

# Memorandum to Alabama Forestry Association Members Constitutional Amendment—Sept 18, 2012

## Background

During the 2012 Regular Session, the Alabama Legislature passed SB 147 that, among other things, sets forth a constitutional amendment (CA) for a statewide vote on September 18th. The CA would allow \$145 million per year for three years (\$435 million total) to be permanently withdrawn from the ATF principal and used to support General Fund agencies. **The Alabama Trust Fund was established in 1985 by Amendment 450 of the Alabama Constitution “as an irrevocable permanent trust fund for the continuing benefit of the State of Alabama and its citizens.”** (ATF Annual Report —August 3, 2012) The intent was to preserve the principal of both the proceeds from sale of oil and gas leases in the Gulf as well as the royalties generated from those leases *and* to use the income (dividends and interest) as a stable source of revenue for the General Fund Agencies.

## AFA is unable to support the proposed Constitutional Amendment

### Problems with the Constitutional Amendment

● **No provision for repayment.** By withdrawing 20% of the principal of the ATF, the income generated to the General Fund will be reduced, increasing the need to find additional funds in future years. Although the Governor has stated his intent to repay the ATF, there is no constitutional requirement that mandates it and circumstances outside of his control could easily prevent it.

● **Permanently reduces the amount of annual royalties added to the ATF.** At its inception, 100% of the royalties were deposited into the ATF. In 2000, that figure was reduced to 65%. This proposed CA would further reduce that amount to 32%. This will significantly slow the growth of the ATF at the same time \$435 million of the principal is being removed.

● **Short-term fix versus long-term solution.** The CA has been described as a “bridge” to balance the budget but there is no plan currently in place to provide a long term solution. Medicaid and Corrections currently consume 55% of the General Fund budget and that percentage is growing with each fiscal year. Between 1980 and 2008, inflation-adjusted Medicaid spending in Alabama increased at an average of 14.6% per year. This rate of growth is simply unsustainable and without a long-term solution even the money provided by this CA will be insufficient.

● **Violates the principle of a “trust fund” and breaches the State’s fiduciary responsibility to future generations.** According to Ronald Jones, Chief Examiner, Alabama Dept. of Examiners of Public Accounts, Amendment 450 “required that the ATF capital be held in perpetual trust and not appropriated or expended or disbursed for any purpose other than to acquire eligible investments.” The CA would permanently withdraw 20% of the assets of the ATF in clear violation of the original intent and in violation of the principle of a trust.

● **Other options to balance the budgets are available but have not been pursued.** The Governor and the Legislature have identified but not yet implemented many cost-saving measures. Although many of these measures would need to be implemented over the next few years, some savings are available for FY2013(\*).

### Reform Measures

#### (Annual Savings—\$million)

Early Retirement—State Employees (\$68-95)\*  
Consolidate State Law Enforcement (\$26)  
Eliminate Medicaid Waste (\$90)  
Federal Waiver for Medicaid (\$48)  
Electronic Funds Transfer (\$48)  
Electronic Time Keeping/Direct Deposit (\$10)  
Unspent Tobacco Settlement \$-one time (\$12)\*

### Reform Measures

#### (No Savings Estimate Available)

Implement Prison Sentencing Reforms\*  
Eliminate Unnecessary Licensing Agencies\*  
Agencies Purchase Furniture from Corrections Inc\*  
Agencies Use Electronic Signatures  
Revamp In-state Travel Policies & Procedures\*  
Re-evaluate Assignment of State Vehicles\*  
Maximize Returns from State-Owned Properties\*

● **A “short-term loan” is available from the ATF.** The ATF Board of Trustees has the latitude to offer the state a short-term loan that would be paid back with interest and would have no net long-term affect on the ATF principle. This would provide the time to enact cost saving reforms without the adverse effects of the CA.

### AFA Policy on Government Accountability

On December 9, 2003 the AFA Board adopted a policy calling on the Governor and the Legislature to implement substantive reforms *before* any attempt is made to increase revenue. Great progress has been made in the previous two legislative sessions, but much needed reform remains. Although the CA does not propose new taxes, it does propose increasing revenue before available cost-saving measures have been implemented.



### AFA Position on CA

We understand the critical importance of adequately funding vital government services, but we believe that there are viable alternatives to withdrawing funds from the ATF without binding obligations to pay it back. Further, we believe those alternatives will provide adequate time for the Governor and the Legislature to enact long-term, cost-saving reforms without drastic funding cuts to vital government services.

As a result, AFA is *unable* to support the proposed Constitutional Amendment set for a statewide vote on September 18th.



# VOTE ON SEPTEMBER 18TH