

## The Alabama Trust Fund Payback

### Background

On September 18, 2012, 65% of Alabama voters approved<sup>1</sup> the annual transfer of \$145,796,943 to the State General Fund (SG) from the Alabama Trust Fund (ATF) for fiscal years 2012, 2013, and 2014 for a total of \$437,390,829. The constitutional amendment (CA 856) contains no provision requiring repayment of the funds.<sup>2</sup>

Prior to the passage of this amendment, state legislators and Governor Bentley made promises to pay back all funds borrowed from the ATF.<sup>3</sup>

In addition to the \$437 million taken from the ATF in 2012, the Education Trust Fund (ETF) and the State General Fund owe the ATF a total of \$599 million (ETF borrowed \$437 million in 2009; GF borrowed \$162 million in 2010).<sup>4</sup> The Legislature must repay the total amount from ETF by 2015<sup>5</sup> and from the GF by 2020.<sup>6</sup>

The Alabama Legislature and the Governor enacted legislation during the 2013 session designed to repay the money taken from the ATF.<sup>7</sup> The new law, House Bill 94 (HB94) introduced by Representative Jay Love, states “the Legislature shall provide for the repayment of all funds transferred from the Alabama Trust Fund to the State General Fund . . . [by] 2026.”<sup>8</sup>

### Policy Considerations

By 2015, the ETF must repay \$437 million, the total amount borrowed from the ATF in 2009. If legislation is introduced in 2013 to pay back the ATF in equal installments, the ETF would annually pay the ATF \$146 million until 2015. Considering the ETF’s budget has been prorated in five of the last ten years<sup>9</sup> and faced

### ISSUE SNAPSHOT

From 2012-2013 the Alabama Trust Fund (ATF) will transfer \$437 million to the State General Fund (GF).

Although the constitutional amendment authorizing this transfer provides no provisions for repayment, the Alabama Legislature passed legislation in 2013 to repay the ATF by 2026.

The State Legislature must handle the budgetary problems the State has faced over the past decade, make lasting changes, and avoid temporary fixes.

a 3.7% decrease in budgeted funds in FY2013,<sup>10</sup> the Legislature may find budgeting another \$146 million to be quite challenging.

In addition, by 2020, the GF must repay the \$162 million borrowed in 2010. The GF recently faced proration, as well. The governor declared proration in the GF budget in 2010 (20%), 2011 (15%), and 2012 (10.62%).<sup>11</sup> Furthermore, the funds taken from the ATF via CA856 must come from the GF.

HB94, recently enacted by the Alabama Legislature, clearly states the amount and timing of repayments to the ATF. The Legislature will repay the ATF annually, beginning in 2014 with a payment of \$5,000,000. Each following year, the amount to be paid increases by \$5,000,000, thus the payment is \$10,000,000 in 2015 and \$15,000,000 in 2016 until the full amount is repaid in 2026.<sup>12</sup>

# GUIDE TO THE ISSUES

## Recommendations

The Legislature's repayment, or lack thereof, of the \$599 million borrowed from the ATF in 2009 and 2010 offers some indication of how they might have handled the repayment of the additional \$437 million taken from the ATF in 2012, absent the strict payback requirements.

Faced with debts to the ATF totaling over \$1 billion<sup>13</sup> to be paid in the next 13 years, the Legislature must continue the pattern of structured repayments. The Legislature should consider consolidating all ATF debts and extending the payback period to 2026 for total repayment. The schedule could be along the lines of the one proposed in HB94, but with higher annual payments and payments that increase in larger increments.

While Alabama's legislators made good on their promise to pay back the money taken from the ATF, they must also continue to honor their promises to reform state government in a manner that will prevent such transfers from being necessary in the first place. Alabama's political leaders must continue to make tough fiscal decisions in order to correct, not perpetuate, the financial problems former Alabama Legislatures created over the past decade in both the State General Fund and Education Trust Fund.

<http://alisondb.legislature.state.al.us/acas/CodeOfAlabama/Constitution/1901/CA-1842681.htm>.

<sup>6</sup> Author's Calculations: 2010 + 10 = 2020. *Id.*

<sup>7</sup> Brooks Simmons, "We Dare Defend Our Rights" 2013 Legislative Agenda, Alabama Republican Party, Jan. 18, 2013, <http://algotp.org/we-dare-defend-our-rights-2013-legislative-agenda/>.

<sup>8</sup> Ala. House Bill 94 (2013 Regular Session), 2 available at <http://alisondb.legislature.state.al.us/acas/ACTIONViewFrameMac.asp?TYPE=Instrument&INST=HB94&DOCPATH=searchableinstruments/2013RS/Printfiles/&PHYDOCPATH=/alisondb/acas/searchableinstruments/2013RS/Printfiles/&DOCNAMES=HB94-int.pdf>.

<sup>9</sup> NORRIS GREEN, *BUDGET FACT BOOK: FY 2013*, STATE OF ALA. LEGISLATIVE FISCAL OFFICE 3 (January 22, 2013)

<http://www.lfo.alabama.gov/pdfs/Budget%20Fact%20Book%2013%20BUDGET%20FACT%20BOOK%20FINAL%20Website.pdf>.

<sup>10</sup> <sup>10</sup> EDUCATION TRUST FUND COMPARISON SHEET, STATE OF ALA. LEGISLATIVE FISCAL OFFICE 9 (July 2, 2012)

<http://www.lfo.alabama.gov/pdfs/FY2013%20Budget%20Info/FY2013%20ETF/ETF%20FY%202013%20ENACTED%207-2-12.pdf>.

<sup>11</sup> Norris Green *supra* note 10 at 3.

<sup>12</sup> Ala. House Bill 94 *supra* note 8 at 2-3.

<sup>13</sup> Author's calculations: \$437 million (ETF) + \$162 million (GF) + \$437 million (CA 856) = \$1.036 billion

<sup>1</sup> STATE OF ALABAMA, CANVASS OF RESULTS, SPECIAL CONSTITUTIONAL AMENDMENT ELECTION, SEPT. 18, 2012, SECRETARY OF THE STATE OF ALABAMA BETH CHAPMAN,

<http://www.sos.alabama.gov/downloads/election/2012/scae/scae-results-certified-2012-10-09.pdf>.

<sup>2</sup> ALA. CONST. 1901 Amend. 856 available at

<http://alisondb.legislature.state.al.us/acas/CodeOfAlabama/Constitution/1901/CA-2517997.htm>.

<sup>3</sup> DAVID WHITE, *Alabama trust fund referendum Sept. 18 may mean major financial shift*, THE BIRMINGHAM NEWS, Sept. 9, 2012 available at [http://blog.al.com/spotnews/2012/09/alabama\\_trust\\_fund\\_referendum.html](http://blog.al.com/spotnews/2012/09/alabama_trust_fund_referendum.html).

<sup>4</sup> Author's calculations: \$161.6 + \$437.4 = \$599 million. MARQUITA F. DAVIS, COMPREHENSIVE ANNUAL FINANCIAL REPORT, STATE OF ALA. OFFICE OF THE STATE COMPTROLLER, 71-72 (Mar. 30, 2012)

<http://comptroller.alabama.gov/pdfs/CAFR/CAFR.Ala.2011.pdf>.

<sup>5</sup> Author's Calculations: 2009 + 6 = 2015. Ala. Const. 1901 Amend. 803 available at