

1 HB543  
2 138311-3  
3 By Representative Clouse  
4 RFD: Ways and Means General Fund  
5 First Read: 14-MAR-12

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ENROLLED, An Act,

To amend Section 8-17-91, Code of Alabama 1975, relating to the disposition of funds collected from certain petroleum inspection fees by the Commissioner of Agriculture and Industries; to increase the percentage of proceeds deposited in the Agricultural Fund.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 8-17-91, Code of Alabama 1975, is amended to read as follows:

"§8-17-91.

"(a) The proceeds from the permit fees, inspection fees, and penalties, if any, collected by the Commissioner of Agriculture and Industries pursuant to the provisions of this division shall be paid into the State Treasury and distributed by the State Treasurer as follows:

"(1) An amount equal to ~~5-10~~ 5 percent or no less than \$175,000, whichever is greater, of the proceeds received each month shall accrue to the credit of, and be deposited in, the Agricultural Fund; and

"(2) The balance of the proceeds shall be distributed as follows:

"a. 13.87 percent of the balance of the proceeds shall be distributed equally among each of the 67 counties of

1 the state monthly. Such funds shall be used by the counties  
2 for the following purpose:

3 "When the use is by a county, such use shall be for  
4 the construction, including draining, grading, basing, paving,  
5 signing, and erosion items, of certain high density unpaved  
6 roads as herein provided and for the construction or  
7 reconstruction of bridges on such high density roads. The use  
8 may also be for the reconstruction, resurfacing, restoration,  
9 and rehabilitation of the paved county roads and bridges or  
10 bridge replacement on the county road system. The use may also  
11 be for the construction, including draining, grading, basing,  
12 and paving of certain unpaved roads, and reconstruction of  
13 certain paved roads accessing certain public and private  
14 recreational facilities and areas.

15 "There is hereby created a committee to be referred  
16 to as the Secondary Road Committee comprised of two county  
17 engineers appointed by the Director of the State Department of  
18 Transportation, two county commission members appointed by the  
19 Governor, and the Chief of the Bureau of Secondary Roads. The  
20 committee members shall serve at the pleasure of the  
21 appointing authority. The committee shall elect one of its  
22 members to serve as chairman. A quorum of the committee shall  
23 consist of no less than three members. Committee members shall  
24 serve without compensation.

1           "The Secondary Road Committee shall develop and  
2 publish criteria for the designation of high density roads and  
3 bridges and for the designation of eligible recreational  
4 access roads. The committee may in its discretion provide  
5 different criteria for counties according to population,  
6 topography, and road mileage. The committee shall also develop  
7 and publish minimum design standards, including allowable cost  
8 items, for the construction, reconstruction, surfacing,  
9 resurfacing, restoration, and rehabilitation of such high  
10 density roads and bridges and recreational access roads.  
11 Criteria and standards developed by the committee shall be  
12 published by distributing printed copies thereof to the  
13 chairman of each county commission in Alabama no later than 90  
14 days after May 1, 1984. The committee may from time to time  
15 amend the criteria and standards developed provided that at  
16 least 60 days' notice is provided in writing to the chairman  
17 of each county commission before the effective date of such  
18 amendment. The State Department of Transportation shall  
19 provide all supplies and clerical help necessary for the  
20 committee to execute its responsibilities.

21           "County commissions are hereby required to submit  
22 all plans for the use of such proceeds to the Director of the  
23 State Department of Transportation or his designee for  
24 approval. The Director of the State Department of  
25 Transportation or his designee shall review all plans and

1 approve them or disapprove them, based on the criteria and  
2 standards developed by the committee.

3 "The funds distributed to the counties under this  
4 subsection shall not be commingled with other funds of the  
5 county except the counties' portion of the auto license tax  
6 distributed under Section 40-12-270(a)(1), as amended and  
7 shall be kept and disbursed by such county from a special fund  
8 only for the purposes hereinabove provided.

9 "The provisions of this section notwithstanding, any  
10 county may at any time deposit all or any portion of such  
11 proceeds into the county's special RRR Fund as provided for in  
12 Section 40-17-224, and may use the proceeds so deposited for  
13 any purpose authorized under said section.

14 "b. \$408,981 shall be allocated to the State  
15 Department of Transportation monthly and deposited in the  
16 State Treasury to the credit of the Public Road and Bridge  
17 Fund. Such funds are hereby appropriated to the State  
18 Department of Transportation to be used to match federal aid  
19 discretionary funds that may from time to time become  
20 available to the State Department of Transportation. In the  
21 event that in any fiscal year other State Department of  
22 Transportation funds are insufficient to match the  
23 department's regular federal aid apportionment, then at the  
24 Director State Department of Transportation's recommendation  
25 and approval by the Governor funds appropriated under this

1 subsection may be used to match said federal aid  
2 apportionment.

3 "c. 2.76 percent of the balance of the proceeds  
4 shall be allocated among the incorporated municipalities of  
5 the state as follows:

6 "1. A portion of the municipalities' share of the  
7 balance of the proceeds that is equal to 45.45 percent of the  
8 municipalities' share of the balance of the proceeds shall be  
9 allocated equally among the 67 counties of the state.

10 "2. The entire residue of the municipalities' share  
11 of the balance of the proceeds being an amount equal to 54.55  
12 percent of the municipalities' share of the balance of the  
13 proceeds shall be allocated among the 67 counties of the state  
14 on the basis of the ratio of the population of each such  
15 county to the total population of the state according to the  
16 then next preceding federal decennial census, or any special  
17 federal census heretofore held in any county subsequent to the  
18 effective date of the 1980 federal decennial census.

19 "3. The amount so allocated or apportioned to each  
20 county shall be distributed among the municipalities in the  
21 county with respect to which the allocation or apportionment  
22 is made, each such distribution among the said municipalities  
23 to be on the basis of the ratio of the population of each such  
24 municipality to the total population of all municipalities in

1 the applicable county according to the then next preceding  
2 federal decennial census.

3 "4. The population of any municipality incorporated  
4 subsequent to the taking of the then next preceding federal  
5 decennial census shall be deemed to be the population shown by  
6 the census for that municipality taken pursuant to the  
7 requirements of Section 11-41-4. Any municipality incorporated  
8 after September, 1983, shall not participate in the  
9 distribution provided for in this section until the fiscal  
10 year next succeeding the fiscal year during which it is  
11 incorporated, the first distribution to such municipality to  
12 be made in respect of receipts of the inspection fee by the  
13 state during October of the fiscal year next succeeding the  
14 said incorporation.

15 "5. Use of the inspection fee by a municipality  
16 shall be for transportation planning, the construction,  
17 reconstruction, maintenance, widening, alteration, and  
18 improvement of public roads, bridges, streets, and other  
19 public ways, including payment of the principal of and  
20 interest on any securities at any time issued by the  
21 municipality pursuant to law for the payment of which any part  
22 of the net tax proceeds were or may be lawfully pledged;  
23 provided, that no part of the balance of the proceeds referred  
24 to in this section shall be expended contrary to the  
25 provisions of the Constitution; and provided further, that

1 funds distributed to municipalities under the provisions of  
 2 this division shall not be commingled with other funds of the  
 3 municipality, except the municipalities' portion of the  
 4 highway gasoline tax, and shall be kept and disbursed by such  
 5 municipality from a special fund only for the purposes  
 6 hereinabove provided.

7 "d. An additional five percent of the balance each  
 8 month computed after deducting the distributions in paragraphs  
 9 a. and c. shall accrue to the credit of, and be deposited in,  
 10 the Agricultural Fund;

11 ~~"d. The balance of the proceeds after a, b, and c~~

12 "e. The balance of the proceeds after a., b., c.,  
 13 and d. above have been distributed monthly shall accrue to  
 14 the credit of and be deposited in the Public Road and Bridge  
 15 Fund.

16 "(b) In the event of the collection hereunder from  
 17 any person of an amount in excess of the amount of all permit  
 18 fees, inspection fees, or penalties properly and lawfully  
 19 required to be paid by such person, such person may apply to  
 20 the Commissioner of Agriculture and Industries for a refund of  
 21 the amount of such overpayment. If such application for refund  
 22 is approved in whole or in part by the commissioner, the  
 23 commissioner shall submit to the state Comptroller a  
 24 statement, approved by the state Attorney General, setting  
 25 forth the amount determined to have been overpaid and the date



1 of the overpayment. The state Comptroller shall then draw his  
2 warrant in favor of the person making such overpayment upon  
3 the State Treasurer for the amount specified in the said  
4 statement, and such amount shall be paid out of current  
5 months' collections before any distribution is made under  
6 subsection (a) of this section.

7 "(c) The application for refund provided for in this  
8 section must be filed with the Commissioner of Agriculture and  
9 Industries within 12 calendar months from the date upon which  
10 the overpayment was made, and no amount shall be refunded  
11 unless the application therefor is filed within the time  
12 prescribed herein.

13 "(d) The Department of Agriculture and Industries  
14 shall have authority to make and issue rules and regulations  
15 relating to the procedure to be followed in filing an  
16 application for a refund and for payment of any refund made  
17 under this section."

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

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Speaker of the House of Representatives

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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 10-APR-12.

Greg Pappas  
Clerk

Senate	<hr/>	08-MAY-12	Amended and Passed
House	<hr/>	09-MAY-12	Concurred in Sen- ate Amendment