

1 HB649
2 56674-1
3 By Representative Graham
4 RFD: Education Finance and Appropriations
5 First Read: 29-APR-03

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8 SYNOPSIS: This bill changes Alabama's Sales and Use
9 Tax Laws to conform to the requirements of the
10 Streamlined Sales and Use Tax Agreement as adopted
11 by the member states of the Streamlined Sales Tax
12 Project on November 12, 2002.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Sections 40-23-1, 40-23-2, 40-23-4,
19 40-23-6, 40-23-7, 40-23-9, 40-23-10, 40-23-12, 40-23-25,
20 40-23-26, 40-23-28, 40-23-30, 40-23-31, 40-23-35, 40-23-36,
21 11-3-11.1, 11-3-11.2, 11-3-11.3, 11-51-180, 11-51-181,
22 11-51-182, 11-51-183, 11-51-185, 11-51-200, 11-51-201,
23 11-51-202, 11-51-203, 11-51-205, 11-51-206, 11-51-207,
24 11-51-208, 11-51-210, 11-51-211, 40-12-7, 40-12-220, and
25 40-2A-2; to create new Sections 40-23-2.2, 40-23-7.1,
26 40-23-35.1, 40-23-36.1, 40-23-40, 40-23-41, and new Chapter
27 23A of Title 40 creating new Sections 40-23A-1, 40-23A-2,

1 40-23A-3, 40-23A-4 and 40-23A-5, new Chapter 23B of Title 40
2 creating new Sections 40-23B-1, 40-23B-2, 40-23B-3, 40-23B-4,
3 40-23B-5, 40-23B-6, 40-23B-7, 40-23B-8, 40-23B-9, 40-23B-10,
4 and 40-23B-11, and new Chapter 31 of Title 40 creating new
5 Sections 40-31-1, 40-31-2, 40-31-3, and 40-31-4, and new
6 Chapter 32 of Title 40 creating new Sections 40-32-1, 40-32-2,
7 40-32-3, 40-32-4, 40-32-5, and 40-32-6; and to repeal Sections
8 40-23-4.1, 40-23-37, 40-23-38, and Article 2 of Chapter 23 of
9 Title 40, consisting of Sections 40-23-60, 40-23-61, 40-23-62,
10 40-23-63, 40-23-64, 40-23-65, 40-23-66, 40-23-67, 40-23-68,
11 40-23-74, 40-23-75, 40-23-77, 40-23-82, 40-23-83, 40-23-85,
12 40-23-88, Code of Alabama 1975.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 40-23-1, 40-23-2, 40-23-4,
15 40-23-6, 40-23-7, 40-23-9, 40-23-10, 40-23-12, 40-23-25,
16 40-23-26, 40-23-28, 40-23-30, 40-23-31, 40-23-35, and
17 40-23-36, Code of Alabama 1975, are amended to read as
18 follows:

19 "§40-23-1.

20 "(a) For the purpose of this division, the following
21 terms shall have the respective meanings ascribed by this
22 section:

23 (1) PERSON or COMPANY. Used interchangeably,
24 includes any individual, firm, ~~copartnership~~, association,
25 corporation, receiver, trustee, estate, fiduciary, limited
26 liability company, limited liability partnership, or any other
27 legal entity or group or combination acting as a unit and the

1 plural as well as the singular number, unless the intention to
2 give a more limited meaning is disclosed by the context.

3 (2) DEPARTMENT. The Department of Revenue of the
4 State of Alabama.

5 (3) COMMISSIONER. The Commissioner of Revenue of the
6 State of Alabama.

7 (4) TAX YEAR or TAXABLE YEAR. The calendar year.

8 (5) SALE or SALES. Sold for a consideration, whether
9 the sale was effected by a transfer of title, or of possession
10 or of both, or a license to use or consume; whether the
11 transfer shall have been absolute or conditional, and by
12 whatever means it shall have been effected; and whether the
13 consideration be a price or rental in money, or by way of
14 exchange or barter. ~~Installment and credit sales and the~~
15 ~~exchange of properties as well as the sale thereof for money,~~
16 ~~every closed transaction constituting a sale. Provided,~~
17 ~~however, a transaction shall not be closed or a sale completed~~
18 ~~until the time and place when and where title is transferred~~
19 ~~by the seller or seller's agent to the purchaser or~~
20 ~~purchaser's agent, and for the purpose of determining transfer~~
21 ~~of title, a common carrier or the U. S. Postal Service shall~~
22 ~~be deemed to be the agent of the seller, regardless of any~~
23 ~~F.O.B. point and regardless of who selects the method of~~
24 ~~transportation, and regardless of by whom or the method by~~
25 ~~which freight, postage, or other transportation charge is~~
26 ~~paid. Provided further that, where billed as a separate item~~
27 ~~to and paid by the purchaser, the freight, postage, or other~~

1 ~~transportation charge paid to a common carrier or the U.S.~~
2 ~~Postal Service is not a part of the selling price.~~

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

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

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

24 (7) TAXPAYER. Any person liable for taxes hereunder.

25 (8) GROSS RECEIPTS. The value proceeding or accruing
26 from the sale of tangible personal property, including
27 merchandise and commodities of any kind and character, all

1 receipts actual and accrued, by reason of any business engaged
2 in, not including, however, interest, discounts, rentals of
3 real estate or royalties, and without any deduction on account
4 of the cost of the property sold, the cost of the materials
5 used, labor or service cost, interest paid, ~~any consumer~~
6 ~~excise taxes that may be included in the sales price of the~~
7 ~~property sold,~~ or any other expenses whatsoever and without
8 any deductions on account of losses. The term "gross
9 receipts" shall also mean and include the reasonable and fair
10 market value of any tangible personal property previously
11 purchased at wholesale which is withdrawn or used from the
12 business or stock and used or consumed in connection with a
13 business, and shall also mean and include the reasonable and
14 fair market value of any tangible personal property previously
15 purchased at wholesale which is withdrawn from the business or
16 stock and used or consumed by any person so withdrawing the
17 same, except property which has been previously withdrawn from
18 business or stock and so used or consumed and with respect to
19 which property the tax has been paid because of previous
20 withdrawal, use, or consumption, except property which enters
21 into and becomes an ingredient or component part of tangible
22 personal property or products manufactured or compounded for
23 sale as provided in subdivision (9) and not for the personal
24 and private use or consumption of any person so withdrawing,
25 using, or consuming the same, and except refinery, residue, or
26 fuel gas, whether in a liquid or gaseous state, that has been
27 generated by, or is otherwise a by-product of, a

1 petroleum-refining process, which gas is then utilized in the
2 process to generate heat or is otherwise utilized in the
3 distillation or refining of petroleum products.

4 (9) WHOLESALE SALE or SALE AT WHOLESALE. Any one of
5 the following:

6 a. A sale of tangible personal property by
7 wholesalers to licensed retail merchants, jobbers, dealers, or
8 other wholesalers for resale and does not include a sale by
9 wholesalers to users or consumers, not for resale.

10 b. A sale of tangible personal property or products,
11 including iron ore, and including the furnished container and
12 label of such property or products, to a manufacturer or
13 compounder which enter into and become an ingredient or
14 component part of the tangible personal property or products
15 which the manufacturer or compounder manufactures or compounds
16 for sale, whether or not such tangible personal property or
17 product used in manufacturing or compounding a finished
18 product is used with the intent that it becomes a component of
19 the finished product; provided, however, that it is the intent
20 of this section that no sale of capital equipment, machinery,
21 tools, or product shall be included in the term "wholesale
22 sale." The term "capital equipment, machinery, tools, or
23 product" shall mean property that is subject to depreciation
24 allowances for Alabama income tax purposes.

25 c. A sale of containers intended for one-time use
26 only, and the labels thereof, when containers are sold without

1 contents to persons who sell or furnish containers along with
2 the contents placed therein for sale by persons.

3 d. A sale of pallets intended for one-time use only
4 when pallets are sold without contents to persons who sell or
5 furnish pallets along with the contents placed thereon for
6 sale by persons.

7 e. A sale to a manufacturer or compounder, of
8 crowns, caps, and tops intended for one-time use employed and
9 used upon the containers in which a manufacturer or compounder
10 markets his products.

11 f. A sale of containers to persons engaged in
12 selling or otherwise supplying or furnishing baby chicks to
13 growers thereof where containers are used for the delivery of
14 chicks or a sale of containers for use in the delivery of eggs
15 by the producer thereof to the distributor or packer of eggs
16 even though containers used for delivery of baby chicks or
17 eggs may be recovered for reuse.

18 g. A sale of bagging and ties used in preparing
19 cotton for market.

20 h. A sale to meat packers, manufacturers,
21 compounders, or processors of meat products of all casings
22 used in molding or forming wieners and Vienna sausages even
23 though casings may be recovered for reuse.

24 i. A sale of commercial fish feed including
25 concentrates, supplements, and other feed ingredients when
26 substances are used as ingredients in mixing and preparing
27 feed for fish raised to be sold on a commercial basis.

1 j. A sale of tangible personal property to any
2 person engaging in the business of leasing or renting tangible
3 personal property to others, if tangible personal property is
4 purchased for the purpose of leasing or renting it to others
5 under a transaction subject to the privilege or license tax
6 levied in Article 4 of Chapter 12 of this title against any
7 person engaging in the business of leasing or renting tangible
8 personal property to others.

9 k. A purchase or withdrawal of parts or materials
10 from stock by any person licensed under this division where
11 parts or materials are used in repairing or reconditioning the
12 tangible personal property of a licensed person, which
13 tangible personal property is a part of the stock of goods of
14 a licensed person, offered for sale by him, and not for use or
15 consumption of a licensed person.

16 (10) SALE AT RETAIL or RETAIL SALE. All sales of
17 tangible personal property except those above defined as
18 wholesale sales. The quantities of goods sold or prices at
19 which sold are immaterial in determining whether or not a sale
20 is at retail. Sales of building materials to contractors,
21 builders, or landowners for resale or use in the form of real
22 estate are retail sales in whatever quantity sold. Sales of
23 building materials, fixtures, or other equipment to a
24 manufacturer or builder of modular buildings for use in
25 manufacturing, building, or equipping a modular building
26 ultimately becoming a part of real estate situated in the
27 State of Alabama are retail sales, and the use, sale, or

1 resale of building shall not be subject to the tax. Sales of
2 tangible personal property to undertakers and morticians are
3 retail sales and subject to the tax at the time of purchase,
4 but are not subject to the tax on resale to the consumer.
5 Sales of tangible personal property or products to
6 manufacturers, quarry operators, mine operators, or
7 compounders, which are used or consumed by them in
8 manufacturing, mining, quarrying, or compounding and do not
9 become an ingredient or component part of the tangible
10 personal property manufactured or compounded as provided in
11 subdivision (9) are retail sales. The term "sale at retail"
12 or "retail sale" shall also mean and include the withdrawal,
13 use, or consumption of any tangible personal property by any
14 one who purchases same at wholesale, except property which has
15 been previously withdrawn from the business or stock and so
16 used or consumed and with respect to which property tax has
17 been paid because of previous withdrawal, use, or consumption,
18 except property which enters into and becomes an ingredient or
19 component part of tangible personal property or products
20 manufactured or compounded for sale as provided in subdivision
21 (9) and not for the personal and private use or consumption of
22 any person so withdrawing, using, or consuming the same; and
23 wholesale purchaser shall report and pay the taxes thereon.
24 In the case of the sale of equipment, accessories, fixtures,
25 and other similar tangible personal property used in
26 connection with the sale of commercial mobile services as
27 defined in subdivision (6) above, or in connection with

1 satellite television services, at a price below cost, the term
2 "sale at retail" and "retail sale" shall include those sales,
3 and those sales shall not also be taxable as a withdrawal,
4 use, or consumption of such tangible personal property.

5 (11) BUSINESS. All activities engaged in, or caused
6 to be engaged in, with the object of gain, profit, benefit, or
7 advantage, either direct or indirect, and not excepting
8 subactivities producing marketable commodities used or
9 consumed in the main business activity, each of which
10 subactivities shall be considered business engaged in, taxable
11 in the class in which it falls.

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

16 (13) PREPAID TELEPHONE CALLING CARD. A sale of a
17 prepaid telephone calling card or a prepaid authorization
18 number, or both, shall be deemed the sale of tangible personal
19 property subject to the tax imposed on the sale of tangible
20 personal property pursuant to this chapter.

21 (14) a. Sales Price. The measure subject to sales
22 tax or use tax and includes the total amount of consideration,
23 including cash, credit, property, and services, for which
24 personal property or services are sold, valued in money,
25 whether received in money or otherwise, without any deduction
26 for the following:

27 1. The seller's cost of the property sold;

1 2. The cost of materials used, labor or service
2 cost, interest, losses, all costs of transportation to the
3 seller, all taxes imposed on the seller, and any other expense
4 of the seller;

5 3. Charges by the seller for any services necessary
6 to complete the sale, other than delivery and installation
7 charges;

8 4. Delivery charges;

9 5. The value of exempt personal property given to
10 the purchaser where taxable and exempt personal property have
11 been bundled together and sold by the seller as a single
12 product or piece of merchandise; and

13 6. Credit for any trade-in, except as allowed in
14 Sections 40-23-2 and 40-23-2.2.

15 b. Sales price shall not include the following:

16 1. Discounts, including cash, term, or coupons that
17 are not reimbursed by a third party that are allowed by a
18 seller and taken by a purchaser on a sale;

19 2. Interest, financing, and carrying charges from
20 credit extended on the sale of personal property or services,
21 if the amount is separately stated on the invoice, bill of
22 sale or similar document given to the purchaser; and

23 3. Any taxes legally imposed directly on the
24 consumer that are separately stated on the invoice, bill of
25 sale or similar document given to the purchaser.

26 (15) Tangible Personal Property. Personal property
27 that can be seen, weighed, measured, felt or touched, or that

1 is in any other manner perceptible to the senses. Tangible
2 personal property includes steam, prewritten computer
3 software, electricity, water and gas.

4 (16) Storage. Any keeping or retention in this
5 state for any purpose except sale in the regular course of
6 business or subsequent use solely outside this state of
7 tangible personal property purchased at retail.

8 (17) Use. The exercise of any right or power over
9 tangible personal property incident to the ownership of that
10 property, or by any transaction where possession is given,
11 except that it shall not include the sale of that property in
12 the regular course of business.

13 (18) Purchase. Personal property acquired for a
14 consideration, whether that acquisition was effected by a
15 transfer of title, or of possession or of both, or a license
16 to use or consume; whether the transfer shall have been
17 absolute or conditional, and by whatsoever means the same
18 shall have been effected; and whether the consideration be a
19 price or rental in money, or by way of exchange or barter.

20 (19) In this State or in the State. Within the
21 exterior limits of the state of Alabama, and includes all
22 territory within the limits owned by or ceded to the United
23 States of America.

24 (b) The use within this state of tangible personal
25 property by the manufacturer thereof, as building materials in
26 the performance of a construction contract, shall, for the
27 purposes of this division, be considered as a retail sale

1 thereof by manufacturer, who shall also be construed as the
2 ultimate consumer of materials or property, and who shall be
3 required to report transaction and pay the sales tax thereon,
4 based upon the reasonable and fair market price thereof at the
5 time and place where same are used or consumed by him or it.
6 Where the contractor is the manufacturer or compounder of
7 ready-mix concrete or asphalt plant mix used in the
8 performance of a contract, whether the ready-mix concrete or
9 asphalt plant mix is manufactured or compounded at the job
10 site or at a fixed or permanent plant location, the tax
11 applies only to the cost of the ingredients that become a
12 component part of the ready-mix concrete or the asphalt plant
13 mix. The provisions of this subsection shall not apply to any
14 tangible personal property which is specifically exempted from
15 the tax levied in this division.

16 (c) The sale of lumber by a lumber manufacturer to a
17 trucker for resale is a sale at wholesale as sales are defined
18 herein where the trucker is either a licensed dealer in lumber
19 or, if a resident of Alabama, has registered with the
20 Department of Revenue, and has received therefrom a
21 certificate of registration or, if a nonresident of this state
22 purchasing lumber for resale outside the State of Alabama, has
23 furnished to the lumber manufacturer his name, address and the
24 vehicle license number of the truck in which the lumber is to
25 be transported, which name, address, and vehicle license
26 number shall be shown on the sales invoice rendered by the
27 lumber manufacturer. The certificate provided for herein

1 shall be valid for the calendar year of its issuance and may
2 be renewed from year to year on application to the Department
3 of Revenue on or before January 31 of each succeeding year;
4 provided, that if not renewed the certificate shall become
5 invalid for the purpose of this division on February 1.

6 (d) The dispensing or transferring of ophthalmic
7 materials, including lenses, frames, eyeglasses, contact
8 lenses, and other therapeutic optic devices, to a patient by a
9 licensed ophthalmologist, as a part of his or her professional
10 service, shall not, for purposes of this division, be deemed
11 or considered to constitute a sale, subject to the state sales
12 tax. The licensed ophthalmologist shall be considered the
13 ultimate consumer of the ophthalmic materials and shall have
14 no responsibility or duty pursuant to this division for the
15 collection of the state sales tax. The sale of the ophthalmic
16 materials to a licensed ophthalmologist by a supplier thereof
17 shall be considered a retail sale subject to the state sales
18 tax, and the supplier shall be responsible for collecting
19 sales tax from the licensed ophthalmologist. In no event
20 shall the providing of professional services in connection
21 with the dispensing or transferring of ophthalmic materials by
22 a licensed ophthalmologist or optometrist be considered a sale
23 subject to the state sales tax. All transfers of ophthalmic
24 materials by opticians or optometrists shall be considered
25 retail sales subject to the state sales tax. The term
26 supplier shall include but not be limited to optical

1 laboratories, ophthalmic material wholesalers, or anyone
2 selling ophthalmic materials to ophthalmologists.

3 (e) Notwithstanding the above, the withdrawal, use,
4 or consumption of a manufactured product by the manufacturer
5 thereof in quality control testing performed by employees or
6 independent contractors of the taxpayer, for purposes of this
7 division, shall not be deemed or considered to constitute a
8 transaction subject to sales tax, nor shall a gift by the
9 manufacturer of a manufactured product, withdrawn from the
10 manufacturer's inventory, to an entity listed in 26 U.S.C.
11 Sections 170(b) or (c), be considered a transaction subject to
12 sales tax."

13 "§40-23-2.

14 "There is levied, in addition to all other taxes of
15 every kind now imposed by law, and shall be collected as
16 herein provided, a privilege or license tax against the person
17 on account of the business activities and in the amount to be
18 determined by the application of rates against gross sales, or
19 gross receipts, as the case may be, as follows:

20 (1) Upon every person, ~~firm, or corporation,~~
21 (including the State of Alabama and its Alcoholic Beverage
22 Control Board in the sale of alcoholic beverages of all kinds,
23 the University of Alabama, Auburn University, and all other
24 institutions of higher learning in the state, whether the
25 institutions be denominational, state, county, or municipal
26 institutions, any association or other agency or
27 instrumentality of the institutions) engaged or continuing

1 within this state, in the business of selling at retail any
2 tangible personal property whatsoever, including merchandise
3 and commodities of every kind and character, (not including,
4 however, bonds or other evidences of debts or stocks, nor
5 sales of material and supplies to any person for use in
6 fulfilling a contract for the painting, repair, or
7 reconditioning of vessels, barges, ships, other watercraft,
8 and commercial fishing vessels of over five tons load
9 displacement as registered with the U.S. Coast Guard and
10 licensed by the State of Alabama Department of Conservation
11 and Natural Resources), an amount equal to four percent of the
12 gross proceeds of sales of the business except where a
13 different amount is expressly provided herein. Provided,
14 however, that any person engaging or continuing in business as
15 a retailer and wholesaler or jobber shall pay the tax required
16 on the gross proceeds of retail sales of the business at the
17 rates specified, when his or her books are kept so as to show
18 separately the gross proceeds of sales of each business, and
19 when his or her books are not kept he or she shall pay the tax
20 as a retailer, on the gross sales of the business.

21 Where any used part including tires of an automotive
22 vehicle or a truck trailer, semitrailer, or house trailer is
23 taken in trade, or in a series of trades, as a credit or part
24 payment on the sale of a new or rebuilt part or tire, the tax
25 levied herein shall be paid on the net difference, that is,
26 the price of the new or used part or tire sold less the credit

1 for the used part or tire taken in trade, provided, however,
2 this provision shall not be construed to include batteries.

3 (2) Upon every person, ~~firm, or corporation~~ engaged
4 or continuing within this state in the business of conducting
5 or operating places of amusement or entertainment, including
6 but not limited to billiard and pool rooms, bowling alleys,
7 amusement devices, musical devices, theaters, opera houses,
8 moving picture shows, vaudevilles, amusement parks, athletic
9 contests, including wrestling matches, prize fights, boxing
10 and wrestling exhibitions, football and baseball games,
11 (including athletic contests, conducted by or under the
12 auspices of any educational institution within this state, or
13 any athletic association thereof, or other association whether
14 the institution or association be a denominational, a state,
15 or county, or a municipal institution, or association or a
16 state, county, or city school, or other institution,
17 association or school), skating rinks, race tracks, golf
18 courses, or any other place at which any exhibition, display,
19 amusement, or entertainment is offered to the public or place
20 or places where an admission fee is charged, including public
21 bathing places, public dance halls of every kind and
22 description within the State of Alabama, an amount equal to
23 four percent of the gross receipts of any such business.
24 Provided, however, notwithstanding any language to the
25 contrary in the prior portion of this subdivision, the tax
26 provisions so specified shall not apply to any athletic event
27 conducted by a public primary or secondary school or any

1 football playoff conducted by or under the auspices of the
2 Alabama High School Athletic Association. The tax amount which
3 would have been collected pursuant to this subdivision shall
4 continue to be collected by the public primary or secondary
5 school but shall be retained by the school which collected it
6 and shall be used by the school for school purposes.

7 (3) a. Upon every person, ~~firm, or corporation~~
8 engaged or continuing within this state in the business of
9 selling at retail machines used in mining, quarrying,
10 compounding, processing, and manufacturing of tangible
11 personal property an amount equal to one and one-half percent
12 of the gross proceeds of the sale of the machines. The term
13 "machine," as herein used, shall include machinery which is
14 used for mining, quarrying, compounding, processing, or
15 manufacturing tangible personal property, and the parts of the
16 machines, attachments, and replacements therefor, which are
17 made or manufactured for use on or in the operation of the
18 machines and which are necessary to the operation of the
19 machines and are customarily so used.

20 b. Effective January 1, 2006, the gross proceeds of
21 the sales of "machines" as herein used in this subsection
22 shall be taxed under the provisions of Chapter 23 B and shall
23 be exempt from the tax levied under this article.

24 (4) a. Upon every person, ~~firm, or corporation~~
25 engaged or continuing within this state in the business of
26 selling at retail any automotive vehicle or truck trailer,
27 semitrailer, or house trailer, ~~or mobile home set-up materials~~

1 ~~and supplies including but not limited to steps, blocks,~~
2 ~~anchoring, cable pipes, and any other materials pertaining~~
3 ~~thereto~~ an amount equal to two percent of the gross proceeds
4 of sale of the automotive vehicle or truck trailer,
5 semitrailer, or house trailer, ~~or mobile home set-up materials~~
6 ~~and supplies~~ provided, however, where a person subject to the
7 tax provided for in this subdivision withdraws from his or her
8 stock in trade any automotive vehicle or truck trailer,
9 semitrailer, or house trailer for use by him or her or by his
10 or her employee or agent in the operation of the business,
11 there shall be paid, in lieu of the tax levied herein, a fee
12 of five dollars (\$5) per year or part thereof during which the
13 automotive vehicle, truck trailer, semitrailer, or house
14 trailer shall remain the property of the person. Each year or
15 part thereof shall begin with the day or anniversary date, as
16 the case may be of such withdrawal and shall run for the 12
17 succeeding months or part thereof during which the automotive
18 vehicle, truck trailer, semitrailer, or house trailer shall
19 remain the property of the person.

20 b. Where any used automotive vehicle or truck
21 trailer, semitrailer, or house trailer is taken in trade or in
22 a series of trades, as a credit or part payment on the sale of
23 a new or used vehicle, the tax levied herein shall be paid on
24 the net difference, that is, the price of the new or used
25 vehicle sold less the credit for the used vehicle taken in
26 trade.

1 c. Sales of automobiles, motorcycles, trucks, truck
2 trailers, or semitrailers that will be registered or titled
3 outside Alabama, that are exported or removed from Alabama
4 within 72 hours by the purchaser or his or her agent for first
5 use outside Alabama are not subject to the Alabama sales tax.
6 Sales of other vehicles such as mobile homes, motor bikes, all
7 terrain vehicles, and boats do not qualify for the export
8 exemption provision and are taxable unless the dealer can
9 provide factual evidence that the vehicle was delivered
10 outside of Alabama or to a common carrier for transportation
11 outside Alabama. In order for the sale to be exempt from
12 Alabama tax, the information relative to the exempt sale shall
13 be documented on forms approved by the Revenue Department.

14 d. Of the total \$.02 tax on each dollar of sale
15 provided hereunder, 58 percent of the total tax generated by
16 this subdivision (4) shall be deposited to the credit of the
17 Education Trust Fund; and 42 percent of the total tax
18 generated by this subdivision (4) shall be deposited to the
19 credit of the State General Fund.

20 (5) Upon every person, ~~firm, or corporation~~ engaged
21 or continuing within this state in the business of selling
22 through coin-operated dispensing machines, food and food
23 products for human consumption, not including beverages other
24 than coffee, milk, milk products, and substitutes therefor,
25 there is levied a tax equal to three percent of the cost of
26 the food, food products, and beverages sold through the

1 machines, which cost for the purpose of this subdivision shall
2 be the gross proceeds of sales of the business.

3 (6) a. Upon every person engaged or continuing
4 within this state in the business of selling at retail any
5 machine, machinery or equipment which is used in planting,
6 cultivating and harvesting farm products, or used in
7 connection with the production of agricultural produce or
8 products, livestock or poultry on farms, and the parts of
9 those machines, machinery or equipment, attachments and
10 replacements therefor which are made or manufactured for use
11 on or in the operation of the machine, machinery or equipment,
12 and which are necessary to and customarily used in the
13 operation of the machine, machinery or equipment, an amount
14 equal to one and one-half percent of the gross proceeds of the
15 sale thereof; provided, that the one and one-half percent rate
16 herein prescribed with respect to parts, attachments and
17 replacements shall not apply to any automotive vehicle or
18 trailer designed primarily for public highway use, except farm
19 trailers used primarily in the production and harvesting of
20 agricultural commodities.

21 b. Where any used machine, machinery or equipment
22 which is used in planting, cultivating and harvesting farm
23 products, or used in connection with the production of
24 agricultural produce or products, livestock and poultry on
25 farms is taken in trade or in a series of trades as a credit
26 or part payment on a sale of a new or used machine, machinery
27 or equipment, the tax levied herein shall be paid on the net

1 difference, that is, the price of the new or used machine,
2 machinery or equipment sold, less the credit for the used
3 machine, machinery or equipment taken in trade.

4 c. Effective January 1, 2006, the gross proceeds of
5 the sale of tangible personal property as described by this
6 subsection shall be taxed under the provisions of Chapter 23 B
7 and shall be exempt from the tax levied under this article."

8 "§40-23-4.

9 "(a) There are exempted from the provisions of this
10 division and from the computation of the amount of the tax
11 levied, assessed, or payable under this division the gross
12 proceeds of the sales or the storage, use or other consumption
13 of the following:

14 (1) ~~The gross proceeds of the sales of lubricating~~
15 Lubricating oil and gasoline as defined in Sections 40-17-30
16 and 40-17-170 and ~~the gross proceeds from those sales of~~
17 lubricating oil destined for out-of-state use which are
18 transacted in a manner whereby an out-of-state purchaser takes
19 delivery of such oil at a distributor's plant within this
20 state and transports it out-of-state, which are otherwise
21 taxed.

22 (2) ~~The gross proceeds of the sale, or sales, of~~
23 fertilizer Fertilizer when used for agricultural purposes. The
24 word "fertilizer" shall not be construed to include cottonseed
25 meal, when not in combination with other materials.

26 (3) ~~The gross proceeds of the sale, or sales, of~~
27 ~~seeds for planting purposes and~~ Seeds, baby chicks and poults

1 for agricultural purposes. Nothing herein shall be construed
2 to exempt or exclude from the computation of the tax levied,
3 assessed, or payable, the gross proceeds of the sale or sales
4 or the storage, use, or other consumption of plants,
5 seedlings, nursery stock, or floral products.

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

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

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

1 (7) The gross receipts from the business on which,
2 or for engaging in which, a license or privilege tax is levied
3 by or under the provisions of Sections 40-21-50, 40-21-53, and
4 40-21-56 through 40-21-60; provided, that nothing contained in
5 this subdivision shall be construed to exempt or relieve the
6 person or persons operating the business enumerated in said
7 sections from the payments of the tax levied by this division
8 upon or measured by the gross proceeds of sales of any
9 tangible personal property, except gas and water, the gross
10 receipts from the sale of which are the measure of the tax
11 levied by said Section 40-21-50, merchandise or other tangible
12 commodities sold at retail by said persons, unless the gross
13 proceeds of sale or the storage, use, or other consumption
14 thereof are otherwise specifically exempted by the provisions
15 of this division.

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

23 ~~(9) The gross proceeds of the sale, or sales of wood~~
24 Wood residue, coal, or coke to manufacturers, electric power
25 companies, and transportation companies for use or consumption
26 in the production of by-products, or the generation of heat or
27 power used in manufacturing tangible personal property for

1 sale, for the generation of electric power or energy for use
2 in manufacturing tangible personal property for sale or for
3 resale, or for the generation of motive power for
4 transportation.

5 (10) a. ~~The gross proceeds from the sale or sales of~~
6 ~~fuel~~ Fuel and supplies for use or consumption aboard ships,
7 vessels, towing vessels, or barges, or drilling ships, rigs or
8 barges, or seismic or geophysical vessels, or other watercraft
9 (herein for purposes of this exemption being referred to as
10 "vessels") engaged in foreign or international commerce or in
11 interstate commerce; provided, that nothing in this division
12 shall be construed to exempt or exclude from the measure of
13 the tax herein levied the gross proceeds of sale or sales of
14 material and supplies to any person for use in fulfilling a
15 contract for the painting, repair, or reconditioning of
16 vessels, barges, ships, other watercraft, and commercial
17 fishing vessels of over five tons load displacement as
18 registered with the U.S. Coast Guard and licensed by the State
19 of Alabama Department of Conservation and Natural Resources.

20 b. For purposes of this subdivision, it shall be
21 presumed that vessels engaged in the transportation of cargo
22 between ports in the State of Alabama and ports in foreign
23 countries or possessions or territories of the United States
24 or between ports in the State of Alabama and ports in other
25 states are engaged in foreign or international commerce or
26 interstate commerce, as the case may be. For the purposes of
27 this subdivision, the engaging in foreign or international

1 commerce or interstate commerce shall not require that the
2 vessel involved deliver cargo to or receive cargo from a port
3 in the State of Alabama. For purposes of this subdivision,
4 vessels carrying passengers for hire, and no cargo, between
5 ports in the State of Alabama and ports in foreign countries
6 or possessions or territories of the United States or between
7 ports in the State of Alabama and ports in other states shall
8 be engaged in foreign or international commerce or interstate
9 commerce, as the case may be, if, and only if, both of the
10 following conditions are met: (i) The vessel in question is a
11 vessel of at least 100 gross tons; and (ii) the vessel in
12 question has an unexpired certificate of inspection issued by
13 the United States Coast Guard or by the proper authority of a
14 foreign country for a foreign vessel, which certificate is
15 recognized as acceptable under the laws of the United States.
16 Vessels which are engaged in foreign or international commerce
17 or interstate commerce shall be deemed for the purposes of
18 this subdivision to remain in such commerce while awaiting or
19 under repair in a port of the State of Alabama if such vessel
20 returns after such repairs are completed to engaging in
21 foreign or international commerce or interstate commerce. For
22 purposes of this subdivision, seismic or geophysical vessels
23 which are engaged either in seismic or geophysical tests or
24 evaluations exclusively in offshore federal waters or in
25 traveling to or from conducting such tests or evaluations
26 shall be deemed to be engaged in international or foreign
27 commerce. For purposes of this subdivision, proof that fuel

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

23 (11) ~~The gross proceeds of sales of tangible~~
24 Tangible personal property purchased by to the State of
25 Alabama, to the counties within the state and to the
26 incorporated municipalities of the State of Alabama.

1 ~~The gross proceeds of the sale or sales of~~
2 ~~railroad~~ Railroad cars, vessels, barges, and commercial
3 fishing vessels of over five tons load displacement as
4 registered with the U.S. Coast Guard and licensed by the State
5 of Alabama Department of Conservation and Natural Resources,
6 when sold by the manufacturers or builders thereof.

7 ~~The gross proceeds of the sale or sales of~~
8 ~~materials~~ Materials, equipment, and machinery which, at any
9 time, enter into and become a component part of ships,
10 vessels, towing vessels or barges, or drilling ships, rigs or
11 barges, or seismic or geophysical vessels, other watercraft
12 and commercial fishing vessels of over five tons load
13 displacement as registered with the U.S. Coast Guard and
14 licensed by the State of Alabama Department of Conservation
15 and Natural Resources.

16 ~~The gross proceeds of the sale or sales of fuel~~
17 Fuel oil purchased as fuel for kiln use in manufacturing
18 establishments.

19 ~~The gross proceeds of the sale or sales of~~
20 ~~tangible~~ Tangible personal property purchased by ~~to~~ county and
21 city school boards, independent school boards, and all
22 educational institutions and agencies of the State of Alabama,
23 the counties within the state, or any incorporated
24 municipalities of the State of Alabama.

25 ~~The gross proceeds from the sale of all devices~~
26 Devices or facilities, and all identifiable components
27 thereof, or materials for use therein, acquired primarily for

1 the control, reduction, or elimination of air or water
2 pollution and ~~the gross proceeds from the sale of all~~
3 identifiable components of or materials used or intended for
4 use in structures built primarily for the control, reduction,
5 or elimination of air and water pollution.

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

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

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

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

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

23 (22) ~~The gross proceeds of the sale, or sales, of~~
24 ~~seedlings~~ Seedlings, plants, shoots, and slips which are to be
25 used for planting vegetable gardens or truck farms and other
26 agricultural purposes. Nothing herein shall be construed to
27 exempt, or exclude from the computation of the tax levied,

1 assessed, or payable, the gross proceeds of the sale, or the
2 storage, use, or other consumption of plants, seedlings,
3 shoots, slips, nursery stock, and floral products, except as
4 hereinabove exempted.

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

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

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

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

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

23 b. 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.

26 (28) ~~The gross proceeds of sales of sawdust~~ Sawdust,
27 wood shavings, wood chips, and other like materials sold for

1 use as "chicken litter" by poultry producers and poultry
2 processors.

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

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

23 b. The term "drug" means a compound, substance or
24 preparation, and any component of a compound, substance or
25 preparation, other than "food and food ingredients," "dietary
26 supplements" or "alcoholic beverages":

1 1. Recognized in the official United States
2 Pharmacopoeia, official Homeopathic Pharmacopoeia of the
3 United States, or official National Formulary, and supplement
4 to any of them; or

5 2. Intended for use in the diagnosis, cure,
6 mitigation, treatment, or prevention of disease; or

7 3. Intended to affect the structure or any function
8 of the body.

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

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

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

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

21 ~~For the purposes of this subdivision, any person~~
22 ~~filing a false proof of age shall be guilty of a misdemeanor~~
23 ~~and upon conviction thereof shall be punished by a fine of~~
24 ~~\$100.~~

25 ~~(31) There shall be exempted from the tax levied by~~
26 ~~this division the gross receipts of sales of grass Grass sod~~
27 ~~of all kinds and character when in the original state of~~

1 production or condition of preparation for sale, when ~~such~~
2 ~~sales are made~~ sold by the producer or members of his family
3 or for him by those employed by him to assist in the
4 production thereof; provided, that nothing herein shall be
5 construed to exempt sales of sod by a person engaged in the
6 business of selling plants, seedlings, nursery stock, or
7 floral products.

8 (32) ~~The gross receipts of sales of the~~ The
9 following items or materials which are necessary in the
10 farm-to-market production of tomatoes when such items or
11 materials are used by the producer or members of his family or
12 for him by those employed by him to assist in the production
13 thereof: Twine for tying tomatoes, tomato stakes, field boxes
14 (wooden boxes used to take tomatoes from the fields to shed),
15 and tomato boxes used in shipments to customers.

16 (33) ~~The gross proceeds from the sale of liquefied~~
17 Liquefied petroleum gas or natural gas sold to be used for
18 agricultural purposes.

19 (34) ~~The gross receipts of sales from state~~
20 ~~nurseries of forest~~ Forest tree seedlings sold by nurseries
21 operated by the State of Alabama.

22 (35) ~~The gross receipts of sales of forest~~ Forest
23 tree seed sold by the ~~state~~ State of Alabama.

24 (36) ~~The gross receipts of sales of~~ Lespedeza
25 bicolor and other species of perennial plant seed and
26 seedlings sold for wildlife and game food production purposes
27 by the ~~state~~ State of Alabama.

1 (37) ~~The gross receipts of any aircraft~~ Aircraft
2 manufactured, sold, and delivered in this state if said
3 aircraft are not permanently domiciled in Alabama and are
4 removed to another state within three days of delivery.

5 (38) ~~The gross proceeds from the sale or sales of~~
6 ~~all diesel~~ Diesel fuel used for off-highway agricultural
7 purposes.

8 (39) ~~The gross proceeds from sales of admissions~~
9 Admissions to any sporting event which:

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

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

15 c. Determines a national championship of a national
16 organization, including but not limited to the Professional
17 Golfers Association of America, the Tournament Players
18 Association, the United States Golf Association, the United
19 States Tennis Association, and the National Collegiate
20 Athletic Association; and

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

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

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

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

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

26 a. There originates from the location 15 or more
27 flight departures and five or more different first-stop

1 destinations five days per week for six or more months during
2 the calendar year; and

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

6 (42) ~~a. The gross proceeds of the sale or sales of~~
7 ~~the following~~ Items listed below:

8 ~~a.~~ 1. Drill pipe, casing, tubing, and other pipe
9 used for the exploration for or production of oil, gas,
10 sulphur, or other minerals in offshore federal waters.

11 ~~b.~~ 2. Tangible personal property exclusively used
12 for the exploration for or production of oil, gas, sulphur, or
13 other minerals in offshore federal waters.

14 ~~c.~~ 3. Fuel and supplies for use or consumption
15 aboard boats, ships, aircraft, and towing vessels when used
16 exclusively in transporting persons or property between a
17 point in Alabama and a point or points in offshore federal
18 waters for the exploration for or production of oil, gas,
19 sulphur, or other minerals in offshore federal waters.

20 ~~d.~~ 4. Drilling equipment that is used for the
21 exploration for or production of oil, gas, sulphur, or other
22 minerals, that is built for exclusive use outside this state
23 and that is, on completion, removed forthwith from this state.

24 b. The delivery of items exempted by this
25 subdivision to the purchaser or lessee in this state does not
26 disqualify the purchaser or lessee from the exemption if the

1 property is removed from the state by any means, including by
2 the use of the purchaser's or lessee's own facilities.

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

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

1 ~~(44) The gross receipts derived from the sale or~~
2 ~~sales of fruit~~ Fruit or other agricultural products sold by
3 the person or corporation that planted, cultivated, and
4 harvested such fruit or agricultural product.

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

8 ~~(46) The gross proceeds derived from the sale or~~
9 ~~sales of tangible~~ Tangible personal property purchased by to a
10 company which is actively engaged in the production of an
11 approved project authorized by the Alabama Film Office and
12 which meets criteria established by the Alabama Film Office
13 through the Alabama Administrative Procedure Act.

14 (47) The gross proceeds derived from the leasing or
15 rental of tangible personal property which are subject to the
16 rental or leasing tax levied in Article 4 of Chapter 12 of
17 this Title against any person engaging in the business of
18 leasing or renting tangible personal property to others, are
19 exempt from the taxes levied under this Article.

20 (48) Religious magazines and publications. For the
21 purpose of this subdivision the words "religious magazines and
22 publications" shall be construed to mean printed or
23 illustrated lessons, notes and explanations distributed by
24 churches or other religious organizations free of charge to
25 pupils or students in Sunday schools, Bible classes or other
26 educational facilities established and maintained by churches
27 or similar religious organizations in this state.

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

6 "§40-23-6.

7 (a) If any person shall engage in or continue in any
8 business for which a ~~privilege~~ tax is imposed by ~~Section~~
9 ~~40-23-2~~ this article as a condition precedent to engaging or
10 continuing in ~~such~~ a business, he shall apply for and obtain
11 from the Department of Revenue a license to engage in and to
12 conduct such business for the current tax year upon the
13 condition that he shall pay the taxes accruing to the State of
14 Alabama under the provisions of this division; provided, that
15 no license shall be issued under the provisions of this
16 division to any person who has not complied with the
17 provisions of this division, and no provision of this division
18 shall be construed as relieving any person from the payment of
19 any license or privilege tax now or hereafter imposed by law.

20 (b) Every seller engaged in making retail sales of
21 tangible personal property for storage, use or other
22 consumption in this state, who:

23 (1) Maintains, occupies, or uses, permanently or
24 temporarily, directly or indirectly, or through a subsidiary,
25 or agent by whatever name called, an office, place of
26 distribution, sales or sample room or place, warehouse or
27 storage place or other place of business;

1 (2) Qualifies to do business or registers with the
2 state to collect the tax levied by this chapter;

3 (3) Employs or retains under contract any
4 representative, agent, salesman, canvasser, solicitor or
5 installer operating in this state under the authority of the
6 person or its subsidiary for the purpose of selling,
7 delivering, or the taking of orders for the sale of tangible
8 personal property or any services taxable under this Chapter
9 or otherwise solicits and receives purchases or orders by any
10 agent or salesman;

11 (4) Solicits, pursuant to a contract with a
12 broadcaster or publisher located in this state, orders for
13 tangible personal property by means of advertising which is
14 disseminated primarily to consumers located in this state and
15 only secondarily to bordering jurisdiction;

16 (5) Solicits orders for tangible personal property
17 by mail if the solicitations are substantial and recurring and
18 if the retailer benefits from any banking, financing, debt
19 collection, telecommunication, or marketing activities
20 occurring in this state or benefits from the location in this
21 state of authorized installation, servicing, or repair
22 facilities. Notwithstanding the previous sentence, a seller
23 who contracts with a provider of call center services shall
24 not be deemed to benefit from telecommunication activities
25 occurring in this state or from the location in this state of
26 authorized installation, servicing, or repair facilities
27 merely as a result of contracting for and receiving only call

1 center services from a call center located in this state. The
2 preceding sentence shall only apply for call centers, as
3 authorized or specified in Act 2001-691, placed in service in
4 this state on or before October 1, 2003;

5 (6) Has, under a franchise or licensing arrangement
6 or contract, a franchisee or licensee operating under its
7 trade name;

8 (7) Solicits, pursuant to a contract with a cable
9 television operator located in this state, orders for tangible
10 personal property by means of advertising which is transmitted
11 or distributed over a cable television system in this state;

12 (8) Solicits orders for tangible personal property
13 by means of a telecommunication or television shopping system
14 which is intended by the person to be broadcast by cable
15 television or other means of broadcasting, to consumers
16 located in this state;

17 (9) Maintains any other contact with this state that
18 would allow this state to require the seller to collect and
19 remit the tax due under the provisions of the constitution and
20 laws of the United States;

21 (10) Distributes catalogs or other advertising
22 matter and by reason thereof receives and accepts orders from
23 residents, within the State of Alabama; or

24 (11) Delivers merchandise in vehicles owned or
25 leased by the seller or operated by the seller or seller's
26 representative, shall register with the department and give
27 the name and address of each agent operating in this state,

1 the location of any and all distribution or sales houses or
2 offices or other place of business in this state, and any
3 other information as the department may require with respect
4 to matters pertinent to the enforcement of this article."

5 "§40-23-7.

6 "(a) The taxes levied under the provisions of this
7 division, except as otherwise provided in subsection (d) and
8 Section 40-23A-3, shall be due and payable in monthly
9 installments on or before the 20th day of the month next
10 succeeding the month in which the tax accrues.

11 (b) Except as otherwise provided in subsection (d)
12 and Section 40-23A-3, on or before the 20th day of each month,
13 every person on whom the taxes levied by this division are
14 imposed shall report to the department, on a form prescribed
15 by the department, a true and correct statement showing ~~such~~
16 whatever information ~~as~~ the department may require, and shall
17 pay to the department the amount of taxes shown to be due.

18 (c) Any taxpayer liable for taxes under the
19 provisions of this division whose average monthly state sales
20 or sellers use tax liability was one thousand dollars (\$1,000)
21 or greater during the preceding calendar year shall make
22 ~~estimated~~ prepayments to the department on or before the 20th
23 day of the month in which the liability occurs as follows:

24 (1) ~~The amount of the first estimated payment shall~~
25 ~~be 66 2/3 percent of the taxpayer's actual tax liability for~~
26 ~~the month of October 1983; thereafter the~~ The amounts of the
27 prepayment shall be the lesser of 66 2/3 ~~percent~~ of the

1 taxpayer's actual tax liability for the same calendar month of
2 the preceding year or ~~66 2/3 percent~~ of the current month's
3 estimated liability.

4 (2) Any outstanding credit or deficit arising from
5 the taxpayer's overpayment or underpayment of his final
6 liability shall be applied to either increase or reduce, as
7 the case may be, that month's final tax liability which shall
8 be reported and paid not later than the 20th day of the month
9 next succeeding the month in which the tax accrues.

10 (3) The provisions of this subsection shall not
11 apply to the provisions of Sections 11-51-180, 11-51-200,
12 40-12-4, nor to any municipal or county taxes levied by past
13 or future special or local acts of the Legislature.

14 (d) When the total state sales or use tax for which
15 any person is liable under this division averages less than
16 two hundred dollars (\$200) per month during the preceding
17 calendar year, a quarterly return and remittance in lieu of
18 the monthly returns may be made, by election of the taxpayer
19 to the department, on or before the 20th day of the month next
20 succeeding the end of the quarter for which the tax is due
21 under any rules and regulations as may be prescribed. The
22 election to file quarterly shall be made in writing no later
23 than February 20 of each year and shall be filed with the
24 department. Notwithstanding the above, and except as otherwise
25 provided in Section 40-23A-3, no state sales or use tax return
26 shall be due until January 20 of each year unless the total
27 state sales or use tax for which any person is liable under

1 this division during the preceding calendar year exceeds ten
2 dollars (\$10).

3 (e) The department, for good cause, may extend the
4 time for making any ~~state or state-administered~~ return
5 required under the provisions of this division, but the time
6 for filing any ~~such~~ return shall not be extended for a period
7 greater than 30 days from the date ~~such~~ the return is due ~~to~~
8 ~~be made~~.

9 (f) For the purpose of the proper administration of
10 this article and to prevent evasion of the tax and the duty to
11 collect the same herein imposed, it shall be presumed that
12 tangible personal property sold by any person for delivery in
13 this state is sold for storage, use, or other consumption in
14 this state unless the person selling the property has taken
15 from the purchaser a certificate signed by and bearing the
16 name and address of the purchaser to the effect that the
17 property was purchased for resale, and it shall be further
18 presumed that tangible personal property shipped to this state
19 by the purchaser thereof was purchased from a retailer for
20 storage, use, or other consumption in this state."

21 "§40-23-9.

22 "It shall be the duty of every person selling, or
23 storing, using or otherwise consuming tangible personal
24 property ~~engaging or continuing~~ in this state ~~in any business~~
25 for which a ~~privilege~~ tax is imposed by this division, to keep
26 and preserve suitable records of the gross sales, gross
27 proceeds of sales, ~~and~~ gross receipts or gross receipts of

1 sales ~~of such business~~ , and property purchased by that person
2 and ~~such~~ any other books or accounts as may be necessary to
3 determine the amount of tax for which ~~he is~~ liable, under the
4 provisions of this division. It shall be the duty of every
5 person to keep and preserve all invoices of goods, wares, and
6 merchandise purchased, for resale or otherwise, and all ~~such~~
7 books, invoices, and other records and property shall be ~~open~~
8 made available for examination by the Department of Revenue or
9 its duly authorized agent. Any person selling both at
10 wholesale and retail shall keep ~~his~~ books so as to show
11 separately the gross proceeds of wholesale sales and the gross
12 proceeds of retail sales. All sales shall be subject to tax in
13 the absence of ~~such~~ separate records."

14 "§40-23-10.

15 "The ~~monthly~~ reports herein required to be made are
16 not required to be made on oath, but wherever in this division
17 any report is required to be sworn to, the same shall be sworn
18 to by the taxpayer or his agent before some officer authorized
19 to administer oaths, and any false statement to a material
20 fact made with intent to defraud shall constitute perjury, and
21 upon conviction thereof, the person so convicted shall be
22 punished as provided by law."

23 "§40-23-12.

24 "Any person subject to the provisions of this
25 division willfully refusing to make the reports herein
26 required, or who shall refuse to permit the examination of his
27 records by the Department of Revenue, or its duly authorized

1 agents, or rendering a false or fraudulent return, with intent
2 to defeat or evade the determination of an amount due required
3 by law to be made shall be guilty of a misdemeanor, and upon
4 conviction shall be fined not less than ~~\$50~~ \$300 nor more than
5 ~~\$500~~ \$5000 for each offense, ~~and in addition may be imprisoned~~
6 ~~in the county jail for a period not to exceed six months~~ or be
7 imprisoned not exceeding one year in the county jail or be
8 subject to both said fine and imprisonment in the discretion
9 of the court. Each month of failure to make ~~such~~ required
10 reports shall constitute a separate offense, and each refusal
11 of a written demand of the department to examine, inspect or
12 audit ~~such~~ records shall constitute a separate offense."

13 "§40-23-25.

14 "Any person subject to the provisions hereof who
15 shall sell out his business or stock of goods, or shall quit
16 business, shall be required to make ~~out the~~ final returns and
17 payments provided for under Sections 40-23-7 and 40-23-7.1
18 within 30 days after the date he sold out his business or
19 stock of goods, or quit business, and his successor in
20 business shall be required to withhold sufficient of the
21 purchase money to cover the amount of said taxes due and
22 unpaid until ~~such~~ the time as the former owner shall produce a
23 receipt from the Department of Revenue showing that the taxes
24 have been paid, or a certificate that no taxes are due. If the
25 purchaser of a business or stock of goods shall fail to
26 withhold purchase money as above provided the taxes shall be
27 due and unpaid after the 30-day period allowed, he shall be

1 personally liable for the payment of the taxes accrued and
2 unpaid on account of the operation of the business by the
3 former owner. If in such cases the department deems it
4 necessary in order to collect the taxes due the state, it may
5 make a jeopardy assessment as provided in Chapter 29 of this
6 title."

7 "§40-23-26.

8 ~~"(a) Every person, firm, corporation, association or~~
9 ~~copartnership engaged in or continuing within this state in~~
10 ~~the business for which a license or privilege tax is required~~
11 ~~by this division shall add to the sales price and collect from~~
12 ~~the purchaser on all sales upon the gross receipts or gross~~
13 ~~proceeds of which there is levied by this division a sales tax~~
14 ~~at the rate of four percent, \$.04 tax for each whole dollar of~~
15 ~~sales price; provided, that on that part of the sales price~~
16 ~~which is a fractional part of a dollar, in addition to whole~~
17 ~~dollars, and on sales of less than a dollar there shall be~~
18 ~~collected in addition to the tax collected on whole dollars,~~
19 ~~no tax on \$.01 to and including \$.10 of sales price, \$.01 tax~~
20 ~~on \$.11 to and including \$.30 of sales price, \$.02 tax on \$.31~~
21 ~~to and including \$.54 of sales price, \$.03 tax on \$.55 to and~~
22 ~~including \$.73 of sales price, and \$.04 tax on \$.74 to and~~
23 ~~including \$.99 of sales price. Upon sales the gross receipts~~
24 ~~or gross proceeds of which are taxed by this division at a~~
25 ~~rate less than four percent, there shall be added to the sales~~
26 ~~price and collected from the purchaser by such person, firm,~~
27 ~~corporation, association or copartnership described in this~~

1 ~~section an amount equal to the prescribed percentage of such~~
2 ~~sales price.~~

3 (a) Every person engaged in or continuing in a
4 business for which a tax is required by this division, not
5 exempted under the provisions of this division, shall add to
6 the sales price at the time of making a sale or, if the
7 storage, use or other consumption of the tangible personal
8 property is not then taxable hereunder, at the time storage,
9 use or other consumption becomes taxable hereunder, collect
10 the tax imposed by this article from the purchaser, and give
11 to the purchaser a receipt in the manner and form prescribed
12 by the department. The tax required to be collected by the
13 seller from the purchaser shall be displayed separately from
14 the list, advertised in the premises, marked or other price on
15 the sales check, sales invoice, sales receipt or other proof
16 of sales.

17 (b) The tax computation shall be carried to the
18 third decimal place and rounded to a whole cent using a method
19 that rounds up to the next cent whenever the third decimal
20 place is greater than four. The tax due on a transaction can
21 be computed on an item or an invoice basis, and the rounding
22 rule can be applied to the aggregated state and local taxes.

23 ~~(b)~~ (c) It shall be unlawful for any person, ~~firm,~~
24 ~~corporation, association or copartnership~~ described in this
25 section to fail or refuse to add to the sales price and
26 collect from the purchaser the amount required by this section
27 to be so added to the sales price and collected from the

1 purchaser; and it shall likewise be unlawful to refund or
2 offer to refund all or any part of the amount collected, or to
3 absorb or advertise directly or indirectly the absorption or
4 refund of the amount required to be added to the sales price
5 and collected from the purchaser, or any portion of such
6 amount. Any person, ~~firm, corporation, association or~~
7 ~~copartnership~~ violating any of the provisions of this section
8 shall be guilty of a misdemeanor, and upon conviction shall be
9 fined in a sum of not less than \$50 nor more than \$100, or may
10 be imprisoned in the county jail for not more than six months,
11 or may be punished by both ~~such a~~ fine and imprisonment, and
12 each act in violation of the provisions of this division shall
13 constitute a separate offense. The provisions of this section
14 that there shall be added to the sale price and collected from
15 the purchaser the amounts provided herein shall in no way
16 relieve the person, ~~firm, corporation, association or~~
17 ~~copartnership~~ described in this section of the tax levied by
18 this article; nor shall the inability, impracticability,
19 refusal or failure to add to the sales price and collect from
20 the purchaser the amounts provided herein relieve ~~such the~~
21 ~~person, firm, corporation, association or copartnership~~ from
22 the tax levied by this division.

23 ~~(c)~~ (d) All taxes paid in pursuance to this division
24 or any other statute enacted in this connection shall
25 conclusively be presumed to be a direct tax on the retail
26 consumer, precollected for the purpose of convenience and
27 facility only.

1 ~~(d)~~ (e) In the event that any sum is collected from
2 a consumer that purports to be collected because of this
3 section, whether or not the amount is actually provided for
4 hereunder, then ~~any such~~ the sum, except ~~such as is that~~
5 collected solely because of rounding the correct amount of tax
6 upward to the nearest cent, shall be paid to the Department of
7 Revenue for the purposes provided in Sections 40-23-35 and
8 40-23-35.1.

9 (f) Every seller required by this Article to collect
10 the state tax on sales of tangible personal property at retail
11 for use, storage or consumption, shall be required to collect
12 local tax on the use, storage or consumption of tangible
13 personal property at retail in all local taxing
14 jurisdictions."

15 "§40-23-28.

16 "The taxes imposed by this division shall be in
17 addition to all other licenses and taxes levied by law as a
18 condition precedent to engaging in any business taxable
19 hereunder, except as in this division otherwise specifically
20 provided."

21 "§40-23-30.

22 "The administration of this division is vested in
23 and shall be exercised by the Department of Revenue, except as
24 otherwise herein provided, and the enforcement of any of the
25 provisions of this division in any of the courts of the state
26 shall be under the jurisdiction and supervision of the
27 department, and the department may require the assistance of,

1 and act through the district attorney and the Attorney General
2 of the state, and any legal counsel of the Department of
3 Revenue.

4 The department, or any person authorized in writing
5 by it, is hereby authorized to examine the books, papers,
6 records and equipment of any person selling tangible personal
7 property and any person liable for the tax imposed by this
8 article and to investigate the character of the business of
9 that person in order to verify the accuracy of any return
10 made, or if no return was made by that person, to ascertain
11 and determine the amount required to be paid hereunder.

12 The department shall appoint as needed such agents,
13 clerks and stenographers as may be necessary to enforce
14 provisions of this division under the provisions of the merit
15 system, who shall perform ~~such~~ duties as may be required, and
16 ~~such duty~~ those appointed and qualified agents are authorized
17 to act for the department as it may direct and as is
18 authorized by law.

19 Before entering upon the duties of their office, all
20 agents of the department for the administration of the ~~sales~~
21 taxes imposed by this Division shall execute to the State of
22 Alabama a bond, to be approved by the Governor, in the amount
23 of \$5,000, for the faithful performance of their duties."

24 "§40-23-31.

25 "The Department of Revenue shall from time to time
26 promulgate ~~such~~ rules and regulations for making returns and
27 for ascertainment, assessment and collection of the tax

1 imposed hereunder as it may be deemed necessary to enforce its
2 provisions; and upon request shall furnish any taxpayer with a
3 copy of ~~such~~ those rules and regulations. The department may
4 adopt rules and regulations providing for the issuance of
5 permits to ~~manufacturers~~ persons to purchase tangible personal
6 property without the payment to the vendor of the sales and
7 use tax, and providing for ~~such manufacturer~~ those persons to
8 report and pay ~~such~~ the tax directly to the department, in
9 instances where the department determines that it is
10 practically impossible at the time of purchase for ~~such~~
11 ~~manufacturer~~ that person or his vendors to determine with any
12 degree of certainty the applicability of ~~such~~ the tax, and
13 that ~~such~~ the provisions will facilitate and expedite the
14 collection of the tax which may be due from ~~such~~ the consumer;
15 and ~~such~~ the provisions may also be made applicable to persons
16 engaged in the business of mining, quarrying, compounding or
17 processing tangible personal property, railroads,
18 transportation companies and others."

19 "§40-23-35.

20 "(a) ~~Such~~ An amount of money ~~as~~ shall be
21 appropriated for each fiscal year by the Legislature to the
22 Department of Revenue with which to pay the salaries, the cost
23 of operation and management of ~~said~~ the department and shall
24 be deducted, as a first charge thereon, from the sales taxes
25 collected under the provisions of this division; provided,
26 that the expenditure of ~~said~~ the sum so appropriated shall be
27 budgeted and allotted pursuant to Article 4 of Chapter 4 of

1 Title 41, and limited to the amount appropriated to defray the
2 expenses of operating ~~said the~~ department for each fiscal
3 year. After the payment of the expenses, so much of the amount
4 remaining as may be necessary, after first applying all sums
5 of money received by reason of the application of the surplus
6 in the income tax as provided by Section 40-18-58, for the
7 replacement in the public school fund of the three-mill
8 constitutional levy for schools and in the General Fund of the
9 one-mill levy for soldiers' relief and the two and one-half
10 mills for general purposes lost by exemption of homestead
11 provided for in this division shall be first charges against
12 the proceeds of ~~said the~~ licenses, sales taxes or receipts
13 levied or collected under this division. The Comptroller, with
14 the approval of the Governor, is hereby directed to draw his
15 warrants payable out of the total proceeds of ~~said the~~
16 licenses, sales taxes or receipts levied or collected under
17 this division as herein provided in such ~~sum as shall be found~~
18 amount necessary to take care of and replace the three-mill
19 constitutional school levy, the one-mill soldiers' relief levy
20 and the two and one-half mill levy for general purposes of the
21 state ad valorem taxes lost as above set forth.

22 (b) Of the amounts of ~~such~~ collections in any fiscal
23 year, remaining after the payment of the expenses of
24 administration and replacement of the amounts in the several
25 funds as herein provided, there shall be paid into the
26 Treasury sums to be credited as follows:

1 (1) To the credit of the 67 counties of the state,
2 to be divided and distributed as hereinafter provided,
3 \$378,000;

4 (2) To the Department of Human Resources,
5 \$1,322,000;

6 (3) Beginning June 1, 2000, to the Department of
7 Conservation and Natural Resources for capital outlay for
8 acquisition of land contiguous to existing state parks and
9 land acquired for lakes and or water reservoirs, provision,
10 construction, improvement, renovation, equipping, and
11 maintenance of the state parks system only and not for use by
12 the Department of Conservation and Natural Resources for
13 personnel or administrative use, the sum equal to the increase
14 in receipts accruing to the State of Alabama due to the cap on
15 discounts per license holder in Section 40-23-36(b), which
16 increase shall be equal to the difference between the discount
17 rate or amount allowed under Section 40-23-36(b) and the
18 maximum discount rate allowable under Section 40-23-36(a);
19 provided, however, if at any time any bonds of the Alabama
20 State Parks System Improvement Corporation or the Alabama
21 Public Historical Sites and Parks Improvement Corporation are
22 outstanding (excluding bonds that have been refunded by the
23 establishment of an escrow trust for the payment thereof
24 consisting solely of bonds or other obligations which as to
25 principal and interest constitute direct obligations of, or
26 are unconditionally guaranteed by, the United States of
27 America) there shall first be paid into the State General Fund

1 from ~~such~~ the collections an amount equal to the debt service
2 (principal, interest, and premium, if any) payable on ~~such~~
3 those bonds in the then current fiscal year of the state.
4 Provided, however, that one million dollars (\$1,000,000) of
5 ~~such~~ the cap increase in receipts per fiscal year shall be
6 credited to the Department of Human Resources beginning
7 October 1, 1996, until September 30, 2002, and shall be
8 expended for the foster children program.

9 (4)a. On October 1, 2002, to the Department of
10 Conservation and Natural Resources for capital outlay, repairs
11 and maintenance of the state parks system only, the minimum
12 sum of five million dollars (\$5,000,000) from the increase in
13 receipts accruing to the State of Alabama due to the cap on
14 discounts per license holder in Section 40-23-36(b) as
15 calculated in Section 40-23-35(b) (3). Beginning October 1,
16 2003, annually, to the Department of Conservation and Natural
17 Resources for capital outlay, repairs, and maintenance of the
18 state parks system only, the sum calculated by a fraction, the
19 numerator of which is five million dollars (\$5,000,000) and
20 the denominator of which is equal to the increase in receipts
21 as calculated in Section 40-23-35(b) (3) for fiscal year 2002
22 accruing to the State of Alabama multiplied by the increase in
23 receipts as calculated in Section 40-23-35(b) (3) for the then
24 current fiscal year, or the sum of five million dollars
25 (\$5,000,000), whichever is greater.

26 b. Beginning October 1, 2002, to the credit of the
27 State General Fund, the balance of the sum equal to the

1 increase in receipts accruing to the State of Alabama due to
2 the cap on discounts per license holder in Section
3 40-23-36(b).

4 (c) One-half of the amount deposited to the credit
5 of the 67 counties as above provided, shall be divided and
6 distributed proportionately among the 67 counties of the state
7 according to the population of the said counties as shown by
8 the last federal census as proclaimed, published or certified
9 by the Director of the Bureau of the Census; and one-half of
10 said proceeds shall be divided or distributed equally among 67
11 counties; provided, that the funds divided and distributed to
12 the several counties of the state as hereinabove provided for
13 shall be used exclusively for full-time health service in
14 cooperation with the State Board of Health or the federal
15 government, and for extension services in cooperation with the
16 Alabama Agriculture Extension Service or the federal
17 government, at the discretion of the county commissions of the
18 several counties of the state.

19 (d) The amounts provided in subsection (b) for the
20 Department of Human Resources shall be used for general
21 welfare purposes. For purposes of this division, "general
22 welfare purposes" means:

23 (1) The administration of public assistance as set
24 out in Sections 38-2-5 and 38-4-1;

25 (2) Services, including supplementation and
26 supplementary services under the federal Social Security Act,

1 to or on behalf of persons to whom ~~such~~ public assistance may
2 be given under ~~said~~ Section 38-4-1;

3 (3) Services to and on behalf of dependent,
4 neglected or delinquent children; and

5 (4) Investigative and referral services to and on
6 behalf of needy persons.

7 (e) In addition, there shall be paid, commencing on
8 January 1, 1978, and on the first day of each fiscal quarter
9 thereafter, to the Department of Human Resources for a
10 statewide, state-administered food stamp program, as
11 authorized by the Food Stamp Act of 1964, Public Law 88-525,
12 88th Congress, and amendments thereto, an amount equal to five
13 percent of the value of food stamp benefits issued statewide
14 in excess of the amount paid by recipients (bonus or free
15 stamps) during the immediate prior fiscal quarter, which sum
16 so appropriated shall be paid quarterly to the Department of
17 Human Resources Trust Fund for administration of the food
18 stamp program in conformity with rules and regulations
19 promulgated by the United States Department of Agriculture and
20 in conformity with Sections 38-1-1 through 38-6-9. ~~Such~~ Those
21 administrative funds shall be limited to and based on fiscal
22 year 1976-77 administrative costs, normal inflationary
23 increases and mandated administration requirements of the
24 Alabama Legislature and the United States Department of
25 Agriculture. The Department of Human Resources will not staff
26 any county food stamp office at a level which exceeds the
27 average staff-to-recipient ratios which existed in Alabama

1 during fiscal year 1976-77. This restriction will apply in
2 coordination with those provided hereinabove and, should
3 conflict occur, the lesser amount of expenditure shall be
4 required. At the end of each fiscal year, an accounting shall
5 be made of ~~said~~ the sum so that any unexpended and
6 unencumbered balance of funds may be determined for the
7 purpose of paying ~~such~~ any balance to the Education Trust
8 Fund.

9 (f) The amount of the proceeds of all taxes levied
10 by this division remaining after the payment of the expenses
11 of administration and enforcement and the replacement in the
12 several funds of the amount lost by any homestead exemptions
13 and the distribution as provided in subsections (b) and (e),
14 shall be paid into the Education Trust Fund except as provided
15 in subdivision (4) of Section 40-23-2 and subsection (c) of
16 Section ~~40-23-61~~ 40-23-2.2."

17 "§40-23-36.

18 "(a) The Governor may, by executive order, authorize
19 the Department of Revenue to provide by proper rules and
20 regulations for the allowance of a sales tax discount, not to
21 exceed ~~five percent of the first \$100 of taxes levied~~ and two
22 percent of the taxes levied ~~over \$100~~ by this division in
23 Section 40-23-2 and due and payable to the state by any person
24 licensed under the provisions hereof; provided, that no
25 discount shall be authorized or allowed upon any sales taxes
26 which are not paid before delinquency, as in this division
27 provided.

1 (b) For any sales taxes collected by the license
2 holder on or after June 1, 1996, the Governor may, by
3 executive order, authorize the Department of Revenue to
4 provide by proper rules and regulations for a maximum sales
5 tax discount amount or rate to any license holder and shall be
6 limited to that amount or rate for each retail license holder
7 regardless of the number of retail locations of that license
8 holder within the state."

9 Section 2. New Sections 40-23-2.2, 40-23-7.1,
10 40-23-35.1, 40-23-36.1, 40-23-40, and 40-23-41, Code of
11 Alabama 1975, are created to read as follows:

12 §40-23-2.2. (a) A use tax is hereby imposed on the
13 storage, use or other consumption in this state of tangible
14 personal property, not including, however, materials and
15 supplies bought for use in fulfilling a contract for the
16 painting, repairing or reconditioning of vessels, barges,
17 ships, other watercraft and commercial fishing vessels of over
18 five tons load displacement as registered with the U.S. Coast
19 Guard and licensed by the State of Alabama Department of
20 Conservation and Natural Resources, purchased at retail for
21 storage, use or other consumption in this state at the rate of
22 four percent of the sales price of such property or the amount
23 of tax collected by the seller, whichever is greater.

24 (b) (1) A use tax is hereby imposed on the storage,
25 use or other consumption in this state of any machines used in
26 mining, quarrying, compounding, processing and manufacturing
27 of tangible personal property, purchased at retail at the rate

1 of one and one-half percent of the sales price of any such
2 machine or the amount of tax collected by the seller,
3 whichever is greater; provided, that the term "machine," as
4 herein used, shall include machinery which is used for mining,
5 quarrying, compounding, processing, or manufacturing tangible
6 personal property, and the parts of such machines, attachments
7 and replacements therefor, which are made or manufactured for
8 use on or in the operation of such machines and which are
9 necessary to the operation of such machines and are
10 customarily so used.

11 (2) Effective January 1, 2006, "machines" as herein
12 used in this subsection purchased at retail for storage, use,
13 or other consumption in this state shall be taxed under the
14 provisions of Chapter 23B and shall be exempt from the tax
15 levied under this article.

16 (c) (1) A use tax is hereby imposed on the storage,
17 use or other consumption in this state of any automotive
18 vehicle or truck trailer, semitrailer or house trailer,
19 purchased at retail for storage, use or other consumption in
20 this state at the rate of two percent of the sales price of
21 the automotive vehicle, truck trailer, semitrailer or house
22 trailer, or the amount of tax collected by the seller,
23 whichever is greater. Where any used automotive vehicle or
24 truck trailer, semitrailer or house trailer is taken in trade,
25 or in a series of trades, as a credit or part payment on the
26 sale of a new or used vehicle, the tax levied herein shall be
27 paid on the net difference, that is, the price of the new or

1 used vehicle sold less the credit for the used vehicle taken
2 in trade.

3 (2) Of the total \$.02 tax on each dollar of sale
4 provided hereunder, 58 percent of the total tax generated by
5 this subsection shall be deposited to the credit of the
6 Education Trust Fund; and 42 percent of the total tax
7 generated by this subsection shall be deposited to the credit
8 of the State General Fund.

9 (d) (1) A use tax is hereby imposed on the storage,
10 use or other consumption in this state of any machine,
11 machinery or equipment which is used in planting, cultivating
12 and harvesting farm products, or used in connection with the
13 production of agricultural produce or products, livestock or
14 poultry, or farms, and the parts of such machines, machinery
15 or equipment, attachments and replacements therefor which are
16 made or manufactured for use on or in the operation of such
17 machine, machinery or equipment, and which are necessary to
18 and customarily used in the operation of such machine,
19 machinery or equipment, which is purchased at retail for
20 storage, use or other consumption in this state, at the rate
21 of one and one-half percent of the sales price of such
22 property or the amount of tax collected by the seller,
23 whichever is greater. The one and one-half percent rate herein
24 prescribed with respect to parts, attachments and replacements
25 shall not apply to any automotive vehicle or trailer designed
26 primarily for public highway use except farm trailers used

1 primarily in the production and harvesting of agricultural
2 commodities.

3 (2) Effective January 1, 2006, tangible personal
4 property as described by this subsection purchased at retail
5 for storage, use, or other consumption in this state shall be
6 taxed under the provisions of Chapter 23B and shall be exempt
7 from the tax levied under this article.

8 (e) Every person storing, using or otherwise
9 consuming in this state tangible personal property purchased
10 at retail shall be liable for the tax imposed by this article,
11 and the liability shall not be extinguished until the tax has
12 been paid to this state; provided, that a receipt from a
13 retailer maintaining a place of business in this state or a
14 retailer authorized by the department, under those rules and
15 regulations as it may prescribe, to collect the tax imposed
16 hereby and who shall for the purpose of this article be
17 regarded as a retailer maintaining a place of business in this
18 state, given to the purchaser in accordance with the
19 provisions of Section 40-23-26, shall be sufficient to relieve
20 the purchaser from further liability for tax to which the
21 receipt may refer.

22 (f) A use tax is hereby imposed on the classes of
23 tangible personal property, and at the rates imposed on those
24 classes, specified in subsections (a), (b) and (c) of this
25 section, on the storage, use, or other consumption in the
26 performance of a contract in this state of any tangible
27 personal property, new or used, the tax to be measured by the

1 sales price or the fair and reasonable market value of that
2 tangible personal property when put into use in this state,
3 whichever is less; provided, that the tax imposed by this
4 subsection shall not apply where the taxes imposed by
5 subsection (a), (b) or (c) of this section apply.

6 §40-23-7.1.

7 (a) Except as otherwise provided in subsection (b),
8 every person purchasing tangible personal property, the
9 storage, use, or other consumption of which is subject to the
10 tax imposed by this article, and who has not paid the tax due
11 with respect thereto to a seller required or authorized
12 hereunder to collect the tax, shall on or before the twentieth
13 day of the month following the close of each month file with
14 the department a return for the preceding month in the form as
15 may be prescribed by the department showing the total sales
16 price of the tangible personal property purchased by that
17 person, the storage, use, or other consumption of which became
18 subject to the tax imposed by this article during the
19 preceding month and with respect to which the tax was not paid
20 to a seller required or authorized hereunder to collect the
21 tax, and any other information the department may deem
22 necessary for the proper administration of this article. The
23 return shall be accompanied by a remittance of the amount of
24 tax herein imposed and not paid to a seller required or
25 authorized hereunder to collect the tax during the period
26 covered by the return. Returns shall be signed by the person
27 liable for the tax or his duly authorized agent, but need not

1 be verified by oath. Electronic signatures may be furnished
2 pursuant to Chapter 30 of Title 40.

3 (b) When the total state use tax for which any
4 person is liable under this division averages less than two
5 hundred dollars (\$200) per month during the preceding calendar
6 year, a quarterly return and remittance in lieu of the monthly
7 returns may be made, by election of the taxpayer to the
8 department, on or before the twentieth day of the month next
9 succeeding the end of the quarter for which the tax is due
10 under the rules and regulations prescribed by the department.
11 The election to file quarterly shall be made in writing no
12 later than February 20 of each year and shall be filed with
13 the department. Notwithstanding the above, no state use tax
14 return shall be due until January 20 of each year unless the
15 total state use tax for which any person is liable under this
16 division during the preceding calendar year exceeds ten
17 dollars (\$10).

18 §40-23-35.1.

19 All use taxes, and applicable fees, interest or
20 penalties imposed and all amounts of use tax herein required
21 to be paid to the state under this article shall be paid to
22 the Department of Revenue at Montgomery, Alabama, with
23 remittance payable to the Treasurer of Alabama. That amount of
24 money as shall be appropriated for each fiscal year by the
25 Legislature to the Department of Revenue with which to pay the
26 salaries, the cost of operation and the management of the
27 department shall be deducted, as a first charge thereon, from

1 the use taxes collected under and pursuant to Section
2 40-23-2.2; provided, that the expenditure of the sum so
3 appropriated shall be budgeted and allotted pursuant to
4 Article 4 of Chapter 4 of Title 41, and limited to the amount
5 appropriated to defray the expenses of operating the
6 department for each fiscal year. The balance of the tax
7 collected under and pursuant to Section 40-23-2.2 shall remain
8 in the state treasury to the credit of the Education Trust
9 Fund and shall be withdrawn as other moneys in said fund.

10 §40-23-36.1.

11 A discount of three percent of the sellers use taxes
12 levied by this article in Section 40-23-2.2 due and payable to
13 the state shall be allowed to the seller or vendor; provided,
14 that the taxes due by the seller are paid before they become
15 delinquent, as in this article provided.

16 Effective June 1, 2001, the Governor may, by
17 executive order, authorize the Department of Revenue to
18 provide by proper rules and regulations for the allowance of a
19 sellers use tax discount, not to exceed three percent (3%) of
20 the taxes levied in Section 40-23-2.2, due and payable to the
21 state by the seller or vendor; provided that the taxes due by
22 the seller or vendor are paid before becoming delinquent, as
23 in this article provided.

24 For any sellers use taxes collected by the seller or
25 vendor on or after June 1, 2001, the Governor may, by
26 executive order, authorize the Department of Revenue to
27 provide by proper rules and regulations for a maximum sellers

1 use tax discount amount or rate for each seller or vendor
2 regardless of the number of locations of that seller or vendor
3 within the State.

4 Beginning June 1, 2001 until September 30, 2002 the
5 balance of the sum equal to the increase in receipts due to
6 any maximum sellers use tax discount amount or rate as
7 provided herein shall first be credited to the Department of
8 Conservation and Natural Resources for (1) the sum equal to
9 the interest the Game and Fish Fund and the Seafoods Fund
10 would have earned on the sale of hunting and/or fishing
11 licenses, which is required to be credited to the funds by
12 Federal Regulation 50 CFR 80.4a(3), and (2) a sum equal to one
13 million dollars (\$1,000,000) for the Coastal Programs, and any
14 remaining balance shall be credited to the State General Fund.

15 Beginning October 1, 2002 and each fiscal year
16 thereafter the lesser of \$500,000 or the entire amount of the
17 sum equal to the increase in receipts due to any maximum
18 sellers use tax discount amount or rate as provided herein
19 shall be credited to the Department of Human Resources and
20 expended for the foster children program. Any remaining
21 balance shall first be credited to the Department of
22 Conservation and Natural Resources to be allocated in whole or
23 in part to the following (1) to the Game and Fish Fund and the
24 Seafoods Fund in an amount at least equal to the interest that
25 each fund would have earned on the sale of hunting and/or
26 fishing licenses which is required to be credited to the funds
27 by the Federal Regulation 50 CFR 80.4a(3) and (2) to the

1 Coastal Programs, a sum equal to one million dollars
2 (\$1,000,000); and any remaining balance shall be credited to
3 the State General Fund.

4 §40-23-40.

5 Each purchaser liable for a use tax on tangible
6 personal property shall be entitled to full credit for the
7 combined amount or amounts of legally imposed sales or use
8 taxes paid by such purchaser with respect to the same property
9 to another state and any subdivision thereof. The credit
10 shall be applied first against the amount of any use tax due
11 the state, and any unused portion of the credit shall then be
12 applied against the amount of any use tax due a subdivision.
13 The Commissioner of Revenue shall require such proof of
14 payment of tax to another state as he deems to be necessary
15 and proper.

16 The Commissioner of Revenue shall adopt rules and
17 regulations as he deems necessary for the proper
18 administration of this section.

19 §40-23-41.

20 The taxes levied under this Article shall be subject
21 to the provisions provided in Chapter 23A of Title 40, except
22 where otherwise provided in this Article.

23 Section 3. Sections 40-23-4.1, 40-23-37, 40-23-38,
24 and Article 2 of Chapter 23 of Title 40, consisting of
25 Sections 40-23-60, 40-23-61, 40-23-62, 40-23-63, 40-23-64,
26 40-23-65, 40-23-66, 40-23-67, 40-23-68, 40-23-74, 40-23-75,

1 40-23-77, 40-23-82, 40-23-83, 40-23-85, 40-23-88, Code of
2 Alabama 1975, are hereby repealed.

3 Section 4. Section 40-12-220, Code of Alabama 1975,
4 is amended to read as follows:

5 "§40-12-220.

6 "For purposes of this article, the following terms
7 shall have the respective meanings ascribed by this section:

8 (1) BUSINESS. All activities engaged in, or caused
9 to be engaged in, by any person with the object of gain,
10 profit, benefit, or advantage, either direct or indirect to
11 such person.

12 (2) COMMISSIONER. The Commissioner of Revenue of the
13 state.

14 (3) DEPARTMENT. The Department of Revenue of the
15 state.

16 (4) GROSS PROCEEDS. The value proceeding or accruing
17 from the leasing or rental of tangible personal property,
18 including any license or privilege taxes passed on to a lessee
19 by a lessor, without any deduction on account of the cost of
20 the property so leased or rented, the cost of materials used,
21 labor or service cost, interest paid, or any other expense
22 whatsoever, and without any deductions on account of loss, and
23 shall also include on the part of any person claiming
24 exemption under subdivision (4) of Section 40-12-223 an amount
25 equal to the amount of rental paid on any tangible personal
26 property acquired under ~~such~~ that exemption and thereafter
27 diverted to the use of ~~such person~~ the claimant.

1 (5) LEASING or RENTAL. ~~A transaction whereunder the~~
2 ~~person who owns or controls the possession of tangible~~
3 ~~personal property permits another person to have the~~
4 ~~possession or use thereof for a consideration and for the~~
5 ~~duration of a definite or indefinite period of time without~~
6 ~~transfer of the title to such property. Any transfer of~~
7 ~~possession or control of tangible personal property for a~~
8 ~~fixed or indeterminate term for consideration. A lease or~~
9 ~~rental may include future options to purchase or extend.~~

10 a. Lease or rental does not include:

11 1. A transfer of possession or control of property
12 under a security agreement or deferred payment plan that
13 requires the transfer of title upon completion of the required
14 payments;

15 2. A transfer of possession or control of property
16 under an agreement that requires the transfer of title upon
17 completion of required payments and payment of an option price
18 does not exceed the greater of one hundred dollars or one
19 percent of the total required payments; or

20 3. Providing tangible personal property along with
21 an operator for a fixed or indeterminate period of time. A
22 condition of this exclusion is that the operator is necessary
23 for the equipment to perform as designed. For the purpose of
24 this subsection an operator must do more than maintain,
25 inspect, or set-up the tangible personal property; or

26 4. The detention by the user thereof of freight
27 cars, oxygen and acetylene tanks, and similar property, in

1 respect of which detention a demurrage or per diem charge is
2 made against the user of ~~such~~ the property, ~~shall not be~~
3 ~~deemed to constitute a transaction whereunder property is~~
4 ~~leased or rented to another within the meaning of this~~
5 ~~article.~~

6 b. Lease or rental does include agreements covering
7 motor vehicles and trailers where the amount of consideration
8 may be increased or decreased by reference to the amount
9 realized upon sale or disposition of the property as defined
10 in 26 USC 7701(h) (1).

11 c. This definition shall be used for sales and use
12 tax purposes regardless if a transaction is characterized as a
13 lease or rental under generally accepted accounting
14 principles, the Internal Revenue Code, Alabama's commercial
15 code, or other provisions of federal, state or local law.

16 (6) PERSON. Any natural person, firm, partnership,
17 association, corporation, receiver, trust, estate, or other
18 entity, or any other group or combination of any thereof
19 acting as a unit.

20 (7) STATE. The State of Alabama.

21 (8) TANGIBLE PERSONAL PROPERTY. Personal property
22 which may be seen, weighed, measured, felt, or touched, or is
23 in any other manner perceptible to the senses. The term
24 "tangible personal property" shall not include stocks, bonds,
25 notes, insurance or other contracts, or securities."

26 Section 5. Section 40-2A-2, Code of Alabama 1975, is
27 amended to read as follows:

1 "§40-2A-2.

2 "(1) LEGISLATIVE INTENT.

3 a. The legislative intent of this chapter is to
4 provide equitable and uniform procedures for the operation of
5 the department and for all taxpayers when dealing with the
6 department. This chapter is intended as a minimum procedural
7 code and the department may grant or adopt additional
8 procedures not inconsistent with this chapter. This chapter
9 shall be liberally construed to allow substantial justice.

10 b. The provisions of this chapter shall be
11 complementary and in addition to all other provisions of law.
12 In the event of any conflict between the provisions of this
13 chapter and those of any other specific statutory provisions
14 contained in other chapters of this title, or of any other
15 title, it is hereby declared to be the legislative intent
16 that, to the extent ~~such~~ other specific provisions are
17 inconsistent with or different from the provisions of this
18 chapter, the provisions of this chapter shall prevail, with
19 the exception of the provisions contained in Chapter 23A of
20 Title 40.

21 (2) SCOPE. The provisions contained herein shall
22 govern all matters administered by the department except as
23 otherwise provided by law or by agreement entered into
24 pursuant to lawful authority. However, nothing herein shall be
25 construed to apply to the assessment of ad valorem taxes on
26 real or personal property which is administered by the various
27 counties of the State of Alabama, except that the

1 determination and assessment of value of property of public
2 utilities under Chapter 21 of this title, and the
3 determination and assessment of value of corporate shares of
4 stock under Article 4 of Chapter 14 of this title, shall be
5 governed by the procedures set forth in this chapter.

6 (3) PROCEDURES EXCLUSIVE. The department shall not
7 be subject to the declaratory judgment, declaratory ruling, or
8 contested case provisions of the Alabama Administrative
9 Procedure Act, Chapter 22 of Title 41."

10 Section 6. Sections 11-3-11.1, 11-3-11.2, 11-3-11.3,
11 11-51-180, 11-51-181, 11-51-182, 11-51-183, 11-51-200,
12 11-51-201, 11-51-202, 11-51-203, 11-51-205, 11-51-206,
13 11-51-207, 11-51-208, 11-51-210, 11-51-211, and 40-12-7, Code
14 of Alabama 1975, are amended to read as follows:

15 "§11-3-11.1.

16 (a) The action of the governing body of any county
17 in levying, authorizing, adopting, assessing, collecting and
18 enforcing any excise, privilege or license tax levied,
19 assessed, collected and enforced on the effective date hereof
20 is hereby ratified, approved, validated and confirmed,
21 regardless of any defect which might exist in the
22 authorization, adoption, levy, assessment, collection or
23 enforcement of any such tax, including, without limitation,
24 defects in the adoption of any underlying act of the
25 legislature authorizing such authorization, adoption, levy,
26 assessment, collection or enforcement, any failure to publish
27 any notice which might otherwise be required with respect to

1 any of the foregoing, or any failure by any such governing
2 body to comply with any statutory requirement with respect to
3 any of the foregoing matters; provided that this section shall
4 not apply to any such tax, the validity of which is on the
5 effective date hereof being challenged in any proceeding
6 pending in any court in this state."

7 (b) Pursuant to Section 40-23A-3(e) of Chapter 23A
8 of Title 40, local tax rate changes shall be effective only on
9 the first day of a calendar quarter after a minimum of 150
10 days notice to the Alabama Department of Revenue. Notice to
11 sellers of local tax rate changes may be provided through the
12 Web site of the Alabama Department of Revenue or by other
13 electronic means.

14 (c) Effective January 1, 2006, a county shall not
15 have more than one local sales tax rate or more than one local
16 use tax rate. If the county levies both a sales tax and use
17 tax, the local rates must be identical.

18 (d) Subsection (c) above does not apply to sales or
19 use taxes levied on the retail sale or transfer of motor
20 vehicles, aircraft, watercraft, modular homes, manufactured
21 homes, or mobile homes."

22 "§11-3-11.2.

23 "(a) Except as provided in Section 40-23A-3(a), the
24 ~~The~~ county commission may, by ordinance or resolution,
25 administer and collect, or contract for the collection of, any
26 local sales and use taxes or other local county taxes levied
27 or authorized to be levied by a general or local act. Where

1 the county commission provides by ordinance or resolution for
2 the administration and collection of the local taxes, the
3 collection of the local sales and use taxes shall occur at the
4 same time as state sales and use taxes are due to be paid to
5 the Department of Revenue, unless otherwise provided by law.

6 (b) Except as provided in Section 40-23A-3(a), any
7 ~~Any~~ county commission which elects to administer and collect,
8 or contract for the collection of, any local sales and use
9 taxes or other local taxes, shall have the same rights,
10 remedies, power and authority, including the right to adopt
11 and implement the same procedures, as would be available to
12 the Department of Revenue if the tax or taxes were being
13 administered, enforced, and collected by the Department of
14 Revenue. Any rules and regulations adopted or utilized by the
15 county or its designee shall be consistent with the rules and
16 regulations adopted through the provisions of the Alabama
17 Administrative Procedure Act by the Department of Revenue for
18 the corresponding state tax. ~~If a specific provision of the~~
19 ~~rules and regulations of the Department of Revenue is~~
20 ~~inconsistent with a specific provision of a local act,~~
21 ~~resolution, or general law authorizing or levying a local tax,~~
22 ~~including a gross receipts tax in the nature of a sales tax,~~
23 ~~as defined in Section 40-2A-3(8), which was enacted or adopted~~
24 ~~prior to February 25, 1997, the local act, resolution, or~~
25 ~~general law provision shall prevail.~~ Any taxpayer that
26 possesses a direct pay permit issued by the Department of
27 Revenue shall pay to the county the sales and use taxes and

1 other county taxes pursuant to the direct pay permit in
2 accordance with rules and regulations promulgated by the
3 Department of Revenue.

4 (c) Except as provided in Section 40-23A-3(a), in
5 ~~In~~ any county in which there exists on February 25, 1997, a
6 local act which authorizes a county commission only to
7 contract with a designee to administer and enforce any tax
8 enacted by the county, the tax or taxes shall continue to be
9 collected and enforced by a designee pursuant to the
10 provisions of the local act, unless the local act is amended
11 to provide otherwise or repealed.

12 (d) A county commission which elects to administer
13 and collect, or contract for collection of local taxes
14 pursuant to subsection (a), may retain, as its fee for the
15 cost of collection of its local taxes no more than five
16 percent of the tax proceeds or the county's actual cost of
17 collection, whichever is less. Notwithstanding the previous
18 sentence, in any county in which there exists on February 25,
19 1997, a local act which establishes or limits the amount which
20 can be retained by the county for costs of collection or which
21 limits the amount that can be paid by the county to a designee
22 for providing collection and enforcement services, the
23 provisions in the local act with regard to the costs and
24 amounts shall continue to have force and effect unless the
25 local act is amended to provide otherwise or is repealed."

26 "§11-3-11.3.

1 "(a) Except as provided in Section 40-23A-3(a),
2 counties ~~Counties~~ may, upon request of the county commission,
3 engage the Department of Revenue to collect any county sales,
4 use, rental, lodgings, tobacco, or other local taxes for which
5 there is a corresponding state levy. Subject to subsections
6 (d) and (e) below, the department shall collect a county
7 sales, use, rental, lodgings, tobacco, or other tax for which
8 there is a corresponding state levy on behalf of the
9 requesting county. Any county sales, use, rental, or lodgings
10 tax levy administered and collected by the Department of
11 Revenue pursuant to this section, whether the levy is imposed
12 pursuant to the authority of Section 40-12-4, or any general,
13 special, or local act of the Legislature, shall parallel the
14 corresponding state tax levy, except for the rate of tax, and
15 shall be subject to all definitions, exceptions, exemptions,
16 proceedings, requirements, provisions, rules, regulations,
17 direct pay permits and drive-out certificate procedures,
18 statutes of limitation, penalties, fines, punishments, and
19 deductions as applicable to the corresponding state tax,
20 except where otherwise provided in this section, including
21 provisions for the enforcement and collection of taxes. The
22 Department of Revenue shall make available to those counties
23 for which it collects a sales, use, rental, or lodgings tax
24 collected pursuant to this section the same services which are
25 made available to municipal governments pursuant to Division 4
26 of Article 2 of Chapter 51 and Article 3 of Chapter 51.

1 (b) The Department of Revenue shall prepare and
2 distribute those reports, forms, and other information as may
3 be necessary to provide for its collection of any county tax
4 it collects and, on request, shall make all reports available
5 for inspection by the governing body of the county. In
6 collecting a county sales, use, rental, or lodgings tax, the
7 department shall have all the authority and duties as it has
8 in connection with the collection of the corresponding state
9 tax including, without limitation, the provisions of Chapters
10 2A, 12, 23, and 26 of Title 40.

11 (c) ~~(1)~~ The Commissioner of Revenue shall deposit
12 into the State Treasury all county taxes collected and, except
13 as provided in Section 40-23A-3(a), on a biweekly basis, shall
14 certify to the State Comptroller the amount of taxes collected
15 for the approximate two-week period immediately preceding the
16 certification and the amount, ~~less the Department of Revenue's~~
17 ~~actual cost of collection~~, to be distributed to each county
18 and which shall be paid to the treasurer or other custodian of
19 funds of the county within three days after certification
20 thereof.

21 ~~(2) The department shall charge each county the~~
22 ~~actual cost to the department for collecting a tax.~~
23 ~~Notwithstanding the preceding sentence, however, the charge~~
24 ~~shall not exceed two percent of the amount collected for each~~
25 ~~county. At least once each month, the State Comptroller shall~~
26 ~~issue a warrant to the Department of Revenue for the~~
27 ~~collection charges due as determined by the Commissioner of~~

1 ~~Revenue. Payment shall be from funds collected under this~~
2 ~~section and shall be the actual cost of collection, not to~~
3 ~~exceed two percent of the amount collected for each county.~~

4 ~~(3) Within 60 days after the end of each fiscal~~
5 ~~year, the department, in cooperation with the office of the~~
6 ~~Examiner of Public Accounts, shall recompute its actual costs~~
7 ~~for collection of county taxes for the preceding fiscal year.~~
8 ~~Any collection over-charge shall be redistributed to the~~
9 ~~counties for which the department collects local taxes, on a~~
10 ~~pro rata basis of each county's receipts. No under-charge~~
11 ~~shall be recovered, either directly or indirectly, from any~~
12 ~~county.~~

13 (d) Except where the department is collecting on
14 July 1, 1998, any county which has a tax levy that will be
15 collected by the Department of Revenue pursuant to the
16 provisions of this section shall forward a certified copy of
17 the enabling ordinance or resolution to the department at
18 least 30 days prior to the first day of the month on which it
19 is to begin collecting the tax.

20 (e) A new levy, or a levy changed by an amendment of
21 a heretofore adopted levy, which will be collected under this
22 section shall not be subject to collection by the Department
23 of Revenue until the first day of the month next following the
24 expiration of 30 days after receipt by the department of a
25 certified copy of the enabling ordinance or resolution with
26 any amendment thereto.

1 (f) The Department of Revenue shall from time to
2 time issue ~~such~~ rules and regulations for making returns and
3 for ascertainment, assessment, collection, and administration
4 of taxes subject to the provisions of this section as it may
5 deem necessary to enforce its provisions and shall furnish any
6 municipal or county government with a copy of those rules and
7 regulations within 15 days of final adoption. Upon request,
8 the Department of Revenue shall furnish any taxpayer with a
9 copy of those rules and regulations.

10 (g) Any self-administered county governing body, as
11 defined in Section 40-2A-3(20), may elect, by the adoption of
12 an ordinance or resolution, to assess interest on any tax
13 delinquency. Any such assessment of interest shall be
14 consistent with the provisions of Section 40-23-2.1. Any
15 self-administered county governing body may also elect, by the
16 adoption of an ordinance or resolution, to pay interest on any
17 refund of tax erroneously paid. In the event that the
18 governing body elects to assess interest on any tax
19 delinquency, the governing body must also elect to pay
20 interest, at the same rate charged by the county on tax
21 delinquencies, on any refund of tax erroneously paid. Unless
22 otherwise specified in the ordinance or resolution in which
23 the county governing body elects to assess or pay interest
24 determined in accordance with Section 40-1-44, the applicable
25 interest rate to be charged by or due from the county shall be
26 one percent per month. References in this subsection to
27 "erroneously paid" taxes on which interest shall be due to the

1 taxpayer shall only mean and refer to taxes paid to the
2 self-administered county or its agent as a result of any
3 error, omission, or inaccurate advice by or on behalf of the
4 self-administered county, including in connection with a prior
5 examination of its books and records by the self-administered
6 county or its agent.

7 (h) Notwithstanding subsection (g), the applicable
8 interest rate to be assessed on any tax delinquency or paid on
9 any refund of erroneously paid taxes with respect to all
10 county sales, use, rental, and lodgings tax levies collected
11 by the Department of Revenue shall be determined in accordance
12 with Section 40-1-44."

13 "§11-51-180.

14 "(a) Except as provided in Section 40-23A-3(a), the
15 ~~The~~ Department of Revenue shall, upon request by ordinance or
16 resolution of the governing body of any municipality and the
17 filing of a certified copy of the enabling ordinance or
18 resolution with the Department of Revenue, collect all
19 municipal privilege or license taxes in the nature of a sales
20 or use tax levied or assessed by a municipality under the
21 provisions of a municipal ordinance or resolution duly
22 promulgated and adopted by the governing body of the
23 municipality, or levied by past or future special or local
24 acts of the Legislature. Except as set out below and as
25 otherwise provided in this section, the levy shall parallel
26 the corresponding state levy except for the rate of the tax
27 and shall be subject to all definitions, exceptions,

1 exemptions, proceedings, requirements, rules, regulations,
2 direct pay permit and drive-out certificate procedures,
3 provisions, statutes of limitation, penalties, fines,
4 punishments, and deductions as are applicable to the state
5 sales and use tax. This subsection shall not apply to
6 municipal gasoline or motor fuel taxes, privilege or business
7 license taxes levied on a business for the privilege of doing
8 business within the municipality, occupational license taxes,
9 tobacco taxes, or other similar taxes levied by a municipality
10 pursuant to Section 11-51-90, except privilege or licence
11 taxes levied in the nature of a sales or use tax.

12 (b) The Department of Revenue shall, upon request by
13 ordinance or resolution of the governing body of any
14 municipality and the filing of a certified copy of the
15 enabling ordinance or resolution with the Department of
16 Revenue, collect all municipal privilege or license taxes
17 imposed on the rental or furnishing of rooms, lodgings, and
18 accommodations levied or assessed by any city or town under
19 the provisions of a municipal ordinance duly promulgated and
20 adopted by the governing body of the city or town. The levy
21 shall parallel and be collected in accordance with the state
22 levy, except for the rate of the tax, and is subject to all
23 definitions, exceptions, exemptions, proceedings,
24 requirements, rules, regulations, provisions, statutes of
25 limitations, penalties, fines, punishments, and deductions as
26 are applicable to the state lodgings tax as levied by Sections
27 40-26-1 to 40-26-21, inclusive, or as otherwise provided by

1 law, except where otherwise provided in this division,
2 including provisions for enforcement and collection of the
3 taxes. This subsection shall not apply to municipal gasoline
4 or motor fuel taxes, privilege or business license taxes
5 levied on a business for the privilege of doing business
6 within the municipality, occupational license taxes, tobacco
7 taxes, or other similar taxes levied by a municipality
8 pursuant to Section 11-51-90, except privilege or license
9 taxes levied in the nature of a lodgings tax.

10 (c) Except as provided in Section 40-23A-3(a), this
11 ~~This~~ section shall apply only to those municipalities that
12 request the Department of Revenue to collect taxes on their
13 behalf."

14 "§11-51-181.

15 "Municipal taxes collected by the Department of
16 Revenue shall be collected at the same time and along with the
17 collection by the department of taxes levied and collected for
18 the state under the provisions of Sections 40-23-1, 40-23-2,
19 40-23-2.1, 40-23-2.2, 40-23-4 to 40-23-31, inclusive,
20 40-23-36, 40-23-36.1, 40-23-40, ~~40-23-37,~~ except for ~~those~~
21 ~~provisions relating to the~~ rate of tax rate, ~~40-23-38,~~ Article
22 ~~2~~ of Chapter 23A of Title 40, and Sections 40-26-1 to
23 40-26-21, inclusive, and all reports required to be made to
24 the Commissioner of Revenue under this division shall, on
25 request made to the Department of Revenue, be made available
26 for inspection by the governing body of the city or town or

1 its designated agent at reasonable times during business
2 hours."

3 "§11-51-182.

4 "The Department of Revenue shall prepare and
5 distribute reports, forms, and other information as may be
6 necessary to provide for its collection of municipal taxes
7 under this division, and shall have all the authority and
8 duties under this division as it has in connection with the
9 collection of the state sales and use taxes provided for by
10 Sections 40-23-1, 40-23-2, 40-23-2.1, 40-23-2.2, 40-23-4 to
11 40-23-31, inclusive, 40-23-36, ~~40-23-37~~, except for ~~those~~
12 ~~provisions relating to the~~ rate of tax rate, ~~40-23-38~~, and
13 ~~Article 2 of~~ Chapter 23A of Title 40, and with the collection
14 of the state tax on the rental of rooms, lodgings, and
15 accommodations provided for by Sections 40-26-1 to 40-26-21,
16 inclusive."

17 "§11-51-183.

18 "~~(a)~~The Commissioner of Revenue shall deposit into
19 the State Treasury all municipal taxes collected by the
20 department under this division; and, except as provided in
21 Section 40-23A-3(a), on a biweekly basis, the commissioner
22 shall certify to the State Comptroller the amount of taxes
23 collected under the provisions of this division for the
24 approximate two-week period immediately preceding the
25 certification and the amount to be distributed to each
26 municipality, ~~less collection charges deducted~~, which shall be

1 paid to the treasurer or other custodian of funds of the
2 municipality within three days after certification thereof.

3 ~~(b) The Department of Revenue shall charge each~~
4 ~~municipality its actual cost for collecting the municipal~~
5 ~~license taxes. Notwithstanding the previous sentence, however,~~
6 ~~the charge shall not exceed two percent of the amount~~
7 ~~collected for that municipality.~~

8 ~~(c) Within 60 days after the end of each fiscal~~
9 ~~year, the Department of Revenue, in cooperation with the~~
10 ~~office of the Examiner of Public Accounts, shall recompute its~~
11 ~~actual cost for collection of local taxes for the preceding~~
12 ~~fiscal year. Any collection over-charge shall be redistributed~~
13 ~~to the municipalities for which the department collects local~~
14 ~~taxes, on a pro rata basis of each municipality's receipts. No~~
15 ~~under-charge shall be recovered, either directly or~~
16 ~~indirectly, from any municipality.~~

17 ~~(d) The State Comptroller shall at least once each~~
18 ~~month issue a warrant on the funds collected under this~~
19 ~~division payable to the Department of Revenue for the amount~~
20 ~~of the charges as determined by the Commissioner of Revenue."~~

21 "§11-51-185.

22 "(a) Except where the Department of Revenue is
23 already collecting taxes on ~~July 1, 1998~~ the effective date of
24 this act, any municipality requesting the Department of
25 Revenue to collect its tax shall forward a certified copy of
26 the enabling act, ordinance, or resolution to the department

1 at least 30 days prior to the first day of the month on which
2 the act, ordinance, or resolution is to take effect.

3 (b) A new levy, or a levy changed by an amendment of
4 a municipal ordinance heretofore adopted, which shall be
5 collected under this division or a new request to collect
6 shall not be ~~effective nor~~ subject to collection by the
7 Department of Revenue until the first day of the month next
8 following the expiration of 30 days after receipt by the
9 department of a certified copy of the enabling ordinance or
10 resolution with any amendments thereto.

11 (c) The Department of Revenue shall not be required
12 to make any collection of municipal privilege or license taxes
13 levied in the nature of sales or use taxes or otherwise
14 perform any duties as provided for in this division until a
15 certified copy of the ordinance and amendments thereto has
16 been on file with the Department of Revenue for at least 30
17 days."

18 "§11-51-200.

19 "(a) The governing body of any municipality within
20 the State of Alabama may provide by ordinance for the levy and
21 assessment of sales taxes, parallel to the state levy of sales
22 taxes except for the rate of tax, as levied by Sections
23 40-23-1, 40-23-2, 40-23-2.1, 40-23-4 to 40-23-31, inclusive,
24 40-23-36, and Chapter 23A of Title 40, ~~40-23-37, except for~~
25 ~~those provisions relating to the tax rate, and 40-23-38,~~
26 except where inapplicable or where otherwise provided in this
27 article; provided, that no municipality may levy any ~~such~~ tax

1 against the Alcoholic Beverage Control Board of the State of
2 Alabama in the sale of alcoholic beverages. The phrase "except
3 where inapplicable," contained herein and in Sections
4 11-51-201, 11-51-202, and 11-51-203, shall not be construed to
5 permit a self-administered municipality to adopt or interpret
6 an ordinance, resolution, policy, or practice that relies on
7 that phrase, either directly or indirectly, in order to
8 disavow, disregard, or attempt to disavow or disregard the
9 mandate provided in this and the following sections for
10 conformity with the corresponding state tax levy, ~~unless the~~
11 ~~self-administered municipality can demonstrate that the~~
12 ~~ordinance, resolution, policy, or practice will simplify~~
13 ~~collection or administration of the tax or is being made for~~
14 ~~the convenience of the taxpayer.~~

15 (b) Pursuant to Section 40-23A-3(e), local tax rate
16 changes shall be effective only on the first day of a calendar
17 quarter after a minimum of 150 days notice to the Alabama
18 Department of Revenue. Local jurisdiction boundary changes
19 shall be effective only on the first day of a calendar quarter
20 after a minimum of 90 days notice to the Alabama Department of
21 Revenue. Notice to sellers of local tax rate changes may be
22 provided through the Web site of the Alabama Department of
23 Revenue or by other electronic means.

24 (c) Effective January 1, 2006, a municipality shall
25 not have more than one local sales tax rate or more than one
26 local use tax rate. If the municipality levies both a sales
27 tax and use tax, the local rates must be identical.

1 (d) Subsection (c) above does not apply to sales or
2 use taxes levied on the retail sale or transfer of motor
3 vehicles, aircraft, watercraft, modular homes, manufactured
4 homes, or mobile homes."

5 "§11-51-201.

6 "(a) All taxes levied or assessed by any
7 municipality pursuant to the provisions of Section 11-51-200
8 shall be subject to all definitions, exceptions, exemptions,
9 proceedings, requirements, provisions, rules and regulations
10 promulgated under the Alabama Administrative Procedure Act,
11 direct pay permit and drive-out certificate procedures,
12 statutes of limitation, penalties, fines, punishments, and
13 deductions for the corresponding state tax as are provided by
14 Sections 40-2A-7, 40-23-1, 40-23-2, 40-23-2.1, 40-23-4 to
15 40-23-31, inclusive, 40-23-36, ~~40-23-37~~, except for ~~those~~
16 ~~provisions relating to the~~ rate of tax rate, and Chapter 23A
17 of Title 40, ~~40-23-38~~, except where inapplicable or where
18 otherwise provided in this article.

19 (b) Notwithstanding the provisions of subsection
20 (a), the tax provided in Section 11-51-200 on any automotive
21 vehicle, truck trailer, trailer, semitrailer, or travel
22 trailer required to be registered or licensed with the probate
23 judge, which is not sold through a licensed Alabama dealer,
24 shall be collected and fees paid in accordance with the
25 provisions of Sections 40-23-104 and 40-23-107, respectively."

26 "§11-51-202.

1 "(a) The governing body of any municipality within
2 the State of Alabama may provide by ordinance for the levy and
3 assessment of an excise tax or use tax parallel to the state
4 levy and assessment of excise or use taxes as levied by
5 Article 2 1 of Chapter 23 of Title 40, except where
6 inapplicable or where otherwise provided in this article.

7 (b) The governing body of any municipality within
8 the State of Alabama may provide by ordinance for the levy and
9 assessment of a privilege or license tax in the nature of a
10 lodgings tax, parallel to the state levy and assessment of the
11 privilege or license tax as levied by Chapter 26 of Title 40,
12 except where inapplicable or where otherwise provided by this
13 article.

14 (c) Pursuant to Section 40-23A-3(e) of Chapter 23A
15 of Title 40, local tax rate changes shall be effective only on
16 the first day of a calendar quarter after a minimum of 150
17 days notice to the Alabama Department of Revenue. Local
18 jurisdiction boundary changes shall be effective only on the
19 first day of a calendar quarter after a minimum of 90 days
20 notice to the Alabama Department of Revenue. Notice to
21 sellers of local tax rate changes may be provided through the
22 Web site of the Alabama Department of Revenue or by other
23 electronic means.

24 (d) Effective January 1, 2006, a municipality shall
25 not have more than one local sales tax rate or more than one
26 local use tax rate. If the municipality levies both a sales
27 tax and use tax, the local rates must be identical.

1 (e) Subsection (d) above does not apply to sales or
2 use taxes levied on the retail sale or transfer of motor
3 vehicles, aircraft, watercraft, modular homes, manufactured
4 homes, or mobile homes."

5 "§11-51-203.

6 "(a) All taxes levied or assessed by any
7 municipality pursuant to the provisions of Section 11-51-202
8 shall be subject to all definitions, exceptions, exemptions,
9 proceedings, requirements, provisions, rules and regulations
10 promulgated under the Alabama Administrative Procedure Act,
11 direct pay permit and drive-out certificate procedures,
12 statutes of limitation, penalties, fines, punishments, and
13 deductions for the corresponding state tax as are provided by
14 Section 40-2A-7, ~~and Article 2 1~~ of Chapter 23 of Title 40,
15 and Chapter 23A of Title 40, except where inapplicable or
16 where otherwise provided in this article.

17 (b) Notwithstanding the provisions of subsection
18 (a), the tax provided in Section 11-51-202 on any automotive
19 vehicle, truck trailer, trailer, semitrailer, or travel
20 trailer required to be licensed with the probate judge, which
21 were sold by dealers that are not licensed in Alabama, or were
22 sold by licensed Alabama dealers who failed to collect
23 municipal or county sales taxes at the point of sale, shall be
24 collected and fees paid in accordance with the provisions of
25 Sections 40-23-104 and 40-23-107, respectively.

26 (c) For making the collection of county or municipal
27 taxes levied under the authority of this article, the tax

1 collector shall be entitled to a fee from the recipient county
2 or municipality in an amount equal to five percent of the
3 first ten thousand dollars (\$10,000) of revenue collected for
4 the recipient and three percent of all revenue collected over
5 ten thousand dollars (\$10,000) for the recipient under this
6 article each month. ~~Such~~ The fee shall be for the use of the
7 tax collector, except as otherwise provided by law. The fees
8 allowed herein shall be deducted from the tax collection of
9 each recipient each month and the remainder of the collections
10 shall be remitted to each recipient as provided by law;
11 provided, however, the fee shall be disallowed with respect to
12 any tax collected for the county or municipality unless the
13 collections are remitted to the appropriate county or
14 municipal tax recipient within the time allowed by law. In all
15 counties where the tax collector is paid on a salary instead
16 of a fee basis, all fees allowed under the terms of this
17 section to be paid to the tax collector shall be paid, by the
18 tax collector, into the county treasury or to the official
19 performing the duties of county treasurer."

20 "§11-51-205.

21 "(a) The governing body of a municipality levying or
22 assessing taxes authorized by this article may provide by
23 ordinance for the rate of the tax.

24 (b) The governing body may provide in any ordinances
25 levying or assessing the tax that the tax is levied and
26 assessed in whole or in part in lieu of any privilege license
27 tax based on gross receipts in the nature of a sales or use

1 tax which at the time of the levy is otherwise provided for by
2 ordinance pursuant to Section 11-51-90. This subsection shall
3 not apply to municipal gasoline or motor fuel taxes, privilege
4 or business license taxes levied on a business for the
5 privilege of doing business within the municipality,
6 occupational license taxes, tobacco taxes, or other similar
7 taxes levied by a municipality pursuant to Section 11-51-90,
8 except privilege or license taxes levied in the nature of a
9 sales or use tax.

10 (c) In all cases where the levy and assessment made
11 pursuant to this article is required by ordinance, any
12 previous pledge of the proceeds collected from a privilege
13 license tax levied by ordinance pursuant to Section 11-51-90
14 shall have full force and effect as to any levy or assessment
15 made pursuant to this article.

16 (d) Pursuant to Section 40-23A-3(e), local tax rate
17 changes shall be effective only on the first day of a calendar
18 quarter after a minimum of 150 days notice to the Alabama
19 Department of Revenue. Local jurisdiction boundary changes
20 shall be effective only on the first day of a calendar quarter
21 after a minimum of 90 days notice to the Alabama Department of
22 Revenue. Notice to sellers of local tax rate changes may be
23 provided through the Web site of the Alabama Department of
24 Revenue or by other electronic means.

25 (e) Effective January 1, 2006, a municipality shall
26 not have more than one local sales tax rate or more than one

1 local use tax rate. If the municipality levies both a sales
2 tax and use tax, the local rates must be identical.

3 (f) Subsection (e) above does not apply to sales or
4 use taxes levied on the retail sale or transfer of motor
5 vehicles, aircraft, watercraft, modular homes, manufactured
6 homes, or mobile homes."

7 "§11-51-206.

8 "The council or other governing body shall have the
9 authority to levy and assess by ordinance within the police
10 jurisdiction of any said city or town all taxes authorized by
11 this article; provided, that said levy and assessment shall
12 not exceed one-half the amount levied and assessed for like
13 businesses, sales or uses conducted within the corporate
14 limits, fees and penalties excluded. Pursuant to Section
15 40-23A-3(e), the city or town shall have only one rate of tax;
16 the amount levied within the police jurisdiction shall be the
17 same amount levied inside the corporate limits."

18 "§11-51-207.

19 "(a) Except as provided in Section 40-23A-3(a), the
20 ~~The~~ governing body of a municipality may pass an ordinance or
21 resolution requiring the Department of Revenue to administer
22 and collect any taxes levied and assessed under the provisions
23 of this article, or any general, special, or local law
24 relating to the levy or administration of a municipal sales
25 and use, rental, or lodgings tax. In all cases where the
26 governing body of a municipality provides by ordinance or
27 resolution for the administration and collection of any taxes

1 levied under the provisions of this article, or any general,
2 special, or local law relating to the levy or administration
3 of a municipal sales and use, rental, or lodgings tax by the
4 Department of Revenue, administration and collections shall be
5 made under the same provisions and procedures provided for by
6 Sections 11-51-180 to 11-51-185, inclusive.

7 (b) Any municipal rental tax levy administered and
8 collected by the Department of Revenue pursuant to Section
9 11-51-207(a) or Section 11-51-208 shall parallel the state
10 levy of rental tax, except for the rate of the tax, as levied
11 by Sections 40-12-220 to 40-12-224, inclusive, and shall be
12 subject to all definitions, exceptions, exemptions,
13 proceedings, requirements, provisions, rules, regulations,
14 statutes of limitation, penalties, fines, punishments, and
15 deductions as are provided by Section 40-2A-7 and Sections
16 40-12-220 to 40-12-224, inclusive."

17 "§11-51-208.

18 "(a) Except as provided in Section 40-23A-3(a),
19 municipalities ~~Municipalities~~ may, upon request of the
20 municipal governing body, engage the Department of Revenue to
21 collect their municipal sales, use, rental, and lodgings tax.
22 Subject to subsections (c) and (d), the Department of Revenue
23 shall collect the municipal sales, use, rental, and lodgings
24 tax on behalf of the requesting municipality. The Department
25 of Revenue shall prepare and distribute reports, forms, and
26 other information as may be necessary to provide for the
27 collection of any municipal tax it collects and, on request,

1 shall make all reports available for inspection by the
2 governing body of the municipality. In collecting a municipal
3 sales, use, rental, or lodgings tax, the department shall have
4 all the authority and duties as it has in connection with the
5 collection of the corresponding state tax including, without
6 limitation, the provisions of Chapters 2A, 12, 23, and 26 of
7 Title 40.

8 (b) ~~(1)~~ The Commissioner of Revenue shall deposit
9 into the State Treasury all municipal taxes collected and, on
10 a biweekly basis, shall certify to the State Comptroller the
11 amount of taxes collected for the approximate two-week period
12 immediately preceding the certification and the amount, less
13 the Department of Revenue's actual cost of collection, to be
14 distributed to each municipality, which shall be paid to the
15 treasurer or other custodian of funds of the municipality
16 within three days after certification thereof.

17 ~~(2) The department shall charge each municipality~~
18 ~~the actual cost to the department for collecting its tax.~~
19 ~~Notwithstanding the preceding sentence, however, the charge~~
20 ~~shall not exceed two percent of the amount collected for each~~
21 ~~municipality. At least once each month, the State Comptroller~~
22 ~~shall issue a warrant to the Department of Revenue for the~~
23 ~~collection charges due as determined by the Commissioner of~~
24 ~~Revenue. Payment shall be from funds collected under this~~
25 ~~section and shall be the actual cost of collection, not to~~
26 ~~exceed two percent of the amount collected for each~~
27 ~~municipality.~~

1 ~~(3) Within 60 days after the end of each fiscal~~
2 ~~year, the department, in cooperation with the office of the~~
3 ~~Examiner of Public Accounts, shall recompute its actual costs~~
4 ~~for collection of municipal taxes for the preceding fiscal~~
5 ~~year. Any collection over-charge shall be redistributed to the~~
6 ~~municipalities for which the department collects local taxes,~~
7 ~~on a pro rata basis of each municipality's receipts. No~~
8 ~~undercharge shall be recovered, either directly or indirectly,~~
9 ~~from any municipality.~~

10 (c) Except where the department is collecting on
11 ~~July 1, 1998~~ the effective date of this act, any municipality
12 which has a tax levy that will be collected by the Department
13 of Revenue pursuant to the provisions of this section shall
14 forward a certified copy of the enabling act, ordinance, or
15 resolution to the department at least 30 days prior to the
16 first day of the first month on which the department is to
17 begin collecting the tax.

18 (d) A new levy, or a levy changed by an amendment of
19 a heretofore adopted levy, which will be collected under this
20 section shall not be subject to collection by the Department
21 of Revenue until the first day of the month next following the
22 expiration of 30 days after receipt by the department of a
23 certified copy of the enabling act, ordinance, or resolution
24 with any amendments thereto.

25 (e) Subject to the provisions of this section, the
26 Department of Revenue shall from time to time issue ~~such~~ rules
27 and regulations for making returns and for ascertainment,

1 assessment, collection, and administration of taxes subject to
2 the provisions of this section as it may deem necessary to
3 enforce its provisions and shall furnish any county or
4 municipal governing body with a copy of those rules and
5 regulations within 15 days of final adoption. Upon request,
6 the Department of Revenue shall furnish any taxpayer with a
7 copy of those rules and regulations.

8 (f) Any self-administered municipal governing body,
9 as defined in Section 40-2A-3(~~20~~ 21), may elect, by the
10 adoption of an ordinance or resolution, to assess interest on
11 any tax delinquency. Any such assessment of interest shall be
12 consistent with the provisions of Section 40-23-2.1. Any
13 self-administered municipal governing body may also elect, by
14 the adoption of an ordinance or resolution, to pay interest on
15 any refund of tax erroneously paid. In the event that the
16 governing body elects to assess interest on any tax
17 delinquency, the governing body must also elect to pay
18 interest, at the same rate charged by the municipality on tax
19 delinquencies, on any refund of tax erroneously paid. Unless
20 otherwise specified in the ordinance or resolution in which
21 the municipal governing body elects to assess and pay interest
22 determined in accordance with Section 40-1-44, the applicable
23 interest rate to be charged by or due from the municipality
24 shall be one percent per month. References in this subsection
25 to "erroneously paid" taxes on which interest shall be due to
26 the taxpayer shall only mean and refer to taxes erroneously
27 paid to the self-administered municipality or its agent as a

1 result of any error, omission, or inaccurate advice by or on
2 behalf of the self-administered municipality, including in
3 connection with a prior examination of its books and records
4 by the self-administered municipality or its agent.

5 (g) Notwithstanding subsection (f), the applicable
6 interest rate to be assessed on any tax delinquency or paid on
7 any refund of erroneously paid taxes with respect to all
8 municipal sales, use, rental, and lodgings tax levies
9 collected by the Department of Revenue shall be determined in
10 accordance with Section 40-1-44."

11 "§11-51-210.

12 "(a) By December 31, 1998, the Department of Revenue
13 shall develop and promulgate in the form of a proposed agency
14 rule a standard multi-jurisdictional tax form and a singular
15 jurisdictional tax form for the reporting and payment of
16 municipal and county sales, use, rental, and lodgings taxes
17 for those municipalities and counties for which the department
18 serves as the collecting agent from time to time, except as
19 provided by Section 40-23A-3(a).

20 (b) By December 31, 1998, a committee consisting of
21 three representatives appointed by the Alabama League of
22 Municipalities (ALM), who shall be municipal employees,
23 officials, or attorneys, and three representatives appointed
24 by the Association of County Commissions of Alabama (ACCA),
25 who shall be county employees, officials, or attorneys, shall
26 develop a standard multiple jurisdictional tax form and a
27 singular jurisdictional tax form for the reporting and payment

1 of all county and municipal sales, use, rental, and lodgings
2 taxes for all counties and municipalities, except
3 municipalities and counties that levy a gross receipts tax in
4 the nature of a sales tax, as defined in Section 40-2A-3(8),
5 that elects to be self-administered, as defined in Section
6 40-2A-3(21), from time to time. The committee shall also
7 establish procedures for issuance of an amended form to take
8 into account any new levies or changes in the tax rate or the
9 law. Once the form and procedures are developed by the
10 committee, they shall be distributed for comment to all
11 counties and municipalities, the Business Council of Alabama,
12 the Alabama Retail Association, the Alabama Chapter of the
13 National Federation of Independent Business, and the
14 Department of Revenue. Comments shall be returned to the
15 committee within 45 days. Following the close of the comment
16 period, the committee shall adopt a standard form and the
17 procedures for issuance of an amended form. The form and
18 procedure shall thereafter be distributed to self-administered
19 counties and municipalities with instructions that the
20 standard form shall be used by each self-administered county
21 and municipality, except as provided by Section 40-23A-3(a).

22 (c) Except as provided by Section 40-23A-3(a), on or
23 and after the first day of the third month following the
24 adoption of the standard tax forms prescribed by subsection
25 (a) and subsection (b), all municipalities and counties
26 administered by the department, and all self-administered
27 counties and municipalities, respectively, shall accept the

1 applicable form without material variation. Subsequent changes
2 to the form prescribed by subsection (b) shall be effected in
3 compliance with the procedures developed by the committee. Any
4 change in the tax rate shall take effect without regard to the
5 form in use.

6 (d) Except as provided by Section 40-23A-3(a), other
7 ~~Other~~ than a self-administered county or municipality that
8 levies a gross receipts tax in the nature of a sales tax, as
9 defined in Section 40-2A-3(8), any county or municipality
10 levying or administering any one or more sales, use, rental,
11 or lodgings taxes shall accept, for reporting and payment of
12 taxes due that county or municipality, bulk submissions of
13 reports and, under regulations to be promulgated by the
14 self-administered county or municipality affected, payments
15 owed to ~~such~~ the county or municipality made on behalf of a
16 taxpayer by its properly authorized representative where ~~such~~
17 the submissions are made using the appropriate form developed
18 under this section. Any ~~such~~ bulk submissions or reports and
19 payments shall include the municipality's or county's assigned
20 identification number for each ~~such~~ taxpayer and vendee for
21 each tax paid and contain sufficiently detailed information by
22 which each taxpayer and each vendee can be identified ~~such~~ so
23 that a determination can be made as to the amount and method
24 of assessment of tax against such taxpayer and vendee for the
25 applicable county or municipality. The acceptance by a county
26 or municipality of ~~such~~ bulk submissions shall not relieve the
27 taxpayer on whose behalf ~~such~~ those submissions were made from

1 liability for any sales, use, rental, or lodgings tax arising
2 from an error or omission made by the taxpayer's
3 representative. Any self-administered county or municipality
4 accepting ~~such~~ bulk submission may require that the submission
5 be signed by the taxpayer or its properly authorized
6 representative.

7 (e) By June 30, 1998, every county and municipality
8 levying or administering a sales, use, rental, lodgings,
9 tobacco, gasoline, or ad valorem tax as of June 1, 1998, shall
10 submit to the Department of Revenue a list of the taxes then
11 levied or administered by that county or municipality and the
12 current rates thereof. Thereafter, every county and
13 municipality levying or administering a new sales, use,
14 rental, lodgings, tobacco, gasoline, or ad valorem tax or
15 amending an existing sales, use, rental, lodgings, tobacco,
16 gasoline, or ad valorem tax levy shall submit to the
17 department written notification of the new tax or the
18 amendment at least ~~30~~ 150 days prior to the effective date of
19 the tax or amendment. ~~However, failure~~ Failure to notify the
20 department, as required by this subsection, shall not
21 invalidate the levy of the tax. The department shall compile
22 this information into a ~~written~~ publication which shall be
23 published and issued on a monthly basis to each municipal and
24 county governing authority, private auditing firm, as defined
25 in Section 40-2A-3(17), and to others who have so requested
26 the publication. This ~~written~~ publication shall provide a then
27 current listing of each county and municipality levying or

1 administering a sales, use, rental, lodgings, tobacco,
2 gasoline, or ad valorem tax and the current rate thereof. A
3 taxpayer shall not be relieved of liability for the proper
4 amount of taxes owed even though the published tax rate or
5 levy was in error, except as provided in Section 40-23A-3(f).
6 However, no penalties or interest for late payment or
7 underpayment of taxes shall begin to accrue until the proper
8 tax rate or levy has been on file at the department for at
9 least 30 days, unless the taxpayer had actual knowledge of the
10 correct tax rate or levy as of an earlier date."

11 "§11-51-211.

12 (a) (1) With respect to those municipalities and
13 counties for which the department serves as the collecting
14 sales tax agent from time to time, when the total state sales
15 tax for which any person is liable under Chapter 23 of Title
16 40 averages less than two hundred dollars (\$200) per month
17 during the preceding calendar year, a quarterly sales tax
18 return and remittance in lieu of monthly returns may be made
19 to the department, except as provided in Section 40-23A-3(o).
20 If a quarterly filing election has been made by the taxpayer,
21 then the return and remittance shall be made to the department
22 on or before the 20th day of the month next succeeding the end
23 of the quarter for which the tax is due. The election to file
24 quarterly shall be made in writing no later than February 20
25 of each year and shall be filed with the department.
26 Notwithstanding the above, no state-administered county or
27 municipal sales tax return shall be due until January 20 of

1 each year unless the total state sales tax for which any
2 person is liable during the preceding calendar year exceeds
3 ten dollars (\$10), except as provided in Section 40-23A-3(o).
4 The department is hereby authorized to promulgate rules and
5 regulations to implement the provisions of this subdivision.

6 (2) With respect to those municipalities and
7 counties for which the department serves as the collecting use
8 tax agent from time to time, when (i) the total state sales
9 tax for which any person is liable under Chapter 23 of Title
10 40 averages less than two hundred dollars (\$200) per month
11 during the preceding calendar year and (ii) the total state
12 use tax for which that person is liable under Chapter 23 of
13 Title 40 averages less than two hundred dollars (\$200) per
14 month during the preceding calendar year, a quarterly use tax
15 return and remittance in lieu of monthly returns may be made
16 to the department, except as provided in Section 40-23A-3(o).
17 If a quarterly filing election has been made by the taxpayer,
18 then the return and remittance shall be made to the department
19 on or before the 20th day of the month next succeeding the end
20 of the quarter for which the tax is due. The election to file
21 quarterly shall be made in writing no later than February 20
22 of each year and shall be filed with the department.

23 Notwithstanding the above, no state-administered county or
24 municipal use tax return shall be due until January 20 of each
25 year unless the total state sales tax for which any person is
26 liable during the preceding calendar year exceeds ten dollars
27 (\$10), except as provided in Section 40-23A-3(o). The

1 department is hereby authorized to promulgate rules and
2 regulations to implement the provisions of this subdivision.

3 (b) (1) With respect to self-administered counties
4 and municipalities, as defined in Section 40-2A-3(20), when
5 the total state sales tax for which any person is liable under
6 Chapter 23 of Title 40 averages less than two hundred dollars
7 (\$200) per month during the preceding calendar year, a
8 quarterly sales tax return and remittance in lieu of monthly
9 returns may be made to each appropriate self-administered
10 county or municipality, except as provided in Section
11 40-23A-3(o). If a quarterly filing election has been made by
12 the taxpayer, then the returns and remittance shall be made to
13 each appropriate self-administered county or municipality on
14 or before the 20th day of the month next succeeding the end of
15 the quarter for which the tax is due. The election to file
16 quarterly shall be made in writing no later than February 20
17 of each year and shall be filed with each appropriate
18 self-administered county or municipality. Notwithstanding the
19 above, no sales tax return shall be due to a self-administered
20 county or municipality until January 20 of each year unless
21 the total state sales tax for which any person is liable under
22 Chapter 23 of Title 40 during the preceding calendar year
23 exceeds ten dollars (\$10), except as provided in Section
24 40-23A-3(o). A self-administered county or municipality is
25 hereby authorized to promulgate rules and regulations to
26 implement the provisions of this subdivision. Further, except
27 as provided in Section 40-23A-3(o), any self-administered

1 county or municipality may, in its discretion, permit a
2 taxpayer to file its sales tax returns on a basis less
3 frequently than quarterly.

4 (2) With respect to self-administered counties and
5 municipalities, when the total state sales tax for which any
6 business or person domiciled in Alabama is liable under
7 Chapter 23 of Title 40, averages less than two hundred dollars
8 (\$200) per month during the preceding calendar year, a
9 quarterly use tax return and remittance in lieu of monthly
10 returns may be made to each appropriate self-administered
11 county or municipality, except as provided in Section
12 40-23A-3(o). If a quarterly filing election has been made by
13 the taxpayer, then the return and remittance shall be made to
14 the appropriate self-administered county or municipality on or
15 before the 20th day of the month next succeeding the end of
16 the quarter for which the tax is due. The election to file
17 quarterly shall be made in writing no later than February 20
18 of each year and shall be filed with each appropriate
19 self-administered county or municipality. Notwithstanding the
20 above, no use tax return shall be due to a self-administered
21 county or municipality until January 20 of each year unless
22 the total state sales tax for which any person is liable under
23 Chapter 23 of Title 40 during the preceding calendar year
24 exceeds ten dollars (\$10), except as provided in Section
25 40-23A-3(o). A self-administered county or municipality is
26 hereby authorized to promulgate rules and regulations to
27 implement the provisions of this subdivision. Further, except

1 as provided in Section 40-23A-3(o), any self-administered
2 county or municipality may, in its discretion, permit a
3 taxpayer to file its use tax returns on a basis less
4 frequently than quarterly."

5 "§40-12-7.

6 "All ~~such~~ taxes collected under this article by the
7 Department of Revenue shall be collected and remitted to the
8 governing bodies of the various counties in the manner as
9 provided for the collection of taxes for cities or towns as
10 provided in Sections 11-51-180 through 11-51-185, ~~and the~~
11 ~~Department of Revenue is authorized to charge the counties for~~
12 ~~collecting said taxes its actual cost, not to exceed five~~
13 ~~percent of the amount collected,~~ and the department is
14 authorized to do any and all things pertaining to the
15 collection of ~~said~~ these taxes for the various counties as
16 ~~said~~ the department is authorized to do in collecting taxes
17 for cities and towns as provided in Sections 11-51-180 through
18 11-51-185.

19 Section 7. New Chapter 23A is created consisting of
20 Sections 40-23A-1, 40-23A-2, 40-23A-3, 40-23A-4, and 40-23A-5,
21 Code of Alabama 1975, to read as follows:

22 §40-23A-1.

23 The Streamlined Sales and Use Tax Agreement is the
24 Agreement adopted on November 12, 2002 by the participating
25 states of the Streamlined Sales Tax Project as outlined in
26 this Chapter. The purpose of the Streamlined Sales and Use Tax
27 Agreement is to simplify and modernize sales and use tax

1 administration in Alabama in order to substantially reduce the
2 burden of tax compliance. The Agreement focuses on improving
3 sales and use tax administration systems for all sellers and
4 for all types of commerce through all of the following:

5 a. State level administration of sales and use tax
6 collections.

7 b. Uniformity in the state and local tax bases.

8 c. Uniformity of major tax base definitions.

9 d. Central, electronic registration system for all
10 member states.

11 e. Simplified state and local tax rates.

12 f. Uniform sourcing rules for all taxable
13 transactions.

14 g. Simplified administration of exemptions.

15 h. Simplified tax returns.

16 i. Simplified tax remittances.

17 j. Protection of consumer privacy.

18 §40-23A-2.

19 (a) Agent. A person appointed by a seller to
20 represent the seller before the member states.

21 (b) Certified Automated System (CAS). Software
22 certified under the Agreement to calculate the tax imposed by
23 each jurisdiction on a transaction, determine the amount of
24 tax to remit to the appropriate state, and maintain a record
25 of the transaction.

26 (c) Certified Service Provider (CSP). An agent
27 certified under the Agreement to perform all the seller's

1 sales and use tax functions, other than the seller's
2 obligation to remit tax on its own purchases.

3 (d) Entity-Based Exemption. An exemption based on
4 who purchases the product or who sells the product.

5 (e) Member States. Any and all states that have
6 been approved initially or later admitted by the governing
7 board for participation in the Streamlined Sales and Use Tax
8 Agreement.

9 (f) Model 1 Seller. A seller that has selected a
10 CSP as its agent to perform all the seller's sales and use tax
11 functions, other than the seller's obligation to remit tax on
12 its own purchases.

13 (g) Model 2 Seller. A seller that has selected a
14 CAS to perform part of its sales and use tax functions, but
15 retains responsibility for remitting the tax.

16 (h) Model 3 Seller. A seller that has sales in at
17 least five member states, has total annual sales revenue of at
18 least five hundred million dollars, has a proprietary system
19 that calculates the amount of tax due each jurisdiction, and
20 has entered into a performance agreement with the member
21 states that establishes a tax performance standard for the
22 seller. As used in this definition, a seller includes an
23 affiliated group of sellers using the same proprietary system.

24 (i) Product-Based Exemption. An exemption based on
25 the description of the product and not based on who purchases
26 the product or how the purchaser intends to use the product.

1 (j) Purchaser. A person to whom a sale of tangible
2 personal property is made or to whom a service is furnished.

3 (k) Registered Under This Agreement. Registration
4 by a seller with the member states under the central
5 registration system provided in Sections 40-23A-3(c) and
6 40-23A-4 of this Agreement.

7 (l) Seller. A person making sales, leases, or
8 rentals of tangible personal property or services.

9 (m) State. Any state of the United States and the
10 District of Columbia.

11 (n) Use-Based Exemption. An exemption based on the
12 purchaser's use of the product.

13 §40-23A-3.

14 (a) State Level Administration.

15 (1) The Alabama Department of Revenue shall provide
16 state level administration of state and local sales and use
17 taxes. "State level administration" of sales and use taxes
18 shall mean the establishment and operation of a single point
19 where all sellers register, file returns and remit state and
20 all local sales and use taxes, in accordance with rules,
21 regulations and procedures as established by the Alabama State
22 Level Administration Commission pursuant to Chapter 31 of
23 Title 40. The distribution of the local taxes received shall
24 be made to the appropriate taxing jurisdictions within three
25 business days after certification of the payments in
26 accordance with rules, regulations and procedures as
27 established by the Alabama State Level Administration

1 Commission pursuant to Chapter 31 of Title 40. No fee shall
2 be charged to the local jurisdictions for providing "state
3 level administration" services.

4 (2) Audits of sellers domiciled within Alabama and
5 audits of sellers registered under the Agreement shall be
6 conducted in accordance with Alabama Law and under the
7 procedures established by the Alabama Joint Audits Commission
8 pursuant to Chapter 32 of Title 40.

9 (3) Administrative activities, include but are not
10 limited to, enforcement of delinquent state and local sales
11 and use taxes.

12 a. The Alabama Department of Revenue may conduct the
13 administrative activities for those sellers domiciled outside
14 of Alabama who are registered under the Agreement and for
15 sellers domiciled within the jurisdiction of a municipality or
16 county which has authorized the department pursuant to Title
17 11, Code of Alabama 1975, to provide these activities.

18 b. Municipalities and counties that have exercised
19 the authority granted in Alabama Law to become
20 self-administered may conduct administrative activities for
21 those sellers domiciled within their jurisdictions on behalf
22 of the state and its own jurisdiction.

23 (b) State and Local Tax Bases. Local jurisdictions
24 that levy a sales or use tax shall have a common tax base. The
25 tax base for local jurisdictions shall be identical to the
26 state tax base unless otherwise prohibited by federal law.
27 This section does not apply to sales or use taxes levied on

1 the retail sale or transfer of motor vehicles, aircraft,
2 watercraft, modular homes, manufactured homes, or mobile
3 homes.

4 (c) Registration. The Alabama Department of Revenue
5 shall participate in an online sales and use tax registration
6 system in cooperation with the other member states and shall
7 not require a written signature or the payment of any
8 registration fees or other charges if the seller has no legal
9 requirement to register.

10 (d) Notice for State Tax Changes.

11 (1) The Alabama Department of Revenue shall lessen
12 the difficulties faced by sellers when there is a change in a
13 state sales or use tax rate or base by making a reasonable
14 effort to do all of the following:

15 a. Provide sellers with as much advance notice as
16 practicable of a rate change.

17 b. Limit the effective date of a rate change to the
18 first day of a calendar quarter.

19 c. Notify sellers of legislative changes in the tax
20 base and amendments to sales and use tax rules and
21 regulations.

22 (2) Notice to sellers may be provided through the
23 Web site of the Alabama Department of Revenue or by other
24 electronic means.

25 (3) Failure of a seller to receive notice or failure
26 of the Alabama Department of Revenue to provide notice or
27 limit the effective date of a rate change shall not relieve

1 the seller of its obligation to collect sales or use taxes for
2 Alabama.

3 (e) Local Rate and Boundary Changes. The Alabama
4 Department of Revenue shall:

5 (1) Provide that local rate changes will be
6 effective only on the first day of a calendar quarter after a
7 minimum of sixty days' notice to sellers.

8 (2) Apply local sales and use tax rate changes to
9 purchases from printed catalogs wherein the purchaser computed
10 the tax based upon local tax rates published in the catalog
11 only on the first day of a calendar quarter after a minimum of
12 one hundred twenty days' notice to sellers.

13 (3) For sales and use tax purposes only, apply local
14 jurisdiction boundary changes only on the first day of a
15 calendar quarter after a minimum of sixty days' notice to
16 sellers.

17 (4) Provide and maintain a database that describes
18 boundary changes for all taxing jurisdictions. This database
19 shall include a description of the change and the effective
20 date of the change for sales and use tax purposes.

21 (5) Provide and maintain a database of all sales and
22 use tax rates for all of the jurisdictions levying taxes
23 within Alabama.

24 (6) Provide and maintain a database that assigns
25 each five digit and nine digit zip code within Alabama to the
26 proper tax rates and jurisdictions.

1 (7) Participate with other member states in the
2 development of an address-based system for assigning taxing
3 jurisdictions.

4 (8) Notice to sellers and access to databases may be
5 provided through the Web site of the Alabama Department of
6 Revenue or by other electronic means.

7 (f) Relief From Certain Liability.

8 The Alabama Department of Revenue shall relieve
9 sellers and CSPs from liability to Alabama and its local
10 jurisdictions for having charged and collected the incorrect
11 amount of sales or use tax resulting from the seller or CSP
12 relying on erroneous data provided by the Alabama Department
13 of Revenue on tax rates, boundaries, or taxing jurisdiction
14 assignments. If the Alabama Department of Revenue provides an
15 address-based system for assigning taxing jurisdictions
16 pursuant to subsection (e) (7) or the federal Mobile
17 Telecommunications Sourcing Act, it will not be required to
18 provide liability relief for errors resulting from the
19 reliance on the information provided by the Alabama Department
20 of Revenue under the provisions of Subsection (e) (6) of this
21 Section.

22 (g) Database Requirements and Exceptions.

23 (1) The electronic databases provided for in
24 Subsections (e) (4), (e) (5), (e) (6), and (e) (7) of this Section
25 shall be in a downloadable format approved by the governing
26 board.

1 (2) The provisions of Subsections (e) (6) and (e) (7)
2 of this Section do not apply when the purchased product is
3 received by the purchaser at the business location of the
4 seller.

5 (3) The databases provided by Subsections (e) (4),
6 (e) (5), and (e) (6) of this Section are not a requirement of
7 Alabama prior to entering into the Agreement. The governing
8 board shall establish the effective dates for availability and
9 use of the databases.

10 (h) State and Local Tax Rates.

11 (1) Alabama shall not have multiple state sales and
12 use tax rates on items of personal property or services after
13 December 31, 2005, except that Alabama may impose a single
14 additional rate, which may be zero, on food and food
15 ingredients and drugs as defined by Alabama law pursuant to
16 the Agreement.

17 (2) Alabama's local jurisdictions that levy a sales
18 or use tax shall not have more than one local sales tax rate
19 or more than one local use tax rate per local jurisdiction.
20 If the local jurisdiction levies both a sales tax and use tax,
21 the local rates must be identical.

22 (3) The provisions of this Subsection do not apply
23 to sales or use taxes levied on the retail sale or transfer of
24 motor vehicles, aircraft, watercraft, modular homes,
25 manufactured homes, or mobile homes.

26 (i) Application of General Sourcing Rules and
27 Exclusions From the Rules.

1 (1) The Alabama Department of Revenue requires
2 sellers to source the retail sale of a product in accordance
3 with the provisions of Subsection (j) of this Section which
4 apply regardless of the characterization of a product as
5 tangible personal property, a digital good, or a service. The
6 provisions of Subsection (j) of this Section only apply to
7 determine a seller's obligation to pay or collect and remit a
8 sales or use tax with respect to the seller's retail sale of a
9 product, and do not affect the obligation of a purchaser to
10 remit tax on the use of the product to the taxing
11 jurisdictions of that use.

12 (2) Subsection (j) of this Section does not apply to
13 sales or use taxes levied on the retail sale or transfer of
14 motor vehicles, aircraft, watercraft, modular homes,
15 manufactured homes, or mobile homes.

16 (j) General Sourcing Rules. The retail sale,
17 excluding lease or rental, of a product shall be sourced as
18 follows:

19 (1) When the product is received by the purchaser at
20 a business location of the seller, the sale is sourced to that
21 business location.

22 (2) When the product is not received by the
23 purchaser at a business location of the seller, the sale is
24 sourced to the location where receipt by the purchaser (or the
25 purchaser's donee, designated as such by the purchaser)
26 occurs, including the location indicated by instructions for
27 delivery to the purchaser (or donee), known to the seller.

1 (3) When subsections (1) and (2) do not apply, the
2 sale is sourced to the location indicated by an address for
3 the purchaser that is available from the business records of
4 the seller that are maintained in the ordinary course of the
5 seller's business when use of this address does not constitute
6 bad faith.

7 (4) When subsections (1), (2), and (3) do not apply,
8 the sale is sourced to the location indicated by an address
9 for the purchaser obtained during the consummation of the
10 sale, including the address of a purchaser's payment
11 instrument, if no other address is available, when use of this
12 address does not constitute bad faith.

13 (5) When none of the previous rules of subsections
14 (1), (2), (3), or (4) apply, including the circumstance in
15 which the seller is without sufficient information to apply
16 the previous rules, then the location will be determined by
17 the address from which tangible personal property was shipped,
18 from which the digital good or the computer software delivered
19 electronically was first available for transmission by the
20 seller, or from which the service was provided (disregarding
21 for these purposes any location that merely provided the
22 digital transfer of the product sold).

23 (k) General Sourcing Definitions.

24 For the purposes of Subsection (j) of this Section,
25 the terms "receive" and "receipt" mean:

26 (1) Taking possession of tangible personal property,

27 (2) Making first use of services, or

1 (3) Taking possession or making first use of digital
2 goods, whichever comes first.

3 The terms "receive" and "receipt" do not include
4 possession by a shipping company on behalf of the purchaser.

5 (1) Multiple Points of Use.

6 Notwithstanding the provisions of Subsection (j) of
7 this Section, a business purchaser that is not a holder of a
8 direct pay permit that knows at the time of its purchase of a
9 digital good, computer software delivered electronically, or a
10 service, that the digital good, computer software delivered
11 electronically, or service, will be concurrently available for
12 use in more than one jurisdiction shall deliver to the seller
13 in conjunction with its purchase a form disclosing this fact
14 ("Multiple Points of Use or MPU" Exemption Form).

15 (1) Upon receipt of the MPU Exemption Form, the
16 seller is relieved of all obligation to collect, pay, or remit
17 the applicable tax and the purchaser shall be obligated to
18 collect, pay, or remit the applicable tax on a direct pay
19 basis.

20 (2) A purchaser delivering the MPU Exemption Form
21 may use any reasonable, but consistent and uniform, method of
22 apportionment that is supported by the purchaser's business
23 records as they exist at the time of the consummation of the
24 sale.

25 (3) The MPU Exemption Form will remain in effect for
26 all future sales by the seller to the purchaser (except as to
27 the subsequent sale's specific apportionment that is governed

1 by the principle of subsection (2) and the facts existing at
2 the time of the sale) until it is revoked in writing.

3 (4) A holder of a direct pay permit shall not be
4 required to deliver a MPU Exemption Form to the seller. A
5 direct pay permit holder shall follow the provisions of
6 subsection (2) in apportioning the tax due on a digital good
7 or a service that will be concurrently available for use in
8 more than one jurisdiction.

9 (m) Direct Mail Sourcing.

10 (1) Notwithstanding Subsection (j) of this Section,
11 a purchaser of direct mail that is not a holder of a direct
12 pay permit shall provide to the seller in conjunction with the
13 purchase either a Direct Mail Form or information to show the
14 jurisdictions to which the direct mail is delivered to
15 recipients.

16 a. Upon receipt of the Direct Mail Form, the seller
17 is relieved of all obligations to collect, pay, or remit the
18 applicable tax and the purchaser is obligated to pay or remit
19 the applicable tax on a direct pay basis. A Direct Mail Form
20 shall remain in effect for all future sales of direct mail by
21 the seller to the purchaser until it is revoked in writing.

22 b. Upon receipt of information from the purchaser
23 showing the jurisdictions to which the direct mail is
24 delivered to recipients, the seller shall collect the tax
25 according to the delivery information provided by the
26 purchaser. In the absence of bad faith, the seller is
27 relieved of any further obligation to collect tax on any

1 transaction where the seller has collected tax pursuant to the
2 delivery information provided by the purchaser.

3 (2) If the purchaser of direct mail does not have a
4 direct pay permit and does not provide the seller with either
5 a Direct Mail Form or delivery information, as required by
6 subsection (1) of this section, the seller shall collect the
7 tax according to Subsection (j)(5) of this Section. Nothing
8 in this paragraph shall limit a purchaser's obligation for
9 sales or use tax to any state to which the direct mail is
10 delivered.

11 (3) If a purchaser of direct mail provides the
12 seller with documentation of direct pay authority, the
13 purchaser shall not be required to provide a Direct Mail Form
14 or delivery information to the seller.

15 (n) Administration of Exemptions.

16 (1) The Alabama Department of Revenue shall observe
17 the following provisions when a purchaser claims an exemption:

18 a. The seller shall obtain identifying information
19 of the purchaser and the reason for claiming a tax exemption
20 at the time of the purchase as determined by the governing
21 board.

22 b. A purchaser is not required to provide a
23 signature to claim an exemption from tax unless a paper
24 exemption certificate is used.

25 c. The seller shall use the standard form for
26 claiming an exemption electronically as adopted by the
27 governing board.

1 d. The seller shall obtain the same information for
2 proof of a claimed exemption regardless of the medium in which
3 the transaction occurred.

4 e. The Alabama Department of Revenue may utilize a
5 system wherein the purchaser exempt from the payment of the
6 tax is issued an identification number that shall be presented
7 to the seller at the time of the sale.

8 f. The seller shall maintain proper records of
9 exempt transactions and provide them to the Alabama Department
10 of Revenue when requested.

11 g. The Alabama Department of Revenue shall
12 administer use-based and entity-based exemptions when
13 practicable through a direct pay permit, an exemption
14 certificate, or other means.

15 (2) The Alabama Department of Revenue shall relieve
16 sellers that follow the requirements of this section from any
17 tax otherwise applicable if it is determined that the
18 purchaser improperly claimed an exemption and shall hold the
19 purchaser liable for the tax. This relief from liability does
20 not apply to a seller who fraudulently fails to collect the
21 tax or solicits purchasers to participate in the unlawful
22 claim of an exemption.

23 (o) Uniform Tax Returns.

24 The Alabama Department of Revenue shall:

25 (1) Require that only one tax return for each taxing
26 period for each seller registered under the Agreement be filed
27 for Alabama and all the taxing jurisdictions within Alabama.

1 (2) Require that returns be due no sooner than the
2 twentieth day of the month following the month in which the
3 transaction occurred.

4 (3) Allow any Model 1, Model 2, or Model 3 seller to
5 submit its sales and use tax returns in a simplified format
6 that does not include more data fields than permitted by the
7 governing board. The Alabama Department of Revenue may
8 require additional informational returns to be submitted not
9 more frequently than every six months in January and July of
10 each year.

11 (4) Allow any seller that is registered under the
12 Agreement, which does not have a legal requirement to register
13 in Alabama, and is not a Model 1, 2, or 3 seller, to submit
14 its sales and use tax returns as follows:

15 a. Upon registration, the Alabama Department of
16 Revenue shall provide to the seller the returns required by
17 the Alabama Department of Revenue.

18 b. The Alabama Department of Revenue may require a
19 seller to file a return anytime within one year of the month
20 of initial registration, and future returns may be required on
21 an annual basis in succeeding years.

22 c. In addition to the returns required in subsection
23 (4) (b), the Alabama Department of Revenue may require sellers
24 to submit returns in the month following any month in which
25 they have accumulated state and local tax funds for Alabama in
26 the amount of one thousand dollars or more.

1 (5) Participate with other member states in
2 developing a more uniform sales and use tax return that, when
3 completed, would be available to all sellers.

4 (6) Require all Model 1, 2, and 3 sellers to file
5 returns electronically.

6 (p) Uniform Rules for Remittances of Funds.

7 The Alabama Department of Revenue shall:

8 (1) Require only one remittance for each return.

9 (2) Require all remittances from sellers under
10 Models 1, 2, and 3 to be remitted electronically.

11 (3) Allow for electronic payments by both ACH Credit
12 and ACH Debit.

13 (4) Provide an alternative method for making "same
14 day" payments if an electronic funds transfer fails.

15 (5) Provide that if a due date falls on a legal
16 banking holiday in Alabama, the taxes are due on the next
17 succeeding business day.

18 (6) Require that any data that accompanies a
19 remittance be formatted using uniform tax type and payment
20 type codes approved by the governing board.

21 (q) Uniform Rules for Recovery of Tax Paid on Bad
22 Debts.

23 The Alabama Department of Revenue shall use the
24 following to provide a deduction for bad debts to a seller:

25 (1) Allow a deduction from taxable sales for bad
26 debts. Any deduction taken that is attributed to bad debts
27 shall not include finance charges, interest, or any other

1 nontaxable charges associated with the original sales
2 contract, or expenses incurred in attempting to collect any
3 debt, debts sold or assigned to third parties for collection,
4 or repossessed property.

5 (2) Utilize the federal definition of "bad debt" in
6 26 U.S.C. Sec. 166 as the basis for calculating bad debt
7 recovery. However, the amount calculated pursuant to 26 U.S.C.
8 Sec. 166 shall be adjusted to exclude: financing charges or
9 interest; sales or use taxes charged on the purchase price;
10 uncollectable amounts on property that remain in the
11 possession of the seller until the full purchase price is
12 paid; expenses incurred in attempting to collect any debt, and
13 repossessed property.

14 (3) Allow bad debts to be deducted on the return for
15 the period during which the bad debt is written off as
16 uncollectable in the claimant's books and records and is
17 eligible to be deducted for federal income tax purposes. For
18 purposes of this subsection, a claimant who is not required to
19 file federal income tax returns may deduct a bad debt on a
20 return filed for the period in which the bad debt is written
21 off as uncollectable in the claimant's books and records and
22 would be eligible for a bad debt deduction for federal income
23 tax purposes if the claimant was required to file a federal
24 income tax return.

25 (4) Require that, if a deduction is taken for a bad
26 debt and the debt is subsequently collected in whole or in
27 part, the tax on the amount so collected must be paid and

1 reported on the return filed for the period in which the
2 collection is made.

3 (5) Provide that, when the amount of bad debt
4 exceeds the amount of taxable sales for the period during
5 which the bad debt is written off, a refund claim may be filed
6 within the applicable statute of limitations allowed in
7 Section 40-2A-7, Code of Alabama 1975, for refund claims;
8 however, the statute of limitations shall be measured from the
9 due date of the return on which the bad debt could first be
10 claimed.

11 (6) Where filing responsibilities have been assumed
12 by a CSP, allow the service provider to claim, on behalf of
13 the seller, any bad debt allowance provided by this section.
14 The CSP must credit or refund the full amount of any bad debt
15 allowance or refund received to the seller.

16 (7) Provide that, for the purposes of reporting a
17 payment received on a previously claimed bad debt, any
18 payments made on a debt or account are applied first
19 proportionally to the taxable price of the property and the
20 sales tax or use tax thereon, and secondly to interest,
21 service charges, and any other charges.

22 (8) In situations where the books and records of the
23 party claiming the bad debt allowance support an allocation of
24 the bad debts among the member states, permit the allocation.

25 (r) Confidentiality and Privacy Protections Under
26 Model 1.

1 (1) The purpose of this section is to set forth the
2 Alabama Department of Revenue's policy for the protection of
3 the confidentiality rights of all participants in the system
4 and of the privacy interests of consumers who deal with Model
5 1 sellers.

6 (2) As used in this section, the term "confidential
7 taxpayer information" means all information that is protected
8 under Alabama's laws, regulations, and privileges; the term
9 "personally identifiable information" means information that
10 identifies a person; and the term "anonymous data" means
11 information that does not identify a person.

12 (3) The Alabama Department of Revenue agrees that a
13 fundamental precept in Model 1 is to preserve the privacy of
14 consumers by protecting their anonymity. With very limited
15 exceptions, a CSP shall perform its tax calculation,
16 remittance, and reporting functions without retaining the
17 personally identifiable information of consumers.

18 (4) The governing board may certify a CSP only if
19 that CSP certifies that:

20 a. Its system has been designed and tested to ensure
21 that the fundamental precept of anonymity is respected;

22 b. That personally identifiable information is only
23 used and retained to the extent necessary for the
24 administration of Model 1 with respect to exempt purchasers;

25 c. It provides consumers clear and conspicuous
26 notice of its information practices, including what
27 information it collects, how it collects the information, how

1 it uses the information, how long, if at all, it retains the
2 information and whether it discloses the information to member
3 states. The notice shall be satisfied by a written privacy
4 policy statement accessible by the public on the official web
5 site of the CSP;

6 d. Its collection, use and retention of personally
7 identifiable information will be limited to that required by
8 the member states to ensure the validity of exemptions from
9 taxation that are claimed by reason of a consumer's status or
10 the intended use of the goods or services purchased; and

11 e. It provides adequate technical, physical, and
12 administrative safeguards so as to protect personally
13 identifiable information from unauthorized access and
14 disclosure.

15 (5) The Alabama Department of Revenue shall provide
16 public notification of its practices relating to the
17 collection, use and retention of personally identifiable
18 information. Notification may be made through the Web site of
19 the Alabama Department of Revenue or other electronic means.

20 (6) When any personally identifiable information
21 that has been collected and retained is no longer required for
22 the purposes set forth in subsection (4)(d), that information
23 shall no longer be retained by the Alabama Department of
24 Revenue.

25 (7) When personally identifiable information
26 regarding an individual is retained by or on behalf of the
27 Alabama Department of Revenue, the department shall provide

1 reasonable access by the individual to his or her own
2 information in the department's possession and a right to
3 correct any inaccurately recorded information.

4 (8) If anyone other than the Alabama Department of
5 Revenue, or a person authorized by Alabama's laws or the
6 Agreement, seeks to discover personally identifiable
7 information, the department should make a reasonable and
8 timely effort to notify the individual of this request.

9 (9) This privacy policy is subject to enforcement by
10 Alabama's attorneys general or other appropriate state
11 government authority.

12 (10) Alabama's laws and regulations regarding the
13 collection, use, and maintenance of confidential taxpayer
14 information remain fully applicable and binding. Without
15 limitation, the Agreement does not enlarge or limit the
16 Alabama Department of Revenue's authority to:

17 a. Conduct audits or other review as provided under
18 the Agreement and state law.

19 b. Provide records pursuant to Alabama's Freedom of
20 Information Act, disclosure laws with governmental agencies,
21 or other regulations.

22 c. Prevent, consistent with Alabama law, disclosures
23 of confidential taxpayer information.

24 d. Prevent, consistent with federal law, disclosures
25 or misuse of federal return information obtained under a
26 disclosure agreement with the Internal Revenue Service.

1 e. Collect, disclose, disseminate, or otherwise use
2 anonymous data for governmental purposes.

3 (11) This privacy policy does not preclude the
4 governing board from certifying a CSP whose privacy policy is
5 more protective of confidential taxpayer information or
6 personally identifiable information than is required by the
7 Agreement.

8 (s) Sales Tax Holidays. Alabama and its
9 jurisdictions that levy a sales or use tax shall not allow for
10 temporary exemption periods, commonly referred to as sales tax
11 holidays.

12 (t) Caps and Thresholds.

13 (1) Alabama and its jurisdictions that levy a sales
14 or use tax shall not have caps or thresholds on the
15 application of state or local sales or use tax rates or
16 exemptions that are based on the value of the transaction.

17 (2) Alabama and its jurisdictions shall not have
18 caps that are based on the application of the rates.

19 (3) The provisions of this subsection do not apply
20 to sales or use taxes levied on the retail sale or transfer of
21 motor vehicles, aircraft, watercraft, modular homes,
22 manufactured homes, or mobile homes or to instances where the
23 burden of administration has been shifted from the retailer.

24 (u) Rounding Rule.

25 (1) The Alabama Department of Revenue adopts a
26 rounding algorithm that meets the following criteria:

1 a. Tax computation must be carried to the third
2 decimal place, and

3 b. The tax must be rounded to a whole cent using a
4 method that rounds up to the next cent whenever the third
5 decimal place is greater than four.

6 (2) The Alabama Department of Revenue shall allow
7 sellers to elect to compute the tax due on a transaction on an
8 item or an invoice basis, and shall allow the rounding rule to
9 be applied to the aggregated state and local taxes. The
10 Alabama Department of Revenue shall not require a seller to
11 collect tax based on a bracket system.

12 (v) Direct Pay Permits.

13 The Alabama Department of Revenue provides for a
14 direct pay authority under Section 40-23-32 that allows the
15 holder of a direct pay permit to purchase otherwise taxable
16 goods without payment of tax to the supplier at the time of
17 purchase. The holder of the direct pay permit will make a
18 determination of the taxability and then report and pay the
19 applicable tax due directly to the department.

20 §40-23A-4.

21 (a) Seller Participation.

22 Under this system:

23 (1) A seller registering under the Agreement is
24 registered in each of the member states. By registering, the
25 seller agrees to collect and remit sales and use taxes for all
26 taxable sales into the member states, including member states
27 joining after the seller's registration. Withdrawal or

1 revocation of a member state shall not relieve a seller of its
2 responsibility to remit taxes previously or subsequently
3 collected on behalf of the state.

4 (2) A seller may be registered by an agent. The
5 agency agreement shall be in writing and submitted to the
6 Alabama Department of Revenue if requested by the department.

7 (3) A seller may cancel its registration under the
8 system at any time under uniform procedures adopted by the
9 governing board. Cancellation does not relieve the seller of
10 its liability for remitting to the Alabama Department of
11 Revenue any state and local taxes collected, nor does it
12 relieve sellers of registration requirements pursuant to
13 Article 1 of Chapter 23 of Title 40.

14 (4) Where the seller has a requirement to register
15 in Alabama prior to registering under the Agreement, the
16 seller may be required to provide additional information to
17 complete the registration process or the seller may choose to
18 register directly with Alabama.

19 (5) Alabama shall not use registration with the
20 central registration system and the collection of taxes in
21 Alabama as a factor in determining whether the seller has
22 nexus with Alabama for any tax at any time.

23 (6) When registering, the seller may select one of
24 the following methods of remittances or other method allowed
25 by Alabama law to remit the taxes collected:

26 (a) MODEL 1, wherein a seller selects a CSP as an
27 agent to perform all the seller's sales or use tax functions,

1 other than the seller's obligation to remit tax on its own
2 purchases.

3 (b) MODEL 2, wherein a seller selects a CAS to use
4 which calculates the amount of tax due on a transaction.

5 (c) MODEL 3, wherein a seller utilizes its own
6 proprietary automated sales and use tax system that has been
7 certified as a CAS.

8 (b) Amnesty for Registration.

9 (1) Subject to the limitations in this section:

10 a. The Alabama Department of Revenue shall provide
11 amnesty for uncollected use tax to a seller who registers to
12 pay or to collect and remit applicable use tax on sales made
13 to purchasers in Alabama in accordance with the terms of the
14 Agreement, provided that the seller was not so registered in
15 Alabama in the twelve-month period preceding the effective
16 date of Alabama's participation in the Agreement.

17 b. The amnesty will preclude assessment for
18 uncollected use tax together with penalty or interest for
19 sales made during the period the seller was not registered in
20 Alabama, provided registration occurs within twelve months of
21 the effective date of Alabama's participation in the
22 Agreement.

23 (2) The amnesty is not available to a seller with
24 respect to any matter or matters for which the seller received
25 notice of the commencement of an audit and which audit is not
26 yet finally resolved including any related administrative and
27 judicial processes.

1 (3) The amnesty is not available for sales or use
2 taxes already paid or remitted to the Alabama Department of
3 Revenue or to taxes collected by the seller.

4 (4) The amnesty is fully effective, absent the
5 seller's fraud or intentional misrepresentation of a material
6 fact, as long as the seller continues registration and
7 continues payment or collection and remittance of applicable
8 taxes for a period of at least thirty-six months. Alabama
9 shall toll its statute of limitations applicable to asserting
10 a tax liability during this thirty-six month period.

11 (5) The amnesty is applicable only to taxes due from
12 a seller in its capacity as a seller and not to taxes due from
13 a seller in its capacity as a buyer.

14 (6) Alabama may allow amnesty on terms and
15 conditions more favorable to a seller than the terms required
16 by this section.

17 §40-23A-5.

18 (1) Delivery Charges. Charges by the seller of
19 personal property or services for preparation and delivery to
20 a location designated by the purchaser of personal property or
21 services including, but not limited to, transportation,
22 shipping, postage, handling, crating, and packing.

23 (2) Direct Mail. Printed material delivered or
24 distributed by United States mail or other delivery service to
25 a mass audience or to addressees on a mailing list provided by
26 the purchaser or at the direction of the purchaser when the
27 cost of the items are not billed directly to the recipients.

1 "Direct mail" includes tangible personal property supplied
2 directly or indirectly by the purchaser to the direct mail
3 seller for inclusion in the package containing the printed
4 material. "Direct mail" does not include multiple items of
5 printed material delivered to a single address.

6 (3) Computer. An electronic device that accepts
7 information in digital or similar form and manipulates it for
8 a result based on a sequence of instructions.

9 (4) Computer software. A set of coded instructions
10 designed to cause a "computer" or automatic data processing
11 equipment to perform a task.

12 (5) Delivered electronically. Delivered to the
13 purchaser by means other than tangible storage media.

14 (6) Electronic. Relating to technology having
15 electrical, digital, magnetic, wireless, optical,
16 electromagnetic, or similar capabilities.

17 (7) Load and leave. Delivery to the purchaser by
18 use of a tangible storage media where the tangible storage
19 media is not physically transferred to the purchaser.

20 (8) Prewritten computer software. "Computer
21 software," including prewritten upgrades, which is not
22 designed and developed by the author or other creator to the
23 specifications of a specific purchaser. The combining of two
24 or more "prewritten computer software" programs or prewritten
25 portions thereof does not cause the combination to be other
26 than "prewritten computer software." "Prewritten computer
27 software" includes software designed and developed by the

1 author or other creator to the specifications of a specific
2 purchaser when it is sold to a person other than the specific
3 purchaser. Where a person modifies or enhances "computer
4 software" of which the person is not the author or creator,
5 the person shall be deemed to be the author or creator only of
6 such person's modifications or enhancements. "Prewritten
7 computer software" or a prewritten portion thereof that is
8 modified or enhanced to any degree, where such modification or
9 enhancement is designed and developed to the specifications of
10 a specific purchaser, remains "prewritten computer software;"
11 provided, however, that where there is a reasonable,
12 separately stated charge or an invoice or other statement of
13 the price given to the purchaser for such modification or
14 enhancement, such modification or enhancement shall not
15 constitute "prewritten computer software."

16 (9) Alcoholic beverages. Beverages that are
17 suitable for human consumption and contain one-half of one
18 percent or more of alcohol by volume.

19 (10) Dietary supplement. any product, other than
20 "tobacco," intended to supplement the diet that:

21 (a) Contains one or more of the following dietary
22 ingredients:

- 23 1. A vitamin;
- 24 2. A mineral;
- 25 3. An herb or other botanical;
- 26 4. An amino acid;

1 5. A dietary substance for use by humans to
2 supplement the diet by increasing the total dietary intake; or

3 6. A concentrate, metabolite, constituent, extract,
4 or combination of any ingredient described in above; and

5 (b) Is intended for ingestion in tablet, capsule,
6 powder, softgel, gelcap, or liquid form, or if not intended
7 for ingestion in such a form, is not represented as
8 conventional food and is not represented for use as a sole
9 item of a meal or of the diet; and

10 (c) Is required to be labeled as a dietary
11 supplement, identifiable by the "Supplemental Facts" box found
12 on the label and as required pursuant to 21 C.F.R § 101.36.

13 (11) Durable medical equipment. Equipment including
14 repair and replacement parts for same, but does not include
15 "mobility enhancing equipment," which:

16 a. Can withstand repeated use; and

17 b. Is primarily and customarily used to serve a
18 medical purpose; and

19 c. Generally is not useful to a person in the
20 absence of illness or injury; and

21 d. Is not worn in or on the body.

22 (12) Mobility enhancing equipment. Equipment
23 including repair and replacement parts to same, but does not
24 include "durable medical equipment," which:

25 a. Is primarily and customarily used to provide or
26 increase the ability to move from one place to another and

1 which is appropriate for use either in a home or a motor
2 vehicle; and

3 b. Is not generally used by persons with normal
4 mobility; and

5 c. Does not include any motor vehicle or equipment
6 on a motor vehicle normally provided by a motor vehicle
7 manufacturer.

8 (13) Over-the-counter-drug. A drug that contains a
9 label that identifies the product as a drug as required by 21
10 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

11 a. A "Drug Facts" panel; or

12 b. A statement of the "active ingredient(s)" with a
13 list of those ingredients contained in the compound, substance
14 or preparation.

15 (14) Prescription. An order, formula or recipe
16 issued in any form of oral, written, electronic, or other
17 means of transmission by a duly licensed practitioner
18 authorized by the laws of the member state.

19 Section 8. A new Chapter 23B to Title 40, Code of
20 Alabama 1975, is hereby created consisting of Sections
21 40-23B-1, 40-23B-2, 40-23B-3, 40-23B-4, 40-23B-5, 40-23B-6,
22 40-23B-7, 40-23B-8, 40-23B-9, 40-23B-10, 40-23B-11, and
23 40-23B-12, to read as follows:

24 Chapter 23B.

25 §40-23B-1.

1 For the purposes of this Chapter, the following
2 terms shall have the respective meanings ascribed by this
3 Section:

4 (1) Commissioner. The Commissioner of the
5 Department of Revenue of the State of Alabama.

6 (2) Department. The Department of Revenue of the
7 State of Alabama.

8 (3) Farm Equipment. Machines, machinery or
9 equipment which are used in planting, cultivating and
10 harvesting farm products, or used in connection with the
11 production of agricultural produce or products, livestock or
12 poultry, or farms, and the parts of these machines, machinery
13 or equipment, attachments and replacements therefore which are
14 made or manufactured for use on or in the operation of these
15 machines, machinery or equipment, and which are necessary to
16 and customarily used in the operation of these machines,
17 machinery or equipment. The parts, attachments and
18 replacements shall not apply to any automotive vehicle or
19 trailer designed primarily for public highway use except farm
20 trailers used primarily in the production and harvesting of
21 agricultural commodities.

22 (4) In this State or in the State. Within the
23 exterior limits of the State of Alabama, and includes all
24 territory within the limits owned by or ceded to the United
25 States of America.

26 (5) Manufacturing Equipment. Machines which are
27 used in mining, quarrying, compounding, processing, or

1 manufacturing tangible personal property, and shall include
2 the parts of the machines, attachments, and replacements
3 therefore, which are made or manufactured for use on or in the
4 operation of the machines and which are necessary to the
5 operation of the machines and are customarily so used.

6 (6) Person. An individual, trust, estate,
7 fiduciary, partnership, limited liability company, limited
8 liability partnership, corporation, or any other legal entity.

9 (7) Purchase. Acquired for a consideration, whether
10 such acquisition was effected by a transfer of title, or of
11 possession or of both, or a license to use or consume; whether
12 the transfer shall have been absolute or conditional, and by
13 whatsoever means the same shall have been effected; and
14 whether this consideration be a price or rental in money, or
15 by way of exchange or barter.

16 (8) Purchase Price. Applies to the measure subject
17 to tax imposed by this chapter and has the same meaning as
18 sales price.

19 (9) Purchaser. A person to whom a sale of
20 manufacturing equipment or farm equipment is made.

21 (10) Retail Sale. Any sale for any purpose other
22 than for resale or those defined as wholesale sales. Retail
23 sale shall also mean and include the withdrawal, use, or
24 consumption of any farm or manufacturing equipment by anyone
25 who purchases same at wholesale.

26 (11) Sale. Sold for a consideration, whether such
27 sale was effected by a transfer of title, or of possession or

1 of both, or a license to use or consume; whether the transfer
2 shall have been absolute or conditional, and by whatsoever
3 means the same shall have been effected; and whether the
4 consideration be a price or rental in money, or by way of
5 exchange or barter.

6 (12) Sales Price. Applies to the measure subject to
7 tax imposed by this chapter and means the total amount of
8 consideration, including cash, credit, and property, for which
9 farm or manufacturing equipment is sold, valued in money,
10 whether received in money or otherwise, without any deduction
11 for the following:

12 a. The seller's cost of the farm or manufacturing
13 equipment sold;

14 b. The cost of materials used, labor or service
15 cost, interest, losses, all costs of transportation to the
16 seller, all taxes imposed on the seller, and any other expense
17 of the seller;

18 c. Charges by the seller for any services necessary
19 to complete the sale, other than delivery and installation
20 charges;

21 d. Delivery charges;

22 e. The value of exempt personal property given to
23 the purchaser where taxable and exempt personal property have
24 been bundled together and sold by the seller as a single
25 product or piece of merchandise; and

26 f. Credit for any trade-in, except as allowed in
27 Section 40-23B-2.

1 Sales price shall not include the following:

2 a. Discounts, including cash, term, or coupons that
3 are not reimbursed by a third party that are allowed by a
4 seller and taken by a purchaser on a sale;

5 b. Interest, financing, and carrying charges from
6 credit extended on the sale of farm and manufacturing
7 equipment, if the amount is separately stated on the invoice,
8 bill of sale or similar document given to the purchaser; and

9 c. Any taxes legally imposed directly on the
10 consumer that are separately stated on the invoice, bill of
11 sale or similar document given to the purchaser.

12 (13) Storage. Any keeping or retention in this
13 state for any purpose except sale in the regular course of
14 business of farm and manufacturing equipment purchased at
15 retail.

16 (14) Use. The exercise of any right or power over
17 farm and manufacturing equipment incident to the ownership of
18 that equipment, or by any transaction where possession is
19 given, except that it shall not include the sale of that
20 equipment in the regular course of business.

21 (15) Wholesale Sale or Sale at Wholesale. Any one
22 of the following:

23 a. Farm and manufacturing equipment sold to or
24 purchased by licensed retail merchants or other wholesalers
25 for resale, and does not include a sale by a wholesaler to
26 users or consumers, not for resale.

1 b. Farm and manufacturing equipment sold to or
2 purchased by any person engaging in the business of leasing or
3 renting farm or manufacturing equipment to others, if this
4 equipment is purchased for the purpose of leasing or renting
5 it to others under a transaction subject to the privilege or
6 license tax levied in Article 4 of Chapter 12 of this title
7 against any person engaging in the business of leasing or
8 renting such equipment to others.

9 §40-23B-2.

10 (a) There is hereby levied and imposed, in addition
11 to all other taxes of every kind now imposed by law, and shall
12 be collected as herein provided, an excise tax upon every
13 person in the business of selling farm equipment at retail for
14 storage, use, or other consumption at the rate of one and
15 one-half percent of the sales price.

16 (b) Where any used farm equipment is taken in trade
17 or in a series of trades as a credit or part payment on a sale
18 of new or used farm equipment, the tax levied herein shall be
19 paid on the net difference, that is, the price of the new or
20 used farm equipment, less the credit for the used farm
21 equipment taken in trade.

22 (c) Every person storing, using or otherwise
23 consuming farm equipment purchased at retail and who has not
24 paid the tax due with respect thereto to a seller required or
25 authorized hereunder to collect the tax levied under this
26 section, shall be liable for an excise tax on the storage, use
27 or other consumption of farm equipment purchased at retail for

1 storage, use, or other consumption at the rate of one and
2 one-half percent of the purchase price of the farm equipment,
3 and the liability shall not be extinguished until the tax has
4 been paid to this state. A receipt given to the purchaser
5 from a retailer authorized by the department to collect the
6 tax imposed shall be sufficient to relieve the purchaser from
7 further liability for tax to which the receipt may refer.

8 §40-23B-3.

9 (a) There is hereby levied and imposed, in addition
10 to all other taxes of every kind now imposed by law, and shall
11 be collected as herein provided, an excise tax upon every
12 person in the business of selling manufacturing equipment at
13 retail for storage, use, or other consumption at the rate of
14 one and one-half percent of the sales price.

15 (b) Every person storing, using or otherwise
16 consuming manufacturing equipment purchased at retail and who
17 has not paid the tax due with respect thereto to a seller
18 required or authorized hereunder to collect the tax levied
19 under this section, shall be liable for an excise tax on the
20 storage, use or other consumption of manufacturing equipment
21 purchased at retail for storage, use, or other consumption at
22 the rate of one and one-half percent of the purchase price of
23 such manufacturing equipment, and the liability shall not be
24 extinguished until the tax has been paid to this state. A
25 receipt given to the purchaser from a retailer authorized by
26 the department to collect the tax imposed shall be sufficient

1 to relieve the purchaser from further liability for tax to
2 which the receipt may refer.

3 §40-23B-4.

4 The department shall adopt rules and regulations
5 providing for the issuance of direct pay permits to
6 manufacturers to purchase manufacturing equipment without the
7 payment to the vendor of the tax levied under Section 40-23B-3
8 of this chapter and providing for such manufacturers to report
9 and pay such tax directly to the department.

10 §40-23B-5.

11 There are hereby incorporated into this chapter by
12 reference the exemptions contained in Sections 40-23-4 and
13 40-23-5, and any other entities or products now exempt from
14 the taxes levied under Article 1 of Chapter 23 of Title 40.

15 Section 40-23B-6.

16 (a) Any person engaging in the business of selling
17 at retail farm equipment or manufacturing equipment for which
18 an excise tax is imposed by this chapter, as a condition
19 precedent to engaging or continuing in such business, shall
20 apply for and obtain from the department a license to engage
21 in and to conduct business for the current tax year upon the
22 condition that he shall pay the taxes accruing to the State of
23 Alabama under the provisions of this chapter; provided, that
24 no license shall be issued under the provisions of this
25 chapter to any person who has not complied with the provisions
26 of this chapter, and no provision of this chapter shall be

1 construed as relieving any person from the payment of the tax
2 now or hereafter imposed by law.

3 (b) Every seller engaged in making retail sales of
4 farm or manufacturing equipment for storage, use or other
5 consumption, who:

6 (1) Maintains, occupies, or uses, permanently or
7 temporarily, directly or indirectly, or through a subsidiary,
8 or agent by whatever name called, an office, place of
9 distribution, sales or sample room or place, warehouse or
10 storage place or other place of business;

11 (2) Qualifies to do business or registers with the
12 state to collect the tax levied by this chapter;

13 (3) Employs or retains under contract any
14 representative, agent, salesman, canvasser, solicitor or
15 installer operating in this state under the authority of the
16 person or its subsidiary for the purpose of selling,
17 delivering, or the taking of orders for the sale of farm or
18 manufacturing equipment taxable under this chapter or
19 otherwise solicits and receives purchases or orders by any
20 agent or salesman;

21 (4) Solicits, pursuant to a contract with a
22 broadcaster or publisher located in this state, orders for
23 tangible personal property by means of advertising which is
24 disseminated primarily to consumers located in this state and
25 only secondarily to bordering jurisdiction;

26 (5) Solicits orders for farm or manufacturing
27 equipment by mail if the solicitations are substantial and

1 recurring and if the retailer benefits from any banking,
2 financing, debt collection, telecommunication, or marketing
3 activities occurring in this state or benefits from the
4 location in this state of authorized installation, servicing,
5 or repair facilities;

6 (6) Has, under a franchise or licensing arrangement
7 or contract, a franchisee or licensee operating under its
8 trade name;

9 (7) Solicits, pursuant to a contract with a cable
10 television operator located in this state, orders for farm or
11 manufacturing equipment by means of advertising which is
12 transmitted or distributed over a cable television system in
13 this state;

14 (8) Solicits orders for farm or manufacturing
15 equipment by means of a telecommunication or television
16 shopping system which is intended by the person to be
17 broadcast by cable television or other means of broadcasting,
18 to consumers located in this state;

19 (9) Maintains any other contact with this state that
20 would allow this state to require the seller to collect and
21 remit the tax due under the provisions of the constitution and
22 laws of the United States;

23 (10) Distributes catalogs or other advertising
24 matter and by reason thereof receives and accepts orders from
25 residents, within the State of Alabama; or

26 (11) Delivers farm or manufacturing equipment in
27 vehicles owned or leased by the seller or operated by the

1 seller or seller's representative, shall register with the
2 department and give the name and address of each agent
3 operating in this state, the location of any and all
4 distribution or sales houses or offices or other place of
5 business in this state, and such other information as the
6 department may require with respect to matters pertinent to
7 the enforcement of this article.

8 §40-23B-7.

9 (a) The taxes levied under Sections 40-23B-2 and
10 40-23B-3 of this chapter shall be due and payable in monthly
11 installments on or before the twentieth day of the month next
12 succeeding the month in which the tax accrues.

13 (b) On or before the twentieth day of each month
14 after this chapter has taken effect, every person selling at
15 retail farm or manufacturing equipment on whom the taxes
16 levied by this chapter are imposed shall report to the
17 Department of Revenue on a form prescribed by the department,
18 a true and correct statement showing the gross proceeds of
19 sales of farm and manufacturing equipment, and such other
20 information as the department may deem necessary for the
21 proper administration of this chapter, and shall pay to the
22 department the amount of taxes shown due. Returns shall be
23 signed by the person liable for the tax or his duly authorized
24 agent. Electronic signatures may be furnished pursuant to
25 Chapter 30 of Title 40.

26 (c) Any seller liable for taxes under the provisions
27 of this chapter whose average monthly state excise tax

1 liability was one thousand dollars (\$1,000) or greater during
2 the preceding calendar year shall make prepayments to the
3 department on or before the twentieth day of the month in
4 which the liability occurs as follows:

5 (1) The amount of the first prepayment shall be 2/3
6 of the seller's actual tax liability for the month of January
7 1, 2006; thereafter the amounts of the prepayment shall be the
8 lesser of 2/3 of the seller's actual tax liability for the
9 same calendar month of the preceding year or 2/3 of the
10 current month's estimated liability.

11 (2) Any outstanding credit or deficit arising from
12 the seller's overpayment or underpayment of his final
13 liability shall be applied to either increase or reduce, as
14 the case may be, that month's final tax liability which shall
15 be reported and paid not later than the twentieth day of the
16 month next succeeding the month in which the tax accrues.

17 (3) The provisions of this subsection shall not
18 apply to any municipal or county taxes levied by past or
19 future special or local acts of the Legislature.

20 (d) The department, for good cause, may extend the
21 time for making any return required under the provisions of
22 this chapter, but the time for filing any such return shall
23 not be extended for a period greater than 30 days from the
24 date such return is due to be made.

25 (e) For the purpose of the proper administration of
26 this chapter and to prevent evasion of the tax and the duty to
27 collect the same herein imposed, it shall be presumed that

1 farm and manufacturing equipment sold by any person for
2 delivery in this state is sold for storage, use, or other
3 consumption in this state unless the person selling the
4 equipment has taken from the purchaser a certificate signed by
5 and bearing the name and address of the purchaser to the
6 effect that the equipment was purchased for resale, and it
7 shall be further presumed that any equipment shipped to this
8 state by the purchaser thereof was purchased from a retailer
9 for storage, use, or other consumption in this state.

10 §40-23B-8.

11 (a) The taxes levied under Sections 40-23B-2 and
12 40-23B-3 of this chapter shall be due and payable in monthly
13 installments on or before the twentieth day of the month next
14 succeeding the month in which the tax accrues.

15 (b) On or before the twentieth day of each month
16 after this chapter has taken effect, every person purchasing
17 at retail manufacturing equipment on whom the taxes levied by
18 this chapter are imposed and who has been issued by the
19 department a manufacturer's equipment direct pay permit
20 pursuant to Section 40-23B-4 of this chapter, shall report to
21 the Department of Revenue on a form prescribed by the
22 department, a true and correct statement showing the total
23 purchase price of the manufacturing equipment purchased by
24 such person for storage, use, or other consumption, and such
25 other information as the department may deem necessary for the
26 proper administration of this chapter, and shall pay to the
27 department the amount of taxes shown to be due. Returns shall

1 be signed by the person liable for the tax or his duly
2 authorized agent. Electronic signatures may be furnished
3 pursuant to Chapter 30 of Title 40.

4 (1) Any purchaser holding a manufacturer's equipment
5 direct pay permit liable for taxes under this chapter whose
6 average monthly state excise tax liability was one thousand
7 dollars (\$1,000) or greater during the preceding calendar year
8 shall make prepayments to the department on or before the
9 twentieth day of the month in which the liability occurs as
10 follows:

11 a. The amount of the first prepayment shall be $2/3$
12 of the purchaser's actual tax liability for the month of
13 January 1, 2006; thereafter the amounts of the prepayment
14 shall be the lesser of $2/3$ of the purchaser's actual tax
15 liability for the same calendar month of the preceding year or
16 $2/3$ of the current month's estimated liability.

17 b. Any outstanding credit or deficit arising from
18 the purchaser's overpayment or underpayment of his final
19 liability shall be applied to either increase or reduce, as
20 the case may be, that month's final tax liability which shall
21 be reported and paid not later than the twentieth day of the
22 month next succeeding the month in which the tax accrues.

23 c. The provisions of this subsection shall not apply
24 to any municipal or county taxes levied by past or future
25 special or local acts of the Legislature.

26 (c) On or before the twentieth day of each month
27 after this chapter has taken effect, any person purchasing at

1 retail farm or manufacturing equipment for storage, use, or
2 other consumption from a seller of such equipment not
3 authorized by the department to collect the tax herein levied,
4 and who is not a holder of a manufacturer's equipment direct
5 pay permit issued pursuant to Section 40-23B-4, shall report
6 to the Department of Revenue on a form prescribed by the
7 department, a true and correct statement showing the total
8 purchase price of the farm and manufacturing equipment
9 purchased by such person for storage, use, or other
10 consumption, and such other information as the department may
11 deem necessary for the proper administration of this chapter,
12 and shall pay to the department the amount of taxes shown to
13 be due. Returns shall be signed by the person liable for the
14 tax or his duly authorized agent. Electronic signatures may be
15 furnished pursuant to Chapter 30 of Title 40.

16 (d) The department, for good cause, may extend the
17 time for making any return required under the provisions of
18 this chapter, but the time for filing any such return shall
19 not be extended for a period greater than 30 days from the
20 date such return is due to be made.

21 (e) For the proper administration of this chapter
22 and to prevent evasion of the tax and the duty to pay the same
23 herein imposed, it shall be presumed that equipment shipped to
24 this state by the purchaser thereof was purchased from a
25 retailer for storage, use, or other consumption in this state.

26 §40-23B-9.

1 (a) The tax paid in pursuance to this chapter or any
2 other statute enacted in connection shall conclusively be
3 presumed to be a direct tax on the retail purchaser.

4 (b) Every person engaged in the business of selling
5 farm or manufacturing equipment at retail for storage, use, or
6 other consumption for which an excise tax is required by this
7 chapter, shall add to the sales price and collect from the
8 purchaser the tax imposed by this chapter, and give to the
9 purchaser a receipt therefore in the manner and form
10 prescribed by the department. It shall be unlawful for any
11 such seller to advertise or hold out or state to the public or
12 to any customer, directly or indirectly, that the tax or any
13 part thereof imposed by this chapter will be assumed or
14 absorbed by the seller or that it will not be added to the
15 selling price of the farm equipment sold, or if added that it
16 or any part thereof will be refunded. Any person violating
17 any of the provisions of this section shall be guilty of a
18 misdemeanor. The tax herein required to be collected by the
19 seller shall constitute a debt owed by the seller to this
20 state.

21 (c) The tax computation shall be carried to the
22 third decimal place and rounded to a whole cent using a method
23 that rounds up to the next cent whenever the third decimal
24 place is greater than four. The tax due on a transaction can
25 be computed on an item or an invoice basis, and the rounding
26 rule can be applied to the aggregated state and local taxes.

1 (d) In the event that any sum is collected from a
2 purchaser that purports to be collected because of this
3 section, whether or not the amount is actually provided for
4 hereunder, then any sum, except such as is collected solely
5 because of rounding the correct amount of tax upward to the
6 nearest cent, shall be paid to the department for the purposes
7 provided in Section 40-23B-11.

8 §40-23B-10.

9 The provisions of this chapter shall be administered
10 and the tax herein levied shall be collected in accordance
11 with the uniform procedures set forth in this title, along
12 with the procedures set forth in Division 1 of Article 1 of
13 Chapter 23 of this title, for administering and collecting the
14 tax therein levied, and for such purposes there are hereby
15 incorporated into this article by reference the provisions of
16 Sections 40-23-8 through 40-23-12, 40-23-25, 40-23-27 through
17 40-23-28, 40-23-30 and 40-23-31; provided, that in the event
18 of the repeal of such division, such repeal shall not operate
19 to eliminate the tax collection procedures contained therein
20 to the extent they are incorporated in this chapter by
21 reference, unless the legislation providing for such repeal
22 shall clearly indicate such a result.

23 §40-23B-11.

24 All taxes, fees, interest or penalties imposed and
25 all amounts of tax herein required to be paid to the state
26 under this chapter must be paid to the Department of Revenue,
27 and shall be without delay deposited in the treasury. Such

1 amount of money as shall be appropriated for each fiscal year
2 by the Legislature to the Department of Revenue with which to
3 pay the salaries, the cost of operation and the management of
4 the said department shall be deducted, as a first charge
5 thereon, from the taxes collected under and pursuant to this
6 chapter; provided, that the expenditure of said sum so
7 appropriated shall be budgeted and allotted pursuant to
8 Article 4 of Chapter 4 of Title 41, and limited to the amount
9 appropriated to defray the expenses of operating said
10 department for each fiscal year. The balance of the tax
11 collected under this chapter shall remain in the state
12 treasury to the credit of the Education Trust Fund.

13 §40-23B-12.

14 (a) The governing body of any municipality and any
15 county within the State of Alabama may provide by ordinance
16 for the levy and assessment of an excise tax parallel to the
17 state levy except for the rate of tax, as levied under this
18 chapter.

19 (b) The taxes levied by any municipality and any
20 county within the State of Alabama pursuant to subsection (a)
21 of this section shall be subject to all definitions,
22 exceptions, exemptions, proceedings, requirements, provisions,
23 rules and regulations promulgated under the Alabama
24 Administrative Procedures Act, direct pay permits, statutes of
25 limitations, penalties, fines, punishments, and deductions for
26 the corresponding state tax as are provided by this chapter

1 and Chapter 2A of Title 40, Code of Alabama 1975, except for
2 the rate of tax.

3 Section 9. A new Chapter 31 to Title 40, Code of
4 Alabama 1975, is hereby created consisting of Sections 40-31-1
5 through 40-31-4, to read as follows:

6 §40-31-1.

7 There is hereby created an entity to be known as the
8 "Alabama State Level Administration Commission", herein
9 referred to as commission, to be composed of five members.
10 The members shall be appointed as follows:

11 (1) One representative of municipal government
12 appointed by the Alabama League of Municipalities.

13 (2) One representative of county government
14 appointed by the Association of County Commissions of Alabama.

15 (3) The Commissioner of the Alabama Department of
16 Revenue or his or her designee.

17 (4) One representative of the retail community
18 appointed by the Alabama Retail Association.

19 (5) One representative of the accounting profession
20 appointed by the Alabama Society of Certified Public
21 Accountants.

22 Commission members shall receive no additional
23 compensation for service on the commission, but shall be
24 compensated by the state of Alabama for expenses in accordance
25 with State Travel Policy. The department shall provide
26 administrative support necessary for the commission to carry
27 out its duties.

1 §40-31-2.

2 Within 120 days of the effective date of this act,
3 the commission shall develop proposed rules, regulations and
4 procedures necessary to establish and operate the "state level
5 administration" of sales and use taxes as defined in Section
6 40-23A-3(a), Code of Alabama 1975. All proposed rules,
7 regulations and procedures shall be approved by a four-fifths
8 affirmative vote of the membership of the commission. Once
9 approved, the proposed rules, regulations and procedures shall
10 be submitted to the Commissioner of the Alabama Department of
11 Revenue who shall submit the proposed rules, regulations and
12 procedures for adoption pursuant to the Alabama Administrative
13 Procedures Act.

14 In the event interested persons submit data, views,
15 or arguments, orally or in writing, the commission shall
16 consider fully all written and oral submissions respecting the
17 proposed rule. Upon adoption of a rule, the commission, if
18 conflicting views are submitted on the proposed rule, shall
19 issue a concise statement of the principal reasons for and
20 against its adoption, incorporating therein its reasons for
21 overruling any considerations urged against its adoption. The
22 commission shall submit such statement to the Commissioner of
23 the Alabama Department of Revenue who shall submit such
24 statement pursuant to the Alabama Administrative Procedures
25 Act.

26 §40-31-3.

1 Following the establishment of the state level
2 administration of sales and use taxes, the commission shall be
3 required to meet as a body at least quarterly, at a time and
4 place to be determined by the commission. The commission shall
5 meet to:

6 (a) Consider amendments to the operating rules and
7 procedures of the state level administration of sales and use
8 taxes, and

9 (b) Receive comments from business and state,
10 municipal and county employees and officials regarding
11 objections to decisions or actions of the entity conducting
12 state level administration.

13 §40-31-4.

14 The commission shall have the authority, by a
15 four-fifths affirmative vote of the members of the commission,
16 to recommend a change in the entity conducting state level
17 administration and such entity can be another state agency, a
18 local government, or a private concern. Pursuant to Section
19 40-23A-3(a), Code of Alabama 1975, no fee shall be charged to
20 the state or the local jurisdictions for providing "state
21 level administration" services as defined in Section
22 40-23A-3(a), Code of Alabama 1975. Such recommendation shall
23 be forwarded to the Alabama Legislature and will become
24 effective only if approved by enactment of a joint resolution.
25 The approval of such joint resolution shall grant the new
26 entity the authority to conduct "state level administration"
27 previously granted to the Alabama Department of Revenue.

1 Section 10. A new Chapter 32 to Title 40, Code of
2 Alabama 1975, is hereby created, consisting of Sections
3 40-32-1 through 40-32-6, to read as follows:

4 §40-32-1.

5 This chapter shall be known as and may be cited as
6 the "Alabama Joint Audits Commission Act" or "AJAC."

7 §40-32-2.

8 There is hereby created an entity to be known as the
9 "Alabama Joint Audits Commission" (AJAC) to be composed of
10 eight members. Four members shall be appointed by the
11 Commissioner of the Alabama Department of Revenue and shall be
12 employees of said Department, two members shall be appointed
13 by the Alabama League of Municipalities and shall be employees
14 of municipal revenue departments, and two members shall be
15 appointed by the Association of County Commissions of Alabama
16 and shall be employees of county revenue departments. All
17 commission members shall serve for a three-year term or until
18 their employment with their respective revenue departments
19 shall cease, whichever comes first. The commission shall
20 elect from its membership a chair who shall serve for a term
21 of two years or until his or her employment with their
22 respective revenue department shall cease, whichever comes
23 first. The chair shall be allowed to vote on all issues
24 before the commission. Members of the commission shall be
25 eligible for reappointment. Vacancies shall be filled for the
26 remainder of the term by the appropriate appointing authority.
27 Commission members shall receive no additional compensation

1 for service on the commission, but shall be compensated by the
2 state of Alabama for expenses in accordance with State Travel
3 Policy.

4 §40-32-3.

5 The commission shall be required to meet as a body
6 at least once per quarter. Meetings shall be held at a time
7 and place to be determined by the commission. The commission
8 shall adopt rules of procedure to govern the conduct of its
9 meetings. A quorum shall consist of six members. If a quorum
10 is not present at the beginning of any meeting of the
11 commission, the members present shall have the authority to
12 establish an alternate meeting date.

13 §40-32-4.

14 The State of Alabama shall provide sufficient
15 funding to enable the Alabama Department of Revenue to furnish
16 staff, equipment and supplies necessary for the Alabama Joint
17 Audits Commission to carry out its duties and
18 responsibilities.

19 §40-32-5.

20 (1) The commission shall develop proposed rules,
21 regulations, and procedures to govern audits of, including but
22 not limited to, state and local sales, use, lodgings and
23 rental or lease taxes made by or on behalf of the Alabama
24 Department of Revenue, municipalities and counties pertaining
25 to the following:

26 a. standardized audit training

27 b. a system for the assignment of audits

1 c. standardized computer or audit software;
2 standardized audit letters, notices and forms; and
3 standardized audit work papers

4 d. standardized audit reports

5 e. a central source to coordinate audit selection
6 and proper jurisdictional notification prior to the start of
7 an audit

8 f. a central source to track the status of audits,
9 and

10 g. such other rules, regulations and policies
11 necessary to operate a joint auditing program.

12 (2) The commission shall also develop proposed
13 rules, regulations, and procedures to govern joint
14 administrative activities for, including but not limited to,
15 state and local sales, use, lodgings and rental or lease taxes
16 for the Alabama Department of Revenue, and the municipalities
17 and the counties of Alabama. Joint administrative activities
18 shall include but are not limited to ascertaining and
19 determining the amount required to be paid on delinquent
20 taxes.

21 (3) All proposed rules, regulations and procedures
22 shall be approved by the affirmative vote of at least six
23 members of the commission. Once approved, the proposed rules,
24 regulations and policies shall be submitted to the
25 Commissioner of the Alabama Department of Revenue who shall
26 submit the proposed rules, regulations and policies for

1 adoption pursuant to the Alabama Administrative Procedures
2 Act.

3 (4) In the event interested persons submit data,
4 views, or arguments, orally or in writing, the commission
5 shall consider fully all written and oral submissions
6 respecting the proposed rule. Upon adoption of a rule, the
7 commission, if conflicting views are submitted on the proposed
8 rule, shall issue a concise statement of the principal reasons
9 for and against its adoption, incorporating therein its
10 reasons for overruling any considerations urged against its
11 adoption. The commission shall submit such statement to the
12 Commissioner of the Alabama Department of Revenue who shall
13 submit such statement pursuant to the Alabama Administrative
14 Procedures Act.

15 §40-32-6.

16 The Alabama Department of Revenue, the governing
17 body of any municipality, and the governing body of any county
18 are hereby authorized to enter into agreements to conduct
19 joint examinations of a taxpayer's records pursuant to the
20 rules, regulations and procedures established by the "Alabama
21 Joint Audits Commission."

22 Nothing herein shall prevent the Alabama Department
23 of Revenue, a municipality and a county from entering into an
24 agreement to conduct a pilot joint audit project or projects
25 prior to the implementation of a statewide joint audit
26 procedure.

1 Section 11. Section 40-9B-3, Code of Alabama 1975,
2 is amended to read as follows:

3 "§40-9B-3.

4 "For purposes of this chapter, the following words
5 and phrases mean:

6 (1) ABATE, ABATEMENT. A reduction or elimination of
7 a taxpayer's liability for tax. An abatement of transaction
8 taxes imposed under Chapters 23 and 23B of this title, shall
9 relieve the seller from the obligation to collect and pay over
10 the transaction tax as if the sale were to a person exempt, to
11 the extent of the abatement, from the transaction tax.

12 (2) CONSTRUCTION RELATED TRANSACTION TAXES. The
13 transaction taxes imposed by Chapters 23 and 23B of this
14 title, on tangible personal property and taxable services
15 incorporated into an industrial development property, the cost
16 of which may be added to capital account with respect to the
17 property, determined without regard to any rule which permits
18 expenditures properly chargeable to capital account to be
19 treated as current expenses.

20 (3) EDUCATION TAXES. Ad valorem taxes that must,
21 pursuant to the Constitution of Alabama of 1901, as amended,
22 legislative act, or the resolution or other action of the
23 governing board authorizing the tax, be used for educational
24 purposes or for capital improvements for education and local
25 construction related transaction taxes levied for educational
26 purposes or for capital improvements for education.

1 (4) INDUCEMENT. Refers to an agreement, or an
2 "inducement agreement," entered into between a private user
3 and a public authority or county or municipal government
4 and/or a resolution or other official action, an "inducement
5 resolution," "inducement letter," or "official action" adopted
6 by a public authority or county or municipal government, in
7 each case expressing, among other things, the present intent
8 of such public authority or county or municipal government to
9 issue bonds in connection with the private use property
10 therein described.

11 (5) INDUSTRIAL DEVELOPMENT PROPERTY. Real and/or
12 personal property acquired in connection with establishing or
13 expanding an industrial or research enterprise in Alabama.

14 (6) INDUSTRIAL OR RESEARCH ENTERPRISE.

15 a. Any trade or business described in 1987 Standard
16 Industrial Classification Industry Group Number 0724, Major
17 Groups 20 to 39, inclusive, 50 and 51, Industrial Group Number
18 737, and Industry Numbers 4613, 8731, 8733, and 8734, as set
19 forth in the Standard Industrial Classification Manual
20 published by the United States Government Office of Management
21 and Budget.

22 b. With respect to abatements granted in accordance
23 with Section 40-9B-9, and only with respect to such
24 abatements, "industrial or research enterprise" means any
25 trade or business described in the 1997 North American
26 Industry Classification System within Subsector 493
27 (Warehousing and Storage), Industry Number 488310 (Port and

1 Harbor Operations), or Industry Number 488320 (Marine Cargo
2 Handling), when such trade or business is conducted on
3 premises in which the Alabama State Port Authority has an
4 ownership, leasehold, or other possessory interest and such
5 premises are used as part of the operations of the Alabama
6 State Port Authority.

7 c. "Industrial or research enterprise" includes the
8 above-described trades and business and any others as may
9 hereafter be reclassified in any subsequent publication of the
10 NAICS or similar industry classification system developed in
11 conjunction with the United States Department of Commerce or
12 Office of Management and Budget.

13 (7) MAJOR ADDITION. Any addition to an existing
14 industrial development property that equals the lesser of: 30
15 percent of the original cost of the industrial development
16 property or two million dollars (\$2,000,000). For purposes of
17 this subsection, the original cost of existing industrial
18 development property shall be the amount of industrial
19 development property with respect to which an abatement was
20 granted under this chapter when the property was constructed,
21 or if the existing industrial development property was
22 constructed before January 1, 1993, the maximum amount that
23 would have been allowed if the provisions of this chapter had
24 applied at the time it was constructed. Only property that
25 constitutes industrial development property shall be taken
26 into account in making the determination in the previous
27 sentence.

1 (8) MAXIMUM EXEMPTION PERIOD. A period equal to the
2 shorter of: a. Ten years from and after:

3 1. The date of initial issuance by a county, city,
4 or public authority of bonds to finance any costs of a private
5 use property, or

6 2. If no such bonds are ever issued, the later of:
7 (i) The date on which title to such property was acquired by
8 or vested in such county, city, or public authority, or (ii)
9 The date on which such property is or becomes owned, for
10 federal income tax purposes, by a private user; or

11 b. The weighted average economic life of the assets
12 comprising such property, determined consistently with the
13 provisions of 26 U.S.C. § 147(b) and measured from the date
14 such property is placed in service.

15 (9) MORTGAGE AND RECORDING TAXES. The taxes imposed
16 by Chapter 22 of this title.

17 (10) NONEDUCATIONAL AD VALOREM TAXES. Ad valorem
18 taxes imposed by the state, counties, municipalities, and
19 other taxing jurisdictions of Alabama that are not required to
20 be used for educational purposes or for capital improvements
21 for education.

22 (11) PERSON. Includes any individual, partnership,
23 trust, estate, or corporation.

24 (12) PRIVATE USER. Any individual, partnership, or
25 corporation organized for profit that is or will be treated as
26 the owner of private use property for federal income tax
27 purposes.

1 (13) PRIVATE USE INDUSTRIAL PROPERTY. Private use
2 property that also constitutes industrial development
3 property.

4 (14) PRIVATE USE PROPERTY. Any real and/or personal
5 property which is or will be treated as owned by a private
6 user for federal income tax purposes even though title may be
7 held by a public authority or municipal or county government.

8 (15) PUBLIC AUTHORITY. A corporation created for
9 public purposes pursuant to a provision of the Constitution of
10 Alabama of 1901, or a general or local law that authorized it
11 to issue bonds, the interest on which is exempt from the
12 Alabama income tax, as in effect on May 21, 1992.

13 (16) PUBLIC INDUSTRIAL AUTHORITY. A public authority
14 authorized to issue bonds to acquire, construct, equip, or
15 finance industrial development property."

16 Section 12. The provisions of this act are
17 severable. If any part of this act is declared invalid or
18 unconstitutional, that declaration shall not affect the part
19 which remains.

20 Section 13. All laws or parts of laws which conflict
21 with this act are repealed.

22 Section 14. Sections 1 through 7, 12, and 13 of this
23 act shall become effective upon the first day of the calendar
24 quarter following Alabama's acceptance as a member state to
25 the Streamlined Sales and Use Tax Agreement. Sections 8 and
26 11 of this act shall become effective January 1, 2006,
27 contingent upon Alabama's acceptance as a member state to the

1 Streamlined Sales and Use Tax Agreement. Sections 9 and 10
2 shall become effective October 1, 2003.