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
11:30 A.M.

Robert Bentley
GOVERNOR

Alabama Secretary Of State
Act Num....: 2011-3
Bill Num....: H-57
Recvd 03/11/11 01:07pm JJB