

1 SB213
2 173287-1
3 By Senators Scofield, Livingston, Ward, Stutts, Melson, Reed,
4 Dial and Whatley
5 RFD: Finance and Taxation Education
6 First Read: 11-FEB-16

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8 SYNOPSIS: This bill would encourage accelerated
9 investment in broadband infrastructure by private
10 business by providing an exemption from sales and
11 use tax for equipment and materials incorporated
12 into or used to operate any qualifying broadband
13 telecommunications network facility.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 To amend Sections 40-23-1, as amended by Act
20 2015-535, 2015 Second Special Session, 40-23-4, and 40-23-62
21 of the Code of Alabama 1975, to provide a sales and use tax
22 exemption for equipment or materials incorporated into or used
23 to operate any qualifying broadband telecommunications network
24 facility.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 40-23-1, as amended by Act
2 2015-535, 2015 Second Special Session, 40-23-4, and 40-23-62
3 of the Code of Alabama 1975, are amended to read as follows:

4 "§40-23-1.

5 "(a) For the purpose of this division, the following
6 terms shall have the respective meanings ascribed by this
7 section:

8 "(1) PERSON or COMPANY. Used interchangeably,
9 includes any individual, firm, copartnership, association,
10 corporation, receiver, trustee, or any other group or
11 combination acting as a unit and the plural as well as the
12 singular number, unless the intention to give a more limited
13 meaning is disclosed by the context.

14 "(2) DEPARTMENT. The Department of Revenue of the
15 State of Alabama.

16 "(3) COMMISSIONER. The Commissioner of Revenue of
17 the State of Alabama.

18 "(4) TAX YEAR or TAXABLE YEAR. The calendar year.

19 "(5) SALE or SALES. Installment and credit sales and
20 the exchange of properties as well as the sale thereof for
21 money, every closed transaction constituting a sale. Provided,
22 however, a transaction shall not be closed or a sale completed
23 until the time and place when and where title is transferred
24 by the seller or seller's agent to the purchaser or
25 purchaser's agent, and for the purpose of determining transfer
26 of title, a common carrier or the U. S. Postal Service shall
27 be deemed to be the agent of the seller, regardless of any

1 F.O.B. point and regardless of who selects the method of
2 transportation, and regardless of by whom or the method by
3 which freight, postage, or other transportation charge is
4 paid. Provided further that, where billed as a separate item
5 to and paid by the purchaser, the freight, postage, or other
6 transportation charge paid to a common carrier or the U.S.
7 Postal Service is not a part of the selling price.

8 "(6) GROSS PROCEEDS OF SALES. The value proceeding
9 or accruing from the sale of tangible personal property, and
10 including the proceeds from the sale of any property handled
11 on consignment by the taxpayer, including merchandise of any
12 kind and character without any deduction on account of the
13 cost of the property sold, the cost of the materials used,
14 labor or service cost, interest paid, any consumer excise
15 taxes that may be included within the sales price of the
16 property sold, or any other expenses whatsoever, and without
17 any deductions on account of losses; provided, that cash
18 discounts allowed and taken on sales shall not be included,
19 and "gross proceeds of sales" shall not include the sale price
20 of property returned by customers when the full sales price
21 thereof is refunded either in cash or by credit. The term
22 "gross proceeds of sale" shall also mean and include the
23 reasonable and fair market value of any tangible personal
24 property previously purchased at wholesale which is withdrawn
25 or used from the business or stock and used or consumed in
26 connection with a business, and shall also mean and include
27 the reasonable and fair market value of any tangible personal

1 property previously purchased at wholesale which is withdrawn
2 from the business or stock and used or consumed by any person
3 so withdrawing the same, except property which has been
4 previously withdrawn from business or stock and so used or
5 consumed with respect to which property the tax has been paid
6 because of previous withdrawal, use, or consumption, except
7 property which enters into and becomes an ingredient or
8 component part of tangible personal property or products
9 manufactured or compounded for sale and not for the personal
10 and private use or consumption of any person so withdrawing,
11 using, or consuming the same, and except refinery, residue, or
12 fuel gas, whether in a liquid or gaseous state, that has been
13 generated by, or is otherwise a by-product of, a
14 petroleum-refining process, which gas is then utilized in the
15 process to generate heat or is otherwise utilized in the
16 distillation or refining of petroleum products.

17 "In the case of the retail sale of equipment,
18 accessories, fixtures, and other similar tangible personal
19 property used in connection with the sale of commercial mobile
20 services as defined herein, or in connection with satellite
21 television services, at a price below cost, "gross proceeds of
22 sale" shall only include the stated sales price thereof and
23 shall not include any sales commission or rebate received by
24 the seller as a result of the sale. As used herein, the term
25 "commercial mobile services" shall have the same meaning as
26 that term has in 47 U.S.C. Sections 153(n) and 332(d), as in
27 effect from time to time.

1 "(7) TAXPAYER. Any person liable for taxes
2 hereunder.

3 "(8) GROSS RECEIPTS. The value proceeding or
4 accruing from the sale of tangible personal property,
5 including merchandise and commodities of any kind and
6 character, all receipts actual and accrued, by reason of any
7 business engaged in, not including, however, interest,
8 discounts, rentals of real estate or royalties, and without
9 any deduction on account of the cost of the property sold, the
10 cost of the materials used, labor or service cost, interest
11 paid, any consumer excise taxes that may be included in the
12 sales price of the property sold, or any other expenses
13 whatsoever and without any deductions on account of losses.
14 The term "gross receipts" shall also mean and include the
15 reasonable and fair market value of any tangible personal
16 property previously purchased at wholesale which is withdrawn
17 or used from the business or stock and used or consumed in
18 connection with a business, and shall also mean and include
19 the reasonable and fair market value of any tangible personal
20 property previously purchased at wholesale which is withdrawn
21 from the business or stock and used or consumed by any person
22 so withdrawing the same, except property which has been
23 previously withdrawn from business or stock and so used or
24 consumed and with respect to which property the tax has been
25 paid because of previous withdrawal, use, or consumption,
26 except property which enters into and becomes an ingredient or
27 component part of tangible personal property or products

1 manufactured or compounded for sale as provided in subdivision
2 (9) and not for the personal and private use or consumption of
3 any person so withdrawing, using, or consuming the same, and
4 except refinery, residue, or fuel gas, whether in a liquid or
5 gaseous state, that has been generated by, or is otherwise a
6 by-product of, a petroleum-refining process, which gas is then
7 utilized in the process to generate heat or is otherwise
8 utilized in the distillation or refining of petroleum
9 products.

10 "(9) WHOLESALE SALE or SALE AT WHOLESALE. Any one of
11 the following:

12 "a. A sale of tangible personal property by
13 wholesalers to licensed retail merchants, jobbers, dealers, or
14 other wholesalers for resale and does not include a sale by
15 wholesalers to users or consumers, not for resale.

16 "b. A sale of tangible personal property or
17 products, including iron ore, and including the furnished
18 container and label of such property or products, to a
19 manufacturer or compounder which enter into and become an
20 ingredient or component part of the tangible personal property
21 or products which the manufacturer or compounder manufactures
22 or compounds for sale, whether or not such tangible personal
23 property or product used in manufacturing or compounding a
24 finished product is used with the intent that it becomes a
25 component of the finished product; provided, however, that it
26 is the intent of this section that no sale of capital
27 equipment, machinery, tools, or product shall be included in

1 the term "wholesale sale." The term "capital equipment,
2 machinery, tools, or product" shall mean property that is
3 subject to depreciation allowances for Alabama income tax
4 purposes.

5 "c. A sale of containers intended for one-time use
6 only, and the labels thereof, when containers are sold without
7 contents to persons who sell or furnish containers along with
8 the contents placed therein for sale by persons.

9 "d. A sale of pallets intended for one-time use only
10 when pallets are sold without contents to persons who sell or
11 furnish pallets along with the contents placed thereon for
12 sale by persons.

13 "e. A sale to a manufacturer or compounder, of
14 crowns, caps, and tops intended for one-time use employed and
15 used upon the containers in which a manufacturer or compounder
16 markets his products.

17 "f. A sale of containers to persons engaged in
18 selling or otherwise supplying or furnishing baby chicks to
19 growers thereof where containers are used for the delivery of
20 chicks or a sale of containers for use in the delivery of eggs
21 by the producer thereof to the distributor or packer of eggs
22 even though containers used for delivery of baby chicks or
23 eggs may be recovered for reuse.

24 "g. A sale of bagging and ties used in preparing
25 cotton for market.

26 "h. A sale to meat packers, manufacturers,
27 compounders, or processors of meat products of all casings

1 used in molding or forming wieners and Vienna sausages even
2 though casings may be recovered for reuse.

3 "i. A sale of commercial fish feed including
4 concentrates, supplements, and other feed ingredients when
5 substances are used as ingredients in mixing and preparing
6 feed for fish raised to be sold on a commercial basis.

7 "j. A sale of tangible personal property to any
8 person engaging in the business of leasing or renting tangible
9 personal property to others, if tangible personal property is
10 purchased for the purpose of leasing or renting it to others
11 under a transaction subject to the privilege or license tax
12 levied in Article 4 of Chapter 12 of this title against any
13 person engaging in the business of leasing or renting tangible
14 personal property to others.

15 "k. A purchase or withdrawal of parts or materials
16 from stock by any person licensed under this division where
17 parts or materials are used in repairing or reconditioning the
18 tangible personal property of a licensed person, which
19 tangible personal property is a part of the stock of goods of
20 a licensed person, offered for sale by him, and not for use or
21 consumption of a licensed person.

22 "(10) SALE AT RETAIL or RETAIL SALE. All sales of
23 tangible personal property except those above defined as
24 wholesale sales. The quantities of goods sold or prices at
25 which sold are immaterial in determining whether or not a sale
26 is at retail. Sales of building materials to contractors,
27 builders, or landowners for resale or use in the form of real

1 estate are retail sales in whatever quantity sold. Sales of
2 building materials, fixtures, or other equipment to a
3 manufacturer or builder of modular buildings for use in
4 manufacturing, building, or equipping a modular building
5 ultimately becoming a part of real estate situated in the
6 State of Alabama are retail sales, and the use, sale, or
7 resale of building shall not be subject to the tax. Sales of
8 tangible personal property to undertakers and morticians are
9 retail sales and subject to the tax at the time of purchase,
10 but are not subject to the tax on resale to the consumer.
11 Sales of tangible personal property or products to
12 manufacturers, quarry operators, mine operators, or
13 compounders, which are used or consumed by them in
14 manufacturing, mining, quarrying, or compounding and do not
15 become an ingredient or component part of the tangible
16 personal property manufactured or compounded as provided in
17 subdivision (9) are retail sales. The term "sale at retail" or
18 "retail sale" shall also mean and include the withdrawal, use,
19 or consumption of any tangible personal property by any one
20 who purchases same at wholesale, except property which has
21 been previously withdrawn from the business or stock and so
22 used or consumed and with respect to which property tax has
23 been paid because of previous withdrawal, use, or consumption,
24 except property which enters into and becomes an ingredient or
25 component part of tangible personal property or products
26 manufactured or compounded for sale as provided in subdivision
27 (9) and not for the personal and private use or consumption of

1 any person so withdrawing, using, or consuming the same; and
2 wholesale purchaser shall report and pay the taxes thereon. In
3 the case of the sale of equipment, accessories, fixtures, and
4 other similar tangible personal property used in connection
5 with the sale of commercial mobile services as defined in
6 subdivision (6) above, or in connection with satellite
7 television services, at a price below cost, the term "sale at
8 retail" and "retail sale" shall include those sales, and those
9 sales shall not also be taxable as a withdrawal, use, or
10 consumption of such tangible personal property.

11 "(11) BUSINESS. All activities engaged in, or caused
12 to be engaged in, with the object of gain, profit, benefit, or
13 advantage, either direct or indirect, and not excepting
14 subactivities producing marketable commodities used or
15 consumed in the main business activity, each of which
16 subactivities shall be considered business engaged in, taxable
17 in the class in which it falls.

18 "(12) AUTOMOTIVE VEHICLE. A power shovel, dragline,
19 crawler, crawler crane, ditcher, or any similar machine which
20 is self-propelled, in addition to self-propelled machines
21 which are used primarily as instruments of conveyance.

22 "(13) PREPAID TELEPHONE CALLING CARD. A sale of a
23 prepaid telephone calling card or a prepaid authorization
24 number, or both, shall be deemed the sale of tangible personal
25 property subject to the tax imposed on the sale of tangible
26 personal property pursuant to this chapter. For purposes of
27 this subdivision, the sale of prepaid wireless service that is

1 evidenced by a physical card constitutes the sale of a prepaid
2 telephone calling card, and the sale of prepaid wireless
3 service that is not evidenced by a physical card constitutes
4 the sale of a prepaid authorization number.

5 "(14) PREPAID WIRELESS SERVICE. The right to use
6 mobile telecommunications service, which must be paid for in
7 advance and that is sold in predetermined units or dollars of
8 which the number declines with use in a known amount, and
9 which may include rights to use non-telecommunications
10 services or to download digital products or digital content.
11 For purposes of this subdivision, mobile telecommunications
12 service has the meaning ascribed by Section 40-21-120.

13 "(15) CONSUMABLE VAPOR PRODUCT. Any nicotine liquid
14 solution or other material containing nicotine that is
15 depleted when used as a vapor product.

16 "(16) VAPOR PRODUCTS. Any non-lighted,
17 noncombustible product that employs a mechanical heating
18 element, battery, or electronic circuit regardless of shape or
19 size and that can be used to produce vapor from nicotine in a
20 solution. The term includes any vapor cartridge or other
21 container of nicotine in a solution or other form that is
22 intended to be used with or in an electronic cigarette,
23 electronic cigar, electronic cigarillo, electronic pipe, or
24 similar product or device. The term does not include any
25 product regulated by the United States Food and Drug
26 Administration under Chapter V of the Federal Food, Drug, and
27 Cosmetic Act.

1 "(17) BROADBAND TELECOMMUNICATIONS NETWORK FACILITY.

2 Any electronics, equipment, transmission facility, fiber optic
3 or copper cable, and any other property used directly or
4 indirectly to transmit broadband signals capable of
5 transmission speeds of at least 10 megabits per second of
6 download speed and one megabit per second of upload speed.

7 "(b) The use within this state of tangible personal
8 property by the manufacturer thereof, as building materials in
9 the performance of a construction contract, shall, for the
10 purposes of this division, be considered as a retail sale
11 thereof by manufacturer, who shall also be construed as the
12 ultimate consumer of materials or property, and who shall be
13 required to report transaction and pay the sales tax thereon,
14 based upon the reasonable and fair market price thereof at the
15 time and place where same are used or consumed by him or it.
16 Where the contractor is the manufacturer or compounder of
17 ready-mix concrete or asphalt plant mix used in the
18 performance of a contract, whether the ready-mix concrete or
19 asphalt plant mix is manufactured or compounded at the job
20 site or at a fixed or permanent plant location, the tax
21 applies only to the cost of the ingredients that become a
22 component part of the ready-mix concrete or the asphalt plant
23 mix. The provisions of this subsection shall not apply to any
24 tangible personal property which is specifically exempted from
25 the tax levied in this division.

26 "(c) The sale of lumber by a lumber manufacturer to
27 a trucker for resale is a sale at wholesale as sales are

1 defined herein where the trucker is either a licensed dealer
2 in lumber or, if a resident of Alabama, has registered with
3 the Department of Revenue, and has received therefrom a
4 certificate of registration or, if a nonresident of this state
5 purchasing lumber for resale outside the State of Alabama, has
6 furnished to the lumber manufacturer his name, address and the
7 vehicle license number of the truck in which the lumber is to
8 be transported, which name, address, and vehicle license
9 number shall be shown on the sales invoice rendered by the
10 lumber manufacturer. The certificate provided for herein shall
11 be valid for the calendar year of its issuance and may be
12 renewed from year to year on application to the Department of
13 Revenue on or before January 31 of each succeeding year;
14 provided, that if not renewed the certificate shall become
15 invalid for the purpose of this division on February 1.

16 "(d) The dispensing or transferring of ophthalmic
17 materials, including lenses, frames, eyeglasses, contact
18 lenses, and other therapeutic optic devices, to a patient by a
19 licensed ophthalmologist, as a part of his or her professional
20 service, shall, for purposes of this division, constitute a
21 sale, subject to the state sales tax. The licensed
22 ophthalmologist or licensed optometrist shall collect the
23 state sales tax. In no event shall the providing of
24 professional services in connection with the dispensing or
25 transferring of ophthalmic materials, including dispensing
26 fees or fitting fees, by a licensed ophthalmologist or
27 licensed optometrist be considered a sale subject to the state

1 sales tax. When the ophthalmic materials are purchased by a
2 consumer covered by a third party benefit plan, including
3 Medicare, the sales tax shall be applicable to the amount that
4 the ophthalmologist, optometrist, or optician is reimbursed by
5 the third party benefit plan plus the amount that the consumer
6 pays to the ophthalmologist, optometrist, or optician at the
7 time of the sale. All transfers of ophthalmic materials by
8 opticians or optometrists shall be considered retail sales
9 subject to the state sales tax. The term supplier shall
10 include but not be limited to optical laboratories, ophthalmic
11 material wholesalers, or anyone selling ophthalmic materials
12 to ophthalmologists.

13 "(e) Notwithstanding the above, the withdrawal, use,
14 or consumption of a manufactured product by the manufacturer
15 thereof in quality control testing performed by employees or
16 independent contractors of the taxpayer, for purposes of this
17 division, shall not be deemed or considered to constitute a
18 transaction subject to sales tax, nor shall a gift by the
19 manufacturer of a manufactured product, withdrawn from the
20 manufacturer's inventory, to an entity listed in 26 U.S.C.
21 Sections 170(b) or (c), be considered a transaction subject to
22 sales tax.

23 "(f) Notwithstanding the foregoing, a gift by a
24 retailer of a product or products where the aggregate retail
25 value of any single gift is equal to or less than ten thousand
26 dollars (\$10,000), withdrawn from the retailer's inventory, to
27 an entity listed in 26 U.S.C. Sections 170(b) or (c) shall not

1 be deemed or considered to constitute a transaction subject to
2 sales and use tax.

3 "§40-23-4.

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

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

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

19 "(3) The gross proceeds of the sale, or sales, of
20 seeds for planting purposes and baby chicks and poults.
21 Nothing herein shall be construed to exempt or exclude from
22 the computation of the tax levied, assessed, or payable, the
23 gross proceeds of the sale or sales of plants, seedlings,
24 nursery stock, or floral products.

25 "(4) The gross proceeds of sales of insecticides and
26 fungicides when used for agricultural purposes or when used by
27 persons properly permitted by the Department of Agriculture

1 and Industries or any applicable local or state governmental
2 authority for structural pest control work and feed for
3 livestock and poultry, but not including prepared food for
4 dogs and cats.

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

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

18 "(7) The gross receipts from the business on which,
19 or for engaging in which, a license or privilege tax is levied
20 by or under the provisions of Sections 40-21-50, 40-21-53, and
21 40-21-56 through 40-21-60; provided, that nothing contained in
22 this subdivision shall be construed to exempt or relieve the
23 person or persons operating the business enumerated in said
24 sections from the payments of the tax levied by this division
25 upon or measured by the gross proceeds of sales of any
26 tangible personal property, except gas and water, the gross
27 receipts from the sale of which are the measure of the tax

1 levied by said Section 40-21-50, merchandise or other tangible
2 commodities sold at retail by said persons, unless the gross
3 proceeds of sale thereof are otherwise specifically exempted
4 by the provisions of this division.

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

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

20 "(10) The gross proceeds from the sale or sales of
21 fuel and supplies for use or consumption aboard ships,
22 vessels, towing vessels, or barges, or drilling ships, rigs or
23 barges, or seismic or geophysical vessels, or other watercraft
24 (herein for purposes of this exemption being referred to as
25 "vessels") engaged in foreign or international commerce or in
26 interstate commerce; provided, that nothing in this division
27 shall be construed to exempt or exclude from the measure of

1 the tax herein levied the gross proceeds of sale or sales of
2 material and supplies to any person for use in fulfilling a
3 contract for the painting, repair, or reconditioning of
4 vessels, barges, ships, other watercraft, and commercial
5 fishing vessels of over five tons load displacement as
6 registered with the U.S. Coast Guard and licensed by the State
7 of Alabama Department of Conservation and Natural Resources.

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

1 the United States Coast Guard or by the proper authority of a
2 foreign country for a foreign vessel, which certificate is
3 recognized as acceptable under the laws of the United States.
4 Vessels which are engaged in foreign or international commerce
5 or interstate commerce shall be deemed for the purposes of
6 this subdivision to remain in such commerce while awaiting or
7 under repair in a port of the State of Alabama if such vessel
8 returns after such repairs are completed to engaging in
9 foreign or international commerce or interstate commerce. For
10 purposes of this subdivision, seismic or geophysical vessels
11 which are engaged either in seismic or geophysical tests or
12 evaluations exclusively in offshore federal waters or in
13 traveling to or from conducting such tests or evaluations
14 shall be deemed to be engaged in international or foreign
15 commerce. For purposes of this subdivision, proof that fuel
16 and supplies purchased are for use or consumption aboard
17 vessels engaged in foreign or international commerce or in
18 interstate commerce may be accomplished by the merchant or
19 seller securing the duly signed certificate of the vessel
20 owner, operator, or captain or their respective agent on a
21 form prescribed by the department that the fuel and supplies
22 purchased are for use or consumption aboard vessels engaged in
23 foreign or international commerce or in interstate commerce.
24 Any person filing a false certificate shall be guilty of a
25 misdemeanor and upon conviction shall be fined not less than
26 \$25 nor more than \$500 for each offense. Each false
27 certificate filed shall constitute a separate offense. Any

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

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

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

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

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

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

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

1 "(16) The gross proceeds from the sale of all
2 devices or facilities, and all identifiable components
3 thereof, or materials for use therein, acquired primarily for
4 the control, reduction, or elimination of air or water
5 pollution and the gross proceeds from the sale of all
6 identifiable components of or materials used or intended for
7 use in structures built primarily for the control, reduction,
8 or elimination of air and water pollution.

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

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

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

1 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
2 benefit of the patients therein.

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

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

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

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

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

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

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

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

17 "(27) The gross proceeds from the sale or sales of
18 fuel for use or consumption aboard commercial fishing vessels
19 are hereby exempt from the computation of all sales taxes
20 levied, assessed, or payable under the provisions of this
21 division or levied under any county or municipal sales tax
22 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 gross proceeds of sales of sawdust, wood
2 shavings, wood chips, and other like materials sold for use as
3 chicken litter by poultry producers and poultry processors.

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

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

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

25 "a. The name and claim number as shown on a
26 "Medicare" card issued by the United States Social Security
27 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
26 to take tomatoes from the fields to shed), and tomato boxes
27 used in shipments to customers.

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

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

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

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

12 "(37) The gross receipts of any aircraft
13 manufactured, sold, and delivered in this state if said
14 aircraft are not permanently domiciled in Alabama and are
15 removed to another state.

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

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

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

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

25 "c. Determines a national championship of a national
26 organization, including but not limited to the Professional
27 Golfers Association of America, the Tournament Players

1 Association, the United States Golf Association, the United
2 States Tennis Association, and the National Collegiate
3 Athletic Association; and

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

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

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

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

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

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

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

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

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

25 "b. All-Cargo Operations. Any flight conducted by an
26 air carrier for compensation or hire other than a passenger

1 carrying flight, except passengers as specified in 14 C.F.R.
2 §121.583(a) or 14 C.F.R. §135.85, as amended.

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

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

14 "(43) The gross proceeds of the sale or sales of the
15 following:

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

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

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

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

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

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

19 "(44) The gross receipts derived from all bingo
20 games and operations which are conducted in compliance with
21 validly enacted legislation authorizing the conduct of such
22 games and operations, and which comply with the distribution
23 requirements of the applicable local laws; provided that the
24 exemption from sales taxation granted by this subdivision
25 shall apply only to gross receipts taxable under subdivision
26 (2) of Section 40-23-2. It is further provided that this
27 exemption shall not apply to any gross receipts from the sale

1 of tangible personal property, such as concessions, novelties,
2 food, beverages, etc. The exemption provided for in this
3 section shall be limited to those games and operations by
4 organizations which have qualified for exemption under the
5 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
6 (19), or which are defined in 26 U.S.C. § 501(d).

7 "(45) The gross receipts derived from the sale or
8 sales of fruit or other agricultural products by the person or
9 corporation that planted, cultivated, and harvested such fruit
10 or agricultural product.

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

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

1 of this subdivision, the term metals includes, but is not
2 limited to, copper, aluminum, nickel, zinc, tin, lead, and
3 other similar metals typically used in commercial and
4 industrial applications.

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

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

20 "(50) The gross proceeds from the sale or sales of
21 equipment and materials incorporated into or used to operate a
22 broadband telecommunications network facility, as defined in
23 Section 40-23-1.

24 "(b) Any violation of any provision of this section
25 shall be punishable in a court of competent jurisdiction by a
26 fine of not less than \$500 and no more than \$2,000 and

1 imprisonment of not less than six months nor more than one
2 year in the county jail.

3 "§40-23-62.

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

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

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

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

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

22 "(5) All fertilizer; provided, that the word
23 "fertilizer" as used in this article shall not be construed to
24 include cottonseed meal when not in combination with other
25 material.

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

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

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

18 "(9) Cottonseed meal exchanged for cottonseed at or
19 by cotton gins.

20 "(10) Transportation, gas, water, or electricity, of
21 the kinds and natures, the rates and charges for which when
22 sold by public utilities, are customarily fixed and determined
23 by the Public Service Commission of Alabama or like regulatory
24 bodies.

25 "(11) Coal or coke to be stored, used, or consumed
26 by manufacturers, electric power companies and transportation

1 companies for use or consumption in the production of
2 by-products or the generation of heat or power used:

3 "a. In manufacturing tangible personal property for
4 sale;

5 "b. For the generation of electric power or energy
6 for use in manufacturing tangible personal property for sale
7 or for resale; or

8 "c. For the generation of motive power for
9 transportation.

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

1 evaluations exclusively in offshore federal waters or in
2 traveling to or from conducting such tests or evaluations
3 shall be deemed to be engaged in international or foreign
4 commerce. For purposes of this subdivision, proof that fuel
5 and supplies purchased are for use or consumption aboard
6 vessels engaged in foreign or international commerce or in
7 interstate commerce may be accomplished by the merchant or
8 seller securing the duly signed certificate of the vessel
9 owner, operator or captain or their respective agent on a form
10 prescribed by the department that the fuel and supplies
11 purchased are for use or consumption aboard vessels engaged in
12 foreign or international commerce or in interstate commerce.
13 Any person filing a false certificate shall be guilty of a
14 misdemeanor and upon conviction shall be fined not less than
15 \$25 nor more than \$500 for each offense. Each false
16 certificate filed shall constitute a separate offense. Any
17 person filing a false certificate shall be liable to the
18 department for all taxes imposed by this division upon the
19 merchant or seller, together with any interest or penalties
20 thereon, by reason of the sale or sales of fuel and supplies
21 applicable to such false certificate. If a merchant or seller
22 of fuel and supplies secures the certificate herein mentioned,
23 properly completed, such merchant or seller shall not be
24 liable for the taxes imposed by this division, if such
25 merchant or seller had no knowledge that such certificate was
26 false when it was filed with such merchant or seller.

1 "(13) Property stored, used, or consumed by the
2 State of Alabama, by the counties within the state or by
3 incorporated municipalities of the State of Alabama.

4 "(14) The use, storage, or consumption of materials,
5 equipment and machinery which, at any time, enter into and
6 become a component part of ships, vessels, towing vessels or
7 barges, or drilling ships, rigs or barges, or seismic or
8 geophysical vessels, other watercraft and commercial fishing
9 vessels of over five tons load displacement as registered with
10 the U.S. Coast Guard and licensed by the Department of
11 Conservation and Natural Resources. Additionally, the use,
12 storage, or consumption of lifeboats, personal flotation
13 devices, ring life buoys, survival craft equipment, distress
14 signals, EPIRB's, fire extinguishers, injury placards, waste
15 management plans and logs, marine sanitation devices,
16 navigation rulebooks, navigation lights, sound signals,
17 navigation day shapes, oil placard cards, garbage placards,
18 FCC SSL, stability instructions, first aid equipment,
19 compasses, anchor and radar reflectors, general alarm systems,
20 bilge pumps, piping, and discharge and electronic position
21 fixing devices on the aforementioned watercraft.

22 "(15) The use, storage, or consumption of fuel oil
23 purchased as fuel for kilns used in manufacturing
24 establishments.

25 "(16) Tangible personal property stored, used, or
26 consumed by county and city school boards within the State of
27 Alabama, independent school boards within the State of

1 Alabama, all educational institutions and agencies of the
2 State of Alabama, the counties within the state or any
3 incorporated municipality of the State of Alabama, and private
4 educational institutions operating within the State of Alabama
5 offering conventional and traditional courses of study, such
6 as those offered by public schools, colleges, or universities
7 within the State of Alabama; but not including nurseries, day
8 care centers, and home schools.

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

15 "(18) The storage, use, or consumption of all
16 devices or facilities, and all identifiable components thereof
17 or materials for use therein, used or placed in operation
18 primarily for the control, reduction or elimination of air or
19 water pollution, and the storage, use, or consumption of all
20 identifiable components of or materials used or intended for
21 use in structures built primarily for the control, reduction
22 or elimination of air or water pollution.

23 "(19) When dealers or distributors use parts taken
24 from stocks owned by them in making repairs without charge for
25 such parts to the owner of the property required pursuant to
26 warranty agreements entered into by manufacturers, such use
27 shall not constitute taxable sales to the manufacturers,

1 distributors or to the dealers, under this article, or under
2 any county use tax law.

3 "(20) The storage, use, or other consumption in this
4 state of religious magazines and publications. For the purpose
5 of this subdivision the words "religious magazines and
6 publications" shall be construed to mean printed or
7 illustrated lessons, notes and explanations distributed by
8 churches or other religious organizations free of charge to
9 pupils or students in Sunday schools, Bible classes or other
10 educational facilities established and maintained by churches
11 or similar religious organizations in this state.

12 "(21) The storage, use, or other consumption of
13 wrapping paper and other wrapping materials when used in
14 preparing poultry or poultry products for delivery, shipment
15 or sale by the producer, processor, packer, or seller of such
16 poultry or poultry products including pallets used in shipping
17 poultry and egg products, paper or other materials used for
18 lining boxes or other containers in which poultry or poultry
19 products are packed together with any other materials placed
20 in such containers for the delivery, shipment or sale of
21 poultry or poultry products.

22 "(22) The storage, use, or other consumption of all
23 antibiotics, hormones and hormone preparations, drugs,
24 medicines or medications, vitamins, minerals, or other
25 nutrients and all other feed ingredients including
26 concentrates, supplements and other feed ingredients when such
27 substances are used as ingredients in mixing and preparing

1 feed for livestock and poultry. Such exemption herein granted
2 shall be in addition to exemptions now provided by law for
3 feed for livestock and poultry, but not including prepared
4 foods for dogs and cats.

5 "(23) The use of seedlings, plants, shoots, and
6 slips which are to be used for planting vegetable gardens or
7 truck farms. Nothing herein shall be construed to exempt, or
8 exclude from the computation of the tax levied, assessed, or
9 payable, the use of plants, seedlings, shoots, slips, nursery
10 stock and floral products except as hereinabove exempted.

11 "(24) Fabricated steel tube sections, when produced
12 and fabricated in this state by any person, firm, or
13 corporation, for any vehicular tunnel for highway vehicular
14 traffic, when sold by the manufacturer or fabricator thereof,
15 and also steel which enters into and becomes a component part
16 of such fabricated steel tube sections of said tunnel, shall
17 be exempted from the provisions of this article and from the
18 computation of the amount of the tax levied, assessed or
19 payable under this article.

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

1 "(26) The Alabama Chapter of the Cystic Fibrosis
2 Research Foundation, and the Jefferson Tuberculosis Sanatorium
3 and any of their departments or agencies, heretofore or
4 hereafter organized and existing in good faith in the State of
5 Alabama for purposes other than for pecuniary gain and not for
6 individual profit, shall be exempted from the payment of the
7 state use tax levied under this article.

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

12 "The words commercial fishing vessels shall mean
13 vessels whose masters and owners are regularly and exclusively
14 engaged in fishing as their means of livelihood.

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

19 "(29) The storage, use, or other consumption of all
20 antibiotics, hormones and hormone preparations, drugs,
21 medicines and other medications including serums and vaccines,
22 vitamins, minerals or other nutrients for use in the
23 production and growing of fish, livestock, and poultry are
24 hereby specifically exempted from the payment of the state use
25 tax levied by this article. Such exemption as herein granted
26 shall be in addition to the exemptions now provided by law for
27 feed for fish, livestock, and poultry, and in addition to the

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

4 "(30) All medicines prescribed by physicians for
5 persons who are 65 years of age or older, and when said
6 prescriptions are filled by licensed pharmacists, shall be
7 exempted from the operation of the state use tax law levied by
8 this article, or by any county or municipal use tax law. The
9 exemptions provided in this subdivision shall not apply to any
10 medicine purchased in any manner other than as is herein
11 provided.

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

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

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

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

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

1 "(31) All diesel fuel used for off-highway
2 agricultural purposes.

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

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

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

20 "(33) The storage, use, or other consumption of any
21 aviation jet fuel used by an aircraft operated by a
22 certificated or licensed air carrier that purchases jet fuel
23 for use in scheduled all-cargo operations being conducted on
24 international flights or in international commerce. For
25 purposes of this subdivision, the following words or terms
26 shall be defined and interpreted as follows:

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

4 "b. All-Cargo Operations. Any flight conducted by an
5 air carrier for compensation or hire other than a passenger
6 carrying flight, except passengers as specified in 14 C.F.R.
7 §121.583(a) or 14 C.F.R. §135.85, as amended.

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

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

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

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

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

8 (35) The storage, use, or other consumption of the
9 following:

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

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

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

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

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

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

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

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

24 "(37) For the period commencing October 1, 2012, and
25 ending May 30, 2022, unless extended by joint resolution, all
26 parts, components, and systems that become a part of a fixed
27 or rotary wing military aircraft or certified transport

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

7 "(38) Lunches sold not for profit and within school
8 buildings to pupils of kindergarten, grammar, and high
9 schools, either public or private.

10 "(39) The gross proceeds from the sale or sales of
11 equipment and materials incorporated into or used to operate
12 any broadband telecommunications network facility, as defined
13 in Section 40-23-1."

14 Section 2. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.