

2016 Regular Session

SENATE BILL NO. 359

BY SENATOR LAFLEUR

FISCAL CONTROLS. Provides for the prohibition of the expenditure of state funds to refund a tax credit, pay certain rebates, or repurchase or grant transferable tax credits granted through incentive contracts unless budgeted and appropriated. (gov sig)

AN ACT

To amend and reenact R.S. 39:24.1(A), (D), and (E)(3) and to enact R.S. 39:24.2, relative to the incentive expenditure forecast; to require the budgeting and appropriating of certain rebates and refundable tax credits or related transferable tax credits before they are paid or granted; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:24.1(A), (D), and (E)(3) are hereby amended and reenacted and R.S. 39:24.2 is hereby enacted to read as follows:

§24.1. Incentive expenditure forecast

A.~~(1)~~ The Revenue Estimating Conference shall establish a forecast of incentive expenditures for each fiscal year, beginning for Fiscal Year 2016-2017, hereinafter referred to as the "incentive expenditure forecast", which shall be derived and revised only as provided in this Section. The incentive expenditure forecast shall include **but not be limited to** a forecast of the amount of payments from and reductions of current tax collections to be granted by each of the incentive benefit statutes listed in R.S. 39:2(15.1) for the forecasted year.

1                   **(2) Incentive expenditures may also take the form of refundable tax**  
2                   **credits, rebates, or transferable tax credits granted through incentive contracts**  
3                   **as further provided in R.S. 39:24.2.**

4                   **(3)** The forecast shall be an amount that is no less than the estimated amount  
5 of payments from and reductions of current tax collections ~~which will be made by~~  
6 ~~each of the incentive benefit statutes listed in R.S. 39:2(15.1)~~ for the forecasted fiscal  
7 year.

8   \*           \*           \*

9                   D. The incentive expenditure forecast shall be a separate forecast and shall  
10 ~~not~~ be included in the estimates of the money to be received by the state general fund  
11 and dedicated funds for the current and next fiscal years which are available for  
12 appropriation.

13   \*           \*           \*

14                   E.

15   \*           \*           \*

16                   (3) In addition to the data required to be submitted in Paragraph (2) of this  
17 Subsection, each agency of the state, including the Department of Revenue, the  
18 Department of Economic Development, and the Department of Culture, Recreation  
19 and Tourism, which administers an incentive expenditure ~~as defined in R.S.~~  
20 ~~39:2(15.1)~~ shall submit to the Revenue Estimating Conference, the legislative fiscal  
21 office, and the division of administration, upon request, an estimate of incentive  
22 expenditures for each of the tax benefit statutes ~~listed in R.S. 39:2(15.1)~~ administered  
23 by the respective agency. Such estimates shall be an amount that is no less than the  
24 estimated amount of reductions of and payments to be made from current tax  
25 collections for each incentive expenditure for the current fiscal year. The participants  
26 of the conference shall work in conjunction with the respective agency to finalize all  
27 estimates for presentation to the conference.

28                   **§24 .2. Requirement to budget and appropriate refundable tax credits, rebates,**  
29                   **and transferable tax credits granted through incentive contracts**

1           A. Upon the effective date of this Act, no state funds shall be expended  
2           for any incentive expenditure in the form of a refund of a tax credit or as a  
3           rebate over and above an individual's or business' tax liability, or to purchase  
4           a transferable tax credit , unless such refunds, rebates, or transferable credits  
5           satisfy all of the following:

6                   (1) The incentive expenditure has been included in the incentive  
7                   expenditure forecast as provided in R.S. 39:24.1.

8                   (2) The incentive expenditure of an individual or business has been  
9                   granted through an incentive contract with the state or an agency of the state.

10                   (3) The incentive expenditure complies with the budgetary requirements  
11                   of Article VII, Section 11 of the Constitution of Louisiana.

12                   (4) Pursuant to R.S. 39:24.1(D), the incentive expenditure funds shall be  
13                   appropriated for such expenditures as required by Article VII, Section 10(D)(1)  
14                   of the Constitution of Louisiana.

15           B. The right of an individual or business to transfer or sell a tax credit  
16           to the state for an amount over and above such individual's or business' tax  
17           liability granted through an incentive contract between the state or an agency  
18           of the state shall not be granted or authorized under any provision of law unless  
19           an amount is allocated for such grants or authorizations in the appropriation  
20           act required pursuant to Article III, Section 16, Article VII, Sections 10(D)(1)  
21           and 11 of the Constitution of Louisiana.

22           Section 3. This Act shall become effective upon signature by the governor or, if not  
23           signed by the governor, upon expiration of the time for bills to become law without signature  
24           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
25           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
26           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 Jay R. Lueckel.

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## DIGEST

SB 359 Original

2016 Regular Session

LaFleur

Present law provides the Revenue Estimating Conference shall establish a forecast of incentive expenditures for each fiscal year, beginning in Fiscal Year 2016-2017, which shall include a forecast of the amount of payments from and reductions of current tax collections to be granted by each of the incentive benefit statutes listed in R.S. 39:2(15.1).

Proposed law retains present law and specifies the forecast of incentive expenditures shall not be limited to the incentive benefit statutes listed in R.S. 39:2(15.1).

Present law provides that the incentive expenditure forecast shall be a separate forecast and shall not be included in the estimates of the money to be received by the state general fund and dedicated funds for the current and next fiscal years which are available for appropriation.

Present law mandates that the incentive expenditure forecast include the estimates of the money to be received by the state general fund and dedicated funds for the current and next fiscal years which are available for appropriation.

Proposed law provides the incentive expenditures may also take the form of refundable tax credits, rebates, or transferable tax credits granted through incentive contracts as provided in R.S. 39:24.2.

Proposed law further provides that the forecast shall be an amount that is no less than the estimated amount of payments from and reductions of current tax collections for the forecasted fiscal year.

Proposed law also provides a requirement to budget and appropriate refundable tax credits, rebates, and transferable tax credits granted through incentive contracts.

Proposed law further specifies the following conditions: that the incentive expenditure has been included in the incentive expenditure forecast provided for in present law; that the incentive expenditure of an individual or business has been granted through an incentive contract with the state or an agency of the state; that the incentive expenditure complies with the budgetary requirements of Article VII, Section 11 of the Constitution of Louisiana; that the incentive expenditure funds shall be appropriated for such expenditures as required by Article III, Section 16 and Article VII, Section 10(D)(1) of the Constitution of Louisiana; and that the right to transfer or sell a tax credit over and above its tax liability granted through an incentive contract shall not be granted or authorized unless an amount is allocated for such grants or authorizations in the budget estimate required pursuant to Article VII, Section 11 of the Constitution of Louisiana.

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

(Amends R.S. 39:24.1(A), (D), and (E)(3); adds R.S. 39:24.2)