CONFERENCE COMMITTEE REPORT

HB 624 **2015 Regular Session** **Jackson**

June 11, 2015

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 624 by Representative Jackson, recommend the following concerning the Engrossed bill:

1. That Senate Committee Amendments Nos. 1 through 13 proposed by the Senate Committee on Finance and adopted by the Senate on June 4, 2015, be adopted.

2. That Senate Committee Amendments Nos. 14 and 15 proposed by the Senate Committee on Finance and adopted by the Senate on June 4, 2015, be rejected.

3. That the set of Senate Floor Amendments proposed by Senator Adley and adopted by the Senate on June 6, 2015, be rejected.

4. That the Engrossed bill be amended as follows:

AMENDMENT NO. 1

In Senate Committee Amendment No. 12 proposed by the Senate Committee on Finance and adopted by the Senate on June 4, 2015, on page 1, at the end of line 27, delete "(1) There" and insert "(1) There"

AMENDMENT NO. 2

On page 3, at the beginning of line 8, delete "Eighty" and insert "Seventy-two"

AMENDMENT NO. 3

On page 3, at the end of line 18, delete "eighteen" and insert "fifteen and eight-tenths of one"

AMENDMENT NO. 4

On page 3, line 22, after "exceed" and before "percent" delete "forty" and insert "thirty-six"

AMENDMENT NO. 5

On page 3, at the beginning of line 28, delete "four" and insert "three and six-tenths of one"

AMENDMENT NO. 6

On page 3, at the beginning of line 29, delete "twelve" and insert "ten and eight-tenths of one"

AMENDMENT NO. 7

On page 4, at the beginning of line 1, delete "eighteen" and insert "fifteen and eight-tenths of one"

AMENDMENT NO. 8

On page 4, line 2, after "equal to" and before "any" delete "eighty percent of" and insert "seventy-two percent of"

AMENDMENT NO. 9

On page 4, line 4, after "exceed" and before "of the net" delete "forty percent" and insert "thirty-six percent"

AMENDMENT NO. 10

On page 4, line 24, change "eighty" to "seventy-two"

AMENDMENT NO. 11

On page 5, line 4, change "Eighty" to "Seventy-two"

AMENDMENT NO. 12

On page 5, line 8, change "Eighty" to "Seventy-two"

AMENDMENT NO. 13

On page 5, line 13, change "Eighty" to "Seventy-two"

AMENDMENT NO. 14

On page 5, line 24, change "Eighty" to "Seventy-two"

AMENDMENT NO. 15

On page 6, line 4, change "eighty" to "seventy-two"

AMENDMENT NO. 16

On page 6, line 26, change "eighty" to "seventy-two"

AMENDMENT NO. 17

On page 7, line 1, change "Eighty" to "Seventy-two"

AMENDMENT NO. 18

On page 7, line 9, change "eighteen" to "fifteen and eight-tenths of one"

AMENDMENT NO. 19

On page 7, line 11, change "eighty" to "seventy-two"

AMENDMENT NO. 20

On page 7, line 12, change "forty" to "thirty-six"

AMENDMENT NO. 21

On page 7, delete lines 27 through 29 in their entirety and insert the following:

"Section 3. R.S. 47:51, 158(C) and (D), 246(A), 287.71(B)(2), (3), and (6), 287.73(C)(4), 287.86(A)(introductory paragraph), 287.738(F)(1) and (G), and 287.745(B) are hereby enacted to read as follows:

§51. Exclusions from gross income; governmental subsidies

Funds accrued by a corporation engaged in operating a public transportation system from any federal, state or municipal governmental entity to subsidize the operation and maintenance of such a transportation system shall not be included in gross income and shall be exempt from taxation under this Chapter. All expenses of operating the transit system incurred by the corporation shall be deductible in arriving at net income.

* * *

§158. Basis for depletion

* * *

C. Percentage depletion for oil and gas wells. In the case of oil and gas wells the allowance for depletion under R.S. 47:66 shall be twenty-two percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed fifty percent of the net income of the taxpayer, computed without allowance for depletion, from the property except that in no case shall the depletion allowance under R.S. 47:66 be less than it would be if computed without reference to this Subsection.

D. Percentage depletion for coal and metal mines and sulphur. The allowance for depletion under R.S. 47:66 shall be, in the case of coal mines, five percent, in the case of metal mines, fifteen percent, and in the case of sulphur mines or deposits, twenty-three percent, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed fifty percent of the net income of the taxpayer, computed without allowance for depletion, from the property. A taxpayer making his first return under this Chapter or under Act 21 of 1934 in respect of a property, shall state whether he elects to have the depletion allowance for such property for the taxable year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of such property for such year and all succeeding taxable years shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for all taxable years shall be computed without reference to percentage depletion. This Subsection shall not be construed as granting a new election to any taxpayer relative to any property with respect to which he has filed a return under Act 21 of 1934.

* * *

§246. Corporations; deduction from net income from Louisiana sources

A. Subject to the limitations provided herein, there shall be deducted from any net income from Louisiana sources determined under the provisions of R.S. 47:241 of a corporation for any year following the close of the first taxable year which commenced on or after January 1, 1979, the amount of net Louisiana loss incurred in a preceding year determined as provided in Subsection B of this Section.

* * *

§287.71. Modifications to federal gross income

* * *

B. There shall be subtracted from gross income determined under federal law, unless already excluded therefrom, the following items:

*   *   *

(2) Funds accrued by a corporation engaged in operating a public transportation system from any federal, state, or municipal governmental entity to subsidize the operation and maintenance of such a transportation system.

(3) Refunds of Louisiana corporation income tax received during the taxable year.

*   *   *

(6) Amounts received as dividend income from banking corporations organized under the laws of Louisiana, from national banking corporations doing business in Louisiana, and from capital stock associations whose stock is subject to ad valorem taxation.

*   *   *

§287.73. Modifications to deductions from gross income allowed by federal law

*   *   *

C. Additions. The following items are declared allowable as deductions in the computation of net income and shall be added to the deductions allowed under federal law to the extent not already included therein:

*   *   *

(4) Expenses disallowed by I.R.C. Section 280(C). Expenses which would otherwise be deductible under federal law, but for the disallowance provisions of I.R.C. Section 280(C), relative to certain expenses for which credits are allowable.

*   *   *

§287.86. Net operating loss deduction

A. Deduction from Louisiana net income. Except as otherwise provided, there shall be allowed for the taxable year an adjustment reducing Louisiana net income in an amount equal to the aggregate of:

*   *   *

§287.738. Other inclusions and exclusions from gross income

*   *   *

F. Deduction for interest and dividends.

(1) Effective for taxable years beginning after December 31, 2005, there shall be allowed for each taxable year a deduction equal to the amount of dividends that would otherwise be included in gross income.

*   *   *

G. Deduction for hurricane recovery benefits. Any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery entity as defined in R.S. 47:293 shall be allowed as a deduction if such benefit was included in federal adjusted gross income.

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§287.745. Deductions from gross income; depletion

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B. In the case of oil and gas wells, the percentage depletion provided for in Subsection A shall be twenty-two percent of gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed fifty percent of the net income of the taxpayer, computed without allowance for depletion, from the property. In determining net income from the property, federal income taxes shall be considered an expense.

Section 4. R.S. 51:3092 is hereby enacted to read as follows:

§3092. Corporation income and franchise tax exemption

Notwithstanding any other provision of law to the contrary, any corporation that is a LCDFI as provided for in this Chapter shall be exempt from the corporation income tax and the corporation franchise tax levied pursuant to Title 47 of the Louisiana Revised Statutes of 1950 for five consecutive taxable periods. The exemption from the corporation income tax shall commence with the taxable period in which the capital company is certified by the commissioner. The exemption from the corporation franchise tax shall commence with the taxable period next following the taxable period in which certification as a LCDFI is obtained from the commissioner.

Section 5.(A) Except as provided for in Subsection (B) of this Section, the provisions of Sections 1 and 2 of this Act shall apply to an exclusion from taxable income and a claim for a deduction made on a return filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

(B) The provisions of Sections 1 and 2 of this Act shall not apply to an amended return filed on or after July 1, 2015, relating to an exclusion from taxable income or a claim for a deduction properly claimed on an original return filed prior to July 1, 2015.

(C) If a return is filed after July 1, 2015, for which a valid filing extension has been allowed prior to July 1, 2015, then any portion of an exclusion or deduction disallowed by the provisions of Sections 1 or 2 of this Act shall be allowed as an exclusion or a deduction in the amount of one-third of the disallowed portion of the exclusion or deduction on the taxpayer's return for each of the taxable years beginning during calendar years 2017, 2018, and 2019.

Section 6. The provisions of Sections 1 and 2 of this Act shall become effective on July 1, 2015, and shall remain effective through June 30, 2018. The provisions of Sections 3 and 4 of this Act shall become effective on July 1, 2018.

Section 7. The provisions of Sections 6 and 7 of this Act shall become effective on July 1, 2015."

Respectfully submitted,

Representative Katrina Jackson	Senator Jack Donahue
Representative Joel C. Robideaux	Senator Robert Adley
Speaker Charles E. "Chuck" Kleckley	Senator Neil Riser

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)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 624 **2015 Regular Session** **Jackson**

Keyword and oneliner of the instrument as it left the House

TAX/CORP INCOME: Reduces the amount of certain corporate income tax exclusions and deductions

Report adopts Senate amendments to:

1. Delete provisions relative to the credit union exclusion, foreign bank exclusion, electric cooperative exclusion, the exclusion and deduction for interest from state obligations, and the Subchapter S deduction from proposed law.

Report rejects Senate amendments which would have:

1. Added a provision that authorizes a deduction against a taxpayer's 2017, 2018, and 2019 return for any exclusion or deduction not allowed by proposed law on returns filed after July 1, 2015 pursuant to a filing extension that was granted prior to July 1, 2015.

2. Added a provision that the Act is not applicable to amended returns timely filed on or after July 1, 2015, relating to an original return that was filed on or prior to July 1, 2015 and properly claimed an exemption, credit, rebate, or deduction.

3. Added effective date of July 1, 2015.

4. Made technical changes.

Report amends the bill to:

1. Increase the reduction in proposed law from 20% to 28%.

2. Add an applicability provision that prohibits the Act from applying to an amended return filed on or after July 1, 2015, relating to an exclusion from taxable income or a claim for a deduction properly claimed on an original return filed prior to July 1, 2015.

3. Provide that if a return is filed after July 1, 2015, for which a valid filing extension has been allowed prior to July 1, 2015, then any portion of an exclusion or deduction disallowed by the provisions of Sections 1 or 2 of this Act shall be allowed as an exclusion or a deduction in the amount of one-third of the disallowed portion of the exclusion or deduction on the taxpayer's return for each of the taxable years beginning during calendar years 2017, 2018, and 2019.

4. Add effective date of July 1, 2015 for provisions of proposed law relative to the reduction of deductions and exclusions and sunset the reduction on June 30, 2018.

Digest of the bill as proposed by the Conference Committee

Present law (R.S. 47:51) excludes from corporation gross income any funds received by a corporation from a governmental entity to subsidize the operation and maintenance of a public transportation system.

Proposed law retains present law but reduces the exclusion from any funds received to 72% of the funds received by a corporation.

Present law (R.S. 47:158) provides an additional deduction in determining net income for oil and gas depletion. The deduction equals 22% of gross income from the property, excluding any rents or royalties paid or incurred by the taxpayer due to the property. The deduction is further limited to 50% of the net income from the property calculated without the deduction for depletion.

Proposed law retains present law but reduces the deduction from 22% of the gross income from the property during the taxable year, excluding any rents or royalties, to 15.8% of the gross income from the property during the taxable year, excluding 72% of rents or royalties. Further reduces allowable deduction from an amount not to exceed 50% of the net income of the taxpayer to an amount not to exceed 36% of the net income.

Present law (R.S. 47:246) provides a deduction for net operating loss of a corporation. The amount of the deduction is equal to the amount of the net operating loss.

Proposed law retains present law but reduces the amount of the deduction from the entire amount of the net operating loss to 72% of the net operating loss.

Present law (R.S. 47:287.71) excludes from corporation gross income any funds received by a corporation from a governmental entity to subsidize the operation and maintenance of a public transportation system.

Proposed law retains present law but reduces the exclusion from any funds received to 72% of the funds received by a corporation.

Present law (R.S. 47:287.73) provides for a deduction from corporate income tax any expenses disallowed under I.R.C. Section 280C. Further requires a taxpayer who elects to claim certain credits that are based on an expense to reduce the federal deduction for the expense by the dollar amount of the credit claimed.

Proposed law retains present law but reduces the amount of the deduction from disallowed expenses to 72% of disallowed expenses.

Present law (R.S. 47:287.86) provides a deduction from corporate income for the amount of the net operating loss incurred in La.

Proposed law retains present law but reduces the amount of the deduction from the entire amount of the net operating loss to 72% of the net operating loss.

Present law (R.S. 47:287.738) authorizes a deduction from gross income of an amount equal to interest and dividend income included on the federal income tax return.

Proposed law retains present law but reduces the deduction from the amount of interest and dividend income to 72% of the interest and dividend income.

Present law (R.S. 47:287.745) provides an additional deduction in determining net income for oil and gas depletion. The deduction is 22% of gross income from the property, excluding any rents or royalties paid or incurred by the taxpayer due to the property. The deduction is further limited to 50% of the net income from the property calculated without the deduction for depletion.

Proposed law retains present law but reduces the deduction from 22% of the gross income from the property during the taxable year, excluding any rents or royalties, to 15.8% of the gross income from the property during the taxable year, excluding 72% of rents or royalties. Further reduces allowable deduction from an amount not to exceed 50% of the net income of the taxpayer to an amount not to exceed 36% of the net income.

Present law (R.S. 51:3092) exempts from corporation income and franchise taxes, certain La. Community Development Financial Institutions for 5 consecutive taxable periods, commencing with the taxable period in which the capital company is certified by the commissioner.

Proposed law retains present law but reduces the exemption from five consecutive taxable periods to four consecutive taxable periods.

Effective beginning July 1, 2015 and applicable for all exclusions from taxable income and all claims for deductions made on any return filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

Prohibits application to an amended return filed on or after July 1, 2015, relating to an exclusion from taxable income or a claim for a deduction properly claimed on an original return filed prior to July 1, 2015.

Provide that if a return is filed after July 1, 2015, for which a valid filing extension has been allowed prior to July 1, 2015, then any portion of an exclusion or deduction disallowed by the provisions of Sections 1 or 2 of this Act shall be allowed as an exclusion or a deduction in the amount of one-third of the disallowed portion of the exclusion or deduction on the taxpayer's return for each of the taxable years beginning during calendar years 2017, 2018, and 2019.

Provisions of proposed law relative to reducing the amount of the deductions and exclusions shall become effective July 1, 2015, and shall remain effective through June 30, 2018.

Effective July 1, 2015.

(Amends R.S. 47:51, 158(C) and (D), 246(A), 287.71(B)(2), (3), and (6), 287.73(C)(4), 287.86(A)(intro. para.), 287.738(F)(1) and (G), and 287.745(B), and R.S. 51:3092)