

1 HB10  
2 214446-2  
3 By Representative Brown (C)  
4 RFD: Ways and Means General Fund  
5 First Read: 11-JAN-22  
6 PFD: 06/28/2021



1 municipalities in this state, all property, real and personal,  
2 of the United States and this state and of county and  
3 municipal corporations in this state; all cemeteries, all  
4 property, real and personal, used exclusively for religious  
5 worship, for schools or for purposes purely charitable;  
6 provided, that property, real or personal, owned by any  
7 educational, religious, or charitable institution, society or  
8 corporation let for rent or hire or for use for business  
9 purposes shall not be exempt from taxation, notwithstanding  
10 that the income from such property shall be used exclusively  
11 for education, religious, or charitable purposes; all  
12 mortgages, together with the notes, debts, and credits secured  
13 thereby on real and personal property situated in this state,  
14 which mortgages have been filed for record and the privilege  
15 tax paid thereon; all security agreements and security  
16 interests under the Uniform Commercial Code, together with the  
17 notes, debts, and credits secured thereby; all money on  
18 deposit in any bank or banking institution and all other  
19 solvent credits; all warrants issued by county boards of  
20 education and city boards of education for the purpose of  
21 erecting, repairing, furnishing school buildings, or for other  
22 school purposes;

23 "(2) All property, real or personal, used  
24 exclusively for hospital purposes, to the amount of  
25 seventy-five thousand dollars (\$75,000), where such hospitals  
26 maintain wards for charity patients or give treatment to such  
27 patients; provided, that the treatment of charity patients

1 constitutes at least 15 percent of the business of such  
2 hospitals; provided further, that such hospital need not be  
3 assessed for taxation if the owner or manager shall file with  
4 the county tax assessor wherein such hospital is located  
5 within the time allowed for assessing such property for  
6 taxation a certificate that such hospital has done 15 percent  
7 charity work in the preceding tax year; and further provided,  
8 that such hospital through its owner or manager shall have  
9 until the expiration of the preceding tax year to class its  
10 work and ascertain whether or not such hospital has done 15  
11 percent of its treatment of patients as charity work;

12 "(3) The shares of the capital stock of any  
13 corporation owning and operating a hospital, to the extent of  
14 seventy-five thousand dollars (\$75,000) in value; provided,  
15 that said corporation maintains wards for charity patients and  
16 gives treatment to such patients, which treatment constitutes  
17 at least 15 percent of the business of the hospital of said  
18 corporation; provided, that the total exemption granted to any  
19 such corporation shall not exceed seventy-five thousand  
20 dollars (\$75,000), taking into consideration its real and  
21 personal property and the value of its shares of capital  
22 stock;

23 "(4) All property owned by the American Legion or by  
24 Veterans of Foreign Wars or by the Disabled American Veterans,  
25 or any post thereof; provided, that such property is used and  
26 occupied exclusively by said organization;

1           "(5) All the property of literary and scientific  
2 institutions and literary societies, when employed or used in  
3 the regular business of such institutions;

4           "(6) The libraries of ministers of the gospel, all  
5 libraries other than those of a professional character and all  
6 religious books kept for sale by ministers of the gospel and  
7 colporteurs;

8           "(7) The property of deaf mutes and insane persons  
9 to the extent of three thousand dollars (\$3,000) and the  
10 property of blind persons to the extent of twelve thousand  
11 dollars (\$12,000);

12           "(8) All family portraits;

13           "(9) All cotton, livestock, or agricultural products  
14 which have been raised or grown in the State of Alabama and  
15 which shall remain in the hands of the producer thereof, or  
16 his landlord, or in the hands of a cooperative association for  
17 all time, and for a period of one year in the hands of the  
18 purchaser or the manufacturer;

19           "(10) All cotton, wherever grown, stored in licensed  
20 warehouses in the State of Alabama for a period not exceeding  
21 12 months;

22           "(11) Provisions and supplies on hand for the  
23 current year for the use of the family and the making of  
24 crops; all wearing apparel; farming tools; tools and  
25 implements of mechanics to the value of two hundred dollars  
26 (\$200); all livestock, including mules, studs, jacks and

1 jennets, cattle, horses, cows, calves, hogs, sheep, and goats;  
2 household and kitchen furniture and one sewing machine;

3 "(12) No license or taxation of any character,  
4 except franchise taxes provided by Section 229 of the  
5 Constitution of the State of Alabama, shall be collected or  
6 required to be paid to the state or any county or municipality  
7 therein by any state or county fair, agricultural association,  
8 stock, kennel, or poultry show. Athletic stadiums owned and  
9 controlled by universities, schools, or colleges and which are  
10 used exclusively for the purpose of promoting intercollegiate  
11 or interschool athletics; provided, that the revenue received  
12 from athletic stadiums, when admission is charged, shall be  
13 used for the benefit of athletic associations of such  
14 universities, colleges, or schools. Nothing contained in this  
15 subdivision shall be construed to prohibit any municipality,  
16 county, or state from imposing any license tax upon or for the  
17 privilege of engaging in the business of supplying services  
18 for hire or reward or selling commodities other than  
19 livestock, farm products, or farm implements or conducting or  
20 operating devices or games of skill or amusements or other  
21 games or devices, or conducting or operating shows, displays  
22 or exhibits other than shows, displays or exhibits of  
23 agricultural implements, farm products, livestock and athletic  
24 prowess;

25 "(13) All material, including without limitation  
26 coke, to be compounded or further manufactured, when stocked  
27 at any plant or furnace for manufacturing purposes in Alabama;

1           "(14) All articles manufactured in Alabama,  
2 including pig iron, in the hands of the producer or  
3 manufacturer thereof, for 12 months after its production or  
4 manufacture;

5           "(15) All property, both real and personal, owned by  
6 any unit or organization of the Alabama National Guard  
7 officially recognized as such by the federal government and  
8 organized and maintained by the state, and all property owned  
9 by shares and used exclusively by and kept exclusively in the  
10 possession of any such unit or organization of the Alabama  
11 National Guard, the annual rent or hire of which is not in  
12 excess of the annual state, county and municipal taxes on said  
13 property shall be exempt from taxation by the state, and the  
14 county and municipality in which the same may be situated;

15           "(16) All poultry;

16           "(17) The property of all incompetent veterans to  
17 the value of three thousand dollars (\$3,000);

18           "(18) The following items of personal property when  
19 owned by individuals for personal use in the home or usually  
20 kept at the home of the owner and not carried as stocks of  
21 merchandise, namely: Libraries; phonographs; pianos and other  
22 musical instruments; paintings; precious stones, jewelry,  
23 plate silverware, ornaments, and articles of taste; watches  
24 and clocks; wagons, buggies, bicycles, guns, pistols, canes,  
25 golf sticks, golf bags, and sporting goods; money hoarded;  
26 radios; mechanical and electrical refrigerators; electrical  
27 appliances;

1           "(19) All property owned by the Benevolent and  
2 Protective Order of Elks, Fraternal Order of Police, Fraternal  
3 Order of Eagles, or Loyal Order of Moose, or lodge thereof;  
4 provided, that such property is used and occupied exclusively  
5 by such organization;

6           "(20) All devices, facilities or structures, and all  
7 identifiable components thereof or materials for use therein,  
8 acquired or constructed primarily for the control, reduction, or  
9 elimination of air or water pollution;

10           "(21) Tobacco leaf stored in hogsheads;

11           "(22) All farm tractors, as that term is defined in  
12 subdivision (19) of Section 32-1-1.1; and all farming  
13 implements, as that term is used in subdivision (b) (5) of  
14 Section 40-11-1, as amended, when used exclusively in  
15 connection with agricultural property as defined in  
16 subdivision (b) (3) of Section 40-8-1, as amended;

17           "(23) All stocks of goods, wares, and merchandise  
18 described in subdivision (b) (4) of Section 40-11-1, as  
19 amended; and

20           "(24) All aircraft, replacement parts, components,  
21 systems, supplies and sundries affixed or used on said  
22 aircraft, and ground support equipment and vehicles used by or  
23 for the aircraft, when used by a certificated or licensed air  
24 carrier with a hub operation within this state, for use in  
25 conducting intrastate, interstate, or foreign commerce for  
26 transporting people or property by air. For the purpose of

1 this subdivision, the words "hub operation within this state"  
2 shall be construed to have all of the following criteria:

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

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

10 "(25) All property described in Title 12 U.S.C. §  
11 1701(Q), commonly known as HUD 202 property, is hereby exempt  
12 from any and all ad valorem taxes.

13 "(26) All vessels and equipment thereon, used  
14 predominantly in the business of commercial ~~shrimping~~ fishing,  
15 as defined in Section 40-23-1, by the owners thereof.

16 "§40-23-1.

17 "(a) For the purpose of this division, the following  
18 terms shall have the respective meanings ascribed by this  
19 section:

20 "(1) PERSON or COMPANY. Used interchangeably,  
21 includes any individual, firm, copartnership, association,  
22 corporation, receiver, trustee, or any other group or  
23 combination acting as a unit and the plural as well as the  
24 singular number, unless the intention to give a more limited  
25 meaning is disclosed by the context.

26 "(2) DEPARTMENT. The Department of Revenue of the  
27 State of Alabama.

1           "(3) COMMISSIONER. The Commissioner of Revenue of  
2 the State of Alabama.

3           "(4) TAX YEAR or TAXABLE YEAR. The calendar year.

4           "(5) SALE or SALES. Installment and credit sales and  
5 the exchange of properties as well as the sale thereof for  
6 money, every closed transaction constituting a sale. Provided,  
7 however, a transaction shall not be closed or a sale completed  
8 until the time and place when and where title is transferred  
9 by the seller or seller's agent to the purchaser or  
10 purchaser's agent, and for the purpose of determining transfer  
11 of title, a common carrier or the ~~U.S.~~ U.S. Postal Service  
12 shall be deemed to be the agent of the seller, regardless of  
13 any F.O.B. point and regardless of who selects the method of  
14 transportation, and regardless of by whom or the method by  
15 which freight, postage, or other transportation charge is  
16 paid. Provided further that, where billed as a separate item  
17 to and paid by the purchaser, the freight, postage, or other  
18 transportation charge paid to a common carrier or the U.S.  
19 Postal Service is not a part of the selling price.

20           "(6) GROSS PROCEEDS OF SALES. The value proceeding  
21 or accruing from the sale of tangible personal property, and  
22 including the proceeds from the sale of any property handled  
23 on consignment by the taxpayer, including merchandise of any  
24 kind and character without any deduction on account of the  
25 cost of the property sold, the cost of the materials used,  
26 labor or service cost, interest paid, any consumer excise  
27 taxes that may be included within the sales price of the

1 property sold, or any other expenses whatsoever, and without  
2 any deductions on account of losses; provided, that cash  
3 discounts allowed and taken on sales shall not be included,  
4 and "gross proceeds of sales" shall not include the sale price  
5 of property returned by customers when the full sales price  
6 thereof is refunded either in cash or by credit. The term  
7 "gross proceeds of sale" shall also mean and include the  
8 reasonable and fair market value of any tangible personal  
9 property previously purchased at wholesale which is withdrawn  
10 or used from the business or stock and used or consumed in  
11 connection with a business, and shall also mean and include  
12 the reasonable and fair market value of any tangible personal  
13 property previously purchased at wholesale which is withdrawn  
14 from the business or stock and used or consumed by any person  
15 so withdrawing the same, except property which has been  
16 previously withdrawn from business or stock and so used or  
17 consumed with respect to which property the tax has been paid  
18 because of previous withdrawal, use, or consumption, except  
19 property which enters into and becomes an ingredient or  
20 component part of tangible personal property or products  
21 manufactured or compounded for sale and not for the personal  
22 and private use or consumption of any person so withdrawing,  
23 using, or consuming the same, and except refinery, residue, or  
24 fuel gas, whether in a liquid or gaseous state, that has been  
25 generated by, or is otherwise a by-product of, a  
26 petroleum-refining process, which gas is then utilized in the

1 process to generate heat or is otherwise utilized in the  
2 distillation or refining of petroleum products.

3 "In the case of the retail sale of equipment,  
4 accessories, fixtures, and other similar tangible personal  
5 property used in connection with the sale of commercial mobile  
6 services as defined herein, or in connection with satellite  
7 television services, at a price below cost, "gross proceeds of  
8 sale" shall only include the stated sales price thereof and  
9 shall not include any sales commission or rebate received by  
10 the seller as a result of the sale. As used herein, the term  
11 "commercial mobile services" shall have the same meaning as  
12 that term has in 47 U.S.C. Sections 153(n) and 332(d), as in  
13 effect from time to time.

14 "(7) TAXPAYER. Any person liable for taxes  
15 hereunder.

16 "(8) GROSS RECEIPTS. The value proceeding or  
17 accruing from the sale of tangible personal property,  
18 including merchandise and commodities of any kind and  
19 character, all receipts actual and accrued, by reason of any  
20 business engaged in, not including, however, interest,  
21 discounts, rentals of real estate or royalties, and without  
22 any deduction on account of the cost of the property sold, the  
23 cost of the materials used, labor or service cost, interest  
24 paid, any consumer excise taxes that may be included in the  
25 sales price of the property sold, or any other expenses  
26 whatsoever and without any deductions on account of losses.  
27 The term "gross receipts" shall also mean and include the

1 reasonable and fair market value of any tangible personal  
2 property previously purchased at wholesale which is withdrawn  
3 or used from the business or stock and used or consumed in  
4 connection with a business, and shall also mean and include  
5 the reasonable and fair market value of any tangible personal  
6 property previously purchased at wholesale which is withdrawn  
7 from the business or stock and used or consumed by any person  
8 so withdrawing the same, except property which has been  
9 previously withdrawn from business or stock and so used or  
10 consumed and with respect to which property the tax has been  
11 paid because of previous withdrawal, use, or consumption,  
12 except property which enters into and becomes an ingredient or  
13 component part of tangible personal property or products  
14 manufactured or compounded for sale as provided in subdivision  
15 (9) and not for the personal and private use or consumption of  
16 any person so withdrawing, using, or consuming the same, and  
17 except refinery, residue, or fuel gas, whether in a liquid or  
18 gaseous state, that has been generated by, or is otherwise a  
19 by-product of, a petroleum-refining process, which gas is then  
20 utilized in the process to generate heat or is otherwise  
21 utilized in the distillation or refining of petroleum  
22 products.

23 "(9) WHOLESALE SALE or SALE AT WHOLESALE. Any one of  
24 the following:

25 "a. A sale of tangible personal property by  
26 wholesalers to licensed retail merchants, jobbers, dealers, or

1 other wholesalers for resale and does not include a sale by  
2 wholesalers to users or consumers, not for resale.

3 "b. A sale of tangible personal property or  
4 products, including iron ore, and including the furnished  
5 container and label of such property or products, to a  
6 manufacturer or compounder which enter into and become an  
7 ingredient or component part of the tangible personal property  
8 or products which the manufacturer or compounder manufactures  
9 or compounds for sale, whether or not such tangible personal  
10 property or product used in manufacturing or compounding a  
11 finished product is used with the intent that it becomes a  
12 component of the finished product; provided, however, that it  
13 is the intent of this section that no sale of capital  
14 equipment, machinery, tools, or product shall be included in  
15 the term "wholesale sale." The term "capital equipment,  
16 machinery, tools, or product" shall mean property that is  
17 subject to depreciation allowances for Alabama income tax  
18 purposes.

19 "c. A sale of containers intended for one-time use  
20 only, and the labels thereof, when containers are sold without  
21 contents to persons who sell or furnish containers along with  
22 the contents placed therein for sale by persons.

23 "d. A sale of pallets intended for one-time use only  
24 when pallets are sold without contents to persons who sell or  
25 furnish pallets along with the contents placed thereon for  
26 sale by persons.

1 "e. A sale to a manufacturer or compounder, of  
2 crowns, caps, and tops intended for one-time use employed and  
3 used upon the containers in which a manufacturer or compounder  
4 markets his products.

5 "f. A sale of containers to persons engaged in  
6 selling or otherwise supplying or furnishing baby chicks to  
7 growers thereof where containers are used for the delivery of  
8 chicks or a sale of containers for use in the delivery of eggs  
9 by the producer thereof to the distributor or packer of eggs  
10 even though containers used for delivery of baby chicks or  
11 eggs may be recovered for reuse.

12 "g. A sale of bagging and ties used in preparing  
13 cotton for market.

14 "h. A sale to meat packers, manufacturers,  
15 compounders, or processors of meat products of all casings  
16 used in molding or forming wieners and Vienna sausages even  
17 though casings may be recovered for reuse.

18 "i. A sale of commercial fish feed including  
19 concentrates, supplements, and other feed ingredients when  
20 substances are used as ingredients in mixing and preparing  
21 feed for fish raised to be sold on a commercial basis.

22 "j. A sale of bait used to capture or attempt to  
23 capture fish or other seafood in the process of commercial  
24 fishing by a holder of a commercial license issued pursuant to  
25 Chapter 12 of Title 9.

26 "~~j.~~ k. A sale of tangible personal property to any  
27 person engaging in the business of leasing or renting tangible

1 personal property to others, if tangible personal property is  
2 purchased for the purpose of leasing or renting it to others  
3 under a transaction subject to the privilege or license tax  
4 levied in Article 4 of Chapter 12 of this title against any  
5 person engaging in the business of leasing or renting tangible  
6 personal property to others.

7 ~~"k.~~ 1. A purchase or withdrawal of parts or  
8 materials from stock by any person licensed under this  
9 division where parts or materials are used in repairing or  
10 reconditioning the tangible personal property of a licensed  
11 person, which tangible personal property is a part of the  
12 stock of goods of a licensed person, offered for sale by him,  
13 and not for use or consumption of a licensed person.

14 "(10) SALE AT RETAIL or RETAIL SALE. All sales of  
15 tangible personal property except those above defined as  
16 wholesale sales. The quantities of goods sold or prices at  
17 which sold are immaterial in determining whether or not a sale  
18 is at retail. Sales of building materials to contractors,  
19 builders, or landowners for resale or use in the form of real  
20 estate are retail sales in whatever quantity sold. Sales of  
21 building materials, fixtures, or other equipment to a  
22 manufacturer or builder of modular buildings for use in  
23 manufacturing, building, or equipping a modular building  
24 ultimately becoming a part of real estate situated in the  
25 State of Alabama are retail sales, and the use, sale, or  
26 resale of building shall not be subject to the tax. Sales of  
27 tangible personal property to undertakers and morticians are

1 retail sales and subject to the tax at the time of purchase,  
2 but are not subject to the tax on resale to the consumer.  
3 Sales of tangible personal property or products to  
4 manufacturers, quarry operators, mine operators, or  
5 compounders, which are used or consumed by them in  
6 manufacturing, mining, quarrying, or compounding and do not  
7 become an ingredient or component part of the tangible  
8 personal property manufactured or compounded as provided in  
9 subdivision (9) are retail sales. The term "sale at retail" or  
10 "retail sale" shall also mean and include the withdrawal, use,  
11 or consumption of any tangible personal property by any one  
12 who purchases same at wholesale, except property which has  
13 been previously withdrawn from the business or stock and so  
14 used or consumed and with respect to which property tax has  
15 been paid because of previous withdrawal, use, or consumption,  
16 except property which enters into and becomes an ingredient or  
17 component part of tangible personal property or products  
18 manufactured or compounded for sale as provided in subdivision  
19 (9) and not for the personal and private use or consumption of  
20 any person so withdrawing, using, or consuming the same; and  
21 wholesale purchaser shall report and pay the taxes thereon. In  
22 the case of the sale of equipment, accessories, fixtures, and  
23 other similar tangible personal property used in connection  
24 with the sale of commercial mobile services as defined in  
25 subdivision (6) above, or in connection with satellite  
26 television services, at a price below cost, the term "sale at  
27 retail" and "retail sale" shall include those sales, and those

1 sales shall not also be taxable as a withdrawal, use, or  
2 consumption of such tangible personal property.

3 "(11) BUSINESS. All activities engaged in, or caused  
4 to be engaged in, with the object of gain, profit, benefit, or  
5 advantage, either direct or indirect, and not excepting  
6 subactivities producing marketable commodities used or  
7 consumed in the main business activity, each of which  
8 subactivities shall be considered business engaged in, taxable  
9 in the class in which it falls.

10 "(12) AUTOMOTIVE VEHICLE. A power shovel, dragline,  
11 crawler, crawler crane, ditcher, or any similar machine which  
12 is self-propelled, in addition to self-propelled machines  
13 which are used primarily as instruments of conveyance.

14 "(13) PREPAID TELEPHONE CALLING CARD. A sale of a  
15 prepaid telephone calling card or a prepaid authorization  
16 number, or both, shall be deemed the sale of tangible personal  
17 property subject to the tax imposed on the sale of tangible  
18 personal property pursuant to this chapter. For purposes of  
19 this subdivision, the sale of prepaid wireless service that is  
20 evidenced by a physical card constitutes the sale of a prepaid  
21 telephone calling card, and the sale of prepaid wireless  
22 service that is not evidenced by a physical card constitutes  
23 the sale of a prepaid authorization number.

24 "(14) PREPAID WIRELESS SERVICE. The right to use  
25 mobile telecommunications service, which must be paid for in  
26 advance and that is sold in predetermined units or dollars of  
27 which the number declines with use in a known amount, and

1 which may include rights to use non-telecommunications  
2 services or to download digital products or digital content.  
3 For purposes of this subdivision, mobile telecommunications  
4 service has the meaning ascribed by Section 40-21-120.

5 "(15) CONSUMABLE VAPOR PRODUCT. Any nicotine liquid  
6 solution or other material containing nicotine that is  
7 depleted when used as a vapor product.

8 "(16) VAPOR PRODUCTS. Any non-lighted,  
9 noncombustible product that employs a mechanical heating  
10 element, battery, or electronic circuit regardless of shape or  
11 size and that can be used to produce vapor from nicotine in a  
12 solution. The term includes any vapor cartridge or other  
13 container of nicotine in a solution or other form that is  
14 intended to be used with or in an electronic cigarette,  
15 electronic cigar, electronic cigarillo, electronic pipe, or  
16 similar product or device. The term does not include any  
17 product regulated by the United States Food and Drug  
18 Administration under Chapter V of the Federal Food, Drug, and  
19 Cosmetic Act.

20 "(17) COMMERCIAL FISHING. The activity of catching  
21 or processing fish or other seafood regularly and exclusively  
22 as a means of livelihood by a holder of a commercial license  
23 issued pursuant to Chapter 12 of Title 9. The term includes  
24 shellfish farmers, shrimpers, oysterers, lobsterers, and  
25 crabbers.

1                   "(18) COMMERCIAL FISHING VESSEL. Any vessel whose  
2 masters and owners are regularly and exclusively engaged in  
3 commercial fishing as their means of livelihood.

4                   "(b) The use within this state of tangible personal  
5 property by the manufacturer thereof, as building materials in  
6 the performance of a construction contract, shall, for the  
7 purposes of this division, be considered as a retail sale  
8 thereof by manufacturer, who shall also be construed as the  
9 ultimate consumer of materials or property, and who shall be  
10 required to report transaction and pay the sales tax thereon,  
11 based upon the reasonable and fair market price thereof at the  
12 time and place where same are used or consumed by him or it.  
13 Where the contractor is the manufacturer or compounder of  
14 ready-mix concrete or asphalt plant mix used in the  
15 performance of a contract, whether the ready-mix concrete or  
16 asphalt plant mix is manufactured or compounded at the job  
17 site or at a fixed or permanent plant location, the tax  
18 applies only to the cost of the ingredients that become a  
19 component part of the ready-mix concrete or the asphalt plant  
20 mix. The provisions of this subsection shall not apply to any  
21 tangible personal property which is specifically exempted from  
22 the tax levied in this division.

23                   "(c) The sale of lumber by a lumber manufacturer to  
24 a trucker for resale is a sale at wholesale as sales are  
25 defined herein where the trucker is either a licensed dealer  
26 in lumber or, if a resident of Alabama, has registered with  
27 the Department of Revenue, and has received therefrom a

1 certificate of registration or, if a nonresident of this state  
2 purchasing lumber for resale outside the State of Alabama, has  
3 furnished to the lumber manufacturer his name, address and the  
4 vehicle license number of the truck in which the lumber is to  
5 be transported, which name, address, and vehicle license  
6 number shall be shown on the sales invoice rendered by the  
7 lumber manufacturer. The certificate provided for herein shall  
8 be valid for the calendar year of its issuance and may be  
9 renewed from year to year on application to the Department of  
10 Revenue on or before January 31 of each succeeding year;  
11 provided, that if not renewed the certificate shall become  
12 invalid for the purpose of this division on February 1.

13 "(d) The dispensing or transferring of ophthalmic  
14 materials, including lenses, frames, eyeglasses, contact  
15 lenses, and other therapeutic optic devices, to a patient by a  
16 licensed ophthalmologist, as a part of his or her professional  
17 service, shall, for purposes of this division, constitute a  
18 sale, subject to the state sales tax. The licensed  
19 ophthalmologist or licensed optometrist shall collect the  
20 state sales tax. In no event shall the providing of  
21 professional services in connection with the dispensing or  
22 transferring of ophthalmic materials, including dispensing  
23 fees or fitting fees, by a licensed ophthalmologist or  
24 licensed optometrist be considered a sale subject to the state  
25 sales tax. When the ophthalmic materials are purchased by a  
26 consumer covered by a third party benefit plan, including  
27 Medicare, the sales tax shall be applicable to the amount that

1 the ophthalmologist, optometrist, or optician is reimbursed by  
2 the third party benefit plan plus the amount that the consumer  
3 pays to the ophthalmologist, optometrist, or optician at the  
4 time of the sale. All transfers of ophthalmic materials by  
5 opticians or optometrists shall be considered retail sales  
6 subject to the state sales tax. The term supplier shall  
7 include but not be limited to optical laboratories, ophthalmic  
8 material wholesalers, or anyone selling ophthalmic materials  
9 to ophthalmologists.

10 "(e) Notwithstanding the above, the withdrawal, use,  
11 or consumption of a manufactured product by the manufacturer  
12 thereof in quality control testing performed by employees or  
13 independent contractors of the taxpayer, for purposes of this  
14 division, shall not be deemed or considered to constitute a  
15 transaction subject to sales tax, nor shall a gift by the  
16 manufacturer of a manufactured product, withdrawn from the  
17 manufacturer's inventory, to an entity listed in 26 U.S.C.  
18 Sections 170(b) or (c), be considered a transaction subject to  
19 sales tax.

20 (f) Notwithstanding the foregoing, a gift by a  
21 retailer of a product or products where the aggregate retail  
22 value of any single gift is equal to or less than ten thousand  
23 dollars (\$10,000), withdrawn from the retailer's inventory, to  
24 an entity listed in 26 U.S.C. Sections 170(b) or (c) shall not  
25 be deemed or considered to constitute a transaction subject to  
26 sales and use tax.

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 that 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 twenty-five dollars (\$25) nor more than five hundred dollars  
25 (\$500) for each offense. Each false certificate filed shall  
26 constitute a separate offense. Any person filing a false  
27 certificate shall be liable to the department for all taxes

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

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

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

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

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

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

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

26 "(16) The gross proceeds from the sale of all  
27 devices or facilities, and all identifiable components

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

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

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

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

1           "(20) The gross proceeds of the sale, or sales, of  
2 wrapping paper and other wrapping materials when used in  
3 preparing poultry or poultry products for delivery, shipment,  
4 or sale by the producer, processor, packer, or seller of such  
5 poultry or poultry products, including pallets used in  
6 shipping poultry and egg products, paper or other materials  
7 used for lining boxes or other containers in which poultry or  
8 poultry products are packed together with any other materials  
9 placed in such containers for the delivery, shipment, or sale  
10 of poultry or poultry products.

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

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

1 assessed, or payable, the gross proceeds of the sale, or the  
2 use of plants, seedlings, shoots, slips, nursery stock, and  
3 floral products, except as hereinabove exempted.

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

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

26 "(25) The gross proceeds of sales of herbicides for  
27 agricultural uses by whomsoever sold. The term herbicides, as

1 used in this subdivision, means any substance or mixture of  
2 substances intended to prevent, destroy, repel, or retard the  
3 growth of weeds or plants. It shall include preemergence  
4 herbicides, postemergence herbicides, lay-by herbicides,  
5 pasture herbicides, defoliant herbicides, and desiccant  
6 herbicides.

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

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

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

24 "(28) The gross proceeds from the sales of rope,  
25 fishing nets, tools, or any substitute used directly in the  
26 process of commercial fishing by a holder of a commercial  
27 license issued pursuant to Chapter 12 of Title 9.

1           "~~(28)~~ (29) The gross proceeds of sales of sawdust,  
2 wood shavings, wood chips, and other like materials sold for  
3 use as chicken litter by poultry producers and poultry  
4 processors.

5           "~~(29)~~ (30) The gross proceeds of the sales of all  
6 antibiotics, hormones and hormone preparations, drugs,  
7 medicines, and other medications including serums and  
8 vaccines, vitamins, minerals, or other nutrients for use in  
9 the production and growing of fish, livestock, and poultry by  
10 whomsoever sold. Such exemption as herein granted shall be in  
11 addition to the exemption provided by law for feed for fish,  
12 livestock, and poultry, and in addition to the exemptions  
13 provided by law for the above-enumerated substances and  
14 products when mixed and used as ingredients in fish,  
15 livestock, and poultry feed.

16           "~~(30)~~ (31) The gross proceeds of the sale or sales  
17 of all medicines prescribed by physicians for persons who are  
18 65 years of age or older, and when said prescriptions are  
19 filled by licensed pharmacists, shall be exempted under this  
20 division or under any county or municipal sales tax law. The  
21 exemption provided in this section shall not apply to any  
22 medicine purchased in any manner other than as is herein  
23 provided.

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

1           "a. The name and claim number as shown on a Medicare  
2 card issued by the United States Social Security  
3 Administration.

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

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

10           "For the purposes of this subdivision, any person  
11 filing a false proof of age shall be guilty of a misdemeanor  
12 and upon conviction thereof shall be punished by a fine of one  
13 hundred dollars (\$100).

14           "~~(31)~~ (32) There shall be exempted from the tax  
15 levied by this division the gross receipts of sales of grass  
16 sod of all kinds and character when in the original state of  
17 production or condition of preparation for sale, when such  
18 sales are made by the producer or members of his family or for  
19 him by those employed by him to assist in the production  
20 thereof; provided, that nothing herein shall be construed to  
21 exempt sales of sod by a person engaged in the business of  
22 selling plants, seedlings, nursery stock, or floral products.

23           "~~(32)~~ (33) The gross receipts of sales of the  
24 following items or materials which are necessary in the  
25 farm-to-market production of tomatoes when such items or  
26 materials are used by the producer or members of his family or  
27 for him by those employed by him to assist in the production

1       thereof: Twine for tying tomatoes, tomato stakes, field boxes  
2       (wooden boxes used to take tomatoes from the fields to shed),  
3       and tomato boxes used in shipments to customers.

4               "~~(33)~~ (34) The gross proceeds from the sale of  
5       liquefied petroleum gas or natural gas sold to be used for  
6       agricultural purposes.

7               "~~(34)~~ (35) The gross receipts of sales from state  
8       nurseries of forest tree seedlings.

9               "~~(35)~~ (36) The gross receipts of sales of forest  
10      tree seed by the state.

11              "~~(36)~~ (37) The gross receipts of sales of Lespedeza  
12      bicolor and other species of perennial plant seed and  
13      seedlings sold for wildlife and game food production purposes  
14      by the state.

15              "~~(37)~~ (38) The gross receipts of any aircraft  
16      manufactured, sold, and delivered in this state if said  
17      aircraft are not permanently domiciled in Alabama and are  
18      removed to another state.

19              "~~(38)~~ (39) The gross proceeds from the sale or sales  
20      of all diesel fuel used for off-highway agricultural purposes.

21              "~~(39)~~ (40) The gross proceeds from sales of  
22      admissions to any sporting event which:

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

25              "b. Is hosted by a not-for-profit corporation  
26      organized and existing under the laws of the State of Alabama;  
27      and

1            "c. Determines a national championship of a national  
2 organization, including, but not limited to, the Professional  
3 Golfers Association of America, the Tournament Players  
4 Association, the United States Golf Association, the United  
5 States Tennis Association, and the National Collegiate  
6 Athletic Association; and

7            "d. Has not been held in the State of Alabama on  
8 more than one prior occasion, provided, however, that for such  
9 purpose the Professional Golfers Association Championship, the  
10 United States Open Golf Championship, the United States  
11 Amateur Golf Championship of the United States Golf  
12 Association, and the United States Open Tennis Championship  
13 shall each be treated as a separate event.

14            "~~(40)~~ (41) The gross receipts from the sale of any  
15 aircraft and replacement parts, components, systems, supplies,  
16 and sundries affixed or used on said aircraft and ground  
17 support equipment and vehicles used by or for the aircraft to  
18 or by a certificated or licensed air carrier with a hub  
19 operation within this state, for use in conducting intrastate,  
20 interstate, or foreign commerce for transporting people or  
21 property by air. For the purpose of this subdivision, the  
22 words "hub operation within this state" shall be construed to  
23 have all of the following criteria:

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

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

4            "~~(41)~~ (42) The gross receipts from the sale of hot  
5 or cold food and beverage products sold to or by a  
6 certificated or licensed air carrier with a hub operation  
7 within this state, for use in conducting intrastate,  
8 interstate, or foreign commerce for transporting people or  
9 property by air. For the purpose of this subdivision, the  
10 words "hub operation within this state" shall be construed to  
11 have all of the following criteria:

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

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

19            "~~(42)~~ (43) The gross receipts from the sale of any  
20 aviation jet fuel to a certificated or licensed air carrier  
21 purchased for use in scheduled all-cargo operations being  
22 conducted on international flights or in international  
23 commerce. For purposes of this subdivision, the following  
24 words or terms shall be defined and interpreted as follows:

25            "a. Air Carrier. Any person, firm, corporation, or  
26 entity undertaking by any means, directly or indirectly, to  
27 provide air transportation.

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

5            "c. International Commerce. Any air carrier engaged  
6 in all-cargo operations transporting goods for compensation or  
7 hire on international flights.

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

16            "~~(43)~~ (44) The gross proceeds of the sale or sales  
17 of the following:

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

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

24            "c. Fuel and supplies for use or consumption aboard  
25 boats, ships, aircraft, and towing vessels when used  
26 exclusively in transporting persons or property between a  
27 point in Alabama and a point or points in offshore federal

1 waters for the exploration for or production of oil, gas,  
2 sulphur, or other minerals in offshore federal waters.

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

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

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

21 "~~(44)~~ (45) The gross receipts derived from all bingo  
22 games and operations which are conducted in compliance with  
23 validly enacted legislation authorizing the conduct of such  
24 games and operations, and which comply with the distribution  
25 requirements of the applicable local laws; provided that the  
26 exemption from sales taxation granted by this subdivision  
27 shall apply only to gross receipts taxable under subdivision

1 (2) of Section 40-23-2. It is further provided that this  
2 exemption shall not apply to any gross receipts from the sale  
3 of tangible personal property, such as concessions, novelties,  
4 food, beverages, etc. The exemption provided for in this  
5 section shall be limited to those games and operations by  
6 organizations which have qualified for exemption under the  
7 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or  
8 (19), or which are defined in 26 U.S.C. § 501(d).

9 ~~"(45)~~ (46) The gross receipts derived from the sale  
10 or sales of fruit or other agricultural products by the person  
11 or company, as defined in Section 40-23-1, that planted or  
12 cultivated and harvested the fruit or agricultural product,  
13 when the land is owned or leased by the seller.

14 ~~"(46)~~ (47) The gross receipts derived from the sale  
15 or sales of all domestically mined or produced coal, coke, and  
16 coke by-products used in cogeneration plants.

17 ~~"(47)~~ (48) The gross receipts from the sale or sales  
18 of metal, other than gold or silver, when such metal is  
19 purchased for the purpose of transferring such metal to an  
20 investment trust in exchange for shares or other units, each  
21 of which are both publicly traded and represent fractional  
22 undivided beneficial interests in the trust's net assets,  
23 including metal stored in warehouses located in this state, as  
24 well as the gross proceeds from the sale or other transfer of  
25 such metal to or from such investment trust in exchange for  
26 shares or other units that are publicly traded and represent  
27 fractional undivided beneficial interests in the trust's net

1 assets but not to the extent that metal is transferred to or  
2 from the investment trust in exchange for consideration other  
3 than such publicly traded shares or other units. For purposes  
4 of this subdivision, the term metals includes, but is not  
5 limited to, copper, aluminum, nickel, zinc, tin, lead, and  
6 other similar metals typically used in commercial and  
7 industrial applications.

8 ~~"(48)~~ (49) For the period commencing on October 1,  
9 2012, and ending May 30, 2022, unless extended by joint  
10 resolution, the gross receipts from the sale of parts,  
11 components, and systems that become a part of a fixed or  
12 rotary wing military aircraft or certified transport category  
13 aircraft that undergoes conversion, reconfiguration, or  
14 general maintenance so long as the address of the aircraft for  
15 FAA registration is not in the state; provided, however, that  
16 this exemption shall not apply to a local sales tax unless  
17 previously exempted by local law or approved by resolution of  
18 the local governing body.

19 ~~"(49)~~ (50) The gross proceeds from the sale or sales  
20 within school buildings of lunches to pupils of kindergarten,  
21 grammar, and high schools, either public or private, that are  
22 not sold for profit.

23 ~~"(50)~~ (51) The gross proceeds of services provided  
24 by photographers, including, but not limited to, sitting fees  
25 and consultation fees, even when provided as part of a  
26 transaction ultimately involving the sale of one or more  
27 photographs, so long as the exempt services are separately

1 stated to the customer on a bill of sale, invoice, or like  
2 memorialization of the transaction. For transactions occurring  
3 before October 1, 2017, neither the Department of Revenue nor  
4 local tax officials may seek payment for sales tax not  
5 collected. With regard to such transactions in which sales tax  
6 was collected and remitted on services provided by  
7 photographers, neither the taxpayer nor the entity remitting  
8 sales tax shall have the right to seek refund of such tax.

9 ~~"(51)~~ (52) a. For the period commencing on June 1,  
10 2018, and ending five years thereafter, unless extended by an  
11 act of the Legislature, the gross proceeds of sales of bullion  
12 or money, as defined in Section 40-1-1(7).

13 "b. For purposes of this subdivision, the following  
14 words or terms shall be defined and interpreted as follows:

15 "1. Bullion. Gold, silver, platinum, palladium, or a  
16 combination of each precious metal, that has gone through a  
17 refining process and for which the item's value depends on its  
18 mass and purity, and not on its form, numismatic value, or  
19 other value. The term includes bullion in the form of bars,  
20 ingots, or coins that meet the requirements set forth above.  
21 Qualifying bullion may contain other metals or substances,  
22 provided that the other substances are minimal in value  
23 compared with the value of the gold, silver, platinum, or  
24 palladium and the other substances do not add value to the  
25 item. For purposes of this subparagraph, "gold, silver,  
26 platinum, or palladium" does not include jewelry or works of  
27 art.

1           "2. Mass Purity. An item's mass is its weight in  
2 precious metal, and its purity is the amount of precious metal  
3 contained within the item.

4           "3. Numismatic Value. An external value above and  
5 beyond the base value of the underlying precious metal, due to  
6 the item's rarity, condition, age, or other external factor.

7           "c. In order for bullion to qualify for the sales  
8 tax exemption, gold, silver, platinum, and palladium items  
9 must meet all of the following requirements:

10           "1. Must be refined.

11           "2. Must contain at least ninety percent gold,  
12 silver, platinum, or palladium or some combination of these  
13 metals.

14           "3. The sales price of the item must fluctuate with  
15 and depend on the market price of the underlying precious  
16 metal, and not on the item's rarity, condition, age, or other  
17 external factor.

18           "~~(52)~~ (53) a. The gross proceeds of the initial  
19 retail sales of adaptive equipment that is permanently affixed  
20 to a motor vehicle.

21           "b. For the purposes of this subdivision, the  
22 following words or terms shall be defined and interpreted as  
23 follows:

24           "1. Adaptive Equipment. Equipment not generally used  
25 by persons with normal mobility that is appropriate for use in  
26 a motor vehicle and that is not normally provided by a motor  
27 vehicle manufacturer.

1                   "2. Motor Vehicle. A vehicle as defined in Section  
2 40-12-240.

3                   "3. Motor Vehicle Manufacturer. Every person engaged  
4 in the business of constructing or assembling vehicles or  
5 manufactured homes.

6                   "c. In order to qualify for the exemption provided  
7 for herein, the adaptive equipment must be separately stated  
8 to the customer on a bill of sale, invoice, or like  
9 memorialization of the transaction.

10                   "(b) Any violation of any provision of this section  
11 shall be punishable in a court of competent jurisdiction by a  
12 fine of not less than five hundred dollars (\$500) and no more  
13 than two thousand dollars (\$2,000) and imprisonment of not  
14 less than six months nor more than one year in the county  
15 jail.

16                   "§40-23-37.

17                   "There is hereby levied, in lieu of the state sales  
18 tax levied by Section 40-23-2, a privilege or license tax  
19 against the person on account of the business activities  
20 engaged in and in the amount to be determined by the  
21 application of rates against gross sales, or gross receipts,  
22 as the case may be as follows:

23                   "Upon every person, firm, or corporation engaged or  
24 continuing within this state in the business of selling at  
25 retail any machine, machinery, vessel, or equipment which is  
26 used in planting, cultivating and harvesting farm products,  
27 the capture, attempted capture, or processing of fish or other

1 seafood by means of commercial fishing by a holder of a  
2 commercial license issued pursuant to Chapter 12 of Title 9,  
3 or used in connection with the production of agricultural  
4 produce or products, livestock or poultry on farms, and the  
5 parts of such machines, machinery, vessel, or equipment,  
6 attachments and replacements therefor which are made or  
7 manufactured for use on or in the operation of such machine,  
8 machinery, vessel, or equipment, and which are necessary to  
9 and customarily used in the operation of such machine,  
10 machinery, vessel, or equipment, an amount equal to one and  
11 one-half percent of the gross proceeds of the sale thereof;  
12 provided, that the one and one-half percent rate herein  
13 prescribed with respect to parts, attachments and replacements  
14 shall not apply to any automotive vehicle or trailer designed  
15 primarily for public highway use, except farm trailers used  
16 primarily in the production and harvesting of agricultural  
17 commodities.

18 "Where any used machine, machinery, vessel, or  
19 equipment which is used in planting, cultivating and  
20 harvesting farm products, or used in connection with the  
21 production of agricultural produce or products, livestock, and  
22 poultry on farms is taken in trade or in a series of trades as  
23 a credit or part payment on a sale of a new or used machine,  
24 machinery, vessel, or equipment, the tax levied herein shall  
25 be paid on the net difference, that is, the price of the new  
26 or used machine, machinery, vessel, or equipment sold, less

1 the credit for the used machine, machinery, vessel, or  
2 equipment taken in trade.

3 "§40-23-60.

4 "For the purpose of this article, the following  
5 terms shall have the respective meanings ascribed to them in  
6 this section:

7 "(1) PERSON or COMPANY. Any individual, firm,  
8 company, partnership, association, corporation, receiver or  
9 trustee, or any other group or combination acting as a unit,  
10 and the plural as well as the singular number, unless the  
11 intention to give a more limited meaning is disclosed by the  
12 context.

13 "(2) DEPARTMENT. The Department of Revenue of the  
14 State of Alabama.

15 "(3) COMMISSIONER. The Commissioner of Revenue of  
16 the State of Alabama.

17 "(4) WHOLESALE SALE or SALE AT WHOLESALE. Any one of  
18 the following:

19 "a. A sale of tangible personal property by  
20 wholesaler to licensed retail merchants, jobbers, dealers or  
21 other wholesalers for resale and does not include a sale by  
22 wholesalers to users or consumers, not for resale.

23 "b. A sale of tangible personal property or  
24 products, including iron ore, and including the furnished  
25 container and label of such property or products, to a  
26 manufacturer or compounder which enter into and become an  
27 ingredient or component part of the tangible personal property

1 or products which the manufacturer or compounder manufactures  
2 or compounds for sale, whether or not such tangible personal  
3 property or product used in manufacturing or compounding a  
4 finished product is used with the intent that it become a  
5 component of the finished product; provided, however, that it  
6 is the intent of this section that no sale of capital  
7 equipment, machinery, tools, or product shall be included in  
8 the term "wholesale sale." The term "capital equipment,  
9 machinery, tools, or product" shall mean property that is  
10 subject to depreciation allowances for Alabama income tax  
11 purposes.

12 "c. A sale of containers intended for one-time use  
13 only, and the labels thereof, when such containers are sold  
14 without contents to persons who sell or furnish such  
15 containers along with the contents placed therein for sale by  
16 such persons.

17 "d. A sale of pallets intended for one-time use only  
18 when such pallets are sold without contents to persons who  
19 sell or furnish such pallets along with the contents placed  
20 thereon for sale by such persons.

21 "e. A sale to a manufacturer or compounder, of  
22 crowns, caps and tops intended for one-time use employed and  
23 used upon the containers in which such manufacturer or  
24 compounder markets his products.

25 "f. A sale of containers to persons engaged in  
26 selling or otherwise supplying or furnishing baby chicks to  
27 growers thereof where such containers are used for the

1 delivery of such chicks or a sale of containers for use in the  
2 delivery of eggs by the producer thereof to the distributor or  
3 packer of such eggs even though such containers used for  
4 delivery of baby chicks or eggs may be recovered for reuse.

5 "g. A sale of bagging and ties used in preparing  
6 cotton for market.

7 "h. A sale of commercial fish feed including  
8 concentrates, supplements and other feed ingredients when such  
9 substances are used as ingredients in mixing and preparing  
10 feed for fish raised to be sold on a commercial basis.

11 "i. A sale of bait used to capture or attempt to  
12 capture fish or other seafood in the process of commercial  
13 fishing, as defined in Section 40-23-1, by a holder of a  
14 commercial license issued pursuant to Chapter 12 of Title 9.

15 ~~"i.~~ j. A sale of tangible personal property to any  
16 person engaging in the business of leasing or renting such  
17 tangible personal property to others, if such tangible  
18 personal property is purchased for the purpose of leasing or  
19 renting it to others under a transaction subject to the  
20 privilege or license tax levied in Article 4 of Chapter 12 of  
21 this title against any person engaging in the business of  
22 leasing or renting tangible personal property to others.

23 ~~"j.~~ k. A purchase or withdrawal of parts or  
24 materials from stock by any person licensed under this article  
25 where such parts or materials are used in repairing or  
26 reconditioning the tangible personal property of such licensed  
27 person which tangible personal property is a part of the stock

1 of goods of such licensed person, offered for sale by him and  
2 not for use or consumption of such licensed person.

3 ~~"4.~~ 1. A sale to meat packers, manufacturers,  
4 compounders or processors of meat products of all casings used  
5 in moulding or forming wieners and Vienna sausages, even  
6 though such casings may be recovered for reuse.

7 "(5) SALE AT RETAIL or RETAIL SALE. All sales of  
8 tangible personal property except those above defined as  
9 wholesale sales. The quantities of goods sold or prices at  
10 which sold are immaterial in determining whether or not a sale  
11 is at retail. Sales of building materials to contractors,  
12 builders or landowners for resale or use in the form of real  
13 estate are retail sales in whatever quantity sold. Sales of  
14 building materials, fixtures or other equipment to a  
15 manufacturer or builder of modular buildings for use in  
16 manufacturing, building or equipping a modular building  
17 ultimately becoming a part of real estate situated in the  
18 State of Alabama are retail sales, and the use, sale or resale  
19 of such building shall not be subject to the tax. Sales of  
20 tangible personal property to undertakers and morticians are  
21 retail sales and subject to the tax at the time of purchase,  
22 but are not subject to the tax on resale to the consumer.  
23 Sales of tangible personal property or products to  
24 manufacturers, quarry operators, mine operators or  
25 compounders, which are used or consumed by them in  
26 manufacturing, mining, quarrying or compounding and do not  
27 become an ingredient or component part of the tangible

1 personal property manufactured or compounded as provided in  
2 subdivision (4) are retail sales. The term "sale at retail" or  
3 "retail sale" shall also mean and include the withdrawal, use  
4 or consumption of any tangible personal property by anyone who  
5 purchases same at wholesale, except property which has been  
6 previously withdrawn from the business or stock and so used or  
7 consumed and with respect to which property the tax has been  
8 paid because of such previous withdrawal, use or consumption,  
9 except property which enters into and becomes an ingredient or  
10 component part of tangible personal property or products  
11 manufactured or compounded for sale as provided in subdivision  
12 (4); and not for the personal and private use or consumption  
13 of any person so withdrawing, using or consuming the same, and  
14 such wholesale purchaser shall report and pay the taxes  
15 thereon; and except refinery, residue, or fuel gas, whether in  
16 a liquid or gaseous state, that has been generated by, or is  
17 otherwise a by-product of, a petroleum-refining process, which  
18 gas is then utilized in the process to generate heat or is  
19 otherwise utilized in the distillation or refining of  
20 petroleum products. The term "retail sale" or "sale at retail"  
21 shall also mean and include the sale of tangible personal  
22 property previously purchased at wholesale for the purpose of  
23 leasing or renting under a transaction subject to the  
24 privilege or license tax levied in Article 4 of Chapter 12 of  
25 this title, regardless of whether such sale is to the person  
26 who theretofore leased or rented the said tangible personal  
27 property or to some other person.

1           "(6) BUSINESS. All activities engaged in, or caused  
2 to be engaged in, with the object of gain, profit, benefit or  
3 advantage, either direct or indirect, and not excepting  
4 subactivities producing marketable commodities used or  
5 consumed in the main business activity, each of which  
6 subactivities shall be considered business engaged in, taxable  
7 in the class in which it falls.

8           "(7) STORAGE. Any keeping or retention in this state  
9 for any purpose except sale in the regular course of business  
10 or subsequent use solely outside this state of tangible  
11 personal property purchased at retail.

12           "(8) USE. The exercise of any right or power over  
13 tangible personal property incident to the ownership of that  
14 property, or by any transaction where possession is given,  
15 except that it shall not include the sale of that property in  
16 the regular course of business.

17           "(9) PURCHASE. Acquired for a consideration, whether  
18 such acquisition was effected by a transfer of title, or of  
19 possession or of both, or a license to use or consume; whether  
20 such transfer shall have been absolute or conditional, and by  
21 whatsoever means the same shall have been effected; and  
22 whether such consideration be a price or rental in money, or  
23 by way of exchange or barter.

24           "(10) SALES PRICE. The total amount for which  
25 tangible personal property is sold, including any services,  
26 including transportation, that are a part of the sale, valued  
27 in money, whether paid in money or otherwise, and includes any

1 amount for which credit is given to the purchaser by the  
2 seller, without any deduction therefrom on account of the cost  
3 of the property sold, the cost of the materials used, labor or  
4 service cost, interest charged, losses or any other expenses  
5 whatsoever; provided, that cash discounts allowed and taken on  
6 sales shall not be included and sales price shall not include  
7 the amount charged for property returned by customers when the  
8 entire amount charged therefor is refunded either in cash or  
9 by credit.

10 "(11) IN THIS STATE or IN THE STATE. Within the  
11 exterior limits of the State of Alabama, and includes all  
12 territory within such limits owned by or ceded to the United  
13 States of America.

14 "(12) AUTOMOTIVE VEHICLE. A power shovel, dragline,  
15 crawler, crawler crane, ditcher or any similar machine which  
16 is self-propelled, in addition to self-propelled machines  
17 which are used primarily as instruments of conveyance.

18 "(13) PREPAID TELEPHONE CALLING CARD. A sale of a  
19 prepaid telephone calling card or a prepaid authorization  
20 number, or both, shall be deemed the sale of tangible personal  
21 property subject to the tax imposed pursuant to this chapter.  
22 For purposes of this subdivision, the sale of prepaid wireless  
23 service that is evidenced by a physical card constitutes the  
24 sale of a prepaid telephone calling card, and the sale of  
25 prepaid wireless service that is not evidenced by a physical  
26 card constitutes the sale of a prepaid authorization number.

1           "(14) PREPAID WIRELESS SERVICE. The right to use  
2 mobile telecommunications service, which must be paid for in  
3 advance and that is sold in predetermined units or dollars of  
4 which the number declines with use or the expiration of time  
5 in a known amount, and which may include rights to use  
6 non-telecommunications services or to download digital  
7 products or digital content. For purposes of this subdivision,  
8 mobile telecommunications service has the meaning ascribed by  
9 Section 40-21-120.

10           "(15) REMOTE USE TAX. Amounts collected from out of  
11 state vendors who, on October 1, 2012, were or would have been  
12 remote sellers as defined in Section 40-23-171; and amounts  
13 remitted by consumers on the individual tax return.

14           "§40-23-63.

15           "There is hereby levied and imposed an excise tax on  
16 the storage, use or other consumption in this state of any  
17 machine, machinery, vessel, or equipment which is used in  
18 planting, cultivating and harvesting farm products, the  
19 capture, attempted capture, or processing of fish or other  
20 seafood by means of commercial fishing, as defined in Section  
21 40-23-1, by a holder of a commercial license issued pursuant  
22 to Chapter 12 of Title 9, or used in connection with the  
23 production of agricultural produce or products, livestock or  
24 poultry, ~~or~~ on farms, and the parts of such machines,  
25 machinery, vessels, or equipment, attachments and replacements  
26 therefor which are made or manufactured for use on or in the  
27 operation of such machine, machinery, vessel, or equipment,

1 and which are necessary to and customarily used in the  
2 operation of such machine, machinery, vessel, or equipment,  
3 which is purchased at retail after October 1, 1966, for  
4 storage, use, or other consumption in this state, at the rate  
5 of one and one-half percent of the sales price of such  
6 property or the amount of tax collected by the seller,  
7 whichever is greater, provided, however, when the seller  
8 follows the Department of Revenue's suggested use tax brackets  
9 and his records prove that his following said brackets  
10 resulted in a net undercollection of tax for the month, he may  
11 report the tax due or tax collected whichever is less,  
12 regardless of whether the retailer is or is not engaged in  
13 business in this state. The tax herein levied and imposed  
14 shall be in lieu of the excise tax levied and imposed by  
15 Section 40-23-61; provided, that the one and one-half percent  
16 rate herein prescribed with respect to parts, attachments and  
17 replacements shall not apply to any automotive vehicle or  
18 trailer designed primarily for public highway use except farm  
19 trailers used primarily in the production and harvesting of  
20 agricultural commodities.

21 "Every person storing, using, or otherwise consuming  
22 in this state such tangible personal property purchased at  
23 retail shall be liable for the tax imposed by this article,  
24 and the liability shall not be extinguished until the tax has  
25 been paid to this state; provided, that a receipt from a  
26 retailer maintaining a place of business in this state or a  
27 retailer authorized by the Department of Revenue under such

1 rules and regulations as the Commissioner of Revenue may  
2 prescribe, to collect the tax imposed hereby and who shall for  
3 the purpose of this article be regarded as a retailer  
4 maintaining a place of business in this state, given to the  
5 purchaser in accordance with the provisions of Section  
6 40-23-67, shall be sufficient to relieve the purchaser from  
7 further liability for a tax to which such receipt may refer."

8 Section 2. The Department of Revenue may adopt rules  
9 for the implementation and administration of this act.

10 Section 3. This act shall become effective on  
11 January 1, 2023, following its passage and approval by the  
12 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Ways and Means  
General Fund..... 11-JAN-22

Read for the second time and placed  
on the calendar 1 amendment ..... 02-FEB-22

Read for the third time and passed  
as amended..... 03-FEB-22

Yeas 100, Nays 0, Abstains 0

Jeff Woodard  
Clerk