

ACT #2021 - 1

1 HB170  
2 209328-4  
3 By Representatives Garrett and Whitt  
4 RFD: Ways and Means Education  
5 First Read: 02-FEB-21  
6 PFD: 01/28/2021



1  
2 ENROLLED, An Act,

3           Relating to corporate income tax; to provide for an  
4 exclusion from Alabama individual income tax for federal tax  
5 credits, advance refunds, qualified disaster relief payments,  
6 Small Business Administration subsidy payments, Emergency EIDL  
7 grants, Targeted EIDL advances, student loans, or loan  
8 forgiveness resulting from the federal Coronavirus Aid,  
9 Relief, and Economic Security Act, Taxpayer Certainty and  
10 Disaster Relief Tax Act, or COVID-related Tax Relief Act; to  
11 provide an income and financial institution excise tax  
12 exemption for any amounts received from the Coronavirus Relief  
13 Fund; to amend Section 40-27-1, Code of Alabama 1975, to  
14 change the apportionment factor to a single sales factor; to  
15 retroactively decouple from the new federal law 26 U.S.C. §  
16 951A relating to Global Intangible Low-Taxed Income and 26  
17 U.S.C. § 118(b)(2); to change how a corporation limits its  
18 business interest expense deduction; and to provide that an  
19 Electing Pass-Through Entity shall be taxed at the entity  
20 level instead of its owners, members, partners, or  
21 shareholders.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23           Section 1. Sections 2 through 4 of this act shall be  
24 known and may be cited as the "Alabama Taxpayer Stimulus  
25 Freedom Act of 2021."

1           Section 2. (a) Any tax credits or advance refund  
2 amounts received as a result of the federal Coronavirus Aid,  
3 Relief, and Economic Security Act, as provided in I.R.C. §  
4 6428, or as a result of Section 272 of the COVID-related Tax  
5 Relief Act of 2020 (RELIEF Act), Pub. L. 116-260, as provided  
6 in I.R.C. § 6428A, or as a result of other similiar  
7 COVID-related relief measures for individuals enacted by the  
8 United States Congress, as applicable to the 2021 tax year,  
9 shall be excluded from Alabama individual income taxation.

10           (b) Any tax credits or advance refund amounts  
11 received as a result of the federal Coronavirus Aid, Relief,  
12 and Economic Security Act, as provided in I.R.C. § 6428, or as  
13 a result of Section 272 of the RELIEF Act, Pub. L. 116-260, as  
14 provided in I.R.C. § 6428A, or as a result of other similar  
15 COVID-related relief measures for individuals enacted by the  
16 United States Congress shall also be excluded from any and all  
17 calculations in determining a taxpayer's federal income tax  
18 deduction pursuant to Section 40-18-15, Code of Alabama 1975.

19           (c) Principal or interest payments incurred by an  
20 employer on any qualified education loan that is excluded from  
21 the employee's federal gross income pursuant to I.R.C. §  
22 127(c)(1)(B), under the provisions of Section 2206(a) of the  
23 Coronavirus Aid, Relief, and Economic Security Act, as amended  
24 by Section 120 of the Taxpayer Certainty and Disaster Relief  
25 Tax Act of 2020, Pub. L. 116-260, shall be excluded from the

1 gross income of an employee for income taxes imposed by  
2 Chapter 18 of Title 40, to the same extent as the amount is  
3 excluded from the federal gross income.

4 (d) Any amount received from a Qualified Emergency  
5 Federal Aid Grant shall be excluded from the gross income of  
6 the grant recipient for income taxes imposed by Chapter 18 of  
7 Title 40, Code of Alabama 1975, to the same extent as the  
8 amount is excluded from the federal gross income under Section  
9 277 of the RELIEF Act.

10 (e) Any Alabama taxpayer subject to the tax imposed  
11 by Chapter 16 or Chapter 18 of Title 40, Code of Alabama 1975,  
12 shall be exempt from recognizing as income any amount received  
13 from the state Coronavirus Relief Fund provided by the  
14 Congress of the United States to the State of Alabama from the  
15 Coronavirus Aid, Relief, and Economic Security Act.

16 (f) Any qualifying disaster relief payment received  
17 by an Alabama taxpayer that would be excluded from federal  
18 income taxation pursuant to I.R.C. § 139 as a result of the  
19 Presidential Proclamation on Declaring a National Emergency  
20 Concerning the Novel Coronavirus Disease (COVID-19) Outbreak  
21 shall be excluded from the gross income of the taxpayer for  
22 income taxes imposed by Chapter 18 of Title 40, Code of  
23 Alabama 1975, to the same extent as the amount is excluded  
24 from federal gross income.

1           Section 3. Any amount of cancellation of  
2           indebtedness income resulting from a loan forgiven under  
3           Section 1106 or Section 1109 of the federal Coronavirus Aid,  
4           Relief, and Economic Security Act as redesignated or amended  
5           by the Economic Aid to Hard-Hit Small Businesses, Nonprofits,  
6           and Venues Act, Pub. L. 116-260, or under Section 311 thereof:

7                   (1) Shall be exempt from the financial institution  
8           excise tax imposed by Chapter 16 of Title 40, Code of Alabama  
9           1975, and the income taxes imposed by Chapter 18 of Title 40,  
10          Code of Alabama 1975, to the same extent as the amount is  
11          exempt from the federal income tax under Sections 276 or 278  
12          of the RELIEF Act.

13                   (2) Shall not be considered in determining the  
14          deductibility of otherwise deductible expenses, such as  
15          payroll, utilities, mortgage interest, and rent, allowed to be  
16          paid with the exempt funds, to the same extent as the expenses  
17          remain deductible in calculating federal income tax under  
18          Sections 276 or 278 of the RELIEF Act.

19                   (3) Shall also be excluded from any and all  
20          calculations in determining a taxpayer's federal income tax  
21          deduction pursuant to Chapter 16 or Chapter 18 of Title 40,  
22          Code of Alabama 1975.

23           Section 4. Any subsidy payment for covered loans as  
24          described in Section 1112(c) of the federal Coronavirus Aid,  
25          Relief, and Economic Security Act; any amounts received as

1 Emergency EIDL Grants under Section 1110 of the federal  
2 Coronavirus Aid, Relief, and Economic Security Act, as amended  
3 by Section 332 of the Economic Aid to Hard-Hit Small  
4 Businesses, Nonprofits, and Venues Act; and any amounts  
5 received as Grants to Shuttered Venues or as Targeted EIDL  
6 Advances under Sections 324 or 331, respectively, of the  
7 Economic Aid to Hard-Hit Small Businesses, Nonprofits, and  
8 Venues Act:

9 (1) Shall be exempt from financial institution  
10 excise tax imposed by Chapter 16 of Title 40, Code of Alabama  
11 1975, and the income taxes imposed by Chapter 18 of Title 40,  
12 Code of Alabama 1975, to the same extent as the amount is  
13 exempt from federal income tax under Section 278 of the RELIEF  
14 Act.

15 (2) Shall not be considered in determining  
16 deductibility of otherwise deductible expenses, such as  
17 payroll, utilities, mortgage interest, and rent, allowed to be  
18 paid with the exempt funds, to the same extent as the expenses  
19 remain deductible in calculating federal income tax under  
20 Section 278 of the RELIEF Act.

21 (3) Shall also be excluded from any and all  
22 calculations in determining a taxpayer's federal income tax  
23 deduction pursuant to Chapter 16 or Chapter 18 of Title 40,  
24 Code of Alabama 1975.

1           Section 5. Sections 6 through 7 of this act shall be  
2 known and may be cited as, "The Alabama Business Tax  
3 Competitiveness Act."

4           Section 6. Section 40-27-1, Code of Alabama 1975, is  
5 amended to read as follows:

6           "§40-27-1.

7           "The following Multistate Tax Compact is hereby ap-  
8 proved, adopted, and enacted into law by the State of Alabama:

9                           Multistate Tax Compact

10                           Article I. Purposes.

11                   "The purposes of this compact are to:

12                   "1. Facilitate proper determination of state and  
13 local tax liability of multistate taxpayers, including the  
14 equitable apportionment of tax bases and settlement of  
15 apportionment disputes.

16                   "2. Promote uniformity or compatibility in  
17 significant components of tax systems.

18                   "3. Facilitate taxpayer convenience and compliance  
19 in the filing of tax returns and in other phases of tax  
20 administration.

21                   "4. Avoid duplicative taxation.

1 Article II. Definitions.

2 "As used in this compact:

3 "1. "State" means a state of the United States, the  
4 District of Columbia, the Commonwealth of Puerto Rico, or any  
5 territory or possession of the United States.

6 "2. "Subdivision" means any governmental unit or  
7 special district of a state.

8 "3. "Taxpayer" means any corporation, partnership,  
9 firm, association, governmental unit or agency, or other  
10 person acting as a business entity in more than one state, but  
11 does not include any individual.

12 "4. "Income tax" means a tax imposed on or measured  
13 by net income including any tax imposed on or measured by an  
14 amount arrived at by deducting expenses from gross income, one  
15 or more forms of which expenses are not specifically and  
16 directly related to particular transactions.

17 "5. "Capital stock tax" means a tax measured in any  
18 way by the capital of a corporation considered in its  
19 entirety.

20 "6. "Gross receipts tax" means a tax, other than a  
21 sales tax, which is imposed on or measured by the gross volume  
22 of business, in terms of gross receipts or in other terms, and  
23 in the determination of which no deduction is allowed which  
24 would constitute the tax an income tax.



1           "7. "Sales tax" means a tax imposed with respect to  
2 the transfer for a consideration of ownership, possession or  
3 custody of tangible personal property, or the rendering of  
4 services measured by the price of the tangible personal  
5 property transferred or services rendered and which is  
6 required by state or local law to be separately stated from  
7 the sales price by the seller, or which is customarily  
8 separately stated from the sales price, but does not include a  
9 tax imposed exclusively on the sale of a specifically  
10 identified commodity or article or class of commodities or  
11 articles.

12           "8. "Use tax" means a nonrecurring tax, other than a  
13 sales tax, which (a) is imposed on or with respect to the  
14 exercise or enjoyment of any right or power over tangible  
15 personal property incident to the ownership, possession or  
16 custody of that property or the leasing of that property from  
17 another including any consumption, keeping, retention, or  
18 other use of tangible personal property and (b) is  
19 complementary to a sales tax.

20           "9. "Tax" means an income tax, capital stock tax,  
21 gross receipts tax, sales tax, use tax, and any other tax  
22 which has a multistate impact, except that the provisions of  
23 articles III, IV, and V of this compact shall apply only to  
24 the taxes specifically designated therein and the provisions

1 of article IX of this compact shall apply only in respect to  
2 determinations pursuant to article IV.

3 Article III. Elements of Income Tax Laws.

4 Taxpayer Option, State and Local Taxes.

5 "1. Any taxpayer subject to an income tax whose in-  
6 come is subject to apportionment and allocation for tax pur-  
7 poses pursuant to the laws of a party state or pursuant to the  
8 laws of subdivisions in two or more party states may elect to  
9 apportion and allocate his or her income in the manner pro-  
10 vided by the laws of such state or by the laws of such states  
11 and subdivisions without reference to this compact, or may  
12 elect to apportion and allocate in accordance with article IV.  
13 This election for any tax year may be made in all party states  
14 or subdivisions thereof or in any one or more of the party  
15 states or subdivisions thereof without reference to the elec-  
16 tion made in the others. For the purposes of this paragraph,  
17 taxes imposed by subdivisions shall be considered separately  
18 from state taxes and the apportionment and allocation also may  
19 be applied to the entire tax base. In no instance wherein ar-  
20 ticle IV is employed for all subdivisions of a state may the  
21 sum of all apportionments and allocations to subdivisions  
22 within a state be greater than the apportionment and alloca-  
23 tion that would be assignable to that state if the apportion-

1       ment or allocation were being made with respect to a state  
2       income tax.

3                   Taxpayer Option, Short Form.

4                   "2. Each party state or any subdivision thereof  
5       which imposes an income tax shall provide by law that any tax-  
6       payer required to file a return, whose only activities within  
7       the taxing jurisdiction consist of sales and do not include  
8       owning or renting real estate or tangible personal property,  
9       and whose dollar volume of gross sales made during the tax  
10      year within the state or subdivision, as the case may be, is  
11      not in excess of \$100,000 may elect to report and pay any tax  
12      due on the basis of a percentage of such volume, and shall  
13      adopt rates which shall produce a tax which reasonably approx-  
14      imates the tax otherwise due. The Multistate Tax Commission,  
15      not more than once in five years, may adjust the \$100,000 fig-  
16      ure in order to reflect such changes as may occur in the real  
17      value of the dollar, and such adjusted figure, upon adoption  
18      by the commission, shall replace the \$100,000 figure specifi-  
19      cally provided herein. Each party state and subdivision  
20      thereof may make the same election available to taxpayers ad-  
21      ditional to those specified in this paragraph.

1 Coverage.

2 "3. Nothing in this article relates to the reporting  
3 or payment of any tax other than an income tax.

4 Article IV. Division of Income.

5 "1. As used in this article, unless the context  
6 otherwise requires:

7 "(a) "Business income" means income arising from  
8 transactions and activity in the regular course of the  
9 taxpayer's trade or business and includes income from tangible  
10 and intangible property if the acquisition, management, and  
11 disposition of the property constitute integral parts of the  
12 taxpayer's regular trade or business operations.

13 "(b) "Commercial domicile" means the principal place  
14 from which the trade or business of the taxpayer is directed  
15 or managed.

16 "(c) "Compensation" means wages, salaries,  
17 commissions, and any other form of remuneration paid to  
18 employees for personal services.

19 "(d) "Financial organization" means any bank, trust  
20 company, savings bank, industrial bank, land bank, safe  
21 deposit company, private banker, savings and loan association,

1 credit union, cooperative bank, small loan company, sales  
2 finance company, investment company, or any type of insurance  
3 company.

4 "(e) "Nonbusiness income" means all income other  
5 than business income.

6 "(f) "Public utility" means any business entity (1)  
7 which owns or operates any plant, equipment, property,  
8 franchise, or license for the transmission of communications,  
9 transportation of goods or persons, except by pipeline, or the  
10 production, transmission, sale, delivery, or furnishing of  
11 electricity, water, or steam; and (2) whose rates of charges  
12 for goods or services have been established or approved by a  
13 federal, state or local government, or governmental agency.

14 "(g) "Sales" means all gross receipts of the  
15 taxpayer not allocated under paragraphs of this article.

16 "(h) "State" means any state of the United States,  
17 the District of Columbia, the Commonwealth of Puerto Rico, any  
18 territory or possession of the United States, and any foreign  
19 country or political subdivision thereof.

20 "(i) "This state" means the state in which the  
21 relevant tax return is filed or, in the case of application of  
22 this article to the apportionment and allocation of income for  
23 local tax purposes, the subdivision or local taxing district  
24 in which the relevant tax return is filed.

1           "2. Any taxpayer having income from business  
 2 activity which is taxable both within and without this state,  
 3 other than activity as a financial organization or public  
 4 utility or an individual, shall allocate and apportion his or  
 5 her or its net income as provided in this article. If a  
 6 taxpayer has income from business activity as a public utility  
 7 but derives the greater percentage of his or her or its income  
 8 from activities subject to this article, the taxpayer may  
 9 elect to allocate and apportion his or her or its entire net  
 10 income as provided in this article.

11           "3. For purposes of allocation and apportionment of  
 12 income under this article, a taxpayer is taxable in another  
 13 state if (1) in that state he or she or it is subject to a net  
 14 income tax, a franchise tax measured by net income, a  
 15 franchise tax for the privilege of doing business, or a  
 16 corporate stock tax, or (2) that state has jurisdiction to  
 17 subject the taxpayer to a net income tax regardless of  
 18 whether, in fact, the state does or does not.

19           "4. Rents and royalties from real or tangible  
 20 personal property, capital gains, interest, dividends, or  
 21 patent or copyright royalties, to the extent that they  
 22 constitute nonbusiness income, shall be allocated as provided  
 23 in paragraphs 5 through 8 of this article.

24           "5. (a) Net rents and royalties from real property  
 25 located in this state are allocable to this state.

1           "(b) Net rents and royalties from tangible personal  
 2 property are allocable to this state: (1) if and to the extent  
 3 that the property is utilized in this state, or (2) in their  
 4 entirety if the taxpayer's commercial domicile is in this  
 5 state and the taxpayer is not organized under the laws of or  
 6 taxable in the state in which the property is utilized.

7           "(c) The extent of utilization of tangible personal  
 8 property in a state is determined by multiplying the rents and  
 9 royalties by a fraction, the numerator of which is the number  
 10 of days of physical location of the property in the state  
 11 during the rental or royalty period in the taxable year and  
 12 the denominator of which is the number of days of physical  
 13 location of the property everywhere during all rental or  
 14 royalty periods in the taxable year. If the physical location  
 15 of the property during the rental or royalty period is unknown  
 16 or unascertainable by the taxpayer, tangible personal property  
 17 is utilized in the state in which the property was located at  
 18 the time the rental or royalty payer obtained possession.

19           "6. (a) Capital gains and losses from sales of real  
 20 property located in this state are allocable to this state.

21           "(b) Capital gains and losses from sales of tangible  
 22 personal property are allocable to this state if (1) the  
 23 property had a situs in this state at the time of the sale, or  
 24 (2) the taxpayer's commercial domicile is in this state and

1 the taxpayer is not taxable in the state in which the property  
2 had a situs.

3 "(c) Capital gains and losses from sales of  
4 intangible personal property are allocable to this state if  
5 the taxpayer's commercial domicile is in this state.

6 "7. Interest and dividends are allocable to this  
7 state if the taxpayer's commercial domicile is in this state.

8 "8. (a) Patent and copyright royalties are allocable  
9 to this state: (1) if and to the extent that the patent or  
10 copyright is utilized by the payer in this state, or (2) if  
11 and to the extent that the patent copyright is utilized by the  
12 payer in a state in which the taxpayer is not taxable and the  
13 taxpayer's commercial domicile is in this state.

14 "(b) A patent is utilized in a state to the extent  
15 that it is employed in production, fabrication, manufacturing,  
16 or other processing in the state or to the extent that a  
17 patented product is produced in the state. If the basis of  
18 receipts from patent royalties does not permit allocation to  
19 states or if the accounting procedures do not reflect states  
20 of utilization, the patent is utilized in the state in which  
21 the taxpayer's commercial domicile is located.

22 "(c) A copyright is utilized in a state to the  
23 extent that printing or other publication originates in the  
24 state. If the basis of receipts from copyright royalties does  
25 not permit allocation to states or if the accounting



1 procedures do not reflect states of utilization, the copyright  
2 is utilized in the state in which the taxpayer's commercial  
3 domicile is located.

4 "9. All business income shall be apportioned to this  
5 state by multiplying the income by ~~a fraction, the numerator~~  
6 ~~of which is the property factor plus the payroll factor plus~~  
7 ~~twice the sales factor, and the denominator of which is four.~~

8 "10. ~~The property factor is a fraction, the~~  
9 ~~numerator of which is the average value of the taxpayer's real~~  
10 ~~and tangible personal property owned or rented and used in~~  
11 ~~this state during the tax period and the denominator of which~~  
12 ~~is the average value of all the taxpayer's real and tangible~~  
13 ~~personal property owned or rented and used during the tax~~  
14 ~~period.~~

15 "11. ~~Property owned by the taxpayer is valued at its~~  
16 ~~original cost. Property rented by the taxpayer is valued at~~  
17 ~~eight times the net annual rental rate. Net annual rental rate~~  
18 ~~is the annual rental rate paid by the taxpayer less any annual~~  
19 ~~rental rate received by the taxpayer from subrentals.~~

20 "12. ~~The average value of property shall be~~  
21 ~~determined by averaging the values at the beginning and ending~~  
22 ~~of the tax period but the tax administrator may require the~~  
23 ~~averaging of monthly values during the tax period if~~  
24 ~~reasonably required to reflect properly the average value of~~  
25 ~~the taxpayer's property.~~

1           ~~"13. The payroll factor is a fraction, the numerator~~  
2 ~~of which is the total amount paid in this state during the tax~~  
3 ~~period by the taxpayer for compensation and the denominator of~~  
4 ~~which is the total compensation paid everywhere during the tax~~  
5 ~~period.~~

6           ~~"14. Compensation is paid in this state if:~~

7           ~~"(a) The individual's service is performed entirely~~  
8 ~~within the state;~~

9           ~~"(b) The individual's service is performed both~~  
10 ~~within and without the state, but the service performed~~  
11 ~~without the state is incidental to the individual's service~~  
12 ~~within the state; or~~

13           ~~"(c) Some of the service is performed in the state~~  
14 ~~and (1) the base of operations or, if there is no base of~~  
15 ~~operations, the place from which the service is directed or~~  
16 ~~controlled is in the state; or (2) the base of operations or~~  
17 ~~the place from which the service is directed or controlled is~~  
18 ~~not in any state in which some part of the service is~~  
19 ~~performed, but the individual's residence is in this state.~~

20           ~~" 15. 10. The sales factor is a fraction, the~~  
21 ~~numerator of which is the total sales of the taxpayer in this~~  
22 ~~state during the tax period, and the denominator of which is~~  
23 ~~the total sales of the taxpayer everywhere during the tax~~  
24 ~~period.~~

1           ~~"16.~~ 11. Sales of tangible personal property are in  
2 this state if:

3           ~~"(a) The~~ property is delivered or shipped to a  
4 purchaser, other than the United States government, within  
5 this state regardless of the f.o.b. point or other conditions  
6 of the sale, ~~or.~~

7           ~~"(b) The property is shipped from an office, store,~~  
8 ~~warehouse, factory, or other place of storage in this state~~  
9 ~~and (1) the purchaser is the United States government or (2)~~  
10 ~~the taxpayer is not taxable in the state of the purchaser.~~

11           ~~"17.~~ 12. Sales, other than sales described in  
12 Section ~~16~~ 11, are in this State if the taxpayer's market for  
13 the sale is in this state.

14           "(a) The taxpayer's market for a sale is in this  
15 state:

16           "(1) In the case of sale, rental, lease, or license  
17 of real property, if and to the extent the property is located  
18 in this state;

19           "(2) In the case of rental, lease, or license of  
20 tangible personal property, if and to the extent the property  
21 is located in this state;

22           (3) In the case of sale of a service, if and to the  
23 extent the service is delivered to a location in this state;

24           "(4) In the case of lease or license of intangible  
25 property; or sale or other exchange of intangible property if

1 the receipts from the sale or exchange derive from payments  
2 that are contingent on the productivity, use, or disposition  
3 of the property, if and to the extent the intangible property  
4 is used in this state; provided that intangible property used  
5 in marketing a good or service to a consumer is used in this  
6 state if the good or service that is marketed using the  
7 intangible property is purchased by a consumer who is in this  
8 state; and

9 "(5) In the case of sale of intangible property  
10 other than that referenced in subdivision (4) above; where the  
11 property sold is a contract right, government license, or  
12 similar intangible property that authorizes the holder to  
13 conduct a business activity in a specific geographic area; if  
14 and to the extent the intangible property is used in or  
15 otherwise associated with this state, provided that any sale  
16 of intangible property not otherwise described in this  
17 subdivision or subdivision (4) above shall be excluded from  
18 the numerator and the denominator of the sales factor.

19 "(b) If the state of assignment cannot be determined  
20 under subsection (a), it shall be reasonably approximated.

21 "(c) If the taxpayer is not taxable in a state to  
22 which a sale is assigned under subsection (a), or if the state  
23 of assignment cannot be determined under subsection (a) or  
24 reasonably approximated under subsection (b), the sale shall  
25 be excluded from the denominator of the sales factor.

1           ~~18.~~ 13. If the allocation and apportionment  
2 provisions of this article do not fairly represent the extent  
3 of the taxpayer's business activity in this state, the  
4 taxpayer may petition for or the tax administrator may  
5 require, in respect to all or any part of the taxpayer's  
6 business activity, if reasonable:

7           "(a) Separate accounting;

8           "(b) The exclusion of any one or more of the  
9 factors;

10           "(c) The inclusion of one or more additional factors  
11 which will fairly represent the taxpayer's business activity  
12 in this state; or

13           "(d) The employment of any other method to effectuate  
14 an equitable allocation and apportionment of the tax-  
15 payer's income.

16           Article V. Elements of Sales and Use Tax Laws.

17                           Tax Credit.

18           "1. Each purchaser liable for a use tax on tangible  
19 personal property shall be entitled to full credit for the  
20 combined amount or amounts of legally imposed sales or use  
21 taxes paid by him or her with respect to the same property to  
22 another state and any subdivision thereof. The credit shall be  
23 applied first against the amount of any use tax due the state,

1 and any unused portion of the credit shall then be applied  
2 against the amount of any use tax due a subdivision.

3 Exemption Certificates, Vendors May Rely.

4 "2. Whenever a vendor receives and accepts in good  
5 faith from a purchaser a resale or other exemption certificate  
6 or other written evidence of exemption authorized by the ap-  
7 propriate state or subdivision taxing authority, the vendor  
8 shall be relieved of liability for a sales or use tax with re-  
9 spect to the transaction.

10 Article VI. The Commission.

11 Organization and Management.

12 "1. (a) The Multistate Tax Commission is hereby  
13 established. It shall be composed of one "member" from each  
14 party state who shall be the head of the state agency charged  
15 with the administration of the types of taxes to which this  
16 compact applies. If there is more than one such agency the  
17 state shall provide by law for the selection of the commission  
18 member from the heads of the relevant agencies. State law may  
19 provide that a member of the commission be represented by an  
20 alternate but only if there is on file with the commission

1 written notification of the designation and identity of the  
2 alternate. The Attorney General of each party state or his or  
3 her designee, or other counsel if the laws of the party state  
4 specifically provide, shall be entitled to attend the meetings  
5 of the commission, but shall not vote. Such Attorneys General,  
6 designees, or other counsel shall receive all notices of  
7 meetings required under paragraph 1(e) of this article.

8 "(b) Each party state shall provide by law for the  
9 selection of representatives from its subdivisions affected by  
10 this compact to consult with the commission member from that  
11 state.

12 "(c) Each member shall be entitled to one vote. The  
13 commission shall not act unless a majority of the members are  
14 present, and no action shall be binding unless approved by a  
15 majority of the total number of members.

16 "(d) The commission shall adopt an official seal to  
17 be used as it may provide.

18 "(e) The commission shall hold an annual meeting and  
19 such other regular meetings as its bylaws may provide and such  
20 special meetings as its executive committee may determine. The  
21 commission bylaws shall specify the dates of the annual and  
22 any other regular meetings, and shall provide for the giving  
23 of notice of annual, regular, and special meetings. Notices of  
24 special meetings shall include the reasons therefor and an  
25 agenda of the items to be considered.

1           "(f) The commission shall elect annually, from among  
 2 its members, a chair, a vice-chair, and a treasurer. The  
 3 commission shall appoint an executive director who shall serve  
 4 at its pleasure, and it shall fix his or her duties and  
 5 compensation. The executive director shall be secretary of the  
 6 commission. The commission shall make provision for the  
 7 bonding of such of its officers and employees as it may deem  
 8 appropriate.

9           "(g) Irrespective of the civil service, personnel,  
 10 or other merit system laws of any party state, the executive  
 11 director shall appoint or discharge such personnel as may be  
 12 necessary for the performance of the functions of the  
 13 commission and shall fix their duties and compensation. The  
 14 commission bylaws shall provide for personnel policies and  
 15 programs.

16           "(h) The commission may borrow, accept, or contract  
 17 for the services of personnel from any state, the United  
 18 States, or any other governmental entity.

19           "(i) The commission may accept for any of its  
 20 purposes and functions any and all donations and grants of  
 21 money, equipment, supplies, materials, and services,  
 22 conditional or otherwise, from any governmental entity, and  
 23 may utilize and dispose of the same.

24           "(j) The commission may establish one or more  
 25 offices for the transacting of its business.



1           "(k) The commission shall adopt bylaws for the  
2           conduct of its business. The commission shall publish its  
3           bylaws in convenient form, and shall file a copy of the bylaws  
4           and any amendments thereto with the appropriate agency or  
5           officer in each of the party states.

6           "(l) The commission annually shall make to the Gov-  
7           ernor and legislature of each party state a report covering  
8           its activities for the preceding year. Any donation or grant  
9           accepted by the commission or services borrowed shall be re-  
10          ported in the annual report of the commission, and shall in-  
11          clude the nature, amount, and conditions, if any, of the dona-  
12          tion, gift, grant or services, borrowed and the identity of  
13          the donor or lender. The commission may make additional re-  
14          ports as it may deem desirable.

15                                  Committees.

16           "2. (a) To assist in the conduct of its business  
17          when the full commission is not meeting, the commission shall  
18          have an executive committee of seven members, including the  
19          chair, vice-chair, treasurer, and four other members elected  
20          annually by the commission. The executive committee, subject  
21          to the provisions of this compact and consistent with the  
22          policies of the commission, shall function as provided in the  
23          bylaws of the commission.

1           "(b) The commission may establish advisory and  
2 technical committees, membership on which may include private  
3 persons and public officials, in furthering any of its  
4 activities. Such committees may consider any matter of concern  
5 to the commission, including problems of special interest to  
6 any party state and problems dealing with particular types of  
7 taxes.

8           "(c) The commission may establish such additional  
9 committees as its bylaws may provide.

10   Powers.

11           "3. In addition to powers conferred elsewhere in  
12 this compact, the commission shall have power to:

13           "(a) Study state and local tax systems and  
14 particular types of state and local taxes.

15           "(b) Develop and recommend proposals for an increase  
16 in uniformity or compatibility of state and local tax laws  
17 with a view toward encouraging the simplification and  
18 improvement of state and local tax law and administration.

19           "(c) Compile and publish information as in its  
20 judgment would assist the party states in implementation of  
21 the compact and taxpayers in complying with state and local  
22 tax laws.

1           "(d) Do all things necessary and incidental to the  
2 administration of its functions pursuant to this compact.

3                               Finance.

4           "4. (a) The commission shall submit to the Governor  
5 or designated officer or officers of each party state a budget  
6 of its estimated expenditures for such period as may be  
7 required by the laws of that state for presentation to the  
8 legislature thereof.

9           "(b) Each of the commission's budgets of estimated  
10 expenditures shall contain specific recommendations of the  
11 amounts to be appropriated by each of the party states. The  
12 total amount of appropriations requested under any such budget  
13 shall be apportioned among the party states as follows: one  
14 tenth in equal shares; and the remainder in proportion to the  
15 amount of revenue collected by each party state and its  
16 subdivisions from income taxes, capital stock taxes, gross  
17 receipts taxes, sales and use taxes. In determining such  
18 amounts, the commission shall employ such available public  
19 sources of information as, in its judgment, present the most  
20 equitable and accurate comparisons among the party states.  
21 Each of the commission's budgets of estimated expenditures and  
22 requests for appropriations shall indicate the sources used in

1 obtaining information employed in applying the formula  
2 contained in this paragraph.

3 "(c) The commission shall not pledge the credit of  
4 any party state. The commission may meet any of its  
5 obligations in whole or in part with funds available to it  
6 under paragraph 1(i) of this article: Provided that the  
7 commission takes specific action setting aside such funds  
8 prior to incurring any obligation to be met in whole or in  
9 part in such manner. Except where the commission makes use of  
10 funds available to it under paragraph 1(i), the commission  
11 shall not incur any obligation prior to the allotment of funds  
12 by the party states adequate to meet the same.

13 "(d) The commission shall keep accurate accounts of  
14 all receipts and disbursements. The receipts and disbursements  
15 of the commission shall be subject to the audit and accounting  
16 procedures established under its bylaws. All receipts and  
17 disbursements of funds handled by the commission shall be  
18 audited yearly by a certified or licensed public accountant  
19 and the report of the audit shall be included in and become  
20 part of the annual report of the commission.

21 "(e) The accounts of the commission shall be open at  
22 any reasonable time for inspection by duly constituted  
23 officers of the party states and by any persons authorized by  
24 the commission.

1           "(f) Nothing contained in this article shall be con-  
2           strued to prevent commission compliance with laws relating to  
3           audit or inspection of accounts by or on behalf of any govern-  
4           ment contributing to the support of the commission.

5                         Article VII. Uniform Regulations and Forms.

6           "1. Whenever any two or more party states, or  
7           subdivisions of party states, have uniform or similar  
8           provisions of law relating to an income tax, capital stock  
9           tax, gross receipts tax, sales or use tax, the commission may  
10          adopt uniform regulations for any phase of the administration  
11          of such law, including assertion of jurisdiction to tax, or  
12          prescribing uniform tax forms. The commission may also act  
13          with respect to the provisions of article IV of this compact.

14          "2. Prior to the adoption of any regulation, the  
15          commission shall:

16                 "(a) As provided in its bylaws, hold at least one  
17                 public hearing on due notice to all affected party states and  
18                 subdivisions thereof and to all taxpayers and other persons  
19                 who have made timely request of the commission for advance  
20                 notice of its regulation-making proceedings.

21                 "(b) Afford all affected party states and  
22                 subdivisions and interested persons an opportunity to submit

1 relevant written data and views, which shall be considered  
2 fully by the commission.

3 "3. The commission shall submit any regulations  
4 adopted by it to the appropriate officials of all party states  
5 and subdivisions to which they might apply. Each such state  
6 and subdivision shall consider any such regulation for adop-  
7 tion in accordance with its own laws and procedures.

8 Article VIII. Interstate Audits.

9 "1. This article shall be in force only in those  
10 party states that specifically provide therefor by statute.

11 "2. Any party state or subdivision thereof desiring  
12 to make or participate in an audit of any accounts, books,  
13 papers, records, or other documents may request the commission  
14 to perform the audit on its behalf. In responding to the  
15 request, the commission shall have access to and may examine,  
16 at any reasonable time, such accounts, books, papers, records  
17 and other documents, and any relevant property or stock of  
18 merchandise. The commission may enter into agreements with  
19 party states or their subdivisions for assistance in  
20 performance of the audit. The commission shall make charges,  
21 to be paid by the state or local government or governments for  
22 which it performs the service, for any audits performed by it

1 in order to reimburse itself for the actual costs incurred in  
2 making the audit.

3 "3. The commission may require the attendance of any  
4 person within the state where it is conducting an audit or  
5 part thereof at a time and place fixed by it within such state  
6 for the purpose of giving testimony with respect to any  
7 account, book, paper, document, other record, property, or  
8 stock of merchandise being examined in connection with the  
9 audit. If the person is not within the jurisdiction, he or she  
10 may be required to attend for such purpose at any time and  
11 place fixed by the commission within the state of which he or  
12 she is a resident: Provided that such state has adopted this  
13 article.

14 "4. The commission may apply to any court having  
15 power to issue compulsory process for orders in aid of its  
16 powers and responsibilities pursuant to this article and any  
17 and all such courts shall have jurisdiction to issue such  
18 orders. Failure of any person to obey any such order shall be  
19 punishable as contempt of the issuing court. If the party or  
20 subject matter on account of which the commission seeks an  
21 order is within the jurisdiction of the court to which  
22 application is made, such application may be to a court in the  
23 state or subdivision on behalf of which the audit is being  
24 made or a court in the state in which the object of the order

1 being sought is situated. The provisions of this paragraph  
 2 apply only to courts in a state that has adopted this article.

3 "5. The commission may decline to perform any audit  
 4 requested if it finds that its available personnel or other  
 5 resources are insufficient for the purpose or that, in the  
 6 terms requested, the audit is impracticable of satisfactory  
 7 performance. If the commission, on the basis of its  
 8 experience, has reason to believe that an audit of a  
 9 particular taxpayer, either at a particular time or on a  
 10 particular schedule, would be of interest to a number of party  
 11 states or their subdivisions, it may offer to make the audit  
 12 or audits, the offer to be contingent on sufficient  
 13 participation therein as determined by the commission.

14 "6. Information obtained by an audit pursuant to  
 15 this article shall be confidential and available only for tax  
 16 purposes to party states, their subdivisions or the United  
 17 States. Availability of information shall be in accordance  
 18 with the laws of the states or subdivisions on whose account  
 19 the commission performs the audit, and only through the  
 20 appropriate agencies or officers of such states or  
 21 subdivisions. Nothing in this article shall be construed to  
 22 require any taxpayer to keep records for any period not  
 23 otherwise required by law.

24 "7. Other arrangements made or authorized pursuant  
 25 to law for cooperative audit by or on behalf of the party



1 states or any of their subdivisions are not superseded or  
2 invalidated by this article.

3 "8. In no event shall the commission make any charge  
4 against a taxpayer for an audit.

5 "9. As used in this article, "tax," in addition to  
6 the meaning ascribed to it in article II, means any tax or  
7 license fee imposed in whole or in part for revenue purposes.

8 Article IX. Arbitration.

9 "1. Whenever the commission finds a need for  
10 settling disputes concerning apportionments and allocations by  
11 arbitration, it may adopt a regulation placing this article in  
12 effect, notwithstanding the provisions of article VII.

13 "2. The commission shall select and maintain an  
14 arbitration panel composed of officers and employees of state  
15 and local governments and private persons who shall be  
16 knowledgeable and experienced in matters of tax law and  
17 administration.

18 "3. Whenever a taxpayer who has elected to employ  
19 article IV, or whenever the laws of the party state or  
20 subdivision thereof are substantially identical with the  
21 relevant provisions of article IV, the taxpayer, by written  
22 notice to the commission and to each party state or  
23 subdivision thereof that would be affected, may secure

1 arbitration of an apportionment or allocation, if he or she is  
2 dissatisfied with the final administrative determination of  
3 the tax agency of the state or subdivision with respect  
4 thereto on the ground that it would subject him or her to  
5 double or multiple taxation by two or more party states or  
6 subdivisions thereof. Each party state and subdivision thereof  
7 hereby consents to the arbitration as provided herein, and  
8 agrees to be bound thereby.

9 "4. The arbitration board shall be composed of one  
10 person selected by the taxpayer, one by the agency or agencies  
11 involved, and one member of the commission's arbitration  
12 panel. If the agencies involved are unable to agree on the  
13 person to be selected by them, such person shall be selected  
14 by lot from the total membership of the arbitration panel. The  
15 two persons selected for the board in the manner provided by  
16 the foregoing provisions of this paragraph shall jointly  
17 select the third member of the board. If they are unable to  
18 agree on the selection, the third member shall be selected by  
19 lot from among the total membership of the arbitration panel.  
20 No member of a board selected by lot shall be qualified to  
21 serve if he or she is an officer or employee or is otherwise  
22 affiliated with any party to the arbitration proceeding.  
23 Residence within the jurisdiction of a party to the  
24 arbitration proceeding shall not constitute affiliation within  
25 the meaning of this paragraph.

1           "5. The board may sit in any state or subdivision  
 2 party to the proceeding, in the state of the taxpayer's  
 3 incorporation, residence or domicile, in any state where the  
 4 taxpayer does business, or in any place that it finds most  
 5 appropriate for gaining access to evidence relevant to the  
 6 matter before it.

7           "6. The board shall give due notice of the times and  
 8 places of its hearings. The parties shall be entitled to be  
 9 heard, to present evidence, and to examine and cross-examine  
 10 witnesses. The board shall act by majority vote.

11           "7. The board shall have power to administer oaths,  
 12 take testimony, subpoena and require the attendance of  
 13 witnesses and the production of accounts, books, papers,  
 14 records, and other documents, and issue commissions to take  
 15 testimony. Subpoenas may be signed by any member of the board.  
 16 In case of failure to obey a subpoena, and upon application by  
 17 the board, any judge of a court of competent jurisdiction of  
 18 the state in which the board is sitting or in which the person  
 19 to whom the subpoena is directed may be found may make an  
 20 order requiring compliance with the subpoena, and the court  
 21 may punish failure to obey the order as a contempt. The  
 22 provisions of this paragraph apply only in states that have  
 23 adopted this article.

24           "8. Unless the parties otherwise agree the expenses  
 25 and other costs of the arbitration shall be assessed and

1 allocated among the parties by the board in such manner as it  
2 may determine. The commission shall fix a schedule of  
3 compensation for members of arbitration boards and of other  
4 allowable expenses and costs. No officer or employee of a  
5 state or local government who serves as a member of a board  
6 shall be entitled to compensation therefor unless he or she is  
7 required on account of his or her service to forego the  
8 regular compensation attaching to his or her public  
9 employment, but any such board member shall be entitled to  
10 expenses.

11 "9. The board shall determine the disputed  
12 apportionment or allocation and any matters necessary thereto.  
13 The determinations of the board shall be final for purposes of  
14 making the apportionment or allocation, but for no other  
15 purpose.

16 "10. The board shall file with the commission and  
17 with each tax agency represented in the proceeding: the  
18 determination of the board; the board's written statement of  
19 its reasons therefor; the record of the board's proceedings;  
20 and any other documents required by the arbitration rules of  
21 the commission to be filed.

22 "11. The commission shall publish the determinations  
23 of boards together with the statements of the reasons  
24 therefor.

1           "12. The commission shall adopt and publish rules of  
2 procedure and practice and shall file a copy of such rules and  
3 of any amendment thereto with the appropriate agency or  
4 officer in each of the party states.

5           "13. Nothing contained herein shall prevent at any  
6 time a written compromise of any matter or matters in dispute,  
7 if otherwise lawful, by the parties to the arbitration pro-  
8 ceeding.

9                           Article X. Entry Into Force and Withdrawal.

10           "1. This compact shall enter into force when enacted  
11 into law by any seven states. Thereafter, this compact shall  
12 become effective as to any other state upon its enactment  
13 thereof. The commission shall arrange for notification of all  
14 party states whenever there is a new enactment of the compact.

15           "2. Any party state may withdraw from this compact  
16 by enacting a statute repealing the same. No withdrawal shall  
17 affect any liability already incurred by or chargeable to a  
18 party state prior to the time of such withdrawal.

19           "3. No proceeding commenced before an arbitration  
20 board prior to the withdrawal of a state and to which the  
21 withdrawing state or any subdivision thereof is a party shall  
22 be discontinued or terminated by the withdrawal, nor shall the

1 board thereby lose jurisdiction over any of the parties to the  
2 proceeding necessary to make a binding determination therein.

3 Article XI. Effect on Other Laws and Jurisdiction.

4 "Nothing in this compact shall be construed to:

5 "(a) Affect the power of any state or subdivision  
6 thereof to fix rates of taxation, except that a party state  
7 shall be obligated to implement article III 2. of this  
8 compact.

9 "(b) Apply to any tax or fixed fee imposed for the  
10 registration of a motor vehicle or any tax on motor fuel,  
11 other than a sales tax: Provided that the definition of "tax"  
12 in article VIII 9. may apply for the purposes of that article  
13 and the commission's powers of study and recommendation  
14 pursuant to article VI 3. may apply.

15 "(c) Withdraw or limit the jurisdiction of any state  
16 or local court or administrative officer or body with respect  
17 to any person, corporation or other entity, or subject matter,  
18 except to the extent that such jurisdiction is expressly  
19 conferred by or pursuant to this compact upon another agency  
20 or body.

21 "(d) Supersede or limit the jurisdiction of any  
22 court of the United States.

1 Article XII. Construction and Severability.

2 "This compact shall be liberally construed so as to  
 3 effectuate the purposes thereof. The provisions of this  
 4 compact shall be severable and if any phrase, clause,  
 5 sentence, or provision of this compact is declared to be  
 6 contrary to the constitution of any state or of the United  
 7 States or the applicability thereof to any government, agency,  
 8 person, or circumstance is held invalid, the validity of the  
 9 remainder of this compact and the applicability thereof to any  
 10 government, agency, person, or circumstance shall not be  
 11 affected thereby. If this compact shall be held contrary to  
 12 the constitution of any state participating therein, the  
 13 compact shall remain in full force and effect as to the  
 14 remaining party states and in full force and effect as to the  
 15 state affected as to all severable matters."

16 Section 7. Section 40-18-35.2 is added to the Code  
 17 of Alabama 1975, to read as follows:

18 §40-18-35.2.

19 All amounts included in income under 26 U.S.C. §  
 20 951A shall be deducted from federal taxable income for  
 21 purposes of computing taxable income under this chapter.  
 22 However, any amount subtracted under this section is allowed  
 23 only to the extent such amount is not deductible in  
 24 determining federal taxable income. As to any amount

1 subtracted under this section, there shall be added to such  
2 taxable income all expenses deducted under any section of 26  
3 U.S.C. on the taxpayer's return for the taxable year which are  
4 attributable, directly or indirectly, to such subtracted  
5 amount. The deduction provided by 26 U.S.C. § 250 shall apply  
6 only to the extent the same income was included in Alabama  
7 taxable income under this chapter.

8 Section 8. Section 40-18-35.3 is added to the Code  
9 of Alabama 1975, to read as follows:

10 §40-18-35.3.

11 The amount of any contribution by the State of  
12 Alabama or any political subdivision thereof computed in  
13 accordance with 26 U.S.C. § 118(b)(2), to the extent that the  
14 amount is included in the corporation's federal taxable income  
15 pursuant to 26 U.S.C. § 118(b)(2) shall be deducted from  
16 federal taxable income for purposes of computing taxable  
17 income under this chapter.

18 Section 9. Section 40-18-39.1 is added to the Code  
19 of Alabama to read as follows:

20 §40-18-39.1.

21 (a) For a tax year in which the business interest  
22 expense deduction of the taxpayer, or of any federal  
23 consolidated return group of which the taxpayer is a member,  
24 is not limited pursuant to 26 U.S.C. § 163(j) on the federal  
25 income tax return for the tax year, the taxpayer shall not be



1 subject to a limitation on the taxpayer's business interest  
 2 expense deduction other than the limitation provided in  
 3 Section 40-18-35(b) for interest expense with a related  
 4 member.

5 (b)(1) For a tax year in which the business interest  
 6 expense deduction of the taxpayer, or of any federal  
 7 consolidated return group of which the taxpayer is a member,  
 8 is limited pursuant to 26 U.S.C. § 163(j) on the federal  
 9 income tax return for the tax year, the taxpayer shall  
 10 calculate the business interest expense deduction limitation  
 11 under 26 U.S.C. § 163(j), for purposes of computing Alabama  
 12 taxable income, on a separate-entity basis, or in the case of  
 13 the members of an Alabama affiliated group, as defined in  
 14 Section 40-18-39(b)(1), which files an Alabama consolidated  
 15 return as defined in Section 40-18-39(b)(2), on the basis of  
 16 the Alabama consolidated return group.

17 (2) The gross receipts test under 26 U.S.C. §  
 18 163(j)(3) shall apply to each separate entity which is subject  
 19 to Alabama income tax, or in the case of an Alabama affiliated  
 20 group, as defined in Section 40-18-39(b)(1), which files an  
 21 Alabama consolidated return as defined in Section  
 22 40-18-39(b)(2), to the Alabama consolidated return group.

23 (3) The limitation provided in subsection (a) will  
 24 apply before the application of the limitation provided in  
 25 Section 40-18-35(b) for interest expense with a related

1 member. For purposes of the limitation provided in Section  
2 40-18-35(b), the net interest deduction limitation calculated  
3 under the provisions of this subsection shall be allocated on  
4 a pro rata basis to the interest income recipients. Any  
5 resulting interest expense carryforward shall also be  
6 allocated on a pro rata basis to the interest income  
7 recipients. In any tax year in which a taxpayer deducts  
8 business interest expense on its federal tax return, or the  
9 tax return of the federal consolidated group of which it is a  
10 member, which was carried forward from a previous tax year and  
11 which is also subject to the add back provisions for interest  
12 expense with a related member under Section 40-18-35(b), the  
13 taxpayer shall apply the provisions of Section 40-18-35(b) to  
14 the amount of the interest expense carried forward in addition  
15 to the amount accrued or incurred in the current tax year.  
16 Taxpayers which determine their business interest expense  
17 deduction pursuant to the provisions of this subsection shall  
18 submit to the Department of Revenue the appropriate forms,  
19 schedules, and statements needed in order to confirm the  
20 business interest expense deduction was calculated correctly.

21 (4) A taxpayer with nonbusiness income and/or  
22 nonbusiness interest expense shall allocate nonbusiness  
23 interest expense to nonbusiness income and shall calculate a  
24 limit on the business interest expense deduction associated  
25 with nonbusiness income and nonbusiness interest expense on a

1 pro rata basis. Nonbusiness interest expense shall be assigned  
 2 to nonbusiness income and shall only be allowed to reduce  
 3 nonbusiness income.

4 Section 10. (a) This section shall be known and may  
 5 be cited as the, "Alabama Electing Pass-Through Entity Tax  
 6 Act."

7 (b) For the purposes of this act, the following term  
 8 shall have the following meaning:

9 (1) ELECTING PASS-THROUGH ENTITY. Any Alabama S  
 10 corporation, as is defined by Section 40-18-160, Code of  
 11 Alabama 1975, and any Subchapter K Entity, as is defined by  
 12 Section 40-18-1, Code of Alabama 1975, that has made an  
 13 election pursuant to subsection (d) to pay Alabama income tax  
 14 at the rate prescribed in subsection (e).

15 (c) For tax years beginning on or after January 1,  
 16 2021, any Alabama S corporation, as is defined by Section  
 17 40-18-160, Code of Alabama 1975, and any Subchapter K Entity,  
 18 as is defined by Section 40-18-1, Code of Alabama 1975, may  
 19 elect to be taxed as an Electing Pass-Through Entity.

20 (d) An Electing Pass-Through Entity shall submit the  
 21 appropriate form to the Department of Revenue at any time  
 22 during the tax year or on or before the fifteenth day of the  
 23 third month following the close of that tax year for which the  
 24 entity elects to be taxed as an Electing Pass-Through Entity.  
 25 This election shall be binding for that year and all

1 subsequent tax years and shall not be revoked unless the  
2 Electing Pass-Through Entity submits the appropriate form to  
3 the Department of Revenue at any time during a subsequent tax  
4 year or on or before the fifteenth day of the third month  
5 following the close of that tax year for which the entity  
6 elects to no longer be taxed as an Electing Pass-Through  
7 Entity. Both the election to become an Electing Pass-Through  
8 Entity and the revocation of that election shall be  
9 accomplished by a vote by or written consent of the members of  
10 the governing body of the entity as well as a vote by or  
11 written consent of the owners, members, partners, or  
12 shareholders holding greater than 50 percent of the voting  
13 control of the entity, within the time prescribed above.

14 (e) An Electing Pass-Through Entity shall pay a tax  
15 at the highest marginal rate provided in Section 40-18-5, Code  
16 of Alabama 1975, calculated in accordance with the provisions  
17 of Section 40-18-24 or Section 40-18-161 and Section  
18 40-18-162, Code of Alabama 1975, as appropriate, and  
19 apportioned in accordance with the provisions of Chapter 27 of  
20 Title 40, Code of Alabama 1975. An Electing Pass-Through  
21 Entity shall be subject to the provisions of Section  
22 40-18-80.1 Code of Alabama 1975, (estimated tax for  
23 corporations). In calculating taxable income for the purposes  
24 of this subsection, Alabama tax paid under the provisions of

1 this subsection shall not be deducted in calculating Alabama  
2 taxable income.

3 (f) The owners, members, partners, or shareholders  
4 shall not be liable for the tax otherwise imposed by Chapters  
5 16 and 18 of Title 40, Code of Alabama 1975, on their pro rata  
6 or distributive shares of the Electing Pass-Through Entity's  
7 income.

8 (g) The adjusted basis of the owners, members,  
9 partners, or shareholders of an Electing Pass-Through Entity  
10 in their stock or other ownership interests in the entity  
11 shall be calculated without regard to the election under this  
12 section.

13 (h) Notwithstanding anything in Chapter 18 of Title  
14 40, Code of Alabama 1975, to the contrary, neither the  
15 election by an Electing Pass-Through Entity under this section  
16 nor its revocation of the election shall be considered a  
17 liquidation or termination of the entity or an otherwise  
18 taxable event.

19 Section 11. No refunds shall be granted or paid for  
20 tax years ending before January 1, 2020, related to the  
21 provisions of this act.

22 Section 12. The Department of Revenue may adopt  
23 rules for the implementation and administration of this act.

24 Section 13. Sections 2 through 4 of this act shall  
25 be effective for tax years ending after the enactment of the

1 federal Coronavirus Aid, Relief, and Economic Security Act,  
2 Pub. L. 116-136. Section 7 of this act shall apply  
3 retroactively for tax years beginning after December 31, 2017.  
4 Section 8 shall apply to contributions made on or after  
5 December 23, 2017. Sections 6, 9, and 10 of this act shall  
6 become effective for tax years beginning on or after January  
7 1, 2021. All other sections of this act shall be effective  
8 immediately, following its passage and approval by the  
9 Governor, or its otherwise becoming law.

*Mac McCutchen*

Speaker of the House of Representatives

*[Signature]*

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 04-FEB-21, as amended.

Jeff Woodard  
Clerk

Senate

10-FEB-21

Passed

APPROVED

*2-12-2021*

TIME

*8:32 AM*

*Kay Ivey*  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2021-1  
Bill Num....: H-170

Recv'd 02/12/21 09:29amSLF

SPONSORS

Whitt

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 170

YEAS 95 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees

DATE: 2-4 2021

RD 1 RFD

F+TE

This Bill was referred to the Standing Committee of the Senate on

F+TE

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) w/sub by a vote of yeas 10 nays 0 abstain 0 this 9th day of February 2021, Chairperson

DATE: 2-9-21

RF

FAU

RD 2 CAL

DATE:

20\_\_

RE-REFERRED

RE-COMMITTED

Committee

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 170

YEAS 27 NAYS 0

PATRICK HARRIS, Secretary