

2017 Regular Session

SENATE BILL NO. 183

BY SENATOR MORRELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/TAXATION. Provides termination dates for certain tax incentive and rebate programs.  
(gov sig)

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AN ACT

To amend and reenact R.S. 51:1787(K), the introductory paragraph of R.S. 51:2452(A), 2453(1), the introductory paragraph of 2453(2), 2453(2)(a), (b), and (c)(ix), (4), and (6), 2455(E)(1), 2457(A)(2)(b), (f), and (5), 2461, and 3121(C)(3)(a)(ii) and to enact R.S. 17:3389(G), R.S. 51:2367(F), 2453(2)(c)(x), (xi), and (xii), and 2458(11), relative to tax incentives and rebates; to provide for a termination date for the incentive program for university research and development parks; to extend the termination date of certain tax incentive and rebate programs administered by the Department of Economic Development to increase the benefit rate for the Quality Jobs Program; to provide for employer qualifications for the Quality Jobs Program; to increase the new direct jobs and gross payroll thresholds for certain employers for the Quality Jobs Program; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:3389(G) is hereby enacted to read as follows:

§3389. University research and development parks; tax exemptions

\* \* \*

1 **G. No contracts shall be entered into pursuant to the provisions of this**

2 **Section on or after July 1, 2017.**

3 Section 2. R.S. 51:1787(K), 2461, and 3121(C)(3)(a)(ii) are hereby amended and  
4 reenacted and R.S. 51:2367(F) is hereby enacted to read as follows:

5 §1787. Incentives

6 \* \* \*

7 K. The department shall not accept any advance notification on or after  
8 July 1, ~~2017~~ **2021**.

9 \* \* \*

10 §2367. Louisiana Mega-Project Energy Assistance Rebate

11 \* \* \*

12 **F. No cooperative endeavor agreements shall be entered into pursuant**  
13 **to the provisions of this Section on or after July 1, 2017.**

14 §2461. Application deadline

15 On and after July 1, ~~2018~~ **2022**, no new advance notifications under this  
16 Chapter shall be accepted by the Department of Economic Development. However,  
17 an employer which, prior to July 1, ~~2018~~ **2022**, has been approved by the department  
18 to receive incentive tax credits or rebates under the program shall continue to receive  
19 tax credits or rebates pursuant to the terms of its agreement with the state of  
20 Louisiana as long as the employer retains its eligibility.

21 \* \* \*

22 §3121. Competitive Projects Payroll Incentive Program

23 \* \* \*

24 C. Applications and contract approval and administration.

25 \* \* \*

26 (3)(a) \* \* \*

27 (ii) No new contract shall be approved on or after July 1, ~~2018~~ **2022**, but  
28 contracts existing on that date may continue and may be renewed.

29 \* \* \*

1 Section 3. The introductory paragraph of R.S. 51:2452(A), 2453(1), the introductory  
 2 paragraph of 2453(2), 2453(2)(a), (b), and (c)(ix), (4), and (6), 2455(E)(1), 2457(A)(2)(b),  
 3 (f), and (5) are hereby amended and reenacted and R.S. 51:2453(2)(c)(x), (xi), and (xii) and  
 4 2458(11) are hereby enacted to read as follows:

5 §2452. Intent

6 A. It is the intent of the Louisiana Legislature that the quality jobs benefits  
 7 provided for in this Chapter in contracts for which an application is filed with the  
 8 department after May 1, 2002, should be used primarily as an inducement for  
 9 businesses to locate or expand existing operations in Louisiana in accordance with  
 10 ~~Louisiana Vision 2020~~ and the Department of Economic Development's focus on  
 11 Louisiana's traditional and seed clusters: Advanced Materials; Agriculture, Forest  
 12 and Food Technology; Durable Goods (Marine, Automotive, Aviation);  
 13 Entertainment; Information Technology; Biotechnology, Biomedical, and Medical  
 14 Industries serving rural hospitals; Logistics and Transportation; Oil and Gas and  
 15 Energy; **Headquarters**; and Petrochemical and Environmental Technology. A  
 16 business operation should be considered for quality jobs benefits only if the business  
 17 meets the provisions of R.S. 51:2453(2). It is the further intent of the Louisiana  
 18 Legislature that the following should apply to quality jobs benefits provided both  
 19 before and after that date:

20 \* \* \*

21 §2453. Definitions

22 The following words or terms as used in this Chapter shall have the following  
 23 meaning, unless a different meaning appears from the context:

24 (1) "Benefit rate" means the following percentages:

25 (a) For new direct jobs created ~~which that~~ pay at least ~~fourteen dollars and~~  
 26 ~~fifty cents~~ **eighteen dollars** per hour ~~inclusive of wages and the value of the health~~  
 27 ~~care benefits paid or offered in accordance with Paragraph (2) of this Section, the~~  
 28 benefit rate shall be five **four** percent, ~~provided that at least fifty percent of the~~  
 29 ~~employees holding new direct jobs accept the health care benefits offered.~~

1 (b) For new direct jobs created ~~which **that** pay at least ~~nineteen dollars and~~~~  
 2 ~~**ten twenty-one dollars and sixty-six** cents per hour inclusive of wages and the value~~  
 3 ~~of the health care benefits paid or offered in accordance with Paragraph (2) of this~~  
 4 ~~Section, the benefit rate shall be six percent, provided that at least fifty percent of the~~  
 5 ~~employees holding new direct jobs accept the health care benefits offered.~~

6 (2) "Employer" shall mean a legal person who executes a contract with the  
 7 department pursuant to the provisions of this Chapter and who offers, or will offer  
 8 within ninety days of the effective date of qualifying for the incentive rebates  
 9 pursuant to the provisions of this Chapter, a basic health benefits plan to the  
 10 individuals it employs in new direct jobs in this state which shall be determined by  
 11 the Department of Economic Development to **be in compliance with federally**  
 12 **mandated healthcare requirements or, if no federally mandated healthcare**  
 13 **requirements exist, shall be determined to** have a value of at least one dollar and  
 14 twenty-five cents per hour.

15 (a) The "basic health benefits plan" or the "health insurance coverage"  
 16 required to be offered or provided by this Paragraph shall also include coverage for  
 17 basic hospital care, and coverage for physician care, as well as coverage for ~~health~~  
 18 ~~care~~ **healthcare**, ~~which and~~ shall be the same coverage as is provided to employees  
 19 employed in a bona fide executive, administrative, or professional capacity by the  
 20 employer who are exempt from the minimum wage and maximum hour requirements  
 21 of the federal Fair Labor Standards Act, 29 U.S.C.A. §201, et seq.

22 (b) To qualify for a contract pursuant to this Chapter, employers must meet  
 23 one of the following provisions:

24 (i) ~~Must be~~ **The employer is** one of the following ~~six Vision 2020 cluster~~  
 25 industries: biotechnology; ~~;~~ biomedical; and medical industries serving rural  
 26 hospitals; micromanufacturing; software, ~~auto-regulation~~, Internet, and  
 27 telecommunications technologies; ~~environmental~~ **clean energy** technology; food  
 28 technologies; and advanced materials. ~~Any cluster of industries added after May 1,~~  
 29 ~~2002, shall qualify for a contract pursuant to this Chapter, if it qualifies under Items~~

1 ~~(ii) through (vi) of this Subparagraph.~~

2 (ii) ~~Must be~~ **The employer is** a manufacturer, as defined by North American  
3 Industry Classification System (NAICS) codes 113310, 211, 213111, 541360, 311-  
4 339, 511-512, and 54171, as the employer's primary function.

5 (iii) ~~Must be~~ **The employer is** an oil and gas field services business as  
6 defined in North American Industry Classification System (NAICS) code 213112  
7 which has ~~new direct jobs that pay not less than thirty thousand dollars per year and~~  
8 ~~meet the health insurance benefits required under this Paragraph and have~~ Louisiana  
9 as the national or regional headquarters of a ~~multistate~~ **multi-state** business whose  
10 service territory includes at least Louisiana and the Gulf of Mexico.

11 (iv) ~~Must have~~ **The employer has**, or will have within one year, sales of at  
12 least fifty percent of its total sales to out-of-state customers or buyers, to in-state  
13 customers or buyers if the products or service is resold by the purchaser to an out-of-  
14 state customer or buyer for ultimate use, or to the federal government. **An**  
15 **independent Louisiana-certified public accountant shall annually verify that the**  
16 **contract site meets the out-of-state sales requirement.**

17 (v) ~~Must be~~ **The employer is** located in ~~an area designated by the~~  
18 ~~Department of Economic Development as a distressed region. A distressed region~~  
19 ~~shall be either of the following:~~

20 (aa) ~~A~~ **a** parish which is within the lowest twenty-five percent of parishes  
21 based on per capita income.

22 (bb) ~~A census tract block group that is below the state median per capita~~  
23 ~~income, based upon the latest federal decennial census.~~

24 (cc) ~~If an area is designated a distressed region, such~~ **Such** designation shall  
25 be maintained for the period of the initial quality jobs contract executed pursuant to  
26 this Chapter and during the renewal period of any such contract. ~~To qualify, an~~  
27 ~~employer shall either be located in a distressed region or at least fifty percent of the~~  
28 ~~new direct jobs of the employer shall be filled by persons who reside in a distressed~~  
29 ~~region.~~

1           (vi) The employer is the corporate headquarters of a multi-state  
2           business.

3           (vii) The employer is a business that spends fifty percent or more of its  
4           time performing services for its out-of-state parent company. These services  
5           include but are not limited to legal, marketing, finance, information technology,  
6           order management, distribution center operation, or overall operations support.

7           (viii) The employer is in the business of maintenance, repair, and  
8           overhaul operations for commercial transport aircraft.

9           (c) The following employers or persons engaged in the following professions  
10          or service industries shall not be eligible for any rebate under this Chapter:

11   \*           \*           \*

12           (ix) ~~Attorneys.~~ Professional Services firms assigned a North American  
13           Industry Classification code beginning with 54 unless the business can  
14           demonstrate that more than fifty percent of its services are provided to  
15           out-of-state customers or for the corporate headquarters of a multi-state  
16           business or if the employer can demonstrate that the company has or will have  
17           within one year sales of at least fifty percent of its total sales to out-of-state  
18           customers or buyers, to in-state customers or buyers if the products or service  
19           is resold by the purchaser to an out-of-state customer or buyer for ultimate use,  
20           or to the federal government.

21           (x) Construction, except for the construction of the corporate  
22           headquarters of a multi-state business.

23           (xi) Staffing agencies.

24           (xii) Medical professionals.

25   \*           \*           \*

26           (4) "New direct job" means employment in this state of an employee working  
27           at least the average hours per week provided for in R.S. 51:2455(E)(2), who earns  
28           at least the benefit rate as defined in R.S. 51:2453(1) and, who was not previously  
29           on an employer's payroll in Louisiana, nor previously on the payroll of such

1 employer's parent entity, subsidiary, or affiliate in Louisiana, or previously on the  
 2 payroll of any business whose physical plant and employees are substantially the  
 3 same as those of the employer in Louisiana. Such job shall be with an employer that  
 4 has qualified to receive a rebate pursuant to the provisions of this Chapter, which job  
 5 did not exist in this state prior to the effective date the application was filed by the  
 6 employer with the Department of Economic Development pursuant to the provisions  
 7 of R.S. 51:2455 and which job is filled by an individual domiciled in the state of  
 8 Louisiana. "New direct job" shall not mean any job that is a result of job shifts due  
 9 to the gain or loss of an in-state contract to supply goods and services. "New direct  
 10 job" shall not mean any employees who were retained following the acquisition of  
 11 all or part of an in-state business by an employer.

\* \* \*

13 (6) ~~"Health care~~ **Healthcare** benefits" means the amount of any payment to  
 14 or on behalf of an individual in its employ under a plan or system established by an  
 15 employer which makes provision for individuals in its employ generally, or for a  
 16 class or classes of such individuals, including any amount paid by an employer for  
 17 insurance or annuities, or into a fund to provide for any such payment for a basic  
 18 health benefits plan or the health insurance coverage, or the value of the health  
 19 benefits plan or health insurance coverage offered by the employer to an individual  
 20 it employs. ~~The value of health care benefits which are offered in accordance with~~  
 21 ~~Paragraph (2) of this Section shall be deemed as having been paid for purposes of~~  
 22 ~~determining a benefit rate, regardless of whether the employee accepts the plan or~~  
 23 ~~coverage offered, provided that at least fifty percent of the employees holding new~~  
 24 ~~direct jobs accept the health care benefits offered.~~

\* \* \*

§2455. Incentive rebates

\* \* \*

28 E. In order to qualify to receive such rebate, the employer applying shall be  
 29 required to:

1 (1) Have an annual gross payroll for a minimum of ~~five~~ **fifteen** new direct  
 2 jobs which equals or exceeds ~~five hundred~~ **six hundred seventy-five** thousand  
 3 dollars for the employer's fiscal year for which the employer is applying for his third  
 4 annual rebate. Employers with no more than fifty employees shall have an annual  
 5 gross payroll for a minimum of five new direct jobs which equals or exceeds two  
 6 hundred ~~fifty~~ **twenty-five** thousand dollars for the employer's fiscal year for which  
 7 the employer is applying for his third annual rebate.

8 \* \* \*

9 §2457. Filing claim to receive rebate; determination; repayment

10 A. Payroll rebate.

11 \* \* \*

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

14 \* \* \*

15 (b) The total number of and the gross payroll of:

16 (i) New direct jobs created which were paid a total of at least ~~fourteen dollars~~  
 17 ~~and fifty cents~~ **eighteen dollars** per hour ~~inclusive of wages and the value of health~~  
 18 ~~care benefits paid or offered at the time the contract was entered into.~~

19 (ii) New direct jobs created which were paid a total of at least ~~nineteen~~  
 20 ~~dollars and ten~~ **twenty-one dollars and sixty-six** cents per hour ~~inclusive of wages~~  
 21 ~~and the value of health care benefits paid or offered at the time the contract was~~  
 22 ~~entered into.~~

23 \* \* \*

24 (f) That the employer has offered the basic health benefits plan or the health  
 25 insurance coverage as defined in R.S. 51:2453(2)(a) to the individuals it employs in  
 26 new direct jobs including coverage for basic hospital care and for physician care, as  
 27 well as offered the health insurance coverage as follows:

28 (i) That the employer has offered **a basic health benefits plan that is in**  
 29 **compliance with federally mandated healthcare requirements or, if no federally**



1 mandated healthcare requirements exist, is determined to have a value of not  
2 less than one dollar and twenty-five cents per hour ~~in health care benefits~~ for full-  
3 time employees.

4 (ii) That the employer has offered health insurance coverage for the  
5 dependents of full-time employees.

6 (iii) ~~That at least fifty percent of the employees holding new direct jobs have~~  
7 ~~accepted the health care benefits offered.~~

8 \* \* \*

9 (5) If the actual verified gross payroll for the employer's fiscal year for which  
10 the employer is applying for his third annual rebate does not show a minimum of ~~five~~  
11 **fifteen** new direct jobs and is not of an amount which equals or exceeds a total of  
12 ~~five hundred~~ **six hundred seventy-five** thousand dollars **of new direct jobs payroll**,  
13 or, where applicable according to R.S. 51:2455(E)(1), **does not show a minimum**  
14 **of five new direct jobs and is not of an amount which equals or exceeds** two  
15 hundred ~~fifty~~ **twenty-five** thousand dollars **of new direct jobs payroll**, the tax  
16 liability for the tax period in which the failure to show such minimum occurs shall  
17 be increased by the amount of rebates previously allowed. If at any other time during  
18 the ten-year period when the employer applies for a rebate at the end of the  
19 employer's fiscal year, the actual verified gross payroll for such fiscal year does not  
20 show ~~a minimum of five new direct jobs and an amount which equals or exceeds a~~  
21 ~~total of five hundred thousand dollars, or, where applicable according to R.S.~~  
22 ~~51:2455(E)(1), two hundred fifty thousand dollars,~~ **the minimum required new**  
23 **direct jobs or the minimum required new direct jobs payroll in accordance with**  
24 **R.S. 51:2455(E)(1)** the rebates shall be suspended and shall not be resumed until  
25 such time as the ~~actual verified gross payroll shows a minimum of five new direct~~  
26 ~~jobs and an amount which equals or exceeds five hundred thousand dollars or, where~~  
27 ~~applicable according to R.S. 51:2455(E)(1), two hundred fifty thousand dollars~~  
28 **minimum required new direct jobs and the minimum required new direct jobs**  
29 **payroll in accordance with R.S. 51:2455(E)(1) are verified.** No rebate shall accrue

1 or be paid to the employer during a period of suspension.

2 \* \* \*

3 §2458. Employers receiving rebates not eligible to receive certain other tax credits  
4 and exemptions

5 Notwithstanding any other provision of law and except as provided in R.S.  
6 51:2456(B), a qualified employer who receives a rebate pursuant to the provisions  
7 of this Chapter shall not be eligible to receive the other credits or exemptions  
8 provided for in the following provisions of law in connection with the activity for  
9 which the rebate was received:

10 \* \* \*

11 **(11) An employer shall not receive any other nondiscretionary statutory**  
12 **incentive administered by the Department of Economic Development for any**  
13 **payroll expenditures for which the employer has received a credit pursuant to**  
14 **this Section.**

15 Section 4. The provisions of Section 3 of this Act shall apply only to advance  
16 notifications filed on or after July 1, 2017, except for advance notifications for companies  
17 that are listed in a confidential affidavit submitted to the secretary from the chief executive  
18 officer or executive director of a Louisiana Economic Development Organization ("EDO")  
19 as being in active negotiations with the EDO about a potential economic development  
20 project as of May 31, 2017. The affidavit must be received by the department before July 1,  
21 2017, and shall contain the following information: name of the company; a detailed  
22 description of the project; the number of new direct jobs the project will create; the total  
23 anticipated new job payroll; and the average wage rate (excluding executive level staff  
24 wages) and that the EDO has a written record of having received and provided Quality Jobs  
25 information to the listed businesses for the purpose of business expansion on or before  
26 May 31, 2017, and the company listed in the affidavit files its advance notification before  
27 January 1, 2018.

28 Section 5. This Act shall become effective upon signature by the governor or, if not  
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 3 effective on the day following such approval.

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

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## DIGEST

SB 183 Reengrossed

2017 Regular Session

Morrell

Present law provides for a program under which the Board of Commerce and Industry, with the approval of the Joint Legislative Committee on the Budget and the governor, may enter into contracts for tax exemptions, tax credits, and rebates with businesses that locate in university research and development parks.

Proposed law provides that no new contracts with businesses that locate in university research and development parks shall be entered into on or after July 1, 2017.

Present law provides for the Enterprise Zone Program under which the Department of Economic Development can enter into contracts with qualified applicants for rebates of sales and use tax and an investment tax credit.

Proposed law provides that no new advance notifications for the Enterprise Zone Program shall be accepted on or after July 1, 2021.

Present law authorizes the secretary of the La. Department of Economic Development and the governor to enter into cooperative endeavor agreements with qualified mega-projects for rebates up to the total amount of state severance tax paid on natural gas consumed by the mega-project.

Proposed law provides that no cooperative endeavor agreement with a mega-project for the rebate of severance tax shall be entered into on or after July 1, 2017.

Present law provides for the Louisiana Quality Jobs Program under which the Department of Economic Development can enter into contracts with qualified applicants for rebates of sales and use tax and an investment tax credit.

Proposed law provides that no new advance notifications for the Quality Jobs Program shall be accepted on or after July 1, 2022.

Present law provides for a Competitive Projects Payroll Incentive Program under which the Department of Economic Development can enter into contracts with qualified applicants for rebates of sales and use tax and an investment tax credit.

Proposed law provides that no new contracts under the Competitive Projects Payroll Incentive Program shall be approved on or after July 1, 2022.

Present law provides for the Louisiana Quality Jobs Program under which the Department of Economic Development can enter into contracts with qualified applicants for an employment credit, rebates of sales and use tax, and an investment tax credit.

Proposed law lowers the minimum benefit rate to four percent from five percent and increases the per hour compensation required by employers to receive the four percent benefit rate from \$14.50 to \$18.00 per hour.

Proposed law increases the per hour compensation required by employers to receive the six percent benefit rate from \$19.10 to \$21.66 per hour.

Present law provides that the applicable wage rates include the value of required healthcare benefits.

Proposed law removes the value of the healthcare benefit from the wage calculation and requires that employers be in compliance with any applicable federal healthcare requirements.

Present law requires employers to be located in a distressed region as designated by the Department of Economic Development or that at least 50% of the new jobs be filled by employees who reside in the distressed region.

Proposed law requires that employers be located in parishes within the lowest 25% of parishes based on income.

Proposed law adds maintenance, repair, and overhaul of commercial aircraft, corporate headquarters, and corporate operations services to the employers who may qualify for a contract under the program.

Proposed law adds construction, staffing agencies, medical professionals, and professional services firms that do not provide more than 50% of their services to out-of-state customers, to the employers who are not eligible to contract under the program.

Proposed law makes an exception to the ineligibility of construction for the program for the construction of the corporate headquarters of a multistate business.

Proposed law increases the actual verified gross payroll from \$500,000 to \$625,000 and the new direct jobs from five to 15 for purposes of the third year rebate under the program for large employers. Failure to meet these thresholds will trigger recapture of the rebates.

Proposed law applies the changes to the Louisiana Quality Jobs Program only for advance notifications filed on or after July 1, 2017 unless a Louisiana Economic Development Organization certifies before May 31, 2017 that it is in active negotiations on an economic development project with a business, submits project details including the anticipated number of jobs payroll, and the business submits an advanced notification before January 1, 2018.

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

(Amends R.S. 51:1787(K), 2452(A)(intro para), 2453(1), 2453(2)(intro para), 2453(2)(a), (b), and (c)(ix), (4), and (6), 2455(E)(1), 2457(A)(2)(b), (f), and (5), 2461, and 3121(C)(3)(a)(ii); adds R.S. 17:3389(G), R.S. 51:2367(F), 2453(2)(c)(x), (xi), and (xii), and 2458(11))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Removes procurement processing company rebate program and corporate headquarters relocation program.
2. Increases the wage rate required by employers for the Louisiana Quality Jobs Program.

3. Changes employer location requirements and types of employers eligible to contract under the Louisiana Quality Jobs Program.
4. Increases gross payroll and new direct jobs requirements for purposes of triggering recapture of Quality Jobs rebates.
5. Technical changes.

Senate Floor Amendments to engrossed bill

1. Adds an additional benefit rate applicable to a lower per hour wage rate.
2. Creates exceptions to the otherwise ineligible businesses of construction and professional services.
3. Adds an exception to the effective date for economic development projects under negotiation that meet certain criteria.
4. Technical changes.