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SYNOPSIS:

Under existing law, the Education Retirees' Trust Fund and State Employee Retirees' Trust Fund were created to provide periodic bonuses to the respective retirees subject to the availability of funds in the trust funds. The Legislature may not make direct appropriations into the trust funds and certain revenue sources are restricted from being used to fund the trust funds.

This bill would allow the Legislature to make direct appropriations into the trust funds from any available revenue source.

A BILL
TO BE ENTITLED
AN ACT

Related to retirement; to amend Sections 16-25D-7 and 36-27E-7, Code of Alabama 1975, to allow the Legislature to make direct appropriations into the Education Retirees' Trust Fund and the State Employee Retirees' Trust Fund from any available revenue sources.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-25D-7 and 36-27E-7, Code of



29 Alabama 1975, are amended to read as follows:

30 "§16-25D-7

31 (a) ~~(1)~~ The sources of funding to the trust fund may
32 consist of all of the following:

33 a. Investment income.

34 b. Proceeds of any gifts, grants, or contributions.

35 c. Revenue sources as directed by the Legislature.

36 d. ~~Revenue sources other than direct~~ Direct

37 appropriations by the Legislature.

38 ~~(2) The sources of funding to the trust fund may not~~
39 ~~consist of Education Trust Fund revenue and those revenues are~~
40 ~~expressly prohibited from that use. The trust fund shall be~~
41 ~~funded from sources other than the Education Trust Fund.~~

42 (b) The agreements creating the trust fund shall be
43 irrevocable and the assets of the trust fund may not be
44 expended, disbursed, loaned, or transferred, or used for any
45 purpose other than to acquire permitted investments, pay
46 administrative expenses, and provide periodic bonus checks to
47 or for retired employees and their beneficiaries. The
48 Legislature may not appropriate the assets of the trust fund.

49 (c) Upon certification from the actuary of the
50 Teachers' Retirement System that the assets of the trust fund
51 are above and beyond the minimum trust fund balance of one
52 hundred million dollars (\$100,000,000) and sufficient to fund
53 periodic bonus checks as provided for by legislation granting
54 the periodic bonus checks, the trustees shall transfer the
55 amount of assets certified by the board of control to the
56 Teachers' Retirement System to fund those bonuses or



57 increases.

58 (d) Notwithstanding subsection (c), the trustees may
59 amend or modify the trust fund, consistent with the
60 legislative intent of this chapter, in any of the following
61 circumstances:

62 (1) If, in the opinion of counsel for the trustees, it
63 is necessary or advisable to obtain any material tax advantage
64 or avoid any material adverse tax result.

65 (2) If, in the opinion of an independent accountant for
66 the trustees, it is necessary or advisable to cause the trust
67 fund to be considered a post-employment benefits trust fund in
68 accordance with generally accepted governmental accounting
69 principles as prescribed by the Governmental Accounting
70 Standards Board, or its successor.

71 (3) If, in response to a petition of the trustees
72 requesting that the trust fund be amended, a court of
73 competent jurisdiction determines that the amendment is
74 necessary or advisable to accomplish the purposes of this
75 chapter.

76 (e) All assets and income of the trust fund shall be
77 exempt from taxation by the state or any political subdivision
78 thereof. The assets of the trust fund are not subject to the
79 claims of creditors of the state, the board of control,
80 trustees, plan administrators, employees, retired employees,
81 or beneficiaries, and are not subject to execution,
82 attachment, garnishment, the operation of bankruptcy,
83 insolvency laws, or any other process whatsoever, and no
84 assignment thereof shall be enforceable in any court.



85 (f) The trustees shall prepare the annual financial
86 statements of the trust fund in accordance with generally
87 accepted governmental accounting principles and shall provide
88 for an audit of those financial statements for each fiscal
89 year to be conducted by a qualified independent certified
90 accounting firm in accordance with generally accepted auditing
91 standards."

92 "§36-27E-7

93 (a) ~~(1)~~ The sources of funding to the trust fund may
94 consist of all of the following:

- 95 a. Investment income.
- 96 b. Proceeds of any gifts, grants, or contributions.
- 97 c. Revenue sources as directed by the Legislature.
- 98 d. ~~Revenue sources other than direct~~Direct
99 appropriations by the Legislature.

100 ~~(2) The sources of funding to the trust fund may not~~
101 ~~consist of State General Fund revenue, and those revenues are~~
102 ~~expressly prohibited from that use. The trust fund shall be~~
103 ~~funded from sources other than the State General Fund.~~

104 (b) The agreements creating the trust fund shall be
105 irrevocable, and the assets of the trust fund may not be
106 expended, disbursed, loaned, or transferred, or used for any
107 purpose other than to acquire permitted investments, pay
108 administrative expenses, and provide periodic bonus checks to
109 or for retired employees and their beneficiaries. The
110 Legislature may not appropriate the assets of the trust fund.

111 (c) Upon certification from the actuary of the State
112 Employees' Retirement System that the assets of the trust fund



113 are sufficient to fund periodic bonus checks as provided for
114 by legislation granting the periodic bonus checks, the
115 trustees shall transfer the amount of assets certified by the
116 board of control to the State Employees' Retirement System to
117 fund those bonuses or increases.

118 (d) Notwithstanding subsection (c), the trustees may
119 amend or modify the trust fund, consistent with the
120 legislative intent of this chapter, in any of the following
121 circumstances:

122 (1) If, in the opinion of counsel for the trustees, it
123 is necessary or advisable to obtain any material tax advantage
124 or avoid any material adverse tax result.

125 (2) If, in the opinion of an independent accountant for
126 the trustees, it is necessary or advisable to cause the trust
127 fund to be considered a post-employment benefits trust fund in
128 accordance with generally accepted governmental accounting
129 principles as prescribed by the Governmental Accounting
130 Standards Board, or its successor.

131 (3) If, in response to a petition of the trustees
132 requesting that the trust fund be amended, a court of
133 competent jurisdiction determines that the amendment is
134 necessary or advisable to accomplish the purposes of this
135 chapter.

136 (e) All assets and income of the trust fund shall be
137 exempt from taxation by the state or any political subdivision
138 thereof. The assets of the trust fund are not subject to the
139 claims of creditors of the state, the board of control,
140 trustees, plan administrators, employees, retired employees,



141 or beneficiaries, and are not subject to execution,
142 attachment, garnishment, the operation of bankruptcy,
143 insolvency laws, or any other process whatsoever, and no
144 assignment thereof shall be enforceable in any court.

145 (f) The trustees shall prepare the annual financial
146 statements of the trust fund in accordance with generally
147 accepted governmental accounting principles and shall provide
148 for an audit of those financial statements for each fiscal
149 year to be conducted by a qualified independent certified
150 accounting firm in accordance with generally accepted auditing
151 standards."

152 Section 2. This act shall become effective immediately.