Exhibit C
SB462

160172-1

By Senator Ward (N & P)

RFD: Local Legislation No. 1

First Read: 11-MAR-14
ABill

To be entitled

An Act

Relating to Chilton County; to levy additional sales and use taxes to be used for the construction, maintenance, and operation of hospital facilities in Chilton County; to provide for certain matters relating to the administration, collection, and enforcement of such taxes; to provide for the effective date and termination of such taxes; to provide for an advisory referendum regarding the levy of the taxes; to provide that such taxes may not be abated pursuant to Chapter 9B, Title 40, Code of Alabama 1975, or otherwise; and to authorize the pledge of such taxes by Chilton County or a public corporation acting as its agent to secure indebtedness issued for the purposes for which the taxes are authorized.

Be it enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Chilton County.
Section 2. (a) The following words, terms and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

(1) "Code" means the Code of Alabama 1975, as amended.

(2) "Commissioner" means the Commissioner of Revenue of the state.

(3) "County" means Chilton County in the state.

(4) "Public Hospital Corporation" means the Chilton County Health Care Authority, or any successor thereto, or any other public corporation heretofore or hereafter organized for hospital purposes in the county under any general law heretofore or hereafter enacted by the Legislature.

(5) "State" means the State of Alabama.

(6) "State Department of Revenue" means the Department of Revenue of the state.

(7) "State sales tax" means the tax or taxes imposed by the state sales tax statutes.

(8) "State sales tax statutes" means Division 1 of Article 1 of Chapter 23 of Title 40 of the code, including all other statutes of the state which expressly set forth any exemptions from the computation of the taxes levied in Division 1 and all other statutes which expressly apply to, or purport to affect, the administration of Division 1 and the incidence and collection of the taxes imposed therein.
(9) "State use tax" means the tax or taxes imposed by the state use tax statutes.

(10) "State use tax statutes" means Article 2 of Chapter 23 of Title 40 of the code, including all other statutes of the state which expressly set forth any exemptions from the computation of the tax levied in Article 2 and all other statutes of the state which expressly apply to, or purport to affect, the administration of Article 2 and the incidence and collection of the taxes imposed therein.

(b) Except where another meaning is clearly indicated by the context, all definitions set forth in the state sales tax statutes and the state use tax statutes shall be effective as definitions of the words, terms, and phrases used in this act. All words, terms, and phrases used herein, other than those hereinabove specifically defined, shall have the respective meanings ascribed to them in the state sales tax statutes and the state use tax statutes and shall have the same scope and effect that the same words, terms, and phrases have where used in the state sales tax statutes and the state use tax statutes.

Section 3. (a) The governing body of the county is authorized to levy and impose in the county, in addition to all other taxes of every kind now imposed by law, and to collect as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against
gross sales, or gross receipts, as the case may be, as follows:

   (1) Upon every person, firm, or corporation, (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county, or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or continuing within the county in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships, and other watercraft, and commercial fishing vessels of over five tons displacement as registered with the United States Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources), an amount equal to one percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of the business at the rates specified, when his or her books are kept so as to show separately the gross proceeds of sales of each business, and when his or her books are not so
kept he or she shall pay the tax as retailer on the gross
sales of the business.

Where any used part including tires of an automotive
vehicle or a truck trailer, semitrailer, or house trailer is
taken in trade, or in a series of trades, as a credit or part
payment on the sale of a new or rebuilt part or tire, the tax
levied herein shall be paid on the net difference, that is,
the price of the new or used part or tire sold less the credit
for the used part or tire taken in trade, provided, however,
this provision shall not be construed to include batteries.

(2) Upon every person, firm, or corporation engaged,
or continuing within the county, in the business of conducting
or operating places of amusement or entertainment, billiard
and pool rooms, bowling alleys, amusement devices, musical
devices, theaters, opera houses, moving picture shows,
vaudevilles, amusement parks, athletic contests, including
wrestling matches, prize fights, boxing and wrestling
exhibitions, football and baseball games, (including athletic
contests, conducted by or under the auspices of any
educational institution within the county, or any athletic
association thereof, or other association whether the
institution or association be a denominational, a state, or
county, or a municipal institution or association or a state,
county, or city school, or other institution, association or
school), skating rinks, race tracks, golf courses, or any
other place at which any exhibition, display, amusement or
entertainment is offered to the public or place or places
where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount equal to one percent of the gross receipts of any such business. Provided, however, notwithstanding any language to the contrary in the prior portion of this subdivision, the tax provisions so specified shall not apply to any athletic event conducted by a public or nonpublic primary or secondary school or any athletic event conducted by or under the auspices of the Alabama High School Athletic Association. The tax amount which would have been collected pursuant to this subdivision shall continue to be collected by the public or nonpublic primary or secondary school, but shall be retained by the school which collected it and shall be used by the school for school purposes.

(3) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, an amount equal to one-half percent of the gross proceeds of the sale of such machines. The term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of the machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of the machines and which are necessary to the operation of such machines and are customarily so used.
(4) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes, and any other materials pertaining thereto an amount equal to one-half percent of the gross proceeds of sale of the automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies; provided, however, where a person subject to the tax provided for in this subdivision withdraws from his or her stock in trade any automotive vehicle or truck trailer, semitrailer, or house trailer for use by him or her or by his or her employee or agent in the operation of the business, there shall be paid, in lieu of the tax levied herein, a fee of five dollars ($5) per year or part thereof during which such automotive vehicle, truck trailer, semitrailer, or house trailer shall remain the property of such person. Each year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the 12 succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer, or house trailer shall remain the property of such person. Where any used automotive vehicle or truck trailer, semitrailer, or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or
used vehicle sold less the credit for the used vehicle taken in trade.

(5) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products, and substitutes therefor, there is levied a tax equal to one percent of the cost of the food, food products, and beverages sold through the machines, which cost for the purpose of this subdivision shall be the gross proceeds of sales of the business.

(6) Upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, an amount equal to one-half percent of the gross proceeds of the sale thereof; provided, that the one-half percent rate herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public
highway use, except farm trailers used primarily in the
production and harvesting of agricultural commodities.

Where any used machine, machinery or equipment which
is used in planting, cultivating and harvesting farm products,
or used in connection with the production of agricultural
produce or products, livestock and poultry on farms is taken
in trade or in a series of trades as a credit or part payment
on a sale of a new or used machine, machinery or equipment,
the tax levied herein shall be paid on the net difference,
that is, the price of the new or used machine, machinery or
equipment sold, less the credit for the used machine,
machinery or equipment taken in trade.

(b) There are exempted, however, from this section
and from the computation of the amount of the tax authorized
to be imposed in this section, the gross receipts of any
business and the gross proceeds of all sales which are
presently exempted under the state sales tax statutes from the
computation of the amount of the state sales tax.

Section 4. (a) The governing body of the county is
hereby authorized to levy and impose excise taxes on the
storage, use or other consumption of property in the county as
hereinafter provided in this section: (1) On the storage, use
or other consumption in the county of tangible personal
property, not including, however, materials and supplies
bought for use in fulfilling a contract for the painting,
repairing or reconditioning of vessels, barges, ships, other
watercraft and commercial fishing vessels of over five tons
load displacement as registered with the United States Coast
Guard and licensed by the State of Alabama Department of
Conservation and Natural Resources, purchased at retail on or
after the effective date of such tax, for storage, use or
other consumption in the county at the rate of one percent of
the sales price of such property or the amount of tax
collected by the seller, whichever is greater, except as
provided in subdivisions (2), (3) and (4) of this subsection.

(2) On the storage, use or other consumption in the
county of any machines used in mining, quarrying, compounding,
processing and manufacturing of tangible personal property,
purchased at retail on or after the effective date of such
tax, at the rate of one-half percent of the sales price of any
such machine or the amount of tax collected by the seller,
whichever is greater; provided, that the term "machine," as
herein used, shall include machinery which is used for mining,
quarrying, compounding, processing, or manufacturing tangible
personal property, and the parts of such machines, attachments
and replacements therefor, which are made or manufactured for
use on or in the operation of such machines and which are
necessary to the operation of such machines and are
customarily so used.

(3) On the storage, use or other consumption in the
county of any automotive vehicle or truck trailer, semitrailer
or house trailer, and mobile home set-up materials and
supplies including but not limited to steps, blocks,
anchoring, cable pipes and any other materials pertaining
thereto, purchased at retail on or after the effective date of such tax, for storage, use or other consumption in the county at the rate of one-half percent of the sales price of such automotive vehicle, truck trailer, semitrailer or house trailer, and mobile home set-up materials and supplies as specified above, or the amount of tax collected by the seller, whichever is greater. Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

(4) On the storage, use or other consumption in the county of any machine, machinery, or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry, or farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, which is purchased at retail after the effective date of the tax, for storage, use or other consumption in the county, at the rate of one-half percent of the sales price of such property or the amount of tax collected by the seller, whichever is
greater. Provided, however, that the one-half percent rate herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use except farm trailers used primarily in the production and harvesting of agricultural commodities.

(b) There are exempted from the provisions of this section, and from the taxes authorized to be imposed by this section, the storage, use, or other consumption of property the storage, use, or other consumption of which is presently exempted under the state use tax statutes from the state use tax. Subject to those exemptions, every person storing or using or otherwise consuming in the county tangible personal property purchased at retail on or after the effective date of any such taxes imposed pursuant to the authorization contained in this section shall be liable for the taxes so imposed, and the liability shall not be extinguished until the tax has been paid by such person; provided, however, that a receipt from a retailer maintaining a place of business in the county given to the purchaser or other receipt or documentation regarding payment of tax permitted under applicable rules and regulations, shall be sufficient to relieve the purchaser from further liability for tax to which such receipt or documentation may refer.

Section 5. Each person engaging or continuing within the county in a business subject to the sales tax authorized to be levied in Section 3 shall add to the sales price and
collect from the purchaser the amount due by the taxpayer on account of the tax. It shall be unlawful for any person subject to the sales tax authorized to be levied in Section 3 to fail or refuse to add to the sales price and to collect from the purchaser the amount herein required to be so added to the sales price and collected from the purchaser, and it shall likewise be unlawful for any person subject to the tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of the tax or any portion thereof.

Section 6. (a) The governing body of the county shall administer and collect the taxes herein authorized to be levied and collected, or shall cause such taxes to be administered and collected by the State Department of Revenue or a private collection agency at the same time and in the same manner as the state sales tax and state use tax are collected, pursuant to, and in accordance with, the applicable provisions of Sections 11-3-11.2 and 11-3-11.3 of the code. Without limiting the generality of the foregoing, the governing body of the county or other collection agency shall have the same rights, remedies, power, and authority, including the right to adopt and implement the same procedures, as would be available to the State Department of Revenue if the taxes herein authorized were being administered, enforced, and collected by the State Department of Revenue. The governing body of the county may retain or may pay to the State Department of Revenue or a private collection
agency, as its fee for the cost of collecting such taxes, an amount not to exceed five percent of the proceeds of such taxes so collected; provided, if the governing body of the county or the State Department of Revenue shall administer and collect the taxes the amount retained by the governing body or paid to the State Department of Revenue shall not exceed the actual cost of collection, whichever is less.

(b) With respect to the taxes herein authorized to be levied and imposed by it, the county shall be deemed to be a self-administered county, as that term is defined in Section 40-2A-3 of the code.

Section 7. The governing body of the county may call an advisory countywide referendum election on the question of whether or not the qualified electors of the county support or oppose the governing body levying the additional sales and use taxes authorized in this act. All costs of the advisory referendum, including, but not limited to, the cost of publishing the notice and of furnishing ballots or renting voting machines, shall be paid by the county. The governing body of the county shall not be bound by the results of any such advisory referendum and may in its sole discretion determine to levy or not levy the taxes authorized in this act.

Section 8. The taxes authorized to be levied pursuant to this act shall constitute a debt due the county and may be collected by civil suit, in addition to all other methods provided by law and in this act. The taxes, together
with any interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom the taxes are due or who is required to collect the taxes. All the provisions of the revenue laws of the state which apply to the enforcement of liens for license taxes due the state shall apply fully to the collection of the taxes herein authorized to be levied. The governing body of the county, the State Department of Revenue or private collection agency, as determined by the governing body, shall collect the taxes, and enforce this act, and the governing body of the county or any private collection agency collecting such taxes shall have and exercise all rights and remedies that the State Department of Revenue would have if the taxes herein authorized were being administered, enforced and collected by the State Department of Revenue. The governing body of the county, the State Department of Revenue or private collection agency may employ special counsel as it deems necessary from time to time to enforce collection of the taxes levied pursuant to this act and otherwise to enforce the provisions of this act, including the institution, prosecution, and defense of any litigation involving this act. The governing body, the State Department of Revenue or private collection agency shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the tax collected by it hereunder.

Section 9. All provisions of the state sales tax statutes with respect to payment, assessment, and collection
of the state sales tax, making of reports, and keeping and
preserving records with respect thereto, interest after the
due date of the state sales tax, penalties for failure to pay
the tax, make reports or otherwise comply with the state sales
tax statutes, the promulgation of rules and regulations with
respect to the state sales tax, and the administration and
enforcement of the state sales tax statutes, which are not
inconsistent with the provisions of this act, when applied to
the sales taxes authorized to be levied herein, shall apply to
the sales taxes authorized to be levied herein; and all
provisions of the state use tax statutes with respect to
payment, assessment, and collection of the state use tax,
making of reports, and keeping and preserving records with
respect thereto, interest after the due date of the state use
tax, penalties for failure to pay the tax, make reports or
otherwise to comply with the state use tax statutes, the
promulgation of rules and regulations with respect to the
state use tax and the administration and enforcement of the
state use tax statutes, which are not inconsistent with this
act, when applied to the use taxes authorized to be levied
herein, shall apply to the use taxes authorized to be levied
herein. The governing body, the State Department of Revenue or
private collection agency shall have and exercise the same
powers, duties, and obligations with respect to the taxes
levied under this act that are imposed on the Commissioner and
State Department of Revenue by the state sales tax statutes
and state use tax statutes. All provisions of the state sales
tax statutes and the state use tax statutes that are made applicable by this act to the taxes herein authorized to be levied and to the administration of this act are incorporated herein by reference and made a part hereof as if fully set forth herein.

Section 10. Notwithstanding any provision of law to the contrary, none of the taxes herein authorized to be levied and collected may be abated by any governmental or other public body pursuant to Chapter 9B of Title 40 of the code or otherwise.

Section 11. The proceeds of any taxes levied pursuant to the authorization contained in this act shall be used only for the purpose of providing funds to pay the costs of construction, maintenance and operation of hospital facilities in the county. The entire proceeds derived by the county from the taxes herein authorized to be levied, including any income derived from the investment of such proceeds, shall be paid over and deposited, promptly upon receipt thereof, into a separate and distinct fund or account of the county, which shall be accounted for as other county funds; provided, however, the governing body of the county shall have the further power to designate as the agency of the county to construct, maintain and operate the hospital facilities any public hospital corporation heretofore or hereafter organized for hospital purposes in the county. When a public hospital corporation shall be so designated, the proceeds of the taxes thereafter collected shall be paid over
to it and shall be used by it for any one or more of the purposes for which the taxes are herein authorized to be levied. The county or the public hospital corporation may anticipate the proceeds from the taxes so required to be paid to it by issuing, for any of the purposes for which the taxes are herein authorized to be levied, funding or refunding bonds, warrants, or certificates of indebtedness of the county or the public hospital corporation, and may pledge for the payment of the principal thereof and interest thereon the proceeds from the taxes so paid to it. The designation by the governing body of the county of a public hospital corporation to receive the proceeds of the taxes levied pursuant to this act, the payment of such proceeds over to a public hospital corporation and the pledge of such proceeds by the public hospital corporation for the payment of the principal of and interest on bonds, warrants, or certificates of indebtedness issued by such public hospital corporation shall constitute a part of the contract with the holders of the bonds, warrants, or certificates of indebtedness and such contract shall be protected from impairment to the fullest extent provided by the federal Constitution and the Constitution of Alabama of 1901, as amended.

Section 12. (a) If the governing body of the county elects to levy and impose any of the taxes herein authorized to be levied and imposed, it shall specify in the resolution levying and imposing such taxes the first day of the second calendar month next following that during which such levy is

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made as the effective date of such levy. Such resolution may provide such other terms or provisions relating to the levy, collection, administration and enforcement of such taxes as are not contrary to or inconsistent with the provisions of this act.

(b) The governing body of the county may, at any time and from time to time after the levy of any of the taxes herein authorized, but subject to succeeding provisions of this section, and subject to constitutional limitations on the impairment of contracts, terminate any of the taxes herein authorized to be levied by it.

(c) No tax levied hereunder may be terminated by the county, as authorized in the preceding provisions of this section, if there are at the time outstanding and unpaid any bonds, warrants, notes, or other securities or obligations issued by either the county or any public hospital corporation, and which by their terms are payable, in whole or in part, out of, or secured by a pledge of, any revenues or proceeds from any of such taxes.

(d) The governing body of the county shall adopt a resolution terminating any tax levied pursuant to this act no later than four years from the date all bonds, warrants, notes, or other securities or obligations issued by either the county or any other public body, and which by their terms are payable, in whole or in part, out of, or secured by a pledge of, any revenues or proceeds from any of such taxes, shall have been fully paid and retired. It is expressly understood
that the governing body of the county may continue any such
taxes for a period of up to four years after the payment in
full of any such indebtedness to provide funds for the
continued maintenance and operation of the hospital facilities
to be constructed from the proceeds of any such taxes.

(e) In the event that any or all such taxes are so
terminated, any proceeds thereof that are at the time on
deposit with the county or a public hospital corporation
designated as its agent under Section 11 hereof, or that are
thereafter received, shall be held by the county or such
public hospital corporation and expended only for purposes for
which the taxes were herein authorized to be levied.

Section 13. The provisions of this act are
severable. If any part of this act is declared invalid or
unconstitutional, that declaration shall not affect the part
which remains.

Section 14. This act shall become effective
immediately following its passage and approval by the
Governor, or its otherwise becoming law.