

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

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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11 To amend Sections 40-23-35 and 40-23-77, Code of  
12 Alabama 1975, to change the distributions of the Sales Tax  
13 Discount and the Use Tax Discount.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§40-23-35.

18 "(a) Such amount of money as shall be appropriated  
19 for each fiscal year by the Legislature to the Department of  
20 Revenue with which to pay the salaries, the cost of operation  
21 and management of said department shall be deducted, as a  
22 first charge thereon, from the taxes collected under the  
23 provisions of this division; provided, that the expenditure of  
24 said sum so appropriated shall be budgeted and allotted  
25 pursuant to Article 4 of Chapter 4 of Title 41, and limited to  
26 the amount appropriated to defray the expenses of operating  
27 said department for each fiscal year. After the payment of the

1 expenses, so much of the amount remaining as may be necessary,  
2 after first applying all sums of money received by reason of  
3 the application of the surplus in the income tax as provided  
4 by Section 40-18-58, for the replacement in the public school  
5 fund of the three-mill constitutional levy for schools and in  
6 the General Fund of the one-mill levy for soldiers' relief and  
7 the two and one-half mills for general purposes lost by  
8 exemption of homestead provided for in this division shall be  
9 first charges against the proceeds of said licenses, taxes or  
10 receipts levied or collected under this division. The  
11 Comptroller, with the approval of the Governor, is hereby  
12 directed to draw his warrants payable out of the total  
13 proceeds of said licenses, taxes or receipts levied or  
14 collected under this division as herein provided in such sum  
15 as shall be found necessary to take care of and replace the  
16 three-mill constitutional school levy, the one-mill soldiers'  
17 relief levy and the two and one-half mill levy for general  
18 purposes of the state ad valorem taxes lost as above set  
19 forth.

20 "(b) Of the amounts of such collections in any  
21 fiscal year, remaining after the payment of the expenses of  
22 administration and replacement of the amounts in the several  
23 funds as herein provided there shall be paid into the Treasury  
24 sums to be credited as follows:

25 "(1) To the credit of the 67 counties of the state,  
26 to be divided and distributed as hereinafter provided,  
27 \$378,000;

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

3                   "(3) Beginning June 1, 2000, to the Department of  
4                   Conservation and Natural Resources for capital outlay for  
5                   acquisition of land contiguous to existing state parks and  
6                   land acquired for lakes and or water reservoirs, provision,  
7                   construction, improvement, renovation, equipping, and  
8                   maintenance of the state parks system only and not for use by  
9                   the Department of Conservation and Natural Resources for  
10                  personnel or administrative use, the sum equal to the increase  
11                  in receipts accruing to the State of Alabama due to the cap on  
12                  discounts per license holder in Section 40-23-36(b), which  
13                  increase shall be equal to the difference between the discount  
14                  rate or amount allowed under Section 40-23-36(b) and the  
15                  maximum discount rate allowable under Section 40-23-36(a);  
16                  provided, however, if at any time any bonds of the Alabama  
17                  State Parks System Improvement Corporation or the Alabama  
18                  Public Historical Sites and Parks Improvement Corporation are  
19                  outstanding (excluding bonds that have been refunded by the  
20                  establishment of an escrow trust for the payment thereof  
21                  consisting solely of bonds or other obligations which as to  
22                  principal and interest constitute direct obligations of, or  
23                  are unconditionally guaranteed by, the United States of  
24                  America) there shall first be paid into the State General Fund  
25                  from such collections an amount equal to the debt service  
26                  (principal, interest, and premium, if any) payable on such  
27                  bonds in the then current fiscal year of the state. Provided,

1       however, that one million dollars (\$1,000,000) of such  
2       increase in receipts per fiscal year shall be credited to the  
3       Department of Human Resources beginning October 1, 1996, until  
4       September 30, 2002, and shall be expended for the foster  
5       children program.

6               "(4)a. On October 1, 2002, to the Department of  
7       Conservation and Natural Resources for capital outlay, repairs  
8       and maintenance of the state parks system only, the minimum  
9       sum of five million dollars (\$5,000,000) from the increase in  
10       receipts accruing to the State of Alabama due to the cap on  
11       discounts per license holder in Section 40-23-36(b) as  
12       calculated in Section 40-23-35(b) (3). Beginning October 1,  
13       2003, annually, to the Department of Conservation and Natural  
14       Resources for capital outlay, repairs, and maintenance of the  
15       state parks system only, the sum calculated by a fraction, the  
16       numerator of which is five million dollars (\$5,000,000) and  
17       the denominator of which is equal to the increase in receipts  
18       as calculated in Section 40-23-35(b) (3) for fiscal year 2002  
19       accruing to the State of Alabama multiplied by the increase in  
20       receipts as calculated in Section 40-23-35(b) (3) for the then  
21       current fiscal year, or the sum of five million dollars  
22       (\$5,000,000), whichever is greater. Notwithstanding the  
23       previous sentence, for the fiscal years ending September 30,  
24       2012, and September 30, 2013, only, the five million dollars  
25       (\$5,000,000) shall be transferred to the State General Fund.

26               "(b) Beginning October 1, 2002, to the credit of the  
27       State General Fund, the balance of the sum equal to the

1 increase in receipts accruing to the State of Alabama due to  
2 the cap on discounts per license holder in Section  
3 40-23-36(b).

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

19 "(d) The amounts provided in subsection (b) for the  
20 Department of Human Resources shall be used for general  
21 welfare purposes. For purposes of this division, "general  
22 welfare purposes" means:

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

25 "(2) Services, including supplementation and  
26 supplementary services under the federal Social Security Act,

1 to or on behalf of persons to whom such public assistance may  
2 be given under said Section 38-4-1;

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

5 "(4) Investigative and referral services to and on  
6 behalf of needy persons.

7 "(e) In addition, there shall be paid, commencing on  
8 January 1, 1978, and on the first day of each fiscal quarter  
9 thereafter, to the Department of Human Resources for a  
10 statewide, state-administered food stamp program, as  
11 authorized by the Food Stamp Act of 1964, Public Law 88-525,  
12 88th Congress, and amendments thereto, an amount equal to five  
13 percent of the value of food stamp benefits issued statewide  
14 in excess of the amount paid by recipients (bonus or free  
15 stamps) during the immediate prior fiscal quarter, which sum  
16 so appropriated shall be paid quarterly to the Department of  
17 Human Resources Trust Fund for administration of the food  
18 stamp program in conformity with rules and regulations  
19 promulgated by the United States Department of Agriculture and  
20 in conformity with Sections 38-1-1 through 38-6-9. Such  
21 administrative funds shall be limited to and based on fiscal  
22 year 1976-77 administrative costs, normal inflationary  
23 increases and mandated administration requirements of the  
24 Alabama Legislature and the United States Department of  
25 Agriculture. The Department of Human Resources will not staff  
26 any county food stamp office at a level which exceeds the  
27 average staff-to-recipient ratios which existed in Alabama

1 during fiscal year 1976-77. This restriction will apply in  
2 coordination with those provided hereinabove and, should  
3 conflict occur, the lesser amount of expenditure shall be  
4 required. At the end of each fiscal year, an accounting shall  
5 be made of said sum so that any unexpended and unencumbered  
6 balance of funds may be determined for the purpose of paying  
7 such balance to the Education Trust Fund.

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

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

18 "§40-23-77.

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

24 "Effective June 1, 2001, the Governor may, by  
25 executive order, authorize the Department of Revenue to  
26 provide by proper rules and regulations for the allowance of a  
27 discount, not to exceed three percent (3%) of the taxes levied



1 by this article due and payable to the state by the seller or  
2 vendor; provided that the taxes due by such seller are paid  
3 before same becomes delinquent, as in this article provided.

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

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

21 "Beginning October 1, 2002 and each fiscal year  
22 thereafter the lesser of five hundred thousand dollars  
23 (\$500,000) or the entire amount of the sum equal to the  
24 increase in receipts due to any maximum discount amount or  
25 rate as provided herein shall be credited to the Department of  
26 Human Resources and expended for the foster children program.  
27 Any remaining balance shall first be credited to the

1 Department of Conservation and Natural Resources to be  
2 allocated in whole or in part to the following: (1) To the  
3 Game and Fish Fund and the Seafoods Fund in an amount at least  
4 equal to the interest that each fund would have earned on the  
5 sale of hunting and/or fishing licenses which is required to  
6 be credited to the funds by the Federal Regulation 50 CFR  
7 80.4a(3), and (2) to the Coastal Programs, a sum equal to one  
8 million dollars (\$1,000,000); and any remaining balance shall  
9 be credited to the State General Fund. Notwithstanding the  
10 foregoing, for the fiscal years ending September 30, 2012, and  
11 September 30, 2013, only, the one million dollars (\$1,000,000)  
12 that would otherwise be distributed to the Coastal Programs  
13 shall instead be distributed 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.

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Senate

Read for the first time and referred to the Senate  
committee on Finance and Taxation General Fund ... 05-APR-11

Read for the second time and placed on the calen-  
dar 1 amendment..... 06-APR-11

Read for the third time and passed as amended .... 27-APR-11

Yeas 21  
Nays 10

Patrick Harris  
Secretary