A JOINT RESOLUTION

Proposing to amend Article VII, Section 4(A), (B), and (C), to add Article VII, Section 4.1, and to repeal Article IX, Section 9 of the Constitution of Louisiana, relative to taxes related to natural resources and the use of such taxes; to levy a tax on the use of hydrocarbon processing facilities; to dedicate such tax; to provide for a reduction of certain individual income tax rates; and to specify an election for submission of the proposition to electors and provide a ballot proposition.

Notice of intention to introduce this Act has been published.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 4(A), (B), and (C), to add Article VII, Section 4.1, and to repeal Article IX, Section 9 of the Constitution of Louisiana, to read as follows:

§4. Income Tax; Severance Tax; Political Subdivisions

Section 4.(A) Income Tax. Equal and uniform taxes may be levied on net incomes, and these taxes may be graduated according to the amount of net income. However, the state individual and joint income tax schedule of rates and brackets

CODING: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.
shall never exceed the rates and brackets set forth in Title 47 of the Louisiana Revised Statutes on January 1, 2003.

(2) For all tax years beginning on and after January first of the fiscal year after the Treasurer receives written certification that the retirement systems’ unfunded accrued liability has been eliminated as required by Article X, Section 29(E)(2)(c) of this constitution, the state individual and joint income tax schedule of rates shall be uniformly, permanently reduced to reflect the savings to the state's general fund of both of the following:

(a) The payment required by Section 4.1(F)(2)(d) of this Article of two hundred fifty million dollars each fiscal year from the Hydrocarbon Facilities Tax Fund into the general fund as a replacement for revenue lost because of the reduction in the tax rates provided for in this Paragraph.

(b) The revenue that will no longer be needed from the state general fund each fiscal year to make the annual employer contributions actuarially required by Article X, Section 29(E)(2)(c) of this constitution in order to eliminate such liability. The amount of such savings upon which the reduction in the tax rates provided for in this Paragraph shall be based on the average of the amount of the last ten fiscal years’ contributions made which were paid from the state general fund.

(3) Federal income taxes paid shall be allowed as a deductible item in computing state income taxes for the same.

(B) Severance Tax. Taxes may be levied on natural resources severed from the soil or water, to be paid proportionately by the owners thereof at the time of severance. Natural resources may be classified for the purpose of taxation. Such taxes may be predicated upon either the quantity or value of the products at the time and place of severance. No *Except as provided in Section 4.1 of this Article, no* further or additional tax or license shall be levied or imposed upon oil, gas, or sulphur leases or rights. No additional value shall be added to the assessment of land by reason of the presence of oil, gas, or sulphur therein or their production therefrom.
However, sulphur in place shall be assessed for ad valorem taxation to the person, firm, or corporation having the right to mine or produce the same in the parish where located, at no more than twice the total assessed value of the physical property subject to taxation, excluding the assessed value of sulphur above ground, as is used in sulphur operations in such parish. Likewise, the severance tax shall be the only tax on timber; however, standing timber shall be liable equally with the land on which it stands for ad valorem taxes levied on the land.

(C) Political Subdivisions; Prohibitions. A political subdivision of the state shall not levy a severance tax, a tax on the use of hydrocarbon processing facilities, income tax, inheritance tax, or tax on motor fuel.

* * *

§4.1. Tax on the Use of Hydrocarbon Processing Facilities; Dedication

A. Imposition of Tax. (1) In addition to all other taxes and licenses, there is hereby levied a tax upon the use of hydrocarbon processing facilities in Louisiana by the owners of the hydrocarbons processed therein.

(2) The tax shall become effective on January 1, 2016.

(3)(a) The tax shall be levied at the rate of four percent of the price or value of condensate, crude oil, including any natural gas liquids or condensate contained therein, and natural gas and natural gas liquids, which undergo hydrocarbon processing in a hydrocarbon processing facility within this state.

(b) A credit against the tax imposed by this Section shall be granted to owners who have paid to this state or another state of the United States a tax on the severance from the soil or water of hydrocarbons which undergo hydrocarbon processing in a hydrocarbon processing facility within this state, if the severance tax is based upon the value of such hydrocarbons at the time and place of severance.

(4) In order to encourage national oil and gas production from wells with minimal production capabilities, the owners of the following hydrocarbons from the following types of wells shall be exempt from the payment of the tax
when using facilities in the state to process them:

(i) Oil produced from a well classified as an oil well and determined to be incapable of producing an average of more than twenty-five barrels of oil per producing day during an entire month of operation, and which also produces at least fifty percent salt water per day; however, the use of hydrocarbon processing facilities to process oil from a multiple well lease or property shall be taxable, unless all such wells are determined to be incapable.

(ii) Oil produced from a well classified as an oil well, and determined to be a "stripper well", which is an oil well incapable of producing an average of more than ten barrels of oil per producing day during an entire operating month.

(iii) Gas produced from an oil well which has been determined to have a wellhead pressure of fifty pounds per square inch gauge or less under operating conditions or, in the case of gas rising in a vaporous state through the annular space between the casing and tubing of such oil well and released through lines connected with the casinghead gas which has been determined to have a casinghead pressure of fifty pounds per square inch gauge or less under operating conditions for the entire operating month. For purposes of applying this exemption, an oil well being produced by the method commonly known as gas lift shall be presumed to have a wellhead pressure of fifty pounds per square inch or less under operating conditions in the absence of a determination to the contrary.

(iv) Gas produced from a gas well which has been determined to be incapable of producing an average of two hundred fifty thousand cubic feet of gas per day during an entire operating month.

B. Payment. The tax shall be paid in the manner provided for in this Section by the owner or proportionately by the owners of the hydrocarbons at the time hydrocarbon processing facilities located in this state are first used to process them, and the rate of usage shall be measured at the first point of
C. Duplication. There shall be no duplication of the tax, in that:

(1) Once any owner has paid all or his proportionate share of the tax due on the use of any hydrocarbon processing facility to process hydrocarbons owned by him, no further tax shall be due from him or from any subsequent owner of his interest for the use of facilities to process the same hydrocarbons or derivatives of those hydrocarbons.

(2) In addition, a credit against the tax imposed by this Section shall be granted to owners who have paid a similar tax to another state for using hydrocarbon processing facilities to process hydrocarbons subsequently imported into Louisiana. Such credit shall be granted only in the case where the state to which a similar tax has been paid grants a similar credit. In no event shall the credit be greater than the tax imposed by Louisiana upon use of facilities to process the same amount of hydrocarbons.

D. Administration and Collection. (1) The taxes levied hereunder shall be due and payable monthly. Every owner of hydrocarbons using hydrocarbon facilities within this state shall pay the tax due on or before the fifteenth day of the second month following the month in which the tax accrues, and shall provide such information as may be required by law or regulation.

(2)(a) The tax due from owners of hydrocarbons shall be collected and remitted by the owner or operator of the facility in which the hydrocarbons are processed. In addition, every person purchasing hydrocarbons upon which the tax levied by this Section has not been paid shall deduct from any amount due any owner the amount of the tax levied by this Section before making such payments.

(b) Any owner or operator of a hydrocarbon processing facility who neglects, fails, or refuses to collect and remit the tax levied by this Section, and any person purchasing hydrocarbons who fails to deduct and withhold the amount of taxes due as required by this Section, shall be liable for the full
amount of such taxes, interest, and penalties that should have been collected and
remitted, or deducted and withheld.

(3) The taxes due shall operate as a first lien and privilege on the
hydrocarbons of the owner from whom the tax is due, which lien and privilege
shall follow such hydrocarbons into the hands of third persons whether in good
or bad faith, and whether the hydrocarbons are found in a manufactured or
unmanufactured state.

(4) The Department of Revenue, or its successor, shall administer,
enforce, and collect the tax in the same manner and according to the same
procedures provided by law and regulations to the department for the
administration, enforcement, and collection of other taxes, including but not
limited to laws concerning the imposition of interest and penalties. In addition,
the legislature may if approved by two-thirds of the elected members of each
house of the legislature specifically provide by law for the administration,
enforcement, and collection of the tax, including but not limited to the time of
payment of the tax and changes in the administration, enforcement, and
collection procedures provided for in this Paragraph. Except as provided for in
this Section, there shall be no other exemptions, deductions, credits, or refunds
allowed against the tax.

E. Definitions. The following terms shall have the meaning ascribed to
them in this Paragraph unless the context clearly indicates otherwise:

(1) "Barrel" means a volumetric unit of measure for crude oil and
petroleum products equivalent to forty-two U.S. gallons.

(2) "Crude oil" means any liquid hydrocarbon naturally occurring at
atmospheric temperature and pressure, and any natural gas liquids or
condensate contained therein.

(3) "Cubic feet of natural gas" means natural gas measured at a base
pressure of 15,025 pounds per square inch absolute and at a base temperature
of sixty degrees Fahrenheit; provided that whenever the conditions of pressure
and temperature differ from the above bases, conversion of the volume from
these conditions to the above bases shall be made in accordance with the Ideal
Gas Laws with correction for deviation from Boyle's Law, which correction
must be made unless the pressure at the point of measurement is two hundred
pounds per square inch gauge, or less, all in accordance with methods and
tables generally recognized by and commonly used in the natural gas industry.
For all purposes of computing standard cubic feet of natural gas under this
Subparagraph the barometric pressure shall be assumed to be 14.7 pounds per
square inch absolute at the place of measurement.

(4)(a) "Hydrocarbon" means a chemical compound containing atoms of
both carbon and hydrogen, including but not limited to crude oil, condensate,
natural gas, and natural gas liquids.

(b) "Hydrocarbon" shall not mean petrochemicals, coal, lignite,
materials derived from agriculture or forestry products, or nitrogenous
fertilizers. "Petrochemicals" means products other than refined petroleum
products and which are typically single chemical compounds produced from a
chemical process in which petroleum is used. Such products are used as
materials in the manufacture of other finished products. "Petrochemicals" shall
include but not be limited to the following: acetylene, ethylene, propylene,
butylene, butadiene, benzene, toluene, xylene, methanol, or any other mixture
or derivative of such petrochemicals.

(5) "Hydrocarbon processing" means any process, procedure, or
operation by which a hydrocarbon or mixture of hydrocarbons undergoes any
one or more of the following:

(a) Absorption.

(b) Adsorption.

(c) Catalytic Reaction.

(d) Chemical Reaction or Treatment.

(e) Compression.
(f) Cooling.

(g) Dehydration.

(h) Desulfurization.

(i) Depressurization.

(j) Emulsion treating.

(k) Evaporation.

(l) Expansion.

(m) Extraction.

(n) Filtration.

(o) Fractionation.

(p) Heating or heat exchange.

(q) Isomerization.

(r) Liquefaction.

(s) Nitrogen rejection.

(t) Phase separation.

(u) Pressure, velocity, or flow measurement.

(v) Pressurization.

(w) Pumping.

(x) Purification.

(y) Refrigeration.

(z) Regasification.

(aa) Sweetening.

(bb) Thermal Reaction or Treatment.

(cc) Throttling.

(dd) Refining.

(ee) Any use of a hydrocarbon in a manufacturing process in this state.

(ff) "Hydrocarbon processing" shall not include the direct venting or flaring into the atmosphere of gas produced from oil or gas wells.

(6) "Hydrocarbon processing facility" means any plant, building,
construction, structure, or equipment located in Louisiana and used to perform
all or a part of the processes, procedures, or operations provided for in
Subparagraph (E)(5); however, such terms shall not include motor vehicles,
railway cars, ships, barges, or vessels.

(7) "Natural gas" means naturally occurring mixtures of hydrocarbon
gases and vapors, including but not limited to methane and ethane, that exist in
either a gaseous state or in a solution with crude oil.

(8) "Owner" means the person or persons having title to hydrocarbons
at the time the hydrocarbons are processed in hydrocarbon processing facilities
in Louisiana.

(9) "Person" or "taxpayer" means an individual, firm, association of
persons, partnership, corporation, or other entity.

(10) "State" means a state of the United States.

(11) "Use of hydrocarbon processing facilities" or "use of facilities"
means processing, or causing to be processed, hydrocarbons in a hydrocarbon
processing facility in Louisiana.

F. Dedication. (1) All funds received related to the levy of the tax
provided for in this Section shall be deposited immediately upon receipt into the
state treasury and shall be credited to a special fund hereby created in the state
treasury to be known as the Hydrocarbon Facilities Tax Fund. Notwithstanding
any other provision of this constitution, such money shall be deposited as
provided for in this Section and the money in the Hydrocarbon Facilities Tax
Fund shall be used solely as provided in Subparagraph (F)(2). All unexpended
and unencumbered money in the fund at the end of the fiscal year shall remain
in the fund to be invested by the treasurer in any manner which may be
provided by law, and the income earned on such investments shall be credited
to the fund.

(2) The money in the fund shall be used each fiscal year solely as
provided for in this Paragraph. However, the amounts provided for in this
Paragraph shall be proportionally increased or decreased each fiscal year to reflect tax collections above or below the total amount of appropriations provided for by this Paragraph.

(a) Three hundred seventy million dollars shall be appropriated by the legislature to the Board of Regents for distribution to public institutions of post secondary education according to the formula for equitable distribution of funds to such institutions provided for in Article VIII, Section 5(D)(4) of this constitution. The money appropriated by the legislature shall not displace, replace, or supplant appropriations from the general fund or other funds for such purposes made prior to the appropriations required by this Subsubparagraph.

(b)(i) Two hundred fifty million dollars shall be appropriated by the legislature for the maintenance of and in an effort to improve health outcomes in the following health care areas:

(aa) Adult disability and aging services.

(bb) Developmental disabilities services.

(cc) Primary and preventive health care services.

(dd) Public health services.

(ee) Substance abuse and mental health services.

(ff) Health care services provided via the Medicaid program operated by the Department of Health and Hospitals.

(gg) Health care services provided at the current and former state hospitals operated by the Louisiana State University Health Care Services Division.

(ii) The money appropriated shall not displace, replace, or supplant appropriations from the state general fund for such health care services below the amounts appropriated to provide such services in Fiscal Year 2015-2016.

(c) Eighty million dollars shall be appropriated by the legislature each fiscal year to the state Department of Education for distribution to each school.
district in the state in an amount sufficient to fund a board-approved early
colhhood or prekindergarten program in all public elementary schools to
educate children who are younger than the minimum age provided by law for
entrance to first grade. The money appropriated by the legislature shall not
displace, replace, or supplant appropriations from the general fund or other
funds for early childhood or prekindergarten programs in public elementary
schools made prior to the appropriations required by this Subsubparagraph.

(d) Two hundred fifty million dollars shall be appropriated by the
legislature:

(i) To the Louisiana State Employees' Retirement System and the
Teachers' Retirement System of Louisiana for the amortization of the
retirement systems' unfunded accrued liability as required by Article X, Section
29(E)(2)(c) of this constitution until the Public Retirement Systems' Actuarial
Committee provides written certification to the Treasurer that such unfunded
accrued liability is eliminated. This payment shall be in addition to any
payments required by Article X, Section 29(E)(2)(c) and Article VII, Section
10(D)(2)(b). The allocation between the two systems shall be in proportion to
the balance of the unfunded accrued liability of each system. The payments to
the public retirement systems shall not be used to reduce the actuarially-
required employer contributions to the systems, shall not be included in system
assets for purposes of determinations with respect to cost-of-living increases,
nor shall the payments be used, directly or indirectly, to fund cost-of-living
increases for retirees of the systems.

(ii) Beginning in the fiscal year after the Treasurer receives written
certification from the Public Retirement Systems' Actuarial Committee that
such unfunded accrued liability is eliminated, the Treasurer shall deposit two
hundred fifty million dollars each fiscal year in the general fund for the purpose
of replacing the revenue from the individual income tax and enabling the
reduction of the burden of such tax as provided for in Section 4(A)(1)(b) of this
Article.

(e) One hundred fifty million dollars shall be deposited in the Transportation Trust Fund provided for in Article VII, Section 27 of this constitution to be used as in the manner authorized by that provision.

Section 2. If any provision or item of this amendment or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this amendment which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this amendment are severable.

Section 3. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on October 24, 2015.

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

Do you support an amendment to levy a tax on the use of hydrocarbon processing facilities in Louisiana by the owners of the hydrocarbons processed therein at the rate of 4% of the price or value of the hydrocarbons and to dedicate the proceeds of the tax to public institutions of post secondary education, to the maintenance and improvement of health care, to the funding of an early childhood or prekindergarten program, to eliminating the state retirement systems' unfunded accrued liability, to the Transportation Trust Fund, and, after the state retirement systems' unfunded accrued liability is eliminated, to reduce the state individual income tax rates?

(Amends Article VII, Section 4(A), (B), and (C); adds Article VII, Section 4.1; repeals Article IX, Section 9)
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.
owner of his interest for the subsequent use of facilities to process the same hydrocarbons or derivatives of those hydrocarbons.

(2) A credit against the tax is granted to owners who have paid a similar tax to another state of the United States for using hydrocarbon processing facilities to process hydrocarbons subsequently imported into Louisiana. The credit is granted only if the state grants a similar credit.

Proposed constitutional amendment requires owners or operators of processing facilities to collect the tax. Purchasers of hydrocarbons upon which the tax has not been paid are required to deduct the amount of the tax before making payments to the owner. If they are not collected or withheld, they are themselves liable for the tax.

The taxes operate as a first lien and privilege on the hydrocarbons, and the lien follows the hydrocarbons into the hands of third persons whether in good or bad faith, and whether the hydrocarbons are found in a manufactured or unmanufactured state.

The Department of Revenue administers the tax in the same manner and according to the same procedures provided by law and regulations to the department for the administration of other taxes, including but not limited to laws concerning the imposition of interest and penalties. In addition, the legislature is authorized by approval of two-thirds of the elected members of each house of the legislature to provide by law for the administration, enforcement, and collection of the tax, including but not limited to laws providing for time of payment of the tax, and changes in the administration, enforcement, and collection procedures set forth above. No other exemptions, deductions, credits, or refunds are allowed against the tax.

Proposed constitutional amendment prohibits political subdivisions from levying a tax "on or related to hydrocarbon processing or the use of facilities for such processing".

Proposed constitutional amendment repeals the First Use Tax Trust Fund provisions and establishes the Hydrocarbon Facilities Tax Fund and requires the money in the fund to be used each fiscal year solely for the following purposes, however, the amounts required must be proportionally increased or decreased each fiscal year to reflect tax collections above or below the total amount of appropriations required as set forth below.

(1) $300 million must be appropriated to the Board of Regents for distribution to public institutions of post secondary education according to the formula for equitable distribution of funds to such institutions provided for in Const. Art. VIII, Sec. 5(D)(4) of the constitution. The money appropriated by the legislature must not displace, replace, or supplant appropriations from the general fund or other funds for such purposes made prior to the appropriations required by this part of the proposed constitutional amendment.

(2) $250 million must be appropriated for the maintenance of and in an effort to improve health outcomes in the following health care areas:

(a) Adult disability and aging services.
(b) Developmental disabilities services.
(c) Primary and preventive health care services.
(d) Public health services.
(e) Substance abuse and mental health services.
(f) Health care services provided via the Medicaid program operated by DHH.
(g) Health care services provided at the current and former state hospitals operated by the LSU Health Care Services Division.

The money appropriated must not displace, replace, or supplant appropriations from the state general fund for such health care services below the amounts appropriated to provide such services in the 2015-2016 Fiscal Year.

(3) $80 million must be appropriated each fiscal year to the state Department of Education for distribution to each school district in the state in an amount sufficient to fund a board-approved early childhood or prekindergarten program in all public elementary schools to educate children who are younger than the minimum age provided by law for entrance to first grade. The money appropriated must not displace, replace, or supplant appropriations from the general fund or other funds for early childhood or prekindergarten programs in public elementary schools made prior to the appropriations required by this part of the proposed constitutional amendment.

(4) $250 million must be appropriated by the legislature to the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana for the amortization of the retirement systems' unfunded accrued liability as required by Const. Art. X, Sec. 29(E)(2)(c) until the Public Retirement Systems' Actuarial Committee provides written certification to the Treasurer that such unfunded accrued liability is eliminated. The payment must be in addition to any payments required by Const. Art. X, Sec. 29(E)(2)(c) and Art. VII, Sec. 10(D)(2)(b). The allocation between the two systems must be in proportion to the balance of the unfunded accrued liability of each system. The payments to the public retirement systems cannot be used to reduce the actuarially-required employer contributions to the systems, cannot be included in system assets for purposes of determinations with respect to cost-of-living increases, nor can they be used, directly or indirectly, to fund cost-of-living increases.

(5) $150 million must be deposited in the Transportation Trust Fund to be used as in the manner authorized by that provision.

Proposed constitutional amendment requires the Treasurer to deposit $250 million each fiscal year in the general fund beginning in the fiscal year after he receives written certification from the Public Retirement Systems' Actuarial Committee that the unfunded accrued liability is eliminated. For all tax years beginning on and after January first of the fiscal year after the Treasurer receives such written certification, the state individual and joint income tax schedule of rates must be uniformly, permanently reduced to reflect the savings to the state's general fund of both of the following:

(1) The payment required above of $250 million each fiscal year replacement for revenue lost because of such reduction in the tax rates.

(2) The revenue that will no longer be needed from the state general fund each fiscal year to make the annual employer contributions actuarially-required by Const. Art. X, Sec. 29(E)(2)(c) in order to eliminate such liability. The amount of such savings upon which the reduction in the tax rates is to be based must be the average of the amount of the last 10 fiscal years' contributions made which were paid from the state general fund.

All unexpended and unencumbered money in the fund at the end of the year remains in the fund and income earned on investments of the money is credited to the fund.

Proposed constitutional amendment contains a severability clause.

Specifies submission of the amendment to the voters at the statewide election to be held on
October 24, 2015.

(Amends Const. Art. VII, Sec. 4(A), (B) and (C); adds Const. Art. VII, Sec. 4.1; repeals Const. Art. IX, Sec. 9)