

1 SB37
2 171862-1
3 By Senator Orr
4 RFD: Finance and Taxation General Fund
5 First Read: 10-SEP-15

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8 SYNOPSIS: This bill provides for the redistribution of
9 use tax receipts from the Education Trust Fund to
10 the State General Fund.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

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16 To amend Section 40-23-85, Code of Alabama 1975, to
17 redistribute use tax receipts from the Education Trust Fund to
18 the State General Fund.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. The Legislature finds and declares all of
21 the following:

22 (a) During the 2015 First Special Session, the
23 Legislature passed legislation that will increase revenues to
24 the Education Trust Fund by an estimated \$50,000,000 annually
25 beginning with fiscal year 2016.

1 (b) It is the intention of the Legislature to pass
2 additional legislation in the 2015 Second Special Session that
3 will further increase revenues to the Education Trust Fund.

4 (c) By the passage of this act, it is the intent of
5 the Legislature that the increased revenues to the Education
6 Trust Fund are used to replace the use tax receipts
7 redistributed from the Education Trust Fund to the State
8 General Fund as authorized by the provisions of this act.

9 Section 2. Section 40-23-85, Code of Alabama 1975,
10 is amended to read as follows:

11 "§40-23-85.

12 "(a) All taxes, fees, interest or penalties imposed
13 and all amounts of tax herein required to be paid to the state
14 under this article must be paid to the Department of Revenue
15 at Montgomery, Alabama, with remittance payable to the
16 Treasurer of Alabama. Such amount of money as shall be
17 appropriated for each fiscal year by the Legislature to the
18 Department of Revenue with which to pay the salaries, the cost
19 of operation and the management of the said department shall
20 be deducted, as a first charge thereon, from the taxes
21 collected under and pursuant to Section 40-23-61; provided,
22 that the expenditure of said sum so appropriated shall be
23 budgeted and allotted pursuant to Article 4 of Chapter 4 of
24 Title 41, and limited to the amount appropriated to defray the
25 expenses of operating said department for each fiscal year.
26 After the distributions provided herein and the distributions
27 of use tax on automobiles to the General Fund as provided in

1 Section 40-23-61(c), the balance of the tax collected under
2 and pursuant to said Section 40-23-61 shall be distributed as
3 follows: (1) remote use tax amounts, seventy-five percent
4 (75%) to the General Fund and twenty-five percent (25%) to the
5 Education Trust Fund, and (2) any remaining amounts,
6 ~~seventy-five percent (25%)~~ fifty-seven percent (57%) to the
7 Education Trust Fund and ~~twenty-five percent (25%)~~ forty-three
8 percent (43%) to the General Fund. An amount sufficient to
9 fund the Children's Health Insurance Program (CHIP) shall be
10 distributed annually as a first charge against the amounts
11 allocated to the General Fund under this section. It is the
12 legislative intent that all amounts collected on transactions
13 involving a seller located outside the State of Alabama when
14 the property is shipped or transported from outside the state
15 shall be considered use tax for the purpose of this
16 distribution, regardless of whether the taxes may be
17 considered sales taxes for other purposes."

18 Section 3. Notwithstanding the provisions of the
19 Education Trust Fund Rolling Reserve Act contained in Section
20 29-9-3(b) (4), Code of Alabama 1975, the provisions of this
21 bill transferring recurring revenues from the Education Trust
22 Fund to the State General Fund, for the fiscal year beginning
23 October 1, 2015, shall not require a reduction in the fiscal
24 year appropriation cap for the fiscal year ending September
25 30, 2016.

26 Section 4. The provisions of this act are severable.
27 If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part
2 that remains.

3 Section 5. All laws or parts of laws which conflict
4 with this act are repealed.

5 Section 6. This act shall become effective October
6 1, 2015, following its passage and approval by the Governor,
7 or upon its otherwise becoming law.