

1 HB233
2 214793-1
3 By Representatives Rafferty, Hollis, Moore (M), Drummond, Hall
4 and Coleman
5 RFD: Ways and Means Education
6 First Read: 02-FEB-22

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8 SYNOPSIS: Under existing law, there are a variety of
9 exemptions and exclusions applicable to state sales
10 and use taxes.

11 This bill would exempt the purchase of
12 diapers, feminine hygiene products, or both for
13 personal use from sales and use tax.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To amend Section 40-23-4, Code of Alabama 1975,
20 relating to sales tax exemptions; to provide for a sales and
21 use tax exemption for certain purchases of diapers; to provide
22 for a sales and use tax exemption for certain purchases of
23 feminine hygiene products; to provide for definitions; and to
24 provide for rulemaking authority.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

1 "§40-23-4.

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

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

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

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

23 "(4) The gross proceeds of sales of insecticides and
24 fungicides when used for agricultural purposes or when used by
25 persons properly permitted by the Department of Agriculture
26 and Industries or any applicable local or state governmental
27 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 \$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 that, 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 Medicare
21 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 company, as defined in Section 40-23-1, that planted or
8 cultivated and harvested the fruit or agricultural product,
9 when the land is owned or leased by the seller.

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

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

1 limited to, copper, aluminum, nickel, zinc, tin, lead, and
2 other similar metals typically used in commercial and
3 industrial applications.

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

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

19 "(50) The gross proceeds of services provided by
20 photographers, including but not limited to sitting fees and
21 consultation fees, even when provided as part of a transaction
22 ultimately involving the sale of one or more photographs, so
23 long as the exempt services are separately stated to the
24 customer on a bill of sale, invoice, or like memorialization
25 of the transaction. For transactions occurring before October
26 1, 2017, neither the Department of Revenue nor local tax
27 officials may seek payment for sales tax not collected. With

1 regard to such transactions in which sales tax was collected
2 and remitted on services provided by photographers, neither
3 the taxpayer nor the entity remitting sales tax shall have the
4 right to seek refund of such tax.

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

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

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

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

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

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

7 "1. Must be refined.

8 "2. Must contain at least ninety percent gold,
9 silver, platinum, or palladium or some combination of these
10 metals.

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

15 "(52) a. The gross proceeds of the initial retail
16 sales of adaptive equipment that is permanently affixed to a
17 motor vehicle.

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

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

25 "2. Motor Vehicle. A vehicle as defined in Section
26 40-12-240.

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

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

8 "(53) a. The gross proceeds from the sales of
9 diapers and feminine hygiene products for personal use.

10 "b. For the purpose of this subdivision the
11 following words and phrases shall have the following meanings:

12 "(1) DIAPER. Any absorbent diaper or undergarment
13 used for incontinence in adults and any absorbent diaper or
14 undergarment designed to be worn by a child who cannot yet
15 control bladder or bowel movements.

16 "(2) FEMININE HYGIENE PRODUCT. Tampons, menstrual
17 pads, sanitary napkins, panty liners, menstrual sponges, and
18 menstrual cups, including disposable and washable versions of
19 these items.

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

1 Section 2. The Alabama Department of Revenue shall
2 adopt rules and develop any tax forms, directions, and
3 worksheets as necessary to effectuate the intent of this act.

4 Section 3. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.