

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

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§40-23-4.

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

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

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

1           "(3) The gross proceeds of the sale, or sales, of  
2 seeds for planting purposes and baby chicks and poults.  
3 Nothing herein shall be construed to exempt or exclude from  
4 the computation of the tax levied, assessed, or payable, the  
5 gross proceeds of the sale or sales of plants, seedlings,  
6 nursery stock, or floral products.

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

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

1           "(6) Cottonseed meal exchanged for cottonseed at or  
2 by cotton gins.

3           "(7) The gross receipts from the business on which,  
4 or for engaging in which, a license or privilege tax is levied  
5 by or under the provisions of Sections 40-21-50, 40-21-53, and  
6 40-21-56 through 40-21-60; provided, that nothing contained in  
7 this subdivision shall be construed to exempt or relieve the  
8 person or persons operating the business enumerated in said  
9 sections from the payments of the tax levied by this division  
10 upon or measured by the gross proceeds of sales of any  
11 tangible personal property, except gas and water, the gross  
12 receipts from the sale of which are the measure of the tax  
13 levied by said Section 40-21-50, merchandise or other tangible  
14 commodities sold at retail by said persons, unless the gross  
15 proceeds of sale thereof are otherwise specifically exempted  
16 by the provisions of this division.

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

23           "(9) The gross proceeds of the sale, or sales of  
24 wood residue, coal, or coke to manufacturers, electric power  
25 companies, and transportation companies for use or consumption

1 in the production of by-products, or the generation of heat or  
2 power used in manufacturing tangible personal property for  
3 sale, for the generation of electric power or energy for use  
4 in manufacturing tangible personal property for sale or for  
5 resale, or for the generation of motive power for  
6 transportation.

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

22 "For purposes of this subdivision, it shall be  
23 presumed that vessels engaged in the transportation of cargo  
24 between ports in the State of Alabama and ports in foreign  
25 countries or possessions or territories of the United States

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

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

1 and logs, marine sanitation devices, navigation rulebooks,  
2 navigation lights, sound signals, navigation day shapes, oil  
3 placard cards, garbage placards, FCC SSL, stability  
4 instructions, first aid equipment, compasses, anchor and radar  
5 reflectors, general alarm systems, bilge pumps, piping, and  
6 discharge and electronic position fixing devices which are  
7 used on the aforementioned watercraft.

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

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

22 "(16) The gross proceeds from the sale of all  
23 devices or facilities, and all identifiable components  
24 thereof, or materials for use therein, acquired primarily for  
25 the control, reduction, or elimination of air or water

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

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

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

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

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

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

23           "(22) The gross proceeds of the sale, or sales, of  
24 seedlings, plants, shoots, and slips which are to be used for  
25 planting vegetable gardens or truck farms and other

1 agricultural purposes. Nothing herein shall be construed to  
2 exempt, or exclude from the computation of the tax levied,  
3 assessed, or payable, the gross proceeds of the sale, or the  
4 use of plants, seedlings, shoots, slips, nursery stock, and  
5 floral products, except as hereinabove exempted.

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

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

1 presentation described in this subdivision shall not be  
2 construed to prohibit the exemptions herein provided.

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

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

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

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

4           "a. The name and claim number as shown on a  
5 "Medicare" card issued by the United States Social Security  
6 Administration.

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

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

13          "For the purposes of this subdivision, any person  
14 filing a false proof of age shall be guilty of a misdemeanor  
15 and upon conviction thereof shall be punished by a fine of  
16 \$100.

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

1           "(32) The gross receipts of sales of the following  
2 items or materials which are necessary in the farm-to-market  
3 production of tomatoes when such items or materials are used  
4 by the producer or members of his family or for him by those  
5 employed by him to assist in the production thereof: Twine for  
6 tying tomatoes, tomato stakes, field boxes (wooden boxes used  
7 to take tomatoes from the fields to shed), and tomato boxes  
8 used in shipments to customers.

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

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

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

16           "(36) The gross receipts of sales of Lespedeza  
17 bicolor and other species of perennial plant seed and  
18 seedlings sold for wildlife and game food production purposes  
19 by the state.

20           "(37) The gross receipts of any aircraft  
21 manufactured, sold, and delivered in this state if said  
22 aircraft are not permanently domiciled in Alabama and are  
23 removed to another state.

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

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

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

5           "b. Is hosted by a not-for-profit corporation  
6 organized and existing under the laws of the State of Alabama;  
7 and

8           "c. Determines a national championship of a national  
9 organization, including but not limited to the Professional  
10 Golfers Association of America, the Tournament Players  
11 Association, the United States Golf Association, the United  
12 States Tennis Association, and the National Collegiate  
13 Athletic Association; and

14           "d. Has not been held in the State of Alabama on  
15 more than one prior occasion, provided, however, that for such  
16 purpose the Professional Golfers Association Championship, the  
17 United States Open Golf Championship, the United States  
18 Amateur Golf Championship of the United States Golf  
19 Association, and the United States Open Tennis Championship  
20 shall each be treated as a separate event.

21           "(40) The gross receipts from the sale of any  
22 aircraft and replacement parts, components, systems, supplies,  
23 and sundries affixed or used on said aircraft and ground  
24 support equipment and vehicles used by or for the aircraft to  
25 or by a certificated or licensed air carrier with a hub

1 operation within this state, for use in conducting intrastate,  
2 interstate, or foreign commerce for transporting people or  
3 property by air. For the purpose of this subdivision, the  
4 words "hub operation within this state" shall be construed to  
5 have all of the 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 "(41) The gross receipts from the sale of hot or  
14 cold food and beverage products sold to or by a certificated  
15 or licensed air carrier with a hub operation within this  
16 state, for use in conducting intrastate, interstate, or  
17 foreign commerce for transporting people or property by air.  
18 For the purpose of this subdivision, the words "hub operation  
19 within this state" shall be construed to have all of the  
20 following criteria:

21 "a. There originates from the location 15 or more  
22 flight departures and five or more different first-stop  
23 destinations five days per week for six or more months during  
24 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            "(42) The gross receipts from the sale of any  
5 aviation jet fuel to a certificated or licensed air carrier  
6 purchased for use in scheduled all-cargo operations being  
7 conducted on international flights or in international  
8 commerce. For purposes of this subdivision, the following  
9 words or terms shall be defined and interpreted as follows:

10           "a. Air Carrier. Any person, firm, corporation, or  
11 entity undertaking by any means, directly or indirectly, to  
12 provide air transportation.

13           "b. All-Cargo Operations. Any flight conducted by an  
14 air carrier for compensation or hire other than a passenger  
15 carrying flight, except passengers as specified in 14 C.F.R.  
16 §121.583(a) or 14 C.F.R. §135.85, as amended.

17           "c. International Commerce. Any air carrier engaged  
18 in all-cargo operations transporting goods for compensation or  
19 hire on international flights.

20           "d. International Flights. Any air carrier  
21 conducting scheduled all-cargo operations between any point  
22 within the 50 states of the United States and the District of  
23 Columbia and any point outside the 50 states of the United  
24 States and the District of Columbia, including any interim  
25 stops within the United States so long as the ultimate origin

1 or destination of the aircraft is outside the United States  
2 and the District of Columbia.

3 "(43) The gross proceeds of the sale or sales of the  
4 following:

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

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

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

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

21 "The delivery of items exempted by this subdivision  
22 to the purchaser or lessee in this state does not disqualify  
23 the purchaser or lessee from the exemption if the property is  
24 removed from the state by any means, including by the use of  
25 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).

1           "(45) The gross receipts derived from the sale or  
2 sales of fruit or other agricultural products by the person or  
3 company, as defined in Section 40-23-1, that planted or  
4 cultivated and harvested the fruit or agricultural product,  
5 when the land is owned or leased by the seller.

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

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

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

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

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

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

1 officials may seek payment for sales tax not collected. With  
2 regard to such transactions in which sales tax was collected  
3 and remitted on services provided by photographers, neither  
4 the taxpayer nor the entity remitting sales tax shall have the  
5 right to seek refund of such tax.

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

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

12 "1. BULLION. Gold, silver, platinum, palladium, or a  
13 combination of each precious metal, that has gone through a  
14 refining process and for which the item's value depends on its  
15 mass and purity, and not on its form, numismatic value, or  
16 other value. The term includes bullion in the form of bars,  
17 ingots, or coins that meet the requirements set forth above.  
18 Qualifying bullion may contain other metals or substances,  
19 provided that the other substances are minimal in value  
20 compared with the value of the gold, silver, platinum, or  
21 palladium and the other substances do not add value to the  
22 item. For purposes of this subparagraph, "gold, silver,  
23 platinum, or palladium" does not include jewelry or works of  
24 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           "(b) Any violation of any provision of this section  
19 shall be punishable in a court of competent jurisdiction by a  
20 fine of not less than five hundred dollars (\$500) and no more  
21 than two thousand dollars (\$2,000) and imprisonment of not  
22 less than six months nor more than one year in the county  
23 jail.

1           "(52) a. The gross proceeds of the initial retail  
2 sales of adaptive equipment that is permanently affixed to a  
3 motor vehicle.

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

7           "1. ADAPTIVE EQUIPMENT. Equipment not generally used  
8 by persons with normal mobility, that is appropriate for use  
9 in a motor vehicle and that is not normally provided by a  
10 motor vehicle manufacturer.

11           "2. MOTOR VEHICLE. A vehicle as defined in  
12 40-12-240.

13           "3. MOTOR VEHICLE MANUFACTURER. Every person engaged  
14 in the business of constructing or assembling vehicles or  
15 manufactured homes.

16           "c. In order to qualify for the exemption provided  
17 for herein, the adaptive equipment must be separately stated  
18 to the customer on a bill of sale, invoice, or like  
19 memorialization of the transaction. "

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

