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

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## CONFERENCE COMMITTEE REPORT DIGEST

SB 161

2021 Regular Session

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### Keyword and summary of the bill as proposed by the Conference Committee

TAX/FRANCHISE/CORPORATE. Extends the termination date of the exemption from corporate franchise tax for small business corporations, reduces the rate of tax, and provides for the phase-out of the tax. (See Act)

### Report rejects House amendments which would have:

1. Changed the effective date.

### Report amends the bill to:

1. Change the sunset date of the suspension of the first tier of the tax for small business corporations to July 1, 2023.
2. Permanently eliminate the tax on the first \$300,000 of taxable capital for all taxpayers beginning Jan. 1, 2023.
3. Reduce the rate of tax on taxable capital in excess of \$300,000 from 3% to 2.75%.
4. Include a rate reduction trigger that will further reduce the franchise tax rate if certain tax revenue growth targets are met.
5. Provide an effective date for the rate reduction and rate reduction trigger that is contingent upon the adoption of the proposed constitutional amendment in House Bill No. 274 or Senate Bill No. 159 and the enactment of House Bill Nos. 278 and 292.

### Digest of the bill as proposed by the Conference Committee

Present law levies the corporation franchise tax on domestic and foreign corporations exercising their charter, qualified to do business, or actually doing business in the state. Corporation franchise tax is also levied on any domestic or foreign corporation owning or using any part of its capital, plant, or other property in Louisiana.

Present law suspends the corporation franchise tax on the first \$300,000 of taxable capital for small business corporations.

Present law defines "small business corporation" as an entity that is subject to the corporation franchise tax and that has taxable capital of \$1,000,000 or less.

Present law applies only to taxable periods beginning between July 1, 2020, and June 30, 2021.

Proposed law extends the suspension of the corporation franchise tax on the first \$300,000 of taxable capital for small business corporations for all franchise taxable periods beginning before July 1, 2023.

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

Present law provides that the franchise tax is levied at the following rates:

- (1) \$1.50 per \$1,000 of taxable capital, up to \$300,000.
- (2) \$3.00 per \$1,000 of taxable capital above \$300,000.

Proposed law eliminates the first bracket of the corporation franchise tax and provides that no tax will be due on the first \$300,000 of taxable capital for all taxpayers beginning Jan. 1, 2023.

Proposed law reduces the corporation franchise tax rate of \$3 per \$1,000 on taxable capital above \$300,000 to 2.75% beginning Jan. 1, 2023.

Proposed law provides for an automatic corporation franchise tax rate reduction in any year that corporation income and franchise tax collections exceed the fiscal year 2018-19 corporation income and franchise tax collections, adjusted annually by the growth factor in Article VII, Section 10(C) of the Constitution of Louisiana if both:

- (1) Overall state tax, license, and fee revenue has grown for the same period.
- (2) The Rainy Day Fund is funded at a minimum of 62.5% of its maximum.

Proposed law provides for the new tax rates under the automatic rate reduction trigger to be calculated by multiplying the current tax rate by the difference between one and the percentage change in corporation income and franchise tax collections in excess of the corporation income and franchise tax collections, compounded annually by the growth rate, for the 2018-19 fiscal year.

Effective if and when the proposed amendment of Article VII, Section 4(A) of the Constitution of Louisiana contained in the Act which originated as SB 159 or HB 274 of the 2021 RS is adopted at the statewide election to be held on October 9, 2021, and becomes effective and HB 278 and HB 292 are enacted and become law.

(Amends R.S. 47:601(A), 601.1(A)(1); adds R.S. 47:601(D) and 601.2)