

2018 Third Extraordinary Session

HOUSE BILL NO. 12

BY REPRESENTATIVE JAY MORRIS

TAX/SALES-USE, STATE: Expands the state sales and use tax base by restricting the applicability of certain exemptions and exclusions and dedicates the revenues attributable to the base expansion for support of the TOPS Program and certain other state educational institutions, Medicaid Program providers, and district attorneys (Item #1)

1 AN ACT

2 To amend and reenact R.S. 17:3129.6(B) and 5069(B), R.S. 46:2623(A) and R.S.
3 47:302(X)(introductory paragraph) and (AA)(introductory paragraph), 321(O), and
4 331(P)(1) and to enact R.S. 39:100.21(B) and R.S. 47:302(AA)(34), relative to state
5 sales and use tax; to provide for the applicability of certain exclusions and
6 exemptions; to provide for the deposit and use of the avails of a portion of the state
7 sales and use taxes; to provide for limitations; to provide for effectiveness; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:3129.6(B) and 5069(B) are hereby amended and reenacted to read
11 as follows:

12 §3129.6. Higher Education Initiatives Fund

13 * * *

14 B. The sources of monies deposited into the fund shall be legislative
15 appropriation and grants, gifts, and donations received by the state for the purposes
16 of this Section, including an annual deposit of forty-five million dollars from the
17 avails of the state sales and use tax levied pursuant to R.S. 47:302. Monies in the
18 fund shall be subject to appropriation by the legislature and shall be available

1 exclusively for higher education institutions or for the Board of Regents, hereinafter
 2 referred to in this Section as the "board". The board shall develop regulations and
 3 guidelines for the distribution and allocation of monies appropriated to the board
 4 which shall be subject to approval by the Joint Legislative Committee on the Budget.
 5 All unexpended and unencumbered monies in the fund at the end of the fiscal year
 6 shall remain in the fund. Such monies shall be invested by the treasurer in the same
 7 manner as the monies in the state general fund, and all interest earned shall be
 8 credited to the fund following compliance with the requirements of Article VII,
 9 Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and
 10 Redemption Fund.

11 * * *

12 §5069. TOPS Income Fund

13 * * *

14 B. Any money donated to the fund or appropriated to the fund by the
 15 legislature shall be deposited in the fund, including an annual deposit of eighty-eight
 16 million dollars from the avails of the state sales and use tax levied pursuant to R.S.
 17 47:302. Monies in the fund shall be invested in the same manner as monies in the
 18 general fund. Interest earned on investments of monies in the fund shall be credited
 19 to the fund. Unexpended and unencumbered monies in the fund at the end of the
 20 fiscal year shall remain in the fund.

21 * * *

22 Section 2. R.S. 39:100.21(B) is hereby enacted to read as follows:

23 §100.21. Overcollections Fund

24 * * *

25 B. After complying with the provisions of Article VII, Section 9(B) of the
 26 Constitution of Louisiana relative to the allocation of monies to the Bond Security
 27 and Redemption Fund, the treasurer shall deposit into the fund twenty-five million
 28 dollars from the avails of the state sales and use tax levied pursuant to the provisions
 29 of R.S. 47:302 to be appropriated by the legislature to fund the state portion of

1 salaries of district attorneys, assistant district attorneys, and victims assistance
2 coordinators.

3 Section 3. R.S. 46:2623(A) is hereby amended and reenacted to read as follows:

4 §2623. Louisiana Medical Assistance Trust Fund

5 A.(1) There is hereby established as a special fund in the state treasury the
6 Louisiana Medical Assistance Trust Fund, hereinafter referred to as the "fund",
7 which shall consist of monies generated by the provider fees on healthcare services
8 collected and authorized for deposit into the fund as provided by law, fifteen million
9 dollars deposited annually from the avails of the state sales and use tax levied
10 pursuant to the provisions of R.S. 47:302 for use solely as provided for in Paragraph
11 (2) of this Subsection, and any other monies which may be provided by law. The
12 monies in the fund shall be invested by the state treasurer in the same manner as
13 monies in the state general fund. All interest earned from the investment of monies
14 in the fund shall be deposited in and remain to the credit of the fund and allocated
15 to each separate account on a pro-rata basis. All unexpended and unencumbered
16 monies remaining in the separate accounts of the fund at the close of each fiscal year
17 shall remain in the separate accounts of the fund.

18 (2) The state treasurer shall establish a separate account within the fund and
19 shall deposit into the account no less than fifteen million dollars from the avails of
20 the state sales and use tax levied pursuant to R.S. 47:302, which shall be used solely
21 for payments to providers of home and community based healthcare services for
22 individuals with intellectual disabilities, and to fund the rebasing of reimbursement
23 rates for intermediate care facilities for individuals with intellectual disabilities.

24 * * *

25 Section 3. R.S. 47:302(X)(introductory paragraph) and (AA)(introductory
26 paragraph), 321(O), and 331(P)(1) are hereby amended and reenacted and R.S.
27 47:302(AA)(34) is hereby enacted to read as follows:

28 §302. Imposition of tax

29 * * *

1 X. Notwithstanding any other provision of law to the contrary, including but
2 not limited to any contrary provisions of this Chapter, ~~for the period beginning~~ April
3 1, 2016, ~~through July 1, 2018~~, there shall be no exclusions and no exemptions to the
4 tax levied pursuant to the provisions of this Section except for exemptions and
5 exclusions for sales or purchases of the following items and for those items
6 enumerated in Subsection AA of this Section:

7 * * *

8 AA. Notwithstanding any other provision of this Section to the contrary,
9 except as provided in Paragraphs (29) through ~~(32)~~ (34) of this Subsection,
10 beginning July 1, 2016, the following specific exclusions and exemptions shall be
11 applicable to the tax levied pursuant to the provisions of this Section:

12 * * *

13 (34) Beginning July 1, 2018, sale and purchase of electricity as provided in
14 R.S. 47:305(D)(1)(d) for use in production activity subject to the payment of state
15 severance tax on production from a stripper well pursuant to R.S. 47:633(7)(c)(i) and
16 (ii)(aa) and (bb).

17 * * *

18 §321. Imposition of tax

19 * * *

20 O. Notwithstanding Subsections L and M of this Section, purchases, use, and
21 lease of manufacturing machinery and equipment as provided in R.S. 47:301(3)(i)(i),
22 (13)(k), and (28)(a) shall be subject to the tax levied in this Section beginning April
23 1, 2016, ~~through June 30, 2018~~.

24 * * *

25 §331. Imposition of tax

26 * * *

27 P.(1)(a) For the period July 1, 2004, through April 1, 2019, the exemptions
28 to the tax levied by this Section for sales of steam, water, electric power, or energy,

1 and natural gas shall be inapplicable, inoperable, and of no effect as to the tax levied
2 by this Section.

3 (b) For the period beginning July 1, 2018, the sale and purchase of electricity
4 as provided in R.S. 47:305(D)(1)(d) for use in production activity subject to the
5 payment of state severance tax on production from a stripper well pursuant to R.S.
6 47:633(7)(c)(i) and (ii)(aa) and (bb) shall be applicable, operable, and effective as
7 to the tax levied by this Section.

8 * * *

9 Section 2. This Act shall become effective on July 1, 2018; if vetoed by the governor
10 and subsequently approved by the legislature, this Act shall become effective on July 1,
11 2018, or on the day following such approval by the legislature, whichever is later.

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 12 Original

2018 Third Extraordinary Session

Jay Morris

Abstract: Removes the July 1, 2018, sunset provision with respect to the "suspension" of applicability of various exclusions and exemptions from state sales and use tax, adds applicability for all state sales and use tax for the exclusion for electricity used in stripper well production, and dedicates the proceeds of a portion of the state sales and use tax revenues to certain educational and healthcare providers, including support for the public/private hospital partnerships.

Present law imposes a 2% state sales and use tax upon the sale, use, lease, or rental of tangible personal property and certain services occurring in this state.

Present law, for the period from April 1, 2016, through July 1, 2018, restricts the applicability of various exclusions and exemptions against that tax to the following:

- (1) Food for home consumption, as defined in R.S. 47:305(D)(1)(n) through (r) on Jan. 1, 2003. (La. Const. Art. 7 §2.2)
- (2) Natural gas. (La. Const. Art. 7 §2.2)
- (3) Electricity. (La. Const. Art. 7 §2.2)
- (4) Water. (La. Const. Art. 7 §2.2)
- (5) Prescription drugs. (La. Const. Art. 7 §2.2)
- (6) Gasoline and other motor fuels subject to the state excise tax on fuel. (La. Const. Art. 7 §29)

- (7) Sales to the U.S. government and its agencies. (R.S. 47:301(10)(g))
- (8) Sales of raw agricultural products. (R.S. 47:301(10)(e) and 305(A)(3))
- (9) Lease or rentals of railroad rolling stock (R.S. 47:301(4)(k)), piggyback trailers (R.S. 47:305.45), and certain trucks and trailers in interstate commerce. (R.S. 47:305.50(A) and (B))
- (10) Tangible personal property for resale. (R.S. 47:301(10)(a)(i))
- (11) Feed and feed additives for animals held for business purposes. (R.S. 47:305(A)(4))
- (12) Farm products produced and used by farmers. (R.S. 47:305(B))
- (13) Sales of fertilizers and containers to farmers. (R.S. 47:305(D)(1)(f))
- (14) Sales of seeds for planting crops. (R.S. 47:305.3)
- (15) Sales of pesticides for agricultural purposes. (R.S. 47:305.8)
- (16) Purchases, use, and lease of manufacturing machinery and equipment. (R.S. 47:301(3)(i)(i), (13)(k), and (28)(a))
- (17) Sales of materials for further processing. (R.S. 47:301(10)(c)(i)(aa))
- (18) Sale of 50-ton vessels and new component parts and sales of certain materials and services to vessels operating in interstate commerce. (R.S. 47:305.1(A) and (B))
- (19) La. Tax Free Shopping Program for international visitors. (R.S. 51:1301)
- (20) Sales of farm equipment used in poultry production. (R.S. 47:301(13)(c))
- (21) Sales of pharmaceuticals administered to livestock for agricultural purposes. (R.S. 47:301(16)(f))
- (22) Sales of livestock, poultry, and other farm products and sales at public livestock auctions. (R.S. 47:305(A)(1) and (2))
- (23) Materials used in the production of crawfish and catfish. (R.S. 47:305(A)(5) and (6))
- (24) First \$50,000 of farm equipment purchases. (R.S. 47:305.25)
- (25) Fuel used on the farm. (R.S. 47:305.37)
- (26) Taxation of electrical cooperatives. (R.S. 12:425)
- (27) Overhaul of naval vessels. (R.S. 47:301(7)(c) and (14)(h))
- (28) Purchases by state and local governments. (R.S. 47:301(8)(c))
- (29) Transactions in interstate commerce and tangible personal property imported into this state, or produced or manufactured in this state, for export. (R.S. 47:305(E))
- (30) Parish councils on aging. (R.S. 47:305.66)
- (31) Articles traded in on purchases of tangible personal property. (R.S. 47:301(13)(a))
- (32) A factory-built home. (R. S. 47:301(16)(g))

Proposed law changes present law by making permanent, those restrictions on exclusions and exemptions applicable against the tax.

Present law, beginning July 1, 2016, provides for the applicability of specific exclusions and exemptions against the tax as follows:

- (1) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization. (R.S. 47:301(6)(b))
- (2) Sales of room rentals by a homeless shelter. (R.S. 47:301(6)(c))
- (3) Sales, leases, and rentals of tangible personal property and sales of services necessary to operate free hospitals. (R.S. 47:301(7)(e), (10)(p), and (18)(c))
- (4) Sales, leases, or rentals of tangible personal property to Boys State of La., Inc. and Girls State of La., Inc. (R.S. 47:301(7)(g) and (10)(r))
- (5) Sales by nonprofit entities that sell donated goods. (R.S. 47:301(8)(f))
- (6) Isolated or occasional sales of tangible personal property. (R.S. 47:301(10)(c)(ii)(bb))
- (7) Sales of human tissue transplants. (R.S. 47:301(10)(d))
- (8) Sales of food items by a youth-serving organization chartered by the U. S. Congress. (R.S. 47:301(10)(h))
- (9) Sales and donations of tangible personal property by food banks. (R.S. 47:301(10)(j) and (18)(a)(i))
- (10) Sales or purchases of fire-fighting equipment by volunteer fire departments. (R.S. 47:301(10)(o))
- (11) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by parochial and private elementary and secondary schools. (R.S. 47:301(7)(f), (10)(q)(ii), and (18)(e)(ii))
- (12) Sales by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and federal law. (R.S. 47:301(10)(q)(i) and (18)(e)(i))
- (13) Sales, (R.S. 47:301(14)(b)(i)), but only of admissions to athletic and entertainment events held for or by an elementary or secondary school and membership fees or dues of nonprofit, civic associations.
- (14) Sales or use of materials used directly in the collection of blood. (R.S. 47:301(16)(j)).
- (15) Sales or use of apheresis kits and leukoreduction filters. (R.S. 47:301(16)(k))
- (16) Sales or use of orthotic devices, prosthetic devices, hearing aids, eyeglasses, contact lenses, and wheelchairs prescribed by physicians, optometrists, or licensed chiropractors used exclusively by the patient for personal use. (R.S. 47:305(D)(1)(k))
- (17) Sales or use of ostomy, colostomy, and ileostomy devices and equipment. (R.S. 47:305(D)(1)(l))

- (18) Sales or use of adaptive driving equipment and motor vehicle modifications prescribed for personal use. (R.S. 47:305(D)(1)(u))
- (19) Sales of meals by educational institutions, medical facilities, mental institutions, and occasional meals furnished by educational, religious, or medical organizations. (R. S. 47:305(D)(2))
- (20) Purchase or rental of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription. (R.S. 47:305(G))
- (21) Sales of admissions to entertainment events by Little Theater organizations. (R.S. 47:305.6)
- (22) Sales of admissions to musical performances sponsored by nonprofit organizations. (R.S. 47:305.7)
- (23) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations. (R.S. 47:305.13)
- (24) Sales of admissions, parking fees, and sales of tangible personal property at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations. (R.S. 47:305.14(A)(1))
- (25) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations. (R.S. 47:305.18)
- (26) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fishermen. (R.S. 47:305.20)
- (27) Sales of butane, propane, or other liquified petroleum gases for private, residential consumption. (R.S. 47:305.39)
- (28) Sales and purchases by certain organizations that provide training for blind persons. (R.S. 47:305.15)

Proposed law changes present law by making permanent, those restrictions on exclusions and exemptions applicable against the tax.

Present law, beginning July 1, 2017, provides for the applicability of specific exclusions and exemptions against the tax as follows:

- (1) ~~Surface preparation, painting, and coating fixed or rotary wing aircraft and certified transport category aircraft registered outside of this state.~~ (R.S. 47:301(14)(g)(iv))
- (2) Purchases and leases by qualifying radiation therapy treatment centers. (R.S. 47:305.64)
- (3) Sales and purchases of medical devices used by patients under the supervision of a physician. (R.S. 47:305(D)(1)(s))

Proposed law changes present law by making permanent those restrictions on exclusions and exemptions applicable against the tax.

Present law, beginning Oct. 1, 2017, provides for the applicability of specific exclusions and exemptions against the tax as follows:

- (1) Sales and purchases of platinum, gold, and silver bullion and numismatic coins. (R.S. 47:301(16)(b)(ii))

- (2) Sales and purchases of orthotic devices, prosthetic devices, restorative materials, and other dental devices. (R.S. 47:305(D)(1)(t))

Proposed law changes present law by making permanent, those restrictions on exclusions and exemptions applicable against the tax.

Proposed law changes present law effective July 1, 2018, by providing that the sale and purchase of electricity used in production from a stripper well shall be exempt from all state sales and use taxes.

Present law, for the period from April 1, 2016, through June 30, 2018, provides that the exclusion for the purchases, use, and lease of manufacturing machinery and equipment as provided in R.S. 47:301(3)(i)(i), (13)(k), and (28)(a) shall not apply to the 1% tax imposed under R.S. 47:321.

Proposed law changes present law by removing the June 30, 2018, sunset and providing instead that the inapplicability and ineffectiveness of the exclusion for the purchases, use, and lease of manufacturing machinery and equipment shall be permanent for purposes of the 1% state sales and use tax imposed under R.S. 47:321.

Present law establishes the Higher Education Initiatives Fund in the state treasury for purposes of improving La.'s higher education institutions, including the improvement of university-based teaching training programs and development of innovative teaching strategies, development of additional distance learning university classrooms, and enhancement of library and scientific equipment. Further requires monies in the fund to be available exclusively for higher education institutions or for the Board of Regents.

Proposed law retains present law but requires \$45M of the avails of the state sales and use tax levied pursuant to R.S. 47:302 to be annually appropriated to the fund.

Present law establishes the TOPS Income Fund, as a special treasury fund for purposes of funding the Taylor Opportunity Program for Students (TOPS). Requires monies donated or appropriated to the fund to be invested in the same manner as monies in the general fund and for interest earned on investments of monies in the fund to be credited to the fund.

Proposed law retains present law but requires \$88M of the avails of the state sales and use tax levied pursuant to R.S. 47:302 to be annually appropriated to the fund.

Present law establishes the Overcollections Fund in the state treasury. Monies in the fund shall be invested in the same manner as monies in the state general fund and interest earned on investment of monies in the fund shall be deposited in the state general fund.

Proposed law retains present law but requires the treasurer to deposit \$25M of the avails of the state sales and use tax levied pursuant to R.S. 47:302 into the fund for appropriation by the legislature to fund the state portion of salaries of district attorneys, assistant district attorneys, and victims assistance coordinators.

Present law establishes the La. Medical Assistance Trust Fund as a special treasury fund which shall consist of monies generated by the provider fees on healthcare services collected and authorized for deposit into the fund as provided by law and any other monies which may be provided by law. Further requires the treasurer to establish a separate account within the fund for each healthcare provider group in which provider fees are collected and deposited into the fund and any monies deposited into the fund from other sources, and the interest earned on those monies, shall be deposited into a separate account within the fund.

Proposed law retains present law but requires the treasurer to establish a separate account within the fund and to deposit therein no less than \$15M from the avails of the state sales and use tax levied pursuant to R.S. 47:302, to be used solely for services provided by home

and community based healthcare providers for services for individuals with intellectual disabilities, and to fund the rebasing of reimbursement rates for intermediate care facilities for individuals with intellectual disabilities.

Effective July 1, 2018.

(Amends R.S. 17:3129.6(B) and 5069(B), R.S. 46:2623(A), and R.S. 47:302(X)(intro. para.) and (AA)(intro. para.), 321(O), and 331(P)(1); Adds R.S. 39:100.21(B) and R.S. 47:302(AA)(34))