

2015 Regular Session

HOUSE BILL NO. 412

BY REPRESENTATIVE JAY MORRIS

FUNDS/FUNDING: (Constitutional Amendment) Dedicates the avails of the existing one percent state sales and use taxes for the support of public elementary through post-secondary education

1 A JOINT RESOLUTION

2 Proposing to amend Article VII, Section 2.2, and to add Article VII, Sections 10(F)(4)(h)
3 and 10.15, of the Constitution of Louisiana, to dedicate certain state sales and use tax
4 revenues for support of public education; to provide with respect to the base of
5 certain one percent state sales and use taxes; to provide for tax exemptions; to
6 establish a special treasury fund; to provide with respect to the deposit and use of
7 monies in the fund; to authorize the legislature to provide by law with regard to the
8 fund; to provide for effectiveness; to provide for submission of the proposed
9 amendment to the electors; and to provide for related matters.

10 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members
11 elected to each house concurring, that there shall be submitted to the electors of the state of
12 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
13 amend Article VII, Section 2.2, and to add Article VII, Sections 10(F)(4)(h) and 10.15 of the
14 Constitution of Louisiana, to read as follows:

15 §2.2. Power to Tax; Sales and Use Tax; Limitation

16 Section 2.2.(A) Effective ~~January 1, 2003~~ January 1, 2016, the sales and use
17 tax rate imposed by the state of Louisiana or by a political subdivision whose

1 boundaries are coterminous with those of the state shall not exceed ~~two~~ one percent
2 of the price of the following items:

3 (1) Food for home consumption, as defined in R.S. 47:305(D)(1)(n) through
4 ~~(r) on January 1, 2003~~ by law.

5 (2) Natural gas, electricity, and water sold directly to the consumer for
6 residential use.

7 (3) Prescription drugs.

8 (B) ~~Effective July 1, 2003, the sales and use tax imposed by the state of~~
9 ~~Louisiana or by a political subdivision whose boundaries are coterminous with those~~
10 ~~of the state shall not apply to sales or purchases of the following items:~~

11 ~~(1) Food for home consumption, as defined in R.S. 47:305(D)(1)(n) through~~
12 ~~(r) on January 1, 2003.~~

13 ~~(2) Natural gas, electricity, and water sold directly to the consumer for~~
14 ~~residential use.~~

15 ~~(3) Prescription drugs.~~

16 ~~(C)~~ As used in this Section, the term "sold directly to the consumer for
17 residential use" includes the furnishing of natural gas, electricity, or water to single
18 private residences, including the separate private units of apartment houses and other
19 multiple dwellings, actually used for residential purposes, which residences are
20 separately metered or measured, regardless of the fact that a person other than the
21 resident is contractually bound to the supplier for the charges, actually pays the
22 charges, or is billed for the charges. The use of electricity, natural gas, or water in
23 hotel or motel units does not constitute residential use.

24 (C) The state sales and use taxes which may be imposed upon food,
25 residential utilities, and prescription drugs, as provided in Paragraph A of this
26 Section, shall be the sales and use taxes levied on January 1, 2015, pursuant to R.S.
27 47:321, the rate for which shall not exceed one percent, and the avails of which are
28 hereby dedicated to the Stability in Education Fund as provided in Section 10.15 of
29 this Article. The tax base shall be provided by law; however, the tax base in effect

1 on the effective date of this amendment shall prospectively be protected from
2 reduction by legislative act such that there shall be no credit, deduction, discount,
3 exclusion by definition, exemption, rebate, or any other special tax treatment
4 provided by law, except for the following:

5 (1) Property and services exempt from sales and use tax pursuant to this
6 Section and Section 27 of this constitution.

7 (2) Property, services, leases, or rentals exempt from taxation pursuant to
8 federal law or constitution.

9 (3) Property for resale.

10 (4) Credit for taxes previously paid on a taxable transaction.

11 (5) Credit for compensation of a dealer to collect and remit tax.

12 (6) Property, services, leases, or rentals purchased by the state or its local
13 governments.

14 (7) A credit, deduction, discount, exclusion by definition, exemption, rebate,
15 or other special tax treatment of specific property, service, lease, or rental authorized
16 by a separate legislative instrument approved by a favorable vote of two-thirds of the
17 elected members of each house of the legislature.

18 * * *

19 §10. Expenditure of State Funds

20 Section 10.

21 * * *

22 (F) Projected Deficit.

23 * * *

24 (4) The provisions of Subparagraphs (1) and (2) of this Paragraph shall not
25 be applicable to, nor affect:

26 * * *

27 (h) The Stability in Education Fund as provided in Article VII, Section 10.15
28 of this constitution.

29 * * *

1 §10.15 Stability in Education Fund; support of public education

2 Beginning January 1, 2016, the Stability in Education Fund, hereinafter
3 referred to as "fund", shall be established as a special treasury fund for the support
4 of public elementary, secondary, and postsecondary education. The source of
5 monies for the fund shall be those sales and use tax revenues dedicated for such
6 purpose as provided in Section 2.2(C) of this Article, hereinafter referred to as "tax".
7 After satisfying the requirements of the Bond Security and Redemption Fund as
8 provided in Article VII, Section 9(B) of this constitution, the state treasurer shall
9 deposit in and credit to the fund an amount equal to the avails of the tax. The
10 legislature may provide by law for the expenditure, administration, and investment
11 of monies in the fund; however, appropriations shall be limited to the purposes of
12 public elementary, secondary, and postsecondary education. The provisions of this
13 Section shall not apply to or affect funds allocated by Article VII, Section 4,
14 Paragraphs (D) and (E) of this constitution.

15 Section 2. Be it further resolved that these proposed amendments shall become
16 effective on January 1, 2016.

17 Section 3. Be it further resolved that these proposed amendments shall be submitted
18 to the electors of the state of Louisiana at the statewide election to be held on October 24,
19 2015.

20 Section 4. Be it further resolved that on the official ballot to be used at the election,
21 there shall be printed a proposition, upon which the electors of the state shall be permitted
22 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
23 follows:

24 Do you support amendments to dedicate the avails of the existing one percent
25 state sales and use taxes for expenditure exclusively in support of public
26 elementary through post-secondary education; to provide with respect to the
27 protected base of such taxes; to permit inclusion of sales of food for home
28 consumption, prescription drugs, and residential utilities in the base of the
29 existing one percent state sales and use taxes? (January 1, 2016) (Amends

1 Article VII, Section 2.2, and Adds Article VII, Sections 10(F)(4)(h) and
 2 10.15))

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 412 Engrossed

2015 Regular Session

Jay Morris

Abstract: Dedicates the avails of the existing 1% state sales and use taxes for support of public education, and provides with respect to the tax base, including permission to include sales of food for home consumption, residential utilities, and prescription drugs in the tax base; also, establishes the Stability in Education Fund as a special treasury fund for purposes of the dedication.

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.

Present law, with respect to each of the three separate state sales and use taxes, provides for five separate levies on the following types of transactions: (1) sale, (2) use, (3) lease, and (4) rental of tangible personal property, and (5) sale of services.

Proposed constitutional amendment dedicates the avails of the 1% sales and use taxes levied by present law on Jan. 1, 2015, pursuant to R.S. 47:321, to be expended exclusively for support of public elementary through post-secondary education (sales tax).

Present constitution excludes from all state sales and use taxes the sale or purchase (sale) of food for home consumption, natural gas, electricity, and water sold directly to the consumer for residential use, and prescription drugs.

Proposed constitutional amendment changes present constitution regarding taxability of the sale of food for home consumption, residential utilities, and prescription drugs from excluded status to permitting inclusion of such sales into the base of a sales tax not to exceed 1%.

Proposed constitutional amendment provides that the sales tax which may be imposed upon food, utilities, and prescription drugs shall be the sales tax which is dedicated to support of public education pursuant to proposed constitutional amendment. Further, upon the effectiveness of the constitutional amendment the sales tax base in effect at that time shall prospectively be protected from reduction by legislative act such that there shall be no credit, deduction, discount, exclusion by definition, exemption, rebate, or any other special tax treatment provided by law, except for the following:

- (1) Property and services exempt pursuant to present constitution (motor fuels are exempt from all sales tax, and food for home consumption, residential utilities, and prescription drugs would be exempt under proposed constitutional amendment for any tax other than a 1% sales tax).
- (2) Property, services, leases, or rentals exempt from taxation pursuant to federal law or constitution.
- (3) Property for resale.

- (4) Credit for taxes previously paid on a taxable transaction.
- (5) Credit for compensation of a dealer to collect and remit tax.
- (6) Property, services, leases, or rentals purchased by the state or its local governments.
- (7) A credit, deduction, discount, exclusion, exemption, rebate, or other special tax treatment of specific property or service authorized by a separate legislative instrument approved by a favorable vote of two-thirds of the elected members of each house of the legislature.

Proposed constitutional amendment 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 constitutional amendment. Further, appropriations from the fund are limited to support of public education.

Proposed constitutional amendment 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 provide by law for the expenditure, administration, and investment of monies in the fund.

Proposed constitutional amendment prohibits the transfer of monies from the fund for use in curing a deficit in another fund within the state treasury.

Proposed constitutional amendment shall not apply to or affect the state severance and royalty proceeds which are allocated to local governments by Article VII, Section 4, Paragraphs (D) and (E) as provided in present constitution.

Effective Jan. 1, 2016.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Oct. 24, 2015.

(Amends Const. Art. VII, Section 2.2; Adds Const. Art. VII, Sections 10(F)(4)(h) and 10.15)