HB269

M3FGWHW-1

By Representatives Colvin, Woods

RFD: Ways and Means Education

First Read: 29-Feb-24

SYNOPSIS:

Under existing law, the sale and lease of aircraft and replacement parts by air carriers are exempt from sales, use, and lease taxes under certain conditions. This bill would remove the requirement that the air carrier have a hub operation in this state.

Also under existing law, the gross receipts of certain aircraft manufactured, sold, and delivered in the state are exempt from sales and use taxes. This bill would revise this exemption to provide that the aircraft may be manufactured or delivered in this state and to provide further for how aircraft are deemed domiciled in this state.

A BILL

TO BE ENTITLED

AN ACT

Relating to state sales and use taxes and lease or rental taxes; to amend Section 40-23-4, Code of Alabama 1975, to revise the current sales and use tax exemption for certain aircraft and parts, to remove the requirements that air carriers have a hub operation in this state; and to revise the current exemption for certain aircraft to provide that the aircraft can be manufactured or delivered in this state and to provide further for how aircraft are domiciled in this state; and to amend Section 40-12-223, Code of Alabama 1975, to revise the current lease tax exemption for certain aircraft and parts, to remove the requirements that air carriers have a hub operation in this state.

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

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

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

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

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

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

(7) The gross receipts from the business on which, or for engaging in which, a license or privilege tax is levied by or under Sections 40-21-50, 40-21-53, and 40-21-56 through 40-21-60; provided, that nothing contained in this subdivision shall be construed to exempt or relieve the person or persons operating the business enumerated in these sections from the

payments of the tax levied by this division upon or measured by the gross proceeds of sales of any tangible personal property, except gas and water, the gross receipts from the sale of which are the measure of the tax levied by Section 40-21-50, merchandise or other tangible commodities sold at retail by the persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by this division.

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

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

(10) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships, vessels, towing vessels, or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, or other watercraft (herein for purposes of this exemption being referred to as "vessels") engaged in foreign or international commerce or in interstate

commerce; provided, that nothing in this division shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships, other watercraft, and commercial fishing vessels of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources.

For purposes of this subdivision, it shall be presumed that vessels engaged in the transportation of cargo between ports in the State of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the State of Alabama and ports in other states are engaged in foreign or international commerce or interstate commerce, as the case may be. For the purposes of this subdivision, the engaging in foreign or international commerce or interstate commerce shall not require that the vessel involved deliver cargo to or receive cargo from a port in the State of Alabama. For purposes of this subdivision, vessels carrying passengers for hire, and no cargo, between ports in the State of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the State of Alabama and ports in other states shall be engaged in foreign or international commerce or interstate commerce, as the case may be, if, and only if, both of the following conditions are met: (i) The vessel in question is a vessel of at least 100 gross tons; and (ii) the vessel in question has an unexpired certificate of inspection issued by the United States Coast Guard or by the proper authority of a foreign country for a foreign vessel, which certificate is recognized as acceptable under the laws of the United States. Vessels that are engaged in foreign or international commerce or interstate commerce shall be deemed for the purposes of this subdivision to remain in such commerce while awaiting or under repair in a port of the State of Alabama if the vessel returns after such repairs are completed to engaging in foreign or international commerce or interstate commerce. For purposes of this subdivision, seismic or geophysical vessels which are engaged either in seismic or geophysical tests or evaluations exclusively in offshore federal waters or in traveling to or from conducting such tests or evaluations shall be deemed to be engaged in international or foreign commerce. For purposes of this subdivision, proof that fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce may be accomplished by the merchant or seller securing the duly signed certificate of the vessel owner, operator, or captain or such person's respective agent, on a form prescribed by the department, that the fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce. Any person filing a false certificate shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) for each offense. Each false certificate filed shall constitute a separate offense. Any person filing a false certificate shall be liable to the department for all taxes imposed by this division upon the merchant or seller, together with any interest or penalties thereon, by reason of the sale or sales of fuel and supplies applicable to the false certificate. If a merchant or seller of fuel and supplies secures the certificate herein mentioned, properly completed, the merchant or seller shall not be liable for the taxes imposed by this division, if the merchant or seller had no knowledge that the certificate was false when it was filed with the merchant or seller.

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

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

(13) The gross proceeds of the sale or sales of materials, equipment, and machinery that, at any time, enter into and become a component part of ships, vessels, towing vessels or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, other watercraft and commercial fishing vessels of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the

State of Alabama Department of Conservation and Natural Resources. Additionally, the gross proceeds from the sale or sales of lifeboats, personal flotation devices, ring life buoys, survival craft equipment, distress signals, EPIRB's, fire extinguishers, injury placards, waste management plans and logs, marine sanitation devices, navigation rulebooks, navigation lights, sound signals, navigation day shapes, oil placard cards, garbage placards, FCC SSL, stability instructions, first aid equipment, compasses, anchor and radar reflectors, general alarm systems, bilge pumps, piping, and discharge and electronic position fixing devices which are used on the aforementioned watercraft.

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

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

(16) The gross proceeds from the sale of all devices or

facilities, and all identifiable components thereof, or materials for use therein, acquired primarily for the control, reduction, or elimination of air or water pollution and the gross proceeds from the sale of all identifiable components of, or materials used or intended for use in, structures built primarily for the control, reduction, or elimination of air and water pollution.

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

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

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

(20) The gross proceeds of the sale, or sales, of wrapping paper and other wrapping materials when used in

preparing poultry or poultry products for delivery, shipment, or sale by the producer, processor, packer, or seller of such poultry or poultry products, including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes or other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment, or sale of poultry or poultry products.

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

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

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

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

(25) The gross proceeds of sales of "herbicides" for agricultural uses by whomsoever sold. The term herbicides, as used in this subdivision, means any substance or mixture of substances intended to prevent, destroy, repel, or retard the growth of weeds or plants. The term includes preemergence herbicides, postemergence herbicides, lay-by herbicides,

pasture herbicides, defoliant herbicides, and desiccant herbicides.

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

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

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

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

(30) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines, and other medications including serums and vaccines, vitamins, minerals, or other nutrients for use in the production and growing of fish, livestock, and poultry by whomsoever sold. The exemption herein granted shall be in

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

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

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

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

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

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

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

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

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

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

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

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

(37) The gross receipts of sales of Lespedeza bicolor and other species of perennial plant seed and seedlings sold

for wildlife and game food production purposes by the state.

(38) The gross receipts from the sale of any aircraft manufactured, ~~sold, and~~ or delivered in this state, if the aircraft ~~are~~ is not permanently domiciled in Alabama and ~~are~~is removed to another state.

a. An aircraft shall be considered not permanently domiciled in Alabama under this subdivision if either of the following non-exclusive conditions is true:

1. The hanger, airstrip, or other housing unit which the aircraft is intended to leave from and return to in the regular course of use is located outside of Alabama, or

2. The buyer is an air carrier, foreign air carrier or intrastate air carrier or operator, as defined by Section 40101 of Title 49 of the United States Code, 49 USC, Section 40101, and operating pursuant to Part 121 or Part 129, or conducting scheduled or unscheduled services pursuant to Part 91 or Part 135; and the buyer’s headquarters is not in Alabama on the date of purchase of the aircraft.

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

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

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

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

c. Determines a national championship of a national organization, including, but not limited to, the Professional

Golfers Association of America, the Tournament Players Association, the United States Golf Association, the United States Tennis Association, and the National Collegiate Athletic Association; and

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

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

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

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

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

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

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

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

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

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

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

d. International Flights. Any air carrier conducting scheduled all-cargo operations between any point within the 50 states of the United States and the District of Columbia and any point outside the 50 states of the United States and the District of Columbia, including any interim stops within the United States so long as the ultimate origin or destination of the aircraft is outside the United States and the District of Columbia.

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

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

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

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

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

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

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

(45) The gross receipts derived from all bingo games and operations that are conducted in compliance with validly enacted legislation authorizing the conduct of such games and operations, and which comply with the distribution requirements of the applicable local laws; provided that the exemption from sales taxation granted by this subdivision shall apply only to gross receipts taxable under subdivision (2) of Section 40-23-2. It is further provided that this exemption shall not apply to any gross receipts from the sale of tangible personal property, such as concessions, novelties, food, beverages, etc. The exemption provided for in this section shall be limited to those games and operations by organizations that have qualified for exemption under the

provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or (19), or which are defined in 26 U.S.C. § 501(d).

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

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

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

(49)a. For the period commencing on October 1, 2012, and ending May 30, 2027, the gross receipts from the sale of parts, components, and systems that become a part of a fixed or rotary wing military aircraft or certified transport category aircraft that undergoes conversion, reconfiguration, or general maintenance so long as the address of the aircraft for FAA registration is not in the state; provided, however, that this exemption shall not apply to a local sales tax unless previously exempted by local law or approved by resolution of the local governing body.

b. The exemption authorized by this subdivision shall not be available for sales of parts, components, or systems for new contracts or projects entered into after May 30, 2027, unless the Legislature enacts legislation to continue or reinstate the exemption for new contracts or projects after that date. No action or inaction on the part of the Legislature shall reduce, suspend, or disqualify sales of parts, components, or systems from the exemption in any past year or future years until May 30, 2030, with respect to contracts or projects entered into on or before May 30, 2027; it being the sole intent that failure of the Legislature to enact legislation to reinstate the exemption for new contracts or projects after May 30, 2027, shall affect only the availability of the exemption to new contracts and projects after that date and shall not affect availability of the exemption for contracts or projects entered into on or before May 30, 2027, for which the exemption shall be available until May 30, 2030.

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

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

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

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

1. Bullion. Gold, silver, platinum, palladium, or a combination of each precious metal, that has gone through a refining process and for which the item's value depends on its mass and purity, and not on its form, numismatic value, or other value. The term includes bullion in the form of bars,

ingots, rounds, or coins that meet the requirements set forth above. Qualifying bullion may contain other metals or substances, provided that the other substances are minimal in value compared with the value of the gold, silver, platinum, or palladium and the other substances do not add value to the item. For purposes of this subparagraph, "gold, silver, platinum, or palladium" does not include jewelry or works of art.

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

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

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

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

1. Must be refined.

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

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

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

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

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

2. Motor Vehicle. A vehicle as defined in Section 40-12-240.

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

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

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

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

Section 2. Section 40-12-223, Code of Alabama 1975, is amended to read as follows:

"§40-12-223

There are exempted from the computation of the amount of the tax levied, assessed, or payable under this article all of the following:

(1) The gross proceeds accruing from the leasing or rental of a film or films to a lessee who charges, or proposes to charge, admission for viewing the film or films.

(2) The gross proceeds accruing from any charge in respect to the use of docks or docking facilities furnished for boats or other craft operated on waterways.

(3) The gross proceeds accruing from any charge made by a landlord to a tenant in respect of the leasing or furnishing of tangible personal property to be used on the premises of real property leased by the same landlord to the same tenant for use as a residence or dwelling place, including mobile homes.

(4) The gross proceeds accruing from the leasing or rental of tangible personal property to a lessee who acquires possession of the property for the purpose of leasing or renting to another the same property under a leasing or rental transaction subject to this article.

(5) The gross proceeds accruing from any charge made by a landlord to a tenant in respect to the leasing or furnishing of tangible personal property to be used on the premises of any room or rooms, lodging, or accommodations leased or rented to transients in any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or

accommodations are regularly furnished to transients for a consideration.

(6) The gross proceeds accruing from the leasing or rental of tangible personal property which the state is prohibited from taxing under the Constitution or laws of the United States or under the constitution of the state.

(7) The gross proceeds accruing from the leasing or rental of nuclear fuel assemblies together with the nuclear material contained therein and other nuclear material used or useful in the production of electricity and assemblies containing ionizing radiation sources together with the ionizing radiation sources contained therein used or useful in medical treatment or scientific research.

(8) A transaction in which the lessor leases a truck or tractor-trailer or semitrailer for operation over the public roads and highways and such lessor furnishes a driver or drivers for each vehicle, and the transaction shall be deemed to constitute the rendition of service and not a "leasing or rental" within the meaning of this article.

(9) The gross proceeds accruing from the leasing or rental of vehicles in interchange between regulated motor carriers on a per diem basis.

(10) The gross proceeds accruing from the leasing or rental of all structures, devices, facilities, and identifiable components of any thereof acquired primarily for the control, reduction, or elimination of air or water pollution, and the gross proceeds accruing from the leasing or rental of all materials used or intended for use in structures

built primarily for the control, reduction, or elimination of air and water pollution.

(11) The gross proceeds derived by the lessor, which term includes a sublessor, from the leasing or rental of tangible personal property when the lessor and lessee, which term includes a sublessee, are wholly-owned subsidiary corporations of the same parent corporation or one is the wholly-owned subsidiary of the other; provided, that the appropriate sales or use tax, if any was due, has been paid on the item of personal property; and provided further, that in the event of any subsequent subleasing of the tangible personal property to any person other than any sister, parent, or subsidiary corporation, any privilege or license tax due and payable with respect to that subsequent subleasing under the provisions of this article shall be paid.

(12) The gross proceeds accruing from a transaction which involves the leasing or rental of vessels or railroad equipment which are engaged in interstate or foreign commerce, or both.

(13) The gross proceeds accruing from the leasing or rental of aircraft, replacement parts, components, systems, sundries, and supplies affixed or used on the aircraft and all ground support equipment and vehicles used by or for the aircraft to or by a certificated or licensed air carrier ~~with a hub operation within this state~~, for use in conducting intrastate, interstate, or foreign commerce for transporting people or property by air. ~~For the purpose of this subdivision, the words "hub operation within this state" shall~~

~~be construed to have both of the following criteria:~~

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

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

(14) The gross proceeds derived by the lessor, which term includes a sublessor, from the leasing of tangible personal property under all of the following conditions:

a. Prior to being leased under the lease subject to this exemption, the leased tangible personal property shall have been owned, or considered to be owned for either Alabama or federal income tax purposes or both, or subject to acquisition pursuant to a binding contract, by the lessee or by a corporation, partnership, or other entity controlled by, or under common control with, the lessee.

b. The leased tangible personal property, or the right to ownership thereof, shall have been acquired by the lessor from the lessee or a corporation, partnership, or other entity controlled by, or under common control with, that lessee and leased back to the lessee under a lease that is considered a lease and not a sale for either Alabama or federal income tax purposes, or both, and that has a term of not less than 15 years, except that the lessor and the lessee may agree in the lease or any subsequent amendment thereof for the termination of the lease on any date through purchase of the leased tangible personal property by the lessee, which right to purchase the property shall be exercisable solely at the option of the lessee.

c. The appropriate sales or use tax levied by the state shall have been paid with respect to the acquisition or use of the leased tangible personal property, or, alternatively, the acquisition or use of that property shall be exempt by law from such sales or use tax.

d. The leased tangible personal property shall be installed in or about an industrial plant or other real property that was specially constructed or modified for the location and use of the tangible personal property and that is owned, or considered to be owned, for either Alabama or federal income tax purposes or both, by a corporation, partnership, or other entity controlled by, or under common control with, the lessee of such tangible personal property.

e. The leased tangible property shall be used only by a lessee engaged in the iron and steel industry, and the exemption from the tax levied by this article shall apply only to the gross proceeds derived from leases that become binding contracts of the parties thereto within 180 calendar days following the date on which the act adding the exemption contained in this subsection (14) shall become effective.

(15) The gross proceeds accruing from a motor vehicle lease transaction for a duration of at least 180 days with the federal government, or any state, county, or municipal entity within the state, including a public school board or an individual public school, or any entity eligible for a sales

tax exemption under federal law or Section 40-23-5."

Section 3. This act shall become effective on September 1, 2024.