

1 HB154
2 147531-1
3 By Representative Clouse
4 RFD: Ways and Means General Fund
5 First Read: 06-FEB-13

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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
27 fiscal 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
27 current fiscal year, or the sum of five million dollars

1 (\$5,000,000), whichever is greater. Notwithstanding the
2 previous sentence, for the fiscal years ending September 30,
3 2012, ~~and September 30, 2013, and September 30, 2014,~~ only,
4 the five million dollars (\$5,000,000) shall be transferred to
5 the State General Fund.

6 "(b) Beginning October 1, 2002, to the credit of the
7 State General Fund, the balance of the sum equal to the
8 increase in receipts accruing to the State of Alabama due to
9 the cap on discounts per license holder in Section
10 40-23-36(b).

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

26 "(d) The amounts provided in subsection (b) for the
27 Department of Human Resources shall be used for general

1 welfare purposes. For purposes of this division, "general
2 welfare purposes" means:

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

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

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

11 "(4) Investigative and referral services to and on
12 behalf of needy persons.

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

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

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

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

24 "§40-23-77.

25 "A discount of three percent of the taxes levied by
26 this article due and payable to the state shall be allowed to
27 the seller or vendor; provided, that the taxes due by such

1 seller are paid before same becomes delinquent, as in this
2 article provided.

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

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

16 "Beginning June 1, 2001 until September 30, 2002 the
17 balance of the sum equal to the increase in receipts due to
18 any maximum discount amount or rate as provided herein shall
19 first be credited to the Department of Conservation and
20 Natural Resources for (1) the sum equal to the interest the
21 Game and Fish Fund and the Seafoods Fund would have earned on
22 the sale of hunting and/or fishing licenses, which is required
23 to be credited to the funds by Federal Regulation 50 CFR
24 80.4a(3), and (2) a sum equal to one million dollars
25 (\$1,000,000) for the Coastal Programs; and any remaining
26 balance shall be credited to the State General Fund.

1 "Beginning October 1, 2002 and each fiscal year
2 thereafter the lesser of five hundred thousand dollars
3 (\$500,000) or the entire amount of the sum equal to the
4 increase in receipts due to any maximum discount amount or
5 rate as provided herein shall be credited to the Department of
6 Human Resources and expended for the foster children program.
7 Any remaining balance shall first be credited to the
8 Department of Conservation and Natural Resources to be
9 allocated in whole or in part to the following: (1) To the
10 Game and Fish Fund and the Seafoods Fund in an amount at least
11 equal to the interest that each fund would have earned on the
12 sale of hunting and/or fishing licenses which is required to
13 be credited to the funds by the Federal Regulation 50 CFR
14 80.4a(3), and (2) to the Coastal Programs, a sum equal to one
15 million dollars (\$1,000,000); and any remaining balance shall
16 be credited to the State General Fund. Notwithstanding the
17 foregoing, for the fiscal years ending September 30, 2012, ~~and~~
18 September 30, 2013, and September 30, 2014, only, the one
19 million dollars (\$1,000,000) that would otherwise be
20 distributed to the Coastal Programs shall instead be
21 distributed to the State General Fund."

22 Section 3. This act shall become effective on
23 October 1, 2013 following its passage and approval by the
24 Governor or its otherwise becoming law.