

1 SB521
2 135728-1
3 By Senator Dial (Constitutional Amendment)
4 RFD: Finance and Taxation General Fund
5 First Read: 17-APR-12

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8 SYNOPSIS: This bill would propose an amendment to the
9 Constitution of Alabama of 1901, to amend Amendment
10 803 of the Constitution of Alabama of 1901, now
11 appearing as Section 260.02 of the Official
12 Recompilation of the Constitution of Alabama 1901,
13 as amended, to repeal the Education Trust Fund
14 Rainy Day Account within the Alabama Trust Fund and
15 provide that prior withdrawals from this Account
16 shall be not replenished.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Proposing an amendment to the Constitution of
23 Alabama of 1901, to Amendment 803 of the Constitution of
24 Alabama 1901, now appearing as Section 260.02 of the Official
25 Recompilation of the Constitution of Alabama 1901, as amended,
26 to repeal the Education Trust Fund Rainy Day Account within

1 the Alabama Trust Fund and provide that prior withdrawals from
2 this Account shall be not replenished.

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, 285, and 287 of the Constitution
9 of Alabama of 1901, now appearing as Sections 284, 285, and
10 287 of the Official Recompilation of the Constitution of
11 Alabama 1901, as amended:

12 PROPOSED AMENDMENT

13 AMENDMENT OF AMENDMENT 803

14 "Section I. Amendment 709 to the Constitution of
15 Alabama of 1901, now appearing as Section 260.01 of the
16 Official Recompilation of the Constitution of 1901, as
17 amended, is hereby repealed.

18 Section II. As used in this amendment, the following
19 words and phrases shall have the following respective
20 meanings:

21 "Alabama Trust Fund" means the irrevocable,
22 permanent trust fund created by Amendment No. 450 to the
23 Constitution of Alabama of 1901, now appearing as Section
24 219.02 of the Official Recompilation of the Constitution of
25 Alabama of 1901, as amended.

1 ~~"Education Trust Fund Rainy Day Account"~~ or "General
2 Fund Rainy Day Account" means the special accounts created by
3 this amendment.

4 "Oil and Gas Capital Payment" means any payment
5 (including any royalty payment) received by the state or any
6 agency or instrumentality thereof as all or part of the
7 consideration for the sale, leasing, or other disposition by
8 the state or any agency or instrumentality thereof of any
9 right to explore and drill for or to produce oil, gas, or
10 other hydrocarbon minerals in any area on the water side of
11 the high water mark of Mobile Bay or in any other offshore
12 area and shall include any revenue by the state from federal
13 oil and gas leases of the coast of Alabama. Any royalty or
14 other payment, with the exception of any taxes heretofore or
15 hereafter levied, that is based upon or determined with
16 respect to the production of oil, gas or other hydrocarbon
17 minerals and this is paid to the state or any agency or
18 instrumentality thereof, regardless of the time of such
19 payment, shall be considered an oil and gas capital payment.

20 Section III. (a) Within thirty days following
21 ratification of this constitutional amendment there shall be
22 created with the Alabama Trust Fund ~~the Education Trust Fund~~
23 ~~Rainy Day Account~~ and the General Fund Rainy Day Account. In
24 any year in which the Governor certifies to the state
25 comptroller and notifies the Legislature that proration would
26 occur in appropriations from ~~the Education Trust Fund~~ or the
27 State General Fund, ~~the Education Trust Fund Rainy Day Account~~

1 ~~or~~ the General Fund Rainy Day Account shall be credited with
2 Oil and Gas Payments previously transferred into the Alabama
3 Trust Fund in the amount required to fund withdrawals from the
4 Account of the amounts authorized by this section. However,
5 the amount withdrawn from ~~the Education Trust Fund Rainy Day~~
6 ~~Account in a fiscal year may not exceed six and one half~~
7 ~~percent of the previous fiscal year's Education Trust Fund~~
8 ~~appropriation less the total amount of any prior years'~~
9 ~~withdrawals from the Account which have not been repaid to the~~
10 ~~Account, as provided for in subsection (b), (c), and (e). The~~
11 ~~amount withdrawn from the General Fund Rainy Day Account in a~~
12 ~~fiscal year may not exceed ten percent of the previous fiscal~~
13 ~~year's General Fund appropriations less the total amount of~~
14 ~~any prior years' withdrawals from the Account which have not~~
15 ~~been repaid to the Account, as provided for in subsection (b),~~
16 ~~(c), and (e). Funds from the Education Trust Fund or the~~
17 ~~General Fund Rainy Day Account may be withdrawn only to~~
18 ~~prevent proration of the appropriations from the Education~~
19 ~~Trust Fund or the General Fund. For the fiscal year beginning~~
20 ~~October 1, 2008, withdrawals shall be limited to an amount~~
21 ~~necessary to reach the highest estimated available revenue for~~
22 ~~each Fund as certified by the Finance Director and the~~
23 ~~Legislative Fiscal Officer prior to the end of the 2008~~
24 ~~Regular Legislative Session. Beginning in the fiscal year~~
25 ~~beginning October 1, 2009, withdrawals from the Education~~
26 ~~Trust Fund Rainy Day Account and the General Fund Rainy Day~~
27 ~~Account shall be limited to an amount necessary to reach the~~

1 average of the estimated available revenue for ~~each~~ the Fund
2 which is to be certified by the Finance Director and the
3 Legislative Fiscal Officer prior to the third legislative day
4 of each Regular Session. The Governor shall certify to the
5 state comptroller and notify the Legislature that proration
6 would occur in appropriations from the ~~Education Trust Fund or~~
7 ~~the~~ General Fund in accordance with this constitution. Upon
8 the certification by the Governor, and after all other sources
9 available to be used to offset proration have been utilized,
10 withdrawals from ~~the Education Trust Fund Rainy Day Account or~~
11 the General Fund Rainy Day Account may be made; however,
12 withdrawals shall be limited to the amount of the anticipated
13 proration and funds allotted only to the extent necessary to
14 avoid proration appropriations from the ~~Education Trust Fund~~
15 ~~or the~~ General Fund as limited by this section. In the event
16 funds are withdrawn from ~~the Education Trust Fund or~~ the
17 General Fund Rainy Day Account an additional amount equal to
18 twenty-five percent of the ~~Education Trust Fund or the~~ General
19 Fund transfer amount shall be transferred from the Alabama
20 Trust fund to the County and Municipal Government Capital
21 Improvement Fund.

22 (b) The Finance Director shall ensure that if during
23 the fiscal year, receipts to the ~~Education Trust Fund or the~~
24 General Fund (net of the ~~Education Trust Fund or the~~ General
25 Fund Rainy Day Account payments) are sufficient to reduce
26 anticipated proration which has been certified by the Governor
27 to the state comptroller and for which funds have been

1 withdrawn, then the amount corresponding to the reduced
2 anticipated proration percentage shall be transferred back to
3 the ~~Education Trust Fund or the~~ General Fund Rainy Day Account
4 within the Alabama Trust Fund within thirty days after the end
5 of the fiscal year in which the withdrawals were made. Any
6 amount transferred back to the ~~Education Trust Fund or the~~
7 General Fund Rainy Day Account shall necessitate a transfer of
8 an additional amount equal to twenty-five percent of that
9 amount from the County and Municipal Government Capital
10 Improvement Fund into the ~~Education Trust Fund or the~~ General
11 Fund Rainy Day Account within the Alabama Trust Fund.

12 (c) The Legislature may provide by statute for the
13 replenishment of the ~~Education Trust Fund or the~~ General Fund
14 Rainy Day Account within the Alabama Trust Fund from sources
15 other than the Alabama Trust Fund or Oil and Gas Capital
16 Payments. The earnings from the investment of funds due to the
17 replenishment shall be deposited into the State General Fund.

18 (d) The allocations to the Alabama Capital
19 Improvement Trust Fund and to the County and Municipal
20 Government Capital Improvement Fund as provided in Amendment
21 666 to the Constitution of Alabama of 1901, now appearing as
22 Section 219.04 of the Official Recompilation of the
23 Constitution of Alabama of 1901, as amended, shall not be
24 diminished by the application of this amendment.

25 (e) The Legislature must replenish the accounts
26 ~~within six (6) years after withdrawal of any funds from the~~
27 ~~Education Trust Fund Rainy Day Account and within ten (10)~~

1 years after withdrawal of any funds from the General Fund
2 Rainy Day Account pursuant to the provisions of this
3 amendment. After the complete replenishment of the ~~Education~~
4 ~~Trust Fund or the~~ General Fund Rainy Day Account, any excess
5 funds shall be designated to repay any lost interest earnings
6 to the trust established under Amendment 543 to the
7 Constitution of Alabama of 1901, now appearing as Section
8 219.07 of the Official Recompilation of the Constitution of
9 Alabama of 1901, as amended, due to any withdrawal from the
10 ~~Education Trust Fund or the~~ General Fund Rainy Day Account.

11 (f) The Legislature shall not be required to repay
12 any amounts withdrawn from the Education Trust Fund Rainy Day
13 Account prior to the ratification of this amendment."

14 Section 2. An election upon the proposed amendment
15 shall be held in accordance with Sections 284, 285 and 287 of
16 the Constitution of Alabama of 1901, now appearing as Sections
17 284, 285 and 287 of the Official Recompilation of the
18 Constitution of Alabama of 1901, as amended, and the election
19 laws of this state.

20 Section 3. The appropriate election official shall
21 assign a ballot number for the proposed constitutional
22 amendment on the election ballot and shall set forth the
23 following description of the substance or subject matter of
24 the proposed constitutional amendment: "Proposing an amendment
25 to the Constitution of Alabama of 1901, to amend Amendment 803
26 to the Constitution of Alabama of 1901; now appearing as
27 Section 260.02 of the Official Recompilation of the

1 Constitution of Alabama of 1901, as amended, to repeal the
2 Education Trust Fund Rainy Day Account within the Alabama
3 Trust Fund; and to provide that prior withdrawals from this
4 Account shall not be replenished.

5 "Proposed by Act _____."

6 This description shall be followed by the following
7 language:

8 "Yes () No ()."