SB316
183739-6
By Senator Sanford
RFD: Fiscal Responsibility and Economic Development
First Read: 15-MAR-17
ENROLLED, An Act,

Relating to county and municipal local taxes; to amend Section 11-3-11.3, Code of Alabama 1975, relating to the collection of county taxes by the Revenue Department and Section 11-51-208, Code of Alabama 1975, relating to the collection of municipal taxes by the Revenue Department, to provide that the interest rate on delinquent taxes would be as provided by general law; to amend Section 11-51-194, Code of Alabama 1975, relating to the issuance of delivery licenses, to delete certain provisions for increases in the rate, to provide an exemption for taxpayers making a small amount of deliveries per year in a municipality, and to provide for an issuance fee; and to amend Section 40-23-241, Code of Alabama 1975, to further provide for the interest for filing various taxes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-3-11.3, 11-51-194, 11-51-208, and 40-23-241, Code of Alabama 1975, are amended to read as follows:

"§11-3-11.3."

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

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

"(c)(1) The Commissioner of Revenue shall deposit into the State Treasury all county taxes collected and, on a biweekly basis, shall certify to the state Comptroller the amount of taxes collected for the approximate two-week period immediately preceding the certification and the amount, less the Department of Revenue's actual cost of collection, to be distributed to each county and which shall be paid to the treasurer or other custodian of funds of the county within three days after certification thereof.

"(2) The department shall charge each county the actual cost to the department for collecting a tax. Notwithstanding the preceding sentence, however, the charge shall not exceed two percent of the amount collected for each county. At least once each month, the state Comptroller shall issue a warrant to the Department of Revenue for the collection charges due as determined by the Commissioner of Revenue. Payment shall be from funds collected under this
section and shall be the actual cost of collection, not to exceed two percent of the amount collected for each county.

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

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

"(e) A new levy, or a levy changed by an amendment of a heretofore adopted levy, which will be collected under this section shall not be subject to collection by the Department of Revenue until the first day of the month next following the expiration of 30 days after receipt by the department of a certified copy of the enabling ordinance or resolution with any amendment thereto.
"(f) The Department of Revenue shall from time to time issue such rules and regulations for making returns and for ascertainment, assessment, collection, and administration of taxes subject to the provisions of this section as it may deem necessary to enforce its provisions and shall furnish any municipal or county government with a copy of those rules and regulations within 15 days of final adoption. Upon request, the Department of Revenue shall furnish any taxpayer with a copy of those rules and regulations.

"(g) Any self-administered county governing body, as defined in Section 40-2A-3(20), may elect, by the adoption of an ordinance or resolution, to assess interest on any tax delinquency. Any such assessment of interest shall be consistent with the provisions of Section 40-23-2.1. Any self-administered county governing body may also elect, by the adoption of an ordinance or resolution, to pay interest on any refund of tax erroneously paid. In the event that the governing body elects to assess interest on any tax delinquency, the governing body must also elect to pay interest, at the same rate charged by the county on tax delinquencies, on any refund of tax erroneously paid. Unless otherwise specified in the ordinance or resolution in which the county governing body elects to assess or pay interest determined in accordance with Section 40-1-44, the applicable interest rate to be charged by or due from the
county shall be one-percent-per-month determined pursuant to
Section 40-1-44. References in this subsection to "erroneously
paid" taxes on which interest shall be due to the taxpayer
shall only mean and refer to taxes paid to the
self-administered county or its agent as a result of any
error, omission, or inaccurate advice by or on behalf of the
self-administered county, including in connection with a prior
examination of its books and records by the self-administered
county or its agent.

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

"§11-51-194.

"(a) (1) Each municipality shall allow the purchase
of a delivery license by any business that has no other
physical presence within the municipality or its police
jurisdiction for the privilege of delivering its merchandise
therein. The amount of the delivery license shall not exceed
one hundred dollars ($100), provided that each municipality
may review the propriety of the license-tax every five years,
and may increase or decrease the license-tax under the
standards prescribed by Section 11-51-90 with respect to the
uniform license issuance fee. Nothing herein shall prohibit a
municipality from requiring by ordinance the purchase of a
decal by the taxpayer for each delivery vehicle making
deliveries within the municipality or its police jurisdiction.
The charge for such decal shall not exceed the municipality's
actual cost of the decal.

"(2) Notwithstanding any other provision of law, a
municipality may charge a taxpayer an issuance fee for a
business delivery license not to exceed ten dollars ($10).

"(b) As used in this section, a delivery license
shall mean a fixed rate business license issued by a
municipality for the limited privilege of delivering and
requisite set-up and installation, by the taxpayer's employees
or agents, of the taxpayer's own merchandise in that
municipality, by means of delivery vehicles owned, leased, or
contracted by the taxpayer; provided that the gross receipts
derived from the sale and any requisite set-up or installation
of all merchandise so delivered into the municipality shall
not exceed seventy-five thousand dollars ($75,000) during the
license year, and any set-up or installation shall relate only
to (1) that required by the contract between the taxpayer and
the customer or as may be required by state or local law, and
(2) the merchandise so delivered. Mere delivery of the
taxpayer's merchandise by common carrier shall not allow the
taxing jurisdiction to assess a business license tax or a
delivery license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the seventy-five thousand dollar ($75,000) limitation described in the preceding sentence if the taxpayer also during the same license year sells and delivers into the taxing jurisdiction using a delivery vehicle other than a common carrier. Provided that the dollar limitation prescribed above shall be increased, but not decreased, every five years under the standards prescribed by Section 11-51-90 with respect to the uniform license issuance fee and may be increased by a municipality at any time, up to one hundred fifty thousand dollars ($150,000), by adoption of an ordinance. A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license hereunder.

"(c) A taxpayer that otherwise meets the criteria for the purchase of a delivery license pursuant to subsections (a) and (b) is not required to purchase a delivery license or a regular business license if the following criteria apply: (1) The taxpayer's gross receipts that are derived from within the municipality or its police jurisdiction do not exceed ten thousand dollars ($10,000) during the year; and (2) the taxpayer has no other physical presence within the municipality or its police jurisdiction during the year. Any
other taxpayer that meets the criteria for the purchase of a
delivery license, as provided in subsections (a) and (b), and
meets those criteria during the current license year as well,
shall purchase either a delivery license or a regular business
license otherwise applicable to the taxpayer, at its option.

"(d) Notwithstanding Section 11-51-90.2, the
delivery license shall be calculated in arrears, based on the
related gross receipts during the preceding license year.

"(e) The purchase of a delivery license or the
exemption from the purchase of a delivery license pursuant to
subsection (c) shall not, in and of itself, establish nexus
between the taxpayer and the municipality for purposes of the
taxes levied by or under the authority of Title 40 or other
provisions of this title, nor does the purchase of a delivery
license, in and of itself, establish that nexus does not exist
between the taxpayer and the municipality.

"(f) If at any time during the current license year
the taxpayer fails to meet the criteria specified in
subsections (a) and (b), then within 45 days after any of
the criteria have been violated or exceeded, the taxpayer
shall purchase all appropriate business licenses from the
municipality or its designee, for the entire license year and
without regard to this section a business delivery license or
other appropriate license from the municipality and may be
subject to a penalty not to exceed ten dollars ($10).
"§11-51-208.

(a) Municipalities may, upon request of the municipal governing body, engage the Department of Revenue to collect their municipal sales, use, rental, and lodgings tax. Subject to subsections (c) and (d), the Department of Revenue shall collect the municipal sales, use, rental, and lodgings tax on behalf of the requesting municipality. The Department of Revenue shall prepare and distribute reports, forms, and other information as may be necessary to provide for the collection of any municipal tax it collects and, on request, shall make all reports available for inspection by the governing body of the municipality. In collecting a municipal sales, use, rental, or lodgings tax, the department shall have all the authority and duties as it has in connection with the collection of the corresponding state tax including, without limitation, the provisions of Chapters 2A, 12, 23, and 26 of Title 40.

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

"(2) The department shall charge each municipality the actual cost to the department for collecting its tax. Notwithstanding the preceding sentence, however, the charge shall not exceed two percent of the amount collected for each municipality. At least once each month, the state Comptroller shall issue a warrant to the Department of Revenue for the collection charges due as determined by the Commissioner of Revenue. Payment shall be from funds collected under this section and shall be the actual cost of collection, not to exceed two percent of the amount collected for each municipality.

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

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

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

"(e) Subject to the provisions of this section, the
Department of Revenue shall from time to time issue such rules
and regulations for making returns and for ascertainment,
assessment, collection, and administration of taxes subject to
the provisions of this section as it may deem necessary to
enforce its provisions and shall furnish any county or
municipal governing body with a copy of those rules and
regulations within 15 days of final adoption. Upon request,
the Department of Revenue shall furnish any taxpayer with a
copy of those rules and regulations.

"(f) Any self-administered municipal governing body,
as defined in Section 40-2A-3(20), may elect, by the adoption
of an ordinance or resolution, to assess interest on any tax
delinquency. Any such assessment of interest shall be
consistent with the provisions of Section 40-23-2.1. Any self-administered municipal governing body may also elect, by the adoption of an ordinance or resolution, to pay interest on any refund of tax erroneously paid. In the event that the governing body elects to assess interest on any tax delinquency, the governing body must also elect to pay interest, at the same rate charged by the municipality on tax delinquencies, on any refund of tax erroneously paid. Unless otherwise specified in the ordinance or resolution in which the municipal governing body elects to assess and pay interest determined in accordance with Section 40-1-44, the applicable interest rate to be charged by or due from the municipality shall be one percent per month determined pursuant to Section 40-1-44. References in this subsection to "erroneously paid" taxes on which interest shall be due to the taxpayer shall only mean and refer to taxes erroneously paid to the self-administered municipality or its agent as a result of any error, omission, or inaccurate advice by or on behalf of the self-administered municipality, including in connection with a prior examination of its books and records by the self-administered municipality or its agent.

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

"§40-23-241.

"(a) All Alabama taxing jurisdictions shall authorize utilization of the ONE SPOT system for any taxpayer required to file a state or local sales or use tax or leasing or rental tax or lodgings tax return or remit the tax payments; provided, however, that any taxpayer utilizing the ONE SPOT system for filing an electronic tax return for a local taxing jurisdiction shall be required to simultaneously remit payment through the system or through another electronic method of payment accepted by the local taxing jurisdiction or its designee for which payment is being made. A local taxing jurisdiction may not accept a tax return from a taxpayer without payment through the system unless the taxpayer has prior approval from the local taxing jurisdiction to utilize a different approved electronic method of payment.

"(b) No later than June 30, 2013, each local taxing jurisdiction shall provide the department with necessary information to allow all sales and use tax or leasing or rental tax or lodgings tax payments to be remitted directly to the bank account or other account designated by the local taxing jurisdiction. Each non-state administered local taxing jurisdiction shall set up their accounts to allow dishonored payments to be reversed. All tax payments made through the ONE
SB316

SPOT system for non-state administered local taxing jurisdictions shall be remitted directly from the taxpayer to the designated bank account or other account of the local taxing jurisdiction with the ONE SPOT system serving as a conduit only.

"(c) No taxpayer shall be required to use the ONE SPOT system for tax return filing and remittance of local sales and use taxes and leasing or rental taxes or lodgings taxes; provided, however, that any taxpayer utilizing the system shall comply with this article and any rules promulgated by the department for the administration of this article. Additionally, any taxpayer utilizing the system shall comply with any rules of the local taxing jurisdiction regarding the administration of the local sales or use tax or leasing or rental tax or lodgings tax.

"(d) All penalties and interest shall be assessed according to state law and the rules of the department, except that a local taxing jurisdiction may elect to apply the interest at the rate of one percent per month, if it notifies the department of the election in a manner prescribed by the department. Additionally, the state discount rate shall be applied except that a local taxing jurisdiction discount rate shall be applied if the local taxing jurisdiction notifies the department of such election in a manner prescribed by the department. A taxpayer who desires a waiver of any penalty
assessed in relation to a return filed for a local taxing
jurisdiction shall apply directly to that local taxing
jurisdiction for the waiver.

Section 2. This act shall become effective on the
first day of the third month following its passage and
approval by the Governor, or its otherwise becoming law.
President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB316
Senate 13-APR-17
I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 19-MAY-17

Senate concurred in House amendment 19-MAY-17

APPROVED May 26, 2017
By: Senator Sanford 2:30 pm

GOVERNOR

Alabama Secretary Of State
Act Num....: 2017-415
Bill Num....: S-316
Recvd 05/26/17 03:37pmSLF

Page 17
I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 316.

yeas 28 nays 0 abstain 0

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB ___ as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 316.

YEAS _______ NAYS _______

JEFF WOODARD,
Clerk

FURTHER HOUSE ACTION (OVER)