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3 HOUSE WAYS AND MEANS EDUCATION COMMITTEE SUBSTITUTE FOR HB322  
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8 SYNOPSIS: This bill amends the Education Trust Fund  
9 Rolling Reserve Act of 2011 to provide further for  
10 the determination of the annual appropriation cap,  
11 for the disposition of revenues received in excess  
12 of the cap, for the appropriation of funds in the  
13 Education Trust Fund Capital Fund, and for the  
14 temporary transfer of funds from the Education  
15 Trust Fund Budget Stabilization Fund. This bill  
16 amends the Wallace-Folsom College Savings  
17 Investment Plan Act to delete certain obsolete  
18 provisions concerning PSCA debt service. This bill  
19 further clarifies the fiscal status of holding or  
20 clearing accounts created as an administrative  
21 convenience to implement the statutory and/or  
22 constitutional distribution of earmarked tax  
23 revenues so as to prohibit the appropriation of  
24 such funds.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 To provide further for the calculation of the annual  
4 appropriation cap for the Education Trust Fund Rolling Reserve  
5 Act to include payments to the Prepaid Affordable College  
6 Tuition (PACT) Trust Fund; to provide further for the use of  
7 revenues from the Education Trust Fund Budget Stabilization  
8 Fund and the Education Trust Fund Capital Fund; to delete  
9 certain obsolete provisions concerning PSCA debt service; and  
10 to prohibit appropriations from holding or clearing accounts.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 29-9-3, 29-9-4, 29-9-5, and  
13 29-9-6 Code of Alabama 1975, are hereby amended to read as  
14 follows:

15 "§29-9-3.

16 "(a) Notwithstanding any other provision of law to  
17 the contrary, beginning with appropriations made for the  
18 fiscal year ending September 30, 2013, appropriations from the  
19 Education Trust Fund shall not exceed the fiscal year  
20 appropriation cap.

21 "(b) The fiscal year appropriation cap for the  
22 Education Trust Fund shall be equal to the sum of all of the  
23 following:

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

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

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

16           "~~(4)~~ (3) If new recurring revenue measures are  
17           enacted that will be deposited into the Education Trust Fund,  
18           or if existing revenue sources are amended to increase the  
19           amount of money deposited into the Education Trust Fund, for  
20           the first time during the year for which the fiscal year  
21           appropriation cap is being calculated, then 95 percent of the  
22           amount projected in the enacted fiscal note accompanying the  
23           legislative act creating the new recurring revenue shall be  
24           added as a part of the fiscal year appropriation cap. If a  
25           recurring revenue source is removed from the Education Trust  
26           Fund during the year for which the fiscal year appropriation  
27           cap is being calculated, the negative impact, based on the

1 enacted fiscal note, of the removal of the recurring revenue  
2 shall be included in the calculation of the fiscal year  
3 appropriation cap.

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

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

12 "(c) The Director of Finance and the Director of the  
13 Fiscal Office shall certify their computation of the fiscal  
14 year appropriation cap at the same time as the certification  
15 required by Amendment No. 803 to the Constitution of Alabama  
16 of 1901. If the computation results in a fiscal year  
17 appropriation cap that is less than the total appropriations  
18 from the Education Trust Fund for the fiscal year immediately  
19 preceding the fiscal year for which the fiscal year  
20 appropriation cap is being calculated, the Legislature may  
21 appropriate from the Education Trust Fund Budget Stabilization  
22 Fund created in this chapter an amount equal to the difference  
23 between the preceding fiscal year's total appropriations from  
24 the Education Trust Fund and the fiscal year appropriation  
25 cap, provided that any such amount shall be in the  
26 determination of the Legislature not to compromise the fiscal

1 integrity of the Fund to offset any future proration of the  
2 Education Trust Fund.

3 "(d) Amendment No. 803 to the Constitution of 1901  
4 requires an estimate of available revenue for the Education  
5 Trust Fund which is to be certified by the Finance Director  
6 and the Legislative Fiscal Officer prior to the third  
7 legislative day of each Regular Session. If, however, the  
8 average of the estimated available revenue is less than the  
9 fiscal year appropriation cap calculated in subsection (b),  
10 the Legislature shall appropriate no more than the lesser  
11 amount of the average of the estimated available revenue or  
12 the fiscal year appropriation cap as required to be determined  
13 by this Section."

14 "§29-9-4.

15 "There is hereby created in the State Treasury an  
16 Education Trust Fund Budget Stabilization Fund and an  
17 Education Trust Fund Capital Fund. Any monetary interest which  
18 accrues in the Education Trust Fund Budget Stabilization Fund  
19 shall be retained in the fund from year to year and shall be  
20 subject only to the provisions of this chapter. On or before  
21 November 15 of each fiscal year, if the total revenues  
22 deposited into the Education Trust Fund during the immediately  
23 preceding fiscal year exceed the fiscal year appropriation cap  
24 for the immediately preceding fiscal year, the excess shall be  
25 transferred to the Education Trust Fund Rainy Day Account  
26 until the account has been repaid in full. If the account has  
27 been repaid in full, any excess remaining shall be transferred

1 to the Education Trust Fund Budget Stabilization Fund and the  
2 Education Trust Fund Capital Fund created in this chapter. The  
3 transfers to the Education Trust Fund Budget Stabilization  
4 Fund and the Education Trust Fund Capital Fund shall be made  
5 annually as follows:

6 "(1) An amount equal to one percent of the previous  
7 year's Education Trust Fund appropriations shall be  
8 transferred to the Education Trust Fund Budget Stabilization  
9 Fund. An additional one percent of each previous year's  
10 appropriation shall be transferred annually until the Fund  
11 reaches five percent of the previous year's appropriations  
12 from the Education Trust Fund.

13 "(2) Funds in excess of those transferred in (1)  
14 shall be transferred to the Education Trust Fund Capital Fund  
15 each year. Amounts in the Education Trust Fund Capital Fund  
16 shall be appropriated for the planning, construction,  
17 reconstruction, enlargement, improvement, repair or renovation  
18 of facilities for public education purposes in the state,  
19 including the purchase of land and equipment for facilities,  
20 for existing debt payments related to facilities, for  
21 classroom instructional support as provided in Section  
22 16-13-231(b) (2)c. and Section 16-13-231.3, for insuring  
23 facilities, for transportation as provided in Section  
24 16-13-233, for deferred maintenance and for the acquisition  
25 and/or purchase of education technology and equipment. These  
26 funds, however, shall not be used as a pledge for the issuance  
27 of new debt. No funds shall be appropriated until the balance

1 of the Education Trust Fund Capital Fund at the end of the  
2 previous fiscal year equals or exceeds \$10 million. Amounts in  
3 the Education Trust Fund Capital Fund shall be budgeted and  
4 allotted in accordance with Sections 41-4-80 through 41-4-96  
5 and Sections 41-19-1 through 41-19-12, but shall not be  
6 limited by the fiscal year appropriation cap. until the Fund  
7 reaches an amount which equals 20 percent of the then current  
8 year's appropriations from the Education Trust Fund. After the  
9 balance in the Education Trust Fund Budget Stabilization Fund  
10 reaches a total of 20 percent, any excess remaining shall be  
11 distributed to the Education Trust Fund Capital Fund.

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

23 "§29-9-5.

24 "(a) Except as provided in Section 29-9-3, amounts  
25 in the Education Trust Fund Budget Stabilization Fund may be  
26 withdrawn only to prevent proration in the Education Trust  
27 Fund. The Governor must certify to the state Comptroller and

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

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

24 "§29-9-6.

25 "During the first ~~quarter~~ six months of a fiscal  
26 year, the Director of Finance may temporarily transfer  
27 available funds in the Budget Stabilization Fund into the



1 Education Trust Fund as necessary to alleviate cash flow  
2 problems in the Education Trust Fund. Any funds temporarily  
3 transferred shall be repaid to the Budget Stabilization Fund  
4 from funds in the Education Trust Fund within 90 days  
5 following the date the funds are transferred."

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

8 Section 3. Section 16-33C-16 is hereby amended to  
9 read as follows:

10 "§16-33C-16.

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

15 (1) For the fiscal year ending 2016 -- ~~\$10,000,000~~  
16 \$43,952,000;

17 (2) For the fiscal year ending 2017 -- ~~\$20,000,000~~  
18 \$62,622,000;

19 (3) For the fiscal year ending 2018 -- ~~\$20,000,000~~  
20 \$61,783,000;

21 (4) For the fiscal year ending 2019 -- ~~\$13,000,000~~  
22 \$60,539,000.

23 (5) For the fiscal year ending 2020 -- \$53,738,300;

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

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

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

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

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

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

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

4                   "(b) For budgetary purposes and annual budget  
5 calculations, forty-five percent (45%) of the appropriations  
6 made in this section shall be considered to be a portion of  
7 the funding received by colleges and universities, and the  
8 remainder shall be considered to be the same as appropriations  
9 made for debt service."

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

24                   Section 5. All laws or parts of laws in direct  
25 conflict with this Act are hereby repealed.

26                   Section 6. If a court of competent jurisdiction  
27 shall adjudge to be invalid or unconstitutional any clause,

1 sentence, paragraph, section or part of this act, such  
2 judgment or decree shall not affect, impair, invalidate or  
3 nullify the remainder of this act, but the effect thereof  
4 shall be confined to the clause, sentence, paragraph, section,  
5 part of this act so adjudged to be invalid or  
6 unconstitutional.

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