

1 HB105
2 196920-1
3 By Representative Brown (C)
4 RFD: Ways and Means Education
5 First Read: 05-MAR-19

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8 SYNOPSIS: Under existing law, exemptions are provided
9 from sales tax, which exemptions are also
10 incorporated as exemptions from use tax.

11 This bill would provide additional
12 exemptions from sales and use tax for items used in
13 the harvesting of commercial seafood by persons
14 licensed by the Division of Marine Resources of the
15 Department of Conservation and Natural Resources,
16 including items used in operating charter fishing
17 boats and items used in oyster farming, and for
18 items used in the commercial processing of seafood.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to sales and use tax; to amend Section
25 40-23-4 of the Code of Alabama 1975, as last amended by Act
26 2018-562 of the 2018 Regular Session, providing exemptions
27 from sales tax, which exemptions are also incorporated as

1 exemptions from use tax; to provide an additional exemption
2 for items purchased to be used in the harvesting and
3 processing of commercial seafood.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 40-23-4, Code of Alabama 1975, as
6 last amended by Act 2018-562 of the 2018 Regular Session, is
7 amended to read as follows:

8 "§40-23-4.

9 "(a) There are exempted from the provisions of this
10 division and from the computation of the amount of the tax
11 levied, assessed, or payable under this division the
12 following:

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

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

24 "(3) The gross proceeds of the sale, or sales, of
25 seeds for planting purposes and baby chicks and poults.
26 Nothing herein shall be construed to exempt or exclude from
27 the computation of the tax levied, assessed, or payable, the

1 gross proceeds of the sale or sales of plants, seedlings,
2 nursery stock, or floral products.

3 "(4) The gross proceeds of sales of insecticides and
4 fungicides when used for agricultural purposes or when used by
5 persons properly permitted by the Department of Agriculture
6 and Industries or any applicable local or state governmental
7 authority for structural pest control work and feed for
8 livestock and poultry, but not including prepared food for
9 dogs and cats.

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

21 "(6) Cottonseed meal exchanged for cottonseed at or
22 by cotton gins.

23 "(7) The gross receipts from the business on which,
24 or for engaging in which, a license or privilege tax is levied
25 by or under the provisions of Sections 40-21-50, 40-21-53, and
26 40-21-56 through 40-21-60; provided, that nothing contained in
27 this subdivision shall be construed to exempt or relieve the

1 person or persons operating the business enumerated in said
2 sections from the payments of the tax levied by this division
3 upon or measured by the gross proceeds of sales of any
4 tangible personal property, except gas and water, the gross
5 receipts from the sale of which are the measure of the tax
6 levied by said Section 40-21-50, merchandise or other tangible
7 commodities sold at retail by said persons, unless the gross
8 proceeds of sale thereof are otherwise specifically exempted
9 by the provisions of this division.

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

16 "(9) The gross proceeds of the sale, or sales of
17 wood residue, coal, or coke to manufacturers, electric power
18 companies, and transportation companies for use or consumption
19 in the production of by-products, or the generation of heat or
20 power used in manufacturing tangible personal property for
21 sale, for the generation of electric power or energy for use
22 in manufacturing tangible personal property for sale or for
23 resale, or for the generation of motive power for
24 transportation.

25 "(10) The gross proceeds from the sale or sales of
26 fuel and supplies for use or consumption aboard ships,
27 vessels, towing vessels, or barges, or drilling ships, rigs or

1 barges, or seismic or geophysical vessels, or other watercraft
2 (herein for purposes of this exemption being referred to as
3 "vessels") engaged in foreign or international commerce or in
4 interstate commerce; provided, that nothing in this division
5 shall be construed to exempt or exclude from the measure of
6 the tax herein levied the gross proceeds of sale or sales of
7 material and supplies to any person for use in fulfilling a
8 contract for the painting, repair, or reconditioning of
9 vessels, barges, ships, other watercraft, and commercial
10 fishing vessels of over five tons load displacement as
11 registered with the U.S. Coast Guard and licensed by the State
12 of Alabama Department of Conservation and Natural Resources.

13 "For purposes of this subdivision, it shall be
14 presumed that vessels engaged in the transportation of cargo
15 between ports in the State of Alabama and ports in foreign
16 countries or possessions or territories of the United States
17 or between ports in the State of Alabama and ports in other
18 states are engaged in foreign or international commerce or
19 interstate commerce, as the case may be. For the purposes of
20 this subdivision, the engaging in foreign or international
21 commerce or interstate commerce shall not require that the
22 vessel involved deliver cargo to or receive cargo from a port
23 in the State of Alabama. For purposes of this subdivision,
24 vessels carrying passengers for hire, and no cargo, between
25 ports in the State of Alabama and ports in foreign countries
26 or possessions or territories of the United States or between
27 ports in the State of Alabama and ports in other states shall

1 be engaged in foreign or international commerce or interstate
2 commerce, as the case may be, if, and only if, both of the
3 following conditions are met: (i) The vessel in question is a
4 vessel of at least 100 gross tons; and (ii) the vessel in
5 question has an unexpired certificate of inspection issued by
6 the United States Coast Guard or by the proper authority of a
7 foreign country for a foreign vessel, which certificate is
8 recognized as acceptable under the laws of the United States.
9 Vessels which are engaged in foreign or international commerce
10 or interstate commerce shall be deemed for the purposes of
11 this subdivision to remain in such commerce while awaiting or
12 under repair in a port of the State of Alabama if such vessel
13 returns after such repairs are completed to engaging in
14 foreign or international commerce or interstate commerce. For
15 purposes of this subdivision, seismic or geophysical vessels
16 which are engaged either in seismic or geophysical tests or
17 evaluations exclusively in offshore federal waters or in
18 traveling to or from conducting such tests or evaluations
19 shall be deemed to be engaged in international or foreign
20 commerce. For purposes of this subdivision, proof that fuel
21 and supplies purchased are for use or consumption aboard
22 vessels engaged in foreign or international commerce or in
23 interstate commerce may be accomplished by the merchant or
24 seller securing the duly signed certificate of the vessel
25 owner, operator, or captain or their respective agent on a
26 form prescribed by the department that the fuel and supplies
27 purchased are for use or consumption aboard vessels engaged in

1 foreign or international commerce or in interstate commerce.
2 Any person filing a false certificate shall be guilty of a
3 misdemeanor and upon conviction shall be fined not less than
4 \$25 nor more than \$500 for each offense. Each false
5 certificate filed shall constitute a separate offense. Any
6 person filing a false certificate shall be liable to the
7 department for all taxes imposed by this division upon the
8 merchant or seller, together with any interest or penalties
9 thereon, by reason of the sale or sales of fuel and supplies
10 applicable to such false certificate. If a merchant or seller
11 of fuel and supplies secures the certificate herein mentioned,
12 properly completed, such merchant or seller shall not be
13 liable for the taxes imposed by this division, if such
14 merchant or seller had no knowledge that such certificate was
15 false when it was filed with such merchant or seller.

16 "(11) The gross proceeds of sales of tangible
17 personal property to the State of Alabama, to the counties
18 within the state and to incorporated municipalities of the
19 State of Alabama.

20 "(12) The gross proceeds of the sale or sales of
21 railroad cars, vessels, barges, and commercial fishing vessels
22 of over five tons load displacement as registered with the
23 U.S. Coast Guard and licensed by the State of Alabama
24 Department of Conservation and Natural Resources, when sold by
25 the manufacturers or builders thereof.

26 "(13) The gross proceeds of the sale or sales of
27 materials, equipment, and machinery which, at any time, enter

1 into and become a component part of ships, vessels, towing
2 vessels or barges, or drilling ships, rigs or barges, or
3 seismic or geophysical vessels, other watercraft and
4 commercial fishing vessels of over five tons load displacement
5 as registered with the U.S. Coast Guard and licensed by the
6 State of Alabama Department of Conservation and Natural
7 Resources. Additionally, the gross proceeds from the sale or
8 sales of lifeboats, personal flotation devices, ring life
9 buoys, survival craft equipment, distress signals, EPIRB's,
10 fire extinguishers, injury placards, waste management plans
11 and logs, marine sanitation devices, navigation rulebooks,
12 navigation lights, sound signals, navigation day shapes, oil
13 placard cards, garbage placards, FCC SSL, stability
14 instructions, first aid equipment, compasses, anchor and radar
15 reflectors, general alarm systems, bilge pumps, piping, and
16 discharge and electronic position fixing devices which are
17 used on the aforementioned watercraft.

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

21 "(15) The gross proceeds of the sale or sales of
22 tangible personal property to county and city school boards
23 within the State of Alabama, independent school boards within
24 the State of Alabama, all educational institutions and
25 agencies of the State of Alabama, the counties within the
26 state, or any incorporated municipalities of the State of
27 Alabama, and private educational institutions operating within

1 the State of Alabama offering conventional and traditional
2 courses of study, such as those offered by public schools,
3 colleges, or universities within the State of Alabama; but not
4 including nurseries, day care centers, and home schools.

5 "(16) The gross proceeds from the sale of all
6 devices or facilities, and all identifiable components
7 thereof, or materials for use therein, acquired primarily for
8 the control, reduction, or elimination of air or water
9 pollution and the gross proceeds from the sale of all
10 identifiable components of or materials used or intended for
11 use in structures built primarily for the control, reduction,
12 or elimination of air and water pollution.

13 "(17) The gross proceeds of sales of tangible
14 personal property or the gross receipts of any business which
15 the state is prohibited from taxing under the Constitution or
16 laws of the United States or under the Constitution of this
17 state.

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

25 "(19) The gross proceeds received from the sale or
26 furnishing of food, including potato chips, candy, fruit and
27 similar items, soft drinks, tobacco products, and stationery

1 and other similar or related articles by hospital canteens
2 operated by Alabama state hospitals at Bryce Hospital and
3 Partlow State School for Mental Deficients at Tuscaloosa,
4 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
5 benefit of the patients therein.

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

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

1 "(22) The gross proceeds of the sale, or sales, of
2 seedlings, plants, shoots, and slips which are to be used for
3 planting vegetable gardens or truck farms and other
4 agricultural purposes. Nothing herein shall be construed to
5 exempt, or exclude from the computation of the tax levied,
6 assessed, or payable, the gross proceeds of the sale, or the
7 use of plants, seedlings, shoots, slips, nursery stock, and
8 floral products, except as hereinabove exempted.

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

17 "(24) The gross proceeds from sales of admissions to
18 any theatrical production, symphonic or other orchestral
19 concert, ballet, or opera production when such concert or
20 production is presented by any society, association, guild, or
21 workshop group, organized within this state, whose members or
22 some of whose members regularly and actively participate in
23 such concerts or productions for the purposes of providing a
24 creative outlet for the cultural and educational interests of
25 such members, and of promoting such interests for the
26 betterment of the community by presenting such productions to
27 the general public for an admission charge. The employment of

1 a paid director or conductor to assist in any such
2 presentation described in this subdivision shall not be
3 construed to prohibit the exemptions herein provided.

4 "(25) The gross proceeds of sales of herbicides for
5 agricultural uses by whomsoever sold. The term herbicides, as
6 used in this subdivision, means any substance or mixture of
7 substances intended to prevent, destroy, repel, or retard the
8 growth of weeds or plants. It shall include preemergence
9 herbicides, postemergence herbicides, lay-by herbicides,
10 pasture herbicides, defoliant herbicides, and desiccant
11 herbicides.

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

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

1 "The words commercial fishing vessels shall mean
2 vessels whose masters and owners are regularly and exclusively
3 engaged in fishing as their means of livelihood.

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

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

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

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

1 "a. The name and claim number as shown on a
2 "Medicare" 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
13 \$100.

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

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

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

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

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

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

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

21 "(39) The gross proceeds from sales of admissions to
22 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) 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) The gross receipts from the sale of hot or
5 cold food and beverage products sold to or by a certificated
6 or licensed air carrier with a hub operation within this
7 state, for use in conducting intrastate, interstate, or
8 foreign commerce for transporting people or property by air.
9 For the purpose of this subdivision, the words "hub operation
10 within this state" shall be construed to have all of the
11 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) 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) The gross proceeds of the sale or sales of the
17 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) 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) The gross receipts derived from the sale or
10 sales of fruit or other agricultural products by the person or
11 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) The gross receipts derived from the sale or
15 sales of all domestically mined or produced coal, coke, and
16 coke by-products used in cogeneration plants.

17 "(47) The gross receipts from the sale or sales of
18 metal, other than gold or silver, when such metal is purchased
19 for the purpose of transferring such metal to an investment
20 trust in exchange for shares or other units, each of which are
21 both publicly traded and represent fractional undivided
22 beneficial interests in the trust's net assets, including
23 metal stored in warehouses located in this state, as well as
24 the gross proceeds from the sale or other transfer of such
25 metal to or from such investment trust in exchange for shares
26 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) For the period commencing on October 1, 2012,
9 and ending May 30, 2022, unless extended by joint resolution,
10 the gross receipts from the sale of parts, components, and
11 systems that become a part of a fixed or rotary wing military
12 aircraft or certified transport category aircraft that
13 undergoes conversion, reconfiguration, or general maintenance
14 so long as the address of the aircraft for FAA registration is
15 not in the state; provided, however, that this exemption shall
16 not apply to a local sales tax unless previously exempted by
17 local law or approved by resolution of the local governing
18 body.

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

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

9 "(51) a. For the period commencing on June 1, 2018,
10 and ending five years thereafter, unless extended by an act of
11 the Legislature, the gross proceeds of sales of bullion or
12 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) The gross proceeds of the sales of items used
19 in the harvesting of commercial seafood by persons licensed by
20 the Division of Marine Resources of the Department of
21 Conservation and Natural Resources, including items purchased
22 by persons used in the operation of charter fishing boats and
23 items purchased by persons engaged in oyster farming and the
24 gross proceeds of the sales of items used in the commercial
25 processing of seafood.

26 "(b) Any violation of any provision of this section
27 shall be punishable in a court of competent jurisdiction by a

1 fine of not less than five hundred dollars (\$500) and no more
2 than two thousand dollars (\$2,000) and imprisonment of not
3 less than six months nor more than one year in the county
4 jail."

5 Section 2. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.