

1 HB57
2 125698-3
3 By Representatives Canfield, Oden, Love, Collins, Rich,
4 Merrill, Treadaway, Clouse, Wallace, Johnson (R), Patterson,
5 Roberts, Henry, Bridges, Gaston, Johnson (K), Chesteen,
6 Sanderford, Williams (D), McClendon, Wren, Williams (J),
7 Hubbard (M), Williams (P), Baughn, Moore (B), Long, McClurkin
8 and Lee
9 RFD: Ways and Means Education
10 First Read: 01-MAR-11
11 PFD: 02/25/2011



1
2 ENROLLED, An Act,

3 To provide for the maximum amount that may be
4 appropriated annually from the Education Trust Fund; and to
5 provide for the establishment and operation of a budget
6 stabilization fund and a capital fund for the Education Trust
7 Fund.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

13 (1) ALABAMA TRUST FUND. The Alabama Trust Fund
14 created by Amendment No. 450 to the Constitution of Alabama of
15 1901.

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

20 (3) EDUCATION TRUST FUND RAINY DAY ACCOUNT. The
21 special account created within the Alabama Trust Fund by
22 Amendment No. 803 to the Constitution of Alabama of 1901.

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

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

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

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

19 (8) RECURRING REVENUE. Any permanent and continuing
20 source of revenue of any kind or type that has been enacted,
21 established or provided for in fiscal years prior to the
22 fiscal year for which it is to be included in the calculation
23 of the Fiscal Year Appropriation Cap for the Education Trust
24 Fund. Recurring revenue shall not include any balance
25 remaining in the Education Trust Fund at the end of any fiscal

1 year. Once a new recurring revenue produces a source of
2 revenue for one complete fiscal year, it becomes a recurring
3 revenue.

4 Section 3. (a) Notwithstanding any other provision
5 of law to the contrary, beginning with appropriations made for
6 the fiscal year ending September 30, 2013, appropriations from
7 the Education Trust Fund shall not exceed the Fiscal Year
8 Appropriation Cap.

9 (b) The Fiscal Year Appropriation Cap for the
10 Education Trust Fund shall be equal to the sum of all of the
11 following:

12 (1) The total of recurring revenues deposited into
13 the Education Trust Fund in the last completed fiscal year
14 preceding the date on which the Fiscal Year Appropriation Cap
15 is calculated.

16 (2) An amount equal to the amount in subdivision (1)
17 multiplied by the average annual percent of change in the
18 recurring revenues deposited into the Education Trust Fund for
19 the fifteen completed fiscal years preceding the date on which
20 the Fiscal Year Appropriation Cap is calculated.

21 (3) An amount equal to forty percent of the increase
22 in recurring revenues deposited into the Education Trust Fund
23 for the last completed fiscal year over the recurring revenues
24 deposited into the Education Trust Fund for the fiscal year
25 immediately preceding the last completed fiscal year. The

1 amount provided in this subdivision shall be added only if the
2 percentage in the recurring revenues deposited into the
3 Education Trust Fund for the last completed fiscal year
4 exceeds the fifteen year average growth rate calculated in
5 subdivision (b) (2).

6 (4) If new recurring revenue measures are enacted
7 that will be deposited into the Education Trust Fund, or if
8 existing revenue sources are amended to increase the amount of
9 money deposited into the Education Trust Fund, for the first
10 time during the year for which the Fiscal Year Appropriation
11 Cap is being calculated, then ninety-five percent (95%) of the
12 amount projected in the enacted fiscal note accompanying the
13 legislative act creating the new recurring revenue shall be
14 added as a part of the Fiscal Year Appropriation Cap. If a
15 recurring revenue source is removed from the Education Trust
16 Fund during the year for which the Fiscal Year Appropriation
17 Cap is being calculated, the negative impact, based on the
18 enacted fiscal note, of the removal of the recurring revenue
19 shall be included in the calculation of the Fiscal Year
20 Appropriation Cap.

21 (5) Nonrecurring revenue shall be added as a part of
22 the Fiscal Year Appropriation Cap for the fiscal year in which
23 the nonrecurring revenue is deposited into the Education Trust
24 Fund.

1 (c) The Finance Director and the Legislative Fiscal
2 Officer shall certify their computation of the Fiscal Year
3 Appropriation Cap at the same time as the certification
4 required by Amendment No. 803 to the Constitution of Alabama
5 of 1901. If the computation results in a Fiscal Year
6 Appropriation Cap that is less than the total appropriations
7 from the Education Trust Fund for the fiscal year immediately
8 preceding the fiscal year for which the Fiscal Year
9 Appropriation Cap is being calculated, the Legislature may
10 appropriate from the Education Trust Fund Budget Stabilization
11 Fund created in this act an amount equal to the difference
12 between the preceding fiscal year's total appropriations from
13 the Education Trust Fund and the Fiscal Year Appropriation
14 Cap.

15 Section 4. There is hereby created in the State
16 Treasury an Education Trust Fund Budget Stabilization Fund and
17 an Education Trust Fund Capital Fund. Any monetary interest
18 which accrues in the Education Trust Fund Budget Stabilization
19 Fund shall be retained in the fund from year to year and shall
20 be subject only to the provisions of this act. On or before
21 November 15 of each fiscal year, if the total revenues
22 deposited into the Education Trust Fund during the immediately
23 preceding fiscal year exceed the Fiscal Year Appropriation Cap
24 for the immediately preceding fiscal year, the excess shall be
25 transferred to the Education Trust Fund Rainy Day Account

1 until the Account has been repaid in full. If the Account has
2 been repaid in full, any excess remaining shall be transferred
3 to the Education Trust Fund Budget Stabilization Fund created
4 in this act. The transfers to the Education Trust Fund Budget
5 Stabilization Fund shall be made until the Fund reaches an
6 amount which equals twenty percent of the then current year's
7 appropriations from the Education Trust Fund. After the
8 balance in the Education Trust Fund Budget Stabilization Fund
9 reaches a total of twenty percent, any excess remaining shall
10 be distributed to the Education Trust Fund Capital Fund.

11 Section 5. (a) Except as provided in Section 3,
12 amounts in the Education Trust Fund Budget Stabilization Fund
13 may be withdrawn only to prevent proration in the Education
14 Trust Fund. The Governor must certify to the State Comptroller
15 and 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

1 to the Budget Stabilization Fund within thirty days after the
2 end of the fiscal year in which withdrawals are made.

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

14 Section 6. During the first quarter of a fiscal
15 year, the Finance Director may temporarily transfer available
16 funds in the Budget Stabilization Fund into the Education
17 Trust Fund as necessary to alleviate cash flow problems in the
18 Education Trust Fund. Any funds temporarily transferred shall
19 be repaid to the Budget Stabilization Fund from funds in the
20 Education Trust Fund within 90 days following the date the
21 funds are transferred.

22 Section 7. All laws or parts of laws which conflict
23 with this act are repealed, and Section 40-1-32.1, Code of
24 Alabama 1975 is specifically repealed. Any funds remaining to
25 the credit of the Education Trust Fund Proration Prevention

1 Account shall be transferred to the Education Trust Fund
2 Budget Stabilization Fund.

3 Section 8. In the event that any section, sentence,
4 clause or provision of this act is determined to be
5 unconstitutional, such action shall not affect the validity of
6 the remaining sections, sentences, clauses or provisions,
7 which shall continue in full force and effect.

8 Section 9. This act shall become effective
9 immediately upon its passage and approval by the Governor, or
10 upon its otherwise becoming a law.

Speaker of the House of Representatives

Kay Ivey

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 08-MAR-11, as amended.

Greg Pappas
Clerk

Senate

10-MAR-11

Passed

APPROVED *March 11, 2011*

TIME *11:30 a.m.*

Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2011-3
Bill Num....: H-57