

1 SB337  
2 126158-1  
3 By Senator Taylor  
4 RFD: Finance and Taxation General Fund  
5 First Read: 05-APR-11

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8 SYNOPSIS: This bill amends Sections 40-23-35 and  
9 40-23-77, Code of Alabama 1975, to change the  
10 distributions of the Sales Tax Discount and the Use  
11 Tax Discount.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT

16  
17 To amend Sections 40-23-35 and 40-23-77, Code of  
18 Alabama 1975, to change the distributions of the Sales Tax  
19 Discount and the Use Tax Discount.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 40-23-35, Code of Alabama 1975,  
22 is amended to read as follows:

23 "§40-23-35.

24 (a) Such amount of money as shall be appropriated  
25 for each fiscal year by the Legislature to the Department of  
26 Revenue with which to pay the salaries, the cost of operation  
27 and management of said department shall be deducted, as a

1 first charge thereon, from the taxes collected under the  
2 provisions of this division; provided, that the expenditure of  
3 said sum so appropriated shall be budgeted and allotted  
4 pursuant to Article 4 of Chapter 4 of Title 41, and limited to  
5 the amount appropriated to defray the expenses of operating  
6 said department for each fiscal year. After the payment of the  
7 expenses, so much of the amount remaining as may be necessary,  
8 after first applying all sums of money received by reason of  
9 the application of the surplus in the income tax as provided  
10 by Section 40-18-58, for the replacement in the public school  
11 fund of the three-mill constitutional levy for schools and in  
12 the General Fund of the one-mill levy for soldiers' relief and  
13 the two and one-half mills for general purposes lost by  
14 exemption of homestead provided for in this division shall be  
15 first charges against the proceeds of said licenses, taxes or  
16 receipts levied or collected under this division. The  
17 Comptroller, with the approval of the Governor, is hereby  
18 directed to draw his warrants payable out of the total  
19 proceeds of said licenses, taxes or receipts levied or  
20 collected under this division as herein provided in such sum  
21 as shall be found necessary to take care of and replace the  
22 three-mill constitutional school levy, the one-mill soldiers'  
23 relief levy and the two and one-half mill levy for general  
24 purposes of the state ad valorem taxes lost as above set  
25 forth.

26 (b) Of the amounts of such collections in any fiscal  
27 year, remaining after the payment of the expenses of

1 administration and replacement of the amounts in the several  
2 funds as herein provided there shall be paid into the Treasury  
3 sums to be credited as follows:

4 (1) To the credit of the 67 counties of the state,  
5 to be divided and distributed as hereinafter provided,  
6 \$378,000;

7 (2) To the Department of Human Resources,  
8 \$1,322,000;

9 (3) Beginning June 1, 2000, to the Department of  
10 Conservation and Natural Resources for capital outlay for  
11 acquisition of land contiguous to existing state parks and  
12 land acquired for lakes and or water reservoirs, provision,  
13 construction, improvement, renovation, equipping, and  
14 maintenance of the state parks system only and not for use by  
15 the Department of Conservation and Natural Resources for  
16 personnel or administrative use, the sum equal to the increase  
17 in receipts accruing to the State of Alabama due to the cap on  
18 discounts per license holder in Section 40-23-36(b), which  
19 increase shall be equal to the difference between the discount  
20 rate or amount allowed under Section 40-23-36(b) and the  
21 maximum discount rate allowable under Section 40-23-36(a);  
22 provided, however, if at any time any bonds of the Alabama  
23 State Parks System Improvement Corporation or the Alabama  
24 Public Historical Sites and Parks Improvement Corporation are  
25 outstanding (excluding bonds that have been refunded by the  
26 establishment of an escrow trust for the payment thereof  
27 consisting solely of bonds or other obligations which as to

1 principal and interest constitute direct obligations of, or  
2 are unconditionally guaranteed by, the United States of  
3 America) there shall first be paid into the State General Fund  
4 from such collections an amount equal to the debt service  
5 (principal, interest, and premium, if any) payable on such  
6 bonds in the then current fiscal year of the state. Provided,  
7 however, that one million dollars (\$1,000,000) of such  
8 increase in receipts per fiscal year shall be credited to the  
9 Department of Human Resources beginning October 1, 1996, until  
10 September 30, 2002, and shall be expended for the foster  
11 children program.

12 ~~(4)a. On October 1, 2002, to the Department of~~  
13 ~~Conservation and Natural Resources for capital outlay, repairs~~  
14 ~~and maintenance of the state parks system only, the minimum~~  
15 ~~sum of five million dollars (\$5,000,000) from the increase in~~  
16 ~~receipts accruing to the State of Alabama due to the cap on~~  
17 ~~discounts per license holder in Section 40-23-36(b) as~~  
18 ~~calculated in Section 40-23-35(b)(3). Beginning October 1,~~  
19 ~~2003, annually, to the Department of Conservation and Natural~~  
20 ~~Resources for capital outlay, repairs, and maintenance of the~~  
21 ~~state parks system only, the sum calculated by a fraction, the~~  
22 ~~numerator of which is five million dollars (\$5,000,000) and~~  
23 ~~the denominator of which is equal to the increase in receipts~~  
24 ~~as calculated in Section 40-23-35(b)(3) for fiscal year 2002~~  
25 ~~accruing to the State of Alabama multiplied by the increase in~~  
26 ~~receipts as calculated in Section 40-23-35(b)(3) for the then~~

1 ~~current fiscal year, or the sum of five million dollars~~  
2 ~~(\$5,000,000), whichever is greater.~~

3 b4(a). Beginning October 1, 2002, to the credit of  
4 the State General Fund, the balance of the sum equal to the  
5 increase in receipts accruing to the State of Alabama due to  
6 the cap on discounts per license holder in Section  
7 40-23-36(b).

8 (cb) One-half of the amount deposited to the credit  
9 of the 67 counties as above provided, shall be divided and  
10 distributed proportionately among the 67 counties of the state  
11 according to the population of the said counties as shown by  
12 the last federal census as proclaimed, published or certified  
13 by the Director of the Bureau of the Census; and one-half of  
14 said proceeds shall be divided or distributed equally among 67  
15 counties; provided, that the funds divided and distributed to  
16 the several counties of the state as hereinabove provided for  
17 shall be used exclusively for full-time health service in  
18 cooperation with the State Board of Health or the federal  
19 government, and for extension services in cooperation with the  
20 Alabama Agriculture Extension Service or the federal  
21 government, at the discretion of the county commissions of the  
22 several counties of the state.

23 (dc) The amounts provided in subsection (b) for the  
24 Department of Human Resources shall be used for general  
25 welfare purposes. For purposes of this division, "general  
26 welfare purposes" means:

1           (1) The administration of public assistance as set  
2 out in Sections 38-2-5 and 38-4-1;

3           (2) Services, including supplementation and  
4 supplementary services under the federal Social Security Act,  
5 to or on behalf of persons to whom such public assistance may  
6 be given under said Section 38-4-1;

7           (3) Services to and on behalf of dependent,  
8 neglected or delinquent children; and

9           (4) Investigative and referral services to and on  
10 behalf of needy persons.

11           ~~(e)~~ In addition, there shall be paid, commencing on  
12 January 1, 1978, and on the first day of each fiscal quarter  
13 thereafter, to the Department of Human Resources for a  
14 statewide, state-administered food stamp program, as  
15 authorized by the Food Stamp Act of 1964, Public Law 88-525,  
16 88th Congress, and amendments thereto, an amount equal to five  
17 percent of the value of food stamp benefits issued statewide  
18 in excess of the amount paid by recipients (bonus or free  
19 stamps) during the immediate prior fiscal quarter, which sum  
20 so appropriated shall be paid quarterly to the Department of  
21 Human Resources Trust Fund for administration of the food  
22 stamp program in conformity with rules and regulations  
23 promulgated by the United States Department of Agriculture and  
24 in conformity with Sections 38-1-1 through 38-6-9. Such  
25 administrative funds shall be limited to and based on fiscal  
26 year 1976-77 administrative costs, normal inflationary  
27 increases and mandated administration requirements of the

1 Alabama Legislature and the United States Department of  
2 Agriculture. The Department of Human Resources will not staff  
3 any county food stamp office at a level which exceeds the  
4 average staff-to-recipient ratios which existed in Alabama  
5 during fiscal year 1976-77. This restriction will apply in  
6 coordination with those provided hereinabove and, should  
7 conflict occur, the lesser amount of expenditure shall be  
8 required. At the end of each fiscal year, an accounting shall  
9 be made of said sum so that any unexpended and unencumbered  
10 balance of funds may be determined for the purpose of paying  
11 such balance to the Education Trust Fund.

12 (fe) The amount of the proceeds of all taxes levied  
13 by this division remaining after the payment of the expenses  
14 of administration and enforcement and the replacement in the  
15 several funds of the amount lost by any homestead exemptions  
16 and the distribution as provided in subsections (b) and (ed),  
17 shall be paid into the Education Trust Fund except as provided  
18 in subdivision (4) of Section 40-23-2 and subsection (c) of  
19 Section 40-23-61.

20 Section 2. Section 40-23-77, Code of Alabama 1975,  
21 is amended to read as follows:

22 "§40-23-77.

23 A discount of three percent of the taxes levied by  
24 this article due and payable to the state shall be allowed to  
25 the seller or vendor; provided, that the taxes due by such  
26 seller are paid before same becomes delinquent, as in this  
27 article provided.



1           Effective June 1, 2001, the Governor may, by  
2           executive order, authorize the Department of Revenue to  
3           provide by proper rules and regulations for the allowance of a  
4           discount, not to exceed three percent (3%) of the taxes levied  
5           by this article due and payable to the state by the seller or  
6           vendor; provided that the taxes due by such seller are paid  
7           before same becomes delinquent, as in this article provided.

8           For any taxes collected by the seller or vendor on  
9           or after June 1, 2001, the Governor may, by executive order,  
10          authorize the Department of Revenue to provide by proper rules  
11          and regulations for a maximum discount amount or rate for each  
12          seller or vendor regardless of the number of locations of that  
13          seller or vendor within the state.

14          Beginning June 1, 2001 until September 30, 2002 the  
15          balance of the sum equal to the increase in receipts due to  
16          any maximum discount amount or rate as provided herein shall  
17          first be credited to the Department of Conservation and  
18          Natural Resources for (1) the sum equal to the interest the  
19          Game and Fish Fund and the Seafoods Fund would have earned on  
20          the sale of hunting and/or fishing licenses, which is required  
21          to be credited to the funds by Federal Regulation 50 CFR  
22          80.4a(3), and (2) a sum equal to one million dollars  
23          (\$1,000,000) for the Coastal Programs; and any remaining  
24          balance shall be credited to the State General Fund.

25          Beginning October 1, 2002 and each fiscal year  
26          thereafter the lesser of five hundred thousand dollars  
27          (\$500,000) or the entire amount of the sum equal to the

1 increase in receipts due to any maximum discount amount or  
2 rate as provided herein shall be credited to the Department of  
3 Human Resources and expended for the foster children program.  
4 Any remaining balance shall first be credited to the  
5 Department of Conservation and Natural Resources to be  
6 allocated in whole or in part to ~~the following: (1) To the~~  
7 Game and Fish Fund and the Seafoods Fund in an amount at least  
8 equal to the interest that each fund would have earned on the  
9 sale of hunting and/or fishing licenses which is required to  
10 be credited to the funds by the Federal Regulation 50 CFR  
11 80.4a(3), ~~and (2) to the Coastal Programs, a sum equal to one~~  
12 ~~million dollars (\$1,000,000);~~ and any remaining balance shall  
13 be credited to the State General Fund.

14 Section 3. This act shall become effective on  
15 October 1, 2011 following its passage and approval by the  
16 Governor or its otherwise becoming law.