

1 SB2
2 171537-1
3 By Senator Bussman
4 RFD: Finance and Taxation General Fund
5 First Read: 08-SEP-15

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8 SYNOPSIS: This bill provides for the one-time transfer
9 of certain funds into the State General Fund for
10 the fiscal year ending September 30, 2016.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 To amend Sections 29-9-4 and 40-23-85, Code of
17 Alabama 1975, to provide for the one-time transfer of certain
18 funds into the State General Fund for the fiscal year ending
19 September 30, 2016.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 29-9-4 and 40-23-85, Code of
22 Alabama 1975, are amended to read as follows:

23 "§29-9-4.

24 "(a) There is hereby created in the State Treasury
25 an Education Trust Fund Budget Stabilization Fund and an
26 Education Trust Fund Capital Fund. Any monetary interest which
27 accrues in the Education Trust Fund Budget Stabilization Fund

1 shall be retained in the fund from year to year and shall be
2 subject only to the provisions of this chapter. On or before
3 November 15 of each fiscal year, if the total revenues
4 deposited into the Education Trust Fund during the immediately
5 preceding fiscal year exceed the fiscal year appropriation cap
6 for the immediately preceding fiscal year, the excess shall be
7 transferred to the Education Trust Fund Rainy Day Account
8 until the account has been repaid in full. If the account has
9 been repaid in full, any excess remaining shall be transferred
10 to the Education Trust Fund Budget Stabilization Fund created
11 in this chapter. The transfers to the Education Trust Fund
12 Budget Stabilization Fund shall be made until the Fund reaches
13 an amount which equals 20 percent of the then current year's
14 appropriations from the Education Trust Fund. After the
15 balance in the Education Trust Fund Budget Stabilization Fund
16 reaches a total of 20 percent, any excess remaining shall be
17 distributed to the Education Trust Fund Capital Fund.

18 "(b) Notwithstanding the provisions of subsection
19 (a), the total amount of the excess funds distributed to the
20 Education Trust Fund Budget Stabilization Fund from the
21 Education Trust Fund for the fiscal year ending September 30,
22 2015, shall be transferred to the State General Fund not later
23 than November 30, 2015.

24 "§40-23-85.

25 "(a) All taxes, fees, interest or penalties imposed
26 and all amounts of tax herein required to be paid to the state
27 under this article must be paid to the Department of Revenue

1 at Montgomery, Alabama, with remittance payable to the
2 Treasurer of Alabama. Such amount of money as shall be
3 appropriated for each fiscal year by the Legislature to the
4 Department of Revenue with which to pay the salaries, the cost
5 of operation and the management of the said department shall
6 be deducted, as a first charge thereon, from the taxes
7 collected under and pursuant to Section 40-23-61; provided,
8 that the expenditure of said sum so appropriated shall be
9 budgeted and allotted pursuant to Article 4 of Chapter 4 of
10 Title 41, and limited to the amount appropriated to defray the
11 expenses of operating said department for each fiscal year.
12 After the distributions provided herein and the distributions
13 of use tax on automobiles to the General Fund as provided in
14 Section 40-23-61(c), the balance of the tax collected under
15 and pursuant to said Section 40-23-61 shall be distributed as
16 follows: (1) remote use tax amounts, seventy-five percent
17 (75%) to the General Fund and twenty-five percent (25%) to the
18 Education Trust Fund, and (2) any remaining amounts,
19 seventy-five percent (75%) to the Education Trust Fund and
20 twenty-five percent (25%) to the General Fund. An amount
21 sufficient to fund the Children's Health Insurance Program
22 (CHIP) shall be distributed annually as a first charge against
23 the amounts allocated to the General Fund under this section.
24 It is the legislative intent that all amounts collected on
25 transactions involving a seller located outside the State of
26 Alabama when the property is shipped or transported from
27 outside the state shall be considered use tax for the purpose

1 of this distribution, regardless of whether the taxes may be
2 considered sales taxes for other purposes.

3 "(b) Notwithstanding the provisions of subsection
4 (a), or any other law to the contrary, after the distributions
5 to the Department of Revenue to pay the salaries and the cost
6 of operation and the management of the department, \$50,000,000
7 of the taxes collected and deposited to the Education Trust
8 Fund pursuant to Section 40-23-61, shall be transferred to the
9 State General Fund for the fiscal year beginning October 1,
10 2015."

11 Section 2. Notwithstanding the provisions of the
12 Education Trust Fund Rolling Reserve Act contained in Section
13 29-9-3(b) (4), Code of Alabama 1975, the provisions of this
14 bill transferring recurring revenues from the Education Trust
15 Fund to the State General Fund, for the fiscal year beginning
16 October 1, 2015, shall not require a reduction in the fiscal
17 year appropriation cap for the fiscal year ending September
18 30, 2016.

19 Section 3. The provisions of this act are severable.
20 If any part of this act is declared invalid or
21 unconstitutional, that declaration shall not affect the part
22 that remains.

23 Section 4. All laws or parts of laws which conflict
24 with this act are repealed.

25 Section 5. This act shall become effective October
26 1, 2015, following its passage and approval by the Governor,
27 or upon its otherwise becoming law.

