AN ACT

To amend and reenact R.S. 47:340(E)(3) and (5), (G)(1) through (5), the introductory paragraph of (G)(6), (G)(8), and (11), (H)(3), (12), and (13), and (I), to enact R.S. 47:339.1, and to repeal R.S. 47:340(H)(15), relative to the administration of local sales and use taxes; to provide for the powers and duties of the Louisiana Sales and Use Tax Commission for Remote Sellers; to authorize the commission to collect local sales and use taxes for collectors that enter into contracts with the commission; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:340(E)(3) and (5), (G)(1) through (5), the introductory paragraph of (G)(6), (G)(8), and (11), (H)(3), (12), and (13), and (I) are hereby amended and reenacted and R.S. 47:339.1 is hereby enacted to read as follows:

§339.1. Louisiana Sales and Use Tax Commission for Remote Sellers; nonremote sales

A. In addition to the duties of the commission pursuant to R.S. 47:339, the commission shall:

(1) Develop a single electronic return for all state and local sales and use taxes in consultation with the Louisiana Uniform Local Sales Tax Board and the Department of Revenue.

(2) Have the authority to enter into contracts with collectors of local sales and use tax and state sales and use tax for the collection of tax from qualifying nonremote sellers. The tax monies received pursuant to these contracts shall, at all times, be and remain the property of the respective taxing authorities.

(3) Provide the minimum tax administration, collection, and payment requirements required by federal law with respect to the collection and
remittance of sales and use tax imposed on nonremote sales that the commission
is authorized by contract to collect.

(4) Establish a fiscal agent for the purpose of nonremote sales and use tax
remittances.

B. Definitions.

(1) "Local taxing authority" and "local" means those parishes,
municipalities, special tax districts, political subdivisions, parish governing
bodies, and school boards who are authorized under the provisions of the
Constitution of Louisiana, the Louisiana Revised Statutes of 1950, and
jurisprudence to levy and collect local sales and use taxes.

(2) The term "nonremote sale" means a sale that is made by a nonremote
seller that is not a remote sale.

(3) The term "nonremote seller" means a seller that is not a remote
seller.

(4) The term "remote sale" means a sale that is made by a remote seller
for delivery into Louisiana.

(5) The term "remote seller" means a seller who sells for sale at retail,
use, consumption, distribution, or for storage to be used for consumption or
distribution any taxable tangible personal property, products transferred
electronically, or services for delivery within Louisiana, but does not have a
physical presence in Louisiana. The term "remote seller" includes
"marketplace facilitators" as defined in R.S. 47:340.1.

(6) The term "qualifying nonremote sale" means a sale by a qualifying
nonremote seller in a parish that has entered into a contract for collection by
the commission pursuant to Paragraph (A)(2) of this Section.

(7) The term "qualifying nonremote seller" means a nonremote seller
that has a physical location in this state and is registered to file and remit local
sales and use taxes pursuant to a local ordinance in two or more parishes.

(8) "Sales and use taxes" and "taxes" shall mean the sales and use taxes
levied by the state of Louisiana under the provisions of Title 47 of the Louisiana
Revised Statutes of 1950, and the sales and use taxes levied by local taxing
authorities in Louisiana under the provisions of the Constitution of Louisiana,
statutory laws authorizing the imposition of such taxes, and local sales and use
tax ordinances.

C. (1) Notwithstanding the provisions of Subsection A of this Section, the
commission shall not begin development of the single electronic return and the
implementation of the other duties set forth in Subsection A of this Section until
either a local collector or the Department of Revenue executes a contract
pursuant to this Section with the commission. Once a contract is executed, the
single electronic return shall be available to taxpayers on the first day of the
second calendar quarter after the contract is executed.

(2) If the commission certifies at a joint meeting of the Senate Committee
on Revenue and Fiscal Affairs and the House Committee on Ways and Means
that the commission has insufficient funds available from R.S. 47:340(E)(3) to
meet the deadline set forth in Paragraph (1) of this Subsection for the
development, the commission may request an extension of the deadline from the
committees until funds are available either through R.S. 47:340(E)(3) or an
appropriation.

§340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;
powers

E. * * *

(3) The commission and its operations shall be funded by an amount equal
to actual expenses incurred which amount shall not exceed one percent of the total
amount of state and local sales and use tax collected on remote sales by the
commission. Subject to the limitations provided in this Paragraph, this amount shall
be retained by the commission on a monthly basis from current collections of state
and local sales tax on remote sales as collected by the commission prior to monthly
distribution to the state and local collectors. The commission shall have no authority
to retain these monies unless and until a federal law authorizing states to require
remote sellers and their agents to collect state and local sales and use taxes on their sales in each state has been enacted and becomes effective or a decision by the United States Supreme Court overrules the physical presence requirement for a remote seller to collect and remit state and local sales and use tax on remote sales for delivery into the state. Upon distribution of the local sales and use tax collected from remote sellers by the commission, the local collectors may retain the usual and customary percentage of collections in accordance with local ordinances or agreements.

* * *

(5) (a) If use tax collections pursuant to R.S. 47:302(K) yield insufficient revenue to fulfill the dedication for the adjudication of local sales and use tax matters that is made pursuant to R.S. 47:302(K)(7) for interagency transfers to the Department of State Civil Service, Board of Tax Appeals, Local Tax Division, and there is no means of financing available to satisfy the dedication pursuant to R.S. 47:337.102(I)(3), the remaining amount necessary to satisfy the dedication shall be considered an actual expense of this commission pursuant to Paragraph (3) of this Subsection, and payment of the interagency transfer due shall be made from local sales and use tax collections of the commission within the first thirty days of the fiscal year.

(b) A part of the interagency transfer due pursuant to Section 2 of Act No. 198 of the 2014 Regular Session of the Legislature may be designated as an actual expense of the commission pursuant to Paragraph (3) of this Subsection, and payment of that designated part may be made from state sales and use tax collections of the commission pursuant to a written agreement with the secretary.

* * *

G. The commission shall have the power, duty, and authority:

(1) To serve as the single entity within the state of Louisiana responsible for all state and local sales and use tax administration, return processing, and audits for remote sales delivered into Louisiana and for nonremote sales that the commission is authorized by contract to collect.
(2) To serve as the central, single agency to which remote sellers shall make state and local sales and use tax remittances and as the central, single agency to which qualifying nonremote sellers shall make state and local sales and use tax remittances on nonremote sales that the commission is authorized by contract to collect.

(3) To assign and direct a single audit of remote sellers for the state and all local taxing authorities and assign and direct a single audit of qualifying nonremote sellers for all state and local taxing authorities that have entered into a contract with the commission pursuant to R.S. 47:339.1.

(4) To serve as the single state of Louisiana agency to represent both state and local taxing authorities in taking appropriate action to enable Louisiana to participate in programs designed to allow Louisiana to more efficiently enforce and collect state and local sales and use taxes on sales made by remote sellers and qualifying nonremote sellers.

(5) To conduct administrative hearings as requested by aggrieved remote sellers and qualifying nonremote sellers, administer oaths, and make adjustments to assessments when justified by the facts and the law, and render decisions following such hearings.

(6) To require remote sellers and qualifying nonremote sellers to register with the commission.

(8) To enter into agreements to waive or suspend prescription with remote sellers as to state and local taxes and with qualifying nonremote sellers.

(11) To enter into voluntary disclosure agreements with remote sellers as to state and local sales and use taxes and with qualifying nonremote sellers.

H. Nothing in this Chapter shall be construed to:

(3) Authorize the commission to exercise any right or perform any function presently exercised by local sales and use tax authorities under present law except
as provided in contracts entered into pursuant to R.S. 47:339.1.

* * *

(12) Authorize the commission to serve as a central state collection agency for local sales and use taxes except as provided in contracts entered into pursuant to R.S. 47:339.1.

(13) Limit any statutory and ordinal provisions in place as of June 16, 2017, that require dealers and taxpayers, with respect to non-remote sales, to pay and remit directly to the single sales and use tax collector in each parish the sales and use taxes due to each local taxing authority within each parish except as provided in contracts entered into pursuant to R.S. 47:339.1.

* * *

(15) I. The sums of money collected by the remote seller remote sellers and nonremote sellers and remitted to the commission pursuant to R.S. 47:339 and 339.1 for payment of sales and use taxes imposed by the state and local taxing authorities shall, at all times, be and remain the property of the respective taxing authorities and deemed held in trust for taxing authorities, including while in the possession of the commission.

I. The Louisiana State Law Institute is hereby authorized and requested to review all statutes which contain phrases being changed by this Chapter and in all locations it deems appropriate change the references, particularly those that apply to the levy and collection of state and local sales and use taxes:

Section 2. R.S. 47:340(H)(15) is hereby repealed.

Section 3. On or before January 31, 2023, the Department of Revenue, the Louisiana Uniform Local Sales Tax Board, and the Louisiana Sales and Use Tax Commission for Remote Sellers shall jointly submit an informational report on the benefits, challenges, savings, and costs associated with the development, implementation, and maintenance of a combined state and local sales and use tax return for remote and nonremote sales and the designation of a centralized processor of state and local sales tax returns and remittances. The report shall include information on best practices from other states in which a single entity receives and remits revenues directly to all taxing authorities in the state and
information on the feasibility of remitting local sales and use taxes daily as received from dealers to the local sales tax collectors. The report shall be submitted to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means. Following publication of the report, interested stakeholders shall be invited to provide written comments within forty-five days of publication which shall be added as an appendix to the report and submitted to the committees.

Section 4. This Act shall become effective on January 1, 2023; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval by the legislature or January 1, 2023, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________