

1 SB358
2 128608-1
3 By Senators Pittman and Dial
4 RFD: Finance and Taxation Education
5 First Read: 06-APR-11

1 128608-1:g:04/01/2011:EBO-DHC/ebo-prm

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8 SYNOPSIS: This bill would amend Section 37-1-80.2 of
9 the Code of Alabama, 1975, to allow for the
10 transfer of funds from the Dual Party Relay Fund to
11 the Education Trust Fund.

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13 A BILL

14 TO BE ENTITLED

15 AN ACT

16

17 To amend Section 37-1-80.2 of the Code of Alabama,
18 1975, to allow for the transfer of funds from the Dual Party
19 Relay Fund to the Education Trust Fund.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 37-1-80.2 of the Code of Alabama,
22 1975, is amended to read as follows:

23 "§37-1-80.2.

24 "(a) The Alabama Public Service Commission shall
25 impose a surcharge on each access line of each customer of the
26 local exchange companies operating in Alabama to fund a dual
27 party relay system whereby a deaf or hearing-impaired person

1 may communicate with other such persons or with hearing
2 persons via telephone. The fee may be imposed by order of the
3 Alabama Public Service Commission on the access line.

4 "(b) The Alabama Public Service Commission shall
5 establish the amount to be imposed based on the amount of
6 funding necessary to implement and maintain such system.
7 However, no additional fees other than the surcharge may be
8 imposed on any user of this deaf and hearing-impaired service.

9 "(c) The local exchange companies shall collect the
10 surcharge from their customers and transfer the moneys col-
11 lected to a private fund to be held separate from all other
12 funds and used ~~solely~~ for the administration of this system
13 and other purposes. The fund shall be known as the Dual Party
14 Relay Fund and shall be administered as provided in subsec-
15 tions (e), (f), and (g). In addition to using funds collected
16 from this surcharge for the administration of this system, the
17 Dual Party Relay Fund, through the Public Service Commission,
18 shall have transferred from the Dual Party Relay Fund to the
19 Education Trust Fund the amount of seven million five hundred
20 thousand dollars (\$7,500,000) to the Education Trust Fund be-
21 fore each of the following four dates:

22 October 15, 2011

23 January 15, 2012

24 April 15, 2012

25 July 15, 2012

1 The surcharge collected by the local exchange companies from
2 their customers shall not be subject to the utility gross
3 receipts tax levied under Sections 40-21-80 through 40-21-87
4 or the utility use tax levied under Sections 40-21-100 through
5 40-21-107, nor shall such collections be included in the gross
6 receipts subject to tax under Section 40-21-58 or the
7 supervision and inspection fees under Sections 37-4-23 and
8 37-4-24.

9 "(d) The Alabama Public Service Commission shall be
10 charged with implementation of the dual party relay system
11 within the state and shall establish the procedures for its
12 continuation.

13 "(e) The Dual Party Relay Fund shall be governed by
14 the Dual Party Relay Fund Board of Trustees. Those individuals
15 serving as members of the governing committee of the Dual
16 Party Relay Fund as of July 1, 2006, shall continue to serve
17 as trustees. On behalf of the Dual Party Relay Fund, the
18 trustees may select an administrator, service provider, and
19 auditing firm, and may obtain other services and execute such
20 other contracts as may be necessary to carry out their duties;
21 provided, however, that such contracts shall not be considered
22 public contracts or obligations of the State of Alabama and
23 shall not be subject to the rules governing such contracts.
24 All costs associated with the implementation of the system and
25 the functions of the Dual Party Relay Fund and its board of

1 trustees, including, without limitation, any insurance costs,
2 shall be paid out of the Dual Party Relay Fund. The trustees
3 shall not be paid for their service, but shall be reimbursed
4 for their actual and reasonable expenses in carrying out their
5 duties. The trustees shall submit an annual report to the
6 Alabama Public Service Commission regarding the condition of
7 the fund, which shall include a copy of an annual audit.

8 "(f) As part of its administration of the dual party
9 relay system, the trustees may authorize the funding of other
10 telephone services to people who are deaf, hard of hearing,
11 deaf/blind and speech impaired, including the provision of
12 informational services to the blind; provided, however, that
13 no existing service provided to the deaf or hearing impaired
14 shall be terminated or curtailed as a result of any such
15 additional program.

16 "(g) Absent negligence, wantonness, recklessness, or
17 deliberate misconduct, a trustee shall not be subject to civil
18 liability for any act or omission in carrying out his or her
19 duties as a trustee. In addition, those trustees who are
20 officials or employees of the Alabama Public Service
21 Commission shall receive the benefit of any immunities that
22 would normally apply to such official or employee in carrying
23 out his or her official duties.

24 "(h) Nothing in this section shall invalidate
25 contracts entered into prior to July 1, 2006, which contracts
26 are hereby ratified and confirmed."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.