

1 SB367  
2 129014-1  
3 By Senator Dial  
4 RFD: Finance and Taxation Education  
5 First Read: 06-APR-11

1 129014-1:g:04/06/2011:FC/mfp LRS2011-2111

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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 transfer  
10 of funds from the Dual Party Relay Fund to the  
11 Education Trust Fund.

12  
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 the amounts provided below from the  
19 Dual Party Relay Fund to the Education Trust Fund before each  
20 of the following four dates:

21                 October 15, 2011 - \$8,000,000

22                 January 15, 2012 - \$8,000,000

23                 April 15, 2012 - \$7,000,000

24                 July 15, 2012 - \$7,000,000

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  
26        trustees, including, without limitation, any insurance costs,

1 shall be paid out of the Dual Party Relay Fund. The trustees  
2 shall not be paid for their service, but shall be reimbursed  
3 for their actual and reasonable expenses in carrying out their  
4 duties. The trustees shall submit an annual report to the  
5 Alabama Public Service Commission regarding the condition of  
6 the fund, which shall include a copy of an annual audit.

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

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

23                 "(h) Nothing in this section shall invalidate  
24 contracts entered into prior to July 1, 2006, which contracts  
25 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.