

HB120 INTRODUCED



1 UT0NDG-1
2 By Representative Shedd
3 RFD: Ways and Means Education
4 First Read: 21-Mar-23
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SYNOPSIS:

Under existing law, the state imposes sales or use taxes upon the purchase of certain items. Counties and municipalities impose additional sales and use taxes. The purchase of certain items are exempt from these taxes.

This bill would establish the Alabama Broadband Investment Maximization Act to exempt the purchase of broadband equipment and supplies from sales and use tax.

A BILL
TO BE ENTITLED
AN ACT

Relating to sales and use tax; to establish the Alabama Broadband Investment Maximization Act; to amend Section 40-23-4, Code of Alabama 1975, to exempt the purchase of broadband equipment and supplies from sales and use tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and be cited as the Alabama Broadband Investment Maximization Act.

Section 2. Section 40-23-4, Code of Alabama 1975, is amended to read as follows:



HB120 INTRODUCED

29 "§40-23-4

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

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

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

45 (3) The gross proceeds of the sale, or sales, of seeds
46 for planting purposes and baby chicks and poults. Nothing
47 herein shall be construed to exempt or exclude from the
48 computation of the tax levied, assessed, or payable, the gross
49 proceeds of the sale or sales of plants, seedlings, nursery
50 stock, or floral products.

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



HB120 INTRODUCED

57 dogs and cats.

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

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

71 (7) The gross receipts from the business on which, or
72 for engaging in which, a license or privilege tax is levied by
73 or under Sections 40-21-50, 40-21-53, and 40-21-56 through
74 40-21-60; provided, that nothing contained in this subdivision
75 shall be construed to exempt or relieve the person or persons
76 operating the business enumerated in these sections from the
77 payments of the tax levied by this division upon or measured
78 by the gross proceeds of sales of any tangible personal
79 property, except gas and water, the gross receipts from the
80 sale of which are the measure of the tax levied by Section
81 40-21-50, merchandise or other tangible commodities sold at
82 retail by the persons, unless the gross proceeds of sale
83 thereof are otherwise specifically exempted by this division.

84 (8) The gross proceeds of sales or gross receipts of or



HB120 INTRODUCED

85 by any person, firm, or corporation, from the sale of
86 transportation, gas, water, or electricity, of the kinds and
87 natures, the rates and charges for which, when sold by public
88 utilities, are customarily fixed and determined by the Public
89 Service Commission of Alabama or like regulatory bodies.

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

99 (10) The gross proceeds from the sale or sales of fuel
100 and supplies for use or consumption aboard ships, vessels,
101 towing vessels, or barges, or drilling ships, rigs or barges,
102 or seismic or geophysical vessels, or other watercraft (herein
103 for purposes of this exemption being referred to as "vessels")
104 engaged in foreign or international commerce or in interstate
105 commerce; provided, that nothing in this division shall be
106 construed to exempt or exclude from the measure of the tax
107 herein levied the gross proceeds of sale or sales of material
108 and supplies to any person for use in fulfilling a contract
109 for the painting, repair, or reconditioning of vessels,
110 barges, ships, other watercraft, and commercial fishing
111 vessels of over five tons load displacement as registered with
112 the U.S. Coast Guard and licensed by the State of Alabama



HB120 INTRODUCED

113 Department of Conservation and Natural Resources.

114 For purposes of this subdivision, it shall be presumed
115 that vessels engaged in the transportation of cargo between
116 ports in the State of Alabama and ports in foreign countries
117 or possessions or territories of the United States or between
118 ports in the State of Alabama and ports in other states are
119 engaged in foreign or international commerce or interstate
120 commerce, as the case may be. For the purposes of this
121 subdivision, the engaging in foreign or international commerce
122 or interstate commerce shall not require that the vessel
123 involved deliver cargo to or receive cargo from a port in the
124 State of Alabama. For purposes of this subdivision, vessels
125 carrying passengers for hire, and no cargo, between ports in
126 the State of Alabama and ports in foreign countries or
127 possessions or territories of the United States or between
128 ports in the State of Alabama and ports in other states shall
129 be engaged in foreign or international commerce or interstate
130 commerce, as the case may be, if, and only if, both of the
131 following conditions are met: (i) The vessel in question is a
132 vessel of at least 100 gross tons; and (ii) the vessel in
133 question has an unexpired certificate of inspection issued by
134 the United States Coast Guard or by the proper authority of a
135 foreign country for a foreign vessel, which certificate is
136 recognized as acceptable under the laws of the United States.
137 Vessels that are engaged in foreign or international commerce
138 or interstate commerce shall be deemed for the purposes of
139 this subdivision to remain in such commerce while awaiting or
140 under repair in a port of the State of Alabama if the vessel



HB120 INTRODUCED

141 returns after such repairs are completed to engaging in
142 foreign or international commerce or interstate commerce. For
143 purposes of this subdivision, seismic or geophysical vessels
144 which are engaged either in seismic or geophysical tests or
145 evaluations exclusively in offshore federal waters or in
146 traveling to or from conducting such tests or evaluations
147 shall be deemed to be engaged in international or foreign
148 commerce. For purposes of this subdivision, proof that fuel
149 and supplies purchased are for use or consumption aboard
150 vessels engaged in foreign or international commerce or in
151 interstate commerce may be accomplished by the merchant or
152 seller securing the duly signed certificate of the vessel
153 owner, operator, or captain or such person's respective agent,
154 on a form prescribed by the department, that the fuel and
155 supplies purchased are for use or consumption aboard vessels
156 engaged in foreign or international commerce or in interstate
157 commerce. Any person filing a false certificate shall be
158 guilty of a misdemeanor and upon conviction shall be fined not
159 less than twenty-five dollars (\$25) nor more than five hundred
160 dollars (\$500) for each offense. Each false certificate filed
161 shall constitute a separate offense. Any person filing a false
162 certificate shall be liable to the department for all taxes
163 imposed by this division upon the merchant or seller, together
164 with any interest or penalties thereon, by reason of the sale
165 or sales of fuel and supplies applicable to the false
166 certificate. If a merchant or seller of fuel and supplies
167 secures the certificate herein mentioned, properly completed,
168 the merchant or seller shall not be liable for the taxes



HB120 INTRODUCED

169 imposed by this division, if the merchant or seller had no
170 knowledge that the certificate was false when it was filed
171 with the merchant or seller.

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

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

182 (13) The gross proceeds of the sale or sales of
183 materials, equipment, and machinery that, at any time, enter
184 into and become a component part of ships, vessels, towing
185 vessels or barges, or drilling ships, rigs or barges, or
186 seismic or geophysical vessels, other watercraft and
187 commercial fishing vessels of over five tons load displacement
188 as registered with the U.S. Coast Guard and licensed by the
189 State of Alabama Department of Conservation and Natural
190 Resources. Additionally, the gross proceeds from the sale or
191 sales of lifeboats, personal flotation devices, ring life
192 buoys, survival craft equipment, distress signals, EPIRB's,
193 fire extinguishers, injury placards, waste management plans
194 and logs, marine sanitation devices, navigation rulebooks,
195 navigation lights, sound signals, navigation day shapes, oil
196 placard cards, garbage placards, FCC SSL, stability



HB120 INTRODUCED

197 instructions, first aid equipment, compasses, anchor and radar
198 reflectors, general alarm systems, bilge pumps, piping, and
199 discharge and electronic position fixing devices which are
200 used on the aforementioned watercraft.

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

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

215 (16) The gross proceeds from the sale of all devices or
216 facilities, and all identifiable components thereof, or
217 materials for use therein, acquired primarily for the control,
218 reduction, or elimination of air or water pollution and the
219 gross proceeds from the sale of all identifiable components
220 of, or materials used or intended for use in, structures built
221 primarily for the control, reduction, or elimination of air
222 and water pollution.

223 (17) The gross proceeds of sales of tangible personal
224 property or the gross receipts of any business which the state



HB120 INTRODUCED

225 is prohibited from taxing under the Constitution or laws of
226 the United States or under the Constitution of this state.

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

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

242 (20) The gross proceeds of the sale, or sales, of
243 wrapping paper and other wrapping materials when used in
244 preparing poultry or poultry products for delivery, shipment,
245 or sale by the producer, processor, packer, or seller of such
246 poultry or poultry products, including pallets used in
247 shipping poultry and egg products, paper or other materials
248 used for lining boxes or other containers in which poultry or
249 poultry products are packed together with any other materials
250 placed in such containers for the delivery, shipment, or sale
251 of poultry or poultry products.

252 (21) The gross proceeds of the sales of all



HB120 INTRODUCED

253 antibiotics, hormones and hormone preparations, drugs,
254 medicines or medications, vitamins, minerals or other
255 nutrients, and all other feed ingredients including
256 concentrates, supplements, and other feed ingredients when
257 such substances are used as ingredients in mixing and
258 preparing feed for fish raised to be sold on a commercial
259 basis, livestock, and poultry. Such exemption herein granted
260 shall be in addition to exemptions now provided by law for
261 feed for fish raised to be sold on a commercial basis,
262 livestock, and poultry, but not including prepared foods for
263 dogs or cats.

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

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

280 (24) The gross proceeds from sales of admissions to any



HB120 INTRODUCED

281 theatrical production, symphonic or other orchestral concert,
282 ballet, or opera production when the concert or production is
283 presented by any society, association, guild, or workshop
284 group, organized within this state, whose members or some of
285 whose members regularly and actively participate in the
286 concerts or productions for the purposes of providing a
287 creative outlet for the cultural and educational interests of
288 its members, and of promoting such interests for the
289 betterment of the community by presenting the productions to
290 the general public for an admission charge. The employment of
291 a paid director or conductor to assist in any such
292 presentation described in this subdivision shall not be
293 construed to prohibit the exemptions herein provided.

294 (25) The gross proceeds of sales of "herbicides" for
295 agricultural uses by whomsoever sold. The term herbicides, as
296 used in this subdivision, means any substance or mixture of
297 substances intended to prevent, destroy, repel, or retard the
298 growth of weeds or plants. The term includes preemergence
299 herbicides, postemergence herbicides, lay-by herbicides,
300 pasture herbicides, defoliant herbicides, and desiccant
301 herbicides.

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



HB120 INTRODUCED

309 or payable.

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

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

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

322 (30) The gross proceeds of the sales of all
323 antibiotics, hormones and hormone preparations, drugs,
324 medicines, and other medications including serums and
325 vaccines, vitamins, minerals, or other nutrients for use in
326 the production and growing of fish, livestock, and poultry by
327 whomsoever sold. The exemption herein granted shall be in
328 addition to the exemption provided by law for feed for fish,
329 livestock, and poultry, and in addition to the exemptions
330 provided by law for the above-enumerated substances and
331 products when mixed and used as ingredients in fish,
332 livestock, and poultry feed.

333 (31) The gross proceeds of the sale or sales of all
334 medicines prescribed by physicians for persons who are 65
335 years of age or older, and when the prescriptions are filled
336 by licensed pharmacists, shall be exempted under this division



HB120 INTRODUCED

337 or under any county or municipal sales tax law. The exemption
338 provided in this section shall not apply to any medicine
339 purchased in any manner other than as is herein provided.

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

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

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

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

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

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



HB120 INTRODUCED

365 floral products.

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

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

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

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

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

385 (38) The gross receipts of any aircraft manufactured,
386 sold, and delivered in this state if the aircraft are not
387 permanently domiciled in Alabama and are removed to another
388 state.

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

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



HB120 INTRODUCED

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

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

397 c. Determines a national championship of a national
398 organization, including, but not limited to, the Professional
399 Golfers Association of America, the Tournament Players
400 Association, the United States Golf Association, the United
401 States Tennis Association, and the National Collegiate
402 Athletic Association; and

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

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

420 a. There originates from the location 15 or more flight



HB120 INTRODUCED

421 departures and five or more different first-stop destinations
422 five days per week for six or more months during the calendar
423 year.

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

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

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

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

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

448 a. Air Carrier. Any person, firm, corporation, or



HB120 INTRODUCED

449 entity undertaking by any means, directly or indirectly, to
450 provide air transportation.

451 b. All-Cargo Operations. Any flight conducted by an air
452 carrier for compensation or hire other than a passenger
453 carrying flight, except passengers as specified in 14 C.F.R. §
454 121.583(a) or 14 C.F.R. § 135.85, as amended.

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

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

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

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

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

474 c. Fuel and supplies for use or consumption aboard
475 boats, ships, aircraft, and towing vessels when used
476 exclusively in transporting persons or property between a



HB120 INTRODUCED

477 point in Alabama and a point or points in offshore federal
478 waters for the exploration for or production of oil, gas,
479 sulphur, or other minerals in offshore federal waters.

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

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

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

498 (45) The gross receipts derived from all bingo games
499 and operations that are conducted in compliance with validly
500 enacted legislation authorizing the conduct of such games and
501 operations, and which comply with the distribution
502 requirements of the applicable local laws; provided that the
503 exemption from sales taxation granted by this subdivision
504 shall apply only to gross receipts taxable under subdivision



HB120 INTRODUCED

505 (2) of Section 40-23-2. It is further provided that this
506 exemption shall not apply to any gross receipts from the sale
507 of tangible personal property, such as concessions, novelties,
508 food, beverages, etc. The exemption provided for in this
509 section shall be limited to those games and operations by
510 organizations that have qualified for exemption under the
511 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
512 (19), or which are defined in 26 U.S.C. § 501(d).

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

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

521 (48) The gross receipts from the sale or sales of
522 metal, other than gold or silver, when such metal is purchased
523 for the purpose of transferring such metal to an investment
524 trust in exchange for shares or other units, each of which are
525 both publicly traded and represent fractional undivided
526 beneficial interests in the trust's net assets, including
527 metal stored in warehouses located in this state, as well as
528 the gross proceeds from the sale or other transfer of such
529 metal to or from the investment trust in exchange for shares
530 or other units that are publicly traded and represent
531 fractional undivided beneficial interests in the trust's net
532 assets but not to the extent that metal is transferred to or



HB120 INTRODUCED

533 from the investment trust in exchange for consideration other
534 than such publicly traded shares or other units. For purposes
535 of this subdivision, the term "metals" includes, but is not
536 limited to, copper, aluminum, nickel, zinc, tin, lead, and
537 other similar metals typically used in commercial and
538 industrial applications.

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

549 b. The exemption authorized by this subdivision shall
550 not be available for sales of parts, components, or systems
551 for new contracts or projects entered into after May 30, 2027,
552 unless the Legislature enacts legislation to continue or
553 reinstate the exemption for new contracts or projects after
554 that date. No action or inaction on the part of the
555 Legislature shall reduce, suspend, or disqualify sales of
556 parts, components, or systems from the exemption in any past
557 year or future years until May 30, 2030, with respect to
558 contracts or projects entered into on or before May 30, 2027;
559 it being the sole intent that failure of the Legislature to
560 enact legislation to reinstate the exemption for new contracts



HB120 INTRODUCED

561 or projects after May 30, 2027, shall affect only the
562 availability of the exemption to new contracts and projects
563 after that date and shall not affect availability of the
564 exemption for contracts or projects entered into on or before
565 May 30, 2027, for which the exemption shall be available until
566 May 30, 2030.

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

571 (51) The gross proceeds of services provided by
572 photographers, including, but not limited to, sitting fees and
573 consultation fees, even when provided as part of a transaction
574 ultimately involving the sale of one or more photographs, so
575 long as the exempt services are separately stated to the
576 customer on a bill of sale, invoice, or like memorialization
577 of the transaction. For transactions occurring before October
578 1, 2017, neither the Department of Revenue nor local tax
579 officials may seek payment for sales tax not collected. With
580 regard to such transactions in which sales tax was collected
581 and remitted on services provided by photographers, neither
582 the taxpayer nor the entity remitting sales tax shall have the
583 right to seek refund of such tax.

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

588 b. For purposes of this subdivision, the following



HB120 INTRODUCED

589 words or terms shall be defined and interpreted as follows:

590 1. Bullion. Gold, silver, platinum, palladium, or a
591 combination of each precious metal, that has gone through a
592 refining process and for which the item's value depends on its
593 mass and purity, and not on its form, numismatic value, or
594 other value. The term includes bullion in the form of bars,
595 ingots, rounds, or coins that meet the requirements set forth
596 above. Qualifying bullion may contain other metals or
597 substances, provided that the other substances are minimal in
598 value compared with the value of the gold, silver, platinum,
599 or palladium and the other substances do not add value to the
600 item. For purposes of this subparagraph, "gold, silver,
601 platinum, or palladium" does not include jewelry or works of
602 art.

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

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

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

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

613 1. Must be refined.

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

616 3. The sales price of the item must fluctuate with and



HB120 INTRODUCED

617 depend on the market price of the underlying precious metal,
618 and not on the item's rarity, condition, age, or other
619 external factor.

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

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

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

629 2. Motor Vehicle. A vehicle as defined in Section
630 40-12-240.

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

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

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

644 (55) a. The gross proceeds derived from the sale of all



HB120 INTRODUCED

645 equipment, machinery, software, ancillary components,
646 appurtenances, accessories, or other infrastructure that is
647 used in whole or in part to:

648 1. Produce broadband communications services, including
649 broadcasting, distributing, sending, receiving, storing,
650 transmitting, retransmitting, amplifying, switching, providing
651 connectivity for, or routing communications services; or

652 2. Provide Internet access.

653 b. This subsection does not apply to the retail sale of
654 personal consumer electronics, including, but not limited to,
655 smartphones, computers and tablets, and consumer-grade modems
656 and Wi-Fi routers.

657 c. For the purpose of this subsection, the following
658 terms and phrases have the following meanings:

659 1. BROADBAND COMMUNICATION SERVICES. Telecommunication
660 services, mobile telecommunication services, video programming
661 services, or direct-to-home satellite television programming
662 services.

663 2. EQUIPMENT. Includes, but is not limited to, wires,
664 cables, fiber, conduits, antennas, poles, switches, routers,
665 amplifiers, rectifiers, repeaters, receivers, multiplexers,
666 duplexers, transmitters, circuit cards, insulating and
667 protective materials and cases, power equipment, backup power
668 equipment, diagnostic equipment, storage devices, modems, and
669 other general central office or headend equipment, such as
670 channel cards, frames, and cabinets, or equipment used in
671 successor technologies, including items used to monitor, test,
672 maintain, enable, or facilitate qualifying equipment,



HB120 INTRODUCED

673 machinery, software, ancillary components, appurtenances,
674 accessories, or other infrastructure that is used in whole or
675 in part to provide broadband communications services or
676 Internet access.

677 3. INTERNET ACCESS. A service that enables users to
678 connect to the Internet to access content, information, or
679 other services offered over the Internet, including:

680 (i) The purchase, use, or sale of telecommunications by
681 a provider of Internet access to the extent the
682 telecommunications are purchased, used, or sold to provide the
683 Internet access service or otherwise enable users to access
684 content, information, or other services offered over the
685 Internet.

686 (ii) Services that are incidental to the provision of
687 Internet access when furnished to users as part of the
688 Internet access service, such as a homepage, email and instant
689 messaging, to include voice-capable and video-capable email
690 and instant messaging, video clips, and personal electronic
691 storage capacity.

692 (iii) A homepage, email and instant messaging, to
693 include voice-capable and video-capable email and instant
694 messaging, video clips, and personal electronic storage
695 capacity, that are provided independently or packaged with
696 Internet access.

697 (iv) Does not include voice, audio, or video
698 programming, or other products and services that utilize
699 Internet protocol or a successor protocol and for which there
700 is a charge, regardless of whether the charge is separately



HB120 INTRODUCED

701 stated or aggregated with the charge for services for Internet
702 access.

703 d. The provisions of this subsection are effective for
704 the period commencing on October 1, 2023, and ending September
705 30, 2026, unless extended by an act of the Legislature.

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

712 Section 3. This act shall become effective October 1,
713 2023, following its passage and approval by the Governor, or
714 its otherwise becoming law.