AN ACT

To enact R.S. 51:3122, relative to the payroll incentive program; to establish a payroll incentive for certain businesses impacted by certain public health emergencies; to provide for the amount of the incentive; to provide for definitions; to provide for eligibility; to provide for requirements and limitations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 51:3122 is hereby enacted to read as follows:

§3122. Payroll Incentive Program for COVID-19-Impacted Businesses

A. For purposes of this Section, the following words shall have the following meanings unless the context clearly indicates otherwise:

(1) "Benefit rate" shall mean the rate for new jobs created by a COVID-19-impacted business that pay at least the federal minimum wage. The benefit rate for eligible businesses shall be six percent of the wages for each new job.

(2) "COVID-19-impacted business" means a for-profit corporation, a limited liability company, a partnership, or a sole proprietorship that satisfies all of the following criteria:

(a) The business is registered to do business in the state of Louisiana.

(b) The business is assigned a North American Industry Classification Code of 44, 45, or 72.

(c) The business had a physical and active operation in Louisiana on March 13, 2020.

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(d) The business is in good standing with the Secretary of State, if applicable.

(e) The business filed all applicable Louisiana state tax returns for tax year 2018 or 2019, or, for an eligible business formed on or after January 1, 2020, intends to file Louisiana taxes for tax year 2020.

(f) The business had no more than fifty full-time equivalent employees as of March 1, 2020.

(g) The business is not a subsidiary of a business with more than fifty full-time equivalent employees, is not part of a larger business enterprise with more than fifty full-time equivalent employees, and is not owned by a business with more than fifty full-time equivalent employees.

(h) The business filed an initial application with the department to be recognized as a COVID-19 impacted business on or before December 31, 2021, and included a hiring start date. Initial application for a COVID-19-impacted business may include a hiring start date that precedes the initial application filing date, but the hiring start date shall not be before March 13, 2020, nor shall it be after December 31, 2021.

(3) "Department" means the Department of Economic Development.

(4) "New jobs" shall mean employment with a COVID-19-impacted business where each employee satisfies all of the following criteria:

(a) The employee is employed by the COVID-19-impacted business at its place of operation in this state.

(b) The employee is a Louisiana resident.

(c) The employee's hire or rehire date is on or after May 15, 2020.

(d) The employee is paid, as a base wage, at least the federal minimum wage excluding tips, bonuses, and commissions.

B.(1) There is hereby established a rebate for any eligible COVID-19-impacted business that meets the requirements of this Section. The amount of the rebate shall be based on the benefit rate for each new job. In order to qualify for the rebate, the COVID-19-impacted business shall create a minimum of five new jobs.
between May 15, 2020, and December 31, 2021, and shall create a minimum new annual payroll from new jobs of at least forty thousand dollars before December 31, 2021. In order to determine the number of new jobs eligible for the rebate established pursuant to the provisions of this Section, the applicant's employment baseline shall be the total number of active full-time and part-time employees at the COVID-19-impacted business's place of operation that are Louisiana residents on May 14, 2020.

(2)(a) Initial rebate amounts shall be based on new jobs and annual payroll created between May 15, 2020 and December 31, 2021.

(b) A business shall be eligible for a rebate for each year that it maintains or exceeds the minimum required new jobs and annual payroll as provided in Paragraph (1) of this Subsection.

(3)(a) Payroll eligible for this rebate is limited to $500,000 per COVID-19 impacted business per calendar year.

(b) No COVID-19 impacted business shall receive a rebate pursuant to this Section for more than three years.

(c) No rebates shall be paid under this program for new jobs or payroll created after December 31, 2022.

C.(1)(a) The rebates authorized in this Section shall be paid annually after the business's has filed its application for annual rebate with the department, and the department has determined that the business is eligible for the rebate for that year.

(b) Businesses may file their annual rebate application at the end of the business's fiscal year or the date that the hiring and payroll thresholds provided in Subsection B are met, whichever is earlier.

(2) The application shall contain a sworn statement by a duly authorized officer of the business concerning with respect to the business's fiscal year:

(a) That the business remained a qualified COVID-19 impacted business under the provisions of this Section.

(b) The total number of and the gross payroll of the new jobs created.
(c) That the new jobs were not jobs retained following the acquisition of all
or part of an in-state business by the business.

(d) That the employees holding the new jobs were paid at least the applicable
federal minimum wage and were Louisiana residents.

(3) The department may request such additional information from the
business as may be necessary to determine whether the application is correct and
whether the business is eligible for the annual rebate for that year, or may request
that the business revise its application.

(4) Upon approval of the application for an annual rebate, the department
shall send a certification letter to the Department of Revenue for payment of the
rebate. The letter shall provide the name of the business and the amount of the
rebate. The Department of Revenue shall verify the tax return filing information
required by Paragraph (2) of Subsection A and may require the business to submit
any additional information as may be necessary to effect the payment of the rebate.
Payment shall be made from the current collections of the taxes imposed by Title 47
of the Louisiana Revised Statutes of 1950, as amended.

D. Recovery of rebates

(1) If a business receives a rebate pursuant to this Section and it is
subsequently determined that the business did not qualify for such rebate, the future
rebates issued to the business shall be reduced by the amount of such rebate monies
previously received by the business.

(2) If there are no future rebates from which to deduct the amount owed back
to the state, the tax liability of the business for the taxable period in which the
determination was made shall be increased by the amount of such rebate monies
previously received by the business.

(3) The secretary of the Department of Revenue may recover any rebates
previously granted to a business that are later disallowed as authorized by R.S.
47:1561.2.
E. A business shall not receive any other nondiscretionary statutory incentive administered by the department for any payroll expenditures for which the business has received a rebate pursuant to this Section.

F. The department, in consultation with the Department of Revenue, may adopt and promulgate rules and regulations that are necessary to carry out the intent and purposes of this Section.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________________

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