

1 HB219  
2 208274-5  
3 By Representative South  
4 RFD: Ways and Means General Fund  
5 First Read: 02-FEB-21  
6 PFD: 01/29/2021

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ENROLLED, An Act,

Relating to coal severance tax; to amend Sections 40-13-6 and 40-13-8 of the Code of Alabama 1975, to further provide for the distribution of certain additional severance tax revenue; to provide for the earmarking of the distribution of the balance of the proceeds for the operation of the Surface Mining Commission; and to extend the tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§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 interest becoming due on the bonds in any one year, the severance tax proceeds remaining in the Alabama State Docks Bulk Handling Facility Trust Fund~~7~~ shall be distributed as provided herein; provided however, that if at the end of any fiscal year of the state, beginning with the fiscal year ending September 30, 1987, the Director of the Alabama State Docks Department shall have notified the Director of Finance

1 in writing, at least five days prior to the close of the  
2 fiscal year, that the revenues to be derived by the Alabama  
3 State Docks Department from the operations of its coal  
4 handling facilities for the then current fiscal year are  
5 anticipated to be insufficient to pay the aggregate of (1) the  
6 expenses (exclusive of depreciation) incurred in operating and  
7 maintaining the facilities during such fiscal year and (2)  
8 principal and interest that came due during such fiscal year  
9 on those bonds of the Alabama State Docks Department for  
10 payment of which the revenues have been pledged (which  
11 notification shall specify the amount of the expected  
12 deficiency), then the remaining severance tax proceeds shall  
13 remain in the Alabama State Docks Bulk Handling Facility Trust  
14 Fund. Following the filing of such notification, a report  
15 shall be filed by the Director of the Alabama State Docks  
16 Department with the Director of Finance within 30 days after  
17 the close of such fiscal year, supported by such documentation  
18 as may be deemed appropriate by the Director of Finance and  
19 attesting to the amount of the actual deficiency, computed as  
20 described above, incurred in the operation of the facilities  
21 during the immediately preceding fiscal year. Upon receipt of  
22 the report and such other documentation from the department as  
23 the Director of Finance may specify, the Director of Finance,  
24 if satisfied as to the accuracy of the amount of the actual  
25 deficiency as reflected in the report and accompanying

1 documentation, shall authorize to be transferred, and to the  
2 extent herein provided there is hereby in such event  
3 appropriated, to the Alabama State Docks Department an amount  
4 equal to the lesser of (i) the actual amount of any deficiency  
5 computed as described herein or (ii) the balance contained in  
6 the Alabama State Docks Bulk Handling Facility Trust Fund as  
7 of the immediately preceding September 30.

8 "(b) Beginning with the 1992-93 fiscal year, the  
9 first three hundred thousand dollars (\$300,000) of any moneys  
10 remaining in the Alabama State Docks Bulk Handling Facility  
11 Trust Fund after such transfer to the Alabama State Docks  
12 Department shall be transferred directly to the Alabama Mining  
13 Academy.

14 "(c) For the fiscal year 2011-2012, any moneys  
15 remaining in the Alabama State Docks Bulk Handling Facility  
16 Trust Fund after such transfers to the Alabama State Docks  
17 Department and the Alabama Mining Academy shall be distributed  
18 as follows:

19 "(1) Five hundred thousand dollars (\$500,000) shall  
20 be transferred to the Tuscaloosa County General Fund; five  
21 hundred thousand dollars (\$500,000) to the Jefferson County  
22 General Fund; and two hundred thousand dollars (\$200,000) to  
23 the Walker County Economic and Industrial Development  
24 Authority. The Tuscaloosa County General Fund allocation shall  
25 be distributed as follows: One hundred thousand dollars

1 (\$100,000) to the Town of Vance; one hundred thousand dollars  
2 (\$100,000) to the Town of Brookwood; one hundred twenty-five  
3 thousand dollars (\$125,000) to the Tuscaloosa County Public  
4 Library; and one hundred seventy-five thousand dollars  
5 (\$175,000) to the Tuscaloosa County Board of Education. If the  
6 total amount available for distribution to the Tuscaloosa  
7 County General Fund, the Jefferson County General Fund, and  
8 the Walker County Economic and Industrial Development  
9 Authority is insufficient to provide the total allocations for  
10 the three, the amount that is available shall be prorated  
11 among the three in the same proportion as the designated  
12 allocations. In the event the Tuscaloosa County General Fund  
13 receives less than five hundred thousand dollars (\$500,000),  
14 the distributions to the Tuscaloosa County Board of Education  
15 and Tuscaloosa County Public Library shall collectively have  
16 priority. In the event the allocation to the Tuscaloosa County  
17 General Fund is less than three hundred twenty-five thousand  
18 dollars (\$325,000), the total amount available shall be  
19 prorated among the Tuscaloosa County Board of Education and  
20 the Tuscaloosa County Public Library in the same proportion as  
21 the designated allocations.

22 "(2) From any moneys remaining after the allocations  
23 in subdivision (1), one hundred thousand dollars (\$100,000)  
24 shall be transferred to the Community Development Foundation,  
25 Inc., fifty thousand dollars (\$50,000) shall be transferred to

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

16 "Any foundation or association receiving funds  
17 pursuant to this section shall be annually audited by the  
18 Examiners of Public Accounts and such audit shall be submitted  
19 to the Legislature each legislative session.

20 "(3) Any county producing coal that has not  
21 previously received an allocation shall receive an allocation  
22 based upon tonnage produced in their county using 60 percent  
23 of severance tax.

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

4           "(d) For the fiscal year 2012-2013, any moneys  
5 remaining in the Alabama State Docks Bulk Handling Facility  
6 Trust Fund after any transfers to the Alabama State Docks  
7 Department and the Alabama Mining Academy shall be distributed  
8 as follows:

9           "(1)a. The Tuscaloosa County General Fund, Jefferson  
10 County General Fund, and Walker County Economic and Industrial  
11 Development Authority shall receive 50 percent of the  
12 designated allocations provided in subsection (c) (1), unless  
13 insufficient moneys are available for the distributions; in  
14 which case, a pro rata amount shall be received.

15           "b. However, if 60 percent of the remaining moneys  
16 available for distribution to the Tuscaloosa County General  
17 Fund, Jefferson County General Fund, and Walker County  
18 Economic and Industrial Development Authority exceed 50  
19 percent of the designated allocations to the three, as  
20 provided in subsection (c) (1), then the three shall receive  
21 the same proportion of 60 percent of the remaining moneys  
22 available for distribution as provided by the designated  
23 allocations.

24           " c. Notwithstanding any other provision, ~~for the~~  
25 ~~fiscal year 2012-2013~~ through the fiscal ~~years 2015-2021~~ year

1 ending September 30, 2031, the Tuscaloosa County General Fund  
2 allocation shall be distributed as follows: Two hundred  
3 twenty-five thousand dollars (\$225,000) to the Tuscaloosa  
4 County Board of Education; one hundred fifty thousand dollars  
5 (\$150,000) to the Tuscaloosa County Public Library; one  
6 hundred thousand dollars (\$100,000) to the Town of Brookwood;  
7 fifty thousand dollars (\$50,000) to the Town of Vance;  
8 thirteen thousand dollars (\$13,000) to the Town of Coaling;  
9 thirteen thousand dollars (\$13,000) to the Town of Coker;  
10 thirteen thousand dollars (\$13,000) to the Town of Lakeview;  
11 and eleven thousand dollars (\$11,000) to the Tuscaloosa County  
12 Judicial Library Fund.

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

18 "In the event the Tuscaloosa County General Fund  
19 receives less than two hundred twenty-five thousand dollars  
20 (\$225,000), the Tuscaloosa County schools shall receive the  
21 entire distribution.

22 "In the event the allocation to the Tuscaloosa  
23 County General Fund is greater than five hundred seventy-five  
24 thousand dollars (\$575,000), the total amount of the excess  
25 available shall be prorated as follows: 80 percent of the



1 excess to the Tuscaloosa County Board of Education; 12 percent  
2 of the excess to the Tuscaloosa County Public Library; and  
3 eight percent of the excess to the Tuscaloosa County General  
4 Fund for the purpose of supporting the volunteer fire  
5 departments in Tuscaloosa County.

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

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

3           "(4) Any moneys remaining after the distributions in  
4 subdivisions (1), (2), and (3) shall be transferred to the  
5 State General Fund.

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

11           "(1) a. Sixty percent shall be transferred by the  
12 Department of Revenue to the general fund of the county of  
13 severance based on the ratio of the \$0.135 per ton coal  
14 severance tax collections from within the county to the total  
15 coal severance tax collections, except those sent to the  
16 Walker County Economic and Industrial Development Authority,  
17 which shall not be less than one hundred thousand dollars  
18 (\$100,000). Provided, however, the distribution to the  
19 Jefferson County General Fund shall be five hundred thousand  
20 dollars (\$500,000). This distribution to Jefferson County  
21 shall not reduce the amounts available for distribution to  
22 other counties pursuant to this ~~subsection (e)(1)~~ subdivision.  
23 Any difference in the amount calculated for Jefferson County  
24 pursuant to this subdivision and five hundred thousand dollars

1     (\$500,000) shall be provided from funds that would otherwise  
2     be transferred pursuant to subdivision (4).

3             "b. For the purposes of this paragraph, the term  
4     "additional severance tax distribution" means any severance  
5     tax distribution that is attributed to the amount of coal  
6     severed in a county that is at least 10 percent greater than  
7     the average of coal severed in a county for the fiscal years  
8     2016-2017, 2017-2018, and 2018-2019 2017-2018, 2018-2019, and  
9     2019-2020. Notwithstanding any other provision of this  
10    section, for the fiscal year 2020-2021 2021-2022 and each  
11    fiscal year thereafter, any additional severance tax  
12    distribution shall be distributed to the county where the coal  
13    was severed, except if any coal severed in the county was  
14    loaded for shipping in another county, any additional  
15    severance tax distribution attributed to any coal severed in a  
16    county and loaded for shipping in another county shall be  
17    distributed as follows: 75 percent of that portion of any  
18    additional severance tax distribution shall be distributed to  
19    the county where severed, and 25 percent of that portion of  
20    any additional severance tax distribution shall be distributed  
21    to the county where the coal was loaded for shipping.

22             "(2) From any moneys remaining after the allocations  
23     in subdivision (1), one hundred thousand dollars (\$100,000)  
24     shall be transferred to the Community Development Foundation,  
25     Inc., fifty thousand dollars (\$50,000) shall be transferred to

1 the Marion County Community Development Association, Inc.,  
2 fifty thousand dollars (\$50,000) shall be transferred to the  
3 West Alabama Development Association of Fayette County, and  
4 one hundred thousand dollars (\$100,000) shall be transferred  
5 to the West Alabama Economic Development Association. If the  
6 total moneys available for distribution to the Community  
7 Development Foundation, Inc., the Marion County Development  
8 Association, Inc., the West Alabama Development Association of  
9 Fayette County, and the West Alabama Economic Development  
10 Association are insufficient to provide the total allocations  
11 for the four, 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) The remainder after the distribution in  
16 subdivisions (1), (2), and (3) shall be transferred to ~~the~~  
17 ~~State General Fund~~ a fund in the State Treasury designated  
18 solely for the operation of the Surface Mining Commission,  
19 which fund is continuously appropriated for the operation of  
20 the commission.

21 "§40-13-8.

22 "~~(a)~~ The excise and privilege tax imposed by this  
23 article shall terminate on October 1, ~~2021~~ 2031, unless  
24 extended by an act of the Legislature of the State of Alabama.

1           ~~"(b) For fiscal year beginning October 1, 2011, the~~  
2           ~~tax shall apply to all severance of coal from October 1, 2011,~~  
3           ~~through August 1, 2012, as well as the severance of coal after~~  
4           ~~August 1, 2012.~~

5           ~~"(c) No later than August 20, 2012, each producer~~  
6           ~~shall file a report with the commissioner setting forth the~~  
7           ~~tons of coal severed for each month from October 2011 through~~  
8           ~~July 2012. No later than the same date, the producer shall~~  
9           ~~remit the full amount of tax levied by Act 2012-386 for the~~  
10          ~~tons of coal severed during such months.~~

11          ~~"(d) Any taxpayer who, prior to the required date,~~  
12          ~~voluntarily reported the production for the months from~~  
13          ~~October 2011 until August 1, 2012, shall not be required to~~  
14          ~~make additional reports. Any voluntary payments made by such~~  
15          ~~producer for the months prior to the date required for making~~  
16          ~~the tax payment, shall be credited to the producer's tax~~  
17          ~~liability for the periods. No interest or credits, in excess~~  
18          ~~of the amounts actually paid, shall be allowed to any such~~  
19          ~~producer who voluntarily paid such taxes prior to the required~~  
20          ~~due date.~~

21          ~~"(e) No penalties or interest shall be assessed for~~  
22          ~~the tax return or payment related to this tax for the periods~~  
23          ~~from October 2011 through August 1, 2012, if the return is~~  
24          ~~filed and the payment is remitted as required by August 20,~~  
25          ~~2012."~~

1                   Section 2. This act shall become effective  
2 immediately following its passage and approval by the  
3 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 09-FEB-21, as amended.

Jeff Woodard  
Clerk

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Senate 11-MAR-21

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Passed