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

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

(4) FISCAL YEAR. The fiscal year of the State of
Alabama that begins on October 1 and ends on September 30.
(5) FISCAL YEAR APPROPRIATION CAP. The maximum amount of appropriations that may be made from the Education Trust Fund for any fiscal year pursuant to the provisions of this act.

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

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

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

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

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

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

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

(3) An amount equal to forty percent of the increase in recurring revenues deposited into the Education Trust Fund for the last completed fiscal year over the recurring revenues deposited into the Education Trust Fund for the fiscal year immediately preceding the last completed fiscal year. The
amount provided in this subdivision shall be added only if the percentage in the recurring revenues deposited into the Education Trust Fund for the last completed fiscal year exceeds the fifteen year average growth rate calculated in subdivision (b) (2).

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

(5) Nonrecurring revenue shall be added as a part of the Fiscal Year Appropriation Cap for the fiscal year in which the nonrecurring revenue is deposited into the Education Trust Fund.
(c) The Finance Director and the Legislative Fiscal Officer shall certify their computation of the Fiscal Year Appropriation Cap at the same time as the certification required by Amendment No. 803 to the Constitution of Alabama of 1901. If the computation results in a Fiscal Year Appropriation Cap that is less than the total appropriations from the Education Trust Fund for the fiscal year immediately preceding the fiscal year for which the Fiscal Year Appropriation Cap is being calculated, the Legislature may appropriate from the Education Trust Fund Budget Stabilization Fund created in this act an amount equal to the difference between the preceding fiscal year's total appropriations from the Education Trust Fund and the Fiscal Year Appropriation Cap.

Section 4. There is hereby created in the State Treasury an Education Trust Fund Budget Stabilization Fund and an Education Trust Fund Capital Fund. Any monetary interest which accrues in the Education Trust Fund Budget Stabilization Fund shall be retained in the fund from year to year and shall be subject only to the provisions of this act. On or before November 15 of each fiscal year, if the total revenues deposited into the Education Trust Fund during the immediately preceding fiscal year exceed the Fiscal Year Appropriation Cap for the immediately preceding fiscal year, the excess shall be transferred to the Education Trust Fund Rainy Day Account.
until the Account has been repaid in full. If the Account has been repaid in full, any excess remaining shall be transferred to the Education Trust Fund Budget Stabilization Fund created in this act. The transfers to the Education Trust Fund Budget Stabilization Fund shall be made until the Fund reaches an amount which equals twenty percent of the then current year's appropriations from the Education Trust Fund. After the balance in the Education Trust Fund Budget Stabilization Fund reaches a total of twenty percent, any excess remaining shall be distributed to the Education Trust Fund Capital Fund.

Section 5. (a) Except as provided in Section 3, amounts in the Education Trust Fund Budget Stabilization Fund may be withdrawn only to prevent proration in the Education Trust Fund. The Governor must certify to the State Comptroller and notify the Legislature that proration would occur in the Education Trust Fund before funds may be withdrawn. Following the certification and notification by the Governor, withdrawals may be made from the Education Trust Fund Budget Stabilization Fund; however, withdrawals shall be limited to the amount of the anticipated proration and funds allotted only to the extent necessary to avoid proration of appropriations from the Education Trust Fund. Any funds withdrawn from the Budget Stabilization Fund in excess of the amount necessary to avoid proration shall be transferred back
to the Budget Stabilization Fund within thirty days after the
end of the fiscal year in which withdrawals are made.

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

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

Section 7. All laws or parts of laws which conflict
with this act are repealed, and Section 40-1-32.1, Code of
Alabama 1975 is specifically repealed. Any funds remaining to
the credit of the Education Trust Fund Proration Prevention
Account shall be transferred to the Education Trust Fund
Budget Stabilization Fund.

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

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or 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
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