

1 HB390
2 198713-1
3 By Representative Rich
4 RFD: Ways and Means Education
5 First Read: 09-APR-19

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8 SYNOPSIS: This bill would provide for an exemption
9 from sales and use tax on the sales of adaptive
10 equipment.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 Relating to sales and use tax; to provide for an
17 exemption from sales and use tax on the sales of adaptive
18 equipment.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 40-23-4, Code of Alabama 1975,
21 as amended by Act 2018-164 of the 2018 Regular Session, are
22 amended to read as follows:

23 "§40-23-4.

24 "(a) There are exempted from the provisions of this
25 division and from the computation of the amount of the tax
26 levied, assessed, or payable under this division the
27 following:

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

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

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

18 "(4) The gross proceeds of sales of insecticides and
19 fungicides when used for agricultural purposes or when used by
20 persons properly permitted by the Department of Agriculture
21 and Industries or any applicable local or state governmental
22 authority for structural pest control work and feed for
23 livestock and poultry, but not including prepared food for
24 dogs and cats.

25 "(5) The gross proceeds of sales of all livestock by
26 whomsoever sold, and also the gross proceeds of poultry and
27 other products of the farm, dairy, grove, or garden, when in

1 the original state of production or condition of preparation
2 for sale, when such sale or sales are made by the producer or
3 members of his immediate family or for him by those employed
4 by him to assist in the production thereof. Nothing herein
5 shall be construed to exempt or exclude from the measure or
6 computation of the tax levied, assessed, or payable hereunder,
7 the gross proceeds of sales of poultry or poultry products
8 when not products of the farm.

9 "(6) Cottonseed meal exchanged for cottonseed at or
10 by cotton gins.

11 "(7) The gross receipts from the business on which,
12 or for engaging in which, a license or privilege tax is levied
13 by or under the provisions of Sections 40-21-50, 40-21-53, and
14 40-21-56 through 40-21-60; provided, that nothing contained in
15 this subdivision shall be construed to exempt or relieve the
16 person or persons operating the business enumerated in said
17 sections from the payments of the tax levied by this division
18 upon or measured by the gross proceeds of sales of any
19 tangible personal property, except gas and water, the gross
20 receipts from the sale of which are the measure of the tax
21 levied by said Section 40-21-50, merchandise or other tangible
22 commodities sold at retail by said persons, unless the gross
23 proceeds of sale thereof are otherwise specifically exempted
24 by the provisions of this division.

25 "(8) The gross proceeds of sales or gross receipts
26 of or by any person, firm, or corporation, from the sale of
27 transportation, gas, water, or electricity, of the kinds and

1 natures, the rates and charges for which, when sold by public
2 utilities, are customarily fixed and determined by the Public
3 Service Commission of Alabama or like regulatory bodies.

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

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

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

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

1 liable for the taxes imposed by this division, if such
2 merchant or seller had no knowledge that such certificate was
3 false when it was filed with such merchant or seller.

4 "(11) The gross proceeds of sales of tangible
5 personal property to the State of Alabama, to the counties
6 within the state and to incorporated municipalities of the
7 State of Alabama.

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

14 "(13) The gross proceeds of the sale or sales of
15 materials, equipment, and machinery which, at any time, enter
16 into and become a component part of ships, vessels, towing
17 vessels or barges, or drilling ships, rigs or barges, or
18 seismic or geophysical vessels, other watercraft and
19 commercial fishing vessels of over five tons load displacement
20 as registered with the U.S. Coast Guard and licensed by the
21 State of Alabama Department of Conservation and Natural
22 Resources. Additionally, the gross proceeds from the sale or
23 sales of lifeboats, personal flotation devices, ring life
24 buoys, survival craft equipment, distress signals, EPIRB's,
25 fire extinguishers, injury placards, waste management plans
26 and logs, marine sanitation devices, navigation rulebooks,
27 navigation lights, sound signals, navigation day shapes, oil

1 placard cards, garbage placards, FCC SSL, stability
2 instructions, first aid equipment, compasses, anchor and radar
3 reflectors, general alarm systems, bilge pumps, piping, and
4 discharge and electronic position fixing devices which are
5 used on the aforementioned watercraft.

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

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

20 "(16) The gross proceeds from the sale of all
21 devices or facilities, and all identifiable components
22 thereof, or materials for use therein, acquired primarily for
23 the control, reduction, or elimination of air or water
24 pollution and the gross proceeds from the sale of all
25 identifiable components of or materials used or intended for
26 use in structures built primarily for the control, reduction,
27 or elimination of air and water pollution.

1 "(17) The gross proceeds of sales of tangible
2 personal property or the gross receipts of any business which
3 the state is prohibited from taxing under the Constitution or
4 laws of the United States or under the Constitution of this
5 state.

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

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

21 "(20) The gross proceeds of the sale, or sales, of
22 wrapping paper and other wrapping materials when used in
23 preparing poultry or poultry products for delivery, shipment,
24 or sale by the producer, processor, packer, or seller of such
25 poultry or poultry products, including pallets used in
26 shipping poultry and egg products, paper or other materials
27 used for lining boxes or other containers in which poultry or

1 poultry products are packed together with any other materials
2 placed in such containers for the delivery, shipment, or sale
3 of poultry or poultry products.

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

16 "(22) The gross proceeds of the sale, or sales, of
17 seedlings, plants, shoots, and slips which are to be used for
18 planting vegetable gardens or truck farms and other
19 agricultural purposes. Nothing herein shall be construed to
20 exempt, or exclude from the computation of the tax levied,
21 assessed, or payable, the gross proceeds of the sale, or the
22 use of plants, seedlings, shoots, slips, nursery stock, and
23 floral products, except as hereinabove exempted.

24 "(23) The gross proceeds of the sale, or sales, of
25 fabricated steel tube sections, when produced and fabricated
26 in this state by any person, firm, or corporation for any
27 vehicular tunnel for highway vehicular traffic, when sold by

1 the manufacturer or fabricator thereof, and also the gross
2 proceeds of the sale, or sales, of steel which enters into and
3 becomes a component part of such fabricated steel tube
4 sections of said tunnel.

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

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

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

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

15 "The words commercial fishing vessels shall mean
16 vessels whose masters and owners are regularly and exclusively
17 engaged in fishing as their means of livelihood.

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

21 "(29) The gross proceeds of the sales of all
22 antibiotics, hormones and hormone preparations, drugs,
23 medicines, and other medications including serums and
24 vaccines, vitamins, minerals, or other nutrients for use in
25 the production and growing of fish, livestock, and poultry by
26 whomsoever sold. Such exemption as herein granted shall be in
27 addition to the exemption provided by law for feed for fish,

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

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

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

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

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

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

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

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

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

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

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

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

25 "(36) The gross receipts of sales of Lespedeza
26 bicolor and other species of perennial plant seed and

1 seedlings sold for wildlife and game food production purposes
2 by the state.

3 "(37) The gross receipts of any aircraft
4 manufactured, sold, and delivered in this state if said
5 aircraft are not permanently domiciled in Alabama and are
6 removed to another state.

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

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

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

13 "b. Is hosted by a not-for-profit corporation
14 organized and existing under the laws of the State of Alabama;
15 and

16 "c. Determines a national championship of a national
17 organization, including but not limited to the Professional
18 Golfers Association of America, the Tournament Players
19 Association, the United States Golf Association, the United
20 States Tennis Association, and the National Collegiate
21 Athletic Association; and

22 "d. Has not been held in the State of Alabama on
23 more than one prior occasion, provided, however, that for such
24 purpose the Professional Golfers Association Championship, the
25 United States Open Golf Championship, the United States
26 Amateur Golf Championship of the United States Golf

1 Association, and the United States Open Tennis Championship
2 shall each be treated as a separate event.

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

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

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

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

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

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

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

14 "a. Air Carrier. Any person, firm, corporation, or
15 entity undertaking by any means, directly or indirectly, to
16 provide air transportation.

17 "b. All-Cargo Operations. Any flight conducted by an
18 air carrier for compensation or hire other than a passenger
19 carrying flight, except passengers as specified in 14 C.F.R.
20 §121.583(a) or 14 C.F.R. §135.85, as amended.

21 "c. International Commerce. Any air carrier engaged
22 in all-cargo operations transporting goods for compensation or
23 hire on international flights.

24 "d. International Flights. Any air carrier
25 conducting scheduled all-cargo operations between any point
26 within the 50 states of the United States and the District of
27 Columbia and any point outside the 50 states of the United

1 States and the District of Columbia, including any interim
2 stops within the United States so long as the ultimate origin
3 or destination of the aircraft is outside the United States
4 and the District of Columbia.

5 "(43) The gross proceeds of the sale or sales of the
6 following:

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

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

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

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

23 "The delivery of items exempted by this subdivision
24 to the purchaser or lessee in this state does not disqualify
25 the purchaser or lessee from the exemption if the property is
26 removed from the state by any means, including by the use of
27 the purchaser's or lessee's own facilities.

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

10 "(44) The gross receipts derived from all bingo
11 games and operations which are conducted in compliance with
12 validly enacted legislation authorizing the conduct of such
13 games and operations, and which comply with the distribution
14 requirements of the applicable local laws; provided that the
15 exemption from sales taxation granted by this subdivision
16 shall apply only to gross receipts taxable under subdivision
17 (2) of Section 40-23-2. It is further provided that this
18 exemption shall not apply to any gross receipts from the sale
19 of tangible personal property, such as concessions, novelties,
20 food, beverages, etc. The exemption provided for in this
21 section shall be limited to those games and operations by
22 organizations which have qualified for exemption under the
23 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
24 (19), or which are defined in 26 U.S.C. § 501(d).

25 "(45) The gross receipts derived from the sale or
26 sales of fruit or other agricultural products by the person or
27 company, as defined in Section 40-23-1, that planted or

1 cultivated and harvested the fruit or agricultural product,
2 when the land is owned or leased by the seller.

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

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

24 "(48) For the period commencing on October 1, 2012,
25 and ending May 30, 2022, unless extended by joint resolution,
26 the gross receipts from the sale of parts, components, and
27 systems that become a part of a fixed or rotary wing military

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

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

12 "(50) The gross proceeds of services provided by
13 photographers, including but not limited to sitting fees and
14 consultation fees, even when provided as part of a transaction
15 ultimately involving the sale of one or more photographs, so
16 long as the exempt services are separately stated to the
17 customer on a bill of sale, invoice, or like memorialization
18 of the transaction. For transactions occurring before October
19 1, 2017, neither the Department of Revenue nor local tax
20 officials may seek payment for sales tax not collected. With
21 regard to such transactions in which sales tax was collected
22 and remitted on services provided by photographers, neither
23 the taxpayer nor the entity remitting sales tax shall have the
24 right to seek refund of such tax.

25 "(51) a. For the period commencing on June 1, 2018,
26 and ending five years thereafter, unless extended by an act of

1 the Legislature, the gross proceeds of sales of bullion or
2 money, as defined in Section 40-1-1(7).

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

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

18 "2. MASS PURITY. An item's mass is its weight in
19 precious metal, and its purity is the amount of precious metal
20 contained within the item.

21 "3. NUMISMATIC VALUE. An external value above and
22 beyond the base value of the underlying precious metal, due to
23 the item's rarity, condition, age, or other external factor.

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

27 "1. Must be refined.

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

4 "3. The sales price of the item must fluctuate with
5 and depend on the market price of the underlying precious
6 metal, and not on the item's rarity, condition, age, or other
7 external factor.

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

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

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

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

24 "2. MOTOR VEHICLE. A vehicle as defined in
25 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 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.