The original instrument was prepared by Leonore Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Curry J. Lann.

DIGEST 2020 Regular Session

Allain

SB 334 Engrossed

<u>Present law</u> establishes separate penalties for the failure to make timely return and for the failure to pay full amount of tax due shown on the return.

<u>Proposed law</u> retains <u>present law</u> failure to file and failure to pay penalties and provides for a reduced penalty when the taxpayer fails to pay the full amount due that was required to be shown on the return at the rate of $\frac{1}{2}$ of $\frac{1}{6}$ instead of $\frac{5}{6}$ per month.

<u>Proposed law retains present law maximum of 25% of the tax for the combined failure to file and failure to pay penalties.</u>

Present law provides for penalties for fraud, negligence, and large tax deficiencies of 25% or more.

Proposed law changes the penalty rates for fraud, negligence, and large tax deficiencies as follows:

- (1) Fraud (R.S. 47:1604), from 50% to 75% of deficiency.
- (2) Negligence (R.S. 47:1604.1(A)), from 10% to 20% of deficiency.
- (3) Large individual tax deficiency (R.S. 47:1601.1(B)), <u>from</u> a maximum of 20% <u>to</u> 10% of deficiency.
- (4) Other large tax deficiency (R.S. 47:1601.1(C)), from a maximum of 20% to 10% of deficiency.

<u>Proposed law</u> defines negligent failure as any failure to make a reasonable attempt to comply with the tax laws of this state or a careless or reckless disregard for the tax laws of the state.

<u>Proposed law</u> creates a presumption of negligent failure where there is an understatement of tax liability of 10% or more and there is no indication of willful disregard of the state's tax laws.

<u>Present law</u> defines willful as "voluntarily and intentionally acting in violation of the tax laws of this state." <u>Proposed law</u> retains <u>present law</u> and adds a presumption of willful intent to disregard in any instance where a taxpayer fails to timely remit tax withheld or collected.

<u>Proposed law</u> authorizes an additional penalty for willful disregard of the state's tax laws of 40% of the deficiency.

<u>Proposed law</u> provides that beginning July 1, 2020, an amount equal to 1% of the state sales, corporation income and franchise, and individual income taxes and interest collected by or on behalf of the Dept. of Revenue (DOR) shall be designated as self-generated revenue of the department.

<u>Proposed law</u> requires, with respect to penalties collected by DOR, that from July 1, 2020, and thereafter, 100% of penalties be deposited into the state general fund.

Proposed law provides that DOR will retain any compensatory fees and expenses they collect.

<u>Proposed law</u> requires the self-generated revenues to be used by DOR for the administration and collection of taxes and for operation of the department, subject to appropriation by the legislature.

<u>Proposed law</u> requires that beginning July 1, 2020, any collection action taken by the secretary shall apply the penalties provided for in this Act for all tax periods.

<u>Proposed law</u> prohibits refunds of penalties paid before the effective date of this Act if the claim for refund is that no penalties would be due under the provisions of this Act.

<u>Present law</u> provides for interest on unpaid taxes at three percentage points above the judicial interest rate and interest on refunds of overpaid taxes at the judicial interest rate.

<u>Proposed law</u> equalizes the interest rates on refunds and unpaid taxes by increasing the interest rate on refunds to three points above the judicial interest rate beginning Jan. 1, 2021.

<u>Proposed law</u> suspends the accrual of interest during any period of time that a delay in the issuance of a refund is attributable to the taxpayer's failure to provide information or documentation required by statute or regulation.

Effective July 1, 2020.

(Amends R.S. 47:1602(A)(4), 1603(A)(1), 1604, 1604.1, and 1624(A)(1) and (2)(b); adds R.S. 47:1602(A)(5), 1608, and 1624(F))

Summary of Amendments Adopted by Senate

<u>Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to</u> the original bill

- 1. Adds presumption of willful intent to disregard in any instance where a taxpayer fails to timely remit tax withheld or collected.
- 2. Suspends the accrual of interest during any period of time that a delay in the issuance of a refund is attributable to the taxpayer's failure to provide information or documentation required by statute or regulation.

3.	Makes technical corrections to the interest rate of certain severance taxes.