

1 HB238  
2 181653-1  
3 By Representative Greer  
4 RFD: Ways and Means Education  
5 First Read: 16-FEB-17

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8 SYNOPSIS: Currently, the State of Alabama imposes a  
9 sales and use tax on the gross proceeds from the  
10 sale of gold, silver, and platinum bullion and  
11 coins.

12 This bill will exempt the gross proceeds  
13 from the sale of gold, silver, and platinum bullion  
14 and coins from sales and use tax in the state.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 To amend Sections 40-23-4 and 40-23-62, Code of  
21 Alabama 1975, relating to sales and use tax exemptions, to  
22 exempt the gross proceeds from the sales of gold, silver, and  
23 platinum bullion and coins from sales and use tax.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 40-23-4 and 40-23-62, Code of  
26 Alabama 1975, is amended to read as follows:

27 "§40-23-4.

1           "(a) There are exempted from the provisions of this  
2 division and from the computation of the amount of the tax  
3 levied, assessed, or payable under this division the  
4 following:

5           "(1) The gross proceeds of the sales of lubricating  
6 oil and gasoline as defined in Sections 40-17-30 and 40-17-170  
7 and the gross proceeds from those sales of lubricating oil  
8 destined for out-of-state use which are transacted in a manner  
9 whereby an out-of-state purchaser takes delivery of such oil  
10 at a distributor's plant within this state and transports it  
11 out-of-state, which are otherwise taxed.

12           "(2) The gross proceeds of the sale, or sales, of  
13 fertilizer when used for agricultural purposes. The word  
14 "fertilizer" shall not be construed to include cottonseed  
15 meal, when not in combination with other materials.

16           "(3) The gross proceeds of the sale, or sales, of  
17 seeds for planting purposes and baby chicks and poults.  
18 Nothing herein shall be construed to exempt or exclude from  
19 the computation of the tax levied, assessed, or payable, the  
20 gross proceeds of the sale or sales of plants, seedlings,  
21 nursery stock, or floral products.

22           "(4) The gross proceeds of sales of insecticides and  
23 fungicides when used for agricultural purposes or when used by  
24 persons properly permitted by the Department of Agriculture  
25 and Industries or any applicable local or state governmental  
26 authority for structural pest control work and feed for

1 livestock and poultry, but not including prepared food for  
2 dogs and cats.

3 "(5) The gross proceeds of sales of all livestock by  
4 whomsoever sold, and also the gross proceeds of poultry and  
5 other products of the farm, dairy, grove, or garden, when in  
6 the original state of production or condition of preparation  
7 for sale, when such sale or sales are made by the producer or  
8 members of his immediate family or for him by those employed  
9 by him to assist in the production thereof. Nothing herein  
10 shall be construed to exempt or exclude from the measure or  
11 computation of the tax levied, assessed, or payable hereunder,  
12 the gross proceeds of sales of poultry or poultry products  
13 when not products of the farm.

14 "(6) Cottonseed meal exchanged for cottonseed at or  
15 by cotton gins.

16 "(7) The gross receipts from the business on which,  
17 or for engaging in which, a license or privilege tax is levied  
18 by or under the provisions of Sections 40-21-50, 40-21-53, and  
19 40-21-56 through 40-21-60; provided, that nothing contained in  
20 this subdivision shall be construed to exempt or relieve the  
21 person or persons operating the business enumerated in said  
22 sections from the payments of the tax levied by this division  
23 upon or measured by the gross proceeds of sales of any  
24 tangible personal property, except gas and water, the gross  
25 receipts from the sale of which are the measure of the tax  
26 levied by said Section 40-21-50, merchandise or other tangible  
27 commodities sold at retail by said persons, unless the gross

1 proceeds of sale thereof are otherwise specifically exempted  
2 by the provisions of this division.

3 "(8) The gross proceeds of sales or gross receipts  
4 of or by any person, firm, or corporation, from the sale of  
5 transportation, gas, water, or electricity, of the kinds and  
6 natures, the rates and charges for which, when sold by public  
7 utilities, are customarily fixed and determined by the Public  
8 Service Commission of Alabama or like regulatory bodies.

9 "(9) The gross proceeds of the sale, or sales of  
10 wood residue, coal, or coke to manufacturers, electric power  
11 companies, and transportation companies for use or consumption  
12 in the production of by-products, or the generation of heat or  
13 power used in manufacturing tangible personal property for  
14 sale, for the generation of electric power or energy for use  
15 in manufacturing tangible personal property for sale or for  
16 resale, or for the generation of motive power for  
17 transportation.

18 "(10) The gross proceeds from the sale or sales of  
19 fuel and supplies for use or consumption aboard ships,  
20 vessels, towing vessels, or barges, or drilling ships, rigs or  
21 barges, or seismic or geophysical vessels, or other watercraft  
22 (herein for purposes of this exemption being referred to as  
23 "vessels") engaged in foreign or international commerce or in  
24 interstate commerce; provided, that nothing in this division  
25 shall be construed to exempt or exclude from the measure of  
26 the tax herein levied the gross proceeds of sale or sales of  
27 material and supplies to any person for use in fulfilling a

1 contract for the painting, repair, or reconditioning of  
2 vessels, barges, ships, other watercraft, and commercial  
3 fishing vessels of over five tons load displacement as  
4 registered with the U.S. Coast Guard and licensed by the State  
5 of Alabama Department of Conservation and Natural Resources.

6 "For purposes of this subdivision, it shall be  
7 presumed that vessels engaged in the transportation of cargo  
8 between ports in the State of Alabama and ports in foreign  
9 countries or possessions or territories of the United States  
10 or between ports in the State of Alabama and ports in other  
11 states are engaged in foreign or international commerce or  
12 interstate commerce, as the case may be. For the purposes of  
13 this subdivision, the engaging in foreign or international  
14 commerce or interstate commerce shall not require that the  
15 vessel involved deliver cargo to or receive cargo from a port  
16 in the State of Alabama. For purposes of this subdivision,  
17 vessels carrying passengers for hire, and no cargo, between  
18 ports in the State of Alabama and ports in foreign countries  
19 or possessions or territories of the United States or between  
20 ports in the State of Alabama and ports in other states shall  
21 be engaged in foreign or international commerce or interstate  
22 commerce, as the case may be, if, and only if, both of the  
23 following conditions are met: (i) The vessel in question is a  
24 vessel of at least 100 gross tons; and (ii) the vessel in  
25 question has an unexpired certificate of inspection issued by  
26 the United States Coast Guard or by the proper authority of a  
27 foreign country for a foreign vessel, which certificate is

1 recognized as acceptable under the laws of the United States.  
2 Vessels which are engaged in foreign or international commerce  
3 or interstate commerce shall be deemed for the purposes of  
4 this subdivision to remain in such commerce while awaiting or  
5 under repair in a port of the State of Alabama if such vessel  
6 returns after such repairs are completed to engaging in  
7 foreign or international commerce or interstate commerce. For  
8 purposes of this subdivision, seismic or geophysical vessels  
9 which are engaged either in seismic or geophysical tests or  
10 evaluations exclusively in offshore federal waters or in  
11 traveling to or from conducting such tests or evaluations  
12 shall be deemed to be engaged in international or foreign  
13 commerce. For purposes of this subdivision, proof that fuel  
14 and supplies purchased are for use or consumption aboard  
15 vessels engaged in foreign or international commerce or in  
16 interstate commerce may be accomplished by the merchant or  
17 seller securing the duly signed certificate of the vessel  
18 owner, operator, or captain or their respective agent on a  
19 form prescribed by the department that the fuel and supplies  
20 purchased are for use or consumption aboard vessels engaged in  
21 foreign or international commerce or in interstate commerce.  
22 Any person filing a false certificate shall be guilty of a  
23 misdemeanor and upon conviction shall be fined not less than  
24 \$25 nor more than \$500 for each offense. Each false  
25 certificate filed shall constitute a separate offense. Any  
26 person filing a false certificate shall be liable to the  
27 department for all taxes imposed by this division upon the

1 merchant or seller, together with any interest or penalties  
2 thereon, by reason of the sale or sales of fuel and supplies  
3 applicable to such false certificate. If a merchant or seller  
4 of fuel and supplies secures the certificate herein mentioned,  
5 properly completed, such merchant or seller shall not be  
6 liable for the taxes imposed by this division, if such  
7 merchant or seller had no knowledge that such certificate was  
8 false when it was filed with such merchant or seller.

9 "(11) The gross proceeds of sales of tangible  
10 personal property to the State of Alabama, to the counties  
11 within the state and to incorporated municipalities of the  
12 State of Alabama.

13 "(12) The gross proceeds of the sale or sales of  
14 railroad cars, vessels, barges, and commercial fishing vessels  
15 of over five tons load displacement as registered with the  
16 U.S. Coast Guard and licensed by the State of Alabama  
17 Department of Conservation and Natural Resources, when sold by  
18 the manufacturers or builders thereof.

19 "(13) The gross proceeds of the sale or sales of  
20 materials, equipment, and machinery which, at any time, enter  
21 into and become a component part of ships, vessels, towing  
22 vessels or barges, or drilling ships, rigs or barges, or  
23 seismic or geophysical vessels, other watercraft and  
24 commercial fishing vessels of over five tons load displacement  
25 as registered with the U.S. Coast Guard and licensed by the  
26 State of Alabama Department of Conservation and Natural  
27 Resources. Additionally, the gross proceeds from the sale or



1 sales of lifeboats, personal flotation devices, ring life  
2 buoys, survival craft equipment, distress signals, EPIRB's,  
3 fire extinguishers, injury placards, waste management plans  
4 and logs, marine sanitation devices, navigation rulebooks,  
5 navigation lights, sound signals, navigation day shapes, oil  
6 placard cards, garbage placards, FCC SSL, stability  
7 instructions, first aid equipment, compasses, anchor and radar  
8 reflectors, general alarm systems, bilge pumps, piping, and  
9 discharge and electronic position fixing devices which are  
10 used on the aforementioned watercraft.

11 "(14) The gross proceeds of the sale or sales of  
12 fuel oil purchased as fuel for kiln use in manufacturing  
13 establishments.

14 "(15) The gross proceeds of the sale or sales of  
15 tangible personal property to county and city school boards  
16 within the State of Alabama, independent school boards within  
17 the State of Alabama, all educational institutions and  
18 agencies of the State of Alabama, the counties within the  
19 state, or any incorporated municipalities of the State of  
20 Alabama, and private educational institutions operating within  
21 the State of Alabama offering conventional and traditional  
22 courses of study, such as those offered by public schools,  
23 colleges, or universities within the State of Alabama; but not  
24 including nurseries, day care centers, and home schools.

25 "(16) The gross proceeds from the sale of all  
26 devices or facilities, and all identifiable components  
27 thereof, or materials for use therein, acquired primarily for

1 the control, reduction, or elimination of air or water  
2 pollution and the gross proceeds from the sale of all  
3 identifiable components of or materials used or intended for  
4 use in structures built primarily for the control, reduction,  
5 or elimination of air and water pollution.

6 "(17) The gross proceeds of sales of tangible  
7 personal property or the gross receipts of any business which  
8 the state is prohibited from taxing under the Constitution or  
9 laws of the United States or under the Constitution of this  
10 state.

11 "(18) When dealers or distributors use parts taken  
12 from stocks owned by them in making repairs without charge for  
13 such parts to the owner of the property repaired pursuant to  
14 warranty agreements entered into by manufacturers, such use  
15 shall not constitute taxable sales to the manufacturers,  
16 distributors, or to the dealers, under this division or under  
17 any county sales tax law.

18 "(19) The gross proceeds received from the sale or  
19 furnishing of food, including potato chips, candy, fruit and  
20 similar items, soft drinks, tobacco products, and stationery  
21 and other similar or related articles by hospital canteens  
22 operated by Alabama state hospitals at Bryce Hospital and  
23 Partlow State School for Mental Deficients at Tuscaloosa,  
24 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the  
25 benefit of the patients therein.

26 "(20) The gross proceeds of the sale, or sales, of  
27 wrapping paper and other wrapping materials when used in

1 preparing poultry or poultry products for delivery, shipment,  
2 or sale by the producer, processor, packer, or seller of such  
3 poultry or poultry products, including pallets used in  
4 shipping poultry and egg products, paper or other materials  
5 used for lining boxes or other containers in which poultry or  
6 poultry products are packed together with any other materials  
7 placed in such containers for the delivery, shipment, or sale  
8 of poultry or poultry products.

9 "(21) The gross proceeds of the sales of all  
10 antibiotics, hormones and hormone preparations, drugs,  
11 medicines or medications, vitamins, minerals or other  
12 nutrients, and all other feed ingredients including  
13 concentrates, supplements, and other feed ingredients when  
14 such substances are used as ingredients in mixing and  
15 preparing feed for fish raised to be sold on a commercial  
16 basis, livestock, and poultry. Such exemption herein granted  
17 shall be in addition to exemptions now provided by law for  
18 feed for fish raised to be sold on a commercial basis,  
19 livestock, and poultry, but not including prepared foods for  
20 dogs or cats.

21 "(22) The gross proceeds of the sale, or sales, of  
22 seedlings, plants, shoots, and slips which are to be used for  
23 planting vegetable gardens or truck farms and other  
24 agricultural purposes. Nothing herein shall be construed to  
25 exempt, or exclude from the computation of the tax levied,  
26 assessed, or payable, the gross proceeds of the sale, or the

1 use of plants, seedlings, shoots, slips, nursery stock, and  
2 floral products, except as hereinabove exempted.

3 "(23) The gross proceeds of the sale, or sales, of  
4 fabricated steel tube sections, when produced and fabricated  
5 in this state by any person, firm, or corporation for any  
6 vehicular tunnel for highway vehicular traffic, when sold by  
7 the manufacturer or fabricator thereof, and also the gross  
8 proceeds of the sale, or sales, of steel which enters into and  
9 becomes a component part of such fabricated steel tube  
10 sections of said tunnel.

11 "(24) The gross proceeds from sales of admissions to  
12 any theatrical production, symphonic or other orchestral  
13 concert, ballet, or opera production when such concert or  
14 production is presented by any society, association, guild, or  
15 workshop group, organized within this state, whose members or  
16 some of whose members regularly and actively participate in  
17 such concerts or productions for the purposes of providing a  
18 creative outlet for the cultural and educational interests of  
19 such members, and of promoting such interests for the  
20 betterment of the community by presenting such productions to  
21 the general public for an admission charge. The employment of  
22 a paid director or conductor to assist in any such  
23 presentation described in this subdivision shall not be  
24 construed to prohibit the exemptions herein provided.

25 "(25) The gross proceeds of sales of herbicides for  
26 agricultural uses by whomsoever sold. The term herbicides, as  
27 used in this subdivision, means any substance or mixture of

1 substances intended to prevent, destroy, repel, or retard the  
2 growth of weeds or plants. It shall include preemergence  
3 herbicides, postemergence herbicides, lay-by herbicides,  
4 pasture herbicides, defoliant herbicides, and desiccant  
5 herbicides.

6 "(26) The Alabama Chapter of the Cystic Fibrosis  
7 Research Foundation and the Jefferson Tuberculosis Sanatorium  
8 and any of their departments or agencies, heretofore or  
9 hereafter organized and existing in good faith in the State of  
10 Alabama for purposes other than for pecuniary gain and not for  
11 individual profit, shall be exempted from the computation of  
12 the tax on the gross proceeds of all sales levied, assessed,  
13 or payable.

14 "(27) The gross proceeds from the sale or sales of  
15 fuel for use or consumption aboard commercial fishing vessels  
16 are hereby exempt from the computation of all sales taxes  
17 levied, assessed, or payable under the provisions of this  
18 division or levied under any county or municipal sales tax  
19 law.

20 "The words commercial fishing vessels shall mean  
21 vessels whose masters and owners are regularly and exclusively  
22 engaged in fishing as their means of livelihood.

23 "(28) The gross proceeds of sales of sawdust, wood  
24 shavings, wood chips, and other like materials sold for use as  
25 chicken litter by poultry producers and poultry processors.

26 "(29) The gross proceeds of the sales of all  
27 antibiotics, hormones and hormone preparations, drugs,

1 medicines, and other medications including serums and  
2 vaccines, vitamins, minerals, or other nutrients for use in  
3 the production and growing of fish, livestock, and poultry by  
4 whomsoever sold. Such exemption as herein granted shall be in  
5 addition to the exemption provided by law for feed for fish,  
6 livestock, and poultry, and in addition to the exemptions  
7 provided by law for the above-enumerated substances and  
8 products when mixed and used as ingredients in fish,  
9 livestock, and poultry feed.

10 "(30) The gross proceeds of the sale or sales of all  
11 medicines prescribed by physicians for persons who are 65  
12 years of age or older, and when said prescriptions are filled  
13 by licensed pharmacists, shall be exempted under this division  
14 or under any county or municipal sales tax law. The exemption  
15 provided in this section shall not apply to any medicine  
16 purchased in any manner other than as is herein provided.

17 "For the purposes of this subdivision, proof of age  
18 may be accomplished by filing with the dispensing pharmacist  
19 any one or more of the following documents:

20 "a. The name and claim number as shown on a  
21 "Medicare" card issued by the United States Social Security  
22 Administration.

23 "b. A certificate executed by any adult person  
24 having knowledge of the fact that the person for whom the  
25 medicine was prescribed is not less than 65 years of age.

1            "c. An affidavit executed by any adult person having  
2 knowledge of the fact that the person for whom the medicine  
3 was prescribed is not less than 65 years of age.

4            "For the purposes of this subdivision, any person  
5 filing a false proof of age shall be guilty of a misdemeanor  
6 and upon conviction thereof shall be punished by a fine of  
7 \$100.

8            "(31) There shall be exempted from the tax levied by  
9 this division the gross receipts of sales of grass sod of all  
10 kinds and character when in the original state of production  
11 or condition of preparation for sale, when such sales are made  
12 by the producer or members of his family or for him by those  
13 employed by him to assist in the production thereof; provided,  
14 that nothing herein shall be construed to exempt sales of sod  
15 by a person engaged in the business of selling plants,  
16 seedlings, nursery stock, or floral products.

17            "(32) The gross receipts of sales of the following  
18 items or materials which are necessary in the farm-to-market  
19 production of tomatoes when such items or materials are used  
20 by the producer or members of his family or for him by those  
21 employed by him to assist in the production thereof: Twine for  
22 tying tomatoes, tomato stakes, field boxes (wooden boxes used  
23 to take tomatoes from the fields to shed), and tomato boxes  
24 used in shipments to customers.

25            "(33) The gross proceeds from the sale of liquefied  
26 petroleum gas or natural gas sold to be used for agricultural  
27 purposes.

1           "(34) The gross receipts of sales from state  
2 nurseries of forest tree seedlings.

3           "(35) The gross receipts of sales of forest tree  
4 seed by the state.

5           "(36) The gross receipts of sales of Lespedeza  
6 bicolor and other species of perennial plant seed and  
7 seedlings sold for wildlife and game food production purposes  
8 by the state.

9           "(37) The gross receipts of any aircraft  
10 manufactured, sold, and delivered in this state if said  
11 aircraft are not permanently domiciled in Alabama and are  
12 removed to another state.

13           "(38) The gross proceeds from the sale or sales of  
14 all diesel fuel used for off-highway agricultural purposes.

15           "(39) The gross proceeds from sales of admissions to  
16 any sporting event which:

17           "a. Takes place in the State of Alabama on or after  
18 January 1, 1984, regardless of when such sales occur; and

19           "b. Is hosted by a not-for-profit corporation  
20 organized and existing under the laws of the State of Alabama;  
21 and

22           "c. Determines a national championship of a national  
23 organization, including but not limited to the Professional  
24 Golfers Association of America, the Tournament Players  
25 Association, the United States Golf Association, the United  
26 States Tennis Association, and the National Collegiate  
27 Athletic Association; and



1           "d. Has not been held in the State of Alabama on  
2 more than one prior occasion, provided, however, that for such  
3 purpose the Professional Golfers Association Championship, the  
4 United States Open Golf Championship, the United States  
5 Amateur Golf Championship of the United States Golf  
6 Association, and the United States Open Tennis Championship  
7 shall each be treated as a separate event.

8           "(40) The gross receipts from the sale of any  
9 aircraft and replacement parts, components, systems, supplies,  
10 and sundries affixed or used on said aircraft and ground  
11 support equipment and vehicles used by or for the aircraft to  
12 or by a certificated or licensed air carrier with a hub  
13 operation within this state, for use in conducting intrastate,  
14 interstate, or foreign commerce for transporting people or  
15 property by air. For the purpose of this subdivision, the  
16 words "hub operation within this state" shall be construed to  
17 have all of the following criteria:

18           "a. There originates from the location 15 or more  
19 flight departures and five or more different first-stop  
20 destinations five days per week for six or more months during  
21 the calendar year; and

22           "b. Passengers and/or property are regularly  
23 exchanged at the location between flights of the same or a  
24 different certificated or licensed air carrier.

25           "(41) The gross receipts from the sale of hot or  
26 cold food and beverage products sold to or by a certificated  
27 or licensed air carrier with a hub operation within this

1 state, for use in conducting intrastate, interstate, or  
2 foreign commerce for transporting people or property by air.  
3 For the purpose of this subdivision, the words "hub operation  
4 within this state" shall be construed to have all of the  
5 following criteria:

6 "a. There originates from the location 15 or more  
7 flight departures and five or more different first-stop  
8 destinations five days per week for six or more months during  
9 the calendar year; and

10 "b. Passengers and/or property are regularly  
11 exchanged at the location between flights of the same or a  
12 different certificated or licensed air carrier.

13 "(42) The gross receipts from the sale of any  
14 aviation jet fuel to a certificated or licensed air carrier  
15 purchased for use in scheduled all-cargo operations being  
16 conducted on international flights or in international  
17 commerce. For purposes of this subdivision, the following  
18 words or terms shall be defined and interpreted as follows:

19 "a. Air Carrier. Any person, firm, corporation, or  
20 entity undertaking by any means, directly or indirectly, to  
21 provide air transportation.

22 "b. All-Cargo Operations. Any flight conducted by an  
23 air carrier for compensation or hire other than a passenger  
24 carrying flight, except passengers as specified in 14 C.F.R.  
25 §121.583(a) or 14 C.F.R. §135.85, as amended.

1            "c. International Commerce. Any air carrier engaged  
2 in all-cargo operations transporting goods for compensation or  
3 hire on international flights.

4            "d. International Flights. Any air carrier  
5 conducting scheduled all-cargo operations between any point  
6 within the 50 states of the United States and the District of  
7 Columbia and any point outside the 50 states of the United  
8 States and the District of Columbia, including any interim  
9 stops within the United States so long as the ultimate origin  
10 or destination of the aircraft is outside the United States  
11 and the District of Columbia.

12            "(43) The gross proceeds of the sale or sales of the  
13 following:

14            "a. Drill pipe, casing, tubing, and other pipe used  
15 for the exploration for or production of oil, gas, sulphur, or  
16 other minerals in offshore federal waters.

17            "b. Tangible personal property exclusively used for  
18 the exploration for or production of oil, gas, sulphur, or  
19 other minerals in offshore federal waters.

20            "c. Fuel and supplies for use or consumption aboard  
21 boats, ships, aircraft, and towing vessels when used  
22 exclusively in transporting persons or property between a  
23 point in Alabama and a point or points in offshore federal  
24 waters for the exploration for or production of oil, gas,  
25 sulphur, or other minerals in offshore federal waters.

26            "d. Drilling equipment that is used for the  
27 exploration for or production of oil, gas, sulphur, or other

1 minerals, that is built for exclusive use outside this state  
2 and that is, on completion, removed forthwith from this state.

3 "The delivery of items exempted by this subdivision  
4 to the purchaser or lessee in this state does not disqualify  
5 the purchaser or lessee from the exemption if the property is  
6 removed from the state by any means, including by the use of  
7 the purchaser's or lessee's own facilities.

8 "The shipment to a place in this state of equipment  
9 exempted by this subdivision for further assembly or  
10 fabrication does not disqualify the purchaser or lessee from  
11 the exemption if on completion of the further assembly or  
12 fabrication the equipment is removed forthwith from this  
13 state. This subdivision applies to a sale that may occur when  
14 the equipment exempted is further assembled or fabricated if  
15 on completion the equipment is removed forthwith from this  
16 state.

17 "(44) The gross receipts derived from all bingo  
18 games and operations which are conducted in compliance with  
19 validly enacted legislation authorizing the conduct of such  
20 games and operations, and which comply with the distribution  
21 requirements of the applicable local laws; provided that the  
22 exemption from sales taxation granted by this subdivision  
23 shall apply only to gross receipts taxable under subdivision  
24 (2) of Section 40-23-2. It is further provided that this  
25 exemption shall not apply to any gross receipts from the sale  
26 of tangible personal property, such as concessions, novelties,  
27 food, beverages, etc. The exemption provided for in this

1 section shall be limited to those games and operations by  
2 organizations which have qualified for exemption under the  
3 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or  
4 (19), or which are defined in 26 U.S.C. § 501(d).

5 "(45) The gross receipts derived from the sale or  
6 sales of fruit or other agricultural products by the person or  
7 corporation that planted, cultivated, and harvested such fruit  
8 or agricultural product.

9 "(46) The gross receipts derived from the sale or  
10 sales of all domestically mined or produced coal, coke, and  
11 coke by-products used in cogeneration plants.

12 "(47) The gross receipts from the sale or sales of  
13 metal, other than gold or silver, when such metal is purchased  
14 for the purpose of transferring such metal to an investment  
15 trust in exchange for shares or other units, each of which are  
16 both publicly traded and represent fractional undivided  
17 beneficial interests in the trust's net assets, including  
18 metal stored in warehouses located in this state, as well as  
19 the gross proceeds from the sale or other transfer of such  
20 metal to or from such investment trust in exchange for shares  
21 or other units that are publicly traded and represent  
22 fractional undivided beneficial interests in the trust's net  
23 assets but not to the extent that metal is transferred to or  
24 from the investment trust in exchange for consideration other  
25 than such publicly traded shares or other units. For purposes  
26 of this subdivision, the term metals includes, but is not  
27 limited to, copper, aluminum, nickel, zinc, tin, lead, and

1 other similar metals typically used in commercial and  
2 industrial applications.

3 "(48) For the period commencing on October 1, 2012,  
4 and ending May 30, 2022, unless extended by joint resolution,  
5 the gross receipts from the sale of parts, components, and  
6 systems that become a part of a fixed or rotary wing military  
7 aircraft or certified transport category aircraft that  
8 undergoes conversion, reconfiguration, or general maintenance  
9 so long as the address of the aircraft for FAA registration is  
10 not in the state; provided, however, that this exemption shall  
11 not apply to a local sales tax unless previously exempted by  
12 local law or approved by resolution of the local governing  
13 body.

14 "(49) The gross proceeds from the sale or sales  
15 within school buildings of lunches to pupils of kindergarten,  
16 grammar, and high schools, either public or private, that are  
17 not sold for profit.

18 "(50) The gross proceeds from the sale or sales of  
19 gold, silver, and platinum bullion or coins or any combination  
20 of such bullion or coins, provided that the dealer maintains  
21 proper documentation, as specified by rule or regulation to be  
22 promulgated by the department, to identify each sale or  
23 portion of a sale which is exempt.

24 "(b) Any violation of any provision of this section  
25 shall be punishable in a court of competent jurisdiction by a  
26 fine of not less than \$500 and no more than \$2,000 and

1 imprisonment of not less than six months nor more than one  
2 year in the county jail."

3 "§40-23-62.

4 "The storage, use, or other consumption in this  
5 state of the following tangible personal property is hereby  
6 specifically exempted from the tax imposed by this article:

7 "(1) Property, on which the sales tax imposed by the  
8 provisions of Article 1 of this chapter is paid by the  
9 consumer to a person licensed under the provisions of Article  
10 1 of this chapter.

11 "(2) Property, the storage, use, or other  
12 consumption of which this state is prohibited from taxing  
13 under the Constitution or laws of the United States of America  
14 or under the constitution of this state.

15 "(3) Tangible personal property, not to be used in  
16 the performance of a contract, brought into this state by a  
17 nonresident thereof for his own storage, use, or consumption  
18 while temporarily within this state.

19 "(4) Lubricating oil and gasoline as defined in  
20 Sections 40-17-30 and 40-17-170, the storage, use, or other  
21 consumption of which is otherwise taxed.

22 "(5) All fertilizer; provided, that the word  
23 "fertilizer" as used in this article shall not be construed to  
24 include cottonseed meal when not in combination with other  
25 material.

1           "(6) All seeds for planting purposes and baby chicks  
2 and poult; provided, that nothing herein shall be construed  
3 to exempt plants, seedlings, nursery stock or floral products.

4           "(7) Insecticides and fungicides and feed for  
5 livestock and poultry, but not including prepared foods for  
6 dogs and cats.

7           "(8) The use, storage, or consumption of all  
8 livestock by whomsoever sold; and also the gross proceeds of  
9 poultry and other products of the farm, dairy, grove or  
10 garden, when in the original state of production or condition  
11 of preparation for sale, when such sale or sales are made by  
12 the producer or members of his immediate family or for him by  
13 those employed by him to assist in the production thereof.  
14 Nothing herein shall be construed to exempt or exclude from  
15 the measure or computation of the tax levied, assessed, or  
16 payable hereunder, the gross proceeds of sales of poultry or  
17 poultry products when not products of the farm.

18           "(9) Cottonseed meal exchanged for cottonseed at or  
19 by cotton gins.

20           "(10) Transportation, gas, water, or electricity, of  
21 the kinds and natures, the rates and charges for which when  
22 sold by public utilities, are customarily fixed and determined  
23 by the Public Service Commission of Alabama or like regulatory  
24 bodies.

25           "(11) Coal or coke to be stored, used, or consumed  
26 by manufacturers, electric power companies and transportation



1 companies for use or consumption in the production of  
2 by-products or the generation of heat or power used:

3 "a. In manufacturing tangible personal property for  
4 sale;

5 "b. For the generation of electric power or energy  
6 for use in manufacturing tangible personal property for sale  
7 or for resale; or

8 "c. For the generation of motive power for  
9 transportation.

10 "(12) Fuel and supplies for use or consumption  
11 aboard ships, vessels, towing vessels, or barges, or drilling  
12 ships, rigs or barges, or seismic or geophysical vessels, or  
13 other watercraft (herein for purposes of this exemption being  
14 referred to as vessels) engaged in foreign or international  
15 commerce or in interstate commerce; provided, that nothing in  
16 this article shall be construed to exempt or exclude from the  
17 measure of the tax herein levied the gross proceeds of sale or  
18 sales of material and supplies to any person for use in  
19 fulfilling a contract for the painting, repair or  
20 reconditioning of vessels, barges, ships, other watercraft and  
21 commercial fishing vessels of over five tons load displacement  
22 as registered with the U.S. Coast Guard and licensed by the  
23 State of Alabama Department of Conservation and Natural  
24 Resources. For purposes of this subdivision, it shall be  
25 presumed that vessels engaged in the transportation of cargo  
26 between ports in the State of Alabama and ports in foreign  
27 countries or possessions or territories of the United States

1 or between ports in the State of Alabama and ports in other  
2 states are engaged in foreign or international commerce or  
3 interstate commerce, as the case may be. For the purposes of  
4 this subdivision, the engaging in foreign or international  
5 commerce or interstate commerce shall not require that the  
6 vessel involved deliver cargo to or receive cargo from a port  
7 in the State of Alabama. For purposes of this subdivision,  
8 vessels carrying passengers for hire, and no cargo, between  
9 ports in the State of Alabama and ports in foreign countries  
10 or possessions or territories of the United States or between  
11 ports in the State of Alabama and ports in other states shall  
12 be engaged in foreign or international commerce or interstate  
13 commerce, as the case may be, if, and only if, both of the  
14 following conditions are met: (i) The vessel in question is a  
15 vessel of at least 100 gross tons; and (ii) the vessel in  
16 question has an unexpired certificate of inspection issued by  
17 the United States Coast Guard or by the proper authority of a  
18 foreign country for a foreign vessel, which certificate is  
19 recognized as acceptable under the laws of the United States.  
20 Vessels which are engaged in foreign or international commerce  
21 or interstate commerce shall be deemed for the purposes of  
22 this subdivision to remain in such commerce while awaiting or  
23 under repair in a port of the State of Alabama if such vessel  
24 returns after such repairs are completed to engaging in  
25 foreign or international commerce or interstate commerce. For  
26 purposes of this subdivision, seismic or geophysical vessels  
27 which are engaged either in seismic or geophysical tests or

1 evaluations exclusively in offshore federal waters or in  
2 traveling to or from conducting such tests or evaluations  
3 shall be deemed to be engaged in international or foreign  
4 commerce. For purposes of this subdivision, proof that fuel  
5 and supplies purchased are for use or consumption aboard  
6 vessels engaged in foreign or international commerce or in  
7 interstate commerce may be accomplished by the merchant or  
8 seller securing the duly signed certificate of the vessel  
9 owner, operator or captain or their respective agent on a form  
10 prescribed by the department that the fuel and supplies  
11 purchased are for use or consumption aboard vessels engaged in  
12 foreign or international commerce or in interstate commerce.  
13 Any person filing a false certificate shall be guilty of a  
14 misdemeanor and upon conviction shall be fined not less than  
15 \$25 nor more than \$500 for each offense. Each false  
16 certificate filed shall constitute a separate offense. Any  
17 person filing a false certificate shall be liable to the  
18 department for all taxes imposed by this division upon the  
19 merchant or seller, together with any interest or penalties  
20 thereon, by reason of the sale or sales of fuel and supplies  
21 applicable to such false certificate. If a merchant or seller  
22 of fuel and supplies secures the certificate herein mentioned,  
23 properly completed, such merchant or seller shall not be  
24 liable for the taxes imposed by this division, if such  
25 merchant or seller had no knowledge that such certificate was  
26 false when it was filed with such merchant or seller.

1           "(13) Property stored, used, or consumed by the  
2 State of Alabama, by the counties within the state or by  
3 incorporated municipalities of the State of Alabama.

4           "(14) The use, storage, or consumption of materials,  
5 equipment and machinery which, at any time, enter into and  
6 become a component part of ships, vessels, towing vessels or  
7 barges, or drilling ships, rigs or barges, or seismic or  
8 geophysical vessels, other watercraft and commercial fishing  
9 vessels of over five tons load displacement as registered with  
10 the U.S. Coast Guard and licensed by the Department of  
11 Conservation and Natural Resources. Additionally, the use,  
12 storage, or consumption of lifeboats, personal flotation  
13 devices, ring life buoys, survival craft equipment, distress  
14 signals, EPIRB's, fire extinguishers, injury placards, waste  
15 management plans and logs, marine sanitation devices,  
16 navigation rulebooks, navigation lights, sound signals,  
17 navigation day shapes, oil placard cards, garbage placards,  
18 FCC SSL, stability instructions, first aid equipment,  
19 compasses, anchor and radar reflectors, general alarm systems,  
20 bilge pumps, piping, and discharge and electronic position  
21 fixing devices on the aforementioned watercraft.

22           "(15) The use, storage, or consumption of fuel oil  
23 purchased as fuel for kilns used in manufacturing  
24 establishments.

25           "(16) Tangible personal property stored, used, or  
26 consumed by county and city school boards within the State of  
27 Alabama, independent school boards within the State of

1 Alabama, all educational institutions and agencies of the  
2 State of Alabama, the counties within the state or any  
3 incorporated municipality of the State of Alabama, and private  
4 educational institutions operating within the State of Alabama  
5 offering conventional and traditional courses of study, such  
6 as those offered by public schools, colleges, or universities  
7 within the State of Alabama; but not including nurseries, day  
8 care centers, and home schools.

9 "(17) The storage, use, or consumption of railroad  
10 cars, vessels, and barges and commercial fishing vessels of  
11 over five tons load displacement as registered with the U.S.  
12 Coast Guard and licensed by the State of Alabama Department of  
13 Conservation and Natural Resources when purchased from the  
14 manufacturers or builders thereof.

15 "(18) The storage, use, or consumption of all  
16 devices or facilities, and all identifiable components thereof  
17 or materials for use therein, used or placed in operation  
18 primarily for the control, reduction or elimination of air or  
19 water pollution, and the storage, use, or consumption of all  
20 identifiable components of or materials used or intended for  
21 use in structures built primarily for the control, reduction  
22 or elimination of air or water pollution.

23 "(19) When dealers or distributors use parts taken  
24 from stocks owned by them in making repairs without charge for  
25 such parts to the owner of the property required pursuant to  
26 warranty agreements entered into by manufacturers, such use  
27 shall not constitute taxable sales to the manufacturers,

1 distributors or to the dealers, under this article, or under  
2 any county use tax law.

3 "(20) The storage, use, or other consumption in this  
4 state of religious magazines and publications. For the purpose  
5 of this subdivision the words "religious magazines and  
6 publications" shall be construed to mean printed or  
7 illustrated lessons, notes and explanations distributed by  
8 churches or other religious organizations free of charge to  
9 pupils or students in Sunday schools, Bible classes or other  
10 educational facilities established and maintained by churches  
11 or similar religious organizations in this state.

12 "(21) The storage, use, or other consumption of  
13 wrapping paper and other wrapping materials when used in  
14 preparing poultry or poultry products for delivery, shipment  
15 or sale by the producer, processor, packer, or seller of such  
16 poultry or poultry products including pallets used in shipping  
17 poultry and egg products, paper or other materials used for  
18 lining boxes or other containers in which poultry or poultry  
19 products are packed together with any other materials placed  
20 in such containers for the delivery, shipment or sale of  
21 poultry or poultry products.

22 "(22) The storage, use, or other consumption of all  
23 antibiotics, hormones and hormone preparations, drugs,  
24 medicines or medications, vitamins, minerals, or other  
25 nutrients and all other feed ingredients including  
26 concentrates, supplements and other feed ingredients when such  
27 substances are used as ingredients in mixing and preparing

1 feed for livestock and poultry. Such exemption herein granted  
2 shall be in addition to exemptions now provided by law for  
3 feed for livestock and poultry, but not including prepared  
4 foods for dogs and cats.

5 "(23) The use of seedlings, plants, shoots, and  
6 slips which are to be used for planting vegetable gardens or  
7 truck farms. Nothing herein shall be construed to exempt, or  
8 exclude from the computation of the tax levied, assessed, or  
9 payable, the use of plants, seedlings, shoots, slips, nursery  
10 stock and floral products except as hereinabove exempted.

11 "(24) Fabricated steel tube sections, when produced  
12 and fabricated in this state by any person, firm, or  
13 corporation, for any vehicular tunnel for highway vehicular  
14 traffic, when sold by the manufacturer or fabricator thereof,  
15 and also steel which enters into and becomes a component part  
16 of such fabricated steel tube sections of said tunnel, shall  
17 be exempted from the provisions of this article and from the  
18 computation of the amount of the tax levied, assessed or  
19 payable under this article.

20 "(25) The storage, use, or other consumption of  
21 herbicides for agricultural uses by whomsoever sold. The term  
22 "herbicides" as used in this subdivision means any substance  
23 or mixture of substances intended to prevent, destroy, repel,  
24 or retard the growth of weeds or plants. It shall include  
25 preemergence herbicides, postemergence herbicides, lay-by  
26 herbicides, pasture herbicides, defoliant herbicides, and  
27 desiccant herbicides.

1           "(26) The Alabama Chapter of the Cystic Fibrosis  
2           Research Foundation, and the Jefferson Tuberculosis Sanatorium  
3           and any of their departments or agencies, heretofore or  
4           hereafter organized and existing in good faith in the State of  
5           Alabama for purposes other than for pecuniary gain and not for  
6           individual profit, shall be exempted from the payment of the  
7           state use tax levied under this article.

8           "(27) Fuel for use or consumption aboard commercial  
9           fishing vessels are hereby exempt from the payment of the  
10          state use tax levied under this article, or levied under any  
11          county or municipal use tax law.

12          "The words commercial fishing vessels shall mean  
13          vessels whose masters and owners are regularly and exclusively  
14          engaged in fishing as their means of livelihood.

15          "(28) The storage, use, or withdrawal of sawdust,  
16          wood shavings, wood chips, and other like materials purchased  
17          for use as chicken litter by poultry producers and poultry  
18          processors shall be exempt under this article.

19          "(29) The storage, use, or other consumption of all  
20          antibiotics, hormones and hormone preparations, drugs,  
21          medicines and other medications including serums and vaccines,  
22          vitamins, minerals or other nutrients for use in the  
23          production and growing of fish, livestock, and poultry are  
24          hereby specifically exempted from the payment of the state use  
25          tax levied by this article. Such exemption as herein granted  
26          shall be in addition to the exemptions now provided by law for  
27          feed for fish, livestock, and poultry, and in addition to the



1 exemptions now provided by law for the above-enumerated  
2 substances and products when mixed and used as ingredients in  
3 fish, livestock and poultry feeds.

4 "(30) All medicines prescribed by physicians for  
5 persons who are 65 years of age or older, and when said  
6 prescriptions are filled by licensed pharmacists, shall be  
7 exempted from the operation of the state use tax law levied by  
8 this article, or by any county or municipal use tax law. The  
9 exemptions provided in this subdivision shall not apply to any  
10 medicine purchased in any manner other than as is herein  
11 provided.

12 "For the purposes of this subdivision, proof of age  
13 may be accomplished by filing with the dispensing pharmacist  
14 any one or more of the following documents:

15 "a. The name and claim number as shown on a  
16 "Medicare" card issued by the United States Social Security  
17 Administration.

18 "b. A certificate executed by any adult person  
19 having knowledge of the fact that the person for whom the  
20 medicine was prescribed is not less than 65 years of age.

21 "c. An affidavit executed by any adult person having  
22 knowledge of the fact that the person for whom the medicine  
23 was prescribed is not less than 65 years of age.

24 "For the purposes of this subdivision any person  
25 filing a false proof of age shall be guilty of a misdemeanor  
26 and upon conviction thereof shall be punished by a fine of  
27 \$100.

1           "(31) All diesel fuel used for off-highway  
2 agricultural purposes.

3           "(32) The storage, use, or other consumption of any  
4 aircraft and replacement parts, components, systems, supplies  
5 and sundries affixed or used on said aircraft and ground  
6 support equipment and vehicles used by or for the aircraft by  
7 a certificated or licensed air carrier with a hub operation  
8 within this state, for use in conducting intrastate,  
9 interstate or foreign commerce for transporting people or  
10 property by air. For the purpose of this subdivision, the  
11 words "hub operation within this state" shall be construed to  
12 have all of the following criteria:

13           "a. There originates from the location 15 or more  
14 flight departures and five or more different first-stop  
15 destinations five days per week for six or more months during  
16 the calendar year; and

17           "b. Passengers and/or property are regularly  
18 exchanged at the location between flights of the same or a  
19 different certificated or licensed air carrier.

20           "(33) The storage, use, or other consumption of any  
21 aviation jet fuel used by an aircraft operated by a  
22 certificated or licensed air carrier that purchases jet fuel  
23 for use in scheduled all-cargo operations being conducted on  
24 international flights or in international commerce. For  
25 purposes of this subdivision, the following words or terms  
26 shall be defined and interpreted as follows:

1            "a. Air Carrier. Any person, firm, corporation, or  
2            entity undertaking by any means, directly or indirectly, to  
3            provide air transportation.

4            "b. All-Cargo Operations. Any flight conducted by an  
5            air carrier for compensation or hire other than a passenger  
6            carrying flight, except passengers as specified in 14 C.F.R.  
7            §121.583(a) or 14 C.F.R. §135.85, as amended.

8            "c. International Commerce. Any air carrier engaged  
9            in all-cargo operations transporting goods for compensation or  
10            hire on international flights.

11            "d. International Flights. Any air carrier  
12            conducting scheduled all-cargo operations between any point  
13            within the 50 states of the United States and the District of  
14            Columbia and any point outside the 50 states of the United  
15            States and the District of Columbia, including any interim  
16            stops within the United States so long as the ultimate origin  
17            or destination of the aircraft is outside the United States  
18            and the District of Columbia.

19            "(34) The storage, use, or other consumption of hot  
20            or cold food and beverage products by a certificated or  
21            licensed air carrier with a hub operation within this state,  
22            for use in conducting intrastate, interstate, or foreign  
23            commerce for transporting people or property by air. For the  
24            purpose of this subdivision, the words "hub operation within  
25            this state" shall be construed to have all of the following  
26            criteria:

1            "a. There originates from the location 15 or more  
2 flight departures and five or more different first-stop  
3 destinations five days per week for six or more months during  
4 the calendar year; and

5            "b. Passengers and/or property are regularly  
6 exchanged at the location between flights of the same or a  
7 different certificated or licensed air carrier.

8            "(35) The storage, use, or other consumption of the  
9 following:

10           "a. Drill pipe, casing, tubing, and other pipe used  
11 for the exploration for or production of oil, gas, sulphur, or  
12 other minerals in offshore federal waters.

13           "b. Tangible personal property exclusively used for  
14 the exploration for or production of oil, gas, sulphur, or  
15 other minerals in offshore federal waters.

16           "c. Fuel and supplies for use or consumption aboard  
17 boats, ships, aircraft, and towing vessels when used  
18 exclusively in transporting persons or property between a  
19 point in Alabama and a point or points in offshore federal  
20 waters for the exploration for or production of oil, gas,  
21 sulphur, or other minerals in offshore federal waters.

22           "d. Drilling equipment that is used for the  
23 exploration for or production of oil, gas, sulphur, or other  
24 minerals, that is built for exclusive use outside this state  
25 and that is, on completion, removed forthwith from this state.

26           "e. All domestically mined or produced coal, coke,  
27 and coke by-products used in cogeneration plants in Alabama.

1           "The delivery of items exempted by this subdivision  
2 to the purchaser or lessee in this state does not disqualify  
3 the purchaser or lessee from the exemption if the property is  
4 removed from the state by any means, including by the use of  
5 the purchaser's or lessee's own facilities.

6           "The shipment to a place in this state of equipment  
7 exempted by this subdivision for further assembly or  
8 fabrication does not disqualify the purchaser or lessee from  
9 the exemption if on completion of the further assembly or  
10 fabrication the equipment is removed forthwith from this  
11 state. This subdivision applies to a sale that may occur when  
12 the equipment exempted is further assembled or fabricated if  
13 on completion the equipment is removed forthwith from this  
14 state.

15           "(36) The storage or use of metal, other than gold  
16 or silver, when such metal is held by an investment trust the  
17 shares or other units in the trust's net assets of which have  
18 been issued in exchange for such metal and are publicly  
19 traded, including metal stored in warehouses located in this  
20 state. For purposes of this subdivision, the term metals  
21 includes, but is not limited to, copper, aluminum, nickel,  
22 zinc, tin, lead, and other similar metals typically used in  
23 commercial and industrial applications.

24           "(37) For the period commencing October 1, 2012, and  
25 ending May 30, 2022, unless extended by joint resolution, all  
26 parts, components, and systems that become a part of a fixed  
27 or rotary wing military aircraft or certified transport

1 category aircraft which undergoes conversion, reconfiguration,  
2 or general maintenance so long as the address of the aircraft  
3 for FAA registration is not in the state; provided, however,  
4 that this exemption shall not apply to a local use tax unless  
5 previously exempted by local law or approved by resolution of  
6 the local governing body.

7 "(38) Lunches sold not for profit and within school  
8 buildings to pupils of kindergarten, grammar, and high  
9 schools, either public or private.

10 "(39) The storage, use, or consumption of gold,  
11 silver, and platinum bullion or coins or any combination of  
12 such bullion or coins, provided that the dealer maintains  
13 proper documentation, as specified by rule of regulation to be  
14 promulgated by the department, to identify each sale or  
15 portion of a sale which is exempt."

16 Section 2. This bill shall become effective on  
17 September 1, 2017, following its passage and approval by the  
18 Governor, or its otherwise becoming law.