

2015 Regular Session

HOUSE BILL NO. 768

BY REPRESENTATIVE JAY MORRIS

TAX/SALES-USE, STATE: Dedicates the avails of the existing one percent state sales and use tax for the support of public elementary through post-secondary education

1 AN ACT

2 To amend and reenact R.S. 47:301 and 305, and to enact Subpart S of Part II-A of Chapter
3 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised
4 of R.S. 39:100.146, relative to the dedication of state revenues; to dedicate certain
5 state sales and use tax revenues for support of public education; to establish a special
6 treasury fund; to provide with respect to the deposit and use of monies in the fund;
7 to provide with respect to the applicability of certain tax exemptions; to provide with
8 respect to the applicability of certain exclusions from tax; to provide for
9 effectiveness; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Subpart S of Part II-A of Chapter 1 of Subtitle I of Title 39 of the
12 Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.146, is hereby enacted to read
13 as follows:

14 SUBPART S. STABILITY IN EDUCATION FUND

15 §100.146 Stability in Education Fund; support of public education

16 Beginning July 1, 2015, the Stability in Education Fund, hereinafter referred
17 to as "fund", shall be established as a special treasury fund for the support of public
18 elementary, secondary, and post-secondary education. The source of monies for the
19 fund shall be the avails of the state sales and use taxes imposed under R.S. 47:321.

20 After satisfying the requirements of the Bond Security and Redemption Fund as

1 provided in Article VII, Section 9(B) of the constitution of Louisiana, the state
2 treasurer shall deposit in and credit to the fund an amount equal to the avails of the
3 tax. Monies in the fund shall be available for appropriation exclusively for purposes
4 of public elementary, secondary, and post-secondary education. Monies in the fund
5 shall be invested in the same manner as the state general fund and any earnings
6 thereon shall accrue to the fund. Unexpended and unencumbered monies in the fund
7 at the end of the fiscal year shall remain in the fund.

8 Section 2. R.S. 47:301 and 305 are hereby amended and reenacted to read as
9 follows:

10 §301. Definitions

11 As used in this Chapter the following words, terms, and phrases have the
12 meaning ascribed to them in this Section, unless the context clearly indicates a
13 different meaning:

14 (1) "Business" includes any activity engaged in by any person or caused to
15 be engaged in by him with the object of gain, benefit, or advantage, either direct or
16 indirect. The term "business" shall not be construed to include the occasional and
17 isolated sales by a person who does not hold himself out as engaged in business.

18 (2) "Collector" shall mean and include (a) the secretary of the Department
19 of Revenue for the state of Louisiana and includes his duly authorized assistants,
20 when used in reference to a sales and use tax levied by the state, or (b) the individual
21 or entity designated as collector of the appropriate single sales and use tax collection
22 office, and his duly authorized assistants, of any political subdivision authorized
23 under the constitution and laws of the state of Louisiana to levy and collect a sales
24 and use tax, except a statewide political subdivision, when used in reference to a
25 sales and use tax levied by such political subdivision.

26 (3)(a) "Cost price" means the actual cost of the articles of tangible personal
27 property without any deductions therefrom on account of the cost of materials used,
28 labor, or service cost, except those service costs for installing the articles of tangible
29 personal property if such cost is separately billed to the customer at the time of

1 installation, transportation charges, or any other expenses whatsoever, or the
2 reasonable market value of the tangible personal property at the time it becomes
3 susceptible to the use tax, whichever is less.

4 (b) In the case of tangible personal property which has acquired a tax situs
5 in a taxing jurisdiction and is thereafter transported outside the taxing jurisdiction for
6 repairs performed outside the taxing jurisdiction and is thereafter returned to the
7 taxing jurisdiction, the cost price shall be deemed to be the actual cost of any parts
8 and/or materials used in performing such repairs, if applicable labor charges are
9 separately stated on the invoice. If the applicable labor charges are not separately
10 stated on the invoice, it shall be presumed that the cost price is the total charge
11 reflected on the invoice.

12 (c) "Cost price" price" solely for purposes of the state sales and use taxes
13 imposed under R.S. 47:302 and 331, and sales and use tax imposed by a political
14 subdivision, shall not include the supplying and installation of board roads to oil
15 field operators if the installation charges are separately billed to the customer at the
16 time of installation.

17 (d)(i) In the case of interchangeable components located in Louisiana, a
18 taxpayer may elect to determine the cost price of such components as follows:

19 (aa) The taxpayer shall send to the secretary written notice of the calendar
20 month selected by the taxpayer as the first month for the determination of cost price
21 under this Paragraph (the "First Month"). The taxpayer may select any month. The
22 taxpayer shall send to the secretary notice of an election to designate a First Month
23 on the first day of the designated First Month, or ninety days from July 1, 1990,
24 whichever is later.

25 (bb) For the First Month and each month thereafter, cost price shall be based
26 and use tax shall be paid only on one-sixtieth of the aggregate cost price of the
27 interchangeable components deployed and earning revenue within Louisiana during
28 the month, without regard to any credit or other consideration for Louisiana state,

1 political subdivision, or school board use tax previously paid on such
2 interchangeable components.

3 (cc) Any election made under this Paragraph shall be irrevocable for a period
4 of sixty consecutive months inclusive of the First Month. If at any time after the
5 sixty-month period the taxpayer revokes its election, no credit or other consideration
6 for use taxes paid pursuant thereto shall be applied to any use tax liability arising
7 after such revocation.

8 (ii)(aa) For purposes of this Paragraph, "interchangeable component" means
9 a component that is used or stored for use in measurement-while-drilling instruments
10 or systems manufactured or assembled by the taxpayer, which measurement-while-
11 drilling instruments or systems collectively generate eighty percent or more of their
12 annual revenue from their use outside of the state.

13 (bb) "Measurement-while-drilling instruments or systems" means
14 instruments or systems which measure information from a downhole location in a
15 borehole, transmit the information to the surface during the process of drilling the
16 borehole using a wireless technique, and receive and decode the information on the
17 surface.

18 (iii) The method for determining cost price of interchangeable components
19 provided for in this Paragraph shall apply to any use taxes imposed by a local
20 political subdivision or school board. For purposes of that application, the words
21 "political subdivision" or "school board" as the case may be, shall be substituted for
22 the words "Louisiana" or "State" in each instance where those words appear in this
23 Paragraph and an appropriate official of the local political subdivision or school
24 board shall be designated to receive the notices required by this Paragraph.

25 (e) "Cost price" shall not include any amount designated as a cash discount
26 or a rebate by a vendor or manufacturer of any new vehicle subject to the motor
27 vehicle license tax. For purposes of this Paragraph "rebate" means any amount
28 offered by the vendor or manufacturer as a deduction from the listed retail price of
29 the vehicle.

1 (f) The "cost price" of refinery gas shall be fifty-two cents per thousand
2 cubic feet multiplied by a fraction the numerator of which shall be the posted price
3 for a barrel of West Texas Intermediate Crude Oil on December first of the preceding
4 calendar year and the denominator of which shall be twenty-nine dollars, and
5 provided further that such cost price shall be the maximum value placed upon
6 refinery gas by the state under R.S. 47:302 and 331 and by any political subdivision
7 under any authority or grant of power to levy and collect use taxes.

8 (g) "Cost price", for purposes of the use tax imposed by the state and its
9 political subdivisions, shall exclude any amount that a manufacturer pays directly to
10 a dealer of the manufacturer's product for the purpose of reducing and that actually
11 results in an equivalent reduction in the retail "cost price" of that product. This
12 exclusion shall not apply to the value of the coupons that dealers accept from
13 purchasers as part payment of the "sales price" and that are redeemable by the
14 dealers through manufacturers or their agents. The value of such coupons is deemed
15 to be part of the "cost price" of the product purchased through the use of the coupons.

16 (h) Solely for purposes of the state sales and use taxes imposed under R.S.
17 47:302 and 331, and sales and use tax imposed by a political subdivision: (i) For
18 purposes of a publishing business which distributes its news publications at no cost
19 to readers and pays unrelated third parties to print such news publications, the term
20 "cost price" shall mean only the lesser of the following costs:

21 (aa) The printing cost paid to unrelated third parties to print such news
22 publications, less any itemized freight charges for shipping the news publications
23 from the printer to the publishing business and any itemized charges for paper and
24 ink.

25 (bb) Payments to a dealer or distributor as consideration for distribution of
26 the news publications.

27 (ii) The definition of "cost price" provided for in this Subparagraph shall be
28 applicable to taxes levied by all tax authorities in the state.

1 (i) Solely for purposes of the state sales and use taxes imposed under R.S.
2 47:302 and 331, and sales and use tax imposed by a political subdivision: (i) For
3 purposes of the imposition of the use tax levied by the state and any political
4 subdivision whose boundaries are coterminous with those of the state, the cost price
5 of machinery and equipment used by a manufacturer in a plant facility predominately
6 and directly in the actual manufacturing for agricultural purposes or the actual
7 manufacturing process of an item of tangible personal property, which is for ultimate
8 sale to another and not for internal use, at one or more fixed locations within
9 Louisiana, shall be reduced as follows:

10 (aa) For the period ending on June 30, 2005, the cost price shall be reduced
11 by five percent.

12 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
13 cost price shall be reduced by nineteen percent.

14 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
15 cost price shall be reduced by thirty-five percent.

16 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
17 cost price shall be reduced by fifty-four percent.

18 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
19 cost price shall be reduced by sixty-eight percent.

20 (ff) For all periods beginning on or after July 1, 2009, the cost price shall be
21 reduced by one hundred percent.

22 (ii) For purposes of this Subparagraph, the following definitions shall apply:

23 (aa) "Machinery and equipment" means tangible personal property or other
24 property that is eligible for depreciation for federal income tax purposes and that is
25 used as an integral part in the manufacturing of tangible personal property for sale.
26 "Machinery and equipment" shall also mean tangible personal property or other
27 property that is eligible for depreciation for federal income tax purposes and that is
28 used as an integral part of the production, processing, and storing of food and fiber
29 or of timber.

1 (I) Machinery and equipment, for purposes of this Subparagraph, also
2 includes but is not limited to the following:

3 (aaa) Computers and software that are an integral part of the machinery and
4 equipment used directly in the manufacturing process.

5 (bbb) Machinery and equipment necessary to control pollution at a plant
6 facility where pollution is produced by the manufacturing operation.

7 (ccc) Machinery and equipment used to test or measure raw materials, the
8 property undergoing manufacturing or the finished product, when such test or
9 measurement is a necessary part of the manufacturing process.

10 (ddd) Machinery and equipment used by an industrial manufacturing plant
11 to generate electric power for self consumption or cogeneration.

12 (eee) Machinery and equipment used primarily to produce a news
13 publication whether it is ultimately sold at retail or for resale or at no cost. Such
14 machinery and equipment shall include but not be limited to all machinery and
15 equipment used primarily in composing, creating, and other prepress operations,
16 electronic transmission of pages from prepress to press, pressroom operations, and
17 mailroom operations and assembly activities. The term "news publication" shall
18 mean any publication issued daily or regularly at average intervals not exceeding
19 three months, which contains reports of varied character, such as political, social,
20 cultural, sports, moral, religious, or subjects of general public interest, and
21 advertising supplements and any other printed matter ultimately distributed with or
22 a part of such publications.

23 (II) Machinery and equipment, for purposes of this Subparagraph, does not
24 include any of the following:

25 (aaa) A building and its structural components, unless the building or
26 structural component is so closely related to the machinery and equipment that it
27 houses or supports that the building or structural component can be expected to be
28 replaced when the machinery and equipment are replaced.

1 (bbb) Heating, ventilation, and air-conditioning systems, unless their
2 installation is necessary to meet the requirements of the manufacturing process, even
3 though the system may provide incidental comfort to employees or serve, to an
4 insubstantial degree, nonproduction activities.

5 (ccc) Tangible personal property used to transport raw materials or
6 manufactured goods prior to the beginning of the manufacturing process or after the
7 manufacturing process is complete.

8 (ddd) Tangible personal property used to store raw materials or
9 manufactured goods prior to the beginning of the manufacturing process or after the
10 manufacturing process is complete.

11 (bb) "Manufacturer" means:

12 (I) A person whose principal activity is manufacturing, as defined in this
13 Subparagraph, and who is assigned by the Louisiana Workforce Commission a North
14 American Industrial Classification System code within the agricultural, forestry,
15 fishing, and hunting Sector 11, the manufacturing Sectors 31-33, the information
16 Sector 511110 as they existed in 2002, or industry code 423930 as a recyclable
17 material merchant wholesaler engaged in manufacturing activities, which must
18 include shredding facilities, as determined by the secretary of the Department of
19 Revenue.

20 (II) A person whose principal activity is manufacturing and who is not
21 required to register with the Louisiana Workforce Commission for purposes of
22 unemployment insurance, but who would be assigned a North American Industrial
23 Classification System code within the agricultural, forestry, fishing, and hunting
24 Sector 11, the manufacturing Sectors 31-33, the information Sector 511110 as they
25 existed in 2002, as determined by the Louisiana Department of Revenue from federal
26 income tax data, if he were required to register with the Louisiana Workforce
27 Commission for purposes of unemployment insurance.

28 (cc) "Manufacturing" means putting raw materials through a series of steps
29 that brings about a change in their composition or physical nature in order to make

1 a new and different item of tangible personal property that will be sold to another.
2 Manufacturing begins at the point at which raw materials reach the first machine or
3 piece of equipment involved in changing the form of the material and ends at the
4 point at which manufacturing has altered the material to its completed form. Placing
5 materials into containers, packages, or wrapping in which they are sold to the
6 ultimate consumer is part of this manufacturing process. Manufacturing, for
7 purposes of this Subparagraph, does not include any of the following:

8 (I) Repackaging or redistributing.

9 (II) The cooking or preparing of food products by a retailer in the regular
10 course of retail trade.

11 (III) The storage of tangible personal property.

12 (IV) The delivery of tangible personal property to or from the plant.

13 (V) The delivery of tangible personal property to or from storage within the
14 plant.

15 (VI) Actions such as sorting, packaging, or shrink wrapping the final
16 material for ease of transporting and shipping.

17 (dd) "Manufacturing for agricultural purposes" means the production,
18 processing, and storing of food and fiber and the production, processing, and storing
19 of timber.

20 (ee) "Plant facility" means a facility, at one or more locations, in which
21 manufacturing, referred to in Sectors 11 and 31-33 of the North American Industrial
22 Classification system as of 2002, of a product of tangible personal property takes
23 place.

24 (ff) "Used directly" means used in the actual process of manufacturing or
25 manufacturing for agricultural purposes.

26 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
27 equipment as defined herein without payment of the tax imposed by R.S. 47:302,
28 321, and 331 before receiving a certificate of exclusion from the secretary of the
29 Department of Revenue certifying that he is a manufacturer as defined herein.

1 (iv) The secretary of the Department of Revenue is hereby authorized to
2 adopt rules and regulations in order to administer the exclusion provided for in this
3 Subparagraph.

4 (j) For the purpose of the sales and use taxes imposed by the state under R.S.
5 47:302 and 331 or any political subdivision whose boundaries are coterminous with
6 those of the state, the "cost price" of electric power or energy, or natural gas for the
7 period beginning July 1, 2007 and thereafter, purchased or used by paper or wood
8 products manufacturing facilities shall not include any of such cost.

9 (k)(i) For purposes of the imposition of the sales and use tax levied by the
10 state or any political subdivision whose boundaries are coterminous with those of the
11 state under R.S. 47:302 and 331, the tax on the cost price of tangible property
12 consumed in the manufacturing process, such as fuses, belts, felts, wires, conveyor
13 belts, lubricants, and motor oils and the tax on the cost price of repairs and
14 maintenance of manufacturing machinery and equipment shall be reduced as follows:

15 (aa) For the period beginning July 1, 2010, and ending on June 30, 2011, the
16 state sales and use tax on the cost price shall be reduced by twenty-five percent.

17 (bb) For the period beginning July 1, 2011, and ending June 30, 2012, the
18 state sales and use tax on the cost price shall be reduced by fifty percent.

19 (cc) For the period beginning July 1, 2012, and ending June 30, 2013, the
20 state sales and use tax on the cost price shall be reduced by seventy-five percent.

21 (dd) For all periods beginning on and after July 1, 2013, the state sales and
22 use tax on the cost price shall be reduced by one hundred percent.

23 (ii) For purposes of this Subparagraph, "manufacturer" means a person
24 whose principal activity is manufacturing and who is assigned an industry group
25 designation by the United States Census of 3211 through 3222 or 113310 pursuant
26 to the North American Industry Classification System of 2007.

27 (4) "Dealer" includes every person who manufactures or produces tangible
28 personal property for sale at retail, for use, or consumption, or distribution, or for

1 storage to be used or consumed in a taxing jurisdiction. "Dealer" is further defined
2 to mean:

3 (a) Every person who imports, or causes to be imported, tangible personal
4 property from any other state, foreign country, or other taxing jurisdiction for sale
5 at retail, for use, or consumption, or distribution, or for storage to be used or
6 consumed in a taxing jurisdiction.

7 (b) Every person who sells at retail, or who offers for sale at retail, or who
8 has in his possession for sale at retail, or for use, or consumption, or distribution, or
9 storage to be used or consumed in the taxing jurisdiction, tangible personal property
10 as defined herein.

11 (c) Any person who has sold at retail, or used, or consumed, or distributed,
12 or stored for use or consumption in the taxing jurisdiction, tangible personal property
13 and who cannot prove that the tax levied by this Chapter has been paid on the sale
14 at retail, the use, the consumption, the distribution, or the storage of said tangible
15 personal property.

16 (d)(i) Any person who leases or rents tangible personal property for a
17 consideration, permitting the use or possession of the said property without
18 transferring title thereto.

19 (ii) However, a person who leases or rents tangible personal property to
20 customers who provide information to such person that they will use the property
21 only offshore beyond the territorial limits of the state shall not be included in the
22 term "dealer" for purposes of the collection of the rental or lease tax of the state,
23 statewide political subdivisions, and other political subdivisions on such lease or
24 rental contracts. For purposes of this Item, "use" means the operational or functional
25 use of the property and not other uses related to its possession such as transportation,
26 maintenance, and repair. It is the intention of this Item that the customers of such
27 persons shall remit any tax due on the lease or rental of such property directly to the
28 state and local taxing bodies to whom they are due.

1 (e) Any person who is the lessee or rentee of tangible personal property and
2 who pays to the owner of such property a consideration for the use or possession of
3 such property without acquiring title thereto.

4 (f) Any person, who sells or furnishes any of the services subject to tax under
5 this Chapter.

6 (g) Any person, as used in this act, who purchases or receives any of the
7 services subject to tax under this Chapter.

8 (h) Any person engaging in business in the taxing jurisdiction. "Engaging in
9 business in the taxing jurisdiction" means and includes any of the following methods
10 of transacting business: maintaining directly, indirectly, or through a subsidiary, an
11 office, distribution house, sales house, warehouse, or other place of business or by
12 having an agent, salesman, or solicitor operating within the taxing jurisdiction under
13 the authority of the seller or its subsidiary irrespective of whether such place of
14 business, agent, salesman, or solicitor is located in such taxing jurisdiction
15 permanently or temporarily or whether such seller or subsidiary is qualified to do
16 business in such taxing jurisdiction, or any person who makes deliveries of tangible
17 personal property into the taxing jurisdiction other than by a common or contract
18 carrier.

19 (i) Any person who sells at retail any tangible personal property to a vending
20 machine operator for resale through coin-operated vending machines.

21 (j) Any person who makes deliveries of tangible personal property into the
22 taxing jurisdiction in a vehicle owned or operated by said person.

23 (k) The term "dealer" shall not include lessors of railroad rolling stock used
24 either for freight or passenger purposes. However, the term "dealer" shall include
25 lessees, other than a railway company or railroad corporation, of such property and
26 such lessees shall be responsible for the collection and payment of all state and local
27 sales and use taxes.

28 (l) Every person who engages in regular or systematic solicitation of a
29 consumer market in the taxing jurisdiction by the distribution of catalogs,

1 periodicals, advertising fliers, or other advertising, or by means of print, radio or
2 television media, by mail, telegraphy, telephone, computer data base, cable, optic,
3 microwave, or other communication system.

4 (5) "Gross sales" means the sum total of all retail sales of tangible personal
5 property, without any deduction whatsoever of any kind or character except as
6 provided in this Chapter.

7 (6)(a) "Hotel" means and includes any establishment engaged in the business
8 of furnishing sleeping rooms, cottages, or cabins to transient guests, where such
9 establishment consists of six or more sleeping rooms, cottages, or cabins at a single
10 business location.

11 (b) For purposes of the sales and use taxes of all tax authorities in this state,
12 the term "hotel" as defined herein shall not include camp and retreat facilities owned
13 and operated by nonprofit organizations exempt from federal income tax under
14 Section 501(a) of the Internal Revenue Code as an organization described in Section
15 501(c)(3) of the Internal Revenue Code provided that the net revenue derived from
16 the organizations's property is devoted wholly to the nonprofit organization's
17 purposes. However, for purposes of this Paragraph, the term "hotel" shall include
18 camp and retreat facilities which shall sell rooms or other accommodations to
19 transient guests who are not attending a function of such nonprofit organization that
20 owns and operates the camp and retreat facilities or a function of another nonprofit
21 organization exempt from federal income tax under Section 501(a) of the Internal
22 Revenue Code as an organization described in Section 501(c)(3) of the Internal
23 Revenue Code. It is the intention of the legislature to tax the furnishing of rooms to
24 those who merely purchase lodging at such facilities.

25 (c) For purposes of the sales and use taxes of all tax authorities in this state,
26 the term "hotel", as defined herein, shall not include a temporary lodging facility
27 which is operated by a nonprofit organization described in Section 501(c)(3) of the
28 Internal Revenue Code, provided that the facility is devoted exclusively to the
29 temporary housing, for periods no longer than thirty days' duration, of homeless

1 transient persons whom the organization determines to be financially incapable of
2 engaging lodging at a facility defined by Subparagraph (a) of this Paragraph, and
3 further provided that the lodging charge to such persons is no greater than twenty
4 dollars per day.

5 (7)(a) "Lease or rental" means the leasing or renting of tangible personal
6 property and the possession or use thereof by the lessee or renter, for a consideration,
7 without transfer of the title of such property. For the purpose of the leasing or
8 renting of automobiles, "lease" means the leasing of automobiles and the possession
9 or use thereof by the lessee, for a consideration, without the transfer of the title of
10 such property for a one hundred eighty-day period or more. "Rental" means the
11 renting of automobiles and the possession or use thereof by the renter, for a
12 consideration, without the transfer of the title of such property for a period less than
13 one hundred eighty days.

14 (b) The term "lease or rental", however, as herein defined solely for
15 purposes of the state sales and use taxes imposed under R.S. 47:302 and 331, and
16 sales and use tax imposed by a political subdivision, shall not mean or include the
17 lease or rental made for the purposes of re-lease or re-rental of casing tools and pipe,
18 drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related
19 equipment used in connection with the operating, drilling, completion, or reworking
20 of oil, gas, sulphur, or other mineral wells.

21 (c) The term "lease or rental", as herein defined shall not mean or include a
22 lease or rental of property to be used in performance of a contract with the United
23 States Department of the Navy for construction or overhaul of U.S. Naval vessels.

24 (d) The term "lease or rental", as herein defined solely for purposes of the
25 state sales and use taxes imposed under R.S. 47:302 and 331, and sales and use tax
26 imposed by a political subdivision, shall not mean the lease or rental of airplanes or
27 airplane equipment by a commuter airline domiciled in Louisiana.

28 (e) For purposes of state and political subdivision sales and use tax, the term
29 "lease or rental", as herein defined, shall not mean the lease or rental of items,

1 including but not limited to supplies and equipment, which are reasonably necessary
2 for the operation of free hospitals.

3 (f) For purposes of state and political subdivision sales and use tax, "lease
4 or rental" shall not mean the lease or rental of educational materials or equipment
5 used for classroom instruction by approved parochial and private elementary and
6 secondary schools which comply with the court order from the Dodd Brumfield
7 decision and Section 501(c)(3) of the Internal Revenue Code, limited to books,
8 workbooks, computers, computer software, films, videos, and audio tapes.

9 (g) For purposes of state and political subdivision sales and use tax, "lease
10 or rental" shall not mean the lease or rental of tangible personal property to Boys
11 State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such
12 organizations for their educational and public service programs for youth.

13 (h) For purposes of state and political subdivision sales and use tax, the term
14 "lease or rental" shall not mean or include the lease or rental of motor vehicles by
15 licensed motor vehicle dealers, as defined in R.S. 32:1252(14), or vehicle
16 manufacturers, as defined in R.S. 32:1252(11), for their use in furnishing such leased
17 or rented motor vehicles to their customers in performance of their obligations under
18 warranty agreements associated with the purchase of a motor vehicle or when the
19 applicable warranty has lapsed and the leased or rented motor vehicle is provided to
20 the customer at no charge.

21 (i) For purposes of sales and use taxes levied and imposed by local
22 governmental subdivisions, school boards, and other political subdivisions whose
23 boundaries are not coterminous with those of the state, "lease or rental" by a person
24 shall not mean or include the lease or rental of tangible personal property if such
25 lease or rental is made under the provisions of Medicare.

26 (j) Solely for purposes of the sales and use tax levied by the state under R.S.
27 47:302 and 331 or any political subdivision whose boundaries are coterminous with
28 those of the state, the term "lease or rental" shall not include the lease or rental in this

1 state of manufacturing machinery and equipment used or consumed in this state to
2 manufacture, produce, or extract unblended biodiesel.

3 (k)(i) For purposes of any sales, use, or lease tax levied by the state under
4 R.S. 47:302 and 331 or any political subdivision of the state, the term "lease or
5 rental" shall not include the lease or rental of a crane and related equipment with an
6 operator.

7 (ii) Notwithstanding the provisions of Item (i) of this Subparagraph, cranes
8 leased or rented with an operator are subject to the provisions of the sales and use tax
9 law upon first use in Louisiana.

10 (l)(i) ~~For purposes of the sales and use tax levied by all tax authorities in this~~
11 ~~state;~~ Solely for purposes of the state sales and use taxes imposed under R.S. 47:302
12 and 331, and sales and use tax imposed by a political subdivision the term "lease or
13 rental" shall not apply to leases or rentals of pallets which are used in packaging
14 products produced by a manufacturer.

15 (ii) For purposes of this Subparagraph, the term "manufacturer" shall mean
16 a person whose primary activity is manufacturing and who is assigned by the
17 Louisiana Workforce Commission a North American Industrial Classification
18 System code within the manufacturing sectors 31-33 as they existed in 2002.

19 (8)(a) "Person", except as provided in Subparagraph (c), includes any
20 individual, firm, copartnership, joint adventure, association, corporation, estate, trust,
21 business trust, receiver, syndicate, this state, any parish, city and parish,
22 municipality, district or other political subdivision thereof or any board, agency,
23 instrumentality, or other group or combination acting as a unit, and the plural as well
24 as the singular number.

25 (b) Solely for purposes of the payment of state sales or use tax on the lease
26 or rental or the purchase of tangible personal property or services, "person" shall not
27 include a regionally accredited independent institution of higher education which is
28 a member of the Louisiana Association of Independent Colleges and Universities,
29 if such lease or rental or purchase is directly related to the educational mission of

1 such institution. However, the term "person" shall include such institution for
2 purposes of the payment of tax on sales by such institution if the sales are not
3 otherwise exempt.

4 (c)(i) For purposes of the payment of the state sales and use tax and the sales
5 and use tax levied by any political subdivision, "person" shall not include this state,
6 any parish, city and parish, municipality, district, or other political subdivision
7 thereof, or any agency, board, commission, or instrumentality of this state or its
8 political subdivisions.

9 (ii) Upon request by any political subdivision for an exemption identification
10 number, the Department of Revenue shall issue such number. The secretary may
11 promulgate rules and regulations in accordance with the Administrative Procedure
12 Act to carry out the provisions of this Item.

13 (d)(i) For purposes of the payment of the state sales and use tax and the sales
14 and use tax levied by any political subdivision, the term "person" shall not include
15 a church or synagogue that is recognized by the United States Internal Revenue
16 Service as entitled to exemption under Section 501(c)(3) of the United States Internal
17 Revenue Code.

18 (ii) The secretary of the Department of Revenue shall promulgate rules and
19 regulations defining the terms "church" and "synagogue" for purposes of this
20 exclusion. The definitions shall be consistent with the criteria established by the
21 U.S. Internal Revenue Service in identifying organizations that qualify for church
22 status for federal income tax purposes.

23 (iii) No church or synagogue shall claim exemption or exclusion from the
24 state sales and use tax or the sales and use tax levied by any political subdivision
25 before having obtained a certificate of authorization from the secretary of the
26 Department of Revenue. The secretary shall develop applications for such
27 certificates. The certificates shall be issued without charge to the institutions that
28 qualify.

1 (iv) The exclusion from the sales and use tax authorized by this
2 Subparagraph shall apply only to purchases of bibles, song books, or literature used
3 for religious instruction classes.

4 (e)(i) For purposes of the payment of the state sales and use tax and the sales
5 and use tax levied by any political subdivision, the term "person" shall not include
6 the Society of the Little Sisters of the Poor.

7 (ii) The secretary of the Department of Revenue shall promulgate rules and
8 regulations for purposes of this exclusion. The definitions shall be consistent with
9 the criteria established by the U.S. Internal Revenue Service in identifying tax-
10 exempt status for federal income tax purposes.

11 (iii) No member of the Society of the Little Sisters of the Poor shall claim
12 exemption or exclusion from the state sales and use tax or the sales and use tax
13 levied by any political subdivision before having obtained a certificate of
14 authorization from the secretary of the Department of Revenue. The secretary shall
15 develop applications for such certificates. The certificates shall be issued without
16 charge to the entities which qualify.

17 (f)(i) For purposes of the payment of sales and use tax levied by this state
18 and any political subdivision whose boundaries are coterminous with those of the
19 state imposed under R.S. 47:302 and 331, the term "person" shall not include a
20 nonprofit entity which sells donated goods and spends seventy-five percent or more
21 of its revenues on directly employing or training for employment persons with
22 disabilities or workplace disadvantages.

23 (ii) The secretary shall promulgate rules and regulations for the use of
24 exclusion certificates for purposes of implementation of this Subparagraph. Each
25 nonprofit entity electing to utilize the exclusion provided for in this Subparagraph
26 shall apply for an exclusion certificate annually. Any exclusion certificate granted
27 by the Department of Revenue shall be effective for a one-year period.

28 (iii) The secretary shall provide forms for nonprofit entities to request an
29 exclusion certificate.

1 (9) "Purchaser" means and includes any person who acquires or receives any
2 tangible personal property, or the privilege of using any tangible personal property,
3 or receives any services pursuant to a transaction subject to tax under this Chapter.

4 (10)(a)(i) Solely for the purposes of the imposition of the state sales and use
5 tax, "retail sale" or "sale at retail" means a sale to a consumer or to any other person
6 for any purpose other than for resale as tangible personal property, or for the lease
7 of automobiles in an arm's length transaction, and shall mean and include all such
8 transactions as the secretary, upon investigation, finds to be in lieu of sales; provided
9 that sales for resale or for lease of automobiles in an arm's length transaction must
10 be made in strict compliance with the rules and regulations. Any dealer making a
11 sale for resale or for the lease of automobiles, which is not in strict compliance with
12 the rules and regulations, shall himself be liable for and pay the tax.

13 (ii) Solely for purposes of the imposition of the sales and use tax levied by
14 a political subdivision or school board, "retail sale" or "sale at retail" shall mean a
15 sale to a consumer or to any other person for any purpose other than for resale in the
16 form of tangible personal property, or resale of those services defined in Paragraph
17 (14) of this Section provided the retail sale of the service is subject to sales tax in this
18 state, and shall mean and include all such transactions as the collector, upon
19 investigation, finds to be in lieu of sales; provided that sales for resale be made in
20 strict compliance with the rules and regulations. Any dealer making a sale for resale,
21 which is not in strict compliance with the rules and regulations shall himself be liable
22 for and pay the tax. A local collector shall accept a resale certificate issued by the
23 Department of Revenue, provided the taxpayer includes the parish of its principal
24 place of business and local sales tax account number on the state certificate.
25 However, in the case of an intra-parish transaction from dealer to dealer, the
26 collector may require that the local exemption certificate be used in lieu of the state
27 certificate. The department shall accommodate the inclusion of such information on
28 its resale certificate for such purposes.

1 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes
2 imposed by the state on transactions involving the sale for rental of automobiles
3 which take place on or after January 1, 1991, and by political subdivisions on such
4 transactions on or after July 1, 1996, and state sales and use taxes imposed on
5 transactions involving the lease or rental of tangible personal property other than
6 automobiles which take place on or after July 1, 1991, means a sale to a consumer
7 or to any other person for any purpose other than for resale as tangible personal
8 property, or for lease or rental in an arm's length transaction in the form of tangible
9 personal property, and shall mean and include all such transactions as the secretary,
10 upon investigation, finds to be in lieu of sales; provided that sales for resale or for
11 lease or rental in an arm's length transaction must be made in strict compliance with
12 the rules and regulations. Any dealer making a sale for resale or for lease or rental,
13 which is not in strict compliance with the rules and regulations, shall himself be
14 liable for and pay the tax. For purposes of the imposition of the tax imposed by any
15 political subdivision of the state, for the period beginning on July 1, 1999, and
16 ending on June 30, 2000, the term "retail sale" or "sale at retail" shall not include
17 one-fourth of the sales price of any tangible personal property which is sold in order
18 to be leased or rented in an arm's length transaction in the form of tangible personal
19 property. For purposes of the imposition of the tax imposed by any political
20 subdivision of the state, for the period beginning on July 1, 2000, and ending on June
21 30, 2001, the term "retail sale" or "sale at retail" shall not include one-half of the
22 sales price of any tangible personal property which is sold in order to be leased or
23 rented in an arm's length transaction in the form of tangible personal property. For
24 purposes of the imposition of the tax imposed by any political subdivision of the
25 state, for the period beginning on July 1, 2001, and ending on June 30, 2002, the
26 term "retail sale" or "sale at retail" shall not include three-fourths of the sales price
27 of any tangible personal property which is sold in order to be leased or rented in an
28 arm's length transaction in the form of tangible personal property. Beginning July
29 1, 2002, for the purposes of imposition of the tax levied by any political subdivision

1 of the state, the term "retail sale" or "sale at retail" shall not include the sale of any
2 tangible personal property which is sold in order to be leased or rented in an arm's
3 length transaction in the form of tangible personal property.

4 (iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes
5 imposed by the state on transactions involving the sale for rental of automobiles
6 which take place prior to January 1, 1991, and by political subdivisions on such
7 transactions prior to July 1, 1996, and imposed on transactions involving the lease
8 or rental of tangible personal property other than autos which take place prior to July
9 1, 1991, and for purposes of local sales and use taxes levied by political subdivisions
10 except for transactions involving the sale for rental of automobiles on or after July
11 1, 1996, means a sale to a consumer or to any other person for any purpose other
12 than for resale in the form of tangible personal property, and shall mean and include
13 all such transactions as the secretary, upon investigation, finds to be in lieu of sales;
14 provided that sales for resale must be made in strict compliance with the rules and
15 regulations. Any dealer making a sale for resale, which is not in strict compliance
16 with the rules and regulations, shall himself be liable for and pay the tax. However,
17 contrary provisions of law notwithstanding, any political subdivision may, by
18 ordinance, adopt the definition of "retail sale" or "sale at retail" provided in Item (iii)
19 of this Subparagraph for purposes of the imposition of its sales and use tax.

20 (v) Became null and void on June 30, 2006. See Acts 2002, 1st Ex. Sess.,
21 No. 3.

22 (vi) Solely for purposes of the payment of state sales and use tax, until
23 January 1, 2007, the term "sale at retail" shall not include purchases made in
24 connection with the filming or production of a motion picture by a motion picture
25 production company which has been relieved from the payment of state sales and use
26 tax under the provisions of Chapter 12 of Subtitle II of this Title, also known as the
27 "Louisiana Motion Picture Incentive Act". This exclusion shall be retroactively
28 revoked if it is determined that a motion picture production company that has been

1 relieved from payment of state sales and use tax under Chapter 12 failed to meet the
2 conditions of such relief.

3 (b)(i) Solely for purposes of the sales and use tax levied by the state, the sale
4 of tangible personal property to a dealer who purchases said property for resale
5 through coin-operated vending machines shall be considered a "sale at retail", subject
6 to such tax. The subsequent resale of the property by the dealer through
7 coin-operated vending machines shall not be considered a "sale at retail".

8 (ii) Solely for purposes of the sales and use tax levied by political
9 subdivisions, the term "sale at retail" shall include the sale of tangible personal
10 property by a dealer through coin-operated vending machines.

11 (c)(i)(aa) The term "sale at retail" does not include sale of materials for
12 further processing into articles of tangible personal property for sale at retail.

13 (bb) Solely for purposes of the sales and use tax levied by the state under
14 R.S. 47:302 and 331, natural gas when used in the production of iron in the process
15 known as the "direct reduced iron process" is not a catalyst and is recognized by the
16 legislature to be a material for further processing into an article of tangible personal
17 property for sale at retail.

18 (ii)(aa) Solely for purposes of the sales and use tax levied by the state under
19 R.S. 47:302 and 331 , the term "sale at retail" does not include sales of electricity for
20 chlor-alkali manufacturing processes.

21 (bb) The term "sale at retail" does not include an isolated or occasional sale
22 of tangible personal property by a person not engaged in such business.

23 (d) The term "sale at retail" does not include the sale of any human tissue
24 transplants, which shall be defined to include all human organs, bone, skin, cornea,
25 blood, or blood products transplanted from one individual into another recipient
26 individual.

27 (e) The term "sale at retail" does not include the sale of raw agricultural
28 commodities, including but not limited to feed, seed, and fertilizer, to be utilized in
29 preparing, finishing, manufacturing, or producing crops or animals for market. The

1 Department of Agriculture and Forestry may develop and promulgate guidelines to
2 determine who meets this definition. Any person meeting such guidelines shall
3 receive a certificate from the Department of Agriculture and Forestry indicating that
4 such person is eligible to purchase such items without paying tax thereon.

5 (f) Notwithstanding any other law to the contrary, for purposes of the
6 imposition of the sales and use tax of any political subdivision, the sale of a vehicle
7 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
8 deemed to be a "retail sale" or a "sale at retail":

9 (i) In the political subdivision of the principal residence of the purchaser if
10 the vehicle is purchased for private use, or

11 (ii) In the political subdivision of the principal location of the business if the
12 vehicle is purchased for commercial use, unless the vehicle purchased for
13 commercial use is assigned, garaged, and used outside of such political subdivision,
14 in which case the sale shall be deemed a "retail sale" or a "sale at retail" in the
15 political subdivision where the vehicle is assigned, garaged, and used.

16 (g) The term "retail sale" does not include a sale of corporeal movable
17 property which is intended for future sale to the United States government or its
18 agencies, when title to such property is transferred to the United States government
19 or its agencies prior to the incorporation of that property into a final product.

20 (h) The term "sale at retail" does not include the sale of food items by youth
21 serving organizations chartered by congress.

22 (i) The term "sale at retail" does not include the purchase of a new school
23 bus or a used school bus which is less than five years old by an independent operator,
24 when such bus is to be used exclusively in a public school system. This exclusion
25 shall apply to all sales and use taxes levied by any local political subdivision.

26 (j) The term "sale at retail" does not include the sale of tangible personal
27 property to food banks, as defined in R.S. 9:2799.

28 (k) The term "sale at retail" solely for purposes of the state sales and use
29 taxes imposed under R.S. 47:302 and 331, and sales and use tax imposed by a

1 political subdivision shall not include the sale of airplanes or airplane equipment or
2 parts to a commuter airline domiciled in Louisiana.

3 (l) Solely for purposes of the state sales and use tax imposed under R.S.
4 47:302 and 331, the term "sale at retail" shall not include the sale of a pollution
5 control device or system. Pollution control device or system shall mean any tangible
6 personal property approved by the Department of Revenue and the Department of
7 Environmental Quality and sold or leased and used or intended for the purpose of
8 eliminating, preventing, treating, or reducing the volume or toxicity or potential
9 hazards of industrial pollution of air, water, groundwater, noise, solid waste, or
10 hazardous waste in the state of Louisiana. For the purposes of any sales and use tax
11 levied by a political subdivision, the term "sale at retail" shall include the sale of a
12 pollution control device or system. In order to qualify, the pollution control device
13 or system must demonstrate either: a net decrease in the volume or toxicity or
14 potential hazards of pollution as a result of the installation of the device or system;
15 or that installation is necessary to comply with federal or state environmental laws
16 or regulations.

17 (m) The term "sale at retail" solely for purposes of the state sales and use
18 taxes imposed under R.S. 47:302 and 331, and sales and use tax imposed by a
19 political subdivision shall not include the sales of Louisiana manufactured or
20 assembled passenger aircraft with a capacity in excess of fifty persons, if, after all
21 transportation, including transportation by the purchaser, has been completed, the
22 aircraft is ultimately received by the purchaser outside of Louisiana.

23 (n) For purposes of sales and use taxes imposed or levied by the state under
24 R.S. 47:302 and 331 or any political subdivision thereof, the term "sale at retail"
25 shall not include the sales of pelletized paper waste when purchased for use as
26 combustible fuel by an electric utility or in an industrial manufacturing, processing,
27 compounding, reuse, or production process, including the generation of electricity
28 or process steam, at a fixed location in this state. However, such sale shall not be
29 excluded unless the purchaser has signed a certificate stating that the fuel purchased

1 is for the exclusive use designated herein. For purposes of this Subparagraph,
2 "pelletized paper waste" means pellets produced from discarded waste paper that has
3 been diverted or removed from solid waste which is not marketable for recycling and
4 which is wetted, extruded, shredded, or formulated into compact pellets of various
5 sizes for use as a supplemental fuel in a permitted boiler.

6 (o) For the purposes of sales and use taxes imposed or levied by the state or
7 any local governmental subdivision or school board, the term "sale at retail" shall not
8 include the sale or purchase of equipment used in fire fighting by bona fide volunteer
9 and public fire departments.

10 (p) For purposes of state and political subdivision sales and use tax, the term
11 "sale at retail" shall not include the sale of items, including but not limited to
12 supplies and equipment, or the sale of services as provided in this Section, which are
13 reasonably necessary for the operation of free hospitals.

14 (q) For purposes of state and political subdivision sales and use tax, the term
15 "sale at retail" shall not include:

16 (i) The sale of tangible personal property by approved parochial and private
17 elementary and secondary schools which comply with the court order from the Dodd
18 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,
19 administrators, or teachers, or other employees of the school, if the money from such
20 sales, less reasonable and necessary expenses associated with the sale, is used solely
21 and exclusively to support the school or its program or curricula. This exclusion
22 shall not be construed to allow tax-free sales to students or their families by
23 promoters or regular commercial dealers through the use of schools, school faculty,
24 or school facilities.

25 (ii) The sale to approved parochial and private elementary and secondary
26 schools which comply with the court order from the Dodd Brumfield decision and
27 Section 501(c)(3) of the Internal Revenue Code of educational materials or
28 equipment used for classroom instruction limited to books, workbooks, computers,
29 computer software, films, videos, and audio tapes.

1 (r) For purposes of and political subdivision sales and use tax, the term "sale
2 at retail" shall not include the sale of tangible personal property to Boys State of
3 Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations
4 for their educational and public service programs for youth.

5 (s) The term "sale at retail" or "retail sale", for purposes of sales and use
6 taxes imposed by the state or any political subdivision or other taxing entity, shall
7 not include any charge, fee, money, or other consideration received, given, or paid
8 for the performance of funeral directing services. For purposes of this Subparagraph,
9 "funeral directing services" means the operation of a funeral home, or by way of
10 illustration and not limitation, any service whatsoever connected with the
11 management of funerals, or the supervision of hearses or funeral cars, the cleaning
12 or dressing of dead human bodies for burial, and the performance or supervision of
13 any service or act connected with the management of funerals from time of death
14 until the body or bodies are delivered to the cemetery, crematorium, or other agent
15 for the purpose of disposition. However, such services shall not mean or include the
16 sale, lease, rental, or use of any tangible personal property as those terms are defined
17 in this Section.

18 (t) For purposes of sales and use taxes levied by the state under R.S. 47:302
19 and 331 or any political subdivision of the state, the term "sale at retail" shall not
20 include the transfer of title to or possession of telephone directories by an advertising
21 company that is not affiliated with a provider of telephone services if the telephone
22 directories will be distributed free of charge to the recipients of the telephone
23 directories.

24 (u) For purposes of sales and use taxes levied and imposed by local
25 governmental subdivisions, school boards, and other political subdivisions whose
26 boundaries are not coterminous with those of the state, "sale at retail" by a person
27 shall not mean or include the sale of tangible personal property if such sale is made
28 under the provisions of Medicare.

1 (v) For purposes of the imposition of sales and use taxes imposed or levied
2 ~~by all taxing authorities in the state,~~ by the state under R.S. 47:302 and 331 and by
3 a political subdivision in the case of the sale or other disposition by a dealer of any
4 cellular, PCS, or wireless telephone, or any electronic accessories that are physically
5 connected with such telephones and personal communication devices used in
6 connection with the sale or use of mobile telecommunications services, the term
7 "retail sale" or "sale at retail" shall mean and include the sale or any other disposition
8 of such cellular, PCS, or wireless telephone, any electronic accessories that are
9 physically connected with such telephones and personal communication devices by
10 the dealer to the purchaser, but shall not mean or include the withdrawal, use,
11 distribution, consumption, storage, donation, or any other disposition of any such
12 cellular, PCS, or wireless telephone, any electronic accessories that are physically
13 connected with such telephones, and personal communication devices by the dealer.

14 (w) For purposes of the imposition of sales and use taxes imposed or levied
15 ~~by any political subdivision of the state~~ by the state under R.S. 47:302 and 331 and
16 by a political subdivision, in the case of the sale or other disposition by a dealer of
17 any cellular telephone, PCS telephone, wireless telephone, or other wireless personal
18 communication device that is used in connection with the sale or use of mobile
19 telecommunications services, or any electronic accessory that is physically
20 connected with any such telephone or personal communication device, the term
21 "retail sale" or "sale at retail" shall mean and include the sale or any other disposition
22 of any such telephone, other personal communication device, or electronic accessory.

23 (x) For purposes of the sales and use tax imposed by the state under R.S.
24 47:302 and 331 or any political subdivision whose boundaries are coterminous with
25 those of the state, the terms "retail sale" or "sale at retail" shall not include the
26 following:

27 (i) The sale or purchase by a person of any fuel or gas, including but not
28 limited to butane and propane.

1 (ii) Beginning July 1, 2008, the sale or purchase by any person of butane and
2 propane.

3 (y)(i) Solely for the purposes of sales and use taxes levied by the state under
4 R.S. 47:302 and 331 or any political subdivision whose boundaries are coterminous
5 with those of the state, the term "sale at retail" shall not include the sale of
6 manufacturing machinery and equipment used or consumed in this state to
7 manufacture, produce, or extract unblended biodiesel.

8 (ii) As used in this Subparagraph, the following words and phrases have the
9 meaning ascribed to them:

10 (aa) "Manufacturing machinery and equipment" means tangible property
11 used or consumed, or held for use or consumption, as an integral part of a biodiesel
12 manufacturing, production, or extraction facility, process, or item of equipment.
13 Property shall be considered to be an integral part of such biodiesel manufacturing,
14 production, or extraction facility, process, or item of equipment only if such property
15 is used or consumed directly in the manufacturing, production, or extraction process
16 or is part of, physically attached to, or otherwise directly associated with such
17 property. Property, the installation of which is reasonably necessary for the proper
18 installation, operation, maintenance of property which directly results in such
19 manufacturing, production, or extraction shall be considered as directly associated
20 with such property.

21 (bb) "Unblended biodiesel" means a fuel comprised of mono-alkyl esters of
22 long chain fatty acids derived from vegetable oils or animal fats, designated B100,
23 and meeting the requirements of the definition provided for in D 6751 of the
24 American Society of Testing and Materials (ATDM D 6751), before such fuel is
25 blended with a petroleum-based diesel fuel.

26 (z) Solely for the purposes of sales and use taxes levied by the state under
27 R.S. 47:302 and 331 or any political subdivision whose boundaries are coterminous
28 with those of the state, the term "sale at retail" shall not include the sale of any
29 alternative substance when such alternative substance is used as a fuel by a

1 manufacturer. "Alternative substance" means any substance other than oil and
2 natural gas and any product of oil and natural gas. "Alternative substance" shall
3 include petroleum coke, landfill gas, reclaimed or waste oil, unblended biodiesel, or
4 tire-derived fuel, but not coal, lignite, refinery gas, nuclear fuel, or electricity.
5 "Manufacturer" means a person whose principal activity is manufacturing and who
6 is assigned by the Louisiana Workforce Commission a North American Industrial
7 Classification System code with the agricultural, forestry, fishing, and hunting Sector
8 11 or the manufacturing Sectors 31-33 as they existed in 2002.

9 (aa)(i) For purposes of sales and use taxes imposed or levied by the state or
10 any political subdivision of the state, the term "sale at retail" shall not include the
11 sale of toys to a non-profit organization exempt from federal taxation pursuant to
12 Section 501(c)(3) of the Internal Revenue Code if the sole purpose of the purchasing
13 organization is to donate toys to minors and the toys are, in fact, donated.

14 (ii) The exclusion provided in this Subparagraph shall not apply if the
15 donation is intended to ultimately yield a profit to a promoter of the organization or
16 to any individual contracted to provide services or equipment, or both, to the
17 organization.

18 (iii) A certificate of exclusion shall be obtained from the secretary or the tax
19 collector of the political subdivision, under such regulations as he shall prescribe, in
20 order for nonprofit organizations to qualify for the exclusion provided for in this
21 Subparagraph.

22 (bb) For purposes of sales and use taxes imposed or levied by the state under
23 R.S. 47:302 and 331, the terms "retail sale" and "sale at retail" shall not include sales
24 of natural gas to be held, used, or consumed in providing natural gas storage services
25 or operating natural gas storage facilities.

26 (cc) For purposes of the sales and use tax imposed by the state or any
27 political subdivision of the state, the terms "retail sale" or "sale at retail" shall not
28 mean or include the purchase of textbooks and course-related software by a private
29 postsecondary academic degree-granting institution, accredited by a national or

1 regional commission that is recognized by the United States Department of
2 Education and is licensed by the Board of Regents, which institution has its main
3 location within this state and offers only online instruction, when all of the following
4 apply:

5 (i) The textbooks and course-related software are physically outside of this
6 state when purchased from a vendor outside of this state and then imported into this
7 state.

8 (ii) The first student use of the textbooks and course-related software occurs
9 outside of this state.

10 (iii) The textbooks and course-related software are provided to the student
11 free of charge.

12 (dd) For purposes of sales and use taxes imposed or levied by the state, the
13 terms "retail sale" or "sale at retail" shall not include the purchase of food items for
14 school lunch or breakfast programs by nonpublic elementary or secondary schools
15 which participate in the National School Lunch and School Breakfast programs or
16 the purchase of food items by nonprofit corporations which serve students in
17 nonpublic elementary or secondary schools and which participate in the National
18 School Lunch and School Breakfast programs.

19 (ee)(i) Solely for the purposes of the imposition of the state sales and use tax
20 under R.S. 47:302 and 331, the term "retail sale" and "sale at retail" shall not include
21 the sale of any storm shutter device.

22 (ii) As used in this Subparagraph, "storm shutter device" means materials
23 and products manufactured, rated, and marketed specifically for the purpose of
24 preventing window damage from storms.

25 (iii) The secretary of the Department of Revenue, in consultation with the
26 Department of Insurance, shall promulgate such rules and regulations in accordance
27 with the Administrative Procedure Act as may be necessary to carry out the
28 provisions of this Subparagraph.

1 (ff) For purposes of sales taxes imposed by the state or any political
2 subdivision of the state, the term "retail sale" or "sale at retail" shall not include sales
3 of tangible personal property by the Military Department, state of Louisiana, which
4 occur on an installation or other property owned or operated by the Military
5 Department.

6 (gg) For purposes of sales and use tax imposed by the state tax under R.S.
7 47:302 and 331 or any political subdivision of the state, the term "sale at retail" shall
8 not include the sale of anthropogenic carbon dioxide for use in a qualified tertiary
9 recovery project approved by the assistant secretary of the office of conservation of
10 the Department of Natural Resources pursuant to R.S. 47:633.4.

11 (hh) For purposes of sales and use tax imposed by the state tax under R.S.
12 47:302 and 331, any political subdivision whose boundaries are coterminous with
13 those of the state, or any other political subdivision, the term "sale at retail" shall not
14 include the sale of tangible personal property at an event providing Louisiana
15 heritage, culture, crafts, art, food, and music which is sponsored by a domestic
16 nonprofit organization that is exempt from tax under Section 501(c)(3) of the
17 Internal Revenue Code. The provisions of this Subparagraph shall apply only to an
18 event which transpires over a minimum of seven but not more than twelve days and
19 has a five-year annual average attendance of at least three hundred thousand over the
20 duration of the event. For purposes of determining the five-year annual average
21 attendance, the calculation shall include the total annual attendance for each of the
22 five most recent years. The provisions of this Subparagraph shall apply only to sales
23 by the sponsor of the event.

24 (11) "Retailer" means and includes every person engaged in the business of
25 making sales at retail or for distribution, or use or consumption, or storage to be used
26 or consumed in this state.

27 (12) "Sale" means any transfer of title or possession, or both, exchange,
28 barter, conditional or otherwise, in any manner or by any means whatsoever, of
29 tangible personal property, for a consideration, and includes the fabrication of

1 tangible personal property for consumers who furnish, either directly or indirectly,
2 the materials used in fabrication work, and the furnishing, preparing or serving, for
3 a consideration, of any tangible personal property, consumed on the premises of the
4 person furnishing, preparing or serving such tangible personal property. A
5 transaction whereby the possession of property is transferred but the seller retains
6 title as security for the payment of the price shall be deemed a sale.

7 (13)(a) "Sales price" means the total amount for which tangible personal
8 property is sold, less the market value of any article traded in including any services,
9 except services for financing, that are a part of the sale valued in money, whether
10 paid in money or otherwise, and includes the cost of materials used, labor or service
11 costs, except costs for financing which shall not exceed the legal interest rate and a
12 service charge not to exceed six percent of the amount financed, and losses; provided
13 that cash discounts allowed and taken on sales shall not be included, nor shall the
14 sales price include the amount charged for labor or services rendered in installing,
15 applying, remodeling, or repairing property sold.

16 (b) The term "sales price" shall not include any amount designated as a cash
17 discount or a rebate by the vendor or manufacturer of any new vehicle subject to the
18 motor vehicle license tax. For purposes of this Paragraph "rebate" means any
19 amount offered by a vendor or manufacturer as a deduction from the listed retail
20 price of the vehicle.

21 (c) "Sales price" shall not include the first fifty thousand dollars of the sale
22 price of new farm equipment used in poultry production.

23 (d) Notwithstanding any other provision of law to the contrary, for purposes
24 of state and political subdivision sales and use tax, the "sales price" of refinery gas,
25 except for feedstock, not ultimately consumed as an energy source by the person who
26 owns the facility in which the refinery gas is created as provided for in Subparagraph
27 (18)(d) of this Section, but sold to another person, whether at retail or wholesale,
28 shall be fifty-two cents per thousand cubic feet multiplied by a fraction the
29 numerator of which shall be the posted price for a barrel of West Texas Intermediate

1 Crude Oil on December first of the preceding calendar year and the denominator of
2 which shall be twenty-nine dollars, and provided further that such sales price shall
3 be the maximum value placed upon refinery gas by the state and by any political
4 subdivision under any authority or grant of power to levy and collect sales or use
5 taxes, and such sale shall be taxable.

6 (e) The term "sales price", for purposes of the sales tax imposed by the state
7 and its political subdivisions, shall exclude any amount that a manufacturer pays
8 directly to a dealer of the manufacturer's product for the purpose of reducing and that
9 actually results in an equivalent reduction in the retail "sales price" of that product.
10 This exclusion shall not apply to the value of the manufacturer's coupons that dealers
11 accept from purchasers as part payment of the "sales price" and that are redeemable
12 by the dealers through manufacturers or their agents. The value of such coupons is
13 deemed to be part of the "sales price" of the product purchased through the use of the
14 coupons.

15 (f) The term "sales price" shall exclude any charge, fee, money, or other
16 consideration received, given, or paid for the performance of funeral directing
17 services as defined in Subparagraph (10)(s) of this Section.

18 (g) For purposes of the imposition of sales and use taxes imposed ~~tax~~ under
19 R.S. 47:302 and 331 or levied by all taxing authorities in the state, in the case of the
20 retail sale by a dealer of any cellular, PCS, or wireless telephone, any electronic
21 accessories that are physically connected with such telephones and personal
22 communications devices used in connection with the sale or use of mobile
23 telecommunications services, as defined in R.S. 47:301(10)(v), the term "sales price"
24 shall mean and include only the amount of money, if any, actually received by the
25 dealer from the purchaser for each such cellular, PCS, or wireless telephone and any
26 electronic accessories that are physically connected with such telephones and
27 personal communication devices, but shall not include (i) any amount received by
28 the dealer from the purchaser for providing mobile telecommunications services, or
29 (ii) any commissions, fees, rebates, or other amounts received by the dealer from any

1 source other than the purchaser as a result of or in connection with the sale of the
2 cellular, PCS, or wireless telephone, any electronic accessories that are physically
3 connected with such telephones and personal communication devices.

4 (h) For the purpose of the imposition of sales and use tax imposed tax under
5 R.S. 47:302 and 331 or levied by all taxing authorities in the state of any cellular,
6 PCS, or wireless telephone used in connection with the sale or use of mobile
7 telecommunications services, as defined in R.S. 47:301(10)(v), after January 1, 2002,
8 the term "sales price" shall mean and include the greater of (i) the amount of money
9 actually received by the dealer from the purchaser for each such telephone, or (ii)
10 twenty-five percent of the cost of such telephone to the dealer, but shall not include
11 any amount received by the dealer from the purchaser for providing mobile
12 telecommunications services or any commissions, fees, rebates, or other amounts
13 received by the dealer from any source other than the purchaser as a result of or in
14 connection with the sale of the telephone.

15 (i)(i) For purposes of a publishing business which distributes its news
16 publications at no cost to readers and pays unrelated third parties to print such news
17 publications, the term "sales price" ~~tax~~ taxes imposed under R.S. 47:302 and 331
18 shall mean only the lesser of the following costs:

19 (aa) The printing cost paid to unrelated third parties to print such news
20 publications, less any itemized freight charges for shipping the news publications
21 from the printer to the publishing business and any itemized charges for paper and
22 ink.

23 (bb) Payments to a dealer or distributor as consideration for distribution of
24 the news publications.

25 (ii) The definition of "sales price" provided for in this Subparagraph shall be
26 applicable to taxes levied by all tax authorities in the state.

27 (j) For the purpose of the imposition of sales and use tax imposed tax under
28 R.S. 47:302 and 331 or levied by any political subdivision of the state, in the case of
29 any retail sale or sale at retail, of any cellular telephone, PCS telephone, or wireless

1 telephone used in connection with the sale or use of mobile telecommunications
2 services, as defined in R.S. 47:301(10)(w), or any electronic accessory that is
3 physically connected with any such telephone or personal communication device, the
4 term "sales price" shall mean and include the greater of (i) the amount of money, if
5 any, actually received by the dealer from the purchaser at the time of the retail sale
6 or sale at retail by the dealer to the purchaser for each such telephone, personal
7 communication device, or electronic accessory, or (ii) twenty-five percent of the cost
8 of such telephone to the dealer, but shall not include any amount received by the
9 dealer from the purchaser for providing mobile telecommunications services or any
10 commissions, fees, rebates, activation charges, or other amounts received by the
11 dealer from any source other than the purchaser as a result of or in connection with
12 the sale of the telephone.

13 (k)(i) For purposes of the imposition of the sales tax levied by the state tax
14 under R.S. 47:302 and 331 and any political subdivision whose boundaries are
15 coterminous with those of the state, the sales price of machinery and equipment
16 purchased by a manufacturer for use in a plant facility predominately and directly in
17 the actual manufacturing for agricultural purposes or the actual manufacturing
18 process of an item of tangible personal property, which is for ultimate sale to another
19 and not for internal use, at one or more fixed locations within Louisiana shall be
20 reduced as follows:

21 (aa) For the period ending on June 30, 2005, the sales price shall be reduced
22 by five percent.

23 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
24 sales price shall be reduced by nineteen percent.

25 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
26 sales price shall be reduced by thirty-five percent.

27 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
28 sales price shall be reduced by fifty-four percent.

1 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
2 sales price shall be reduced by sixty-eight percent.

3 (ff) For all periods beginning on or after July 1, 2009, the sales price shall
4 be reduced by one hundred percent.

5 (ii) For purposes of this Subparagraph, "machinery and equipment",
6 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant
7 facility", and "used directly" shall have the same meaning as defined in R.S.
8 47:301(3)(I)(ii).

9 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
10 equipment as defined herein without payment of the tax imposed by R.S. 47:302,
11 321, and 331 before receiving a certificate of exclusion from the secretary of the
12 Department of Revenue certifying that he is a manufacturer as defined herein.

13 (iv) The secretary of the Department of Revenue is hereby authorized to
14 adopt rules and regulations in order to administer the exclusion provided for in this
15 Subparagraph.

16 (l)(i) For purposes of the payment of the state sales and use tax imposed
17 under R.S. 47:302 and 331 and the sales and use tax levied by any political
18 subdivision, the term "sales price" shall not include the price of specialty items sold
19 to members for fund-raising purposes by nonprofit carnival organizations domiciled
20 within Louisiana and participating in a parade sponsored by a carnival organization.

21 (ii) The secretary of the Department of Revenue shall promulgate rules and
22 regulations for purposes of this exclusion.

23 (iii) No nonprofit carnival organization domiciled within Louisiana and
24 participating in a parade sponsored by a carnival organization shall claim exemption
25 or exclusion from the state sales and use tax or the sales and use tax levied by any
26 political subdivision before having obtained a certificate of authorization from the
27 secretary of the Department of Revenue. The secretary shall develop applications
28 for such certificates. The certificates shall be issued without charge to the entities
29 which qualify.

1 (m) For purposes of the sales and use tax imposed by the state under R.S.
2 47:302 and 331 or any political subdivision whose boundaries are coterminous with
3 those of the state, the "sales price" of electric power or energy, or natural gas for the
4 period beginning July 1, 2007, and thereafter, sold for use by paper or wood products
5 manufacturing facilities shall not include any of such price.

6 (14) "Sales of services" means and includes the following:

7 (a) The furnishing of sleeping rooms, cottages or cabins by hotels.

8 (b)(i) The sale of admissions to places of amusement, to athletic
9 entertainment other than that of schools, colleges, and universities, and recreational
10 events, and the furnishing, for dues, fees, or other consideration of the privilege of
11 access to clubs or the privilege of having access to or the use of amusement,
12 entertainment, athletic, or recreational facilities; but the term "sales of services"
13 solely for purposes of the state sales and use taxes imposed under R.S. 47:302 and
14 331, and sales and use tax imposed by a political subdivision shall not include
15 membership fees or dues of nonprofit, civic organizations, including by way of
16 illustration and not of limitation the Young Men's Christian Association, the Catholic
17 Youth Organization, and the Young Women's Christian Association.

18 (ii) Places of amusement shall not include "museums", which are hereby
19 defined solely for purposes of the state sales and use taxes imposed under R.S.
20 47:302 and 331, and sales and use tax imposed by a political subdivision as public
21 or private nonprofit institutions which are organized on a permanent basis for
22 essentially educational or aesthetic purposes and which use professional staff to do
23 all of the following:

24 (aa) Own or use tangible objects, whether animate or inanimate.

25 (bb) Care for those objects.

26 (cc) Exhibit them to the public on a regular basis.

27 (iii) Museums include but are not limited to the following institutions:

28 (aa) Museums relating to art, history, including historic buildings, natural
29 history, science, and technology.

1 (bb) Aquariums and zoological parks.

2 (cc) Botanical gardens and arboretums.

3 (dd) Nature centers.

4 (ee) Planetariums.

5 (iv) For purposes of the sales and use taxes of all tax authorities in the state,
6 the term "places of amusement" as used herein shall not include camp and retreat
7 facilities owned and operated by nonprofit organizations exempt from federal income
8 tax under Section 501(a) of the Internal Revenue Code as an organization described
9 in Section 501(c)(3) of the Internal Revenue Code provided that the net revenue
10 derived from the organization's property is devoted wholly to the nonprofit
11 organization's purposes.

12 (c) The furnishing of storage or parking privileges by auto hotels and parking
13 lots.

14 (d) The furnishing of printing or overprinting, lithographic, multilith, blue
15 printing, photostating or other similar services of reproducing written or graphic
16 matter.

17 (e) The furnishing of laundry, cleaning, pressing and dyeing services,
18 including by way of extension and not of limitation, the cleaning and renovation of
19 clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for
20 clothing, furs and rugs.

21 (f) The furnishing of cold storage space, except that space which is furnished
22 pursuant to a bailment arrangement, and the furnishing of the service of preparing
23 tangible personal property for cold storage where such service is incidental to the
24 operation of storage facilities.

25 (g)(i)(aa) The furnishing of repairs to tangible personal property, including
26 but not restricted to the repair and servicing of automobiles and other vehicles,
27 electrical and mechanical appliances and equipment, watches, jewelry, refrigerators,
28 radios, shoes, and office appliances and equipment.

1 (bb) For purposes of the sales and use tax levied by the state under R.S.
2 47:302 and 331 and by tax authorities in East Feliciana Parish, charges for the
3 furnishing of repairs to tangible personal property shall be excluded from sales of
4 services, as defined in this Subparagraph, when the repaired property is (1) delivered
5 to a common carrier or to the United States Post Office for transportation outside the
6 state, or (2) delivered outside the state by use of the repair dealer's own vehicle or by
7 use of an independent trucker. However, as to aircraft, delivery may be by the best
8 available means. This exclusion shall not apply to sales and use taxes levied by any
9 other parish, municipality or school board. However, any other parish, municipality
10 or school board may apply the exclusion as defined in this Subparagraph to sales or
11 use taxes levied by any such parish, municipality, or school board. Offshore areas
12 shall not be considered another state for the purpose of this Subparagraph.

13 (ii) For the purposes of this Subparagraph, tangible personal property shall
14 include machinery, appliances, and equipment which have been declared immovable
15 by declaration under the provisions of Article 467 of the Louisiana Civil Code, and
16 things which have been separated from land, buildings, or other constructions
17 permanently attached to the ground or their component parts as defined in Article
18 466 of the Civil Code.

19 (iii)(aa) For purposes of the sales and use taxes imposed by the state solely
20 for purposes of the state sales and use taxes imposed under R.S. 47:302 and 331, and
21 sales and use tax imposed by a political subdivision or any of its political
22 subdivisions, sale of services shall not include the labor, or sale of materials,
23 services, and supplies, used for the repairing, renovating, or converting of any
24 drilling rig, or machinery and equipment which are component parts thereof, which
25 is used exclusively for the exploration or development of minerals outside the
26 territorial limits of the state in Outer Continental Shelf waters.

27 (bb) For the purposes of this Subitem, "drilling rig" means any unit or
28 structure, along with its component parts, which is used primarily for drilling,
29 workover, intervention or remediation of wells used for exploration or development

1 of minerals and "component parts" means any machinery or equipment necessary for
2 a drilling rig to perform its exclusive function of exploration or development of
3 minerals.

4 (h) The term "sale of service" shall not include an action performed pursuant
5 to a contract with the United States Department of the Navy for construction or
6 overhaul of U.S. Naval vessels.

7 (i) Solely for purposes of the sales and use tax levied by the state the
8 furnishing of telecommunications services for compensation, in accordance with the
9 provisions of R.S. 47:301.1. Local political subdivisions are prohibited from levying
10 a sales and use tax on telecommunications services not in effect on July 1, 1990,
11 provided, however, that the provisions of this Subparagraph shall not be construed
12 to prohibit the levy or collection of any franchise, excise, gross receipts, or similar
13 tax or assessment by any political subdivision of the state as defined in Article VI,
14 Section 44(2) of the Constitution of Louisiana.

15 (j) Notwithstanding any provision of law to the contrary, for purposes of
16 sales or use taxation by the state or any local political subdivision, the term "sales of
17 services" shall not mean or include any funeral directing services as defined in
18 Subparagraph (10)(s) of this Section. Subject to approval by the House Committee
19 on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the
20 state Department of Revenue shall devise a formula for the calculation of the tax.

21 (k) For purposes of sales and use tax imposed by the state solely for purposes
22 of the state sales and use taxes imposed under R.S. 47:302 and 331, any political
23 subdivision whose boundaries are coterminous with those of the state, or any other
24 political subdivision, the term "sales of services" shall not mean or include admission
25 charges for, outside gate admissions to, or parking fees associated with an event
26 providing Louisiana heritage, culture, crafts, art, food, and music which is sponsored
27 by a domestic nonprofit organization that is exempt from tax under Section 501(c)(3)
28 of the Internal Revenue Code. The provisions of this Subparagraph shall apply only
29 to an event which transpires over a minimum of seven but not more than twelve days

1 and has a five-year annual average attendance of at least three hundred thousand over
2 the duration of the event. For purposes of determining the five-year annual average
3 attendance, the calculation shall include the total annual attendance for each of the
4 five most recent years. The provisions of this Subparagraph shall apply only to
5 admission charges for, outside gate admissions to, or parking fees associated with
6 an event when the charges and fees are payable to or for the benefit of the sponsor
7 of the event.

8 (15) "Storage" means and includes any keeping or retention in the taxing
9 jurisdiction of tangible personal property for use or consumption within the taxing
10 jurisdiction or for any purpose other than for sale at retail in the regular course of
11 business.

12 (16)(a) "Tangible personal property" means and includes personal property
13 which may be seen, weighed, measured, felt or touched, or is in any other manner
14 perceptible to the senses.

15 (b) The term "tangible personal property" shall not include:

16 (i) Stocks, bonds, notes, or other obligations or securities.

17 (ii) ~~Gold~~ Solely for purposes of the state sales and use taxes imposed under
18 R.S. 47:302 and 331, and sales and use tax imposed by a political subdivision, gold,
19 silver, or numismatic coins, or platinum, gold, or silver bullion.

20 (iii) Proprietary geophysical survey information or geophysical data analysis
21 furnished under a restricted use agreement even though transferred in the form of
22 tangible personal property.

23 (c) ~~The~~ Solely for purposes of the state sales and use taxes imposed under
24 R.S. 47:302 and 331, and sales and use tax imposed by a political subdivision the
25 term "tangible personal property" shall not include the repair of a vehicle by a
26 licensed motor vehicle dealer which is performed subsequent to the lapse of the
27 applicable warranty on that vehicle and at no charge to the owner of the vehicle. For
28 the purpose of assessing a sales and use tax on this transaction, no valuation shall be
29 assigned to the services performed or the parts used in the repair.

1 (d)(i) Notwithstanding any provision of law to the contrary and solely for
2 purposes of state sales and use tax imposed under R.S. 47:302 and 331, any sale of
3 a prepaid calling service or prepaid wireless calling service, or both, shall be deemed
4 to be the sale of tangible personal property.

5 (ii) Prepaid calling services and prepaid wireless calling services shall be
6 subject to the tax imposed by this Chapter if the sale takes place in this state. If the
7 customer physically purchases a prepaid calling service or prepaid wireless calling
8 service at the vendor's place of business, the sale is deemed to take place at the
9 vendor's place of business. If the customer does not physically purchase the service
10 at the vendor's place of business, the sale of a prepaid calling service or prepaid
11 wireless calling service is deemed to take place at the first of the following locations
12 that applies to the sale:

13 (aa) The customer's shipping address, if the sale involves a shipment.

14 (bb) The customer's billing address.

15 (cc) Any other address of the customer that is known by the vendor.

16 (dd) The address of the vendor or, alternatively in the case of a prepaid
17 wireless calling service, the location associated with the mobile telephone number.

18 (e) The term "tangible personal property" shall not include work products
19 which are written on paper, stored on magnetic or optical media, or transmitted by
20 electronic device, when such work products are created in the normal course of
21 business by any person licensed or regulated by the provisions of Title 37 of the
22 Louisiana Revised Statutes of 1950, unless such work products are duplicated
23 without modification for sale to multiple purchasers. This exclusion shall not apply
24 to work products which consist of the creation, modification, updating, or licensing
25 of computer software.

26 (f) The term "tangible personal property" shall not include pharmaceuticals
27 administered to livestock used for agricultural purposes for purposes of the taxes
28 imposed under R.S. 47:302 and 331 and those of any political subdivision, except
29 as otherwise provided in this Subparagraph. Only pharmaceuticals not included in

1 the term "tangible personal property" shall be registered with the Louisiana
2 Department of Agriculture and Forestry. Legend drugs administered to livestock
3 used for agricultural purposes are not required to be registered, but such legend drugs
4 that are not registered shall be "tangible personal property".

5 (g)(i) Notwithstanding the provisions of R.S. 9:1149.1 et seq., except as
6 otherwise provided in this Subparagraph, the term "tangible personal property" shall
7 not include factory built homes.

8 (ii) For purposes of this Subparagraph, "factory built home" means a
9 residential structure which is built in a factory in one or more sections and has a
10 chassis or integrated wheel delivery system, which is either:

11 (aa) A structure built to federal construction standards as defined in Section
12 5402 of Title 42 of the United States Code.

13 (bb) A residential structure built to the Louisiana State Uniform Construction
14 Code.

15 (cc) A manufactured home, modular home, mobile home, or residential
16 mobile home with or without a permanent foundation, which includes plumbing,
17 heating, and electrical systems.

18 (iii) "Factory built home" shall not include any self-propelled recreational
19 vehicle or travel trailer.

20 (iv) The term "tangible personal property" as applied to sales and use taxes
21 levied by the state or any other taxing authority in the state shall include a new
22 factory built home, for the initial sale from a dealer to a consumer, but only to the
23 extent that forty-six percent of the retail sales price shall be so considered as
24 "tangible personal property". Thereafter, each subsequent resale of a factory built
25 home shall not be considered as "tangible personal property".

26 (v) The sales and use taxes due on these transactions shall be paid to the
27 Louisiana Department of Public Safety and Corrections, office of motor vehicles, by
28 the twentieth day of the month following the month of delivery of the factory built

1 home to the consumer, along with any other information requested by the office of
2 motor vehicles.

3 (h)(i) Solely for purposes of the imposition of the sales and use tax levied by
4 the state or any political subdivision whose boundaries are coterminous with those
5 of the state, for the period beginning July 1, 2002, and ending on June 30, 2003, the
6 term "tangible personal property" shall not include one-quarter of the cost price of
7 custom computer software.

8 (ii) Solely for purposes of the imposition of the sales and use tax levied by
9 the state or any political subdivision whose boundaries are coterminous with those
10 of the state, for the period beginning July 1, 2003, and ending on June 30, 2004, the
11 term "tangible personal property" shall not include one-half of the cost price of
12 custom computer software.

13 (iii) Solely for purposes of the imposition of the sales and use tax levied by
14 the state or any political subdivision whose boundaries are coterminous with those
15 of the state, for the period beginning July 1, 2004, and ending on June 30, 2005, the
16 term "tangible personal property" shall not include three-quarters of the cost price
17 of custom computer software.

18 (iv) Solely for purposes of the imposition of the sales and use tax levied by
19 the state or any political subdivision whose boundaries are coterminous with those
20 of the state, for all taxable periods beginning on or after July 1, 2005, the term
21 "tangible personal property" shall not include custom computer software.

22 (i) Solely for purposes of the imposition of the state sales and use tax under
23 R.S. 47:302 and 331, the term "tangible personal property" shall not include digital
24 television conversion equipment and digital radio conversion equipment as defined
25 in this Section.

26 (i) "Digital television conversion equipment" shall include the following:

27 (aa) DTV transmitter and RF system.

28 (bb) Transmission line.

29 (cc) DTV antenna.

- 1 (dd) Tower.
- 2 (ee) Existing tower structural upgrade.
- 3 (ff) Advanced TV receiver (STL receiver).
- 4 (gg) Decoder (digital to analog converter for NTSC).
- 5 (hh) DTV transmission system test and monitoring.
- 6 (ii) Digital video/audio master control switcher.
- 7 (jj) Analog to digital conversion.
- 8 (kk) High definition up-converters.
- 9 (ll) High definition bypass switcher.
- 10 (mm) Down converters for standard definition.
- 11 (nn) Advanced TV transmitter (STL transmitter).
- 12 (oo) Advanced TV signal encoder.
- 13 (pp) DTV transmission monitoring.
- 14 (qq) High definition digital video switcher and DVE.
- 15 (rr) High definition studio cameras.
- 16 (ss) High definition graphics/graphic generator.
- 17 (tt) High definition video monitoring.
- 18 (uu) Conversion gear.
- 19 (vv) High definition recorder/players, including tape, disk, etc.
- 20 (ww) High definition video/audio signal router.
- 21 (xx) High definition video/audio media server.
- 22 (yy) MPEG or HDTV digital receivers for program content.
- 23 (zz) High definition recorder/players, including tape, disk, etc.
- 24 (aaa) High definition video/audio media server and workstations.
- 25 (bbb) Digital EAS encoder/decoder.
- 26 (ccc) High definition camcorder, including tape, disk, etc.
- 27 (ddd) Advanced TV transmitters, including microwave.
- 28 (ii) "Digital radio conversion equipment" shall include the following:
- 29 (aa) IBOC transmitter.

- 1 (bb) IBOC main channel and IBOC combiner.
- 2 (cc) IBOC compatible antenna.
- 3 (dd) Tower.
- 4 (ee) IBOC coaxial bypass switcher.
- 5 (ff) Digital STL.
- 6 (gg) STL heliax transmission line.
- 7 (hh) STL antenna.
- 8 (ii) Digital console.
- 9 (jj) EAS insertion.
- 10 (kk) AES EBU conversion equipment.
- 11 (ll) IBOL transmission testing and monitoring equipment.
- 12 (mm) Digital processor.
- 13 (iii) The exclusion from state sales and use tax authorized by this
- 14 Subparagraph shall only apply to the first purchase of each enumerated item by an
- 15 individual taxpayer who holds a Federal Communications Commission license
- 16 issued pursuant to 47 CFR Part 73. Individual taxpayers operating under several
- 17 broadcaster licenses shall be allowed one purchase of each enumerated item per
- 18 license. Each subsequent purchase of any of the enumerated items by the same
- 19 taxpayer or license holder shall be subject to sales and use tax.
- 20 (iv) Repealed by Acts 2005, No. 243, §1, eff. June 29, 2005.
- 21 (v) Any eligible taxpayer who has purchased any item enumerated in Item
- 22 (i) or (ii) of this Subparagraph subsequent to January 1, 1999, but prior to the
- 23 effective date of this Act, shall be entitled to a credit against the state sales and use
- 24 tax due in any year for an amount equal to state sales and use tax paid on the
- 25 purchase of the item.
- 26 (vi) Local taxing authorities are hereby authorized to provide an exemption
- 27 from any local sales and use tax liability to any taxpayers holding a Federal
- 28 Communications Commission license issued pursuant to 47 CFR Part 73 which has
- 29 purchased any of the equipment listed in Item (i) or (ii) of this Subparagraph. Local

1 taxing authorities are further authorized to provide a credit against any tax liability
2 for the amount of local sales tax paid by taxpayers holding Federal Communications
3 Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in
4 Item (i) or (ii) of the Subparagraph purchased subsequent to January 1, 1999, but
5 prior to June 25, 2002.

6 (vii) No exclusion from state sales and use tax as authorized in this
7 Subsection shall be allowed after the Federal Communications Commission has
8 issued an order mandating license holders, issued pursuant to 47 CFR Part 73, to
9 discontinue broadcasting their analog signal.

10 (viii) The Department of Revenue shall adopt rules and regulations necessary
11 for the implementation of this Act no later than August 1, 2002.

12 (j) The term "tangible personal property", for purposes of the payment of
13 sales and use taxes levied by all tax authorities in the state, shall not include
14 materials used directly in the collection, separation, treatment, testing, and storage
15 of blood by nonprofit blood banks and nonprofit blood collection centers.

16 (k) The term "tangible personal property" for purposes of the sales and use
17 taxes imposed by all tax authorities in this state shall not include apheresis kits and
18 leuko reduction filters used by nonprofit blood banks and nonprofit blood collection
19 centers.

20 (l) For purposes of the sales and use tax imposed by the state of Louisiana,
21 by a political subdivision whose boundaries are coterminous with those of the state,
22 or by all political subdivisions of the state and without regard to the nature of the
23 ownership of the ground, tangible personal property shall not include other
24 constructions permanently attached to the ground which shall be treated as
25 immovable property.

26 (m)(i) Notwithstanding any other provision of law to the contrary, for
27 purposes of the sales and use tax levied under R.S. 47:302 and 331 by the state or
28 any political subdivision whose boundaries are coterminous with those of the state,
29 the term "tangible personal property" shall not include machinery and equipment

1 used by a motor vehicle manufacturer with a North American Industry Classification
2 System (NAICS) Code beginning with 3361, or by a glass container manufacturer
3 with a NAICS Code of 327213. This exclusion shall be subject to the definitions and
4 requirements of Item (3)(i)(ii) of this Section.

5 (ii) A political subdivision may provide for a sales and use tax exemption for
6 the sales, cost, or lease or rental price of manufacturing machinery and equipment
7 as provided for in this Section, either effective upon adoption or enactment or phased
8 in over a period of time, or effective for a certain period of time or duration, all as
9 set forth in the instrument, resolution, vote, or other affirmative action providing the
10 exemption.

11 (iii) Notwithstanding any other provision of this Section, tooling in a
12 compression mold process shall be considered manufacturing machinery and
13 equipment for purposes of this Section.

14 (n)(i) For purposes of the imposition of the sales and use tax levied by the
15 state under R.S. 47:302 and 331, the term "tangible personal property" shall not
16 include machinery and equipment purchased by the owner of a radio station located
17 within the state that is licensed by the Federal Communications Commission for
18 radio broadcasting, if the owner is either of the following:

19 (aa) An individual domiciled in the state who owns a business with
20 substantially all of its assets located in the state and substantially all of its payroll
21 paid in the state.

22 (bb) A business entity with substantially all of its assets located in the state
23 and substantially all of its payroll paid in the state; provided that the business entity
24 is not owned or controlled or is otherwise an affiliate of a multi-state business entity
25 and is not owned or controlled by an individual who is not domiciled in the state.

26 (ii) "Radio broadcasting" means the sound transmission made via
27 electromagnetic waves for direct sound reception by the general public.

28 (o)(i) For purposes of the imposition of the sales and use tax levied by the
29 state and any political subdivision whose boundaries are coterminous with those of

1 the state, the term "tangible personal property" shall not include machinery and
2 equipment as defined in and subject to the requirements of R.S. 47:301(3)(i)(ii)
3 which is purchased by a utility regulated by the Public Service Commission or the
4 council of the City of New Orleans. For the purposes of this Paragraph, the term
5 "utility" shall mean a person regulated by the Public Service Commission or the
6 council of the City of New Orleans who is assigned a North American Industrial
7 Classification System Code 22111, Electric Power Generation, as it existed in 2002.
8 Such utility shall also be considered a "manufacturer" for purposes of R.S.
9 47:301(3)(i)(ii).

10 (ii) For purposes of this Subparagraph, a political subdivision whose
11 boundaries are not coterminous with those of the state may provide for a sales and
12 use tax exclusion for machinery and equipment as defined in and subject to the
13 requirements of R.S. 47:301(3)(i)(ii) which is purchased by a utility regulated by the
14 Public Service Commission or the council of the city of New Orleans.

15 (p) For purposes of sales and use taxes imposed by the state under R.S.
16 47:301 and 331 or any of its political subdivisions, the term "tangible personal
17 property" shall not include newspapers.

18 (q) For purposes of sales and use taxes imposed by the state, any statewide
19 taxing authority, or any political subdivision, the term "tangible personal property"
20 shall not include any property that would have been considered immovable property
21 prior to the enactment on July 1, 2008, of Act No. 632 of the 2008 Regular Session
22 of the Legislature.

23 (17) "Off-road vehicle" is any vehicle manufactured for off-road use which
24 is issued a manufacturer's statement of origin that cannot be issued a registration
25 certificate and license to operate on the public roads of this state because at the time
26 of manufacture the vehicle does not meet the safety requirements prescribed by R.S.
27 32:1301 through 1310. This includes vehicles that are issued a title only by the
28 Department of Public Safety and Corrections, public safety services, such as all

1 terrain vehicles and recreational and sport vehicles, but it shall not include off-road
2 vehicles used for farm purposes, farm equipment, or heavy construction equipment.

3 (18)(a)(i) Solely for purposes of the imposition of the state sales and use tax,
4 "use" means and includes the exercise of any right or power over tangible personal
5 property incident to the ownership thereof, except that it shall not include the sale at
6 retail of that property in the regular course of business or the donation to a school in
7 the state which meets the definition provided in R.S. 17:236 or to a public or
8 recognized independent institution of higher education in the state of property
9 previously purchased for resale in the regular course of a business. The term "use"
10 shall not include the purchase, the importation, the consumption, the distribution, or
11 the storage of automobiles to be leased in an arm's length transaction, nor shall the
12 term "use" include the donation of food items to a food bank as defined in R.S.
13 9:2799(B).

14 (ii) For purposes of the imposition of the sales and use tax levied by a
15 political subdivision or school board, "use" shall mean and include the exercise of
16 any right or power over tangible personal property incident to the ownership thereof,
17 except that it shall not include the sale at retail of that property in the regular course
18 of business or the donation to a school in the state which meets the definition
19 provided in R.S. 17:236 or to a public or recognized independent institution of higher
20 education in the state of property previously purchased for resale in the regular
21 course of a business. The term "use" shall not include the donation of food items to
22 a food bank as defined in R.S. 9:2799(B).

23 (iii) The term "use", for purposes of sales and use taxes imposed by the state
24 on the use for rental of automobiles which take place on or after January 1, 1991, and
25 by political subdivisions on such use on or after July 1, 1996, and state sales and use
26 taxes imposed on the use for lease or rental of tangible personal property other than
27 automobiles which take place on or after July 1, 1991, shall not include the purchase,
28 the importation, the consumption, the distribution, or the storage of tangible personal
29 property to be leased or rented in an arm's length transaction as tangible personal

1 property. For purposes of the imposition of the tax levied by any political
2 subdivision of the state, for the period beginning July 1, 1999, and ending on June
3 30, 2000, the term "use" shall not include one-fourth of the cost price of any tangible
4 personal property which is purchased, imported, consumed, distributed, or stored and
5 which is to be leased or rented in an arm's length transaction in the form of tangible
6 personal property. For purposes of the imposition of the tax levied by any political
7 subdivision of the state, for the period beginning July 1, 2000, and ending on June
8 30, 2001, the term "use" shall not include one-half of the cost price of any tangible
9 personal property which is purchased, imported, consumed, distributed, or stored and
10 which is to be leased or rented in an arm's length transaction in the form of tangible
11 personal property. For purposes of the imposition of the tax levied by any political
12 subdivision of the state, for the period beginning July 1, 2001, and ending on June
13 30, 2002, the term "use" shall not include three-fourths of the cost price of any
14 tangible personal property which is purchased, imported, consumed, distributed, or
15 stored and which is to be leased or rented in an arm's length transaction in the form
16 of tangible personal property. Beginning July 1, 2002, for purposes of the imposition
17 of the tax levied by any political subdivision of the state, the term "use" shall not
18 include the purchase, the importation, the consumption, the distribution, or the
19 storage of any tangible personal property which is to be leased or rented in an arm's
20 length transaction in the form of tangible personal property.

21 (iv) The term "use", for purposes of sales and use taxes imposed by the state
22 on the use for rental automobiles which take place prior to January 1, 1991, and by
23 political subdivisions on such use prior to July 1, 1996, and imposed on the use for
24 lease or rental of tangible personal property other than automobiles which take place
25 prior to July 1, 1991, and for purposes of local sales and use taxes levied by political
26 subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall
27 include the purchase, the importation, the consumption, the distribution, or the
28 storage of tangible personal property to be leased or rented in an arm's length
29 transaction as tangible personal property.

1 (b) Notwithstanding any other law to the contrary, for purposes of the
2 imposition of the sales and use tax of any political subdivision, the use of a vehicle
3 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
4 deemed to be a "use":

5 (i) In the political subdivision of the principal residence of the purchaser if
6 the vehicle is purchased for private use, or

7 (ii) In the political subdivision of the principal location of the business if the
8 vehicle is purchased for commercial use, unless the vehicle purchased for
9 commercial use is assigned, garaged, and used outside of such political subdivision,
10 in which case the use shall be deemed a use in the political subdivision where the
11 vehicle is assigned, garaged, and used.

12 (c) For purposes of state and political subdivision sales and use tax, "use"
13 shall not include the exercise of any right or power by a free hospital over items,
14 including but not limited to supplies and equipment, which are reasonably necessary
15 for the operation of the free hospital.

16 (d)(i) Notwithstanding any other provision of law to the contrary, and except
17 as provided in Item (iii) of this Subparagraph, for purposes of state and political
18 subdivision sales and use tax, "use" means and includes the exercise of any right or
19 power over tangible personal property incident to the ownership thereof, except that
20 it shall not include the further processing of tangible personal property into articles
21 of tangible personal property for sale.

22 (ii) Except as provided in Item (iii) of this Subparagraph for refinery gas, for
23 purposes of state sales and use tax imposed by R.S. 47:302 and 331 and political
24 subdivision use tax, "use" shall not include the storage, consumption, or the exercise
25 of any other right of ownership over tangible personal property which is created or
26 derived as a residue or byproduct of such processing. Such residue or byproduct
27 shall include but shall not be limited to catalyst cracker coke derived from crude oil,
28 wood chips, bark, and liquor derived from the processing of sawlogs or pulpwood
29 timber, or bagasse derived from sugarcane.

1 (iii) Notwithstanding any other provision of law to the contrary, and
2 notwithstanding the provisions of this Subparagraph, "use" shall include the exercise
3 of any right of ownership over the consumption, the distribution, and the storage for
4 use or consumption in this state of refinery gas, except the sale to another person,
5 whether at retail or wholesale, only if the refinery gas is ultimately consumed as an
6 energy source by the person who owns the facility in which it is created and is not
7 sold. Notwithstanding any other law to the contrary, the use of refinery gas shall be
8 taxed at the cost price value provided in Subparagraph (3)(f) of this Section. If
9 refinery gas, except for feedstock, is sold to another person, whether at retail, or
10 wholesale, such sale shall be taxable and the sales price value shall be as provided
11 for in Subparagraph (13)(d) of this Section. The provisions of this Item shall not
12 apply to feedstocks.

13 (e) For purposes of state and political subdivision sales and use tax, "use"
14 shall not include the purchase of or the exercise of any right or power over:

15 (i) Tangible personal property sold by approved parochial and private
16 elementary and secondary schools which comply with the court order from the Dodd
17 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,
18 administrators, or teachers, or other employees of the school, if the money from such
19 sales, less reasonable and necessary expenses associated with the sale, is used solely
20 and exclusively to support the school or its program or curricula.

21 (ii) Educational materials or equipment used for classroom instruction by
22 approved parochial and private elementary and secondary schools which comply
23 with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the
24 Internal Revenue Code, limited to books, workbooks, computers, computer software,
25 films, videos, and audio tapes.

26 (f) For purposes of state and political subdivision sales and use tax, "use"
27 shall not include the purchase of or the exercise of any right or power over tangible
28 personal property used by Boys State of Louisiana, Inc. and Girls State of Louisiana,
29 Inc. for their educational and public service programs for youth.

1 (g) Notwithstanding any provision of law to the contrary, for purposes of
2 sales or use taxation by the state or any local political subdivision, the term "use"
3 shall not mean or include any funeral directing services as defined in Subparagraph
4 (10)(s) of this Section.

5 (h) For purposes of sales and use taxes levied by the state under R.S. 47:302
6 and 331 or any political subdivision of the state, the term "use" shall not include the
7 exercise of any right of ownership in or the distribution of telephone directories
8 acquired by an advertising company that is not affiliated with a provider of telephone
9 services if the telephone directories will be distributed free of charge to the recipients
10 of the telephone directories.

11 (i) For purposes of the imposition of sales and use taxes imposed or levied
12 by the state under R.S. 47:302 and 331 and all taxing authorities in the state, in the
13 case of the sale or any other disposition by a dealer of any cellular, PCS, or wireless
14 telephone, any electronic accessories that are physically connected with such
15 telephones and personal communications devices used in connection with the sale
16 or use of mobile telecommunications services, as defined in R.S. 47:301(10)(v), the
17 term "use" shall not include the withdrawal, use, distribution, consumption, storage,
18 donation, or any other disposition of any such cellular, PCS, or wireless telephone,
19 any electronic accessories that are physically connected with such telephones and
20 personal communications devices by the dealer.

21 (j) For purposes of the imposition of sales and use taxes imposed or levied
22 by any political subdivision of the state under R.S. 47:302 and 331, in the case of the
23 sale or any other disposition by a dealer of any cellular telephone, PCS telephone,
24 wireless telephone, or other wireless personal communication device that is used in
25 connection with the sale or use of mobile telecommunications services, as defined
26 in R.S. 47:301(10)(w), or any electronic accessory that is physically connected with
27 any such telephone or personal communications device, the term "use" shall not
28 include the withdrawal, use, distribution, consumption, storage, donation, or any
29 other disposition of any such telephone or electronic accessory by the dealer.

1 (k) Solely for purposes of the sales and use tax levied by the state or any
2 political subdivision whose boundaries are coterminous with those of the state under
3 R.S. 47:302 and 331, the term "use" shall not include the purchase, the use, the
4 consumption, the distribution, the storage for use or consumption, or the exercise of
5 any right or power over manufacturing machinery and equipment used or consumed
6 in this state to manufacture, produce or extract unblended biodiesel.

7 (l) Solely for the purposes of sales and use taxes levied by the state or any
8 political subdivision whose boundaries are coterminous with those of the state under
9 R.S. 47:302 and 331, the term "use" shall not include the use, the consumption, the
10 distribution, the storage for use or consumption in this state, or the exercise of any
11 right or power over an alternative substance as that term is defined in Subparagraph
12 (10)(z) of this Section when such alternative substance is used as a fuel by a
13 manufacturer. "Manufacturer" means a person whose principal activity is
14 manufacturing and who is assigned by the Louisiana Workforce Commission a North
15 American Industrial Classification System code with the agricultural, forestry,
16 fishing, and hunting Sector 11 or the manufacturing Sectors 31-33 as they existed in
17 2002.

18 (m)(i) For the purposes of sales and use taxes imposed or levied by the state
19 or any political subdivision of the state, the term "use" shall not include the purchase
20 of or the exercise of any right or power over toys by a non-profit organization
21 exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue
22 Code if the sole purpose of the purchasing organization is to donate toys to minors
23 and the toys are, in fact, donated.

24 (ii) The exclusion provided for in this Subparagraph shall be subject to the
25 same conditions as are provided for in Items (10)(aa)(ii) and (iii) of this Section.

26 (n) For purposes of sales and use tax imposed by the state or any political
27 subdivision of the state, the term "use" shall not mean or include the purchase,
28 importation, storage, distribution, or exportation of, or exercise of any right or power
29 over, textbooks and course-related software by a private postsecondary academic

1 degree-granting institution, accredited by a national or regional commission that is
2 recognized by the United States Department of Education and is licensed by the
3 Board of Regents, which institution has its main location within this state and offers
4 only online instruction, when all of the following apply:

5 (i) The textbooks and course-related software are physically outside of this
6 state when purchased from a vendor outside of this state and then imported into this
7 state.

8 (ii) The first student use of the textbooks and course-related software occurs
9 outside of this state.

10 (iii) The textbooks and course-related software are provided to the student
11 free of charge.

12 (o) Solely for purposes of the imposition of the state sales and use tax
13 imposed by R.S. 47:302 and 331, the term "use" shall not include the purchase or
14 use of any storm shutter device as defined and provided for in Subparagraph (10)(ee)
15 of this Section.

16 (p) For purposes of sales and use tax imposed by the state imposed by R.S.
17 47:302 and 331 or any political subdivision of the state, the term "use" shall not
18 mean or include the purchase, importation, storage, distribution or exercise of any
19 right or power over anthropogenic carbon dioxide used in a qualified tertiary
20 recovery project approved by the assistant secretary of the office of conservation of
21 the Department of Natural Resources pursuant to R.S. 47:633.4.

22 (19) "Use tax" includes the use, the consumption, the distribution, and the
23 storage as herein defined. No use tax shall be due to or collected by:

24 (a) The state on tangible personal property used, consumed, distributed, or
25 stored for use or consumption in the state if the sale of such property would have
26 been exempted or excluded from sales tax at the time such property became subject
27 to the taxing jurisdiction of the state.

28 (b) Any political subdivision on tangible personal property used, consumed,
29 distributed, or stored for use or consumption in such political subdivision if the sale

1 of such property would have been exempted or excluded from sales tax at the time
2 such property became subject to the taxing jurisdiction of the political subdivision.

3 (20) "Drugs" includes all pharmaceuticals and medical devices which are
4 prescribed for use in the treatment of any medical disease.

5 (21) "Free hospital" means a hospital that does not charge any patients for
6 health care provided by the hospital.

7 (22) The term "computer software" means a set of statements, data, or
8 instructions to be used directly or indirectly in a computer in order to bring about a
9 certain result in any form in which those statements, data, or instructions may be
10 embodied, transmitted, or fixed, by any method now known or hereafter developed,
11 regardless of whether the statements, data, or instructions are capable of being
12 perceived by or communicated to humans. Computer software includes all types of
13 software including operational, applicational, utilities, compilers, and all other forms.

14 (23)(a) The term "custom computer software" means computer software
15 prepared, created, adapted, or modified to the special order of a particular purchaser,
16 licensee, or user; or to meet the specific needs or requirements of a particular
17 purchaser, licensee, or user, regardless of the means by or through which such
18 computer software is furnished, delivered, or transmitted, and regardless of whether
19 such software incorporates or consists of preexisting routines, utilities, or other
20 computer software components.

21 (b) In order to be considered "custom computer software", the computer
22 software must require preparation, creation, adaption, or modification by the vendor
23 in order to be used in a specific work environment or to perform a specific function
24 for the user.

25 (c) Updates, upgrades, and new versions of custom computer software shall
26 be considered custom computer software, provided such upgrades, updates, and new
27 versions meet the definition of custom computer software contained in this Chapter.

28 (24) The term "news publication" shall mean any printed periodical that:

29 (a) Appears at regular intervals.

1 (b) Contains reports of a varied character, such as political, social, cultural,
2 sports, moral, religious, or other subjects of general public interest.

3 (c) Contains not more than seventy-five percent advertising.

4 (d) Is not owned or published as an auxiliary to another nonpublishing
5 business, organization, or entity.

6 (25) "Taxing authority" shall mean and include both the state and a statewide
7 political subdivision and any political subdivision of the state authorized under the
8 Constitution or laws of the state of Louisiana to levy and collect a sales and use tax,
9 unless the context indicates otherwise. For purposes of the Uniform Local Sales Tax
10 Code provided for in Chapter 2D of this Subtitle, "taxing authority" shall mean any
11 political subdivision of the state authorized under the Constitution or laws of the
12 state of Louisiana to levy and collect a sales and use tax, except a statewide political
13 subdivision.

14 (26) "Taxing jurisdiction" shall mean the area within the physical boundaries
15 of the taxing authority.

16 (27) "Tax", "sales and use tax", and "sales tax" shall mean the sales and use
17 tax imposed by the state pursuant to the provisions of this Chapter and Chapter 2-A
18 and 2-B of this Subtitle and the tax imposed by political subdivisions under the
19 constitution or laws of this state authorizing the imposition of a sales and use tax.

20 (28)(a) For purposes of the imposition of the lease or rental tax levied by the
21 state and any political subdivision whose boundaries are coterminous with those of
22 the state, the "gross proceeds", "monthly lease or rental price paid", and "monthly
23 lease or rental price contracted or agreed to be paid" for machinery and equipment
24 used by a manufacturer in a plant facility predominately and directly in the actual
25 manufacturing for agricultural purposes or the actual manufacturing process of an
26 item of tangible personal property, including, but not limited to rubber tired farm
27 tractors, cane harvesters, cane loaders, cotton pickers, combines, haybalers,
28 attachments and sprayers, clippers, cultivators, discs, plows, and spreaders, which

1 is for ultimate sale to another and not for internal use, at one or more fixed locations
2 within Louisiana shall be reduced as follows:

3 (i) For the period ending on June 30, 2005, by five percent.

4 (ii) For the period beginning July 1, 2005, and ending on June 30, 2006, by
5 nineteen percent.

6 (iii) For the period beginning July 1, 2006, and ending on June 30, 2007, by
7 thirty-five percent.

8 (iv) For the period beginning July 1, 2007, and ending on June 30, 2008, by
9 fifty-four percent.

10 (v) For the period beginning July 1, 2008, and ending on June 30, 2009, by
11 sixty-eight percent.

12 (vi) For all periods beginning on or after July 1, 2009, the sales price shall
13 be reduced by one hundred percent.

14 (b) For purposes of this Paragraph, "machinery and equipment",
15 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant
16 facility", and "used directly" shall have the same meaning as defined in R.S.
17 47:301(3)(i)(ii).

18 (c) No person shall be entitled to purchase, use, lease, or rent machinery or
19 equipment as defined herein without payment of the tax imposed by R.S. 47:302,
20 321, and 331 before receiving a certificate of exclusion from the secretary of the
21 Department of Revenue certifying that he is a manufacturer as defined herein.

22 (d) The secretary of the Department of Revenue is hereby authorized to
23 adopt rules and regulations in order to administer the exclusion provided for in this
24 Subparagraph.

25 (e) The manufacturer's exemption certificate granted by the Department of
26 Revenue shall serve as a substitute for the sales tax exemption for certain farm
27 equipment.

28 (29) With respect to the furnishing of telecommunications and ancillary
29 services, as used in this Chapter the following words, terms, and phrases have the

1 meaning ascribed to them in this Paragraph, unless the context clearly indicates a
2 different meaning:

3 (a) "Air-to-Ground Radiotelephone service" means a radio service, as that
4 term is defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer
5 and provide radio telecommunications service for hire to subscribers in aircraft.

6 (b) "Ancillary service" means a service that is associated with or incidental
7 to the provision of one or more telecommunications services, including but not
8 limited to conference bridging services, detailed telecommunications billing services,
9 directory assistance services, vertical services, and voice mail services.

10 (c) "Call-by-call basis" means any method of charging for
11 telecommunications services where the price is measured by individual calls.

12 (d) "Call center" means one or more locations that utilize
13 telecommunications services in one or more of the following activities: customer
14 services, soliciting sales, reactivating dormant accounts, conducting surveys or
15 research, fundraising, collection of receivables, receiving reservations, receiving
16 orders, or taking orders.

17 (e) "Communications channel" means a physical or virtual path of
18 communications over which signals are transmitted between or among customer
19 channel termination points.

20 (f) "Conference bridging service" means a service that links two or more
21 participants of an audio or video conference call and may include the provision of
22 a telephone number. "Conference bridging service" does not include any
23 telecommunications services used to reach the conference bridge.

24 (g) "Customer" means the person or entity that contracts with the seller of
25 telecommunications services. If the end user of the telecommunications service is
26 not the contracting party, the end user of the telecommunications service is the
27 customer of the telecommunications service, but only for the purpose of sourcing
28 sales of telecommunications services under R.S. 47:301.1(A). "Customer" does not
29 include a reseller of telecommunications service or for mobile telecommunications

1 service of a serving carrier under an agreement to serve the customer outside the
2 home service provider's licensed service area.

3 (h) "Customer channel termination point" means, in the context of a private
4 communications service, the location where the customer either inputs or receives
5 communications.

6 (i) "Detailed telecommunications billing service" means a service of
7 separately stating information pertaining to individual calls on a customer's billing
8 statement.

9 (j) "Directory assistance" means a service of providing telephone number or
10 address information, or both.

11 (k) "End user" means the person who utilizes the telecommunications
12 service. In the case of an entity, "end user" means the individual who utilizes the
13 service on behalf of the entity.

14 (l) "Home service provider" has the same meaning given to such term in
15 Section 124(5) of the Mobile Telecommunications Sourcing Act, P.L. 106-252, 4
16 U.S.C. 124(5).

17 (m) "International telecommunications service" means a telecommunications
18 service that originates or terminates in the United States and terminates or originates
19 outside the United States, respectively. The United States includes each of the fifty
20 United States, the District of Columbia, and each United States territory, or
21 possession.

22 (n) "Interstate telecommunications service" means a telecommunications
23 service that originates in one U.S. state, territory, or possession, and terminates in a
24 different U.S. state, territory, or possession.

25 (o) "Intrastate telecommunications service" means a telecommunications
26 service that originates in one U.S. state, territory or possession, and terminates in the
27 same U.S. state, territory, or possession.

1 (p) "Mobile telecommunications service" has the same meaning given to
2 such term in Section 124(7) of the Mobile Telecommunications Sourcing Act, P.L.
3 106-252, 4 U.S.C. 124(7).

4 (q) "Mobile wireless service" means a telecommunications service,
5 regardless of the technology used, whereby the origination or termination points, or
6 both, of the transmission, conveyance or routing are not fixed, including but not
7 limited to telecommunications services that are provided by a commercial mobile
8 radio service provider.

9 (r) "Place of primary use" means the street address representative of where
10 the customer's use of the telecommunications service primarily occurs, which must
11 be the residential street address or the primary business street address of the
12 customer. In the case of mobile telecommunications services, the place of primary
13 use must be within the licensed service area of the home service provider.

14 (s) "Postpaid calling service" means a telecommunications service obtained
15 by making a payment on a call-by-call basis either through the use of a credit card
16 or payment mechanism such as a bank card, travel card, credit card, or debit card, or
17 by charge made to a telephone number which is not associated with the origination
18 or termination of the telecommunications service. A postpaid calling service
19 includes a telecommunications service, except a prepaid wireless calling service, that
20 would be a prepaid calling service, except that the right provided is not exclusively
21 to access telecommunications services.

22 (t) "Prepaid calling service" means the right to access exclusively
23 telecommunications services, which must be paid for in advance and which enables
24 the origination of calls using an access number or authorization code, whether
25 manually or electronically dialed, and that is sold in predetermined units or dollars
26 of which the number declines with use in a known amount.

27 (u) "Prepaid wireless calling service" means a telecommunications service
28 that provides the right to utilize mobile wireless service as well as non-
29 telecommunications services, including the download of digital products delivered

1 electronically, content, and ancillary services, which must be paid for in advance and
2 which is sold in predetermined units or dollars of which the number declines with
3 use in a known amount.

4 (v) "Private communication service" means a telecommunications service
5 that entitles the customer to exclusive or priority use of a communications channel
6 or group of channels between or among termination points, regardless of the manner
7 in which such channel or channels are connected, and includes switching capacity,
8 extension lines, stations, and any other associated services that are provided in
9 connection with the use of such channel or channels.

10 (w) "Service address" means:

11 (i) The location of the telecommunications equipment to which a customer's
12 call is charged and from which the call originates or terminates, regardless of where
13 the call is billed or paid.

14 (ii) If the location in Item (i) of this Subparagraph is not known, "service
15 address" means the origination point of the signal of the telecommunications service
16 first identified by either the seller's telecommunications system or, in information
17 received by the seller from its service provider, where the system used to transport
18 such signals is not that of the seller.

19 (iii) If the location in both Items (i) and (ii) of this Subparagraph are not
20 known, "service address" means the location of the customer's place of primary use.

21 (x) "Telecommunications service" means the electronic transmission,
22 conveyance, or routing of voice, data, audio, video, or any other information or
23 signals to a point, or between or among points. "Telecommunications service"
24 includes such transmission, conveyance, or routing in which computer processing
25 applications are used to act on the form, code, or protocol of the content for purposes
26 of transmission, conveyance, or routing without regard to whether such service is
27 referred to as voice over Internet protocol service or is classified by the Federal
28 Communications Commission as an enhanced or value-added service.
29 "Telecommunications service" does not include any of the following:

1 (i) Data processing or information services which allow data to be generated,
2 acquired, stored, processed, or retrieved and delivered by an electronic transmission
3 to a purchaser where such purchaser's primary purpose for the underlying transaction
4 is the processed data or information.

5 (ii) Installation or maintenance of wiring or equipment on a customer's
6 premises.

7 (iii) Tangible personal property.

8 (iv) Advertising, including but not limited to directory advertising.

9 (v) Billing and collection services provided to third parties.

10 (vi) Internet access service.

11 (vii) Radio and television audio and video programming services, regardless
12 of the medium, including the furnishing of transmission, conveyance, and routing of
13 such services by the programming service provider. Radio and television audio and
14 video programming services shall include but not be limited to cable service as
15 defined in 47 U.S.C. 522(6) and audio and video programming services delivered by
16 commercial mobile radio service providers, as defined in 47 C.F.R. 20.3.

17 (viii) Ancillary services.

18 (ix) Digital products delivered electronically, including but not limited to
19 software, music, video, reading materials, or ring tones.

20 (x) Prepaid calling service and prepaid wireless calling service.

21 (y) "Vertical service" means a service that is offered in connection with one
22 or more telecommunications services which offers advanced calling features that
23 allow customers to identify callers and to manage multiple calls and call connections.

24 (z) "Voice mail service" means a service that enables the customer to store,
25 send, or receive recorded messages services. The term "voice mail service" does not
26 include any telecommunications or vertical services that the customer may be
27 required to have in order to utilize the voice mail service.

28 * * *

29 §305. Exclusions and exemptions from the tax

1 A.(1) The gross proceeds derived from the sale in this state of livestock,
2 poultry, and other farm products direct from the farm are exempted from the tax
3 levied by taxing authorities, provided that such sales are made directly by the
4 producers. When sales of livestock, poultry, and other farm products are made to
5 consumers by any person other than the producer, they are not exempted from the
6 tax imposed by taxing authorities.

7 (2) The gross proceeds derived from the sale in this state of livestock at
8 public sales sponsored by breeders' or registry associations or livestock auction
9 markets are exempted from the sales and use tax levied by the state only. When
10 public sales of livestock are made to consumers by any person other than through a
11 public sale sponsored by a breeders' or registry association or a livestock auction
12 market, they are not exempted from the sales and use tax imposed by the state. This
13 Section shall be construed as exempting race horses entered in races and claimed at
14 any racing meet held in Louisiana, whether the horse claimed was owned by the
15 original breeder or not.

16 (3) Every agricultural commodity sold by any person, other than a producer,
17 to any other person who purchases not for direct consumption but for the purpose of
18 acquiring raw product for use or for sale in the process of preparing, finishing, or
19 manufacturing such agricultural commodity for the ultimate retail consumer trade,
20 shall be exempted from any and all provisions of the sales and use tax imposed by
21 a taxing authority, including payment of the tax applicable to the sale, storage, use,
22 transfer, or any other utilization of or handling thereof, except when such agricultural
23 commodity is actually sold as a marketable or finished product to the ultimate
24 consumer, and in no case shall more than one tax be exacted. For the purposes of
25 this Section, "agricultural commodity" means horticultural, viticultural, poultry, farm
26 and range products, and livestock and livestock products.

27 (4)(a) The purchase of feed and feed additives for the purpose of sustaining
28 animals which are held primarily for commercial, business, or agricultural use shall
29 be exempted from the taxes levied by taxing authorities.

1 (b) For purposes of this Subsection:

2 (i) "Commercial use" means the purchasing, producing, or maintaining of
3 animals, including breeding stock, for resale;

4 (ii) "Business use" means the keeping and maintaining of animals which are
5 used in performing services in conjunction with a business enterprise, such as sentry
6 dogs and rental horses;

7 (iii) "Agricultural use" means the maintaining of work animals and beasts
8 of burden which are utilized in the activity of producing crops or animals for market,
9 in the production of food for human consumption, in the production of animal hides
10 or other animal products for market, or in the maintaining of breeding stock for the
11 propagation of such agricultural use animals.

12 (c) This exemption shall not apply to the purchase of feed or feed additives
13 for animals kept primarily for personal, sporting, or other purposes, including but not
14 limited to purchases for pets of any kind or hunting dogs.

15 (5)(a) Solely for purposes of the sales and use tax levied by the state, such
16 tax shall not apply to the sale or use of materials, supplies, equipment, fuel, and
17 related items other than vessels used in the production or harvesting of crawfish.
18 The person who purchases the exempt items shall claim the exemption by executing
19 a certificate at the time of purchase. The Department of Revenue shall provide the
20 certificates to retail merchants. Any merchant who in good faith, and after
21 examination of the applicability of the certificate to that purchase with due care,
22 neglects or fails to collect the tax herein provided, due to the presentation by the
23 purchaser of a tax exemption certificate issued by the Department of Revenue,
24 including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment
25 of the tax.

26 (b) Solely for purposes of the sales and use tax levied by the state, such tax
27 shall not apply to the sale or use of bait and feed used in the production or harvesting
28 of crawfish. The person who purchases the exempt items shall claim the exemption
29 by executing a certificate at the time of purchase. The Department of Revenue shall

1 provide the certificates to retail merchants. Any merchant who in good faith, and
2 after examination of the applicability of the certificate to that purchase with due care,
3 neglects or fails to collect the tax herein provided, due to the presentation by the
4 purchaser of a tax exemption certificate issued by the Department of Revenue,
5 including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment
6 of the tax.

7 (6) Solely for purposes of the sales and use tax levied by the state, such tax
8 shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and
9 related items other than vessels used in the production or harvesting of catfish. The
10 person who purchases the exempt items shall claim the exemption by executing a
11 certificate at the time of purchase. The Department of Revenue shall provide the
12 certificates to retail merchants. Any merchant who in good faith, and after
13 examination of the applicability of the certificate to that purchase with due care,
14 neglects or fails to collect the tax herein provided, due to the presentation by the
15 purchaser of a tax exemption certificate issued by the Department of Revenue, shall
16 not be liable for the payment of the tax.

17 B. For purposes of the sales and use tax of all taxing authorities, the "use
18 tax," as defined herein, shall not apply to livestock and livestock products, to poultry
19 and poultry products, to farm, range and agricultural products when produced by the
20 farmer and used by him and members of his family.

21 C. For purposes of the sales and use tax of all taxing authorities, where a part
22 of the cost price of a motor vehicle is represented by a motor vehicle returned to the
23 dealer's inventory, the use tax is payable on the total cost price less the wholesale
24 value of the article returned.

25 D.(1) The sale at retail, the use, the consumption, the distribution, and the
26 storage to be used or consumed in the taxing jurisdiction of the following tangible
27 personal property is hereby specifically exempted from the tax imposed by taxing
28 authorities, except as otherwise provided in this Paragraph:

29 (a) Gasoline.

1 (b) Steam, solely for purposes of the state sales and use taxes imposed under
2 R.S. 47:302 and 331.

3 (c) Water (not including mineral water or carbonated water or any water put
4 in bottles, jugs, or containers, all of which are not exempted), solely for purposes of
5 the state sales and use taxes imposed under R.S. 47:302 and 331.

6 (d) Electric power or energy and any materials or energy sources used to fuel
7 the generation of electric power for resale or used by an industrial manufacturing
8 plant for self-consumption or cogeneration solely for purposes of the state sales and
9 use taxes imposed under R.S. 47:302 and 331.

10 (e) Repealed by Acts 2007, No. 480, §2.

11 (f) Fertilizer and containers used for farm products when sold directly to the
12 farmer.

13 (g) Natural gas, solely for purposes of the state sales and use taxes imposed
14 under R.S. 47:302 and 331.

15 (h) All energy sources when used for boiler fuel except refinery gas, solely
16 for purposes of the state sales and use taxes imposed under R.S. 47:302 and 331.

17 (i) New trucks, new automobiles, new aircraft, and new boats, vessels, or
18 other water craft withdrawn from stock by factory authorized new truck, new
19 automobile, new aircraft dealers, and factory-authorized dealers of new boats,
20 vessels, or other water craft, and used trucks and used automobiles withdrawn from
21 stock by new or used motor vehicle dealers, which are withdrawn for use as
22 demonstrators.

23 (j) Solely for purposes of the state sales and use tax, drugs prescribed by a
24 physician or dentist.

25 (k) Solely for purposes of the state sales and use tax, orthotic, including
26 prescription eyeglasses and contact lenses, and prosthetic devices and wheelchairs
27 and wheelchair lifts prescribed by physicians, optometrists or licensed chiropractors
28 for personal consumption or use.

1 (l) Solely for purposes of the state sales and use tax, the sale or purchase of
2 any ostomy, ileostomy or colostomy device or any other appliance including
3 catheters or any related item which is required as the result of any surgical procedure
4 by which an artificial opening is created in the human body for the elimination of
5 natural waste.

6 (m) Solely for purposes of the state sales and use tax, patient aids prescribed
7 by a physician or a licensed chiropractor for home use.

8 (n) Solely for purposes of the state sales and use tax, food sold for
9 preparation and consumption in the home including by way of extension and not of
10 limitation bakery products.

11 (o) Solely for purposes of the state sales and use tax, dairy products.

12 (p) Solely for purposes of the state sales and use tax, soft drinks.

13 (q) Solely for purposes of the state sales and use tax, fresh fruits and
14 vegetables.

15 (r) Solely for purposes of the state sales and use tax, package foods requiring
16 further preparation by the purchaser.

17 (s) Solely for purposes of the state sales and use tax, any and all medical
18 devices used exclusively by the patient in the medical treatment of various diseases
19 or administered exclusively to the patient by a physician, nurse, or other health care
20 professional or health care facility in the medical treatment of various diseases under
21 the supervision of and prescribed by a licensed physician.

22 (t) Orthotic devices, prosthetic devices, prostheses and restorative materials
23 utilized by or prescribed by dentists in connection with health care treatment or for
24 personal consumption or use and any and all dental devices used exclusively by the
25 patient or administered exclusively to the patient by a dentist or dental hygienist in
26 connection with dental or health care treatment. Notwithstanding any other
27 provision of law to the contrary, the exemptions from the state sales and use tax
28 provided in this Subparagraph shall be applicable to any sales and use tax levied by
29 any local governmental subdivision or school board.

1 (u) Solely for purposes of the state sales and use tax, adaptive driving
2 equipment and motor vehicle modifications prescribed for personal use by a
3 physician, a licensed chiropractor, or a driver rehabilitation specialist licensed by the
4 state.

5 (2)(a) Sales of meals furnished as follows shall be exempt:

6 (i) To the staff and students of educational institutions, including but not
7 limited to kindergartens, if the meals are consumed on the premises where
8 purchased, or if they are purchased in advance by students, faculty, or staff pursuant
9 to a meal plan sponsored by the institution or organization or purchased in advance
10 pursuant to any other payment arrangement sanctioned by the institution or
11 organization and generally available to students, faculty, and staff of the institution
12 or organization, regardless of where such meals are consumed.

13 (ii) To the staff and patients of hospitals and to the staff and residents of
14 nursing homes, adult residential care providers, and continuing care retirement
15 communities.

16 (iii) To the staff, inmates, and patients of mental institutions.

17 (iv) To the boarders of rooming houses.

18 (v) Occasional meals furnished to the public in educational, religious, or
19 medical organization facilities.

20 (b) Except as provided for in Item (a)(i) of this Paragraph, the furnishing of
21 such meals shall be exempt from the taxes imposed by this Chapter if the meals are
22 consumed on the premises where purchased.

23 (3) Food sales by restaurants, drive-ins, snack bars, candy and nut counters,
24 private clubs, and sales made by an establishment not specifically exempted
25 elsewhere who furnish facilities for the consumption of the food on the premises are
26 not exempt from the taxes imposed by taxing authorities.

27 (4)(a) The exemption for food, drugs, orthotic and prosthetic devices, and
28 wheelchairs and wheelchair lifts prescribed by physicians or licensed chiropractors
29 for personal consumption or use; for patient aids prescribed by a physician or

1 licensed chiropractor for home use; and ostomy, ileostomy or colostomy devices, or
2 other appliances including catheters or related items required as the result of any
3 surgical procedure by which an artificial opening is created in the human body for
4 the elimination of natural waste applies only to sales taxes imposed by the state of
5 Louisiana and does not apply to such taxes authorized and imposed by any school
6 board, municipality, or other local taxing authority notwithstanding any other
7 provisions of law to the contrary, and specifically, but not exclusively, R.S. 47:337.8.

8 (b) However, sales taxes authorized and imposed by any taxing authority
9 shall not apply to the procurement and administration of cancer and related
10 chemotherapy prescription drugs used exclusively by the patient in his medical
11 treatment when administered exclusively to the patient by a physician, nurse, or other
12 health care professional in a physician's office where patients are not regularly kept
13 as bed patients for twenty-four hours or more.

14 (5)(a) However sales taxes authorized and imposed by any school board,
15 municipality, or other local taxing authority shall not apply to the sale of prescription
16 drugs under the pharmaceutical vendor program for Title XIX of the Social Security
17 Act as administered by the Department of Health and Hospitals of the state of
18 Louisiana. Beginning January 1, 1999, such taxes shall not apply to the sale of such
19 drugs under Title XXI of the Social Security Act as administered by such
20 department.

21 (b) The administration of prescription drugs used exclusively by the patient
22 in the medical treatment of various diseases or injuries when administered
23 exclusively to the patient by a physician, nurse, or other health care professional in
24 a physician's office where patients are not regularly kept as bed patients for twenty-
25 four hours or more shall be a professional service.

26 (c) For the time after July 1, 1999, school boards, municipalities, and other
27 local taxing authorities may by ordinance or resolution provide for the following:

28 (i) An exemption for the sale of prescription drugs administered as provided
29 for in Subparagraph (b) of this Paragraph, or an exemption for the procurement and

1 administration of chemotherapy drugs used exclusively by the patient in his medical
2 treatment if administered exclusively to the patient by a physician, nurse, or other
3 health care professional in a physician's office where patients are not regularly kept
4 as bed patients for twenty-four hours or more.

5 (ii) An amnesty for any person who may have been responsible to impose,
6 collect, and/or remit the tax previously imposed on the transactions provided for in
7 Subparagraph (b) and (c) of this Paragraph prior to the time such exemption and/or
8 amnesty is granted according to such reasonable terms and conditions as the
9 respective school boards, municipalities and other local taxing authorities may adopt.

10 (6) The exemptions from the state sales and use tax provided in this
11 Subsection in existence as of the effective date of Act 205 of 1978* shall be
12 applicable to any sales and use tax levied by any local governmental subdivision or
13 school board except as otherwise specifically provided in this Subsection. Without
14 determining the validity of any exemptions placed in this Subsection subsequent to
15 the effective date of Act 205 of 1978, all Acts after the 1991 Regular Session placing
16 an exemption in this Subsection which is applicable to a political subdivision must,
17 to be effective, specifically provide in the title and body of the bill that it is
18 applicable to a political subdivision. The exemptions provided in R.S.
19 47:305(D)(1)(t) are hereby deemed to specifically comply with Act 205 of 1978.

20 E. It is not the intention of any taxing authority to levy a tax upon articles of
21 tangible personal property imported into this state, or produced or manufactured in
22 this state, for export; nor is it the intention of any taxing authority to levy a tax on
23 bona fide interstate commerce; however, nothing herein shall prevent the collection
24 of the taxes due on sales of tangible personal property into this state which are
25 promoted through the use of catalogs and other means of sales promotion and for
26 which federal legislation or federal jurisprudence enables the enforcement of the
27 sales tax of a taxing authority upon the conduct of such business. It is, however, the
28 intention of the taxing authorities to levy a tax on the sale at retail, the use, the
29 consumption, the distribution, and the storage to be used or consumed in this state,

1 of tangible personal property after it has come to rest in this state and has become a
2 part of the mass of property in this state. At such time as federal legislation or
3 federal jurisprudence as to sales in interstate commerce promoted through the use of
4 catalogs and other means of sales promotions enables the enforcement of this
5 Chapter or any other law or local ordinance imposing a sales tax against vendors that
6 have no other nexus with the taxing jurisdiction, the following provisions shall apply
7 to such sales on which sales and use tax would not otherwise be collected.

8 F. The sales, use and lease taxes imposed by taxing authorities shall not
9 apply to the amounts paid by radio and television broadcasters for the right to exhibit
10 or broadcast copyrighted material and the use of film, video or audio tapes, records
11 or any other means supplied by licensors thereof in connection with such exhibition
12 or broadcast and the sales and use tax shall not apply to licensors or distributors
13 thereof.

14 G. The sales, use, and lease taxes imposed by taxing authorities shall not
15 apply to the purchase or rental by private individuals of machines, parts therefor, and
16 materials and supplies which a physician has prescribed for home renal dialysis.

17 H. "Demonstrators" as used in Subsection D of this Section for purposes of
18 the sales and use tax levied by all taxing authorities shall mean all of the following:

19 (1) New and used trucks and automobiles for which dealer inventory plates
20 may be obtained pursuant to R.S. 47:473, and new aircraft titled in the dealer's name
21 for use as demonstrators which are kept primarily on the dealer's premises during
22 normal business hours and which are available for demonstration purposes.
23 However, the occasional use of a demonstrator by authorized personnel of the dealer
24 shall not disqualify such demonstrator from the exemption herein designated.

25 (2) New boats, vessels, or other water craft, hereafter, "boats," which comply
26 with all the following:

27 (a) They are registered in a boat, vessel, or water craft dealer's name with the
28 appropriate agency.

1 (b) They are reported by the dealer to the department as demonstrators and
2 are clearly identified as demonstrators in the manner required by the department.

3 (c) They are used by those designated by such dealer for any activity which
4 results in the advertisement, promotion of sales, or demonstration of the qualities of
5 the boat for the purpose of increasing sales of such boats; provided that such use
6 does not occur on more than six consecutive days and does not occur on more than
7 twelve days in any calendar month. The dealer shall keep such logs or other records
8 of such use as shall be required by the department.

9 (d) They are ultimately sold at retail.

10 I. The sales and use taxes imposed by the state of Louisiana or any of its
11 political subdivisions shall not apply to the labor, or sale of materials, services, and
12 supplies, used for repairing, renovating or converting of any drilling rig, or
13 machinery and equipment which are component parts thereof, which is used
14 exclusively for the exploration or development of minerals outside the territorial
15 limits of the state in Outer Continental Shelf waters. For the purposes of this
16 Subsection, "drilling rig" means any unit or structure, along with its component
17 parts, which is used primarily for drilling, workover, intervention or remediation of
18 wells used for exploration or development of minerals. For purposes of this
19 Subsection, "component parts" means any machinery or equipment necessary for a
20 drilling rig to perform its exclusive function of exploration or development of
21 minerals.

22 Section 2. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 768 Original

2015 Regular Session

Jay Morris

Abstract: Dedicates the avails of the existing 1% state sales and use taxes for support of public education, establishes the Stability in Education Fund as a special treasury fund, and provides for the extent of applicability for certain exclusions and exemptions from the 1% tax.

Present law imposes three separate state sales and use tax levies (2%, 1%, and .97%) upon the sale at retail, the use, the consumption, the distribution, the storage, lease, or rental of tangible personal property in this state, as well as certain services.

Proposed law dedicates the avails of the 1% sales and use taxes levied by present law to be expended exclusively for support of public elementary through post-secondary education (sales tax).

Proposed law establishes the Stability in Education Fund as a special treasury fund (fund) for purposes of the dedication of sales tax revenues provided by the proposed law. Further, appropriations from the fund are limited to support of public education.

Proposed law requires that after satisfying the requirements of the Bond Security and Redemption Fund as required by present constitution, the state treasurer shall deposit in and credit to the fund an amount equal to the avails of the sales tax. The legislature is authorized to appropriate from the fund solely for support of public education.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:301 and 305; Adds R.S. 39:100.146)