

1 HB145
2 142148-2
3 By Representative Roberts
4 RFD: Ways and Means General Fund
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

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ENROLLED, An Act,

To amend Sections 40-13-2, 40-13-6 and 40-13-8, Code of Alabama 1975; relating to the excise and privilege tax on coal; to provide for the collection of the tax; to provide further for the distribution of tax proceeds; and to terminate the tax on October 1, 2021, unless extended by the Legislature.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-13-2, 40-13-6 and 40-13-8, Code of Alabama 1975, are amended to read as follows:

"§40-13-2.

"Effective October 1, 2011, there ~~There~~ is hereby levied, in addition to all other taxes imposed by law, an excise and privilege tax on every person severing coal within Alabama. This tax shall be paid to the commissioner by every producer who severs coal within Alabama at the rate of \$.135 per ton of coal severed.

"§40-13-6.

"(a) In each fiscal year when the funds then on deposit in the special fund or funds created for retirement of the bonds equal the amount needed to pay all the principal and interest becoming payable on the bonds within the succeeding 12 months and the funds then on deposit in the reserve fund or funds created for the bonds equal the maximum principal and

1 interest becoming due on the bonds in any one year, the
2 severance tax proceeds remaining in the Alabama State Docks
3 Bulk Handling Facility Trust Fund, shall be ~~credited to the~~
4 ~~State General Fund~~ distributed as provided herein; provided
5 however, that if at the end of any fiscal year of the state,
6 beginning with the fiscal year ending September 30, 1987, the
7 Director of the Alabama State Docks Department shall have
8 notified the Director of Finance in writing, at least five
9 days prior to the close of the fiscal year, that the revenues
10 to be derived by the Alabama State Docks Department from the
11 operations of its coal handling facilities for the then
12 current fiscal year are anticipated to be insufficient to pay
13 the aggregate of (1) the expenses (exclusive of depreciation)
14 incurred in operating and maintaining the facilities during
15 such fiscal year and (2) principal and interest that came due
16 during such fiscal year on those bonds of the Alabama State
17 Docks Department for payment of which the revenues have been
18 pledged (which notification shall specify the amount of the
19 expected deficiency), then the remaining severance tax
20 proceeds shall remain in the Alabama State Docks Bulk Handling
21 Facility Trust Fund ~~and shall not be transferred to the State~~
22 ~~General Fund~~. Following the filing of such notification, a
23 report shall be filed by the Director of the Alabama State
24 Docks Department with the Director of Finance within 30 days
25 after the close of such fiscal year, supported by such

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

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

22 "(c) For the fiscal year 2011-2012, any moneys
23 remaining in the Alabama State Docks Bulk Handling Facility
24 Trust Fund after such transfers to the Alabama State Docks

1 Department and the Alabama Mining Academy shall be distributed
2 as follows:

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

1 ~~County Public Library~~ Tuscaloosa County Board of Education and
2 Tuscaloosa County Public Library shall collectively have
3 priority. In the event the allocation to the Tuscaloosa County
4 General Fund is less than three hundred twenty-five thousand
5 dollars (\$325,000), the total amount available shall be
6 prorated among ~~the Town of Vance, the Town of Brookwood,~~
7 Tuscaloosa County Board of Education and the Tuscaloosa County
8 Public Library in the same proportion as the designated
9 allocations.

10 ~~"(b) In addition to the above amounts, beginning~~
11 ~~with the 2006-07 fiscal year~~ (2) From any moneys remaining
12 after the allocations in subsection (c)(1), one hundred
13 thousand dollars (\$100,000) shall be transferred to the
14 Community Development Foundation, Inc., ~~one hundred fifty~~
15 thousand dollars ~~(\$100,000)~~ (\$50,000) shall be transferred to
16 the Marion County Community Development Association, Inc.,
17 ~~one hundred fifty~~ fifty thousand dollars ~~(\$100,000)~~ (\$50,000) shall
18 be transferred to the West Alabama Development Association of
19 Fayette County, one hundred thousand dollars (\$100,000) shall
20 be transferred to the Jackson County Economic Development
21 Association, and one hundred thousand dollars (\$100,000) shall
22 be transferred to the West Alabama Economic Development
23 Association. If the total moneys available for distribution to
24 the Community Development Foundation, Inc., the Marion County
25 Development Association, Inc., the West Alabama Development

1 Association of Fayette County, the Jackson County Economic
2 Development Association, and the West Alabama Economic
3 Development Association are insufficient to provide the total
4 allocations for the five, the amount that is available shall
5 be allocated proportionately.

6 "Any foundation or association receiving funds
7 pursuant to this ~~amendatory act~~ section shall be annually
8 audited by the Examiners of Public Accounts and such audit
9 shall be submitted to the Legislature each legislative
10 session.

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

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

18 "(d) For the fiscal year 2012-2013, any moneys
19 remaining in the Alabama State Docks Bulk Handling Facility
20 Trust Fund after any transfers to the Alabama State Docks
21 Department and the Alabama Mining Academy shall be distributed
22 as follows:

23 "(1) a. The Tuscaloosa County General Fund, Jefferson
24 County General Fund, and Walker County Economic and Industrial
25 Development Authority shall receive 50 percent of the

1 designated allocations provided in subsection (c)(1), unless
2 insufficient moneys are available for the distributions; in
3 which case, a pro rata amount shall be received.

4 "b. However, if 60 percent of the remaining moneys
5 available for distribution to the Tuscaloosa County General
6 Fund, Jefferson County General Fund, and Walker County
7 Economic and Industrial Development Authority exceed 50
8 percent of the designated allocations to the three, as
9 provided in subsection (c)(1), then the three shall receive
10 the same proportion of 60 percent of the remaining moneys
11 available for distribution as provided by the designated
12 allocations.

13 "c. Notwithstanding any other provision, for the
14 fiscal year 2012-2013 through fiscal years 2015-2021, the
15 Tuscaloosa County General Fund allocation shall be distributed
16 as follows: Two hundred twenty-five thousand dollars
17 (\$225,000) to the Tuscaloosa County Board of Education; one
18 hundred fifty thousand dollars (\$150,000) to the Tuscaloosa
19 County Public Library; one hundred thousand dollars (\$100,000)
20 to the Town of Brookwood; fifty thousand dollars (\$50,000) to
21 the Town of Vance; thirteen thousand dollars (\$13,000) to the
22 Town of Coaling; thirteen thousand dollars (\$13,000) to the
23 Town of Coker; thirteen thousand dollars (\$13,000) to the Town
24 of Lakeview; and eleven thousand dollars (\$11,000) to the
25 Tuscaloosa County Judicial Library Fund.

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

6 "In the event the Tuscaloosa County General Fund
7 receives less than two hundred twenty-five thousand dollars
8 (\$225,000), the Tuscaloosa County schools shall receive the
9 entire distribution.

10 "In the event the allocation to the Tuscaloosa
11 County General Fund is greater than five hundred seventy-five
12 thousand dollars (\$575,000), the total amount of the excess
13 available shall be prorated as follows: 80 percent of the
14 excess to the Tuscaloosa County Board of Education; 12 percent
15 of the excess to the Tuscaloosa County Public Library; and
16 eight percent of the excess to the Tuscaloosa County General
17 Fund for the purpose of supporting the volunteer fire
18 departments in Tuscaloosa County.

19 "(2) From any moneys remaining after the allocations
20 in subsection (c) (1), one hundred thousand dollars (\$100,000)
21 shall be transferred to the Community Development Foundation,
22 Inc., fifty thousand dollars (\$50,000) shall be transferred to
23 the Marion County Community Development Association, Inc.,
24 fifty thousand dollars (\$50,000) shall be transferred to the
25 West Alabama Development Association of Fayette County, fifty

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

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

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

18 "(e) Beginning with the fiscal year 2013-2014, and
19 for all fiscal years thereafter, any moneys remaining in the
20 Alabama State Docks Bulk Handling Facility Trust Fund after
21 any transfers to the Alabama State Docks Department and the
22 Alabama Mining Academy shall be distributed as follows:

23 "(1) Sixty percent shall be transferred by the
24 Department of Revenue to the general fund of the county of
25 severance based on the ratio of the \$0.135 per ton coal

1 severance tax collections from within the county to the total
2 coal severance tax collections, except those sent to the
3 Walker County Economic and Industrial Development Authority.
4 Provided, however, the distribution to the Jefferson County
5 General Fund shall be \$500,000. This distribution to Jefferson
6 County shall not reduce the amounts available for distribution
7 to other counties pursuant to this subsection (e) (1). Any
8 difference in the amount calculated for Jefferson County
9 pursuant to this subsection (e) (1) and \$500,000 shall be
10 provided from funds that would otherwise be transferred
11 pursuant to subsection (e) (4).

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

1 for the four, the amount that is available shall be allocated
2 proportionately."

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

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

8 ~~"(c) Of the above amount to the Alabama Mining~~
9 ~~Academy, a small portion of said sum shall be used to retrain~~
10 ~~Alabama coal miners, who have been terminated from their~~
11 ~~employment, for other occupational opportunities.~~

12 "§40-13-8.

13 "(a) The excise and privilege tax imposed by this
14 article shall terminate on October 1, 2011, unless
15 extended by an act of the Legislature of the State of Alabama.

16 "(b) For fiscal year beginning October 1, 2011, the
17 tax shall apply to all severance of coal from October 1, 2011,
18 through the effective date of this act, as well as the
19 severance of coal after the effective date of this act.

20 "(c) No later than the 20th day of the third month
21 following the passage of this act and its approval by the
22 Governor, each producer shall file a report with the
23 commissioner setting forth the tons of coal severed for each
24 month from October 2011 through the month ending on the date
25 immediately prior to the effective date of this act. No later

1 than the same date, the producer shall remit the full amount
2 of tax levied by this act for the tons of coal severed during
3 such months.

4 "(d) Any taxpayer who, prior to the required date,
5 voluntarily reported the production for the months from
6 October 2011 until the effective date of this act shall not be
7 required to make additional reports. Any voluntary payments
8 made by such producer for the months prior to the date
9 required for making the tax payment, shall be credited to the
10 producer's tax liability for the periods. No interest or
11 credits, in excess of the amounts actually paid, shall be
12 allowed to any such producer who voluntarily paid such taxes
13 prior to the required due date.

14 "(e) No penalties or interest shall be assessed for
15 the tax return or payment related to this tax for the periods
16 from October 2011 through the effective date of this act if
17 the return is filed and the payment is remitted as required by
18 the 20th day of the third month following the passage of this
19 act and is approved by the Governor."

20 Section 2. The provisions of this act are severable.
21 If any part of this act is declared invalid or
22 unconstitutional, that declaration shall not affect the part
23 which remains.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 12-APR-12, as amended.

Greg Pappas
Clerk

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Senate
House
Senate

01-MAY-12

03-MAY-12

08-MAY-12

Amended and Passed
Passed, as amended
by Conference Com-
mittee Report
Passed, as amended
by Conference Com-
mittee Report