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3 SENATE FINANCE AND TAXATION GENERAL FUND COMMITTEE SUBSTITUTE
4 FOR SB231

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9 SYNOPSIS: This bill would propose an amendment to the
10 Constitution of Alabama of 1901, to create the
11 Alabama Legacy Trust Fund.

12 The proposed amendment would require the
13 Alabama Trust Fund Board of Trustees to administer
14 the fund.

15 The proposed amendment provides for the
16 distribution of certain payments received by the
17 state from settlements and other monies.

18 The proposed amendment also provides for
19 distributions from the trust fund.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 Proposing an amendment to the Constitution of
26 Alabama of 1901, to create the Alabama Legacy Trust Fund; to
27 provide for the distribution of payments from settlements and

1 other monies; and provides for distributions from the trust
2 fund.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. The following amendment to the
5 Constitution of Alabama of 1901, as amended, is proposed and
6 shall become valid as a part thereof when approved by a
7 majority of the qualified electors voting thereon and in
8 accordance with Sections 284 and 285 of the Constitution of
9 Alabama of 1901, now appearing as Sections 284 and 285 of
10 Official Recompile of the Constitution of Alabama of 1901
11 as amended:

12 PROPOSED AMENDMENT

13 Section I. For the continuing benefit of the State
14 of Alabama and the citizens of the state, there is hereby
15 created the Alabama Legacy Trust Fund, an irrevocable
16 permanent trust fund, funded and administered in accordance
17 with this amendment.

18 Section II. For the purposes of this amendment, the
19 following terms shall have the following meanings:

20 (a) BOARD. The Board of Trustees of the Alabama
21 Trust Fund.

22 (b) FISCAL YEAR. The fiscal year of the state as may
23 from time to time be provided by law.

24 (c) STATE. The State of Alabama.

25 (d) SETTLEMENT PROCEEDS. Any payment of \$2,000,000
26 or more received by the state or any agency of the state
27 pursuant to any court order or negotiated settlement where the

1 state or agency thereof is a party and which is entered after
2 the effective date of this amendment. The term shall also mean
3 any payments that would have previously been distributed
4 pursuant to Section 36-15-4.2, Code of Alabama. The term shall
5 not include any funds received by the state or any agency of
6 the state pursuant to federal statute or regulation, or as a
7 result of a tax assessment.

8 (e) TRUST CAPITAL. All assets of the trust fund.

9 (f) TRUSTEE. A member of the Board of Trustees of
10 the Alabama Trust Fund.

11 (g) TRUST FUND. The Alabama Legacy Trust Fund.

12 Section III. The trust fund shall be under the
13 management and control of the Board and all powers necessary
14 or appropriate for the management and control of the trust
15 fund shall be solely vested in the Board. All powers and
16 duties granted to the Board for the investment of monies in
17 the Alabama Trust Fund shall also apply to investment of
18 monies in the Alabama Legacy Trust Fund.

19 Section IV. (a) Any settlement proceeds shall first
20 be used to repay the remainder of the Alabama Trust Fund Rainy
21 Day Account for the \$161,565,874 transferred to the State
22 General Fund in fiscal year 2010 pursuant to Amendment 803 of
23 the Constitution of Alabama of 1901 and to repay the Alabama
24 Trust Fund for the remainder of the \$437,390,829 transferred
25 to the State General Fund over fiscal years 2013, 2014 and
26 2015 pursuant to Amendment 856 of the Constitution of Alabama
27 of 1901. Any remaining settlement proceeds, after said

1 repayment, shall be deposited into the Alabama Legacy Trust
2 Fund.

3 (b) The trust fund shall be augmented by (1) other
4 moneys or assets as the Legislature may by law appropriate and
5 transfer to the trust fund; (2) other moneys or assets as may
6 be contributed to the trust fund from any source; (3) trust
7 distributions reinvested in the trust fund as provided in
8 Section V of this amendment; and (4) trust income.

9 Section V. (a) Assets in the trust fund shall be
10 held in perpetual trust and shall not be appropriated by the
11 Legislature or expended or disbursed for any purpose other
12 than to acquire eligible investments or to make distributions
13 in accordance with this amendment. Beginning in the first
14 fiscal year settlement proceeds are deposited into the trust
15 fund, five percent of the market value of invested assets at
16 fiscal year end shall be used for distribution. In the second
17 fiscal year, five percent of the average of the market value
18 of invested assets at fiscal year end of first and second
19 years shall be used for distribution. In the third fiscal
20 year, five percent of the average of the market value of the
21 invested assets at fiscal year end of the first, second and
22 third years shall be used for distribution. Each fiscal year
23 thereafter, five percent of the average market value of
24 invested assets at fiscal year end as of the end of the three
25 fiscal years ending one, two, and three years prior to the
26 beginning of the fiscal year for which the distribution is
27 being made shall be used for distribution. Annual distribution

1 shall be as follows: 80 percent of the distribution to the
2 State General Fund, 10 percent of the distribution to the
3 Alabama Capital Improvement Trust Fund as set out in Section
4 219.04 of the Constitution of Alabama of 1901, (Amendment
5 666), and 10 percent of the distribution shall remain in the
6 Alabama Legacy Trust Fund.

7 (b) To the extent appropriate and not at the time
8 prohibited by law, the Board shall use the facilities of the
9 State Treasurer in the administration of the trust fund,
10 including, but not limited to, the keeping of records, the
11 management of bank accounts, the transfer of funds, and the
12 safekeeping of securities evidencing investments.

13 (c) An annual audit of the trust fund shall be
14 performed for each fiscal year by the Department of Examiners
15 of Public Accounts, or, in the discretion of the Board, by an
16 independent certified public accounting firm. A report of each
17 audit shall be prepared in accordance with applicable
18 accounting principles. The Board shall prepare and publicize
19 financial and other information concerning the trust fund as
20 may be provided by law. In the absence of any law directing
21 the preparation and publication of reports, the Board shall
22 prepare or cause to be prepared and publicize, within 60 days
23 after the end of each quarterly period in each fiscal year, a
24 report containing all of the following:

25 (1) A statement of the trust capital then held in
26 the trust fund showing any changes since the last quarterly
27 report.

1 (2) A statement of the trust income received during
2 the quarterly period in question and fiscal year to date.

3 (3) A statement of the investments then held in the
4 trust fund including descriptions and respective values.

5 (4) Any other information determined by the Board to
6 reflect a full and complete disclosure of the financial
7 operations of the trust fund.

8 Section VI. No trustee shall be personally liable
9 for any liability, loss, or expense suffered by the trust fund
10 unless the liability, loss, or expense results from the
11 willful misconduct or wrongdoing of the trustee.

12 Section VII. This amendment shall be self-executing.
13 The Legislature may enact laws supplemental to this amendment
14 that are in furtherance of the purposes and objectives of this
15 amendment and not inconsistent with this amendment.

16 Section VIII. All laws or parts of laws in conflict
17 with this amendment are repealed, including, without
18 limitation, Section 36-15-4.2, Code of Alabama 1975, as
19 amended.

20 Section IX. The expenses of making and disposing of
21 investments, including but not limited to, custodian expenses,
22 investment expenses, consultant expenses, customary
23 transactional expenses, shall be payable out of any trust
24 income of the trust fund. The legislature shall provide for
25 the administrative and other necessary expenses of the board
26 in the same manner as it provides for the expenses of
27 operating other departments and agencies of the state.

1 Section 2. An election upon the proposed amendment
2 shall be held in accordance with Sections 284 and 285 of the
3 Constitution of Alabama of 1901, now appearing as Sections 284
4 and 285 of Official Recompilation of the Constitution of
5 Alabama of 1901 as amended, and the election laws of this
6 state.

7 Section 3. The appropriate election official shall
8 assign a ballot number for the proposed constitutional
9 amendment on the election ballot and shall set forth the
10 following description of the substance or subject matter of
11 the proposed constitutional amendment:

12 "Proposing an amendment to the Constitution of
13 Alabama of 1901, to create the Alabama Legacy Trust Fund and
14 to provide for the distribution of all settlement proceeds by
15 the state to be deposited into the trust fund, to be held in
16 perpetual trust for the benefit of the State of Alabama and
17 its citizens.

18 "Proposed by Act _____."

19 This description shall be followed by the following
20 language:

21 "Yes () No ()."