

HB51 ENGROSSED



1 HB51
2 TVMX591-2
3 By Representative Wilcox
4 RFD: Ways and Means Education
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A BILL
TO BE ENTITLED
AN ACT

To amend Section 40-23-4, Code of Alabama 1975, relating to sales and use tax exemptions, to exempt the gross proceeds from the sale or sales of hearing instruments, including hearing aids from sales and use tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-23-4, Code of Alabama 1975, is 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



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29 fertilizer when used for agricultural purposes. The word
30 "fertilizer" shall not be construed to include cottonseed
31 meal, when not in combination with other materials.

32 (3) The gross proceeds of the sale, or sales, of seeds
33 for planting purposes and baby chicks and poults. Nothing
34 herein shall be construed to exempt or exclude from the
35 computation of the tax levied, assessed, or payable, the gross
36 proceeds of the sale or sales of plants, seedlings, nursery
37 stock, or floral products.

38 (4) The gross proceeds of sales of insecticides and
39 fungicides when used for agricultural purposes or when used by
40 persons properly permitted by the Department of Agriculture
41 and Industries or any applicable local or state governmental
42 authority for structural pest control work and feed for
43 livestock and poultry, but not including prepared food for
44 dogs and cats.

45 (5) The gross proceeds of sales of all livestock by
46 whomsoever sold, and also the gross proceeds of poultry and
47 other products of the farm, dairy, grove, or garden, when in
48 the original state of production or condition of preparation
49 for sale, when such sale or sales are made by the producer or
50 members of the producer's immediate family or for the producer
51 by those employed by the producer to assist in the production
52 thereof. Nothing herein shall be construed to exempt or
53 exclude from the measure or computation of the tax levied,
54 assessed, or payable hereunder, the gross proceeds of sales of
55 poultry or poultry products when not products of the farm.

56 (6) Cottonseed meal exchanged for cottonseed at or by



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57 cotton gins.

58 (7) The gross receipts from the business on which, or
59 for engaging in which, a license or privilege tax is levied by
60 or under Sections 40-21-50, 40-21-53, and 40-21-56 through
61 40-21-60; provided, that nothing contained in this subdivision
62 shall be construed to exempt or relieve the person or persons
63 operating the business enumerated in these sections from the
64 payments of the tax levied by this division upon or measured
65 by the gross proceeds of sales of any tangible personal
66 property, except gas and water, the gross receipts from the
67 sale of which are the measure of the tax levied by Section
68 40-21-50, merchandise or other tangible commodities sold at
69 retail by the persons, unless the gross proceeds of sale
70 thereof are otherwise specifically exempted by this division.

71 (8) The gross proceeds of sales or gross receipts of or
72 by any person, firm, or corporation, from the sale of
73 transportation, gas, water, or electricity, of the kinds and
74 natures, the rates and charges for which, when sold by public
75 utilities, are customarily fixed and determined by the Public
76 Service Commission of Alabama or like regulatory bodies.

77 (9) The gross proceeds of the sale, or sales of wood
78 residue, coal, or coke to manufacturers, electric power
79 companies, and transportation companies for use or consumption
80 in the production of by-products, or the generation of heat or
81 power used in manufacturing tangible personal property for
82 sale, for the generation of electric power or energy for use
83 in manufacturing tangible personal property for sale or for
84 resale, or for the generation of motive power for



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85 transportation.

86 (10) The gross proceeds from the sale or sales of fuel
87 and supplies for use or consumption aboard ships, vessels,
88 towing vessels, or barges, or drilling ships, rigs or barges,
89 or seismic or geophysical vessels, or other watercraft (herein
90 for purposes of this exemption being referred to as "vessels")
91 engaged in foreign or international commerce or in interstate
92 commerce; provided, that nothing in this division shall be
93 construed to exempt or exclude from the measure of the tax
94 herein levied the gross proceeds of sale or sales of material
95 and supplies to any person for use in fulfilling a contract
96 for the painting, repair, or reconditioning of vessels,
97 barges, ships, other watercraft, and commercial fishing
98 vessels of over five tons load displacement as registered with
99 the U.S. Coast Guard and licensed by the State of Alabama
100 Department of Conservation and Natural Resources.

101 For purposes of this subdivision, it shall be presumed
102 that vessels engaged in the transportation of cargo between
103 ports in the State of Alabama and ports in foreign countries
104 or possessions or territories of the United States or between
105 ports in the State of Alabama and ports in other states are
106 engaged in foreign or international commerce or interstate
107 commerce, as the case may be. For the purposes of this
108 subdivision, the engaging in foreign or international commerce
109 or interstate commerce shall not require that the vessel
110 involved deliver cargo to or receive cargo from a port in the
111 State of Alabama. For purposes of this subdivision, vessels
112 carrying passengers for hire, and no cargo, between ports in



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113 the State of Alabama and ports in foreign countries or
114 possessions or territories of the United States or between
115 ports in the State of Alabama and ports in other states shall
116 be engaged in foreign or international commerce or interstate
117 commerce, as the case may be, if, and only if, both of the
118 following conditions are met: (i) The vessel in question is a
119 vessel of at least 100 gross tons; and (ii) the vessel in
120 question has an unexpired certificate of inspection issued by
121 the United States Coast Guard or by the proper authority of a
122 foreign country for a foreign vessel, which certificate is
123 recognized as acceptable under the laws of the United States.
124 Vessels that are engaged in foreign or international commerce
125 or interstate commerce shall be deemed for the purposes of
126 this subdivision to remain in such commerce while awaiting or
127 under repair in a port of the State of Alabama if the vessel
128 returns after such repairs are completed to engaging in
129 foreign or international commerce or interstate commerce. For
130 purposes of this subdivision, seismic or geophysical vessels
131 which are engaged either in seismic or geophysical tests or
132 evaluations exclusively in offshore federal waters or in
133 traveling to or from conducting such tests or evaluations
134 shall be deemed to be engaged in international or foreign
135 commerce. For purposes of this subdivision, proof that fuel
136 and supplies purchased are for use or consumption aboard
137 vessels engaged in foreign or international commerce or in
138 interstate commerce may be accomplished by the merchant or
139 seller securing the duly signed certificate of the vessel
140 owner, operator, or captain or such person's respective agent,



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141 on a form prescribed by the department, that the fuel and
142 supplies purchased are for use or consumption aboard vessels
143 engaged in foreign or international commerce or in interstate
144 commerce. Any person filing a false certificate shall be
145 guilty of a misdemeanor and upon conviction shall be fined not
146 less than twenty-five dollars (\$25) nor more than five hundred
147 dollars (\$500) for each offense. Each false certificate filed
148 shall constitute a separate offense. Any person filing a false
149 certificate shall be liable to the department for all taxes
150 imposed by this division upon the merchant or seller, together
151 with any interest or penalties thereon, by reason of the sale
152 or sales of fuel and supplies applicable to the false
153 certificate. If a merchant or seller of fuel and supplies
154 secures the certificate herein mentioned, properly completed,
155 the merchant or seller shall not be liable for the taxes
156 imposed by this division, if the merchant or seller had no
157 knowledge that the certificate was false when it was filed
158 with the merchant or seller.

159 (11) The gross proceeds of sales of tangible personal
160 property to the State of Alabama, to the counties within the
161 state and to incorporated municipalities of the State of
162 Alabama.

163 (12) The gross proceeds of the sale or sales of
164 railroad cars, vessels, barges, and commercial fishing vessels
165 of over five tons load displacement as registered with the
166 U.S. Coast Guard and licensed by the State of Alabama
167 Department of Conservation and Natural Resources, when sold by
168 the manufacturers or builders thereof.



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169 (13) The gross proceeds of the sale or sales of
170 materials, equipment, and machinery that, at any time, enter
171 into and become a component part of ships, vessels, towing
172 vessels or barges, or drilling ships, rigs or barges, or
173 seismic or geophysical vessels, other watercraft and
174 commercial fishing vessels of over five tons load displacement
175 as registered with the U.S. Coast Guard and licensed by the
176 State of Alabama Department of Conservation and Natural
177 Resources. Additionally, the gross proceeds from the sale or
178 sales of lifeboats, personal flotation devices, ring life
179 buoys, survival craft equipment, distress signals, EPIRB's,
180 fire extinguishers, injury placards, waste management plans
181 and logs, marine sanitation devices, navigation rulebooks,
182 navigation lights, sound signals, navigation day shapes, oil
183 placard cards, garbage placards, FCC SSL, stability
184 instructions, first aid equipment, compasses, anchor and radar
185 reflectors, general alarm systems, bilge pumps, piping, and
186 discharge and electronic position fixing devices which are
187 used on the aforementioned watercraft.

188 (14) The gross proceeds of the sale or sales of fuel
189 oil purchased as fuel for kiln use in manufacturing
190 establishments.

191 (15) The gross proceeds of the sale or sales of
192 tangible personal property to county and city school boards
193 within the State of Alabama, independent school boards within
194 the State of Alabama, all educational institutions and
195 agencies of the State of Alabama, the counties within the
196 state, or any incorporated municipalities of the State of



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197 Alabama, and private educational institutions operating within
198 the State of Alabama offering conventional and traditional
199 courses of study, such as those offered by public schools,
200 colleges, or universities within the State of Alabama; but not
201 including nurseries, day care centers, and home schools.

202 (16) The gross proceeds from the sale of all devices or
203 facilities, and all identifiable components thereof, or
204 materials for use therein, acquired primarily for the control,
205 reduction, or elimination of air or water pollution and the
206 gross proceeds from the sale of all identifiable components
207 of, or materials used or intended for use in, structures built
208 primarily for the control, reduction, or elimination of air
209 and water pollution.

210 (17) The gross proceeds of sales of tangible personal
211 property or the gross receipts of any business which the state
212 is prohibited from taxing under the Constitution or laws of
213 the United States or under the Constitution of this state.

214 (18) When dealers or distributors use parts taken from
215 stocks owned by them in making repairs without charge for the
216 parts to the owner of the property repaired pursuant to
217 warranty agreements entered into by manufacturers, such use
218 shall not constitute taxable sales to the manufacturers,
219 distributors, or to the dealers, under this division or under
220 any county sales tax law.

221 (19) The gross proceeds received from the sale or
222 furnishing of food, including potato chips, candy, fruit and
223 similar items, soft drinks, tobacco products, and stationery
224 and other similar or related articles by hospital canteens



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225 operated by Alabama state hospitals at Bryce Hospital and
226 Partlow State School for Mental Deficients at Tuscaloosa,
227 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
228 benefit of the patients therein.

229 (20) The gross proceeds of the sale, or sales, of
230 wrapping paper and other wrapping materials when used in
231 preparing poultry or poultry products for delivery, shipment,
232 or sale by the producer, processor, packer, or seller of such
233 poultry or poultry products, including pallets used in
234 shipping poultry and egg products, paper or other materials
235 used for lining boxes or other containers in which poultry or
236 poultry products are packed together with any other materials
237 placed in such containers for the delivery, shipment, or sale
238 of poultry or poultry products.

239 (21) The gross proceeds of the sales of all
240 antibiotics, hormones and hormone preparations, drugs,
241 medicines or medications, vitamins, minerals or other
242 nutrients, and all other feed ingredients including
243 concentrates, supplements, and other feed ingredients when
244 such substances are used as ingredients in mixing and
245 preparing feed for fish raised to be sold on a commercial
246 basis, livestock, and poultry. Such exemption herein granted
247 shall be in addition to exemptions now provided by law for
248 feed for fish raised to be sold on a commercial basis,
249 livestock, and poultry, but not including prepared foods for
250 dogs or cats.

251 (22) The gross proceeds of the sale, or sales, of
252 seedlings, plants, shoots, and slips which are to be used for



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253 planting vegetable gardens or truck farms and other
254 agricultural purposes. Nothing herein shall be construed to
255 exempt, or exclude from the computation of the tax levied,
256 assessed, or payable, the gross proceeds of the sale, or the
257 use of plants, seedlings, shoots, slips, nursery stock, and
258 floral products, except as hereinabove exempted.

259 (23) The gross proceeds of the sale, or sales, of
260 fabricated steel tube sections, when produced and fabricated
261 in this state by any person, firm, or corporation for any
262 vehicular tunnel for highway vehicular traffic, when sold by
263 the manufacturer or fabricator thereof, and also the gross
264 proceeds of the sale, or sales, of steel which enters into and
265 becomes a component part of such fabricated steel tube
266 sections of said tunnel.

267 (24) The gross proceeds from sales of admissions to any
268 theatrical production, symphonic or other orchestral concert,
269 ballet, or opera production when the concert or production is
270 presented by any society, association, guild, or workshop
271 group, organized within this state, whose members or some of
272 whose members regularly and actively participate in the
273 concerts or productions for the purposes of providing a
274 creative outlet for the cultural and educational interests of
275 its members, and of promoting such interests for the
276 betterment of the community by presenting the productions to
277 the general public for an admission charge. The employment of
278 a paid director or conductor to assist in any such
279 presentation described in this subdivision shall not be
280 construed to prohibit the exemptions herein provided.



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281 (25) The gross proceeds of sales of "herbicides" for
282 agricultural uses by whomsoever sold. The term herbicides, as
283 used in this subdivision, means any substance or mixture of
284 substances intended to prevent, destroy, repel, or retard the
285 growth of weeds or plants. The term includes preemergence
286 herbicides, postemergence herbicides, lay-by herbicides,
287 pasture herbicides, defoliant herbicides, and desiccant
288 herbicides.

289 (26) The Alabama Chapter of the Cystic Fibrosis
290 Research Foundation and the Jefferson Tuberculosis Sanatorium
291 and any of their departments or agencies, heretofore or
292 hereafter organized and existing in good faith in the State of
293 Alabama for purposes other than for pecuniary gain and not for
294 individual profit, shall be exempted from the computation of
295 the tax on the gross proceeds of all sales levied, assessed,
296 or payable.

297 (27) The gross proceeds from the sale or sales of fuel
298 for use or consumption aboard commercial fishing vessels are
299 exempt from the computation of all sales taxes levied,
300 assessed, or payable under this division or levied under any
301 county or municipal sales tax law.

302 (28) The gross proceeds from the sales of rope, fishing
303 nets, tools, or any substitute used directly in the process of
304 commercial fishing by a holder of a commercial license issued
305 pursuant to Chapter 12 of Title 9.

306 (29) The gross proceeds of sales of sawdust, wood
307 shavings, wood chips, and other like materials sold for use as
308 chicken litter by poultry producers and poultry processors.



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309 (30) The gross proceeds of the sales of all
310 antibiotics, hormones and hormone preparations, drugs,
311 medicines, and other medications including serums and
312 vaccines, vitamins, minerals, or other nutrients for use in
313 the production and growing of fish, livestock, and poultry by
314 whomsoever sold. The exemption herein granted shall be in
315 addition to the exemption provided by law for feed for fish,
316 livestock, and poultry, and in addition to the exemptions
317 provided by law for the above-enumerated substances and
318 products when mixed and used as ingredients in fish,
319 livestock, and poultry feed.

320 (31) The gross proceeds of the sale or sales of all
321 medicines prescribed by physicians for persons who are 65
322 years of age or older, and when the prescriptions are filled
323 by licensed pharmacists, shall be exempted under this division
324 or under any county or municipal sales tax law. The exemption
325 provided in this section shall not apply to any medicine
326 purchased in any manner other than as is herein provided.

327 For the purposes of this subdivision, proof of age may
328 be accomplished by filing with the dispensing pharmacist any
329 one or more of the following documents:

330 a. The name and claim number as shown on a Medicare
331 card issued by the United States Social Security
332 Administration.

333 b. A certificate executed by any adult person having
334 knowledge of the fact that the person for whom the medicine
335 was prescribed is not less than 65 years of age.

336 c. An affidavit executed by any adult person having



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337 knowledge of the fact that the person for whom the medicine
338 was prescribed is not less than 65 years of age.

339 For the purposes of this subdivision, any person filing
340 a false proof of age shall be guilty of a misdemeanor and upon
341 conviction thereof shall be punished by a fine of one hundred
342 dollars (\$100).

343 (32) There shall be exempted from the tax levied by
344 this division the gross receipts of sales of grass sod of all
345 kinds and character when in the original state of production
346 or condition of preparation for sale, when the sales are made
347 by the producer or members of the producer's family or for the
348 producer by those employed by the producer to assist in the
349 production thereof; provided, that nothing herein shall be
350 construed to exempt sales of sod by a person engaged in the
351 business of selling plants, seedlings, nursery stock, or
352 floral products.

353 (33) The gross receipts of sales of the following items
354 or materials that are necessary in the farm-to-market
355 production of tomatoes when such items or materials are used
356 by the producer or members of the producer's family or for the
357 producer by those employed by the producer to assist in the
358 production thereof: Twine for tying tomatoes, tomato stakes,
359 field boxes (wooden boxes used to take tomatoes from the
360 fields to shed), and tomato boxes used in shipments to
361 customers.

362 (34) The gross proceeds from the sale of liquefied
363 petroleum gas or natural gas sold to be used for agricultural
364 purposes.



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365 (35) The gross receipts of sales from state nurseries
366 of forest tree seedlings.

367 (36) The gross receipts of sales of forest tree seed by
368 the state.

369 (37) The gross receipts of sales of Lespedeza bicolor
370 and other species of perennial plant seed and seedlings sold
371 for wildlife and game food production purposes by the state.

372 (38) The gross receipts of any aircraft manufactured,
373 sold, and delivered in this state if the aircraft are not
374 permanently domiciled in Alabama and are removed to another
375 state.

376 (39) The gross proceeds from the sale or sales of all
377 diesel fuel used for off-highway agricultural purposes.

378 (40) The gross proceeds from sales of admissions to any
379 sporting event that:

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

382 b. Is hosted by a not-for-profit corporation organized
383 and existing under the laws of the State of Alabama; and

384 c. Determines a national championship of a national
385 organization, including, but not limited to, the Professional
386 Golfers Association of America, the Tournament Players
387 Association, the United States Golf Association, the United
388 States Tennis Association, and the National Collegiate
389 Athletic Association; and

390 d. Has not been held in the State of Alabama on more
391 than one prior occasion, provided, however, that for such
392 purpose the Professional Golfers Association Championship, the



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393 United States Open Golf Championship, the United States
394 Amateur Golf Championship of the United States Golf
395 Association, and the United States Open Tennis Championship
396 shall each be treated as a separate event.

397 (41) The gross receipts from the sale of any aircraft
398 and replacement parts, components, systems, supplies, and
399 sundries affixed or used on the aircraft and ground support
400 equipment and vehicles used by or for the aircraft to or by a
401 certificated or licensed air carrier with a hub operation
402 within this state, for use in conducting intrastate,
403 interstate, or foreign commerce for transporting people or
404 property by air. For the purpose of this subdivision, the
405 words "hub operation within this state" shall be construed to
406 have both of the following criteria:

407 a. There originates from the location 15 or more flight
408 departures and five or more different first-stop destinations
409 five days per week for six or more months during the calendar
410 year.

411 b. Passengers or property or both are regularly
412 exchanged at the location between flights of the same or a
413 different certificated or licensed air carrier.

414 (42) The gross receipts from the sale of hot or cold
415 food and beverage products sold to or by a certificated or
416 licensed air carrier with a hub operation within this state,
417 for use in conducting intrastate, interstate, or foreign
418 commerce for transporting people or property by air. For the
419 purpose of this subdivision, the words "hub operation within
420 this state" shall be construed to have all of the following



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421 criteria:

422 a. There originates from the location 15 or more flight
423 departures and five or more different first-stop destinations
424 five days per week for six or more months during the calendar
425 year.

426 b. Passengers or property or both are regularly
427 exchanged at the location between flights of the same or a
428 different certificated or licensed air carrier.

429 (43) The gross receipts from the sale of any aviation
430 jet fuel to a certificated or licensed air carrier purchased
431 for use in scheduled all-cargo operations being conducted on
432 international flights or in international commerce. For
433 purposes of this subdivision, the following words or terms
434 shall be defined and interpreted as follows:

435 a. Air Carrier. Any person, firm, corporation, or
436 entity undertaking by any means, directly or indirectly, to
437 provide air transportation.

438 b. All-Cargo Operations. Any flight conducted by an air
439 carrier for compensation or hire other than a passenger
440 carrying flight, except passengers as specified in 14 C.F.R. §
441 121.583(a) or 14 C.F.R. § 135.85, as amended.

442 c. International Commerce. Any air carrier engaged in
443 all-cargo operations transporting goods for compensation or
444 hire on international flights.

445 d. International Flights. Any air carrier conducting
446 scheduled all-cargo operations between any point within the 50
447 states of the United States and the District of Columbia and
448 any point outside the 50 states of the United States and the



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449 District of Columbia, including any interim stops within the
450 United States so long as the ultimate origin or destination of
451 the aircraft is outside the United States and the District of
452 Columbia.

453 (44) The gross proceeds of the sale or sales of the
454 following:

455 a. Drill pipe, casing, tubing, and other pipe used for
456 the exploration for or production of oil, gas, sulphur, or
457 other minerals in offshore federal waters.

458 b. Tangible personal property exclusively used for the
459 exploration for or production of oil, gas, sulphur, or other
460 minerals in offshore federal waters.

461 c. Fuel and supplies for use or consumption aboard
462 boats, ships, aircraft, and towing vessels when used
463 exclusively in transporting persons or property between a
464 point in Alabama and a point or points in offshore federal
465 waters for the exploration for or production of oil, gas,
466 sulphur, or other minerals in offshore federal waters.

467 d. Drilling equipment that is used for the exploration
468 for or production of oil, gas, sulphur, or other minerals,
469 that is built for exclusive use outside this state and that
470 is, on completion, removed forthwith from this state.

471 The delivery of items exempted by this subdivision to
472 the purchaser or lessee in this state does not disqualify the
473 purchaser or lessee from the exemption if the property is
474 removed from the state by any means, including by the use of
475 the purchaser's or lessee's own facilities.

476 The shipment to a place in this state of equipment



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477 exempted by this subdivision for further assembly or
478 fabrication does not disqualify the purchaser or lessee from
479 the exemption if on completion of the further assembly or
480 fabrication the equipment is removed forthwith from this
481 state. This subdivision applies to a sale that may occur when
482 the equipment exempted is further assembled or fabricated if
483 on completion the equipment is removed forthwith from this
484 state.

485 (45) The gross receipts derived from all bingo games
486 and operations that are conducted in compliance with validly
487 enacted legislation authorizing the conduct of such games and
488 operations, and which comply with the distribution
489 requirements of the applicable local laws; provided that the
490 exemption from sales taxation granted by this subdivision
491 shall apply only to gross receipts taxable under subdivision
492 (2) of Section 40-23-2. It is further provided that this
493 exemption shall not apply to any gross receipts from the sale
494 of tangible personal property, such as concessions, novelties,
495 food, beverages, etc. The exemption provided for in this
496 section shall be limited to those games and operations by
497 organizations that have qualified for exemption under the
498 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
499 (19), or which are defined in 26 U.S.C. § 501(d).

500 (46) The gross receipts derived from the sale or sales
501 of fruit or other agricultural products by the person or
502 company, as defined in Section 40-23-1, that planted or
503 cultivated and harvested the fruit or agricultural product,
504 when the land is owned or leased by the seller.



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505 (47) The gross receipts derived from the sale or sales
506 of all domestically mined or produced coal, coke, and coke
507 by-products used in cogeneration plants.

508 (48) The gross receipts from the sale or sales of
509 metal, other than gold or silver, when such metal is purchased
510 for the purpose of transferring such metal to an investment
511 trust in exchange for shares or other units, each of which are
512 both publicly traded and represent fractional undivided
513 beneficial interests in the trust's net assets, including
514 metal stored in warehouses located in this state, as well as
515 the gross proceeds from the sale or other transfer of such
516 metal to or from the investment trust in exchange for shares
517 or other units that are publicly traded and represent
518 fractional undivided beneficial interests in the trust's net
519 assets but not to the extent that metal is transferred to or
520 from the investment trust in exchange for consideration other
521 than such publicly traded shares or other units. For purposes
522 of this subdivision, the term "metals" includes, but is not
523 limited to, copper, aluminum, nickel, zinc, tin, lead, and
524 other similar metals typically used in commercial and
525 industrial applications.

526 (49)a. For the period commencing on October 1, 2012,
527 and ending May 30, 2027, the gross receipts from the sale of
528 parts, components, and systems that become a part of a fixed
529 or rotary wing military aircraft or certified transport
530 category aircraft that undergoes conversion, reconfiguration,
531 or general maintenance so long as the address of the aircraft
532 for FAA registration is not in the state; provided, however,



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533 that this exemption shall not apply to a local sales tax
534 unless previously exempted by local law or approved by
535 resolution of the local governing body.

536 b. The exemption authorized by this subdivision shall
537 not be available for sales of parts, components, or systems
538 for new contracts or projects entered into after May 30, 2027,
539 unless the Legislature enacts legislation to continue or
540 reinstate the exemption for new contracts or projects after
541 that date. No action or inaction on the part of the
542 Legislature shall reduce, suspend, or disqualify sales of
543 parts, components, or systems from the exemption in any past
544 year or future years until May 30, 2030, with respect to
545 contracts or projects entered into on or before May 30, 2027;
546 it being the sole intent that failure of the Legislature to
547 enact legislation to reinstate the exemption for new contracts
548 or projects after May 30, 2027, shall affect only the
549 availability of the exemption to new contracts and projects
550 after that date and shall not affect availability of the
551 exemption for contracts or projects entered into on or before
552 May 30, 2027, for which the exemption shall be available until
553 May 30, 2030.

554 (50) The gross proceeds from the sale or sales within
555 school buildings of lunches to pupils of kindergarten,
556 grammar, and high schools, either public or private, that are
557 not sold for profit.

558 (51) The gross proceeds of services provided by
559 photographers, including, but not limited to, sitting fees and
560 consultation fees, even when provided as part of a transaction



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561 ultimately involving the sale of one or more photographs, so
562 long as the exempt services are separately stated to the
563 customer on a bill of sale, invoice, or like memorialization
564 of the transaction. For transactions occurring before October
565 1, 2017, neither the Department of Revenue nor local tax
566 officials may seek payment for sales tax not collected. With
567 regard to such transactions in which sales tax was collected
568 and remitted on services provided by photographers, neither
569 the taxpayer nor the entity remitting sales tax shall have the
570 right to seek refund of such tax.

571 (52) a. For the period commencing on June 1, 2018, and
572 ending 10 years thereafter, unless extended by an act of the
573 Legislature, the gross proceeds of sales of bullion or money,
574 as defined in Section 40-1-1(7).

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

577 1. Bullion. Gold, silver, platinum, palladium, or a
578 combination of each precious metal, that has gone through a
579 refining process and for which the item's value depends on its
580 mass and purity, and not on its form, numismatic value, or
581 other value. The term includes bullion in the form of bars,
582 ingots, rounds, or coins that meet the requirements set forth
583 above. Qualifying bullion may contain other metals or
584 substances, provided that the other substances are minimal in
585 value compared with the value of the gold, silver, platinum,
586 or palladium and the other substances do not add value to the
587 item. For purposes of this subparagraph, "gold, silver,
588 platinum, or palladium" does not include jewelry or works of



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589 art.

590 2. Mass. An item's mass is its weight in precious
591 metal.

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

595 4. Purity. An item's purity is the proportion of
596 precious metal contained within.

597 c. In order for bullion to qualify for the sales tax
598 exemption, gold, silver, platinum, and palladium items must
599 meet all of the following requirements:

600 1. Must be refined.

601 2. Must contain at least 80 percent gold, silver,
602 platinum, or palladium or some combination of these metals.

603 3. The sales price of the item must fluctuate with and
604 depend on the market price of the underlying precious metal,
605 and not on the item's rarity, condition, age, or other
606 external factor.

607 (53) a. The gross proceeds of the initial retail sales
608 of adaptive equipment that is permanently affixed to a motor
609 vehicle.

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

612 1. Adaptive Equipment. Equipment not generally used by
613 persons with normal mobility that is appropriate for use in a
614 motor vehicle and that is not normally provided by a motor
615 vehicle manufacturer.

616 2. Motor Vehicle. A vehicle as defined in Section



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617 40-12-240.

618 3. Motor Vehicle Manufacturer. Every person engaged in
619 the business of constructing or assembling vehicles or
620 manufactured homes.

621 c. In order to qualify for the exemption provided for
622 herein, the adaptive equipment must be separately stated to
623 the customer on a bill of sale, invoice, or like
624 memorialization of the transaction.

625 (54) For the period commencing on October 1, 2022, and
626 ending September 30, 2027, unless extended by an act of the
627 Legislature, the gross receipts derived from the sale of
628 producer value added agricultural products when the sale is
629 made by the producer or by the producer's immediate family, or
630 for the producer by the producer's employees.

631 (55) The gross proceeds of the sale or sales of hearing
632 instruments as defined in Section 34-14-1, including hearing
633 aids. The exemption provided in this subdivision shall not
634 apply to county or municipal sales taxes unless approved by
635 resolution or ordinance adopted by the local governing body.

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

642 Section 2. This act shall become effective on September
643 1, 2024.



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House of Representatives

647 Read for the first time and referred06-Feb-24
648 to the House of Representatives
649 committee on Ways and Means
650 Education
651
652 Read for the second time and placed28-Feb-24
653 on the calendar:
654 1 amendment
655
656 Read for the third time and passed29-Feb-24
657 as amended
658 Yeas 102
659 Nays 0
660 Abstains 1

661
662
663
664
665

John Treadwell
Clerk