

1 HB29
2 172054-2
3 By Representative Poole
4 RFD: Ways and Means Education
5 First Read: 08-SEP-15

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ENROLLED, An Act,

To provide further for the calculation of the annual appropriation cap for the Education Trust Fund Rolling Reserve Act to include payments to the Prepaid Affordable College Tuition (PACT) Trust Fund; to provide further for the use of revenues from the Education Trust Fund Budget Stabilization Fund and the Education Trust Fund Advancement and Technology Fund; to delete certain obsolete provisions concerning PSCA debt service; and to prohibit appropriations from holding or clearing accounts.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§29-9-3.

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

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

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

20 ~~"(4)~~ (3) If new recurring revenue measures are
21 enacted that will be deposited into the Education Trust Fund,
22 or if existing revenue sources are amended to increase the
23 amount of money deposited into the Education Trust Fund, for
24 the first time during the year for which the fiscal year
25 appropriation cap is being calculated, then 95 percent of the

1 amount projected in the enacted fiscal note accompanying the
2 legislative act creating the new recurring revenue shall be
3 added as a part of the fiscal year appropriation cap. If a
4 recurring revenue source is removed from the Education Trust
5 Fund during the year for which the fiscal year appropriation
6 cap is being calculated, the negative impact, based on the
7 enacted fiscal note, of the removal of the recurring revenue
8 shall be included in the calculation of the fiscal year
9 appropriation cap. Any new recurring revenue measures and any
10 changes in the distribution of Education Trust Fund recurring
11 revenues enacted during the First or Second Special Session of
12 2015 shall not require any addition or reduction in the fiscal
13 year appropriation cap for the fiscal year ending September
14 30, 2016.

15 ~~"(5)~~ (4) Nonrecurring revenue shall be added as a
16 part of the fiscal year appropriation cap for the fiscal year
17 in which the nonrecurring revenue is deposited into the
18 Education Trust Fund.

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

23 "(c) The Director of Finance and the Director of the
24 Fiscal Office shall certify their computation of the fiscal
25 year appropriation cap at the same time as the certification

1 required by Amendment No. 803 to the Constitution of Alabama
2 of 1901. If the computation results in a fiscal year
3 appropriation cap that is less than the total appropriations
4 from the Education Trust Fund for the fiscal year immediately
5 preceding the fiscal year for which the fiscal year
6 appropriation cap is being calculated, the Legislature may
7 appropriate from the Education Trust Fund Budget Stabilization
8 Fund created in this chapter an amount equal to the difference
9 between the preceding fiscal year's total appropriations from
10 the Education Trust Fund and the fiscal year appropriation
11 cap, provided that any such amount shall be in the
12 determination of the Legislature not to compromise the fiscal
13 integrity of the Fund to offset any future proration of the
14 Education Trust Fund.

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

1 "§29-9-4.

2 "There is hereby created in the State Treasury an
3 Education Trust Fund Budget Stabilization Fund and an
4 Education Trust Fund ~~Capital~~ Advancement and Technology Fund.
5 Any monetary interest which accrues in the Education Trust
6 Fund Budget Stabilization Fund shall be retained in the fund
7 from year to year and shall be subject only to the provisions
8 of this chapter. On or before November 15 of each fiscal year,
9 if the total revenues deposited into the Education Trust Fund
10 during the immediately preceding fiscal year exceed the fiscal
11 year appropriation cap for the immediately preceding fiscal
12 year, the excess shall be transferred to the Education Trust
13 Fund Rainy Day Account until the account has been repaid in
14 full. If the account has been repaid in full, any excess
15 remaining shall be transferred to the Education Trust Fund
16 Budget Stabilization Fund and the Education Trust Fund
17 Advancement and Technology Fund created in this chapter. The
18 transfers to the Education Trust Fund Budget Stabilization
19 Fund and the Education Trust Fund Advancement and Technology
20 Fund shall be made annually as follows:

21 "(a) Any excess remaining for the fiscal year ending
22 September 30, 2015, up to two percent of the previous year's
23 Education Trust Fund appropriations, shall be transferred to
24 the Education Trust Fund Budget Stabilization Fund.
25 Thereafter, an amount up to one percent of the previous year's

1 Education Trust Fund appropriations shall be transferred to
2 the Education Trust Fund Budget Stabilization Fund annually
3 until the Fund reaches seven and one-half percent of the
4 previous year's appropriations from the Education Trust Fund.

5 "(b) Funds in excess of those transferred in
6 subsection (a) shall be transferred to the Education Trust
7 Fund Advancement and Technology Fund each year. Amounts in the
8 Education Trust Fund Advancement and Technology Fund shall be
9 appropriated by and through an independent supplemental
10 appropriation bill for repairs or deferred maintenance of
11 facilities for public education purposes in the state, for
12 classroom instructional support as provided in Section
13 16-13-231(b) (2)c. and Section 16-13-231.3, for insuring
14 facilities, for transportation as provided in Section
15 16-13-233, and for the acquisition and/or purchase of
16 education technology and equipment. These funds, however,
17 shall not be used as a pledge for the issuance or payment of
18 debt service. No funds shall be appropriated until the balance
19 of the Education Trust Fund Advancement and Technology Fund at
20 the end of the previous fiscal year equals or exceeds \$10
21 million. Amounts in the Education Trust Fund Advancement and
22 Technology Fund shall be budgeted and allotted in accordance
23 with Sections 41-4-80 through 41-4-96 and Sections 41-19-1
24 through 41-19-12, but shall not be limited by the fiscal year
25 appropriation cap. until the Fund reaches an amount which

1 equals 20 percent of the then current year's appropriations
2 from the Education Trust Fund. After the balance in the
3 Education Trust Fund Budget Stabilization Fund reaches a total
4 of 20 percent, any excess remaining shall be distributed to
5 the Education Trust Fund Capital Fund.

6 "(c) The annual appropriation of these funds shall
7 be divided between the public schools and institutions of
8 higher education in the state in accordance with the
9 percentage split between these two sectors of education as
10 certified by the Legislative Fiscal Office at the end of the
11 preceding fiscal year. Public schools shall be interpreted to
12 include the Alabama School of Math and Science, the Alabama
13 School of Fine Arts, the portion of the Alabama Institute for
14 Deaf and Blind providing appropriate Elementary/Secondary
15 instruction, and may include the Department of Youth Services
16 School District."

17 "§29-9-5.

18 ~~"(a)~~ Except as provided in Section 29-9-3, amounts
19 in the Education Trust Fund Budget Stabilization Fund may be
20 withdrawn only to prevent proration in the Education Trust
21 Fund. The Governor must certify to the state Comptroller and
22 notify the Legislature that proration would occur in the
23 Education Trust Fund before funds may be withdrawn. Following
24 the certification and notification by the Governor,
25 withdrawals may be made from the Education Trust Fund Budget

1 Stabilization Fund; however, withdrawals shall be limited to
2 the amount of the anticipated proration and funds allotted
3 only to the extent necessary to avoid proration of
4 appropriations from the Education Trust Fund. Any funds
5 withdrawn from the Budget Stabilization Fund in excess of the
6 amount necessary to avoid proration shall be transferred back
7 to the Budget Stabilization Fund within 30 days after the end
8 of the fiscal year in which withdrawals are made.

9 ~~"(b) Amounts in the Education Trust Fund Capital~~
10 ~~Fund shall be used only for construction, reconstruction,~~
11 ~~alteration, and improvement of buildings and other facilities~~
12 ~~for public education purposes in the state, including the~~
13 ~~acquisition of sites and equipment for buildings and~~
14 ~~facilities, and for the payment of indebtedness incurred for~~
15 ~~any of those purposes. Amounts in the Education Trust Fund~~
16 ~~Capital Fund shall be budgeted and allotted in accordance with~~
17 ~~Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through~~
18 ~~41-19-12 but shall not be limited by the fiscal year~~
19 ~~appropriation cap."~~

20 "§29-9-6.

21 "During the first ~~quarter~~ six months of a fiscal
22 year, the Director of Finance may temporarily transfer
23 available funds in the Budget Stabilization Fund into the
24 Education Trust Fund as necessary to alleviate cash flow
25 problems in the Education Trust Fund. Any funds temporarily

1 transferred shall be repaid to the Budget Stabilization Fund
2 from funds in the Education Trust Fund within 90 days
3 following the date the funds are transferred."

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

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

8 "§16-33C-16.

9 ~~"In addition to the appropriations made in Section~~
10 ~~16-33C-14 and Section 16-33C-15, there~~ (a) There is annually
11 appropriated from the Education Trust Fund to the PACT Trust
12 Fund the following amounts in the following fiscal years:

13 "(1) For the fiscal year ending 2016 -- ~~\$10,000,000~~
14 \$33,952,000;

15 "(2) For the fiscal year ending 2017 -- ~~\$20,000,000~~
16 \$63,622,000;

17 "(3) For the fiscal year ending 2018 -- ~~\$20,000,000~~
18 \$62,783,000;

19 "(4) For the fiscal year ending 2019 -- ~~\$13,000,000~~
20 \$61,539,000.

21 "(5) For the fiscal year ending 2020 -- \$53,738,300
22 \$60,738,300;

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

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

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

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

2 "(10) For the fiscal year ending 2025 --
3 \$38,449,500;

4 "(11) For the fiscal year ending 2026 --
5 \$39,201,000;

6 "(12) For the fiscal year ending 2027 --
7 \$32,500,000.

8 "(b) Beginning with the fiscal year ending September
9 30, 2017, for budgetary purposes and annual budget
10 calculations, fifty-five percent (55%) of the appropriations
11 made in this section shall be considered to be a portion of
12 the funding received by colleges and universities, and the
13 remainder shall be considered to be the same as appropriations
14 made for debt service."

15 Section 4. The Legislature shall not appropriate any
16 funds from any of the several clearing or holding accounts
17 into which the Department of Revenue deposits tax revenues on
18 a timely basis and from which the State Comptroller makes
19 disbursements, which are limited by statutes to the purpose of
20 legal expenditure of such tax revenues. Such accounts are not
21 the end destination of such tax revenues but a clearinghouse
22 for immediate deposit of tax revenues into the State Treasury
23 as a matter of convenience until the State Comptroller makes
24 such disbursements, including the processing of tax refunds as
25 may be necessary. Nothing in this Section, however, shall be

1 construed to limit the authority of the Legislature to amend
2 current statutes to further provide for the distribution of
3 tax revenues.

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

6 Section 6. If a court of competent jurisdiction
7 shall adjudge to be invalid or unconstitutional any clause,
8 sentence, paragraph, section or part of this act, such
9 judgment or decree shall not affect, impair, invalidate or
10 nullify the remainder of this act, but the effect thereof
11 shall be confined to the clause, sentence, paragraph, section,
12 part of this act so adjudged to be invalid or
13 unconstitutional.

14 Section 7. This act shall become effective upon its
15 passage and approval by the Governor, or its otherwise
16 becoming law.

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Speaker of the House of Representatives

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 10-SEP-15, as amended.

Jeff Woodard
Clerk

Senate	14-SEP-15	Amended and Passed
House	15-SEP-15	Passed, as amended by Conference Com- mittee Report
Senate	15-SEP-15	Passed, as amended by Conference Com- mittee Report