

1 HB401
2 138592-6
3 By Representatives Ison, Hammon, Mask, Fincher, Gaston, Scott,
4 Hubbard (J), Baker, Johnson (R), Sessions, Buskey, Davis,
5 McClurkin, Barton, Bracy and Kennedy
6 RFD: Economic Development and Tourism
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ENROLLED, An Act,

To amend Sections 40-23-4 and 40-23-62, Code of Alabama 1975, relating to sales and use tax exemptions; to provide certain metal held for investment purposes shall be exempt from the sales and use tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-23-4 and 40-23-62, Code of Alabama 1975, 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 independent school boards, and all educational institutions
14 and agencies of the State of Alabama, the counties within the
15 state, or any incorporated municipalities of the State of
16 Alabama.

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

1 shipping poultry and egg products, paper or other materials
2 used for lining boxes or other containers in which poultry or
3 poultry products are packed together with any other materials
4 placed in such containers for the delivery, shipment, or sale
5 of poultry or poultry products.

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

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

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

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

23 "(25) The gross proceeds of sales of herbicides for
24 agricultural uses by whomsoever sold. The term herbicides, as
25 used in this subdivision, means any substance or mixture of

1 substances intended to prevent, destroy, repel, or retard the
2 growth of weeds or plants. It shall include preemergence
3 herbicides, postemergence herbicides, lay-by herbicides,
4 pasture herbicides, defoliant herbicides, and desiccant
5 herbicides.

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

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

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

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

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

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

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

22 "a. The name and claim number as shown on a
23 "Medicare" card issued by the United States Social Security
24 Administration.

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

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

7 "For the purposes of this subdivision, any person
8 filing a false proof of age shall be guilty of a misdemeanor
9 and upon conviction thereof shall be punished by a fine of
10 \$100.

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

20 " (32) The gross receipts of sales of the following
21 items or materials which are necessary in the farm-to-market
22 production of tomatoes when such items or materials are used
23 by the producer or members of his family or for him by those
24 employed by him to assist in the production thereof: Twine for
25 tying tomatoes, tomato stakes, field boxes (wooden boxes used

1 to take tomatoes from the fields to shed), and tomato boxes
2 used in shipments to customers.

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

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

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

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

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

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

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

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

1 "b. Is hosted by a not-for-profit corporation
2 organized and existing under the laws of the State of Alabama;
3 and

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

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

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

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

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

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

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

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

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

1 "(42) The gross proceeds of the sale or sales of the
2 following:

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

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

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

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

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

24 "The shipment to a place in this state of equipment
25 exempted by this subdivision for further assembly or

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

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

23 "(44) The gross receipts derived from the sale or
24 sales of fruit or other agricultural products by the person or

1 corporation that planted, cultivated, and harvested such fruit
2 or agricultural product.

3 "(45) 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 "(46) 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 subsection, 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 "(b) Any violation of any provision of this section
25 shall be punishable in a court of competent jurisdiction by a

1 fine of not less than \$500 and no more than \$2,000 and
2 imprisonment of not less than six months nor more than one
3 year in the county jail.

4 "§40-23-62.

5 "The storage, use or other consumption in this state
6 of the following tangible personal property is hereby
7 specifically exempted from the tax imposed by this article:

8 "(1) Property, on which the sales tax imposed by the
9 provisions of Article 1 of this chapter is paid by the
10 consumer to a person licensed under the provisions of Article
11 1 of this chapter.

12 "(2) Property, the storage, use or other consumption
13 of which this state is prohibited from taxing under the
14 Constitution or laws of the United States of America or under
15 the constitution of this state.

16 "(3) Tangible personal property, not to be used in
17 the performance of a contract, brought into this state by a
18 nonresident thereof for his own storage, use or consumption
19 while temporarily within this state.

20 "(4) Lubricating oil and gasoline as defined in
21 Sections 40-17-30 and 40-17-170, the storage, use or other
22 consumption of which is otherwise taxed.

23 "(5) All fertilizer; provided, that the word
24 "fertilizer" as used in this article shall not be construed to

1 include cottonseed meal when not in combination with other
 2 material.

3 "(6) All seeds for planting purposes and baby chicks
 4 and poult; provided, that nothing herein shall be construed
 5 to exempt plants, seedlings, nursery stock or floral products.

6 "(7) Insecticides and fungicides and feed for
 7 livestock and poultry, but not including prepared foods for
 8 dogs and cats.

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

20 "(9) Cottonseed meal exchanged for cottonseed at or
 21 by cotton gins.

22 "(10) Transportation, gas, water, or electricity, of
 23 the kinds and natures, the rates and charges for which when
 24 sold by public utilities, are customarily fixed and determined

1 by the Public Service Commission of Alabama or like regulatory
2 bodies.

3 "(11) Coal or coke to be stored, used or consumed by
4 manufacturers, electric power companies and transportation
5 companies for use or consumption in the production of
6 by-products or the generation of heat or power used:

7 "a. In manufacturing tangible personal property for
8 sale;

9 "b. For the generation of electric power or energy
10 for use in manufacturing tangible personal property for sale
11 or for resale; or

12 "c. For the generation of motive power for
13 transportation.

14 "(12) Fuel and supplies for use or consumption
15 aboard ships, vessels, towing vessels, or barges, or drilling
16 ships, rigs or barges, or seismic or geophysical vessels, or
17 other watercraft (herein for purposes of this exemption being
18 referred to as vessels) engaged in foreign or international
19 commerce or in interstate commerce; provided, that nothing in
20 this article shall be construed to exempt or exclude from the
21 measure of the tax herein levied the gross proceeds of sale or
22 sales of material and supplies to any person for use in
23 fulfilling a contract for the painting, repair or
24 reconditioning of vessels, barges, ships, other watercraft and
25 commercial fishing vessels of over five tons load displacement

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

1 Vessels which are engaged in foreign or international commerce
2 or interstate commerce shall be deemed for the purposes of
3 this subdivision to remain in such commerce while awaiting or
4 under repair in a port of the State of Alabama if such vessel
5 returns after such repairs are completed to engaging in
6 foreign or international commerce or interstate commerce. For
7 purposes of this subdivision, seismic or geophysical vessels
8 which are engaged either in seismic or geophysical tests or
9 evaluations exclusively in offshore federal waters or in
10 traveling to or from conducting such tests or evaluations
11 shall be deemed to be engaged in international or foreign
12 commerce. For purposes of this subdivision, proof that fuel
13 and supplies purchased are for use or consumption aboard
14 vessels engaged in foreign or international commerce or in
15 interstate commerce may be accomplished by the merchant or
16 seller securing the duly signed certificate of the vessel
17 owner, operator or captain or their respective agent on a form
18 prescribed by the department that the fuel and supplies
19 purchased are for use or consumption aboard vessels engaged in
20 foreign or international commerce or in interstate commerce.
21 Any person filing a false certificate shall be guilty of a
22 misdemeanor and upon conviction shall be fined not less than
23 \$25 nor more than \$500 for each offense. Each false
24 certificate filed shall constitute a separate offense. Any
25 person filing a false certificate shall be liable to the

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

10 "(13) Property stored, used or consumed by the State
11 of Alabama, by the counties within the state or by
12 incorporated municipalities of the State of Alabama.

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

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

6 "(15) The use, storage, or consumption of fuel oil
7 purchased as fuel for kilns used in manufacturing
8 establishments.

9 "(16) Tangible personal property stored, used or
10 consumed by county and city school boards, independent school
11 boards and all educational institutions and agencies of the
12 State of Alabama, the counties within the state or any
13 incorporated municipality of the State of Alabama.

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

20 "(18) The storage, use, or consumption of all
21 devices or facilities, and all identifiable components thereof
22 or materials for use therein, used or placed in operation
23 primarily for the control, reduction or elimination of air or
24 water pollution, and the storage, use, or consumption of all
25 identifiable components of or materials used or intended for

1 use in structures built primarily for the control, reduction
2 or elimination of air or water pollution.

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

10 "(20) The storage, use, or other consumption in this
11 state of religious magazines and publications. For the purpose
12 of this subdivision the words "religious magazines and
13 publications" shall be construed to mean printed or
14 illustrated lessons, notes and explanations distributed by
15 churches or other religious organizations free of charge to
16 pupils or students in Sunday schools, Bible classes or other
17 educational facilities established and maintained by churches
18 or similar religious organizations in this state.

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

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

4 "(22) The storage, use, or other consumption 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 such
9 substances are used as ingredients in mixing and preparing
10 feed for livestock and poultry. Such exemption herein granted
11 shall be in addition to exemptions now provided by law for
12 feed for livestock and poultry, but not including prepared
13 foods for dogs and cats.

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

20 "(24) Fabricated steel tube sections, when produced
21 and fabricated in this state by any person, firm, or
22 corporation, for any vehicular tunnel for highway vehicular
23 traffic, when sold by the manufacturer or fabricator thereof,
24 and also steel which enters into and becomes a component part
25 of such fabricated steel tube sections of said tunnel, shall

1 be exempted from the provisions of this article and from the
2 computation of the amount of the tax levied, assessed or
3 payable under this article.

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

19 "(27) Fuel for use or consumption aboard commercial
20 fishing vessels are hereby exempt from the payment of the
21 state use tax levied under this article, or levied under any
22 county or municipal use tax law.

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

1 "(28) The storage, use, or withdrawal of sawdust,
2 wood shavings, wood chips, and other like materials purchased
3 for use as chicken litter by poultry producers and poultry
4 processors shall be exempt under this article.

5 "(29) The storage, use or other consumption of all
6 antibiotics, hormones and hormone preparations, drugs,
7 medicines and other medications including serums and vaccines,
8 vitamins, minerals or other nutrients for use in the
9 production and growing of fish, livestock, and poultry are
10 hereby specifically exempted from the payment of the state use
11 tax levied by this article. Such exemption as herein granted
12 shall be in addition to the exemptions now provided by law for
13 feed for fish, livestock, and poultry, and in addition to the
14 exemptions now provided by law for the above-enumerated
15 substances and products when mixed and used as ingredients in
16 fish, livestock and poultry feeds.

17 "(30) All medicines prescribed by physicians for
18 persons who are 65 years of age or older, and when said
19 prescriptions are filled by licensed pharmacists, shall be
20 exempted from the operation of the state use tax law levied by
21 this article, or by any county or municipal use tax law. The
22 exemptions provided in this subdivision shall not apply to any
23 medicine purchased in any manner other than as is herein
24 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) All diesel fuel used for off-highway
18 agricultural purposes.

19 "(32) The storage, use or other consumption of any
20 aircraft and replacement parts, components, systems, supplies
21 and sundries affixed or used on said aircraft and ground
22 support equipment and vehicles used by or for the aircraft by
23 a certificated or licensed air carrier with a hub operation
24 within this state, for use in conducting intrastate,
25 interstate or foreign commerce for transporting people or

1 property by air. For the purpose of this subdivision, the
2 words "hub operation within this state" shall be construed to
3 have all of the following criteria:

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

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

11 "(33) The storage, use, or other consumption of hot
12 or cold food and beverage products by a certificated or
13 licensed air carrier with a hub operation within this state,
14 for use in conducting intrastate, interstate, or foreign
15 commerce for transporting people or property by air. For the
16 purpose of this subdivision, the words "hub operation within
17 this state" shall be construed to have all of the following
18 criteria:

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

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

1 "(34) The storage, use, or other consumption of the
2 following:

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

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

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

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

19 "e. All domestically mined or produced coal, coke,
20 and coke by-products used in cogeneration plants in Alabama.

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 "(35) The storage or use of metal, other than gold
11 or silver, when such metal is held by an investment trust the
12 shares or other units in the trust's net assets of which have
13 been issued in exchange for such metal and are publicly
14 traded, including metal stored in warehouses located in this
15 state. For purposes of this subsection, the term metals
16 includes, but is not limited to, copper, aluminum, nickel,
17 zinc, tin, lead, and other similar metals typically used in
18 commercial and industrial applications."

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

