

1 SB329
2 197090-6
3 By Senators Gudger and Stutts
4 RFD: Finance and Taxation General Fund
5 First Read: 25-APR-19

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8 SYNOPSIS: Under existing law, a portion of coal
9 severance tax proceeds are distributed to the
10 Marion County Community Development Association,
11 Inc.

12 This bill would redistribute the tax
13 proceeds to the Northwest Alabama Economic and
14 Community Alliance and terminate the tax on October
15 1, 2033.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Sections 40-13-6 and 40-13-8, Code of
22 Alabama 1975; relating to the excise and privilege tax on
23 coal; to provide further for the distribution of tax proceeds;
24 and to terminate the tax on October 1, 2033.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 40-13-6 and 40-13-8, Code of
27 Alabama 1975, are amended to read as follows:

1 "§40-13-6.

2 "(a) In each fiscal year when the funds then on
3 deposit in the special fund or funds created for retirement of
4 the bonds equal the amount needed to pay all the principal and
5 interest becoming payable on the bonds within the succeeding
6 12 months and the funds then on deposit in the reserve fund or
7 funds created for the bonds equal the maximum principal and
8 interest becoming due on the bonds in any one year, the
9 severance tax proceeds remaining in the Alabama State Docks
10 Bulk Handling Facility Trust Fund, shall be distributed as
11 provided herein; provided however, that if at the end of any
12 fiscal year of the state, beginning with the fiscal year
13 ending September 30, 1987, the Director of the Alabama State
14 Docks Department shall have notified the Director of Finance
15 in writing, at least five days prior to the close of the
16 fiscal year, that the revenues to be derived by the Alabama
17 State Docks Department from the operations of its coal
18 handling facilities for the then current fiscal year are
19 anticipated to be insufficient to pay the aggregate of (1) the
20 expenses (exclusive of depreciation) incurred in operating and
21 maintaining the facilities during such fiscal year and (2)
22 principal and interest that came due during such fiscal year
23 on those bonds of the Alabama State Docks Department for
24 payment of which the revenues have been pledged (which
25 notification shall specify the amount of the expected
26 deficiency), then the remaining severance tax proceeds shall
27 remain in the Alabama State Docks Bulk Handling Facility Trust

1 Fund. Following the filing of such notification, a report
2 shall be filed by the Director of the Alabama State Docks
3 Department with the Director of Finance within 30 days after
4 the close of such fiscal year, supported by such documentation
5 as may be deemed appropriate by the Director of Finance and
6 attesting to the amount of the actual deficiency, computed as
7 described above, incurred in the operation of the facilities
8 during the immediately preceding fiscal year. Upon receipt of
9 the report and such other documentation from the department as
10 the Director of Finance may specify, the Director of Finance,
11 if satisfied as to the accuracy of the amount of the actual
12 deficiency as reflected in the report and accompanying
13 documentation, shall authorize to be transferred, and to the
14 extent herein provided there is hereby in such event
15 appropriated, to the Alabama State Docks Department an amount
16 equal to the lesser of (i) the actual amount of any deficiency
17 computed as described herein or (ii) the balance contained in
18 the Alabama State Docks Bulk Handling Facility Trust Fund as
19 of the immediately preceding September 30.

20 "(b) Beginning with the 1992-93 fiscal year, the
21 first three hundred thousand dollars (\$300,000) of any moneys
22 remaining in the Alabama State Docks Bulk Handling Facility
23 Trust Fund after such transfer to the Alabama State Docks
24 Department shall be transferred directly to the Alabama Mining
25 Academy.

26 "(c) For the fiscal year 2011-2012, any moneys
27 remaining in the Alabama State Docks Bulk Handling Facility

1 Trust Fund after such transfers to the Alabama State Docks
2 Department and the Alabama Mining Academy shall be distributed
3 as follows:

4 "(1) Five hundred thousand dollars (\$500,000) shall
5 be transferred to the Tuscaloosa County General Fund; five
6 hundred thousand dollars (\$500,000) to the Jefferson County
7 General Fund; and two hundred thousand dollars (\$200,000) to
8 the Walker County Economic and Industrial Development
9 Authority. The Tuscaloosa County General Fund allocation shall
10 be distributed as follows: One hundred thousand dollars
11 (\$100,000) to the Town of Vance; one hundred thousand dollars
12 (\$100,000) to the Town of Brookwood; one hundred twenty-five
13 thousand dollars (\$125,000) to the Tuscaloosa County Public
14 Library; and one hundred seventy-five thousand dollars
15 (\$175,000) to the Tuscaloosa County Board of Education. If the
16 total amount available for distribution to the Tuscaloosa
17 County General Fund, the Jefferson County General Fund, and
18 the Walker County Economic and Industrial Development
19 Authority is insufficient to provide the total allocations for
20 the three, the amount that is available shall be prorated
21 among the three in the same proportion as the designated
22 allocations. In the event the Tuscaloosa County General Fund
23 receives less than five hundred thousand dollars (\$500,000),
24 the distributions to the Tuscaloosa County Board of Education
25 and Tuscaloosa County Public Library shall collectively have
26 priority. In the event the allocation to the Tuscaloosa County
27 General Fund is less than three hundred twenty-five thousand

1 dollars (\$325,000), the total amount available shall be
2 prorated among the Tuscaloosa County Board of Education and
3 the Tuscaloosa County Public Library in the same proportion as
4 the designated allocations.

5 "(2) From any moneys remaining after the allocations
6 in subdivision (1), one hundred thousand dollars (\$100,000)
7 shall be transferred to the Community Development Foundation,
8 Inc., fifty thousand dollars (\$50,000) shall be transferred to
9 the Marion County Community Development Association, Inc.,
10 fifty thousand dollars (\$50,000) shall be transferred to the
11 West Alabama Development Association of Fayette County, one
12 hundred thousand dollars (\$100,000) shall be transferred to
13 the Jackson County Economic Development Association, and one
14 hundred thousand dollars (\$100,000) shall be transferred to
15 the West Alabama Economic Development Association. If the
16 total moneys available for distribution to the Community
17 Development Foundation, Inc., the Marion County Development
18 Association, Inc., the West Alabama Development Association of
19 Fayette County, the Jackson County Economic Development
20 Association, and the West Alabama Economic Development
21 Association are insufficient to provide the total allocations
22 for the five, the amount that is available shall be allocated
23 proportionately.

24 "Any foundation or association receiving funds
25 pursuant to this section shall be annually audited by the
26 Examiners of Public Accounts and such audit shall be submitted
27 to the Legislature each legislative session.

1 "(3) Any county producing coal that has not
2 previously received an allocation shall receive an allocation
3 based upon tonnage produced in their county using 60 percent
4 of severance tax.

5 "(4) Any moneys remaining after the distributions in
6 subdivisions (1), (2), and (3) shall be transferred to the
7 State General Fund.

8 "(d) For the fiscal year 2012-2013, any moneys
9 remaining in the Alabama State Docks Bulk Handling Facility
10 Trust Fund after any transfers to the Alabama State Docks
11 Department and the Alabama Mining Academy shall be distributed
12 as follows:

13 "(1) a. The Tuscaloosa County General Fund,
14 Jefferson County General Fund, and Walker County Economic and
15 Industrial Development Authority shall receive 50 percent of
16 the designated allocations provided in subsection (c)(1),
17 unless insufficient moneys are available for the
18 distributions; in which case, a pro rata amount shall be
19 received.

20 "b. However, if 60 percent of the remaining moneys
21 available for distribution to the Tuscaloosa County General
22 Fund, Jefferson County General Fund, and Walker County
23 Economic and Industrial Development Authority exceed 50
24 percent of the designated allocations to the three, as
25 provided in subsection (c)(1), then the three shall receive
26 the same proportion of 60 percent of the remaining moneys

1 available for distribution as provided by the designated
2 allocations.

3 "c. Notwithstanding any other provision, for the
4 fiscal year 2012-2013 through fiscal years 2015-2021, the
5 Tuscaloosa County General Fund allocation shall be distributed
6 as follows: Two hundred twenty-five thousand dollars
7 (\$225,000) to the Tuscaloosa County Board of Education; one
8 hundred fifty thousand dollars (\$150,000) to the Tuscaloosa
9 County Public Library; one hundred thousand dollars (\$100,000)
10 to the Town of Brookwood; fifty thousand dollars (\$50,000) to
11 the Town of Vance; thirteen thousand dollars (\$13,000) to the
12 Town of Coaling; thirteen thousand dollars (\$13,000) to the
13 Town of Coker; thirteen thousand dollars (\$13,000) to the Town
14 of Lakeview; and eleven thousand dollars (\$11,000) to the
15 Tuscaloosa County Judicial Library Fund.

16 "If the total amount available to the Tuscaloosa
17 County General Fund is less than five hundred seventy-five
18 thousand dollars (\$575,000), the amount that is available
19 shall be prorated among the entities named in this paragraph
20 in the same proportion as the designated allocations.

21 "In the event the Tuscaloosa County General Fund
22 receives less than two hundred twenty-five thousand dollars
23 (\$225,000), the Tuscaloosa County schools shall receive the
24 entire distribution.

25 "In the event the allocation to the Tuscaloosa
26 County General Fund is greater than five hundred seventy-five
27 thousand dollars (\$575,000), the total amount of the excess

1 available shall be prorated as follows: 80 percent of the
2 excess to the Tuscaloosa County Board of Education; 12 percent
3 of the excess to the Tuscaloosa County Public Library; and
4 eight percent of the excess to the Tuscaloosa County General
5 Fund for the purpose of supporting the volunteer fire
6 departments in Tuscaloosa County.

7 "(2) From any moneys remaining after the allocations
8 in subsection (c) (1), one hundred thousand dollars (\$100,000)
9 shall be transferred to the Community Development Foundation,
10 Inc., fifty thousand dollars (\$50,000) shall be transferred to
11 the Marion County Community Development Association, Inc.,
12 fifty thousand dollars (\$50,000) shall be transferred to the
13 West Alabama Development Association of Fayette County, fifty
14 thousand dollars (\$50,000) shall be transferred to the Jackson
15 County Economic Development Association, and one hundred
16 thousand dollars (\$100,000) shall be transferred to the West
17 Alabama Economic Development Association. If the total moneys
18 available for distribution to the Community Development
19 Foundation, Inc., the Marion County Development Association,
20 Inc., the West Alabama Development Association of Fayette
21 County, the Jackson County Economic Development Association,
22 and the West Alabama Economic Development Association are
23 insufficient to provide the total allocations for the five,
24 the amount that is available shall be allocated
25 proportionately.

26 "(3) One hundred thousand dollars (\$100,000) shall
27 be allocated to the Winston County General Fund.

1 "(4) Any moneys remaining after the distributions in
2 subdivisions (1), (2) and (3) shall be transferred to the
3 State General Fund.

4 "~~(e) Beginning with~~ For the fiscal year 2013-2014,
5 ~~and for all fiscal years thereafter~~, any moneys remaining in
6 the Alabama State Docks Bulk Handling Facility Trust Fund
7 after any transfers to the Alabama State Docks Department and
8 the Alabama Mining Academy shall be distributed as follows:

9 "(1) Sixty percent shall be transferred by the
10 Department of Revenue to the general fund of the county of
11 severance based on the ratio of the \$0.135 per ton coal
12 severance tax collections from within the county to the total
13 coal severance tax collections, except those sent to the
14 Walker County Economic and Industrial Development Authority.
15 Provided, however, the distribution to the Jefferson County
16 General Fund shall be \$500,000. This distribution to Jefferson
17 County shall not reduce the amounts available for distribution
18 to other counties pursuant to this subsection (e) (1). Any
19 difference in the amount calculated for Jefferson County
20 pursuant to this subdivision and \$500,000 shall be provided
21 from funds that would otherwise be transferred pursuant to
22 subdivision (4).

23 "(2) From any moneys remaining after the allocations
24 in subdivision (1), one hundred thousand dollars (\$100,000)
25 shall be transferred to the Community Development Foundation,
26 Inc., fifty thousand dollars (\$50,000) shall be transferred to
27 the Marion County Community Development Association, Inc.,

1 fifty thousand dollars (\$50,000) shall be transferred to the
2 West Alabama Development Association of Fayette County, and
3 one hundred thousand dollars (\$100,000) shall be transferred
4 to the West Alabama Economic Development Association. If the
5 total moneys available for distribution to the Community
6 Development Foundation, Inc., the Marion County Development
7 Association, Inc., the West Alabama Development Association of
8 Fayette County, and the West Alabama Economic Development
9 Association are insufficient to provide the total allocations
10 for the four, the amount that is available shall be allocated
11 proportionately.

12 "(3) One hundred thousand dollars (\$100,000) shall
13 be allocated to the Winston County General Fund.

14 "(4) The remainder after the distribution in
15 subdivisions (1), (2) and (3) shall be transferred to the
16 State General Fund.

17 "(f) Beginning with the fiscal year 2019-2020, and
18 for all fiscal years thereafter, any moneys remaining in the
19 Alabama State Docks Bulk Handling Facility Trust Fund after
20 any transfers to the Alabama State Docks Department and the
21 Alabama Mining Academy shall be distributed as follows:

22 "(1) Sixty percent shall be transferred by the
23 Department of Revenue to the general fund of the county of
24 severance based on the ratio of the \$0.135 per ton coal
25 severance tax collections from within the county to the total
26 coal severance tax collections, except those sent to the
27 Walker County Economic and Industrial Development Authority.

1 Provided, however, the distribution to the Jefferson County
2 General Fund shall be \$500,000. This distribution to Jefferson
3 County shall not reduce the amounts available for distribution
4 to other counties pursuant to this subsection (e) (1). Any
5 difference in the amount calculated for Jefferson County
6 pursuant to this subdivision and \$500,000 shall be provided
7 from funds that would otherwise be transferred pursuant to
8 subdivision (4).

9 "(2) From any moneys remaining after the allocations
10 in subdivision (1), one hundred thousand dollars (\$100,000)
11 shall be transferred to the Community Development Foundation,
12 Inc., fifty thousand dollars (\$50,000) shall be transferred to
13 the Northwest Alabama Economic and Community Alliance, fifty
14 thousand dollars (\$50,000) shall be transferred to the West
15 Alabama Development Association of Fayette County, and one
16 hundred thousand dollars (\$100,000) shall be transferred to
17 the West Alabama Economic Development Association. If the
18 total moneys available for distribution to the Community
19 Development Foundation, Inc., the Northwest Alabama Economic
20 and Community Alliance, Inc., the West Alabama Development
21 Association of Fayette County, and the West Alabama Economic
22 Development Association are insufficient to provide the total
23 allocations for the four, the amount that is available shall
24 be allocated proportionately.

25 "(3) One hundred thousand dollars (\$100,000) shall
26 be allocated to the Winston County General Fund.

1 "(4) The remainder after the distribution in
2 subdivisions (1), (2) and (3) shall be transferred to the
3 State General Fund.

4 "§40-13-8.

5 "(a) The excise and privilege tax imposed by this
6 article shall terminate on October 1, ~~2021~~ 2033, unless
7 extended by an act of the Legislature of the State of Alabama.

8 "(b) For the fiscal year beginning October 1, 2011,
9 the tax shall apply to all severance of coal from October 1,
10 2011, through August 1, 2012, as well as the severance of coal
11 after August 1, 2012.

12 "(c) No later than August 20, 2012, each producer
13 shall file a report with the commissioner setting forth the
14 tons of coal severed for each month from October 2011 through
15 July 2012. No later than the same date, the producer shall
16 remit the full amount of tax levied by Act 2012-386 for the
17 tons of coal severed during such months.

18 "(d) Any taxpayer who, prior to the required date,
19 voluntarily reported the production for the months from
20 October 2011 until August 1, 2012, shall not be required to
21 make additional reports. Any voluntary payments made by such
22 producer for the months prior to the date required for making
23 the tax payment, shall be credited to the producer's tax
24 liability for the periods. No interest or credits, in excess
25 of the amounts actually paid, shall be allowed to any such
26 producer who voluntarily paid such taxes prior to the required
27 due date.

1 "(e) No penalties or interest shall be assessed for
2 the tax return or payment related to this tax for the periods
3 from October 2011 through August 1, 2012, if the return is
4 filed and the payment is remitted as required by August 20,
5 2012."

6 Section 2. This act shall become effective upon
7 final passage of SB_____ of the 2019 Regular Session and that
8 act becoming law.