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Honorable Julia Jordan Weller
Clerk of the Court

No. 1190470

IN THE SUPREME COURT OF ALABAMA

Vernon Barnett, Ray Long, Jeff Clark, Randy Vest, Don Stisher, Greg Abercrombie,

APPELLANTS,

v.

Dr. Dana Jones, Venita Jones, Dana Gladden, Hartselle City Education Association, Rodney Randell, Decatur Education Association, Rona Blevins, Morgan County Education Association, Morgan County Board of Education, Decatur City Board of Education

APPELLEES

BRIEF OF APPELLEES MORGAN COUNTY BOARD OF EDUCATION AND DECATUR CITY BOARD OF EDUCATION

On Appeal from the Circuit Court of Montgomery County
Civil Action No. 2019-477

Scott Burnett Smith
BRADLEY ARANT BOULT CUMMINGS LLP
200 Clinton Avenue West,
Suite 900
Huntsville, AL 35801
Phone: 256-517-5100

J. Thomas Richie
K. Laney Gifford
BRADLEY ARANT BOULT CUMMINGS LLP
1819 Fifth Avenue North
Birmingham, AL 35203-2119
Phone: 205-521-800

STATEMENT REGARDING ORAL ARGUMENT

Oral argument is not necessary in this case. The trial court properly applied well-settled principles of law to reach its judgment, and this case raises no new or unsettled questions of law. The facts are not complicated. The Morgan County Board of Education and Decatur City Board of Education (together, the "School Boards") do not request oral argument. Instead, they request that the Court expedite the appeal of this matter so that the needed funds currently tied up in escrow pending this appeal may be distributed for educational purposes of the schools in Morgan County.

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STATEMENT REGARDING JURISDICTION

The School Boards agree that the Court has jurisdiction over the appeal from the trial court's final judgment and that the appeal is timely.

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STATEMENT OF THE CASE

Under Alabama Rule of Appellate Procedure 28(k), the School Boards adopt the statement of the case in the Brief of the original Plaintiffs.

STATEMENT OF THE ISSUE

County general funds are subject to appropriation by the Legislature. Alabama Code Section 40-23-197(b) requires the State Department of Revenue to deposit certain proceeds of the Simplified Sellers Use Tax Remittance Act into county general funds. After this deposit is made, and without reducing Morgan County’s ability to pay the items it must otherwise fund, Act 2019-272 requires Morgan County to pay most of those Simplified Sellers Use Tax Remittance Act proceeds to the school boards and volunteer fire departments in Morgan County. Does Act 2019-272 create a variance with a general law such that it violates Section 105 of the Alabama Constitution?

STATEMENT OF THE FACTS

I. The Background: Sales Taxes in Morgan County

In the traditional system of brick-and-mortar retail, sellers collect sales taxes in connection with transactions subject to sales taxes. A purchase in a store in Decatur, for example, would be subject to three sales taxes: 4% to the State, 1% to Morgan County to be distributed to the boards of education in the county under Alabama Code Section 40-12-4, and 4% to the City of Decatur, one quarter of which goes to the Decatur City Board of Education by City ordinance. Thus, boards of education get 2/9ths of the sales taxes collected in the City of Decatur. Similarly, in unincorporated parts of Morgan County, the State sales tax is the same, but the County's sales tax is 3%, most of which is distributed to boards of education in the County under Section 40-12-4 and Local Act 1978-742. Boards of education get approximately 3/7ths of the sales tax collected in unincorporated Morgan County. In both cases, the local taxes account for a significant portion of the local public-school funding.

II. The SSUT

Online transactions involving an out-of-state seller are treated differently than purchases made under the traditional

sales tax system. Collecting taxes in connection with online transactions has become increasingly impractical and unwieldy. To address these issues, the Alabama Legislature enacted the Simplified Sellers Use Tax Remittance Act (the "SSUT") in 2015. It is codified at Alabama Code Sections 40-23-191 et seq.

The SSUT is a voluntary tax authorized in lieu of sales and use taxes, at all levels, otherwise due by or on behalf of the Alabama customers who have purchased items from an eligible out-of-state seller who participates in The Simplified Use Tax Remittance Program. The SSUT allows eligible sellers to collect, report, and remit a flat eight percent (8%) use tax on all sales made in Alabama to which the traditional sales tax system does not apply. ALA. CODE § 40-23-193(a).

The state collects the SSUT, and Section 40-23-197 directs how the Alabama Department of Revenue distributes the net proceeds of the SSUT. Half goes to the State Treasury. ALA. CODE § 40-23-197(a)(1). Of the remainder, 60% goes to municipalities based on the ratio of each municipality's population to the total population of all municipalities in the state. ALA. CODE § 40-23-197(b). The other 40% is

distributed "to each county in the state, and deposited into the general fund of the respective county commission, on a basis of the ratio of the population of each county to the total population of all counties in the state as determined in the most recent federal census prior to the distribution." Id. Thus, counties receive 20% of the net SSUT proceeds, but local boards of education do not receive any proceeds of the SSUT.

Morgan County neither levies nor collects the SSUT. It is a passive recipient of a pro-rata distribution of the proceeds of the tax.

When Morgan County receives its SSUT distribution, the money is deposited into its general fund; Morgan County does not segregate the SSUT proceeds in any way. The proceeds are immediately commingled with all other general fund money and have no separate identity: "When each SSUT payment is received, it is deposited into Morgan County's general fund, after which it loses its identity." C.155, Exhibit C, Responses to Interrogatories, at 3, Response 6; see also C.156 id. at 4, Response 9 ("Once the SSUT proceeds are deposited into Morgan County's general fund, there is no further segregation of the monies deposited into the fund.").

III. Act 2019-272 restores some funding to the local boards of education.

In 2019, the Alabama Legislature passed Local Act No. 2019-272 ("Act 2019-272"). A copy is attached as Appendix A. The Local Act applies only in Morgan County. (C.143, Exhibit A at § 1).

The Local Act picks up where the SSUT leaves off. After Morgan County receives its distribution of SSUT proceeds, the Local Act provides that Morgan County retains 5% of the proceeds. (C.143, Exhibit A at § 2). Next, Morgan County distributes 85% of the remaining SSUT proceeds to the county and city boards of education based on student census within the County. (Id. at § 2(1)). The next 13.5% goes to the Morgan County Board of Education. (C.144, Exhibit A at § 2(2)). The remaining 1.5% goes in equal shares to the certified volunteer fire departments in Morgan County. (Id. at § 2.3). The Local Act gives the boards of education in Morgan County just under 19% of the SSUT proceeds, as a percentage of the total 8% SSUT rate. Importantly, the 19% is less than (though approximately) the percentage that would be allocated for public school purposes under the traditional brick-and-mortar sales tax system — whether in incorporated or unincorporated portions of the County.

The Legislative Services Agency, Legal Division, issued a memorandum analyzing the constitutionality of Act 2019-272. It concluded that the Local Act does not violate Section 105 of the Alabama Constitution. That memorandum is at C.148–51.

The Commissioners' statement of the facts includes embedded argument, such as where they falsely assert that Act 2019-272 "effectively amended the SSUT." Blue Br. at xv.[1] That statement is incorrect. Act 2019-272 does not amend the SSUT or any other law.

IV. Morgan County's Commission violates Act 2019-272.

The Commissioners refused to comply with Act 2019-272. According to the Commissioners' discovery responses, "Morgan County has taken no official action concerning Local Act 2019-272 other than to place it on the agenda for consideration." (C.155). After placing a resolution on the agenda that would have authorized Morgan County to comply with Act 2019-272, the Commissioners took no action with respect to that resolution. (C.172). The Commissioners treated the absence of a resolution authorizing compliance as the equivalent of a

[1] The length of the Commissioners' brief does not violate Ala. R. App. P. 28, but the pagination of the brief does not comply with Rule 28(j)(1). In lieu of renumbering the pages, the School Boards will use the Commissioners' pagination.

resolution authorizing non-compliance. Yet a review of the minutes of meetings of the Morgan County Commission shows that they do not regularly vote on whether to comply with the law.

STANDARD OF REVIEW

Under Alabama Rule of Appellate Procedure 28(k), the Boards of Education adopt the standard of review in the Brief of the original Plaintiffs.

SUMMARY OF THE ARGUMENT

Act 2019-272 does not change any result or create any variance with any general law, so it does not violate Section 105 of the Alabama Constitution. Act 2019-272 alters no general law, either by addition or subtraction. Instead, it is an exercise of the Legislature's long-standing and often-recognized power to direct the uses of county funds –– a power this Court recognized against just last year.

The distribution provision of the SSUT requires that certain tax proceeds be "deposited in the general fund" of Morgan County. ALA. CODE § 40-23-197(b). Under Act 2019-272, this deposit occurs. Once those funds are deposited in the general fund, they become like all other funds in all other county general funds all over the state: they are subject to the Legislature's control. Nothing in the SSUT tells counties or courts to treat SSUT proceeds differently from any other money deposited in county general funds. These rules are plain and well-established, and the Circuit Court applied them

correctly to uphold the validity of Act 2019-272. Affirming that well-reasoned decision requires no reassessment of Section 105 or treacherous forays into policy arguments that belong in the Legislature.

In their effort to keep the schools and volunteer fire departments in Morgan County from getting the funds granted them by the Legislature, the Commissioners bend and stretch Section 105 past its breaking point. They advance a theory of Section 105 that would forbid any local law that even addresses a subject mentioned by a general law, even in the absence of a variance or conflict between the local and general law. This Court has never interpreted Section 105 that way. Instead, it has applied Section 105 to mean that local laws cannot conflict with or create a variance with general laws.

The Commissioners likewise abandon all sound principles of statutory construction. The Court requires giving effect to the plain language of statutes, but the Commissioners invite the Court to read into the word "deposit" an expansive meaning the text cannot bear. The Court requires interpreting statutes as they are written and not presuming that the Legislature intended to change the law unless it plainly said

so, but the Commissioners ask the Court to construe "deposit into the general fund" to work a massive change in the law as it applies to Legislative power. Most importantly, the Court requires interpreting statutes in a manner that renders them valid whenever possible, but the Commissioners ask the Court to adopt a strained reading in order to reach their desired end.

Lastly, the Commissioners invite the Court to wade into political issues that are solely for the Legislature to consider. This Court interprets statutes to make them valid if possible; the Commissioners ask the Court to stack the deck against local laws to discourage the Legislature from passing them. This Court has rightly refused this invitation before, rightly recognizing that the Legislature is free to pass the laws it deems best within constitutional limits. It should do so again. It should decide this case on its own merits under the established standards and affirm the judgment of the Circuit Court.

ARGUMENT

I. The Court makes every presumption in favor of the validity of Act 2019-272, and the Commissioners must prove invalidity beyond a reasonable doubt.

We begin where the Court commonly begins: a discussion of the steep burdens facing parties challenging the constitutionality of a local law under Section 105. See, e.g., City of Homewood v. Bharat, LLC, 931 So. 2d 697, 701 (Ala. 2005); Miller v. Marshall Cty. Bd. of Educ., 652 So. 2d 759, 760 (Ala. 1995); State Bd. of Health v. Greater Birmingham Ass'n of Home Builders, Inc., 384 So. 2d 1058, 1061 (Ala. 1980).

Act 2019-272 is presumptively constitutional, and the Commissioners bear the burden of proving that it is not. King v. Campbell, 988 So. 2d 969, 980 (Ala. 2007) ("An act of the legislature arrives with a presumption of constitutionality; a party challenging that constitutionality has the burden of overcoming that presumption."); State v. Ala. Mun. Ins. Corp., 730 So. 2d 107, 110 (Ala. 1998).

The Commissioners bear the heaviest of legal burdens. As the Court noted as the first of four "well established principles of law" in a Section 105 case, "[i]t is the duty of courts to sustain the constitutionality of a legislative

act unless it is clear beyond a reasonable doubt that it is in violation of the fundamental law." Crosslin v. City of Muscle Shoals, 436 So. 2d 862, 863 (Ala. 1983), (emphasis added). See also, e.g., Daphne v. Spanish Fort, 853 So. 2d 933, 943 (Ala. 2003) ("Our duty is to sustain a legislative act unless it is clear beyond a reasonable doubt that the act violates a fundamental law."). The Court must draw every presumption in favor of constitutionality. Westphal v. Northcutt, 187 So. 3d 684, 691 (Ala. 2015). The Court has likewise stated that it has a "duty" to interpret legislative enactments in the manner that makes them valid wherever the text permits. State v. Lupo, 984 So. 2d 395, 403 (Ala. 2007).

Lastly, this dispute implicates the power of the Legislature. That power is not derived from the Constitution but is plenary. Ala. Alcoholic Beverage Control Bd. v. City of Pelham, 855 So. 2d 1070, 1077 (Ala. 2003) (citations omitted). Not only is the Legislature's authority plenary in general, this Court has highlighted that the Legislature specifically has plenary control over counties and county finances. Kendrick v. State ex rel. Shoemaker, 54 So. 2d 442, 451 (Ala. 1951).

II. The proper standard under Section 105 is whether a local law creates a variance from a general law.

In light of these guiding principles, Section 105 of the Alabama Constitution provides that "[n]o special, private, or local law … shall be enacted in any case which is provided for by a general law." Ala. Const. § 105. The dispute in this case relates to what constitutes a "case which is provided for" in a general law.

While the Court has used many formulations of the test for determining the "case provided for" under Section 105, all of the tests group around the following three notions:

- A **variance**, Homewood, 931 So. 2d at 701 ("'The subject of a local law is deemed to be "subsumed" in a general law if the effect of the local law is to create a variance from the provisions of the general law.'") (quoting Opinion of the Justices No. 342, 630 So. 2d 444, 446 (Ala. 1994)) (emphasis in original);
- A **conflict**, ABC Bonding Co. v. Montgomery Cty. Sur. Comm'n, 372 So. 2d 4, 5 (Ala. 1979) ("It is only necessary to point out a few of the pertinent sections of Act No. 98 and to show how they directly conflict with the existing general law in this area."); or

- A **changed result**, Homewood, 931 So. 2d at 703-04 ("Section 7 necessarily changes the result that would obtain without its application. In effect, the legislature has purported to cap by use of local law a tax authorized by a general law.") (emphasis removed).

All three of these formulations are ways of saying the same thing. A local law cannot change or vary the terms of a general law. That is the test that the Circuit Court correctly applied. (C.446-47) (applying the "variance" test).

That standard is embedded in the text of the last clause of Section 105. While this case turns on the first clauses of the Section, the Court should read the entirety of the Section instead of focusing on isolated words or phrases. Cf. State Farm Mut. Auto. Ins. Co. v. Motley, 909 So. 2d 806, 813 (Ala. 2005) (when interpreting statutes, the Court looks at the whole instead of viewing language in isolation). The final clause states "nor shall the legislature indirectly enact any such special, private, or local law by the partial repeal of a general law." Ala. Const. § 105. This clause suggests that a general law "provides for a case" if a local law would have the effect of repealing the general law in part of the state. So, not only can a local law not change the terms of a general

law, it cannot delete parts of a general law, either. But a local law that does not repeal part of a general law would not violate the text of Section 105.

A. The Commissioners overstate the importance of Peddycoart.

The Commissioners dedicate more than 20 pages of their brief to assert that Section 105 invalidates any local act that "creates a variance" from a general act. In doing so, they put Peddycoart on a pedestal and downplay not only what Peddycoart says, but also the many times this Court has applied and refined the Peddycoart rule. The result of their analysis is an overly restrictive view of Section 105.

The central rule of Peddycoart is that a general law is primary, which means that a conflicting local act will be invalidated. Peddycoart v. City of Birmingham, 354 So. 2d 808, 813 (Ala. 1978). Before Peddycoart, some courts would allow local laws to conflict with the general laws as long as the differences between the two were "substantial." Id. In that case, the competing enactments related to municipal liability in tort, with a general law providing a negligence standard and a local law applying nearly absolute immunity for governmental functions in Birmingham. Id. at 809-10. The two enactments gave substantially different standards on the

same subject; in fact, they were in direct conflict because both could not apply. Faced with this conflict, the Court clarified that the substantial difference between the two laws made the local law invalid. Id. at 813.

That change in the law was important, but the Commissioners exaggerate Peddycoart's effect. For one thing, they make the categorical assertion that pre-Peddycoart cases like Drummond Co v. Boswell and Standard Oil "were followed [in post-Peddycoart cases] only because Peddycoart is prospective in its application." Blue Br. at 18. This is simply not true. This Court has cited Drummond repeatedly in many, many cases that adjudicate the validity of local laws passed after Peddycoart. See, e.g., Op. of the Justices No. 376, 825 So. 2d 109, 112 (Ala. 2002) (quoting Kiel v. Purvis, 510 So. 2d 190, 192 (Ala. 1987), which, in turn, was quoting Drummond); Op. of the Justices No. 354, 672 So. 2d 1294, 1296 (Ala. 1996) (citing Drummond for defining when the matter of a local law is provided for by a general law); City of Birmingham v. City of Vestavia Hills, 654 So. 2d 532, 540 (Ala. 1995) (same); Miller, 652 So. 2d at 761 (same).

The Commissioners likewise overstate the extent to which Peddycoart forbids local laws touching on a subject addressed

in a general law. Justice Beatty, who authored Peddycoart, twice noted that the Peddycoart standard hinged on the existence of a conflict between local and general laws, not a mere overlap in some broadly-defined subject matter. In Baldwin County v. Jenkins, the Court emphasized that Section 105 barred "contrary local laws," not merely local laws touching the same subject matter. Baldwin Cty. v. Jenkins, 494 So. 2d 584, 587 (Ala. 1986). Throughout the opinion, the Court emphasized the words "contrary" and "different from." Id. at 587-88. Likewise, in a case involving laws relating to which governmental body had to approve sewage plans in Jefferson County, the Court (through Justice Beatty) upheld the local act. State Board, 384 So. 2d at 1062. The general law provided that the state board of health "and/or" the county board of health had to approve the sewage plan, but the local law limited the option in Jefferson County to the county board of health. Id. at 1059. Even though these two laws were indisputably on the same subject — namely, which entity would approve sewage plans — the Court unanimously held that "it cannot be said that any specific approval process in this area has been 'provided for' by the general law." Id. at 1061-62. Thus, it was an "inevitable conclusion"

that the local law "does not violate Section 105 of the State Constitution." Id. at 1062. State Board can only be understood as requiring a variance or conflict to strike down a local law.

Indeed, time and again, this Court's Section 105 jurisprudence has relied on direct conflicts between general and local laws to determine whether Section 105 invalidates a local law. It invalidated a local law on bail bonding, noting that "[i]t is only necessary to point out a few of the pertinent sections of Act No. 98 and to show how they directly conflict with the existing general law in this area." ABC Bonding, 372 So. 2d at 5 (emphasis added). Again, in Walker County v. Allen, the Court distinguished a line of prior cases by noting that, in each of the cases "the local law did not conflict with the general law…." 775 So. 2d 808, 812 (Ala. 2000). It noted "[l]ocal acts providing for the levy of additional taxes have been upheld by this Court in instances where the local law did not conflict with the general law." Id. at 813 (emphasis added). And it held the local law at issue invalid because it was "in direct conflict with the general laws providing that no license tax shall be paid to the county." Id. (emphasis added). See also Kiel, 510 So. 2d

at 193 (invalidating local law under Section 105 because "Act 85-233 is in conflict with Ala. Code (1975), § 17-7-18"); Crandall v. City of Birmingham, 442 So. 2d 77, 79 (Ala. 1983) (invalidating local law containing provisions "in direct contravention of already existing … general law on the same subject").

Not only has the Court repeatedly used the term "conflict" in its formulation of the Section 105 test, its post-Peddycoart cases continue to demonstrate the importance of a conflict as a matter of fact. Take Stokes v. Noonan, 534 So. 2d 237 (Ala. 1988), which the Commissioners cite for the proposition that Section 105 looks at the broad "general subject of the general law and not the specifics of the local law." Blue Br. at 19. That case does not help them. It involved a general law giving the governor the absolute right to fill vacancies on a county commission, with the appointed commissioner serving out the remainder of the term. Stokes, 534 So. 2d at 238. A local act required an election within 60-90 days to fill the vacancy. Id. There was a direct conflict: either the governor picked the new commissioner to serve out the term, or the specially-elected commissioner would serve out the term. The decisive question was whether

the local act and the general act conflicted; because they did, the "language [of the general act] must be given effect according to its terms." Id. at 239.

The Homewood case is another prime and even more recent example of a direct conflict between a local and general law. A general law allowed municipalities to set their own lodging taxes unless limited by another general law in the same article, but a local law imposed a cap on lodging taxes. Homewood, 931 So. 2d at 699-700. The Commissioners assert that "there was no requirement stated in the opinion that a direct conflict must exist between the local and general laws," Blue Br. at 25, but this Court's analysis stresses the importance of a direct and irreconcilable conflict: "the local act purports to limit the discretion of municipalities in levying a lodgings tax, while the general act specifically grants that discretion." Homewood, 931 So. 2d at 703 (emphasis in original). The Commissioners attempt to characterize the local law as if it "created an additional or supplemental provision to the general law," Blue Br. at 25, but the local law so directly conflicted with the general law that this Court used italics to emphasize the conflict. Homewood, 931 So. 2d at 703. One last note on this case: if the

Commissioners' broad "subject matter" test were the law, the Court's analysis in Homewood would have stopped after identifying that a local law addressed the same subject (i.e., lodging taxes) as a general law. The presence of the detailed analysis of the conflict between the local and general laws proves that something beyond mere overlapping subject matter is necessary to trigger Section 105.

Tellingly, this Court has not adopted the "broad subject matter" test the Commissioners now advance. Instead, it has continued to note, after Peddycoart, that "[i]t is not the broad, overall subject matter which is looked to in determining whether the local act, taken together with the general law, is violative of § 105…." Kiel, 510 So. 2d at 192 (emphasis added) (quoting Drummond, 346 So. 2d at 955). The Court frequently invokes this precise language forbidding looking at "broad, overall subject matter." See City of Birmingham, 654 So. 2d at 540; Miller, 652 So. 2d at 761; Op. of the Justices No. 354, 672 So. 2d at 1296.

The other Section 105 cases relied on by the Commissioners do not help them either. For example, County Commission of Jefferson County v. Fraternal Order of Police involved a direct conflict. A general law provided that the

personnel board would have the authority to determine "salary income" for classified employees. 558 So. 2d 893, 895 (Ala. 1989). A later local act sought to add a subsistence allowance to certain classified employees. Id. The Court determined that the allowance was "salary income," and thus found a direct Section 105 conflict: the general law gave the personnel board authority over salary income, so a local act could not change salary income. Id. at 896.

As already noted, the ABC Bonding case on which the Commissioners rely is a direct conflict case. A general law gave the qualifications for being a bail bondsman, so a local law could not impose additional conditions on that office. ABC Bonding, 372 So. 2d at 6. The Commissioners strain to make this case help them by suggesting that the local law at issue in that case merely "pick[ed] up where [the general law] left off by providing a licensing board," but that characterization cannot hold water. Blue Br. at 22. The Court characterized the conflict as direct. ABC Bonding, 372 So. 2d at 5. And, from all that appears in the opinion,[2] the local

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[2] ABC Bonding is a short per curiam opinion that omits the text of the local act at issue, stating "[n]o purpose would be served by setting out at length the provisions of Act No. 98. As noted, Act No. 98 applies only to the Fifteenth Judicial Circuit and is an extensively detailed provision

law applied not just additional but "different <u>and</u> additional" qualifications. <u>Id</u>. at 6 (emphasis added). Because the local law changed the requirements, it did not merely pick up where the general law left off.

The Commissioners also fail to distinguish <u>Jefferson County v. Taxpayers and Citizens of Jefferson County</u>, 232 So. 3d 845 (Ala. 2017) a recent and important Section 105 case. This Court unanimously rejected the argument that a general law on a subject precluded a local act on the same subject in the context of school taxes: a plaintiff argued that Section 105 barred a local act creating a sales tax for educational and general fund purposes because a general school sales tax already existed, but this Court held that the local act was valid. <u>Jefferson Cty.</u>, 232 So. 3d 845, 868 (Ala. 2017). The Commissioners, in apparent hopes that the Court will forget this recent case, wrongly suggest that it is an irrelevant "local needs case." Blue Br. at 26. Not so. The Court specifically "agreed with the County parties that Act No. 2015-226 is not subsumed by § 40-12-4 and that it does not

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relating to qualifications to act as surety on a bail bond. It is only necessary to point out a few of the pertinent sections of Act No. 98 and to show how they directly conflict with the existing general law in this area." <u>ABC Bonding</u>, 372 So. 2d at 5.

violate § 105." Jefferson Cty., 232 So. 3d at 868. And, if there were any doubt that Jefferson County did not turn solely on local needs, this Court has already noted that it is all but impossible for a tax case under Section 105 to hinge on local needs because "[i]f local need were the sole criterion for determining the constitutionality of a local law, then probably no local act imposing a tax could ever be successfully challenged, because every county in the State could probably show it has a need for more funds." Walker Cty., 775 So. 2d at 813.

Perhaps one reason why the Commissioners are so keen to minimize Jefferson County is because the plaintiffs in that case made, and lost on, the exact arguments the Commissioners advance now: "The taxpayers maintain that a direct conflict is not required for a local law to violate § 105. If the local law addresses a 'subject matter' already addressed in the general law, the taxpayers argue, that local law is 'subsumed' by the general law and is void under § 105." Jefferson Cty., 232 So. 3d at 866. The Court unanimously rejected these arguments in 2017 by finding that the local act was not subsumed. The Court should reaffirm this recent result.

The Commissioners also ignore the importance of Birmingham v. Vestavia Hills, a post-Peddycoart case in which the Court again rejected the "broad subject matter" test and affirmed a local act that added a new method of annexation. 654 So. 2d 532, 540 (Ala. 1995). The Court noted that there were several general laws already addressing the subject of annexation, and it was undisputed that the method of annexation was not authorized by any general law. Id. The Court upheld the local act, stating "[t]he 'matter' of Act No. 92-708 was not substantially provided for by a general law, because the annexation would not have been possible under the preexisting annexation laws." Id; see also id. at 541 ("The mere fact that there are general laws relating to a municipality's power to annex contiguous territory does not prevent the legislature, by local law, from annexing noncontiguous territory into a city."). This case shows that Section 105 does not bar local legislation merely touching on a matter also addressed by general legislation.

III. No matter the standard the Court applies, Act 2019-272 is a valid exercise of legislative power.

Under this standard, the Section 105 violation requires the Commissioners to prove beyond a reasonable doubt that Act 2019-272 creates a conflict or variance with a general law

that already provides for the matter. Homewood, 931 So. 2d at 701. The Commissioners propose two such general laws, and the Circuit Court properly found that neither subsumes Act 2019-272.

The first relevant general law is the SSUT's distribution provision, which requires in relevant part

> [T]he net proceeds after the distribution provided in subdivision (1) of subsection (a) shall be distributed 60 percent to each municipality … and 40 percent to each county in the state, and deposited into the general fund of the respective county commission, on a basis of the ratio of the population of each county to the total population of all counties in the state as determined in the most recent federal census prior to the distribution.

ALA. CODE § 40-23-197(b).

The second general law the Commissioners propose is not so easy to identify, but apparently resides somewhere in Chapter 8 of Title 11 (the "Budget Control Act"), which generally requires counties to have balanced budgets that provide for "reasonable expenditures for the operation of the offices of the judge of probate, tax officials, sheriff, county treasurer, the county jail, the county courthouse, and other offices as required by law." ALA. CODE § 11-8-3(c). Act 2019-272 does not create a variance with either.

Confusingly, the Commissioners sometimes refer to the Budget Control Act as the "Allocation General Law," but Chapter 8 of Title 11 is generally known as, and has been recognized by this Court as, the Budget Control Act. Shelby Cty. Comm'n v. Smith, 372 So. 2d 1092, 1096 (Ala. 1979). The term "Allocation General Law" is thus both ahistorical and, as shown below, not an apt description of the effect of the chapter. Compounding this confusion, other parts of the Commissioners' brief refer to an unidentified "General Law," a capitalized term they nowhere define.

A. Because all county general funds are subject to legislative control, Act 2019-272 creates no variance with Section 40-23-197(b).

Act 2019-272 works in perfect harmony with the SSUT's distribution provision in Section 40-23-197(b), which requires that the SSUT proceeds owed to Morgan County be deposited in Morgan County's general fund. ALA. CODE § 40-23-197(b). This deposit occurs exactly as required by the clear and unambiguous text of Section 40-23-197(b). Act 2019-272 does not affect how the State distributes the SSUT. To the contrary, compliance with Section 40-23-197(b) is a mandatory prerequisite to Act 2019-272 because Act 2019-272 begins by providing that Morgan County "retains" a portion of the SSUT

proceeds. (C.143, Exhibit A at § 2). As the Circuit Court recognized (C.446), Morgan County could not retain what it does not first receive, and Morgan County receives the exact distribution under Act 2019-272 as it would receive without Act 2019-272. The Department of Revenue does not treat Morgan County differently under Act 2019-272 than it would if Act 2019-272 did not exist: the same deposit goes to the same account. That is all Section 40-23-197(b) requires. Every requirement is fulfilled. None is removed. None is changed in the slightest.

The result of Section 40-23-197(b) is that funds are deposited in Morgan County's general fund, where they remain subject to the Legislature's direction. The undisputed and well-established fact is that the Legislature can direct how counties spend their general funds. That rule is enshrined in the Alabama Constitution, which expressly permits the Legislature to pass local acts requiring counties to make disbursements from their general funds if certain timing conditions are met (which they indisputably were here). Ala. Const. §§ 111.03, 111.05(b)(1). And the rule has been repeatedly and recently referenced by this Court. Kendrick, 54 So. 2d at 451 ("It is well settled that the State may

appropriate county funds by act of the legislature for public purposes."); Jefferson Cty. v. City of Birmingham, 38 So. 2d 844, 848 (Ala. 1948) (same). The Legislature's power over county general funds is plenary, and the Court recognized just last year that the "legislature's power includes the ability to designate and to control public revenues being held in county funds." Clay Cty. Comm'n v. Clay Cty. Animal Shelter, Inc., 283 So. 3d 1218, 1234 (Ala. 2019). As this Court quoted in Clay County, "'[i]t is a false idea to assume that the county is a separate entity from the state, that its revenues belong exclusively to the county, and are under its absolute control. Such revenues belong to the state, and may be appropriated by the state.'" Id. at 1233 (quoting Montgomery v. State, 153 So. 394, 398-99 (Ala. 1934)) (emphasis in Clay Cty.).[3]

[3] The Commissioners would distinguish Clay County because it does not specifically address Section 105. Blue Br. at 33. They miss the point. Clay County addresses the predicate question about "the nature of the relationship between the State and individual counties." Clay Cty., 283 So. 3d at 1232. Thus, it addresses the legal background against which the Legislature enacted the SSUT and Act 2019-272, and it speaks directly to whether the legislature can direct the uses of county funds. Moreover, if the Commissioners were right and the Budget Control Act places county general funds beyond the reach of the Legislature, certainly this Court would have noted that point in Clay County or the cases on which it relies.

Because "the Legislature is presumed to be aware of existing law and judicial interpretation when it adopts a statute," Grimes v. Alfa Mut. Ins. Co., 227 So. 3d 475, 489 (Ala. 2017) (quotations and citations omitted), the Legislature knew that county general funds are subject to Legislative appropriation when it passed Section 40-23-197(b). Thus, the Legislature's instruction to deposit SSUT proceeds into county general funds includes the Legislature's knowledge that the instruction would not place the SSUT proceeds beyond the Legislature's reach.

The Court should interpret Section 40-23-197(b) according to its plain language. The phrase "deposited into the general fund" in Section 40-23-197(b) unambiguously means sending the money to be credited to a particular bank account and to have a corresponding entry made on an accounting ledger.[4] The manner of distribution of the SSUT is left to the department to determine,[5] and the department has determined that it will simply electronically deposit the

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[4] As defined in Black's Law Dictionary, "deposit" means "[t]he act of giving money or other property to another who promises to preserve it or to use it and return it in kind; esp., the act of placing money in a bank for safety and convenience." Deposit, BLACK'S LAW DICTIONARY (11th ed. 2019) (emphasis added).

[5] ALA. CODE § 40-23-197(c).

money into the most-current bank account for each county on file with the department. Ala. Admin. Code r. 810-6-2-.90.02(22). The words are plain and require no interpretation or construction beyond discerning their everyday meaning, which is the meaning the Court should give to them. Ex parte Ankrom, 152 So. 3d 397, 409–10 (Ala. 2013). Every person with a bank account and every child with a piggy bank knows what depositing means.

If, however, the Court were to determine that the phrase "deposited into the general fund" required interpretation or construction, the Court would be bound to give the phrase a construction that upheld Act 2019-272's validity. Monroe v. Harco, Inc., 762 So. 2d 828, 831 (Ala. 2000). In this case, an interpretation that upholds validity means interpreting the act of depositing to be a merely ministerial task: the money must go somewhere, so it goes into a particular account and fund -- the general fund. When it arrives in the general fund, it becomes just like any other money in the general fund, which means it is subject to Legislative control.

The Commissioners, on the other hand, necessarily reject a plain reading of the deposit requirement. Instead, they would have the Court freight the words "deposit into the

general fund" with an expansive meaning divorced from the plain meaning of the words the Legislature used. They would transform the deposit requirement into something like "irrevocably place beyond the control of the Legislature and into the perpetual sole control of the commissioners, notwithstanding any contrary law or constitutional provision governing the other money in county general funds." This construction must be rejected because it ignores the plain language of the SSUT, which requires a mere deposit. It also violates the rule against adding words to a statute. Elmore Cty. Comm'n v. Smith, 786 So. 2d 449, 455 (Ala. 2000) ("We will not read into a statute what the Legislature has not written."); Ex parte Jackson, 614 So. 2d 405, 407 (Ala. 1993) ("The judiciary will not add that which the Legislature chose to omit."); Siegelman v. Chase Manhattan Bank (USA), Nat'l Ass'n, 575 So. 2d 1041, 1045 (Ala. 1991) ("[A] court may explain the language but it may not detract from or add to the statute.") If the Legislature meant to give deposit this expansive and extraordinary meaning, it would have said so or used a different word altogether.

Even if the Commissioners' proposed construction of "deposit into the general fund" were otherwise compatible

with the plain language of Section 40-23-197(b) (which it obviously is not), the Court would be required to reject it in favor of a construction that upheld the validity of Act 2019-272. Every presumption is made in favor of constitutionality. Dobbs v. Shelby Cty. Econ. & Indus. Dev. Auth., 749 So. 2d 425, 428 (Ala. 1999). Thus, for the Commissioners to prevail, they would have to perform the impossible task of showing that deposit cannot mean the simple, familiar act of depositing that every person with a bank account understands.

The text of Section 40-23-197(b) places no restrictions on the use of proceeds of the SSUT, so that section does not bar the Legislature from passing Act 2019-272. No case says that the mere deposit of those funds in Morgan County's general fund bars the Legislature from passing a local act regarding such funds, and no general act limits the Legislature's ability to address the distribution of the SSUT proceeds. In the absence of such a limitation, both Section 111.03 of the Alabama Constitution and the controlling cases (cited above) expressly authorize the Legislature to pass acts directing disbursements by counties. The Court presumes that the Legislature did not intend to alter the law beyond

what it "explicitly declares." City of Pinson v. Utilities Bd. of City of Oneonta, 986 So. 2d 367, 373 (Ala. 2007) ("[W]e presume that the legislature does not intend to make any alteration in the law beyond what it explicitly declares.") (citations and quotation marks omitted). The requirement in Section 40-23-197(b) to deposit SSUT proceeds in the general fund does not explicitly declare any change to the existing law that the Legislature can appropriate from any county general fund, which led the Circuit Court to conclude correctly that it should not read a provision into the SSUT that the Legislature did not include. (C.447).

It would have been a simple thing for the Legislature to have added a restriction on appropriation in Section 40-23-197(b), and the Legislature's failure to take a simple and familiar step shows that the Legislature did not intend what the Commissioners now demand. Indeed, when revising Section 40-23-197(b) to include the "deposited into the general fund" requirement in 2018, the Legislature would have been aware[6] of this Court's 2017 decision in Jefferson County, which

[6] City of Pinson, 986 So. 2d at 373 ("'[t]he Legislature is presumed to be aware of existing law and judicial interpretation when it adopts a statute,'") (quoting Carson v. City of Prichard, 709 So. 2d 1199, 1206 (Ala. 1998)).

involved a law that truly granted discretion to a county commission: "such remaining additional proceeds … shall be deposited into the general fund of the county for use and appropriation as the county commission shall determine in its discretion." Jefferson Cty., 232 So. 3d at 853 (emphasis added). If the mere act of depositing funds in the general fund were enough to vest a commission with discretion to spend the money, the local law would not have included the underlined language, as it would have been mere surplusage. In the absence of similar discretion-granting language in Section 40-23-197(b), the Court must apply the general rule that SSUT proceeds, like all money in county general funds, remain subject to Legislative control.

B. The Budget Control Act does not speak for every dollar in the Morgan County general fund, so it is irrelevant.

The Commissioners concede, as they must, that the Legislature has the power to direct the expenditure of county general funds (Blue Br. at 33), so they pivot to the argument that the Legislature has already directed how general fund moneys can be spent through the Budget Control Act. This argument cannot withstand scrutiny because the Budget Control Act does not even purport to tell the Commissioners how they

must spend every dollar in the Morgan County General Fund. The Budget Control Act controls county budgets, and it has never been interpreted to limit the Legislature's power over county finances. As the Circuit Court correctly stated, "[t]he Budget control Act does not prevent the Legislature from directing how county general funds are spent." (C.447).

At the outset, the Commissioners argue that there is a facial variance between the Budget Control Act and Act 2019-272. That is, they assert that the Budget Control Act on its face allocates the money in the general fund such that Act 2019-272 has no sphere of operation. This assertion is incorrect. For one thing, The Budget Control Act does not mention a "general fund" anywhere, so the Commissioners' argument must mean that the Budget Control Act actually allocates every dollar in every county's possession. But the act does not do that, either. Instead, the Budget Control Act identifies several items that counties must include in their budgets, but the list is not exhaustive: "The budget adopted, <u>at a minimum</u>, shall include any revenue required to be included in the budget under the provisions of Alabama law and reasonable expenditures for the operation of the offices of the judge of probate, tax officials, sheriff, county

treasurer, the county jail, the county courthouse, and other offices as required by law." ALA. CODE § 11-8-3(c) (emphasis added). The law contains no residual clause regarding how any remaining funds be expended. Thus, on its face, the law does not purport to direct the expenditure of every dollar Morgan County receives, so it does not facially bar local laws directing county expenditures.

Perhaps the case would have been different if the Commissioners could have made an "as applied" argument that would have shown that Act 2019-272 prevented them from funding the items listed in the Budget Control Act, but they did not do so because the facts would not permit it. They admit that they have more than enough to fund the required items because Morgan County had a general fund surplus of more than $5 million. Blue Br. at xvii. Nor have the Commissioners shown that every expenditure made from the Morgan County general fund is compelled by the Budget Control Act such that they could not comply with both the Budget Control Act and Act 2019-272 at the same time.

We say "perhaps" because this Court has held that a county "[c]ommission cannot, however, use [the Budget Control Act] as a shield to ward off its legal responsibilities."

Shelby Cty., 372 So. 2d at 1096. That case rejects the very arguments the Commissioners advance here. It holds that the Budget Control Act does not allow a county to avoid paying lawful claims arising from local acts. Id. The case recognizes that the Legislature has the authority to direct counties to increase pay for sheriff's deputies: "Such a directive is entirely within the legislative power." Id. at 1095. Lastly, the case notes that the County could not be heard to complain that it lacked funds to pay the deputies because "[t]he deputies controverted this by pointing out items on the budget for non-essential services which are lower priority claims when compared to the deputies' salaries." Id. at 1096.

While the Budget Control Act does not direct the expenditure of every dollar in county general funds, it does require counties to pass balanced budgets. In that regard, it is a limit on counties' powers, not a grant of power by which counties can exclude the Legislature. And, even if that law could be understood in the manner the Commissioners suggest, as a factual matter, there is no dispute that Morgan County has continued to pass balanced budgets even after Act 2019-272. Thus, Morgan County cannot say that it "needs" the SSUT

money to have a balanced budget that complies with the Budget Control Act.

The Commissioners' misunderstand the importance of their general fund surplus. The point is not that a Court should decide whether Morgan County "needs" the money or could use it well. That decision is legislative. Instead, the point is that the Commissioners cannot say that Act 2019-272 changes the result under the Budget Control Act when the Commissioners can fund all of the items listed in the Budget Control Act without any SSUT money at all.

IV. The Commissioners' catch-all arguments lack merit.

A. It would make no sense for the Legislature to have included an "unless provided otherwise by local law" clause in Section 40-23-197.

There is no need for the Legislature to have included a carve out for later local laws like Act 2019-272 in Section 40-23-197 because such a carve out would be redundant in light of existing Alabama law. If the Legislature had included a carve out, consider that it would have read something like "the Legislature may distribute, allocate, or appropriate the SSUT proceeds just like any other county general funds." That statement would do nothing more than restate Alabama law as it already exists. See, e.g., Kendrick, 54 So. 2d at 451 ("It

is well settled that the State may appropriate county funds by act of the legislature for public purposes.”).

The Legislature does not need to make a special carve out to preserve its existing powers. To the contrary, existing law remains unchanged except to the extent a new includes express changes. City of Pinson, 986 So. 2d at 373. See also Ware v. Timmons, 954 So. 2d 545, 556 (Ala. 2006) (“[W]e presume ‘that the legislature does not intend to make any alteration in the law beyond what it explicitly declares.’”) (quoting Duncan v. Rudulph, 16 So. 2d 313, 314 (Ala. 1944)). Nothing in Section 40-23-197(b) or the SSUT more broadly suggests a legislative intent to make sweeping changes to the legal relationships between counties and the State. As the Circuit Court correctly reasoned, “[a]bsent a direct expression from the Legislature, the Court will not infer that the Legislature meant to change this longstanding rule when it comes to SSUT funds.” (C.447).

The laundry list of statutes the Commissioners include are all of a different sort. Those statutes allow local legislation to change the express requirements of general laws. See, e.g., ALA. CODE § 40-26-20 (allowing local legislation to change who controls funds); ALA. CODE § 28-3-

190(c)(3) (allowing local legislation to change how funds are distributed or apportioned). Without a carve out in these general laws, these local laws would create conflicts, variances, or changed results. Or, to put it in the terms this Court used in Baldwin County v. Jenkins, the case on which the Commissioners rely, the provision for local laws must be made for "contrary local laws." Baldwin Cty., 494 So. 2d at 587 (some emphasis removed). Without the exception language, "[Section] 105 does operate to prohibit the enactment of contrary local laws." Id. Carve outs are needed for contrary local laws, not all local laws merely touching on the same subject.

B. Distribution is different from allocation, as this Court has recently noted.

Taxing has four distinct steps: levy, collection, distribution, and appropriation. The Commissioners call this distinction "artificial," but this Court has found an important distinction between the last two steps -- which are the two relevant for this case. In Clay County, the Court noted the important difference between distributing funds to a county general fund and then expending or appropriating those funds. Clay Cty., 283 So. 3d at 1230-31. The distinction between distribution and appropriation was necessary to the

decision in that case because the appropriation in that case was subject to a constitutional requirement not at issue here. Id. at 1234 ("Because the legislature's power includes the ability to designate and to control public revenues being held in county funds, we conclude that an appropriation by the legislature of such revenues is subject to constraints on legislative power prescribed by § 73"). The Court invalidated the appropriation but left the distribution intact. Id. Thus, the Court necessarily concluded that the distribution was not an appropriation; if it were, it would have been subject to the same defect as the appropriation. Clay County thus bars the Commissioners' attempt to treat distribution and allocation as the same thing. A distribution is not an allocation so a distribution by general act does not bar an allocation by local law.

Likewise, while it is true that the Commissioners have discretion over the Morgan County general fund, that discretion is not vested by any general law. The Commissioners cite the Budget Control Act generally, but they cannot cite to any portion of that entire chapter that so much as mentions general funds at all, much less guarantees counties discretion over general funds. To the contrary, counties have

discretion over their general funds only to the extent that the Legislature does not direct particular expenditures, which it has the unfettered right to do. Again, "'[i]t is a false idea to assume that the county is a separate entity from the state, that its revenues belong exclusively to the county, and are under its absolute control.'" Clay Cty., 283 So. 3d at 1233 (quoting Montgomery, 153 So. at 398–99).

The Commissioners argue in a circle when they assert that "the Legislature can tell county commissions what to do with money in their General Funds … [but only] in a manner that does not violate Section 105." Blue Br. at 29. Because the Legislature can tell Morgan County what to do with its general fund, it can necessarily tell Morgan County what to do with that portion of its general fund that corresponds to the SSUT proceeds Morgan County receives. Once SSUT proceeds are deposited in Morgan County's general fund they are not subject to the SSUT anymore. Morgan County commingles those proceeds and does not separately account for them. C.155, Exhibit C, Responses to Interrogatories, at 3, Response 6; see also C.156 id. at 4, Response 9. The Legislature is thus free from any constraint in directing the use of those funds.

C. Act 2019-272 does not indirectly violate Section 105.

The Commissioners make a new argument not made below: that the Legislature cannot do indirectly what it cannot do directly. The Court should ignore this argument, as the Commissioners cannot advance a new theory of unconstitutionality not raised below. Yellow Dog Dev., LLC v. Bibb Cty., 871 So. 2d 39, 41-42 (Ala. 2003). The only theory argued below is a direct violation of Section 105. Any argument about "indirect" violations of Section 105 was not made and is thus waived.

But the argument has no merit in any event because it tries to transform the "deposit" requirement of Section 40-23-197 into some kind of immunity from further legislative action. As shown above, the deposit is the last step in the SSUT distribution, and the SSUT casts no penumbra on the funds distributed to Morgan County.

To be sure, the sole case the Commissioners cite in this argument is far afield, and no Section 105 case cites this standard. The Patterson case involved an individual's constitutional right to be free from excessive bail, and (by logical extension) to have issues regarding bail decided by a court. Ex Parte State ex rel. Patterson, 108 So. 2d 448,

452–53 (Ala. 1958). The Court held that a statute allowed the superintendent of the state hospitals to determine whether a person could be released. Id. at 451–52. The Court held that the Legislature could not delegate to the superintendent the ability to deny bail: because the legislature could not deny bail directly, it could not allow another to deny bail. Id. at 453.

V. The Court has properly and repeatedly rejected invitations to meddle in policy choices assigned to the Legislature.

The Court should reject any attempt by the Commissioners to dictate what manner of laws the Legislature passes. Despite the language of "floodgates" and other such stock phrases, there is simply no judicial preference for general over local laws except what the Constitution specifically declares. "[T]he Legislature may legislate by local act, except with regard to those subjects as to which the constitution specifically speaks to the contrary." Yellow Dog, 871 So. 2d at 42.

The true basis of the Commissioners' argument finally unmasks itself on the last page of their brief. The Commissioners invite the Court to strike down Act 2019-272 not because of an issue with its plain text but because the

Commissioners think that doing so will encourage "the sort of careful and orderly financial planning that are the hallmarks of good government" with respect to laws the Legislature has not even enacted yet. Blue Br. at 40. This Court must reject this attempted usurpation of legislative power -- not only because it is wrong in fact, but also because the people's interest in good government is not served by judicial activism that ignores separation of powers.

In any event, this Court has long recognized that it will not second-guess legislative judgments in Section 105 cases. See Drummond, 346 So. 2d at 958 (rejecting two policy arguments that the Court found "compelling" or "impress[ive]"). The Legislature decides what laws are good. The Court decides what laws are constitutional. "This principle is embraced within the simple statement that the only question for the court to decide is one of power, not of expediency or wisdom." Alabama State Federation of Labor v. McAdory, 18 So. 2d 810, 815 (Ala. 1944).

The Legislature is free to operate within its broad constitutional powers, and the Commissioners cannot enlist the judiciary to second-guess core legislative functions such

as financial policy or the choice between general and local legislation:

> In passing on the validity of a statute it must be remembered that the legislature, except insofar as specifically limited by the state and federal constitutions, is all-powerful in dealing with matters of legislation; that a legislative act is presumed to be constitutional and valid, and all doubts are to be resolved in favor of its validity; that a statute, if reasonably possible, must be so construed as to sustain its validity and will not be declared invalid unless the court is clearly convinced that it cannot stand; that all questions of propriety, wisdom, necessity, utility and expediency in the enactment of laws are exclusively for the legislature, and are matters with which the courts have no concern.

Jansen v. State ex rel. Downing, 137 So. 2d 47, 49 (Ala. 1962) (rejecting, among other things, a Section 104 challenge).

Indeed, even if it were the province of the Court to consider policy arguments like the ones made by the Commissioners, the Court would need to engage in careful consideration of the fiscal landscape that exists. In a county where local sales tax proceeds are critical for day-to-day operation of public schools (like Morgan County), the accelerating erosion of those proceeds to online sales, which are not earmarked for local school needs by the SSUT, falls squarely on the County’s school systems and poses serious dangers to school funding. The Legislature certainly

understood the commonsense notion that students, educators, and school systems in Morgan County should not suffer just because a shopper buys a widget online rather than down the street. How the Legislature decided to address this risk is a core legislative function, and the Legislature should have all of its tools available to address it, including local legislation.

Lastly, the parade of horribles imagined by the Commissioners assumes that the Court will change its Section 105 jurisprudence. No such change is necessary. Merely applying the existing law as it exists is enough. Put another way, and to use the Commissioners' analogy, if any floodgates are to be opened in the wake of this case, it would be a floodgate of new litigation second-guessing local laws.

CONCLUSION

The Court should affirm the trial court's judgment in all respects.

Respectfully submitted,

s/ J. Thomas Richie
One of the Attorneys for Appellees
Morgan County Board of Education
and Decatur City Board of
Education

OF COUNSEL:
J. Thomas Richie
K. Laney Gifford
Bradley Arant Boult Cummings LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203-2119
Phone: 205-521-8000

Scott Burnett Smith
Bradley Arant Boult Cummings LLP
200 Clinton Avenue West, Suite 900
Huntsville, AL 35801
Phone: 256-517-5100

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served on this 1st day of July, 2020, to the following by U.S. Mail or electronic mail to their regular mailing addresses:

J. Dorman Walker
Balch & Bingham, LLP
P.O. Box 78
Montgomery, AL 36101
dwalker@balch.com

William R. Justice
Frank C. Ellis, Jr.
J. Bentley Owens, III
Ellis, Head, Owens & Justice
P.O. Box 587
Columbiana, AL 35051
wjustice@wefhlaw.com
fellis@wefhlaw.com
bowens@wefhlaw.com

Morgan G. Arrington
General Counsel,
Association of County
Commissions of Alabama
2 N. Jackson St., Ste. 701
Montgomery, AL 36104
marrington@alabamacounties.org

Kendrick E. Webb
Jamie H. Kidd
Webb & Eley, P.C.
7475 Halcyon Pointe Drive
P.O. Box 240909
Montgomery, AL 36124
kwebb@webbeley.com
jkidd@webbeley.com

Robert Segall
Copeland, Franco, Screws &
Gill, PA
P.O. Box 347
Montgomery, AL 36101
segall@copelandfranco.com

Theron Stokes
Sherri Mazur
John T. Thomas
Alabama Education
Association
422 Dexter Avenue
Montgomery, AL 36104
theron@alaedu.org
sherrim@alaedu.org
johnt@alaedu.org

Brian Austin Oakes
White & Oakes, LLC
P.O. Box 2508
Decatur, AL 35602
b_oakes@whiteandoakes.com

Samuel H. Heldman
The Gardner Firm, PC
2805 31st Street, NW
Washington, DC 20008
sam@heldman.net

s/ J. Thomas Richie
OF COUNSEL

APPENDIX A

ACT #2019- 272

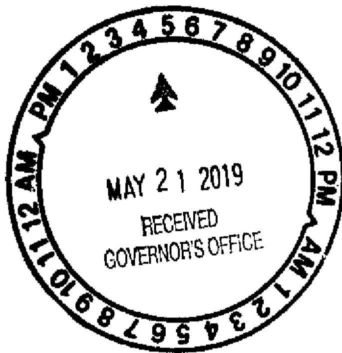
1 SB344

2 197664-5

3 By Senator Orr (N & P)

4 RFD: Local Legislation

5 First Read: 30-APR-19



1 SB344

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3

4 With Notice and Proof

5

6 ENROLLED, An Act,

7 Relating to Morgan County; to provide for the
8 distribution of the county's share of the proceeds of the
9 simplified seller use tax to the local boards of education in
10 the county and to volunteer fire departments in the county.
11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
12 Section 1. This act shall relate only to Morgan
13 County.
14 Section 2. Beginning October 1, 2019, after Morgan
15 County retains five percent of the gross proceeds for
16 administrative purposes, the remaining proceeds of the
17 simplified seller use tax distributed to Morgan County
18 pursuant to Section 40-23-197 of the Code of Alabama 1975,
19 shall be allocated by the county commission each fiscal year
20 and distributed on a monthly basis, as follows:
21 (1) Eighty-five percent of the remaining proceeds
22 shall be allocated to the county and city boards of education
23 in the county for public school purposes based on the
24 proportion that the average daily membership of each school
25 system in the county during the first 20 scholastic days after

1 Labor Day of the preceding school year bears to the total
2 average daily membership of all school systems in Morgan
3 County for the preceding school year.
4 (2) Thirteen and one-half percent of the remaining
5 proceeds shall be allocated to the Morgan County Board of
6 Education for public school purposes.
7 (3) One and one-half percent of the remaining
8 proceeds shall be distributed to the certified volunteer fire
9 departments in the county for fire protection purposes with
10 each volunteer fire department receiving an equal share.
11 Section 3. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.

1
2

3
4 President and Presiding Officer of the Senate

5
6 Speaker of the House of Representatives

7 SB344
8 Senate 07-MAY-19
9 I hereby certify that the within Act originated in and passed
10 the Senate.
11
12 Patrick Harris,
13 Secretary.
14
15

16
17 House of Representatives
18 Passed: 16-MAY-19
19

20
21 By: Senator Orr

Became law without Governor's signature

APPROVED____________

TIME____________

____
GOVERNOR

Alabama Secretary Of State
Act Num....: 2019-272
Bill Num...: S-344
Recv'd 05/29/19 11:21amSLF

35

yeas 28 nays 0 abstain
And was ordered sent forthwith to the House.

YEAS 46 NAYS 0
JEFF WOODARD,

SOR

PONSORS

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SENATE ACTION

DATE: 4-30	2019
RD 1 RFD LL #1	

I hereby certify that the notice & proof is attached to the Bill, SB • as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS, Secretary

This Bill was referred to the Standing Committee of the Senate on LL #1

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) ____ w/sub ____ w/eng sub ____ yeas ____ nays ____ abstain ____ this 2nd day of May 2019

[signature], Chairperson

DATE: 5-2	2019
RF FAV	RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 344. yeas 28 nays 0 abstain ____

PATRICK HARRIS, Secretary

DATE: 5-07-19	RD 3 at length
PASSED ☑	PASSED AS AMENDED ☐

HOUSE ACTION (NHP)

DATE: 5-7	2019
RD 1 RFD LL	

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on Local Legislation

was acted upon by such Committee in session, and returned therefrom to the House with the recommendation that it be Passed. w/amd(s) ____ w/sub ____ this 15th day of May, 2019.

[signature], **Chairperson**

DATE: 5-15	201_
RF	RD 2 CAL

DATE:	20__
RE-REFERRED ☐	RE-COMMITTED ☐
COMMITTEE ____	

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 344.