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## DIGEST

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HB 412 Engrossed

2015 Regular Session

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**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)