'On the Table': An Overview of the Sept. 18 Amendment

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Should Alabama raid the state savings account or risk massive funding cuts for Medicaid, prisons and other public services? That is the uncomfortable choice facing Alabamians at a special referendum on Sept. 18, 2012. Voters will decide then on a proposed constitutional amendment to move \$437.4 million over three years from the Alabama Trust Fund (ATF) to the General Fund to help prop up the state's budget for non-education public services. This fact sheet will examine the amendment's historical context and the likely results of a "yes" or "no" vote.

A brief history of the Alabama Trust Fund

Gov. Fob James in 1982 convinced voters to create the ATF, which today receives about two-thirds of the revenues from offshore oil and gas drilling, as a state savings account. The rest of the money goes to the Capital Improvement Trust Fund (CITF), cities, counties, and Forever Wild, a program to protect public lands and wildlife. The ATF grew to \$3.3 billion by 2007, but investment losses and rainy day fund borrowing during the Great Recession reduced its assets to about \$2.3 billion as of April 2012.

Interest income and capital gains from the ATF have become one of the General Fund's largest revenue sources. The ATF also offers a safety net for state services. In 2002, Alabamians created a rainy day fund for the Education Trust Fund (ETF) to be borrowed from the ATF. Voters later expanded the ETF's rainy day fund and created a General Fund rainy day fund, also within the ATF. Alabama uses both accounts, which function essentially as lines of credit, to minimize proration amid falling tax revenues. The constitution requires the state to repay the ETF rainy day fund within six years and the General Fund account within 10 years. Alabama borrowed the maximum amounts from both accounts in recent years and has not begun to repay them. The state has three more years to replenish the ETF account and eight more years to restore the General Fund account. In the meantime, the ATF's lower remaining balance produces less ongoing revenue for the General Fund.

Projected declines in natural gas production mean future ATF growth likely will be much slower. Alabama received \$373.1 million in royalties in FY 2006,

Keywords

Alabama Trust Fund (ATF) – a \$2.3 billion state savings and investment account that receives most of Alabama's royalties from offshore drilling activities. ATF earnings help support the General Fund.

Capital Improvement Trust Fund (CITF) – a state trust fund that helps fund capital projects in Alabama, including economic development, construction and repair of roads and other public infrastructure, and payment of debt service on the state's bonds.

Education Trust Fund (ETF) — the part of the state budget set aside for education-related programs.

General Fund — the part of Alabama's budget for non-education-related programs that the Legislature can allocate at its discretion.

proration – the process of cutting agency budgets equally when revenues fall short of expectations.

rainy day fund – money set aside in a budget for emergency use.

but state officials expect that to fall to \$72.3 million this year. With production decreasing about 8.5 percent annually, royalties are projected to fall to \$32 million by FY 2025, *The Birmingham News* reported in July 2012.

What the amendment would do

The General Fund would get another temporary infusion from the ATF under the amendment that Alabamians will consider in September 2012. The amendment would transfer \$145.8 million annually for the next three years from the ATF to the General Fund. The total would be \$437.4 million through FY 2015. That amount from the corpus would come on top of the General Fund's ordinary interest payments from the ATF. Unlike a rainy day fund, the amendment would not require Alabama to repay the ATF for the one-time transfer. Sen. Bryan Taylor, R-Prattville, said in August 2012 that he has drafted a bill to require the state to repay the ATF within 10 years, but legislators cannot consider that plan until their next session.

The \$437.4 million transfer would be identical to the amount Alabama must repay to the ETF's rainy day fund by FY 2015. The legal duty to replenish the rainy day fund would remain in the constitution and still would apply to future borrowing. But the amendment effectively would redirect repayments of the ETF's rainy day fund for the next three years to the General Fund.

That transfer is an essential part of the FY 2013 General Fund budget enacted this year. Even if the proposal wins approval, next year's \$1.7 billion budget still will fall about 2.9 percent below this year's level after proration. Because the budget assumes voter approval of the amendment, a "no" vote would blow a huge hole in the budget and leave General Fund services in a state of uncertainty just 12 days before FY 2013 begins on Oct. 1, 2012.

The amendment also would change the state's formula for distributing ATF money to the General Fund and other entities annually. The ATF would provide payments based not on earnings and capital gains, as it does now, but instead on a fixed share of its royalties and assets. Under the amendment, the General Fund each year would receive an amount equal to 33 percent of the previous fiscal year's royalties, plus 5 percent of the average market value of ATF assets over the previous three fiscal years. The ATF board, by a two-thirds vote, could reduce those payments if it found a full

transfer would be "detrimental" to the ATF. The General Fund on average would receive about the same total amount of revenue from the ATF over a five-year time frame, analysts say, but payments would be more stable and less subject to market fluctuations.

What happens if the amendment passes?

A "yes" vote would help the General Fund budget limp through another year without tax increases or deep cuts. The budget receives funding from a range of slow-growing revenue sources that struggle to keep up with increasing costs even in the best economic times, but Gov. Robert Bentley says ATF transfers would help the budget stay afloat for a few years until an economic turnaround can boost revenues. Bentley says a new law to move 25 percent of the state's use tax revenues from the ETF to the General Fund starting next year – a net gain of \$30 million for a \$1.7 billion budget – also should help. A "yes" vote would give Medicaid just more than the \$602 million in state money that State Health Officer Don Williamson said the agency needs next year to avoid the risk of falling below minimum standards and losing all federal funds.

Critics warn the measure could open the door to more runs on the ATF. The amendment would take nearly a fifth of the ATF's principal, reducing General Fund revenues in future years. Critics say it also could tempt lawmakers to deplete the ATF again later.

What happens if the amendment fails?

The results of a "no" vote remain highly uncertain. Bentley could order proration of 17 percent or more

for General Fund agencies next year. Millions of Alabamians could feel the fallout of such cuts, which could jeopardize the existence of Alabama's Medicaid program and leave the state's prisons, human resources and mental health services in grave danger.

Ballot language for the amendment:

"Proposing an amendment to the Constitution of Alabama of 1901, to provide adequate funding for the State General Fund budget, to prevent the mass release of prisoners from Alabama prisons, and to protect critical health services to Alabama children, elderly, and mothers by transferring funds from the Alabama Trust Fund to the State General Fund beginning with the state's 2012-2013 fiscal year and concluding with the state's 2014-2015 fiscal year; to provide a new procedure for distributions made from the Alabama Trust Fund beginning 2012-2013 fiscal year; to create a County and Municipal Government Capital Improvement Trust Fund advisory committee; and to provide further for distributions made from the County and Municipal Government Capital Improvement Trust Fund."

Bentley also could call the Legislature into special session to consider new revenues or reallocate cuts.

Lawmakers would not have enough time to amend the constitution to increase property taxes or end the state income tax deduction for federal income taxes. But a cigarette tax increase proposal

could gain traction, as could efforts to close some tax loopholes. "We go back into special session and have to deal with this issue, everything is on the table. Everything," Bentley told *The Birmingham News* in June 2012. "That includes tax breaks. That includes fees. That includes taking away incentives that some of these companies have right now."

Arise's position: 'Yes' with reservations

Arise members, during an Aug. 11 special meeting, endorsed a "yes" vote because they said the potential cuts to Medicaid and other services next year are too deep to risk. But members also cautioned that avoiding short-term devastation is not a long-term answer to the General Fund's chronic shortfalls. The amendment's passage would not end the need for tax reform to ensure Alabama can provide adequate and reliable funding for the public structures that make the state a better place to live and work for everyone.

This fact sheet was prepared by policy analyst Chris Sanders. It may be reproduced with acknowledgment of Arise Citizens' Policy Project, Box 1188, Montgomery, AL 36101; (800) 832-9060; arisecitizens.org.