

1 SB496
2 169597-1
3 By Senator Orr
4 RFD: Finance and Taxation General Fund
5 First Read: 21-MAY-15

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8 SYNOPSIS: This bill would amend Sections 40-23-85 and
9 40-23-174, Code of Alabama 1975 to provide further
10 for the distribution of use tax funds.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 To provide for legislative findings; and to amend
17 Sections 40-23-85 and 40-23-174, Code of Alabama 1975 to
18 provide further for the distribution of use tax funds.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. The Legislature of the State of Alabama
21 hereby finds the following:

22 (a) the State General Fund has an immediate
23 projected deficit for fiscal year 2016 in excess of \$250
24 million;

25 (b) the Legislative Fiscal Office has estimated a
26 projected balance in the Education Trust Fund Budget

1 Stabilization Fund at the end of fiscal year 2016 in excess of
2 \$350 million;

3 (c) currently, (1) the Education Trust Fund receives
4 75% and the State General Fund receives 25% of the state use
5 tax and (2) the State General Fund receives 75% and the
6 Education Trust Fund receives 25% of the state remote use tax;

7 (d) the United States Congress is closer to
8 resolving issues concerning the ability of states to tax
9 remote use sales; and

10 (e) redistributing the state use tax and the state
11 remote use tax equally among the Education Trust Fund and
12 State General Fund will help resolve the State General Fund's
13 immediate crisis and will allow the Education Trust Fund to
14 receive a greater benefit from the remote use tax upon federal
15 action.

16 Section 2. Sections 40-23-85 and 40-23-174, Code of
17 Alabama 1975, are amended to read as follows:

18 "§40-23-85.

19 All taxes, fees, interest or penalties imposed and
20 all amounts of tax herein required to be paid to the state
21 under this article must be paid to the Department of Revenue
22 at Montgomery, Alabama, with remittance payable to the
23 Treasurer of Alabama. Such amount of money as shall be
24 appropriated for each fiscal year by the Legislature to the
25 Department of Revenue with which to pay the salaries, the cost
26 of operation and the management of the said department shall
27 be deducted, as a first charge thereon, from the taxes

1 collected under and pursuant to Section 40-23-61; provided,
2 that the expenditure of said sum so appropriated shall be
3 budgeted and allotted pursuant to Article 4 of Chapter 4 of
4 Title 41, and limited to the amount appropriated to defray the
5 expenses of operating said department for each fiscal year.
6 After the distributions provided herein and the distributions
7 of use tax on automobiles to the General Fund as provided in
8 Section 40-23-61(c), the balance of the tax collected under
9 and pursuant to said Section 40-23-61 shall be distributed as
10 follows: (1) remote use tax amounts, ~~seventy-five percent~~
11 ~~(75%)~~ fifty percent (50%) to the General Fund and ~~twenty-five~~
12 ~~percent (25%)~~ fifty percent (50%) to the Education Trust Fund,
13 and (2) any remaining amounts, ~~seventy-five percent (75%)~~
14 fifty percent (50%) to the Education Trust Fund and
15 ~~twenty-five percent (25%)~~ fifty percent (50%) to the General
16 Fund. ~~An amount sufficient to fund the Children's Health~~
17 ~~Insurance Program (CHIP) shall be distributed annually as a~~
18 ~~first charge against the amounts allocated to the General Fund~~
19 ~~under this section.~~ It is the legislative intent that all
20 amounts collected on transactions involving a seller located
21 outside the State of Alabama when the property is shipped or
22 transported from outside the state shall be considered use tax
23 for the purpose of this distribution, regardless of whether
24 the taxes may be considered sales taxes for other purposes.

25 "§40-23-174.

26 (a) Should the enactment of a national agreement for
27 the collection of sales and use taxes from remote sellers

1 establish a single national tax rate on such remote sales or
2 should the agreement provide for the State of Alabama to
3 establish a single statewide rate on such remote sales, the
4 proceeds shall be distributed as follows:

5 (1) One-half of such proceeds shall be distributed
6 to the State of Alabama of which ~~75%~~ 50% shall be deposited
7 into the General Fund, and ~~25%~~ 50% shall be deposited into the
8 Education Trust Fund.

9 (2) One-quarter shall be distributed to the
10 governing body of the municipality in which the delivery is
11 made, if the delivery is made into a municipality.

12 (3) The remainder shall be distributed to the county
13 governing body in the county in which the delivery is made.

14 (b) The tax proceeds distributed to a municipality
15 or county shall be expended by the governing body of the
16 municipality or county as required and provided by law for
17 other sales and use tax proceeds levied and collected by the
18 county or municipality including any bonded indebtedness."

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 June 1,
26 2015, following its passage and approval by the Governor, or
27 upon its otherwise becoming law.

