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# THE EDUCATION TRUST FUND (ETF)

4/5/2018



# **BUDGET BACKGROUND**

# Why Does Alabama Have Two Budgets?

- Alabama and only 2 other states (Michigan and Utah) have separate education and general fund budgets<sup>1</sup>
- Act Number 163 of the 1927 Regular Session levied new revenue sources for educational purposes and provided that all revenue collected from those sources would be set apart as a Trust Fund for educational purposes only, designated as the Special Educational Trust Fund<sup>2</sup>

<sup>1</sup>National Conference of State Legislatures

<sup>2</sup>Ira W. Harvey, *A History of Educational Finance in Alabama*, 1989

# Why Not One Budget?

- Section 71 of the Constitution of Alabama of 1901:

*“The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the state, for interest on public debt, and for public schools....All other appropriations shall be made by separate bills, embracing but one subject.”*

- The courts have interpreted the phrase “for public schools” in this section to include only elementary and secondary schools and not universities and colleges (*Alabama Educ. Association v. Board of Trustees*, 374 So.2d 258 (Ala 1979); *Opinion of the Justices*, 512 So. 2d 72 (Ala. 1987))

- The courts have also ruled that appropriations from the Education Trust Fund cannot be made in a general appropriation bill unless they are for the public schools (*Childree v. Hubbard*, 524 So.2d 336 (Ala. 1988))

# Appropriation Required to Spend

- Section 72 of the Constitution of Alabama of 1901:
  - *Provides that no money shall be paid from the treasury except upon appropriations made by law*
    - This includes the State General Fund, Education Trust Fund, and other state and federal funds
    - Revenues may be earmarked to a specific fund or agency, but those funds must be appropriated in order to be spent
    - The only exceptions to appropriating specific amounts in the appropriations acts include open-ended appropriations, including estimated appropriations for debt service, election expenses, the Fair Trial Tax Fund and various revolving funds
    - Also, language in both the Education Trust Fund and State General Fund appropriations acts appropriates any unanticipated gifts, grants, including grants by the Congress of the United States, municipalities or counties, insurance proceeds, contributions or entitlements, to any department, division, board, or agency for the purpose for which the grant or contribution was made

# Budget Submission

- Amendment 448 to the Constitution of Alabama of 1901 (1984):
  - *Specifies that the paramount duty of the Legislature at any regular session is to make the basic appropriations for any budget period that will begin before the start of the next regular session*
  - *Requires the Governor to transmit to the Legislature on or before the second legislative day of each regular session of the Legislature a proposed budget for the then next succeeding budget period*
  - *“Basic appropriations” is defined to mean such appropriations as the Legislature may deem appropriate for the expenditures by the state during the ensuing budget period for the ordinary expenses of the executive, legislative and judicial departments of the state, for the payment of public debt, and for education*

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# **ETF DESCRIPTION AND REVENUE SOURCES**

# Education Trust Fund Description

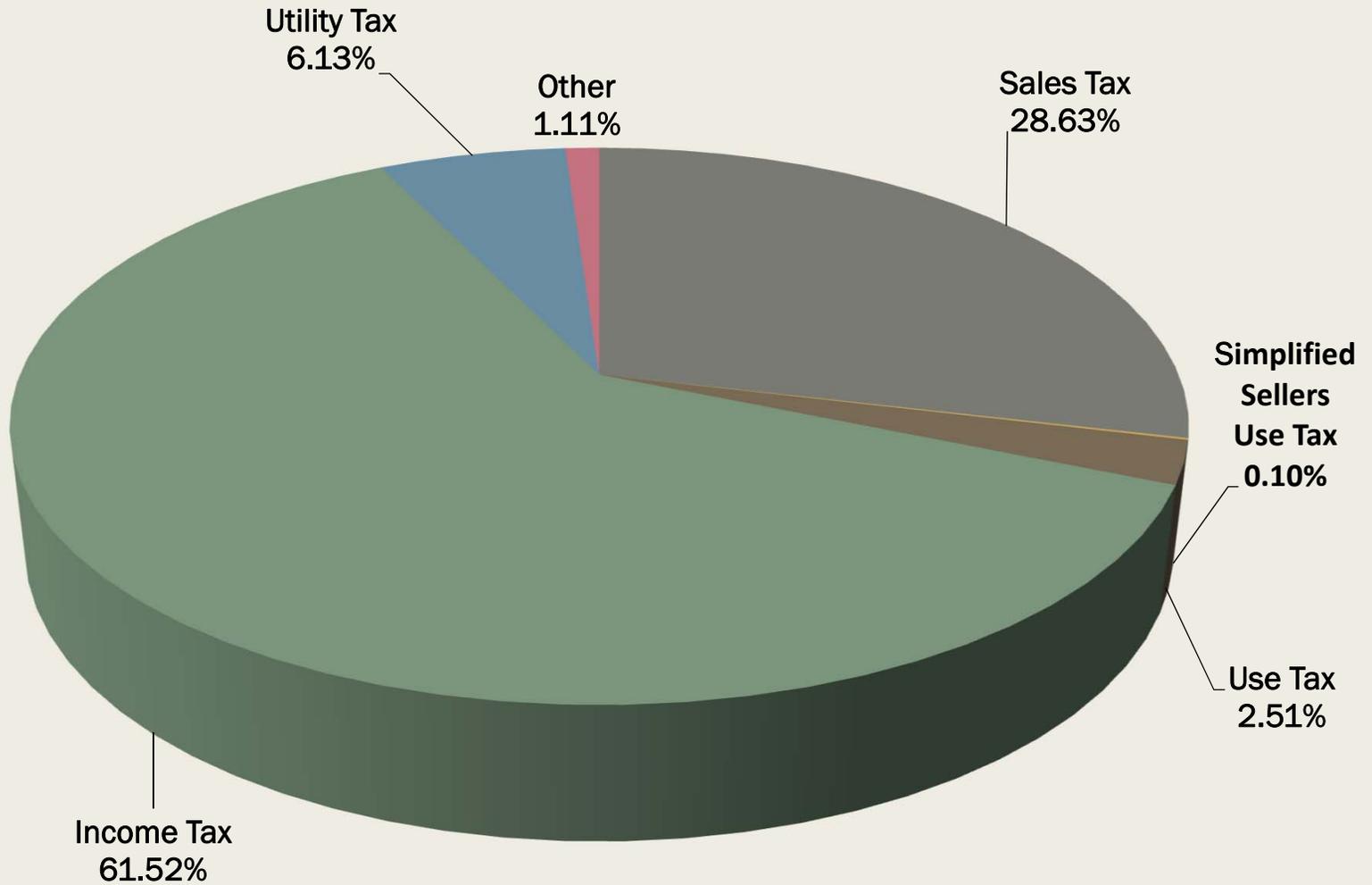
- The Education Trust Fund (ETF) is the largest operating fund of the State.
- Revenues credited to the ETF are used for the support, maintenance and development of public education in Alabama, debt service and capital improvements relating to educational facilities, and other functions related to educating the state's citizens.
- Programs and agencies supported by the ETF include K-12 education, public library services, performing and fine arts, various scholarship programs, the state's education regulatory departments, and two- and four-year colleges and universities. Funding from the ETF is also provided to non-state agencies that provide educational services to the people of Alabama, including the arts, disease counseling and education, and youth development.
- Ten tax sources are allocated to the ETF, the largest of which are the individual and corporate income tax, sales tax, utility tax, and use tax.

SOURCE: Executive Budget Office

# Education Trust Fund Regular Receipts, 3-Year History

	FY 2015	FY 2016	FY 2017
Beer Tax	22,838,290	22,909,170	22,231,590
Income Tax	3,725,299,372	3,722,129,992	3,892,525,501
Insurance Premium Tax	30,993,296	30,993,346	30,993,296
Mobile Telecommunications Tax	19,991,675	17,700,484	15,904,023
Sales Tax	1,623,588,330	1,744,468,414	1,811,657,811
Use Taxes	222,096,692	157,068,198	165,057,908
Utility Tax	401,700,962	376,625,096	387,966,309
All Other	<u>1,832,455</u>	<u>1,041,361</u>	<u>990,780</u>
<b>Grand Total</b>	<b>6,048,341,072</b>	<b>6,072,936,061</b>	<b>6,327,327,218</b>

# Education Trust Fund Receipts by Tax, FY 2017



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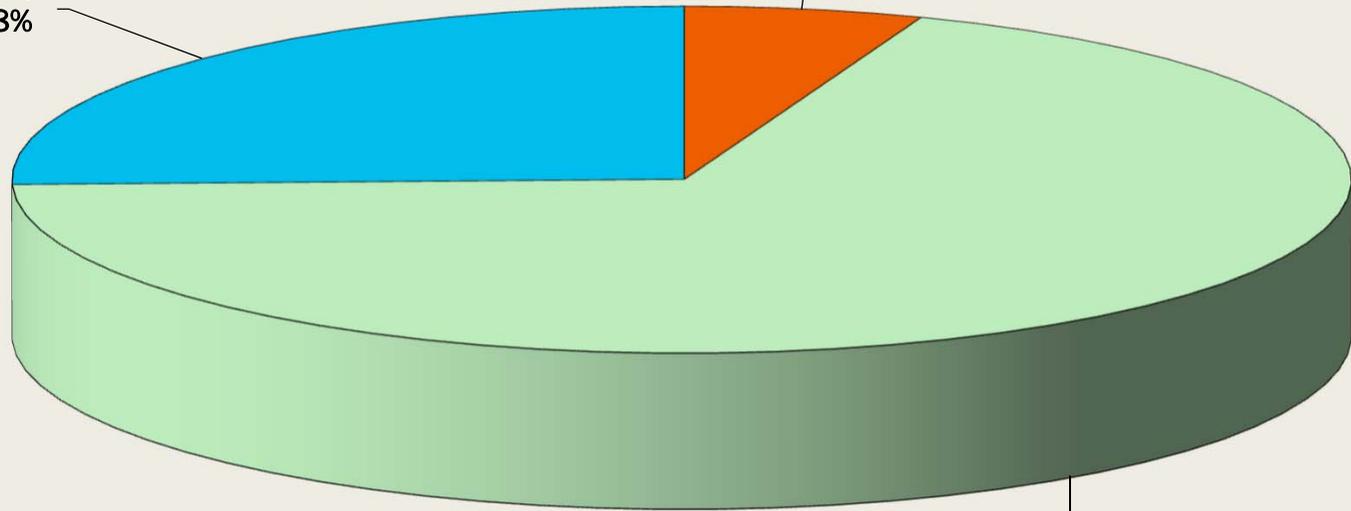
# ETF APPROPRIATIONS

# Appropriation of the Education Trust Fund, FY 2019

Total Education Trust Fund:  
\$6,633,457,625

Higher Education  
\$1,690,316,394  
25.48%

All Other  
\$380,774,894  
5.74%



K-12 Foundation  
Program  
\$4,562,366,337  
68.78%

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# ETF ROLLING RESERVE ACT

# ETF Proration Since 1992

- FY 1992: 3.0%
- FY 2001: 6.2%
- FY 2003: 4.4% (Reduced to 0% after transfer of approximately \$180 million from Rainy Day Account/PPA)
- FY 2008: 6.5% (Reduced to 0% after transfer of approximately \$439 million from PPA)
- **FY 2009: 18.0%** (Reduced to 11% after transfer of approximately \$437 million from Rainy Day Account)
- FY 2010: 9.5%
- FY 2011: 3.0%

# ETF Rolling Reserve Act

- Act 2011-3
  - *Effective beginning in FY 2013*
  - *Placed a cap on annual appropriations from the ETF tied to the percentage growth in recurring revenues to the ETF over the last 15 years*
  - *Also, created an additional reserve fund, the Budget Stabilization Fund, to access only in the event of proration*
- Act 2015-538
  - *Amended the ETF Rolling Reserve Act to:*
    - 1) *change the calculation of the ETF appropriations cap by dropping the low year from the 15-year average growth, and add the Prepaid Affordable College Tuition (PACT) appropriation to the cap;*
    - 2) *limit ETF expenditures to the average of the estimated available revenues when such estimates are less than the ETF appropriations cap; and*
    - 3) *change the distribution of excess funds when actual ETF receipts exceed the cap by limiting amounts deposited into the Budget Stabilization Fund and creating the Advancement and Technology Fund*
- No ETF proration since the ETF Rolling Reserve Act became effective

# ETF Rolling Reserve Act FY 2019 Cap

FY 2017 Net Recurring Revenues \$6,327,327,215

PLUS:

Average growth for the 14 highest years out of  
the last 15 (4.25%) \$268,911,407

New recurring revenue measures -24,320,000

PACT appropriation for FY 2019 \$61,539,000

FY 2019 ETF Appropriations Cap \$6,633,457,622

ETF Appropriations for FY 2018 \$6,417,000,027

Cap Difference: FY 2019 vs. FY 2018 **\$216,457,595**

# Budget Stabilization Fund

- Established by the ETF Rolling Reserve Act
- A portion of any revenues deposited into the ETF in excess of the fiscal year appropriation cap for the immediately preceding fiscal year is transferred to the Budget Stabilization Fund
  - *For FY 2015, up to 2% of the previous year's ETF appropriations (\$118,305,984)*
  - *Thereafter, up to 1% of the previous year's ETF appropriations (\$59,595,211 in FY 2016, no transfer in FY 2017) until the fund reaches 7.5% of the previous year's ETF appropriations*
  - *Total current balance of approximately \$179 million*
- Amounts in the Budget Stabilization Fund may be withdrawn only to prevent proration in the ETF (SB 323 as Passed the Legislature would allow transfer for damages from natural disasters)

# Advancement and Technology Fund

- Also, established by the ETF Rolling Reserve Act
- Any funds remaining after the transfer to the Budget Stabilization Fund are transferred to the Advancement and Technology Fund
  - *For FY 2016, the transfer was \$56,386,922*
  - *No transfer for FY 2017*

# Advancement and Technology Fund

- Funds must be appropriated through an independent supplemental appropriation bill for:
  - *repairs and deferred maintenance of facilities;*
  - *for classroom instructional support;*
  - *for insuring facilities;*
  - *for transportation;*
  - *school security measures as a part of a systemwide security plan (new); and*
  - *for the acquisition or purchase of educational technology and equipment*
- The annual appropriation of these funds is divided between the public schools and institutions of higher education in accordance with the percentage split between these two sectors of education
- The supplemental appropriation bill to appropriate these funds and the remaining balance in the Fund was enacted in the 2018 Regular Session (Act 2018-502)

# Website

More information regarding the ETF and other budgetary matters can be found on the Legislative Services Agency website:

[www.lsa.state.al.us](http://www.lsa.state.al.us)