

2023 Regular Session

HOUSE BILL NO. 417

BY REPRESENTATIVE GEYMANN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

APPROPRIATIONS: Limits the amount of monies that may be appropriated in a fiscal year

1 AN ACT

2 To amend and reenact R.S. 39:34(C), 38(B), and 54(C) and to enact R.S. 39:33.3 and
3 Chapter 5 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, to
4 be comprised of R.S. 47:6361 through 6364, relative to state finances; to provide
5 relative to the calculation of a limit above which funds may only be appropriated for
6 certain purposes; to provide relative to exceptions; to provide for the establishment
7 of an initial limit; to provide with respect to the powers and duties of the secretary
8 of the Department of Revenue; to provide for legislative intent; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. The legislature hereby finds that collection of revenues in excess of
12 amounts needed for the ordinary operating expenses of government should result in a return
13 of some of those revenues to taxpayers. It is further recognized that these collections are
14 derived from a multitude of sources, making it impossible or impractical to return all prior
15 payments. The legislature also finds that it is not feasible to make proportional refunds of
16 these excess revenues. The legislature therefore intends to return the money to as large a
17 group of Louisiana residents as can be identified in an economically feasible manner. The
18 legislature finds that it is reasonable and fair to simplify the process used to refund state
19 excess revenues for any fiscal year by allowing an identical refund of state sales tax revenues
20 to each qualified individual. To minimize cost to the state and to maximize efficiency, the

1 legislature also finds it is reasonable and economically efficient to refund these excess
2 revenues through the state income tax system.

3 Section 2. R.S. 39:34(C), 38(B), and 54(C) are hereby amended and reenacted and
4 R.S. 39:33.3 is hereby enacted to read as follows:

5 §33.3. Determination of Louisiana Sustainability Limit

6 A. The Louisiana Sustainability Limit, hereafter referred to in this Section
7 as the "limit", shall be established by the Revenue Estimating Conference during the
8 first quarter of the calendar year for the next fiscal year and is a limit above which
9 appropriations from the state general fund and dedicated funds can only be made for
10 purposes provided in this Section.

11 B. After adoption by the Revenue Estimating Conference, the limit for the
12 ensuing fiscal year shall be submitted to the Joint Legislative Committee on the
13 Budget no later than thirty-five days prior to each regular session.

14 C.(1) If the growth factor provided in this Paragraph is positive, the limit for
15 the ensuing fiscal year shall be calculated as the sum of the base plus the result of the
16 base times the positive growth factor using the following:

17 (a) The growth factor shall be the ten-year average percentage rate of change
18 in the state's gross domestic product using the percentage rate of change in the state's
19 gross domestic product as defined and reported by the United States Department of
20 Commerce, or its successor agency, for the ten fiscal years immediately preceding
21 the fiscal year in which the limit is calculated. The figures used for the calculation
22 of the growth factor shall be those actual or estimated figures most recently reported
23 by the United States Department of Commerce at the time the limit is submitted to
24 the Joint Legislative Committee on the Budget.

25 (b) The base shall be the actual appropriations from the state general fund
26 and dedicated funds for the immediately prior fiscal year except appropriations made
27 pursuant to Subsection (F) of this Section.

1 (2) If the growth factor provided in Paragraph (1) of this Subsection is
2 negative, the limit for the ensuing fiscal year shall be equal to the base, as defined
3 in Paragraph (1) of this Subsection.

4 D. Notwithstanding any provision of this Section to the contrary, if the
5 Louisiana Sustainability Limit calculated pursuant to the provisions of Subsection
6 C of this Section is greater than the expenditure limit calculated for the same fiscal
7 year, the Louisiana Sustainability Limit shall be equal to the expenditure limit. If the
8 legislature alters the expenditure limit in a fiscal year and the resulting limit is lower
9 than the Louisiana Sustainability Limit for that fiscal year, the Louisiana
10 Sustainability Limit for that fiscal year shall automatically be lowered to equal the
11 limit set by the legislature for the expenditure limit.

12 E. Amounts recognized in the official forecast above the Louisiana
13 Sustainability Limit and below the Expenditure Limit shall only be appropriated for
14 one or more of the following purposes:

15 (1) Any purpose for which nonrecurring revenue may be appropriated
16 pursuant to Article VII, Section 10(D)(2) of the Constitution of Louisiana.

17 (2) For return to taxpayers as a nonrefundable state income tax credit, in
18 accordance with the provisions of Chapter 5 of Subtitle VII of Title 47 of the
19 Louisiana Revised Statutes of 1950.

20 F. The limit calculated pursuant to the provisions of this Section shall not
21 apply to the appropriation of monies attributable to the incorporation of funds from
22 the Budget Stabilization Fund into the official forecast for the current fiscal year.

23 G. If in the fiscal year immediately prior to the fiscal year in which the limit
24 is being calculated, monies from the Budget Stabilization Fund were incorporated
25 into the official forecast for the immediately prior fiscal year and the official forecast
26 for the next fiscal year following the year in which the limit is being calculated
27 reflects growth in state general fund revenues relative to the fiscal year in which the
28 limit is being calculated, the limit for the next fiscal year may be increased by a
29 favorable vote of two-thirds of the elected members of each house. Such a change

1 to the limit shall be made pursuant to a concurrent resolution adopted by a favorable
2 vote of two-thirds of the elected members of each house which clearly states the
3 legislature's intent to change the limit.

4 H. For purposes of this Section, "state general fund and dedicated funds"
5 shall have the meaning provided in Article VII, Section 10 of the Constitution of
6 Louisiana.

7 I. The provisions of this Section shall not apply to or affect funds allocated
8 by Article VII, Section 4, Paragraphs (D) and (E) of the Constitution of Louisiana.

9 * * *

10 §34. Executive budget

11 * * *

12 C. The executive budget recommendations for appropriations shall not
13 exceed the lesser of the Louisiana Sustainability Limit or the expenditure limit for
14 the ensuing fiscal year.

15 * * *

16 §38. Additional proposals

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18 B. Any proposal by the governor to exceed the expenditure limit or
19 Louisiana Sustainability Limit shall be itemized by program and shall constitute a
20 submission by the governor separate and apart from the executive budget.

21 * * *

22 §54. Limitations on appropriations

23 * * *

24 C. ~~Appropriations~~ Except as provided in R.S. 39.33(F), appropriations by the
25 legislature from the state general fund and dedicated funds for any fiscal year shall
26 not exceed the lesser of the Louisiana Sustainability Limit or the expenditure limit.

27 * * *

28 Section 3. Chapter 5 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of
29 1950, comprised of R.S. 47:6361 through 6364, is hereby enacted to read as follows:

1 CHAPTER 5. EXCESS COLLECTIONS REBATE2 §6361. Excess Revenues Return Fund

3 There is hereby established in the state treasury, as a special fund, the Excess
4 Revenues Return Fund, referred to in this Section as the "return fund". Monies in
5 the fund shall be used to offset any decrease in fiscal year revenue collections due
6 to use of amounts above the Louisiana Sustainability Limit for a nonrefundable state
7 income tax credit. Any unobligated balance in the return fund on July 30 of any year
8 shall be transferred to the state general fund on that date.

9 §6362. Authorization of tax credit

10 A. In order to grant a nonrefundable state income tax credit from all or a
11 portion of revenues collected in excess of the Louisiana Sustainability Limit, the
12 legislature shall pass a concurrent resolution which clearly states both the intent to
13 grant the tax credit and the total amount of revenue to be offset by the credit. Any
14 credit authorized pursuant to this Chapter shall be a nonrefundable credit against
15 individual income tax liability. If the tax credit earned pursuant to this Chapter
16 exceeds the total tax liability of a taxpayer in the taxable year, the amount of the
17 credit not used as an offset against the taxpayer's tax liability in the taxable year may
18 be carried forward as a credit against subsequent income tax liabilities for a period
19 not to exceed three taxable years.

20 B. In order to mitigate the impact on ensuing fiscal year state revenue
21 collections, if funds in excess of the Louisiana Sustainability Limit in the current
22 fiscal year are to be offset by a credit, the legislature shall deposit into the Excess
23 Revenues Return Fund from such revenues an amount equal to the amount specified
24 in the legislative instrument to be offset by the credit.

25 §6363. Definitions; certification of qualified individuals

26 A. For the purposes of this Chapter, the following terms shall have the
27 following meanings, unless context clearly indicates a different meaning:

28 (1)(a) "Qualified individual" means:

1 (i) A natural person who was domiciled in Louisiana for the entire taxable
2 year preceding the year in which the return fund monies are distributed and who has
3 state income tax liability for that year.

4 (ii) A natural person who was domiciled in Louisiana from January first of
5 the year preceding the year in which the return fund monies are distributed through
6 the date of his death and whose estate files a state income tax return for that year.

7 (b) The term "qualified individual" shall not include a natural person who
8 was incarcerated for a total of one hundred eighty days or more during the taxable
9 year preceding the year in which the return fund monies are distributed.

10 (2) "Louisiana Sustainability Limit" means the limit established pursuant to
11 R.S. 39:33.3.

12 B. No later than the first September first following the effective date of a
13 legislative instrument which clearly states both the intent to grant a one-time tax
14 credit and the total amount of revenue to be offset by such credit, the Secretary of the
15 Department of Revenue shall submit to the Joint Legislative Committee on the
16 Budget a calculation of the amount that would be due to each qualified individual if
17 the money were distributed on a pro rata basis. Such calculation shall be made by
18 dividing the total amount of revenue to be offset by the credit by the total number of
19 qualified individuals as of the immediately prior tax year. The Joint Legislative
20 Committee on the Budget shall certify the calculation before any such credit may be
21 claimed.

22 C.(1) If the result of the certified calculation performed pursuant to
23 Subsection B of this Section is an amount less than or equal to fifteen dollars, each
24 qualified individual filing a state income tax return for the taxable year in which the
25 calculation was performed shall receive a one-time nonrefundable income tax credit
26 equal to the certified amount. For any two qualified individuals filing a joint return,
27 the amount of the one-time nonrefundable income tax credit shall be double the
28 certified amount.

1 (2) If the result of the certified calculation performed pursuant to Subsection
2 B of this Section is an amount greater than fifteen dollars, the one-time
3 nonrefundable state income tax credit shall be awarded to an individual filer as
4 follows:

5 (a) If the qualified individual's adjusted gross income for the taxable year in
6 which the calculation was performed is less than or equal to twenty-five thousand
7 dollars, the credit shall be an amount equal to twenty-five percent of the certified
8 amount.

9 (b) If the qualified individual's adjusted gross income for the taxable year in
10 which the calculation was performed is greater than twenty-five thousand dollars and
11 less than fifty thousand dollars, the credit shall be an amount equal to twenty-three
12 percent of the certified amount.

13 (c) If the qualified individual's adjusted gross income for the taxable year in
14 which the calculation was performed is equal to or greater than fifty thousand dollars
15 and less than seventy-five thousand dollars, the credit shall be an amount equal to
16 nineteen percent of the certified amount.

17 (d) If the qualified individual's adjusted gross income for the taxable year in
18 which the calculation was performed is equal to or greater than seventy-five
19 thousand dollars and less than one hundred thousand dollars, the credit shall be an
20 amount equal to twelve percent of the certified amount.

21 (e) If the qualified individual's adjusted gross income for the taxable year in
22 which the calculation was performed is equal to or greater than one hundred
23 thousand dollars and less than one hundred twenty-five thousand dollars, the credit
24 shall be an amount equal to eleven percent of the certified amount.

25 (f) If the qualified individual's adjusted gross income for the taxable year in
26 which the calculation was performed is equal to or greater than one hundred twenty-
27 five thousand dollars, the credit shall be an amount equal to ten percent of the
28 certified amount.

1 (3) If the result of the certified calculation performed pursuant to Subsection
2 B of this Section is an amount greater than fifteen dollars, the nonrefundable state
3 income tax credit awarded to two qualified individuals filing a joint return shall be
4 an amount equal to double the credit awarded pursuant to Paragraph (2) of this
5 Subsection for their aggregate adjusted gross income.

6 §6364. Implementation and administration

7 The secretary of the Department of Revenue may promulgate rules in
8 accordance with the Administrative Procedure Act, including emergency rules, as are
9 necessary to implement the provisions of this Chapter.

10 Section 4. Notwithstanding any provision of this Act to the contrary, the Louisiana
11 Sustainability Limit for the 2024-2025 Fiscal Year shall be the actual appropriations from
12 the state general fund and dedicated funds for Fiscal Year 2022-2023.

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 417 Original

2023 Regular Session

Geymann

Abstract: Beginning with Fiscal Year 2024-2025, establishes the La. Sustainability Limit (limit) to restrict the growth in the total amount of state general fund and dedicated fund monies the legislature may appropriate in any fiscal year to the 10-year average percentage rate of change in the state's gross domestic product (GDP) and provides for uses of any recognized revenues above the La. Sustainability Limit and below the expenditure limit.

Present constitution requires the legislature to provide for the determination of an expenditure limit for each fiscal year state general fund and dedicated fund appropriations.

Proposed law establishes the limit for Fiscal Year 2024-2025 and for each fiscal year thereafter to restrict the growth in the total amount of state general fund and dedicated fund monies the legislature may appropriate in any fiscal year. Further provides that the initial limit shall be the actual appropriations from the state general fund and dedicated funds for Fiscal Year 2022-2023. Thereafter, the limit shall be calculated by applying a growth factor to the actual appropriations from the state general fund and dedicated funds for the immediately prior fiscal year, except for appropriations authorized by proposed law in excess of the limit, as detailed below. Establishes the "growth factor" as the 10-year average percentage rate of change in the state's GDP, as defined and reported by the U.S. Dept. of Commerce or its successor agency, for the 10 fiscal years immediately preceding the fiscal year in which the limit is being calculated.

Proposed law further requires that if the La. Sustainability Limit calculated for any fiscal year exceeds the expenditure limit calculated for the same fiscal year, the La. Sustainability Limit shall be equal to the expenditure limit for that fiscal year. Additionally provides that

if the legislature lowers the expenditure limit in a fiscal year and the resulting limit is lower than the La. Sustainability Limit for that fiscal year, the La. Sustainability Limit for that fiscal year is automatically lowered to equal the expenditure limit set by the legislature.

Proposed law provides that recurring revenue amounts recognized in the official forecast above the La. Sustainability Limit and below the expenditure limit may only be appropriated for the following:

- (1) Any purpose for which nonrecurring revenue may be appropriated pursuant to present constitution (Art. VII, Sec. 10(D)(2)), including but not limited to: payments against the unfunded accrued liability of public retirement systems, capital outlay projects in the comprehensive state capital budget, deposit into the Budget Stabilization Fund, and deposit into the Coastal Protection and Restoration Fund.
- (2) Providing a one-time nonrefundable tax credit against individual income tax liability, as provided by proposed law.

Proposed law provides that the limit does not apply to the appropriation of funds from the Budget Stabilization Fund incorporated into the official forecast for the current fiscal year. Further authorizes the legislature to raise the limit for the ensuing fiscal year if all of the following conditions are met:

- (1) In the immediately prior fiscal year, monies from the Budget Stabilization Fund were incorporated into the official forecast for that fiscal year.
- (2) The official forecast for the ensuing fiscal year reflects growth in state general fund revenues relative to the current fiscal year.

Requires any change to the limit be approved by passage of a concurrent resolution by a 2/3 vote of the legislature, which resolution clearly states the legislature's intent to change the limit.

For purposes of proposed law, defines the term "state general fund and dedicated funds" to have the same meaning as present constitution (Art. VII, Sec.10).

Further provides that present law does not apply to or affect funds allocated by present constitution (Art. VII, Sec. 4(D) and (E)).

Present law (R.S. 39:34) prohibits the executive budget recommendations for appropriations from exceeding the expenditure limit for the ensuing fiscal year. Proposed law prohibits the recommendations for appropriations from exceeding the lesser of the La. Sustainability Limit or the expenditure limit.

Present law (R.S. 39:38) requires any proposal by the governor to exceed the expenditure limit to be itemized by program and to constitute a submission by the governor separate and apart from the executive budget. Proposed law provides that any proposal by the governor to exceed the expenditure limit or the La. Sustainability Limit shall constitute a separate submission from the executive budget.

Present law (R.S. 39:54) prohibits appropriations by the legislature from the state general fund and dedicated funds for any fiscal year from exceeding the expenditure limit. Proposed law prohibits appropriations by the legislature from the state general fund and dedicated funds for any fiscal year from exceeding lesser of the La. Sustainability Limit or the expenditure limit.

Proposed law (R.S. 47:6361 et seq.) establishes the Excess Revenues Return Fund (fund) and the mechanism for calculating any tax credit awarded pursuant to proposed law.

Proposed law establishes the fund in the state treasury and requires unencumbered monies in the fund on July 30 each year to be deposited into the state general fund. Monies in the fund are to be used to offset any decrease in ensuing fiscal year revenue collections due to use of current year amounts above the limit for tax credits

Proposed law establishes the requirements for authorization of a tax credit to offset excess revenue collections above the limit. Requires the legislature to pass a concurrent resolution which clearly states both the intent to grant the tax credit and the total amount of revenue to be offset by a credit. Further requires any credit authorized pursuant to proposed law to be a nonrefundable credit against individual income tax liability. Requires the legislature to deposit into the fund an amount equal to the amount to be offset by the authorized tax credits *if* current fiscal year excess revenues are the justification for the credit.

Proposed law defines "qualified individual" for the purposes of proposed law as follows:

- (1) A natural person who was domiciled in Louisiana for the entire taxable year preceding the year in which the return fund monies are distributed and who has state income tax liability for that year.
- (2) A natural person who was domiciled in Louisiana from January first of the year preceding the year in which the return fund monies are distributed through the date of his death and whose estate files a state income tax return for that year.

Proposed law further provides that the term "qualified individual" does not include a natural person who was incarcerated for a total of one hundred eighty days or more during the taxable year preceding the year in which the return fund monies are distributed.

Proposed law requires the Secretary of the Department of Revenue, no later than the first Sept. 1 following the passage of a legislative instrument evidencing intent to grant a tax credit pursuant to proposed law, to submit to the Joint Legislative Committee on the Budget a calculation of the amount that would be due to each qualified individual if the money were distributed on a pro rata basis. Requires such calculation to be made by dividing the total amount of revenue to be offset by the credit by the total number of qualified individuals as of the immediately prior tax year. Requires the Joint Legislative Committee on the Budget to certify the calculation before any credit may be claimed.

If the result of the certified calculation is an amount less than or equal to fifteen dollars, proposed law provides that each qualified individual filing a state income tax return for the taxable year in which the calculation was performed shall receive a nonrefundable income tax credit equal to the certified amount. If two qualified individuals file a joint return, provides that the amount of the nonrefundable income tax credit shall be double the certified amount.

If the result of the certified calculation is an amount greater than fifteen dollars, proposed law provides that the nonrefundable state income tax credit shall be awarded to an individual filer as follows:

- (1) If the qualified individual's adjusted gross income for the taxable year in which the calculation was performed is less than or equal to \$25,000, the credit shall be an amount equal to 25% of the certified amount.
- (2) If the qualified individual's adjusted gross income for the taxable year in which the calculation was performed is greater than \$25,000 and less than \$50,000, the credit shall be an amount equal to 23% of the certified amount.
- (3) If the qualified individual's adjusted gross income for the taxable year in which the calculation was performed is equal to or greater than \$50,000 and less than \$75,000, the credit shall be an amount equal to 19% of the certified amount.

- (4) If the qualified individual's adjusted gross income for the taxable year in which the calculation was performed is equal to or greater than \$75,000 and less than \$100,000, the credit shall be an amount equal to 12% of the certified amount.
- (5) If the qualified individual's adjusted gross income for the taxable year in which the calculation was performed is equal to or greater than \$100,000 and less than \$125,000, the credit shall be an amount equal to 11% of the certified amount.
- (6) If the qualified individual's adjusted gross income for the taxable year in which the calculation was performed is equal to or greater than \$125,000, the credit shall be an amount equal to 10% of the certified amount.

Proposed law further provides that if the result of the certified calculation is an amount greater than \$15.00, the nonrefundable state income tax credit awarded to two qualified individuals filing a joint return shall be an amount equal to double the credit awarded pursuant to proposed law according to their aggregate adjusted gross income.

Proposed law authorizes the secretary of the Department of Revenue to promulgate rules in accordance with the Administrative Procedure Act, including emergency rules, as are necessary to implement the provisions of proposed law.

(Amends R.S. 39:34(C), 38(B), and 54(C); Adds R.S. 39:33.3 and R.S. 47:6361-6364)