

1 HB47
2 171097-1
3 By Representative Poole
4 RFD: Ways and Means Education
5 First Read: 03-AUG-15

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8 SYNOPSIS: This bill amends the Education Trust Fund
9 Rolling Reserve Act of 2011 to provide further for
10 the determination of the annual appropriation cap,
11 for the disposition of revenues received in excess
12 of the cap, for the appropriation of funds in the
13 Education Trust Fund Capital and Technology Fund,
14 and for the temporary transfer of funds from the
15 Education Trust Fund Budget Stabilization Fund.

16 This bill amends the Wallace-Folsom College
17 Savings Investment Plan Act to delete certain
18 obsolete provisions concerning PSCA debt service.
19 This bill further clarifies the fiscal status of
20 holding or clearing accounts created as an
21 administrative convenience to implement the
22 statutory and/or constitutional distribution of
23 earmarked tax revenues so as to prohibit the
24 appropriation of such funds.

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26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To provide further for the calculation of the annual
4 appropriation cap for the Education Trust Fund Rolling Reserve
5 Act to include payments to the Prepaid Affordable College
6 Tuition (PACT) Trust Fund; to provide for a one-time transfer
7 to the State General Fund for the fiscal year ending September
8 30, 2015; to provide further for the use of revenues from the
9 Education Trust Fund Budget Stabilization Fund and the
10 Education Trust Fund Capital and Technology Fund; to delete
11 certain obsolete provisions concerning PSCA debt service; and
12 to prohibit appropriations from holding or clearing accounts.
13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 29-9-3, 29-9-4, 29-9-5, and
15 29-9-6, Code of Alabama 1975, are hereby amended to read as
16 follows:

17 "§29-9-3.

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

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

26 "(1) The total of recurring revenues deposited into
27 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 15 completed fiscal years preceding the date on which the
7 fiscal year appropriation cap is calculated.

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

18 ~~"(4)~~ (3) If new recurring revenue measures are
19 enacted that will be deposited into the Education Trust Fund,
20 or if existing revenue sources are amended to increase the
21 amount of money deposited into the Education Trust Fund, for
22 the first time during the year for which the fiscal year
23 appropriation cap is being calculated, then 95 percent of the
24 amount projected in the enacted fiscal note accompanying the
25 legislative act creating the new recurring revenue shall be
26 added as a part of the fiscal year appropriation cap. If a
27 recurring revenue source is removed from the Education Trust

1 Fund during the year for which the fiscal year appropriation
2 cap is being calculated, the negative impact, based on the
3 enacted fiscal note, of the removal of the recurring revenue
4 shall be included in the calculation of the fiscal year
5 appropriation cap. Any new recurring revenue measures and any
6 changes in the distribution of Education Trust Fund recurring
7 revenues enacted during the First Special Session of 2015
8 shall not require any addition or reduction in the fiscal year
9 appropriation cap for the fiscal year ending September 30,
10 2016.

11 "~~(5)~~ (4) Nonrecurring revenue shall be added as a
12 part of the fiscal year appropriation cap for the fiscal year
13 in which the nonrecurring revenue is deposited into the
14 Education Trust Fund.

15 " (5) The amount required to be appropriated from
16 the Education Trust Fund to the Prepaid Affordable College
17 Tuition (PACT) Trust Fund pursuant to Code of Alabama 1975,
18 Section 16-33C-16.

19 "(c) The Director of Finance and the Director of the
20 Fiscal Office shall certify their computation of the fiscal
21 year appropriation cap at the same time as the certification
22 required by Amendment No. 803 to the Constitution of Alabama
23 of 1901. If the computation results in a fiscal year
24 appropriation cap that is less than the total appropriations
25 from the Education Trust Fund for the fiscal year immediately
26 preceding the fiscal year for which the fiscal year
27 appropriation cap is being calculated, the Legislature may

1 appropriate from the Education Trust Fund Budget Stabilization
2 Fund created in this chapter an amount equal to the difference
3 between the preceding fiscal year's total appropriations from
4 the Education Trust Fund and the fiscal year appropriation
5 cap, provided that any such amount shall be in the
6 determination of the Legislature not to compromise the fiscal
7 integrity of the Fund to offset any future proration of the
8 Education Trust Fund.

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

20 "§29-9-4.

21 "There is hereby created in the State Treasury an
22 Education Trust Fund Budget Stabilization Fund and an
23 Education Trust Fund Capital and Technology Fund. Any monetary
24 interest which accrues in the Education Trust Fund Budget
25 Stabilization Fund shall be retained in the fund from year to
26 year and shall be subject only to the provisions of this
27 chapter. On or before November 15 of each fiscal year, if the

1 total revenues deposited into the Education Trust Fund during
2 the immediately preceding fiscal year exceed the fiscal year
3 appropriation cap for the immediately preceding fiscal year,
4 the excess shall be transferred to the Education Trust Fund
5 Rainy Day Account until the account has been repaid in full.
6 If the account has been repaid in full, any excess remaining
7 shall be transferred to the Education Trust Fund Budget
8 Stabilization Fund and the Education Trust Fund Capital and
9 Technology Fund created in this chapter. The transfers to the
10 Education Trust Fund Budget Stabilization Fund and the
11 Education Trust Fund Capital and Technology Fund shall be made
12 annually as follows:

13 "(a) An amount equal to one percent of the previous
14 year's Education Trust Fund appropriations shall be
15 transferred to the Education Trust Fund Budget Stabilization
16 Fund annually until the Fund reaches seven and one-half
17 percent of the previous year's appropriations from the
18 Education Trust Fund. Provided, however, any excess remaining
19 for the fiscal year ending September 30, 2015 only, after the
20 distribution to the Budget Stabilization Fund as provided for
21 in this subsection in an amount not to exceed \$50,000,000,
22 shall be transferred to the State General Fund. The transfer
23 made herein to the State General Fund shall not include
24 revenues from income tax receipts.

25 "(b) Funds in excess of those transferred in
26 subsection (a) shall be transferred to the Education Trust
27 Fund Capital and Technology Fund each year. Amounts in the

1 Education Trust Fund Capital and Technology Fund shall be
2 appropriated for the planning, construction, reconstruction,
3 enlargement, improvement, repair or renovation of facilities
4 for public education purposes in the state, including the
5 purchase of land and equipment for facilities, for existing
6 debt payments related to facilities, for classroom
7 instructional support as provided in Section 16-13-231(b)(2)c.
8 and Section 16-13-231.3, for insuring facilities, for
9 transportation as provided in Section 16-13-233, for deferred
10 maintenance and for the acquisition and/or purchase of
11 education technology and equipment. These funds, however,
12 shall not be used as a pledge for the issuance of new debt. No
13 funds shall be appropriated until the balance of the Education
14 Trust Fund Capital and Technology Fund at the end of the
15 previous fiscal year equals or exceeds \$10 million. Amounts in
16 the Education Trust Fund Capital and Technology Fund shall be
17 budgeted and allotted in accordance with Sections 41-4-80
18 through 41-4-96 and Sections 41-19-1 through 41-19-12, but
19 shall not be limited by the fiscal year appropriation cap.
20 ~~until the Fund reaches an amount which equals 20 percent of~~
21 ~~the then current year's appropriations from the Education~~
22 ~~Trust Fund. After the balance in the Education Trust Fund~~
23 ~~Budget Stabilization Fund reaches a total of 20 percent, any~~
24 ~~excess remaining shall be distributed to the Education Trust~~
25 ~~Fund Capital Fund.~~

26 "(c) The annual appropriation of these funds for
27 capital outlay purposes shall be divided between the public

1 schools and institutions of higher education in the state in
2 accordance with the percentage split between these two sectors
3 of education as certified by the Legislative Fiscal Office at
4 the end of the preceding fiscal year. Public schools shall be
5 interpreted to include the Alabama School of Math and Science,
6 the Alabama School of Fine Arts, the portion of the Alabama
7 Institute for Deaf and Blind providing appropriate
8 Elementary/Secondary instruction, and may include the
9 Department of Youth Services School District."

10 "§29-9-5.

11 "~~(a)~~ Except as provided in Section 29-9-3, amounts
12 in the Education Trust Fund Budget Stabilization Fund may be
13 withdrawn only to prevent proration in the Education Trust
14 Fund. The Governor must certify to the state Comptroller and
15 notify the Legislature that proration would occur in the
16 Education Trust Fund before funds may be withdrawn. Following
17 the certification and notification by the Governor,
18 withdrawals may be made from the Education Trust Fund Budget
19 Stabilization Fund; however, withdrawals shall be limited to
20 the amount of the anticipated proration and funds allotted
21 only to the extent necessary to avoid proration of
22 appropriations from the Education Trust Fund. Any funds
23 withdrawn from the Budget Stabilization Fund in excess of the
24 amount necessary to avoid proration shall be transferred back
25 to the Budget Stabilization Fund within 30 days after the end
26 of the fiscal year in which withdrawals are made.

1 ~~"(b) Amounts in the Education Trust Fund Capital~~
2 ~~Fund shall be used only for construction, reconstruction,~~
3 ~~alteration, and improvement of buildings and other facilities~~
4 ~~for public education purposes in the state, including the~~
5 ~~acquisition of sites and equipment for buildings and~~
6 ~~facilities, and for the payment of indebtedness incurred for~~
7 ~~any of those purposes. Amounts in the Education Trust Fund~~
8 ~~Capital Fund shall be budgeted and allotted in accordance with~~
9 ~~Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through~~
10 ~~41-19-12 but shall not be limited by the fiscal year~~
11 ~~appropriation cap."~~

12 "§29-9-6.

13 "During the first ~~quarter~~ six months of a fiscal
14 year, the Director of Finance may temporarily transfer
15 available funds in the Budget Stabilization Fund into the
16 Education Trust Fund as necessary to alleviate cash flow
17 problems in the Education Trust Fund. Any funds temporarily
18 transferred shall be repaid to the Budget Stabilization Fund
19 from funds in the Education Trust Fund within 90 days
20 following the date the funds are transferred."

21 Section 2. Sections 16-33C-14 and 16-33C-15 Code of
22 Alabama 1975, are hereby repealed.

23 Section 3. Section 16-33C-16 Code of Alabama 1975,
24 is hereby amended to read as follows:

25 "§16-33C-16.

26 ~~"In addition to the appropriations made in Section~~
27 ~~16-33C-14 and Section 16-33C-15, there~~ (a) There is annually

1 appropriated from the Education Trust Fund to the PACT Trust
2 Fund the following amounts in the following fiscal years:

3 (1) For the fiscal year ending 2016 -- ~~\$10,000,000~~
4 \$33,952,000;

5 (2) For the fiscal year ending 2017 -- ~~\$20,000,000~~
6 \$63,622,000;

7 (3) For the fiscal year ending 2018 -- ~~\$20,000,000~~
8 \$62,783,000;

9 (4) For the fiscal year ending 2019 -- ~~\$13,000,000~~
10 \$61,539,000.

11 (5) For the fiscal year ending 2020 -- \$53,738,300
12 \$60,738,300;

13 (6) For the fiscal year ending 2021 -- \$31,881,600;

14 (7) For the fiscal year ending 2022 -- \$32,181,600;

15 (8) For the fiscal year ending 2023 -- \$33,494,400;

16 (9) For the fiscal year ending 2024 -- \$33,728,700;

17 (10) For the fiscal year ending 2025 -- \$38,449,500;

18 (11) For the fiscal year ending 2026 -- \$39,201,000;

19 (12) For the fiscal year ending 2027 -- \$32,500,000.

20 "(b) Beginning with the fiscal year ending September
21 30, 2017, for budgetary purposes and annual budget
22 calculations, forty-five percent (45%) of the appropriations
23 made in this section shall be considered to be a portion of
24 the funding received by colleges and universities, and the
25 remainder shall be considered to be the same as appropriations
26 made for debt service."

1 Section 4. The Legislature shall not appropriate any
2 funds from any of the several clearing or holding accounts
3 into which the Department of Revenue deposits tax revenues on
4 a timely basis and from which the State Comptroller makes
5 disbursements, which are limited by statutes to the purpose of
6 legal expenditure of such tax revenues. Such accounts are not
7 the end destination of such tax revenues but a clearinghouse
8 for immediate deposit of tax revenues into the State Treasury
9 as a matter of convenience until the State Comptroller makes
10 such disbursements, including the processing of tax refunds as
11 may be necessary. Nothing in this Section, however, shall be
12 construed to limit the authority of the Legislature to amend
13 current statutes to further provide for the distribution of
14 tax revenues.

15 Section 5. All laws or parts of laws in direct
16 conflict with this act are hereby repealed.

17 Section 6. If a court of competent jurisdiction
18 shall adjudge to be invalid or unconstitutional any clause,
19 sentence, paragraph, section or part of this act, such
20 judgment or decree shall not affect, impair, invalidate or
21 nullify the remainder of this act, but the effect thereof
22 shall be confined to the clause, sentence, paragraph, section,
23 part of this act so adjudged to be invalid or
24 unconstitutional.

25 Section 7. This act shall become effective upon its
26 passage and approval by the Governor, or its otherwise
27 becoming law.

