The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

CONFERENCE COMMITTEE REPORT DIGEST

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Senate Bill No. 37 by Senator Gary Smith

TAX/TAXATION. Limits until FY2017-2018 granting or allowing of state tax expenditures and payments from current tax collection accounts to the amount of such expenditures granted or allowed in FY2012-2013, adjusted for inflation, and provides for pro rata reductions and other reductions authorized by Revenue and Fiscal Affairs and Ways and Means. (gov sig)

Report rejects House amendments which would have:

1. Placed the same $10 million limit on, and the requirement of the taxpayer to certify his election of, a net operating loss carryback in the companion provision of law in the bill.

Report amends the bill to:

1. Changes the bill to delete the net operating loss deduction tax expenditure and instead limits granting or allowing of state tax expenditures and payments from current tax collection accounts to the amount of such expenditures granted or allowed in Fiscal Year 2012-2013, adjusted for inflation, and provides for pro rata reductions and other reductions authorized by Revenue and Fiscal Affairs and Ways and Means, as set forth below.

Digest of the bill as proposed by the Conference Committee

Proposed law requires the legislative fiscal office [LFO], after the end of each fiscal year occurring after FY2012-2013 until FY2017-2018, to determine whether "state tax expenditures" which "directly or indirectly reduce income tax liability" granted or allowed during the fiscal year ended exceeded the "baseline of state tax expenditures for Fiscal Year 2012-2013."

"State tax expenditure" is defined as a tax exemption, exclusion, deduction, rebate, incentive, abatement, credit, or any other reduction of any state tax liability regardless of how titled or designated, or any provision of law which provides for a rebate or other payment to a recipient from the current collections account of any tax of the state other than an "ordinary refund"."Ordinary refund" is defined as a payment to a taxpayer which is a refund of all or a portion of a payment made by the taxpayer under a withholding or estimated payment requirement which is in excess of the amount of the tax liability of the taxpayer.

"Baseline of state tax expenditures granted or allowed for Fiscal Year 2012-2013" is defined as the total aggregate amount by which state tax liabilities were reduced and of rebates or other payments made from the current tax collections account of any tax of the state for FY2012-2013, other than an "ordinary refund", reasonably adjusted each fiscal year for inflation. The baseline is required to be determined according to a calculation of the LFO which is approved by the "legislative tax committees" in an open, public meeting. However, in such meeting the "legislative tax committees", by a favorable vote of three fourths of the total membership of each of the committees, may increase or decrease the baseline because of possible adverse effects on the economy of the state, unanticipated growth or decline in revenue or economic activity, disasters or emergencies, or any other reasons which the committees find warrant such action.

"Legislative tax committees" is defined as the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

Proposed law provides that if the LFO concludes that such expenditures did exceed such baseline, it must provide written notification of such determination to the "legislative tax committees" and of the amount of the excess over such baseline. Authorizes the legislative tax committees to approve such determination at an open, public meeting or meetings.

If the "legislative tax committees" approve the determination, all "statutory" "state tax expenditures" must be reduced during the fiscal year following the fiscal year in which the determination is made in an amount which will reasonably likely avoid exceeding the baseline in that next fiscal year and subsequent fiscal years. "Statutory state tax expenditures" is defined as any "state tax expenditures" not required by the La. or U.S. Constitutions or by federal law.

The reduction in the next fiscal year must be accomplished by either, both, or a combination of the following:

1. A pro rata reduction of such "statutory state tax expenditures".

2. The "legislative tax committees" may at such open, public meeting modify or eliminate such "statutory state tax expenditures" which the legislative tax committees finds are underperforming, unexpectedly expensive, or otherwise unnecessary.

Once the reduction is determined by the "legislative tax committees", written notification of such determination is to be provided to the Department of Revenue [DOR] or any other state agency which grants or allows "state tax expenditures".

Proposed law requires the DOR or other state agency to grant, or allow a claim on a return filed, only the amount or proportion of "statutory state tax expenditures" authorized by the written notification from the legislative tax committees.

Proposed law requires the determination of whether the baseline is exceeded to be made for each fiscal year until FY2017-2018 and "statutory state tax expenditures" shall, if necessary, be reduced in the following fiscal year if the baseline is exceeded in the fiscal year for which the calculation is made.

Proposed law defines "directly or indirectly reduces income tax liability" as a "state tax expenditure" which will have the effect of either directly reducing state income tax liability or of providing funds for the payment of such liability.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:13)