

1 SB248  
2 164819-1  
3 By Senators Pittman, Sanford, Scofield, Whatley, Shelnut,tt,  
4 Allen, Albritton, Dial, Marsh, Blackwell, Glover, Williams,  
5 Livingston, Brewbaker, Hightower, Melson, Stutts, Reed,  
6 Waggoner, Orr and Bussman (Constitutional Amendment)  
7 RFD: Finance and Taxation Education  
8 First Read: 17-MAR-15

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill proposes an amendment to the  
9 Constitution of Alabama of 1901 to provide for the  
10 maximum amount that may be appropriated annually  
11 from the Education Trust Fund; and to provide for  
12 the establishment and operation of a budget  
13 stabilization fund and a capital fund for the  
14 Education Trust Fund.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT  
19

20 To propose an amendment to the Constitution of  
21 Alabama of 1901 to provide for the maximum amount that may be  
22 appropriated annually from the Education Trust Fund; and to  
23 provide for the establishment and operation of a budget  
24 stabilization fund and a capital fund for the Education Trust  
25 Fund.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



1 of the fiscal year of which it is to first be included in the  
2 calculation of the fiscal year appropriation cap for the  
3 Education Trust Fund.

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

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

22 II. (a) Notwithstanding any other provision of law  
23 to the contrary, beginning with appropriations made for the  
24 fiscal year ending September 30, 2017, appropriations from the  
25 Education Trust Fund shall not exceed the fiscal year  
26 appropriation cap.

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

4 (1) The total of recurring revenues deposited into  
5 the Education Trust Fund in the last completed fiscal year  
6 preceding the date on which the fiscal year appropriation cap  
7 is calculated.

8 (2) An amount equal to the amount in subdivision (1)  
9 multiplied by the average annual percent of change in the  
10 recurring revenues deposited into the Education Trust Fund for  
11 the 14 highest of the 15 completed fiscal years preceding the  
12 date on which the fiscal year appropriation cap is calculated.

13 (3) The amount required to be appropriated from the  
14 Education Trust Fund to the Prepaid Affordable College Tuition  
15 (PACT) Program pursuant to Sections 16-33C-14 through  
16 16-33C-16, Code of Alabama 1975.

17 (4) An amount equal to 40 percent of the increase in  
18 recurring revenues deposited into the Education Trust Fund for  
19 the last completed fiscal year over the recurring revenues  
20 deposited into the Education Trust Fund for the fiscal year  
21 immediately preceding the last completed fiscal year. The  
22 amount provided in this subdivision shall be added only if the  
23 percentage in the recurring revenues deposited into the  
24 Education Trust Fund for the last completed fiscal year  
25 exceeds the average growth rate calculated in subsection  
26 (b) (2). Any amount added to the appropriation cap pursuant to  
27 this subdivision shall only be appropriated for expenditures

1 that will not create an ongoing or recurring obligation that  
2 requires an appropriation in subsequent fiscal years.

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

18 (6) Nonrecurring revenue shall be added as a part of  
19 the fiscal year appropriation cap for the fiscal year in which  
20 the nonrecurring revenue is deposited into the Education Trust  
21 Fund.

22 (c) The Director of Finance and the Director of the  
23 Fiscal Office shall certify their computation of the fiscal  
24 year appropriation cap at the same time as the certification  
25 required by Amendment No. 803 to the Constitution of Alabama  
26 of 1901. If the computation results in a fiscal year  
27 appropriation cap that is less than the total appropriations

1 from the Education Trust Fund for the fiscal year immediately  
2 preceding the fiscal year for which the fiscal year  
3 appropriation cap is being calculated, the Legislature may  
4 appropriate from the Education Trust Fund Budget Stabilization  
5 Fund created in this amendment an amount equal to the  
6 difference between the preceding fiscal year's total  
7 appropriations from the Education Trust Fund and the fiscal  
8 year appropriation cap.

9 IV. There is hereby created in the State Treasury an  
10 Education Trust Fund Budget Stabilization Fund and an  
11 Education Trust Fund Capital Fund. Any monetary interest which  
12 accrues in the Education Trust Fund Budget Stabilization Fund  
13 shall be retained in the fund from year to year and shall be  
14 subject only to the provisions of this amendment. On or before  
15 November 15 of each fiscal year, if the total revenues  
16 deposited into the Education Trust Fund during the immediately  
17 preceding fiscal year exceed the fiscal year appropriation cap  
18 for the immediately preceding fiscal year, the excess shall be  
19 transferred to the Education Trust Fund Rainy Day Account  
20 until the account has been repaid in full. If the account has  
21 been repaid in full, any excess remaining shall be transferred  
22 to the funds created in this amendment as follows: 70% to the  
23 Education Trust Fund Budget Stabilization Fund; and 30% to the  
24 Education Trust Fund Capital Fund.

25 V. (a) Except as provided in subsections (a) and (b)  
26 of paragraph II of this amendment, amounts in the Education  
27 Trust Fund Budget Stabilization Fund may be withdrawn only to

1 prevent proration in the Education Trust Fund. The Governor  
2 must certify to the State Comptroller and notify the  
3 Legislature that proration would occur in the Education Trust  
4 Fund before funds may be withdrawn. Following the  
5 certification and notification by the Governor, withdrawals  
6 may be made from the Education Trust Fund Budget Stabilization  
7 Fund; however, withdrawals shall be limited to the amount of  
8 the anticipated proration and funds allotted only to the  
9 extent necessary to avoid proration of appropriations from the  
10 Education Trust Fund. Any funds withdrawn from the Budget  
11 Stabilization Fund in excess of the amount necessary to avoid  
12 proration shall be transferred back to the Budget  
13 Stabilization Fund within 30 days after the end of the fiscal  
14 year in which withdrawals are made.

15 (b) Amounts in the Education Trust Fund Capital Fund  
16 shall be used only for construction, reconstruction,  
17 alteration, and improvement of buildings and other facilities  
18 for public education purposes in the state, including the  
19 acquisition of sites and equipment for buildings and  
20 facilities, for computer equipment and software, for  
21 technology infrastructure and for the payment of indebtedness  
22 incurred for any of those purposes. Amounts in the Education  
23 Trust Fund Capital Fund shall be budgeted and allotted in  
24 accordance with Sections 41-4-80 through 41-4-96 and Sections  
25 41-19-1 through 41-19-12 but shall not be limited by the  
26 fiscal year appropriation cap.

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

9                   Section 2. An election upon the proposed amendment  
10 shall be held in accordance with Sections 284 and 285 of the  
11 Constitution of Alabama of 1901, now appearing as Sections 284  
12 and 285 of the Official Recompilation of the Constitution of  
13 Alabama of 1901, as amended, and the election laws of this  
14 state.

15                   Section 3. The appropriate election official shall  
16 assign a ballot number for the proposed constitutional  
17 amendment on the election ballot and shall set forth the  
18 following description of the substance or subject matter of  
19 the proposed constitutional amendment:

20                   "Proposing an amendment to the Constitution of  
21 Alabama of 1901, to provide for the maximum amount that may be  
22 appropriated annually from the Education Trust Fund; and to  
23 provide for the establishment and operation of a budget  
24 stabilization fund and a capital fund for the Education Trust  
25 Fund.

26                   "Proposed by Act \_\_\_\_\_."

1                    This description shall be followed by the following  
2       language:  
3                    "Yes ( ) No ( )."