Education Trust Fund Advancement and



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281 Technology Fund each year, not to exceed one billion dollars
282 in any fiscal year. Any amount of the available balance in the
283 Education Trust Fund Advancement and Technology Fund may be
284 available for appropriation only by and through an independent
285 supplemental appropriation bill for the following nonrecurring
286 expenses: repairs or deferred maintenance of facilities for
287 public education purposes in the state, capital outlay, for
288 classroom instructional support as provided in Section
289 16-13-231(b) (2)c. and Section 16-13-231.3, for insuring
290 facilities, for transportation as provided in Section
291 16-13-233, for school security measures, and for the
292 acquisition or purchase of education technology and equipment,
293 or both. These funds, however, shall not be used as a pledge
294 for the issuance or payment of debt service. No funds shall be
295 appropriated in years when the balance of the Education Trust
296 Fund Advancement and Technology Fund at the end of the
297 previous fiscal year is less than ten million dollars
298 (\$10,000,000). Amounts in the Education Trust Fund Advancement
299 and Technology Fund shall be budgeted and allotted in
300 accordance with Sections 41-4-80 through 41-4-96 and Sections
301 41-19-1 through 41-19-12, but shall not be limited by the
302 fiscal year appropriation cap.

303 b. The annual appropriation of funds from the Education
304 Trust Fund Advancement and Technology Fund shall be divided
305 between the public schools and institutions of higher
306 education in the state in accordance with the percentage
307 split, based on the fiscal year in which an appropriation is
308 made, between these two sectors of education as certified by



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309 the Legislative Fiscal Officer at the end of the preceding
310 fiscal year. Public schools shall be interpreted to include
311 any public school in operation for the current fiscal year,
312 the Alabama School of Math and Science, the Alabama School of
313 Fine Arts, the Alabama School of Cyber Technology and
314 Engineering, the portion of the Alabama Institute for Deaf and
315 Blind providing appropriate elementary/secondary instruction,
316 and may include the Department of Youth Services School
317 District.

318 (3) a. Twenty percent of the excess revenues remaining
319 after those transferred in subdivision (1) shall be
320 transferred to the Educational Opportunities Reserve Fund.
321 Amounts in the Educational Opportunities Reserve Fund may be
322 withdrawn by and through an independent supplemental
323 appropriation bill to provide one-time funding for the
324 following purposes only: to offset a reduction in estimated
325 revenues of at least 2 percent to the Education Trust Fund for
326 the current fiscal year as certified by the Director of
327 Finance and the Legislative Fiscal Officer, to provide funding
328 for unanticipated obligations, and for start-up or
329 transitional support for initiatives that provide access to
330 enhanced educational opportunities to all public K-12 or
331 higher education students in the state, or both. Amounts in
332 the Educational Opportunities Reserve Fund shall not be
333 appropriated for any of the following purposes: repairs or
334 deferred maintenance for facilities, capital outlay, pay
335 raises or bonuses for educational personnel or retirees, or to
336 provide additional support or supplant existing funding for



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337 ongoing expenditures.

338 b. No funds may be appropriated until the balance of
339 the Educational Opportunities Reserve Fund at the end of the
340 previous fiscal year equals or exceeds three hundred million
341 dollars (\$300,000,000). Once this threshold is attained, any
342 amount of the available balance may be appropriated for the
343 purposes specified in this subsection. Amounts in the
344 Educational Opportunities Reserve Fund shall be budgeted and
345 allotted in accordance with Sections 41-4-80 through 41-4-96
346 and Sections 41-19-1 through 41-19-12.

347 (4) Any remaining excess revenues after the transfers
348 in subdivisions (1) through (3) shall remain in the Education
349 Trust Fund as nonrecurring revenue."

350 Section 2. Section 29-9-2.1, Code of Alabama 1975, is
351 hereby repealed.

352 Section 3. This act shall become effective on the first
353 day of the third month following its passage and approval by
354 the Governor, or its otherwise becoming law.