

1 SB323
2 191877-3
3 By Senator Pittman
4 RFD: Finance and Taxation Education
5 First Read: 20-FEB-18

1 SB323

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4 ENROLLED, An Act,

5 To amend Sections 29-9-4 and 29-9-5, Code of Alabama
6 1975, relating to the Education Trust Fund Rolling Reserve Act
7 to allow the Education Trust Fund Budget Stabilization Fund to
8 be used to provide temporary emergency assistance funding to
9 the public schools and institutions of higher education to
10 repair damages resulting from a natural disaster declared by
11 the Governor and to allow funds in the Education Trust Fund
12 Advancement and Technology Fund to be used for school
13 security.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§29-9-4.

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

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

12 "(a) Any excess remaining for the fiscal year ending
13 September 30, 2015, up to two percent of the previous year's
14 Education Trust Fund appropriations, shall be transferred to
15 the Education Trust Fund Budget Stabilization Fund.

16 Thereafter, an amount up to one percent of the previous year's
17 Education Trust Fund appropriations shall be transferred to
18 the Education Trust Fund Budget Stabilization Fund annually
19 until the Fund reaches seven and one-half percent of the
20 previous year's appropriations from the Education Trust Fund.

21 "(b) Funds in excess of those transferred in
22 subsection (a) shall be transferred to the Education Trust
23 Fund Advancement and Technology Fund each year. Amounts in the
24 Education Trust Fund Advancement and Technology Fund shall be
25 appropriated by and through an independent supplemental

1 appropriation bill for the following nonrecurring expenses:
2 repairs or deferred maintenance of facilities for public
3 education purposes in the state, for classroom instructional
4 support as provided in Section 16-13-231(b)(2)c. and Section
5 16-13-231.3, for insuring facilities, for transportation as
6 provided in Section 16-13-233, for school security measures,
7 and for the acquisition or purchase of education technology
8 and equipment, or both. These funds, however, shall not be
9 used as a pledge for the issuance or payment of debt service.
10 No funds shall be appropriated until the balance of the
11 Education Trust Fund Advancement and Technology Fund at the
12 end of the previous fiscal year equals or exceeds \$10 million.
13 Amounts in the Education Trust Fund Advancement and Technology
14 Fund shall be budgeted and allotted in accordance with
15 Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through
16 41-19-12, but shall not be limited by the fiscal year
17 appropriation cap.

18 "(c) The annual appropriation of these funds shall
19 be divided between the public schools and institutions of
20 higher education in the state in accordance with the
21 percentage split between these two sectors of education as
22 certified by the Legislative Fiscal Office at the end of the
23 preceding fiscal year. Public schools shall be interpreted to
24 include the Alabama School of Math and Science, the Alabama
25 School of Fine Arts, the portion of the Alabama Institute for

1 Deaf and Blind providing appropriate Elementary/Secondary
2 instruction, and may include the Department of Youth Services
3 School District."

4 "§29-9-5.

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

22 "(b) Amounts in the Education Trust Fund Budget
23 Stabilization Fund may be withdrawn upon certification by the
24 Governor that a natural disaster for which the Governor
25 declared a state of emergency caused damage to public schools

1 and/or institutions of higher education and funds are needed
2 to provide emergency temporary funding for repairs of the
3 damages. The Governor must certify to the state comptroller
4 and notify the Legislature the amount of funds needed for
5 emergency repairs before funds may be withdrawn and
6 distributed to the impacted public school or institution of
7 higher education. In certifying the amount of funds needed
8 for emergency repairs, the Governor shall take into account
9 any emergency funding provided to the impacted public school
10 or institution of higher education by an insurance provider,
11 including, but not limited to, the State Insurance Fund.
12 Following the certification and notification by the Governor,
13 withdrawals may be made from the Education Trust Fund Budget
14 Stabilization Fund; however, withdrawals shall be limited to
15 the amount necessary to provide emergency repairs and shall
16 not exceed a total of ten percent (10%) of the current balance
17 of the fund, and at no time shall more than ten percent (10%)
18 of the total cumulative amount of revenues distributed to the
19 Budget Stabilization Fund be outstanding. Any funds withdrawn
20 from the Budget Stabilization Fund pursuant to this
21 subdivision must be repaid by the public school or institution
22 of higher education receiving the funds as expeditiously as
23 possible, but no later than the conclusion of the second
24 fiscal year of the state following withdrawal. The repayment
25 shall be made from the first insurance settlement proceeds

1 received by the public school or institution of higher
2 education; provided, however, that if the insurance settlement
3 proceeds received are less than the emergency repair funding
4 received by the public school or institution of higher
5 education, then the remaining repayment shall be made from any
6 other funds available to the public school or institution of
7 higher education. Any public school or institution of higher
8 education that receives emergency repair funding pursuant to
9 this subdivision and fails to repay the amount received within
10 the two-year period shall be ineligible to receive any
11 additional emergency repair funding pursuant to this
12 subdivision or any appropriations from the Education Trust
13 Fund Advancement and Technology Fund until such time as the
14 funds are repaid. Any amount not repaid within the two-year
15 period referenced above shall accrue interest at the rate of 8
16 percent annually until the total amount, including accrued
17 interest, is fully repaid."

18 Section 2. This act shall become effective
19 immediately upon its passage and approval by the Governor, or
20 its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

Senate 13-MAR-18.
I hereby certify that the within Act originated in and passed the Senate.

Senate 28-MAR-18
I hereby certify that the within Act originated in and passed the Senate, as amended by Executive Amendment.

Patrick Harris,
Secretary.

House of Representatives
Amended and Passed: 22-MAR-18

House of Representatives
Passed: 29-MAR-18, as amended by Executive Amendment.

By: Senator Pittman