HB781

142250-1

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RFD: Ways and Means Education

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SYNOPSIS: This bill would establish an in lieu of payment based on amounts exceeding amounts appropriated from the Education Trust Fund pursuant to Act 2007-361, 2007 Regular Session, which would otherwise be required for repayment of the Education Trust Fund Rainy Day Account. The in lieu of payment would be used for the benefit of the State General Fund.

A BILL TO BE ENTITLED
AN ACT

To amend Sections 29-9-2 and 29-9-3 of the Code of Alabama 1975, relating to the fiscal year appropriation cap for the Education Trust Fund rolling reserve; to provide for an alternative schedule of payments to the Education Trust Fund Rainy Day Account, by allowing for an in lieu of payment to be made to the State General Fund; to provide for the restoration to the Education Trust Fund of an amount up to and
including the appropriation level as appropriated under Act 2007-361, 2007 Regular Session; and to add Section 29-9-4.1 to the Code of Alabama 1975, relating to the Education Trust Fund and the State General Fund, to provide that revenues in excess of the fiscal year appropriation cap for the Education Trust Fund rolling reserve may be transferred to the State General Fund and to provide a source for repayment to the Education Trust Fund.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 29-9-2 and 29-9-3 of the Code of Alabama 1975, are amended to read as follows:

"§29-9-2.

"For the purposes of this chapter, 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 this chapter.

"(6) IN LIEU OF PAYMENT. An amount dedicated for the repayment to the Education Trust Fund Rainy Day Account that is used for the benefit of the State General Fund.

"(6)-(7) NEW RECURRING REVENUE. Revenue of any kind or type constituting a new or enhanced 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)-(8) 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)-(9) 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.

"§29-9-3.

"(a) Notwithstanding any other provision of law to the contrary, beginning with appropriations made for the any fiscal year in which Education Trust Fund appropriations will exceed the amount as appropriated under Act 2007-361 from the Education Trust Fund or in any fiscal year when the Education Trust Fund repayment to the Education Trust Fund Rainy Day Account or in lieu of repayment to the General Fund pursuant to Section 29-9-4.1 does not equal at least one hundred million dollars ($100,000,000) or more in annual repayment beginning with 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 15 completed fiscal years preceding the date on which the fiscal year appropriation cap is calculated.

"(3) An amount equal to 40 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 15 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 95 percent 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 Director of Finance and the Director of the
Fiscal Office 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 chapter 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 2. Section 29-9-4.1 is added to the Code of
Alabama 1975, to read as follows:

§29-9-4.1.

(a) The Legislature may transfer a portion of the
excess revenues in the Education Trust Fund to the General
Fund in lieu of payment to the Education Rainy Day Account or
Education Trust Fund Stabilization Account.

(b) The Education Trust Fund shall have first
priority on any funds received by the state from litigation
involving the 2010 gulf oil spill for any amounts transferred
to the General Fund pursuant to subsection (a).

Section 3. This act shall become effective
immediately following its passage and approval by the
Governor, or its otherwise becoming law.