SYNOPSIS: This bill would authorize the Commissioner of the Department of Revenue to temporarily waive requirements associated with the International Fuel Tax Agreement and the International Registration Plan during a declared state of emergency or disaster to help affected areas.

Under existing law, certain county and municipal road and bridge projects are required to be publicly bid in a manner different from the current bid process for other projects.

This bill would clarify that bidding procedures approved by the Department of Examiners of Public Accounts may be used for certain county road and bridge projects.

This bill would also clarify the distributing entity responsible for the distribution of certain annual license taxes and registration fees.

Under current law, electric low-speed vehicles, which includes some electric golf carts,
are subject to the same $200 additional annual license taxes and registration fees as other electric motor vehicles.

This bill would provide a reduced additional annual license tax and registration fee for electric low-speed vehicles.

A BILL TO BE ENTITLED AN ACT

Relating to taxation and fees; to amend Section 40-2-11, Code of Alabama 1975, to authorize the Commissioner of the Department of Revenue to temporarily waive requirements for the International Fuel Tax Agreement and the International Registration Plan during a declared state of emergency or disaster; to amend Act 2019-2, 2019 First Special Session, now appearing as Section 23-8-6, Code of Alabama 1975, to clarify that bidding procedures approved by the Department of Examiners of Public Accounts may be used for certain county road and bridge projects; to amend Act 2019-305, 2019 Regular Session, now appearing as Section 40-12-242.1, Code of Alabama 1975, to provide for clarification on the distributor of certain license taxes and fees; to amend Section 40-17-335, Code of Alabama 1975, to clarify a reference to motor fuel excise taxes with regard to surety bonds; and to provide a
reduced additional annual license tax and registration fee for
electric low-speed vehicles.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§40-2-11.

"It shall be the duty of the Department of Revenue, and it shall have the power and authority, in addition to the
authority now in it vested by law:

"(1) To have and exercise general and complete supervision and control of the valuation, equalization, and
assessment of property, privilege, or franchise and of the collection of all property, privilege, license, excise,
intangible, franchise, or other taxes for the state and counties, and of the enforcement of the tax laws of the state, and of the several county tax assessors and county tax collectors, probate judges judges of probate, and each and every state and county official, board, or commission charged with any duty in the enforcement of tax laws, to the end that all taxable property in the state shall be assessed and taxes shall be imposed and collected thereon in compliance with the law and that all assessments on property, privileges, intangibles, and franchises in the state shall be made in exact proportion to the fair and reasonable market value thereof in substantial compliance with the law.

"(2) To equalize, value, and assess or cause to be equalized, valued, and assessed any property subject to
taxation, and such valuations and assessments it shall enter
or cause to be entered in the proper assessment book, record,
or minutes of the proper official, board, or tribunal; to set
aside all assessments so entered in any assessment book,
record, or minutes within any time before the end of the
assessment year and, after 10 days' notice given the taxpayer,
which notice shall be given by certified or registered mail,
return receipt demanded, of the time and place of hearing,
revalue and reassess said property and cause such revaluation
and reassessment to be entered in the proper assessment book,
record, or minutes in lieu of the original valuation and
assessment; provided, that no reassessment or revaluation
shall be made of any particular assessment from which an
appeal is then pending, or if the valuation of the property
for that year has been fixed on appeal by the circuit court or
Supreme Court; provided further, that parties may appeal from
such revaluation and assessment to the circuit court within
like time and in like manner as from the valuation and
assessment as fixed by the board of equalization.

"(3) To confer with, advise, and direct the several
county tax assessors, county tax collectors, probate judges,
judges of probate, boards, or commissions and each and every
state and county official charged with the assessment and
collection of taxes as to their duties under the laws of this
state.

"(4) To direct actions to be instituted by the
Attorney General, district attorneys, or attorneys especially
employed for such purposes, with the approval of the Attorney General for the collection of any taxes or penalties due the state or any county, or to compel any officer or taxpayer to comply with the provisions of the tax laws; to direct actions, prosecutions, and proceedings to be instituted to enforce the laws of this state relating to taxes, penalties, forfeitures, and liabilities, and for the punishment of any public officers or any person or any officer or agent of any corporation, company, or association, trustee, or receiver for failure or neglect to comply with the provisions of the tax laws, and to cause complaints, informations, actions, or prosecutions to be made or instituted against any tax assessor, tax collector, probate judge judge of probate, or other public official for the removal of such officers for official misconduct or neglect of duty and to further direct actions as may become necessary to obtain an order from a circuit court enjoining or restraining a taxpayer from continuing in business in Alabama whenever such taxpayer fails to collect, account for, and/or pay over any trust fund tax imposed by Sections 40-17-220, 40-17-325, 40-18-71, 40-21-82, 40-21-102, 40-21-121, 40-23-2, 40-23-61, 40-23-193, 40-26-1, or any other local sales, use, and gross receipts taxes collected by the department. Such actions and proceedings may be instituted in the circuit court of any county in which the taxpayer resides or does business, or in the Circuit Court of Montgomery County, Alabama, and shall remain in effect until such time as the taxpayer has come into full compliance with the tax laws.
(5) To require district attorneys and the Attorney General of the state to commence and prosecute, within the respective jurisdictions or spheres of official duty of the officers, actions, proceedings, and prosecutions for penalties, forfeitures, impeachments, and punishments for violations of the tax laws of the state, to enter into agreements with district attorneys and the Attorney General of the state to reimburse those offices for reasonable fees or costs of actions, proceedings, and prosecutions, and to fund the reimbursements, in whole or in part, from penalties assessed and collected pursuant to Section 40-2A-11.

(6) To require any public official in the state to report information as to valuation, equalization, and assessment of property, privileges, franchises or intangibles, gross receipts, collections of taxes, receipts from licenses and other sources, methods of taxation, values or franchises, or intangible property, or assets subject to taxation, and such other information as may be needful in the work of the Department of Revenue in such forms and upon such blanks as the department may prescribe and furnish.

(7)a. To require individuals, partnerships, associations, corporations, trustees, and receivers, and the agents, officers, and employees thereof, to furnish information concerning their capital, funded or otherwise, gross receipts, net profits or income, excess profits, current assets and liabilities, values of franchises, intangibles, value of property, earnings, operating and other expenses,
bonds, deeds, conduct of business, and all other facts, records, books, papers, documents, and other information of any kind demanded which may be needful in order to enable the department to ascertain the value and relative burden to be borne by every kind of property in this state and to ascertain the proper amount of license, privilege, excise, corporation, franchise, income, or ad valorem taxes.

"b. To require reporting of retail sales and customer notification, within constitutional limitations, when the seller does not collect sales, use, or simplified sellers use tax on Alabama sales transactions, and to provide for penalties pursuant to Section 40-2A-11.

c. To require reporting of rental transactions of tangible personal property as defined in Section 40-12-220, when the property is classified as Class II or Class IV property under Section 40-8-1, by persons facilitating the transactions and to require notifications to the lessor when the lessor has not furnished evidence that it has acquired a license as required under Section 40-12-221, and to provide for penalties pursuant to Section 40-2A-11.

"(8) To cause the deposition of witnesses residing within or without the state to be taken upon such notice to the interested party, if any, as the department may prescribe, in like manner as depositions of witnesses are taken in actions pending in circuit court, in any matter which the department has authority to investigate and determine. The depositions shall be taken upon a commission issued by the
Department of Revenue, or the secretary thereof, in the name of the department, and returnable to the department.

"(9) To visit, by the commissioner or by duly authorized agents, the several counties in the state for the purpose of investigating the work and methods of county tax assessors, tax collectors, judges of probate, or other officers or boards charged with the duty of administering the tax laws of the state; to examine carefully into all cases where evasions or violations of the tax laws are alleged, complained of, or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered and to report the result of the investigation and the facts ascertained to the Governor from time to time when required by the Governor.

"(10) To investigate the tax system of other states; to thoroughly inform itself upon the subject of taxation and of the progress made in other states and counties in improving their tax system, to formulate and recommend such legislation as may be deemed expedient to prevent evasion of existing tax laws and to secure just and equal taxation and improvements in the system of taxation in this state.

"(11) To consult and confer with the Governor upon the subject of taxation and the administration of the laws and progress of the work of the department, and to furnish to the Governor from time to time such information as the Governor may require.
"(12) To transmit to the Governor, 30 days before the meeting of the Legislature, a written report showing all the taxable property in the state and the value of the same, in tabulated form, with recommendations for improvements in the system of taxation in the state, together with suggestions of such measures as the department may formulate for the consideration of the Legislature in regard thereto.

"(13) To, for good reason shown and entered on the minutes of the department, do either of the following:

"a. Extend the time for filing any report or written statement required to be filed with the department.

"b. Temporarily waive the motor fuel importer, exporter, or transporter licensing requirements under Section 40-17-332, during a state of emergency or disaster. A waiver authorized by this subdivision shall be effective only for persons importing, exporting, or transporting motor fuel to areas within a state or territory of the United States for which the President of the United States or the governor of that state or territory has declared a state of emergency or disaster, and only where the import, export, or transport takes place during the time the declaration is in effect. A temporary waiver of the motor fuel importer, exporter, or transporter licensing requirements under this subdivision shall not be construed to permit any waiver of any additional requirements or payment of any taxes due under the Alabama Terminal Excise Tax."
"c. Temporarily waive the requirements associated with the International Registration Plan under Section 32-6-56 and the International Fuel Tax Agreement under Section 40-17-272, during a state of emergency or disaster. A waiver authorized by this subdivision shall be effective only for motor vehicles engaged in interstate disaster relief efforts traveling to areas within a state or territory of the United States for which the President of the United States or governor of that state or territory has declared a state of emergency or disaster, and only when the travel takes place during the time the declaration is in effect. A temporary waiver of the requirements under the International Registration Plan or International Fuel Tax Agreement under this subdivision shall not be construed to allow a motor vehicle to operate in the State of Alabama without valid registration and insurance from its base state, nor allow any motor vehicle to exceed weight limits posted for bridges and like structures, or relieve any vehicle or the carrier, owner, or driver of any vehicle from compliance with any other restrictions, statutes, orders, or other legal requirements."

"(14) To inspect and examine at all reasonable business hours any books, documents, records, or papers kept by any person, firm, corporation, trustee, or receiver."

"(15) To make all assessments of taxes or penalties which it is authorized to enforce or collect and report the same to the Attorney General."
"(16) To issue executions and writs of garnishment directed to any sheriff of Alabama, on any final assessment or judgment made or rendered by it, and upon such executions the sheriff shall proceed as in cases issued out of the circuit court and shall make return thereof to the Department of Revenue within 60 days after the receipt thereof.

"(17) To perform such other duties as are or may be imposed on it by law."

Section 2. Act 2019-2, 2019 First Special Session, now appearing as Section 23-8-6, Code of Alabama 1975, and Act 2019-305, 2019 Regular Session, now appearing as Section 40-12-242.1, Code of Alabama 1975, are amended to read as follows:

"§23-8-6.

"(a) All county and municipal projects let to contract shall utilize contractors and material suppliers listed on the ALDOT's list of approved contractors and suppliers. ALDOT's list of approved contractors and material suppliers shall include the ALDOT's Certified Disadvantaged Business Enterprise List. Beginning October 1, 2020, and October 1 of every other year, each county and municipality shall provide a list of all contractors who have been awarded projects under this section to the President Pro Tempore of the Senate, the Speaker of the House, and the Chair of the Joint Transportation Committee. Notwithstanding any provision of law to the contrary, no bidding shall be required by the county for asphalt or other road construction or repair
materials if the county has an annual contract for providing
such materials.

"(b) For all municipal projects, the appropriate
plans and bid opening date shall be published in electronic
form no later than the tenth day of the month preceding the
bid opening on a website maintained for that purpose by the
Alabama League of Municipalities.

"(c) The bidding procedures approved by the
Department of Examiners of Public Accounts, as authorized in
Section 40-17-371(c)(2) d., may be used for any county road and
bridge project otherwise subject to Chapter 2 of Title 39.

"(d) Bids for county and municipal contracts
awarded under this section shall only be awarded in accordance
with Section 39-2-6 during a regularly-scheduled meeting of
the governmental body of the county or municipality, as the
case may be. Immediately after the completion of each project,
the publication notifications required by subsection (f) of
Section 39-1-1, shall be satisfied by posting on the same
website utilized for the posting of specifications and notice
of bid openings.

"$40-12-242.1.

"The Legislature finds and declares the following
regarding the distribution and use of the proceeds from
certain annual license taxes and registration fees on
vehicles: All proceeds of the annual license taxes and
registration fees to be distributed to counties and
municipalities pursuant to subsection (f) of Section 40-12-242
shall be allocated in the same manner and used for the same purposes as provided in subdivisions (2) and (3) of subsection (c) of Section 40-17-371, and shall be distributed by the entity responsible for the distribution of funds under these subdivisions, which, effective October 1, 2021, shall be the Alabama Department of Revenue."

Section 3. Section 40-17-335, Code of Alabama 1975, is amended to read as follows:

"§40-17-335.

"(a) Upon approval of the application by the department, the applicant shall file with the department a surety bond as herein provided:

"(1) Except as provided under subdivision (3), the bond amount for an applicant for a license as a supplier, permissive supplier, or terminal operator shall be in the approximate amount of twice the average monthly tax liability, not to exceed two million dollars ($2,000,000).

"(2) Except as provided under subdivision (3), the bond amount for an applicant for a license as an exporter, blender, importer, or distributor shall be a minimum of two thousand dollars ($2,000) or the approximate amount of twice the average monthly tax liability, whichever is greater.

"(3) The bond for distributors, suppliers, and permissive suppliers who are licensed with the department on October 1, 2012, shall remain at the amount that is filed with the department on that date, except as provided under subsection (b)."
"(4) For an applicant for a license only as a motor
fuel transporter or aviation fuel purchaser, there shall be no
bond.

"(5) Only one bond shall be required of an applicant
for multiple licenses. Except as provided under subdivision
(3), the bond amount shall be based on the highest average
monthly tax liability of the separate licenses, but shall
cover all licenses.

"(b) The commissioner may require an additional
surety bond from any licensee if: (1) the commissioner
determines that the surety on an existing bond is
unsatisfactory; (2) a surety notifies the department that it
intends to cancel a bond as provided in subsection (d); or (3)
the commissioner, after reviewing the financial condition of
the licensee, determines that the existing bond of the
licensee is insufficient in an amount to insure the prompt
payment of all excise taxes that are due or may become due the
state by the licensee upon the sale or withdrawal of motor
fuel. However, in no case shall a new or additional bond be
more than two months of average excise tax owed by the
licensee.

"(c) The department shall notify a licensee at his
or her last known address by first class U.S. mail or, at the
option of the department, certified mail, return receipt
requested, that it is requiring such new or additional bond
for any reason as provided above, and the licensee, within 30
days from the date such notice is mailed by the department,
shall either (1) file the new or additional bond as requested by the department, or (2) file a notice of appeal with the Alabama Tax Tribunal as allowed in Chapter 2B of this title. The department may immediately cancel the licensee's license upon the expiration of the 30-day period set out above if the licensee fails to either provide the new or additional bond requested by the department or timely appeal to the Alabama Tax Tribunal.

"(d) Any surety on an existing bond furnished by a licensee may notify the department in writing of its intent to cancel the bond. The department shall immediately notify the licensee of the intent of the surety to cancel and the licensee shall have 30 days from the date the notice is mailed by the department to provide a sufficient replacement bond as requested by the department. The department may immediately cancel the licensee's license upon expiration of the 30-day period set out above if the licensee fails to either provide a new replacement bond as requested by the department or appeal the proposed revocation to the Alabama Tax Tribunal within the 30 days as allowed by Chapter 2B of this title. The surety requesting to be released shall remain liable for any liability already accrued or which shall accrue during the 30-day period set out above, but shall not be responsible for any liability which accrues after the 30-day period.

"(e) A surety providing a bond must be authorized to engage in business within this state. The surety bonds are conditioned upon faithful compliance with the provisions of
this article, including the filing of returns and the payment of all tax prescribed herein. The surety bonds shall be approved by the commissioner as to sufficiency and form, and shall indemnify the state against any loss arising from the failure of the licensee to pay, for any cause, the motor fuel excise tax levied by this article and Article 12A, Chapter 17, Title 40."

Section 4. (a) Notwithstanding Section 40-12-242(b)(1), effective January 1, 2022, the additional annual license tax and registration fee shall be fifty dollars ($50) for each electric low-speed vehicle registered and operated on the public highways of this state. The term electric low-speed vehicle as used in this section shall be defined in the same manner as in 49 C.F.R. § 571.3.

(b) The additional annual license tax and registration fee provided in this section shall be distributed pursuant to Section 40-12-242.1, Code of Alabama 1975.

(c) The Department of Revenue may adopt rules for the implementation and administration of this act.

Section 5. Sections 1, 2, and 3 shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law, and Section 4 shall become effective January 1, 2022, following its passage and approved by the Governor, or its otherwise becoming law.