

1 SB30  
2 171019-4  
3 By Senators Hightower, Brewbaker and Glover (Constitutional  
4 Amendment)  
5 RFD: Finance and Taxation General Fund  
6 First Read: 09-SEP-15

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

12 The proposed amendment would require the  
13 Alabama Trust Fund Board of Trustees to administer  
14 the Alabama Legacy Trust Fund and gives the  
15 Legislature the authority to appropriate the  
16 Coastal County Trust Fund.

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

20 The proposed amendment also provides that  
21 Legacy Trust Fund capital be held in perpetual  
22 trust and provides for the distribution of Legacy  
23 Trust Fund income.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

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Proposing an amendment to the Constitution of Alabama of 1901, to create the Alabama Legacy Trust Fund and Coastal County Trust Fund; to provide for the distribution of payments from settlements and other monies; to provide for the holding of Legacy Trust Fund capital in perpetual trust; and to provide for the distribution of Legacy Trust Fund income.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as part thereof following approval by a majority of the qualified electors voting thereon in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, appearing as Sections 284 and 285 of Official Recompilation of the Constitution of Alabama of 1901 as amended:

PROPOSED AMENDMENT

Section I. For the continuing benefit of the State of Alabama and the citizens of the state, there is hereby created the Alabama Legacy Trust Fund, an irrevocable permanent trust fund, funded and administered in accordance with this amendment. Further, the Coastal County Trust Fund is hereby created to be appropriated by the Legislature for the benefit of Mobile and Baldwin Counties and citizens thereof, funded in accordance with this amendment.

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

1 (a) BOARD. The Board of Trustees of the Alabama  
2 Trust Fund.

3 (b) DEEPWATER HORIZON OIL SPILL SETTLEMENT. Any  
4 settlement of the Deepwater Horizon Oil Spill Disaster  
5 associated with oil spill disaster in the Gulf of Mexico on  
6 April 20, 2010, that is not otherwise dedicated under federal  
7 law, settlement agreement, or court order.

8 (c) FISCAL YEAR. The fiscal year of the state as may  
9 from time to time be provided by law.

10 (d) LEGACY TRUST FUND. The Alabama Legacy Trust Fund  
11 designated for settlement proceeds, other than those  
12 settlement proceeds designated for the Coastal County Trust  
13 Fund.

14 (e) COASTAL COUNTY TRUST FUND. The trust fund  
15 designated for certain Deepwater Horizon Oil Spill Settlement  
16 proceeds for the benefit of Mobile and Baldwin Counties and  
17 distributed as set out in this amendment.

18 (f) STATE. The State of Alabama.

19 (g) SETTLEMENT PROCEEDS. Any payment of \$2,000,000  
20 or more received by the state or any agency of the state  
21 pursuant to any court order or a negotiated settlement where  
22 the state or agency thereof is a party. The term shall also  
23 mean any payments that would have previously been distributed  
24 pursuant to Section 36-15-4.2, Code of Alabama, 1975.

25 (h) TRUST CAPITAL. All assets of the Legacy Trust  
26 Fund other than trust income.

1 (i) TRUSTEE. A member of the Board of Trustees of  
2 the Alabama Trust Fund.

3 (j) TRUST INCOME. The net income received by the  
4 state from the investment and reinvestment of assets of the  
5 Legacy Trust Fund, determined in accordance with this  
6 amendment.

7 Section III. Settlement proceeds from the Deepwater  
8 Horizon Oil Spill Settlement shall be distributed as follows:

9 (a) Of the total sum of the settlement proceeds  
10 received by the State of Alabama, fifty percent (50%) shall be  
11 distributed to the Legacy Trust Fund and fifty percent (50%)  
12 shall be distributed to the Coastal County Trust Fund. The  
13 State Treasurer shall establish a formula that assures the  
14 above distribution is maintained for the full sum of  
15 settlement proceeds from the Deepwater Horizon Oil Spill  
16 Settlement. The distribution of proceeds pursuant to  
17 subsection (c) shall be adjusted in order to maintain equal  
18 settlement proceeds received by each fund.

19 (b) Upon the receipt of the first sum of settlement  
20 proceeds received by the state, the following distribution  
21 shall be made:

22 (1) Seventy percent (70%) to the Alabama Legacy  
23 Trust Fund; and

24 (2) Thirty percent (30%) to the Coastal County Trust  
25 Fund.

26 (c) Following the first sum of settlement proceeds  
27 received and distributed pursuant to subsection (b), any

1 subsequent payments of settlement proceeds shall be  
2 distributed to the Alabama Legacy Trust Fund and Coastal  
3 County Trust Fund pursuant to subsection (a), ensuring an  
4 overall equal receipt of proceeds by each fund.

5 (d) In the event any distribution schedule ordered  
6 by the court finalizing the Deepwater Horizon Oil Spill  
7 Settlement is or would be a greater distribution to the Mobile  
8 and Baldwin counties in the State of Alabama than the proposed  
9 distribution in subsections (a), (b), and (c) of this Section,  
10 the State shall adopt such a distribution schedule for the  
11 benefit of Mobile and Baldwin Counties.

12 (e) (1) Any amounts distributed to the Coastal County  
13 Trust Fund shall be expended as follow:

14 (A) One hundred million dollars (\$100,000,000) to  
15 the Strengthen Alabama Homes Fund for insurance reform  
16 including, but not limited to, grants, loans, and other  
17 measures to reduce insurance premiums for residential and  
18 commercial property in Mobile and Baldwin counties. No part of  
19 this distribution may be used for administrative purposes.

20 (B) Two hundred million dollars (\$200,000,000) to  
21 the Alabama Department of Transportation (ALDOT) for use in  
22 Mobile County in ALDOT's Southwest Division for projects that  
23 will enhance commercial transportation to coastal areas and  
24 projects that enhance evacuation routing for natural  
25 disasters. No part of this distribution may be used by the  
26 department for administrative purposes.

1 (C) Two hundred million dollars (\$200,000,000) to  
2 the Alabama Department of Transportation (ALDOT) for use in  
3 Baldwin County in ALDOT's Southwest Division for projects that  
4 will enhance commercial transportation to coastal areas and  
5 projects that enhance evacuation routing for natural  
6 disasters. No part of this distribution may be used by the  
7 department for administrative purposes.

8 (2) The Director of the Department of  
9 Transportation, in consultation with the Director of the  
10 Southwest Division shall determine the ALDOT projects to be  
11 funded pursuant to this act.

12 (3) If the amount of funds received by the state are  
13 in any way a lesser amount than one billion dollars  
14 (\$1,000,000,000), the spending schedule set out above shall be  
15 pro rated to reflect that lesser amount.

16 Section IV. The Legacy Trust Fund shall be under the  
17 management and control of the Board and all powers necessary  
18 or appropriate for the management and control of the Legacy  
19 Trust Fund shall be solely vested in the Board. All powers and  
20 duties granted to the Board for the investment of monies in  
21 the Alabama Trust Fund shall also apply to investment of  
22 monies in the Legacy Trust Fund.

23 Section V. Relating to the Alabama Legacy Trust  
24 Fund:

25 (a) Any settlement proceeds deposited into the  
26 Alabama Legacy Trust Fund shall first be used to repay the  
27 Alabama Trust Fund Rainy Day Account for the \$161,565,874

1 transferred to the State General Fund in fiscal year 2010  
2 pursuant to Amendment 803 of the Constitution of Alabama of  
3 1901 and to repay the Alabama Trust Fund for the \$437,390,829  
4 transferred to the State General Fund over fiscal years 2013,  
5 2014 and 2015 pursuant to Amendment 856 of the Constitution of  
6 Alabama of 1901. Any remaining settlement proceeds not  
7 relating to the Deepwater Horizon Oil Spill Settlement after  
8 said repayment, shall be deposited into the Alabama Legacy  
9 Trust Fund.

10 (b) The Legacy Trust Fund shall be augmented by (1)  
11 other moneys or assets as the Legislature may by law  
12 appropriate and transfer to the Legacy Trust Fund as a  
13 permanent part thereof; (2) other moneys or assets as may be  
14 contributed to the Legacy Trust Fund from any source; and (3)  
15 trust income reinvested in the Legacy Trust Fund as provided  
16 in Section VI of this amendment.

17 Section VI. (a) Assets in the Legacy Trust Fund  
18 shall be held in perpetual trust and shall not be appropriated  
19 by the Legislature or expended or disbursed for any purpose  
20 other than to acquire eligible investments in accordance with  
21 this amendment. All eligible investments acquired, in whole or  
22 in part, with moneys constituting part of the trust capital  
23 shall to the extent of such moneys constitute part of the  
24 trust capital. Beginning the first year the receipts are  
25 deposited into the Legacy Trust Fund, five percent (5%) of the  
26 market value of invested assets shall be used for  
27 distribution. The first year after the receipts are deposited



1 into the Legacy Trust Fund, five percent (5%) of the average  
2 of the market value of the initial investment and the prior  
3 year's invested assets shall be used for distribution. The  
4 second year after the receipts are deposited into the Legacy  
5 Trust Fund, five percent (5%) of the average of the market  
6 value of the initial investment and two prior year's invested  
7 assets shall be used for distribution. Beginning the third  
8 year after receipts are deposited into the Legacy Trust Fund,  
9 and each fiscal year thereafter, five percent (5%) of the  
10 average market value of invested assets of the Legacy Trust  
11 Fund as of the end of the three fiscal years ending one, two,  
12 and three years prior to the beginning of the fiscal year for  
13 which the distribution is being made shall be used for  
14 distribution. Distribution shall be as follows: Eighty percent  
15 (80%) of five percent (5%) of the average market value  
16 invested shall be transferred to the State General Fund, ten  
17 percent (10%) shall be distributed to the Alabama Capital  
18 Improvement Trust Fund as set out in Section 219.04 of the  
19 Constitution of Alabama of 1901, (Amendment 666), and ten  
20 percent (10%) shall remain in the Alabama Legacy Trust Fund.

21 (b) To the extent appropriate and not at the time  
22 prohibited by law, the Board shall use the facilities of the  
23 Office of the State Treasurer in the administration of the  
24 Legacy Trust Fund, including, but not limited to, the keeping  
25 of records, the management of bank accounts, the transfer of  
26 funds, and the safekeeping of securities evidencing  
27 investments.

1                   (c) An annual audit of the Legacy Trust Fund shall  
2 be performed for each fiscal year by the Department of  
3 Examiners of Public Accounts, or, in the discretion of the  
4 Board, by an independent certified public accounting firm. A  
5 report of each audit shall be prepared in accordance with  
6 applicable accounting principles. The Board shall prepare and  
7 publicize financial and other information concerning the  
8 Legacy Trust Fund as may be provided by law. In the absence of  
9 any law directing the preparation and publication of reports,  
10 the Board shall prepare or cause to be prepared and publicize,  
11 within 30 days after the end of each quarterly period in each  
12 fiscal year, a report containing all of the following:

13                   (1) A statement of the trust capital then held in  
14 the Legacy Trust Fund showing any changes since the last  
15 quarterly report.

16                   (2) A statement of the trust income received during  
17 the quarterly period in question.

18                   (3) A statement of the investments then held in the  
19 Legacy Trust Fund including descriptions and respective  
20 values.

21                   (4) A statement of the trust income received to date  
22 during the current fiscal year.

23                   (5) Any other information determined by the Board to  
24 reflect a full and complete disclosure of the financial  
25 operations of the Legacy Trust Fund.

26                   Section VII. No trustee shall be personally liable  
27 for any liability, loss, or expense suffered by the Legacy

1 Trust Fund unless the liability, loss, or expense results from  
2 the willful misconduct or wrongdoing of the trustee.

3 Section VIII. This amendment shall be  
4 self-executing. The Legislature may enact laws supplemental to  
5 this amendment that are in furtherance of the purposes and  
6 objectives of this amendment and not inconsistent with this  
7 amendment.

8 Section IX. All laws or parts of laws in conflict  
9 with this amendment are repealed, including, without  
10 limitation, Section 36-15-4.2, Code of Alabama 1975, as  
11 amended.

12 Section 2. An election upon the proposed amendment  
13 shall be held in accordance with Sections 284 and 285 of the  
14 Constitution of Alabama of 1901, now appearing as Sections 284  
15 and 285 of Official Recompilation of the Constitution of  
16 Alabama of 1901 as amended, and the election laws of this  
17 state at the next statewide primary election.

18 Section 3. The appropriate election official shall  
19 assign a ballot number for the proposed constitutional  
20 amendment on the election ballot and shall set the following  
21 description of the substance or subject matter of the proposed  
22 constitutional amendment:

23 "Proposing an amendment to the Constitution of  
24 Alabama of 1901, to create the Alabama Legacy Trust Fund and  
25 Coastal County Trust Fund and to provide for the distribution  
26 of all settlement proceeds by the state to be deposited into  
27 the trust funds; and for the Legacy Trust Fund to be held in

1 perpetual trust for the benefit of the State of Alabama and  
2 its citizens.

3 "Proposed by Act \_\_\_\_\_"

4 This description shall be followed by the following  
5 language:

6 "Yes ( ) No ( )."