

Regular Session, 2010

SENATE BILL NO. 500

BY SENATOR MARIONNEAUX

TAX/TAXATION. Authorizes the Department of Economic Development to grant up to \$5 million of rebates per calendar year at the rate of 35% of an investor's investment in "Louisiana Entrepreneurial Business," not to exceed \$1 million per year per business and \$2 million total per business. (gov sig)

1 AN ACT

2 To enact Chapter 55 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 51:3121 through 3124, relative to the Angel Investor Rebate Program; to  
4 provide for the purposes; to provide for the amount of the rebate; to provide for the  
5 qualifications of the rebate; to provide for the implementation and administration of  
6 the program by the Department of Economic Development; to provide for  
7 definitions; to provide for rules; to provide for excess unused tax rebates to carry  
8 forward to subsequent tax years; to authorize penalties for providing false or  
9 fraudulent information; to require an annual report to the legislature; and to provide  
10 for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Chapter 55 of Title 51 of the Louisiana Revised Statutes of 1950, to be  
13 comprised of R.S. 51:3121 through 3124, is hereby enacted to read as follows:

14 **§3121. Legislative findings and purposes**

15 **A. The legislature finds that the welfare of the state is enhanced by a**  
16 **healthy entrepreneurial business environment and that ready sources of capital**  
17 **necessary to support this environment are not currently available.**

1                    **B. This Act is intended to achieve the following purposes:**

2                    **(1) To create the Angel Investor Rebate Program to encourage third**  
3 **parties to invest in early stage wealth-creating businesses in the state.**

4                    **(2) To expand the economy of the state by enlarging its base of wealth**  
5 **creating businesses.**

6                    **(3) To enlarge the number of quality jobs available to retain the presence**  
7 **of young people educated in Louisiana.**

8                    **§3122. Angel Investor Rebate Program; establishment; qualifications;**  
9 **administration**

10                   **A. Qualifying individuals or entities that invest in a Louisiana**  
11 **Entrepreneurial Business as defined by R.S. 51:2303(5) may earn, apply for,**  
12 **and be granted a rebate, such rebate shall be earned and granted for a period**  
13 **of five tax years as provided in this Part. The administration of applications for**  
14 **these rebates and the provision of these rebates shall be called the Angel**  
15 **Investor Rebate Program. Nothing in this Chapter shall establish a right of an**  
16 **investor to receive an angel investor rebate unless approved by the department.**

17                   **B.(1) The Angel Investor Rebate Program shall be implemented and**  
18 **administered by the Department of Economic Development. In compliance with**  
19 **the Administrative Procedure Act and this Part, the department shall adopt and**  
20 **promulgate such rules as are necessary for the efficient and effective**  
21 **administration of this program in keeping with the purposes for which it is**  
22 **enacted.**

23                   **(2) In providing for the implementation and administration of the**  
24 **program, the department shall work closely with the secretary of the**  
25 **Department of Revenue in order to promulgate rules. Such rules shall include**  
26 **provisions for:**

27                   **(a) The Department of Economic Development to certify the eligibility**  
28 **of any investor applicant for receipt of the rebate provided for in this Part.**

29                   **(b) The presentation of a investor's eligibility certification and any other**

1 documentation required to be applied for to earn a rebate.

2 (c) Provide for an annual report of the Louisiana Entrepreneurial  
3 Business regarding the use of proceeds, number of employees, amount of  
4 payroll, annual revenue, and any other information requested by the  
5 Department of Economic Development.

6 C.(1) To qualify for an angel investor rebate for five tax years all of the  
7 following qualifications shall be required by each applicant:

8 (a) The investment in the Louisiana Entrepreneurial Business must be  
9 an investment that is at risk and not secured or guaranteed. "At risk" means  
10 that the repayment of the investment is entirely dependent on the success of the  
11 Louisiana Entrepreneurial Business.

12 (b) For the purposes of this Angel Investor Rebate Program, an angel  
13 investor or investors cannot be the principal owner or owners of the business  
14 who are involved in the operation of the business as a full-time professional  
15 activity nor can their spouses and relatives within the third degree of  
16 consanguinity or affinity. A principal owner means one or more persons who  
17 own an aggregate of fifty percent or more of the Louisiana Entrepreneurial  
18 Business.

19 (c) The use of proceeds from the investment must be used for capital  
20 improvements, plant equipment, research and development, working capital for  
21 the business, or other business activity as may be approved by the Department  
22 of Economic Development. The proceeds cannot be used to pay dividends, repay  
23 shareholder's loans, redeem shares, or repay debt unless approved by the  
24 Department of Economic Development.

25 (d) The investor shall meet the definition of accredited investor  
26 established by the Rule 501 in Regulation D of the General Rules and  
27 Regulations promulgated under the Securities Act of 1933.

28 (e) The investment in the Louisiana Entrepreneurial Business by the  
29 applicant must be maintained for three years unless otherwise approved by the

1        **Department of Economic Development.**

2                **(2) To qualify for an angel investor rebate the Louisiana Entrepreneurial**  
3        **Business shall meet all the following requirements:**

4                **(a) The principal business operations of the business are located in**  
5        **Louisiana.**

6                **(b) Prior to the investment by the investor, the business has received**  
7        **approval as qualified to entitle investors to receive angle investor rebates by the**  
8        **Department of Economic Development.**

9                **(c) The Louisiana Entrepreneurial Business must demonstrate that it**  
10       **will be a wealth-creating business for Louisiana by demonstrating in its business**  
11       **plan that it will have more than fifty percent of its sales from outside Louisiana.**

12               **(d) The business is not a business engaged primarily in retail sales, real**  
13       **estate, professional services, gaming or gambling, a natural resource extraction**  
14       **or exploration, a franchisee or financial services, including venture capital**  
15       **funds.**

16        **§3123. Angel Investor Tax Rebate; amount; duration; forfeit**

17               **A.(1) Except as provided in Subsection B of this Section, the investor**  
18       **may earn and apply for and, if qualified, be granted a rebate in the amount**  
19       **approved by the secretary of the Department of Economic Development for the**  
20       **amount of money invested by the investor in the Louisiana Entrepreneurial**  
21       **Business, which shall not exceed one million dollars per year per business and**  
22       **two million dollars total per business. The rebate shall be allowed for**  
23       **investments made after January 1, 2010.**

24               **(2)(a) The rebates approved by the Department of Economic**  
25       **Development shall be granted at the rate of thirty-five percent of the amount of**  
26       **money invested by the investor in the Louisiana Entrepreneurial Business, with**  
27       **the rebates approved and awarded shall be allotted in equal portions for five**  
28       **years, subject to the limitations provided for in Paragraph (1) of this**  
29       **Subsection.**

1           **(b) The total angel investor rebates granted by the Department of**  
2           **Economic Development in any calendar year shall not exceed five million**  
3           **dollars irrespective of the year in which they are to be used except as provided**  
4           **for in this Paragraph. The Department of Economic Development shall by rule**  
5           **establish the method of allocating available rebates to investors, including but**  
6           **not limited to, a first-come, first-served system, reservation of rebates for a**  
7           **specified time period, or other method which the department, in its discretion,**  
8           **may find beneficial to the program. If the Department of Economic**  
9           **Development does not grant the entire five million dollars of rebates for any**  
10           **calendar year, the excess unused rebates shall carry forward to subsequent tax**  
11           **years and may be granted in subsequent years in addition to the five million**  
12           **dollar rebates for that year. The annual limit that is established by this Section**  
13           **shall not apply to angel pools that are approved by the Department of Economic**  
14           **Development.**

15           **(c) After the Department of Economic Development approves an angel**  
16           **pool, the Department of Economic Development shall issue a letter identifying**  
17           **the amount of angel rebates that are available to the pool, however the pool nor**  
18           **its members shall not receive any rebates until an investment is made in a**  
19           **Louisiana Entrepreneurial Business and only for the amount of the investment**  
20           **in the Louisiana Entrepreneurial Business.**

21           **(d) After certifying the eligibility of the Louisiana Entrepreneurial**  
22           **Business and the amount of the investment, the Department of Economic**  
23           **Development shall issue a rebate certificate. The rebate certificate shall contain**  
24           **the investor's name, address, tax identification number, the amount of credit,**  
25           **the name of the qualifying business, and other information required by the**  
26           **Department of Revenue. The rebate certificate, unless rescinded by the**  
27           **Department of Economic Development, shall be accepted by the Department of**  
28           **Revenue as proof of the rebate. The Department of Economic Development**  
29           **shall notify the Department of Revenue and shall provide it with a copy of the**

1        rebate. The Department of Revenue may require the investor to submit such  
2        additional information as may be necessary to administer the provisions of this  
3        Chapter.

4                (e) The Department of Economic Development shall maintain a list of  
5        the rebate certificates issued.

6                B. A rebate granted pursuant to the Angel Investor Rebate Program  
7        shall expire and have no value seven years after it was originally granted.

8                C. If at the close of any calendar year in the five-year period beginning  
9        with the first year in which an Angel Investor Rebate is issued to an investor in  
10       a business, the business is no longer domiciled in Louisiana, the rebate claimed  
11       under this Section shall be recaptured from the business, unless change of  
12       domicile is the result of a merger, consolidation or other acquisition of such  
13       business with or by a party not affiliated with such business.

14               D. If at the close of any calendar year in the three-year period beginning  
15       with the first year in which an Angel Investor Rebate is issued to an investor in  
16       a business, the investor transfers the equity received in connection with a  
17       qualified investment, the rebate claimed under this Section shall be recaptured  
18       from the investor unless the transfer results from the following:

19                    (1) The liquidation of the qualified business issuing such equity.

20                    (2)The merger, consolidation or other acquisition of such business with  
21       or by a party not affiliated with such business.

22                    (3) The death of the investor.

23        §3124. False or fraudulent information in making application, claim for  
24        rebate, or other instrument; penalties

25                A. Any person making an application, claim for an angel investor rebate,  
26       or any report, return, statement, or other instrument or providing any other  
27       information pursuant to the provisions of the Angel Investor Rebate Program  
28       who willfully makes a false or fraudulent application, claim, report, return,  
29       statement, invoice, or other instrument or who willfully provides any false or

1        **fraudulent information, any person who willfully aids or abets another in**  
 2        **making such false or fraudulent application, claim, report, return, statement,**  
 3        **invoice, or other instrument, or any person who willfully aids or abets another**  
 4        **in providing any false or fraudulent information, shall be guilty, upon**  
 5        **conviction, of a felony and shall be punished by the imposition of a fine of not**  
 6        **less than one thousand dollars and not more than fifty thousand dollars or**  
 7        **imprisoned for not less than two years and not more than five years, or both.**

8                **B. Any person convicted of a violation of this Section shall be liable for**  
 9                **the repayment of all rebates which were granted to that person. Interest shall**  
 10               **be due on such repayments at the rate of fifteen percent per annum.**

11        Section 2. This Act shall become effective upon signature by the governor or, if not  
 12        signed by the governor, upon expiration of the time for bills to become law without signature  
 13        by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 14        vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 15        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 Danielle Doiron.

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#### DIGEST

Proposed law establishes the Angel Investor Rebate Program to encourage third party investors in early stage wealth-creating businesses, and to provide quality jobs in Louisiana.

Provides for the implementation and administration of the program by the Dept. of Economic Development (DED). Requires DED to promulgate rules for the program.

Provides for definitions and requirements of qualifying investments. Requires "at risk" as meaning that the repayment of the investment is entirely dependent on the success of the Louisiana Entrepreneurial Business. Requires the use of proceeds from the investment to certain purposes unless approved by DED.

Provides that qualifying individuals or entities which invest in Louisiana Entrepreneurial Business as defined by law may apply and be granted a rebate. Authorizes rebates to be granted for five tax years.

Provides for the qualifications of applicants of the program. Authorizes rebates on investments made after January 1, 2010, of not more than \$1 million per year and \$2 million total per business.

Provides that the rebates are equal to 30% of the amount of money invested, divided in equal portions over five years.

Provides that total credits granted by DED may not exceed \$5 million in any calendar year.

Authorizes any excess unused rebates shall carry forward to subsequent tax years and be used in addition to the rebates for that year.

Authorizes DED to issue rebate certificates to approved applicants. Requires DED to maintain a list of certificates issued. Provides that rebate certificates shall expire seven years after being granted.

Authorizes penalties for providing false or fraudulent information in application for rebate.

Requires repayment of rebates from applicant under certain conditions.

Requires an annual report to the legislature.

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

(Adds R.S. 51:3121-3124)