

2019 Regular Session

SENATE BILL NO. 93

BY SENATOR WARD

TAX/TAXATION. Provides a flat corporation income tax rate and eliminates the usage of certain tax credits against corporation income tax. (gov sig)

1 AN ACT  
2 To amend and reenact R.S. 47:287.12, 1484(C)(1), 1675(B)(2) and (I), 3204(H), (I) and (J),  
3 4305, 6006(A), the introductory paragraph of 6006(B)(1), (B)(2), and (4), 6006.1(A),  
4 (B)(1), (3), and (4), the introductory paragraph of 6007(C)(1), (C)(2) and (3), and the  
5 introductory paragraph of 6007(C)(4), 6014(A), (B), and (C)(1), (3), (4) and (5),  
6 6015(B)(1) and (2), (C)(3)(a) and (d)(i), the introductory paragraph of 6015(D)(2),  
7 and (K), 6019(A)(1)(a), (3)(b)(ii)(aa), and (dd)(I), 6022(E)(2)(a), the introductory  
8 paragraph of 6034(C)(1) and 6034(D), the introductory paragraph of 6036(C)(1)(a),  
9 6036(C)(4), and (I)(2)(a)(i) and (b), 6105(A), R.S. 51:1787(A)(1)(b) and (2), and  
10 2399.3(A)(3), to enact R.S. 47:1484(C)(5), 1675(K), R.S. 51:1787(A)(3)(d), and  
11 2399.3(A)(4), and to repeal R.S. 47:227, 287.748, 287.749, 287.752, 287.753,  
12 287.755, 287.756, 287.758, and 287.759, relative to corporation income tax; to  
13 provide relative to the rate of the corporation income tax; to provide for a flat  
14 corporation income tax rate; to eliminate the usage of tax credits against the  
15 corporation income tax credits; to provide for transition provisions for corporation  
16 income tax credits granted pursuant to contracts and credits with carryover  
17 provisions; to provide for effectiveness; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 47:287.12, 1484(C)(1), 1675(B)(2) and (I), 3204(H), (I) and (J),  
3 4305, 6006(A), the introductory paragraph of 6006(B)(1), (B)(2), and (4), 6006.1(A), (B)(1),  
4 (3), and (4), the introductory paragraph of 6007(C)(1), (C)(2) and (3), and the introductory  
5 paragraph of 6007(C)(4), 6014(A), (B), and (C)(1), (3), (4) and (5), 6015(B)(1) and (2),  
6 (C)(3)(a) and (d)(i), the introductory paragraph of 6015(D)(2), and (K), 6019(A)(1)(a),  
7 (3)(b)(ii)(aa), and (dd)(I), 6022(E)(2)(a), the introductory paragraph of 6034(C)(1) and  
8 6034(D), the introductory paragraph of 6036(C)(1)(a), 6036(C)(4), and (I)(2)(a)(i) and (b),  
9 6105(A) are hereby amended and reenacted and R.S. 47:1484(C)(5) and 1675(K) are hereby  
10 enacted to read as follows:

11 §287.12. Rates of tax

12 The tax to be assessed, levied, collected, and paid upon the Louisiana taxable  
13 income of every corporation shall be computed at the rate of: **three and ninety-five-**  
14 **hundredths percent of Louisiana taxable income.**

15 ~~(1) Four percent upon the first twenty-five thousand dollars of Louisiana~~  
16 ~~taxable income.~~

17 ~~(2) Five percent upon the amount of Louisiana taxable income above~~  
18 ~~twenty-five thousand dollars but not in excess of fifty thousand dollars.~~

19 ~~(3) Six percent on the amount of Louisiana taxable income above fifty~~  
20 ~~thousand dollars but not in excess of one hundred thousand dollars.~~

21 ~~(4) Seven percent on the amount of Louisiana taxable income above one~~  
22 ~~hundred thousand dollars but not in excess of two hundred thousand dollars.~~

23 ~~(5) Eight percent on all Louisiana taxable income in excess of two hundred~~  
24 ~~thousand dollars.~~

25 \* \* \*

26 §1484. Satisfaction of claims

27 \* \* \*

28 C.(1) When the Board of Tax Appeals has approved a claim against the state  
29 for erroneous payments of corporate franchise tax, and the claim is not paid pursuant

1 to Subsection A of this Section within one year of the date the board's approval of  
 2 the claim becomes final, the secretary of the Department of Revenue and the  
 3 claimant may agree that the payment of the claim may be taken as an offset against  
 4 state corporate income or franchise tax liability of the claimant **except as otherwise**  
 5 **provided in this Subsection.**

6 \* \* \*

7 **(5) For all agreements executed on or after January 1, 2020, the payment**  
 8 **of the claim shall not be taken as an offset against the corporation income tax.**

9 \* \* \*

10 §1675. General administrative provisions for credits against income and corporation  
 11 franchise tax

12 \* \* \*

13 B. Priority of credits. The department shall apply credits against income and  
 14 corporation franchise tax. The provisions of this Subsection shall supersede and  
 15 control to the extent of conflict with any other provision of law. Credits and  
 16 payments shall be applied in the following order:

17 \* \* \*

18 ~~(2) Refundable tax credits. Refundable credits, other than the credit provided~~  
 19 ~~for in R.S. 47:6006, that are allowable against both income and corporation franchise~~  
 20 ~~tax shall be applied first against income tax. Any credit in excess of the income tax~~  
 21 ~~liability shall then be applied against corporation franchise tax.~~

22 \* \* \*

23 I. Repealed credits and credits with sunset provisions. Unless otherwise  
 24 provided in the statute granting or repealing the credit **and except as provided in**  
 25 **Subsection K of this Section,** any remaining carry forward from a credit that has  
 26 been repealed or otherwise made inoperative shall continue to be applied and carried  
 27 forward under the provisions of the statute granting the credit immediately before it  
 28 expired or was repealed.

29 \* \* \*

1           **K. (1) Notwithstanding any provision of law to the contrary, for tax**  
2 **periods beginning on or after January 1, 2020, no tax credits shall be applied**  
3 **against corporate income tax except as provided in this Subsection.**

4           **(2) The following tax credits may be applied against corporate income**  
5 **tax for tax periods beginning on or after January 1, 2020:**

6           **(a) Tax credits related to satisfaction of claims against the state as**  
7 **approved by the Board of Tax Appeals pursuant to R.S. 47:1484 for agreements**  
8 **executed before January 1, 2020.**

9           **(b) Enterprise zone tax credits granted pursuant to the provisions of R.S.**  
10 **51:1787 for advance notifications filed before January 1, 2020.**

11           **(c) Tax equalization tax credits granted pursuant to the provisions of**  
12 **R.S. 47:3201 et seq. for contracts executed before January 1, 2020.**

13           **(d) Manufacturing establishment tax credits granted pursuant to the**  
14 **provisions of R.S. 47:4301 et seq. for contracts executed before January 1, 2020.**

15           **(e) Modernization tax credits granted pursuant to the provisions of R.S.**  
16 **51:2399.1 et seq. for tax credit certificates issued before January 1, 2020.**

17           **(f) Carryover credits as provided in Paragraph (3) of this Subsection.**

18           **(3) Transition for corporation income tax credits with a remaining**  
19 **carryover period.**

20           **(a) Any corporation that earned one or more nonrefundable corporation**  
21 **income tax credits with a carryover before January 1, 2020, that was not able**  
22 **to use the entire credit in the year earned or during the carryover period may**  
23 **use the credit carryover subject to the following conditions:**

24           **(i) The statute creating the tax credit does not authorize the tax credit to**  
25 **be applied against the corporation franchise tax.**

26           **(ii) The carryforward period expires after January 1, 2020.**

27           **(iii) No later than July 1, 2020, the corporation submits all supporting**  
28 **documentation necessary for the department to determine the corporation**  
29 **income tax credit carryover balance.**



1 recommends otherwise, exemptions from taxation for a business locating or retaining  
2 headquarters in this state shall be granted from state taxes only in the following  
3 priority:

4 (a) The corporation franchise tax.

5 (b) ~~The~~ **Except as otherwise provided in Subparagraph (f) of this**  
6 **Paragraph, the** corporation income tax.

7 (c) Sales and use tax on purchases and leases of, and repairs to, machinery  
8 and equipment which is used in the on-site operation of the new headquarters  
9 facility.

10 (d) The sales and use tax on purchases of tangible personal property used in  
11 the construction of the new headquarters facility.

12 (e) Any other taxes imposed by the state to which such businesses are subject.

13 **(f) For all contracts executed after January 1, 2020, this exemption shall**  
14 **not apply to the corporation income tax.**

15 (2) Rules and regulations concerning new headquarters contracts shall be  
16 submitted for review to the House Committee on Ways and Means and the Senate  
17 Committee on Revenue and Fiscal Affairs in addition to all other legislative  
18 oversight which may be required.

19 J. Unless the Department of Revenue for valid written reasons recommends  
20 otherwise, exemptions for a new or retained warehousing and distribution  
21 establishment shall be granted from state taxes only in the following priority:

22 (1) The corporation franchise tax.

23 (2) ~~The~~ **Except as otherwise provided in Paragraph (7) of this Subsection,**  
24 **the** corporation income tax.

25 (3) Sales and use tax on purchases and leases of, and repairs to, machinery  
26 and equipment which is used in the on-site operation of the warehousing and  
27 distribution establishment.

28 (4) The sales and use tax on purchases of materials and supplies necessary  
29 for the on-site operation of the warehousing and distribution establishment.

1 (5) The sales and use tax on purchases of tangible personal property used in  
2 the construction of the warehousing and distribution establishment.

3 (6) Any other taxes imposed by the state to which like businesses are subject.

4 **(7) For all contracts executed after January 1, 2020, this exemption shall**  
5 **not apply to the corporation income tax.**

6 \* \* \*

7 §4305. Granting of contract

8 A. Whenever the governor and the **Joint** Legislative Budget Committee finds  
9 that the contract submitted by the Board of Commerce and Industry satisfies the  
10 requirements of this Chapter, they shall advise the Board of Commerce and Industry  
11 that it may enter into a contract with such establishment exempting it from taxation  
12 as provided in this Section.

13 B. Exemptions from taxation may be granted for the following:

14 (1) The corporation franchise tax.

15 (2) ~~The~~ **Except as otherwise provided in Paragraph (6) of this Subsection,**  
16 **the** corporation income tax.

17 (3) Sales and use taxes imposed by the state on machinery and equipment to  
18 be used by the applicant, on materials and building supplies, whether purchased  
19 directly or through a contractor, to be used in repair, reconstruction, modification,  
20 or construction of plant and facilities, and on materials and supplies necessary for or  
21 used in the manufacture or production of the product of the applicant.

22 (4) Sales and use taxes imposed by the state on any other goods and services  
23 used or consumed by the applicant.

24 (5) Any other taxes imposed directly by the state on the applicant.

25 **(6) For all contracts executed after January 1, 2020, this exemption shall**  
26 **not apply to the corporation income tax.**

27 \* \* \*

28 §6006. Tax credits for local inventory taxes paid

29 A.(1) There shall be allowed a credit against any Louisiana **individual or**



1 manufacturer, as defined in Subparagraph (C)(3)(b) of this Section, if the amount of  
 2 the credit authorized pursuant to Subsection A of this Section exceeds the amount  
 3 of tax liability for the tax year, the excess credit may only be carried forward as a  
 4 credit against subsequent Louisiana **individual or fiduciary** income or corporation  
 5 franchise tax liability for a period not to exceed five years and shall not be  
 6 refundable. The secretary shall promulgate rules to ensure that taxpayers included  
 7 in one consolidated federal income tax return shall be considered one taxpayer for  
 8 the purpose of the limitations on refundability provided for in this Paragraph. This  
 9 rulemaking authority shall be in addition to the rulemaking authority provided for  
 10 elsewhere in this Title.

11 \* \* \*

12 §6006.1. Tax credits for taxes paid with respect to vessels in Outer Continental Shelf  
 13 Lands Act Waters

14 A. There shall be allowed a credit against any Louisiana **individual or**  
 15 **fiduciary** income or corporation franchise tax for ad valorem taxes paid to political  
 16 subdivisions on vessels in Outer Continental Shelf Lands Act Waters as certified to  
 17 the assessor pursuant to R.S. 47:1956(B) within the calendar year immediately  
 18 preceding the taxable year of assessment of such vessel. For purposes of this Section,  
 19 ad valorem taxes shall be deemed to be paid to political subdivisions when they are  
 20 paid either in money or by applying credits established pursuant to R.S. 47:2132.

21 B. Notwithstanding anything to the contrary in either Chapter 1 or Chapter 5  
 22 of Subtitle II of this Title ~~47, as amended~~, the following rules shall apply with  
 23 respect to the application of the credit established in Subsection A of this Section:

24 (1) The credit for taxes paid by or on behalf of a corporation shall be applied  
 25 against Louisiana ~~corporate income and~~ corporation franchise taxes of such  
 26 corporation. However, any such credit allowable to any member of an affiliated  
 27 group of corporations, as defined in Section 1504 of the Internal Revenue Code of  
 28 1954, as amended, shall be applied against Louisiana ~~corporate income and~~  
 29 corporation franchise taxes of such member and any other member of such affiliated

1 group of corporations until the entire amount of the credit has been applied against  
2 such Louisiana corporate ~~income taxes~~ or corporation franchise taxes.

3 \* \* \*

4 (3) The credit for taxes paid by or on behalf of a corporation classified under  
5 Subchapter S of the Internal Revenue Code of 1954, as amended, as an S corporation  
6 shall be applied first against any Louisiana ~~corporate income~~ and corporation  
7 franchise taxes due by such S corporation, and the remainder of any such credit shall  
8 be allocated to the shareholder or shareholders of such S corporation in accordance  
9 with their respective interests and applied against the Louisiana **individual or**  
10 **fiduciary** income tax of such shareholder or shareholders of the S corporation.

11 (4) The credit for taxes paid by or on behalf of a partnership shall be  
12 allocated to the partners according to their distributive shares of partnership gross  
13 income and applied against any Louisiana **individual or fiduciary** income tax and  
14 corporation franchise tax liability of such partners.

15 \* \* \*

16 §6007. Motion picture production tax credit

17 \* \* \*

18 C. Production tax credit; specific productions and projects.

19 (1) There is hereby authorized a tax credit against state **individual or**  
20 **fiduciary** income tax for Louisiana taxpayers for expenditures related to state-  
21 certified productions and qualified entertainment companies. The tax credit shall be  
22 earned by a motion picture production company at the time expenditures are certified  
23 by the office and the secretary for a motion picture production company in a state-  
24 certified production. However, credits cannot be applied against a tax or transferred  
25 until the expenditures are certified by the office and the secretary. For state-certified  
26 productions, expenditures shall be certified no more than once per production, after  
27 project completion. However, if at the time of application for initial certification, the  
28 office is notified that post-production activities will take place in Louisiana, a  
29 supplemental request for certification of expenditures directly related to such post-

1 production activity may be submitted for consideration by the office. The cost of any  
2 verification or audit of such expenditures shall be borne by the motion picture  
3 production company. The tax credit shall be calculated as a percentage of the total  
4 base investment dollars certified per project, or as otherwise provided in this  
5 Paragraph.

6 \* \* \*

7 (2) The credit shall be allowed against the **individual or fiduciary** income  
8 tax for the taxable period in which the credit is earned or for the taxable period in  
9 which initial certification authorizes the credit to be taken. If the tax credit allowed  
10 pursuant to this Section exceeds the amount of such taxes due for such tax period,  
11 then any unused credit may be carried forward as a credit against subsequent tax  
12 liability for a period not to exceed five years.

13 (3) Application of the credit.

14 ~~(a) All entities taxed as corporations for Louisiana income tax purposes shall~~  
15 ~~claim any credit allowed under this Section on their corporation income tax return.~~

16 ~~(b)~~ Individuals, estates, and trusts shall claim any credit allowed under this  
17 Section on their income tax return.

18 ~~(e)~~**(b)** Entities not taxed as corporations shall claim any credit allowed under  
19 this Section on the returns of the partners or members as follows:

20 ~~(i) Corporate partners or members shall claim their share of the credit on their~~  
21 ~~corporation income tax returns.~~

22 ~~(ii)~~ Individual partners or members shall claim their share of the credit on  
23 their individual income tax returns.

24 ~~(iii)~~**(ii)** Partners or members that are estates or trusts shall claim their share  
25 of the credit on their fiduciary income tax returns.

26 (d) In order to prevent disguised sales of the credits, allocations of credits  
27 through partnership and membership agreements shall not be recognized unless they  
28 have "substantial economic effect" as that term is defined by 26 U.S.C. 704 and the  
29 federal regulations thereunder.

1 (4) Transferability of the credit. Except as provided for in Subparagraph (g)  
2 of this Paragraph, motion picture tax credits not previously claimed by any taxpayer  
3 against its income tax may be transferred or sold to another Louisiana **individual or**  
4 **fiduciary income** taxpayer or to the Department of Revenue, subject to the  
5 following conditions:

6 \* \* \*

7 §6014. Credit for property taxes paid by certain telephone companies; fund

8 A. Pursuant to the provisions of this Section, there shall be allowed a credit  
9 against Louisiana ~~corporation or~~ individual **and fiduciary** income taxes and  
10 Louisiana corporation franchise tax for, and in an amount equal to, forty percent of  
11 the aggregate ad valorem taxes paid to political subdivisions of this state after  
12 December 31, 2000, by a telephone company, as defined in R.S. 47:1851(Q), with  
13 respect to such telephone company's public service properties, as defined in R.S.  
14 47:1851(M), which are assessed by the Louisiana Tax Commission at twenty-five  
15 percent of fair market value pursuant to R.S. 47:1854.

16 B. The credit allowed under this Section shall be applied against any  
17 Louisiana **individual or fiduciary** income or corporation franchise tax shown on a  
18 return filed by a person as defined in R.S. 47:2, entitled to such credit as determined  
19 under Subsection C of this Section for income or franchise tax years ending on or  
20 after December 31, 2001.

21 C. Notwithstanding any provision of law to the contrary, the following  
22 provisions shall apply with respect to the application of the credit established in  
23 Subsection A of this Section:

24 (1) The credit for ad valorem taxes paid by or on behalf of a corporation shall  
25 be applied against Louisiana ~~corporation income and~~ corporation franchise taxes of  
26 such corporation. However, any such credit allowable to any member of an affiliated  
27 group of corporations, as defined in Section 1504 of the Internal Revenue Code of  
28 1986, as amended, shall be applied against Louisiana ~~corporation income and~~  
29 corporation franchise taxes of such member and any other member of such affiliated

1 group of corporations until the entire amount of the credit has been applied against  
2 such Louisiana ~~corporation income taxes~~ or corporation franchise taxes.

3 \* \* \*

4 (3) The credit for taxes paid by or on behalf of a corporation classified under  
5 Subchapter S of the Internal Revenue Code of 1986, as amended, as an S corporation  
6 shall be applied first against any Louisiana ~~corporation income~~ and corporation  
7 franchise taxes due by such S corporation, and the remainder of any such credit shall  
8 be allocated to the shareholder or shareholders of such S corporation in accordance  
9 with their respective interests and applied against the Louisiana income tax of such  
10 shareholder or shareholders of the S corporation.

11 (4) The credit for taxes paid by or on behalf of a partnership shall be  
12 allocated to the partners according to their distributive shares of partnership gross  
13 income and applied against any Louisiana **individual or fiduciary** income tax and  
14 corporation franchise tax liability of such partners.

15 (5) The credit for taxes paid by or on behalf of a limited liability company  
16 shall be allocated to the members according to their distributive shares of such  
17 limited liability company's gross income and applied against any Louisiana  
18 **individual or fiduciary** income tax and corporation franchise tax liability of such  
19 members; however, the credit for taxes paid by or on behalf of a limited liability  
20 company ~~treated as a corporation for~~ **subject to** Louisiana ~~income~~ **franchise** tax  
21 ~~purposes~~ may be applied against the Louisiana corporation ~~income~~ **franchise** taxes  
22 of such limited liability company.

23 \* \* \*

24 §6015. Research and development tax credit

25 \* \* \*

26 B.(1) Any taxpayer who employs fifty or more persons and claims for the  
27 taxable year a federal income tax credit under 26 U.S.C. 41(a) for increasing research  
28 activities shall be allowed a tax credit to be applied against **individual or fiduciary**  
29 income and corporation franchise taxes due in the manner provided for in Subsection

1 K of this Section.

2 (2) Any taxpayer who employs less than fifty persons and claims for the  
3 taxable year a federal income tax credit under 26 U.S.C. 41(a) for the taxable year,  
4 or meets the requirements of Subparagraph (3)(i) of this Subsection, shall be allowed  
5 a tax credit to be applied against **individual or fiduciary** income and corporation  
6 franchise taxes due in the manner provided for in Subsection K of this Section.

7 \* \* \*

8 C.

\* \* \*

9 (3)(a) All entities taxed as corporations for Louisiana ~~income or~~ corporation  
10 franchise tax purposes shall claim any credit allowed under this Section on their  
11 ~~corporation income and~~ corporation franchise tax return.

12 \* \* \*

13 (d) Entities not taxed as corporations shall claim any credit allowed under this  
14 Section on the returns of the partners or members as follows:

15 (i) Corporate partners or members shall claim their share of the credit on their  
16 ~~corporation income or~~ corporation franchise tax returns.

17 \* \* \*

18 D.

\* \* \*

19 (2) In addition to the credit utilization allowed by Paragraph (C)(3) of this  
20 Section, research and development tax credits for tax years 2018 and later that are  
21 based on participation in the Small Business Technology Transfer Program or the  
22 Small Business Innovation Research Grant program and that were not previously  
23 claimed by any taxpayer against his **individual or fiduciary** income or corporation  
24 franchise tax may be transferred or sold to another Louisiana taxpayer, subject to the  
25 following conditions:

26 \* \* \*

27 K. If the amount of the credit authorized pursuant to Subsection A of this  
28 Section exceeds the amount of tax liability for the tax year, the excess credit may be  
29 carried forward as a credit against subsequent Louisiana **individual or fiduciary**

1 income or corporation franchise tax liability for a period not to exceed five years.

2 \* \* \*

3 §6019. Tax credit; rehabilitation of historic structures

4 A.(1)(a) There shall be a credit against **individual and fiduciary** income and  
5 corporation franchise tax for the amount of eligible costs and expenses incurred  
6 during the rehabilitation of a historic structure located in a downtown development  
7 or a cultural district. The amount of the credit shall equal twenty-five percent of the  
8 eligible costs and expenses of the rehabilitation incurred prior to January 1, 2018,  
9 regardless of the year in which the property is placed in service. The amount of the  
10 credit shall equal twenty percent of the eligible costs and expenses of the  
11 rehabilitation incurred on or after January 1, 2018, and before January 1, 2022,  
12 regardless of the year in which the property is placed in service. No credit is  
13 authorized pursuant to this Section for expenses incurred on or after January 1, 2022.

14 \* \* \*

15 (3) \* \* \*

16 (b)(i) \* \* \*

17 (ii)(aa) All entities taxed as corporations for Louisiana ~~income or~~ corporation  
18 franchise tax purposes shall claim any credit allowed under this Section on their  
19 ~~corporation income and~~ corporation franchise tax return.

20 \* \* \*

21 (dd) Entities not taxed as corporations shall claim any credit allowed under  
22 this Section on the returns of the partners or members as follows:

23 (I) Corporate partners or members shall claim their share of the credit on their  
24 ~~corporation income or~~ corporation franchise tax returns.

25 \* \* \*

26 §6022. Digital interactive media and software tax credit

27 \* \* \*

28 E. Use of tax credits.

29 \* \* \*

1 (2) For tax credits earned for expenditures made on or after January 1, 2012:

2 (a) The tax credits shall be refundable and allowed against the individual ~~or~~  
3 ~~corporate~~ income tax liability of the **owners, members, or partners of the**  
4 companies or financiers of the project in accordance with their share of the credit as  
5 provided for in the application for certification for the project. The credit shall be  
6 allowed for the taxable period in which expenditures eligible for a credit are  
7 expended as set forth in the final tax credit certification letter. Any excess of the  
8 credit over the **individual or fiduciary** income tax liability against which the credit  
9 may be applied shall constitute an overpayment, as defined in R.S. 47:1621(A), and  
10 the secretary of the Department of Revenue shall make a refund of such overpayment  
11 from the current collections of the taxes imposed by Chapter 1 of Subtitle II of this  
12 Title, as amended. The right to a refund of any such overpayment shall not be subject  
13 to the requirements of R.S. 47:1621(B).

14 \* \* \*

15 §6034. Musical and theatrical production income tax credit

16 \* \* \*

17 C. Income tax credits for state-certified productions and state-certified  
18 musical or theatrical facility infrastructure projects:

19 (1) There is hereby authorized the following types of credits against the state  
20 **individual or fiduciary** income tax:

21 \* \* \*

22 D.(1) The credit shall be allowed against individual ~~or corporate~~ income tax  
23 of the **owners, members, or partners of the** companies or financiers of the  
24 production or infrastructure project in accordance with their share of the credit as  
25 provided for in the application for certification for the production or infrastructure  
26 project. A company or financier may, on a one-time basis, transfer the credit or any  
27 refund of an overpayment to an individual or other entity including without  
28 limitation a bank or other lender, provided that the transfer shall not be effective until  
29 receipt by the Department of Revenue of written notice of such transfer. Transferors

1 and transferees shall submit to the Department of Revenue, in writing, a notification  
 2 of any transfer of the tax credit within ten business days after the transfer. The credit  
 3 shall be allowed for the taxable period in which expenditures eligible for a credit are  
 4 expended. Any excess of the credit over the income tax liability against which the  
 5 credit may be applied shall constitute an overpayment, as defined in R.S.  
 6 47:1621(A), and the secretary of the Department of Revenue shall make a refund of  
 7 such overpayment from the current collections of the taxes imposed by Chapter 1 of  
 8 Subtitle II of this Title, as amended. The right to a refund of any such overpayment  
 9 shall not be subject to the requirements of R.S. 47:1621(B).

10 (2) Application of the credit.

11 (a) Individuals, estates, and trusts shall claim their share of any credit on their  
 12 income tax return.

13 (b) Entities not taxed as corporations shall claim their share of any credit on  
 14 the returns of ~~the~~ **their individual or fiduciary** partners or members.

15 ~~(c) Corporate partners or members shall claim their share of any credit on~~  
 16 ~~their corporation income tax returns.~~

17 ~~(d)~~ Individual partners or members shall claim their share of any credit on  
 18 their individual income tax returns.

19 ~~(e)~~ **(d)** Partners or members that are estates or trusts shall claim their share  
 20 of any credit on their fiduciary income tax returns.

21 \* \* \*

22 §6036. Ports of Louisiana tax credits

23 \* \* \*

24 C. Investor tax credit.

25 (1)(a) There are hereby authorized the following credits against state  
 26 **individual and fiduciary** income and corporate franchise tax:

27 \* \* \*

28 (4) Application of the credit.

29 (a) All entities taxed as corporations for Louisiana ~~income~~ **franchise** tax

1 purposes shall claim any credit allowed under this Subsection on their corporation  
2 ~~income~~ **franchise** tax return.

3 (b) Individuals, estates, and trusts shall claim any credit allowed under this  
4 Subsection on their income tax return.

5 (c) Entities not taxed as corporations shall claim any credit allowed under this  
6 Subsection on the returns of the partners or members as follows:

7 (i) Corporate partners or members shall claim their share of the credit on their  
8 corporation ~~income~~ **franchise** tax returns.

9 (ii) Individual partners or members shall claim their share of the credit on  
10 their individual income tax returns.

11 (iii) Partners or members that are estates or trusts shall claim their share of  
12 the credit on their fiduciary income tax returns.

13 \* \* \*

14 I. Import-export cargo tax credit.

15 \* \* \*

16 (2)(a)(i) For taxable years beginning on and after January 1, 2014, there shall  
17 be allowed a credit against the individual income, ~~corporation~~ **fiduciary** income, and  
18 corporation franchise tax liability of a taxpayer who has received certification  
19 pursuant to the provisions of Paragraph (1) of this Subsection, provided that the  
20 credit shall be allowed only against the tax liability of the international business  
21 entity which receives the certification. The amount of the credit shall be equal to the  
22 product of multiplying three dollars and sixty cents by the taxpayer's number of tons  
23 of qualified cargo for the taxable year which exceeds the pre-certification tonnage  
24 or the product of multiplying the number of dollars by the taxpayer's number of tons  
25 of qualified cargo for the taxable year or portion of a taxable year which exceeds the  
26 pre-certification tonnage which is warranted by the significant positive economic  
27 benefit determined by the commissioner pursuant to Item (ii) of this Subparagraph,  
28 whichever is less. For purposes of this Item, "pre-certification tonnage" means the  
29 number of tons of cargo which meets the definition of qualified cargo for purposes

1 of this credit, and which was owned by the international business entity receiving the  
 2 credit, were imported or exported to or from a manufacturing, fabrication, assembly,  
 3 distribution, processing, or warehouse facility located in Louisiana, and which were  
 4 so moved by way of an oceangoing vessel berthed at public port facilities in  
 5 Louisiana during the calendar year prior to the year in which the application is  
 6 submitted. However, each tax credit granted to a taxpayer shall be subject to the  
 7 same limit as is provided for a qualifying project pursuant to Subparagraph (C)(1)(b)  
 8 of this Section. In addition, the import-export cargo tax credits granted by the  
 9 department to any recipient pursuant to this Section shall be limited to an amount  
 10 which shall not result in a reduction of tax liability by all recipients of such credits  
 11 to exceed four million five hundred thousand dollars in any fiscal year.

12 \* \* \*

13 (b) In the event that the tax credits allowed pursuant to this Subsection  
 14 exceed the total tax liability of the taxpayer in the taxable year, the amount of the  
 15 credit not used as an offset against such tax liability may be carried forward as a  
 16 credit against subsequent individual and ~~corporation~~ **fiduciary** income, or  
 17 corporation franchise tax liabilities for a period not to exceed five taxable years.

18 \* \* \*

19 §6105. Child care provider tax credit

20 A. There shall be a credit against any Louisiana individual ~~or corporation~~  
 21 ~~income tax~~ or corporation franchise tax for a child care provider refundable as  
 22 provided for in R.S. 47:6108. The tax credit shall be an amount based upon the  
 23 average monthly number of children who either participate in the Child Care  
 24 Assistance Program administered by the office of children and family services in the  
 25 Department of Children and Family Services or who are foster children in the  
 26 custody of the Department of Children and Family Services, and who are attending  
 27 a child care facility or facilities operated by the child care provider, multiplied by an  
 28 amount which shall be based upon the quality rating of each child care facility  
 29 operated by the child care provider as follows:

Quality Rating of Child Care Facility	Tax Credit Per Eligible Child Attending
Five star	\$1,500
Four star	\$1,250
Three star	\$1,000
Two star	\$750
One star or non-participating facility	-0-

\* \* \*

Section 2. R.S. 51:1787(A)(1)(b) and (2), and 2399.3(A)(3) are hereby amended and reenacted and R.S. 51:1787(A)(3)(d) and 2399.3(A)(4) are hereby enacted to read as follows:

§1787. Enterprise zone incentives

A. The board, after consultation with the secretaries of the Department of Economic Development and Department of Revenue, and with the approval of the governor, may enter into contracts not to exceed five years to provide:

(1) For either:

\* \* \*

(b)(i) A refundable investment income tax credit equal to one and one-half percent of the amount of qualified expenditures. For purposes of this Paragraph, the term "qualified expenditures" shall mean amounts classified as capital expenditures for federal income tax purposes plus exclusions from capitalization provided for in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the capitalized cost of land, capitalized leases of land, capitalized interest, capitalized costs of manufacturing machinery and equipment to the extent the capitalized manufacturing machinery and equipment costs are excluded from sales and use tax pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing building. When a taxpayer purchases an existing building and capital expenditures are used to rehabilitate the building, the costs of the rehabilitation only shall be considered qualified expenditures. Additionally, a taxpayer shall be allowed to increase their qualified expenditures to the extent a taxpayer's capitalized basis is properly reduced by claiming a federal credit. A taxpayer earns the investment tax credit in the year in which the project is placed in service, but the taxpayer may not claim the

1 investment tax credit until the Department of Economic Development signs the  
2 project completion report or such other time as provided for by rule or regulation.

3 The project completion report for the refundable investment tax credit shall adhere  
4 to the same requirements found in Subparagraph (a) for the sales and use tax rebate.

5 **(ii) For projects for which the advance notification is filed on or after**  
6 **January 1, 2020, the investment tax credit shall apply to individual and**  
7 **fiduciary income tax and shall not apply to corporation income tax.**

8 \* \* \*

9 (2)(a) Except as provided in Subparagraph (b) of this Paragraph, for a two  
10 thousand five hundred dollar tax credit per net new employee as determined by the  
11 company's average annual employment reported under the Louisiana Employment  
12 Security Law during the taxable year for which credit is claimed. For projects for  
13 which the advance notification form is filed on or after April 1, 2016, the amount of  
14 the credit provided for in this Subparagraph shall be one thousand dollars per net  
15 new employee, unless either the net new employee for which the credit is claimed  
16 was receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants,  
17 and Children (WIC), Medicaid, unemployment benefits, or any other benefits from  
18 a similar public assistance program, as provided for in rule by the Department of  
19 Economic Development, during the six-month period prior to employment or the net  
20 new employee is hired by a participating business located in an enterprise zone. The  
21 amount of the credit for each net new employee meeting these qualifications shall  
22 be three thousand five hundred dollars. **This Except as provided in Paragraph (3)**  
23 **of this Subsection, the** tax credit may be applied to any state income tax liability or  
24 any state corporate franchise tax liability, but not liabilities for penalty or interest,  
25 due or outstanding at the time the credit is generated. However, credits may be  
26 applied to a due or outstanding tax liability attributable to tax years prior to the year  
27 in which the credit is generated only if the tax liability is the result of an assessment,  
28 administrative, or judicial proceeding by the Department of Revenue after an audit,  
29 provided that no further interest or penalty shall be accrued on such tax liability after

1 the credit is generated. ~~If **Except as provided in Paragraph (3) of this Subsection,**~~  
2 the entire credit cannot be used in the year claimed, the remainder may be applied  
3 against the income tax or corporate franchise tax for the succeeding ten taxable years  
4 or until the entire credit is used, whichever occurs first. These credits shall also apply  
5 to those tax liabilities, but not liabilities for penalty or interest, identified in tax years  
6 where existing contracts generate the credit.

7 (b) In lieu of the tax credit provided in Subparagraph (a) of this Paragraph,  
8 for aviation or aerospace industries as defined in North American Industry  
9 Classification System (NAICS) Code 336411, 336412, 336413, and 332912, for a  
10 five thousand dollar tax credit for each new job created. ~~This **Except as provided**~~  
11 ~~**in Paragraph (3) of this Subsection, the**~~ tax credit may be applied to any state  
12 income tax liability or any state franchise tax liability within a ten-year period from  
13 the date that the contract becomes effective or until the entire credit is used,  
14 whichever occurs first.

15 (c) Until June 30, 2009, in lieu of the tax credit provided in Subparagraph (a)  
16 of this Paragraph, for the motor vehicle parts manufacturing industry as defined in  
17 the 3363 NAICS Code Title, for a five thousand dollar tax credit for each new job  
18 created. ~~This **Except as provided in Paragraph (3) of this Subsection, the**~~ tax  
19 credit may be applied to any state income tax liability or any state franchise tax  
20 liability within a ten-year period from the date that the contract becomes effective  
21 or until the entire credit is used, whichever occurs first. As used in this  
22 Subparagraph, the term "NAICS" means the North American Industrial  
23 Classification System.

24 (d) Until June 30, 2012, in lieu of the tax credit provided in Subparagraph (a)  
25 of this Paragraph, for the rubber manufacturing industry as defined by NAICS Code  
26 326211, a five thousand dollar tax credit for each new job created. ~~This **Except as**~~  
27 ~~**provided in Paragraph (3) of this Subsection, the**~~ tax credit may be applied to any  
28 state income tax liability or any state franchise tax liability within a ten-year period  
29 from the date that the contract becomes effective or until the entire credit is used,

1           whichever occurs first.

2                   (3) The tax credit provided in Paragraph (2) of this Subsection shall be  
3 applicable as follows:

4   \*       \*       \*

5                   (d) For projects for which the advance notification is filed on or after  
6 January 1, 2020, the investment tax credit shall apply to individual and  
7 fiduciary income tax and shall not apply to corporation income tax.

8   \*       \*       \*

9           §2399.3. Modernization tax credit

10                   A.   \*       \*       \*

11                   (3) For tax credit certificates credits approved by the department before  
12 January 1, 2020:

13                   (a) All entities taxed as corporations for Louisiana income or corporation  
14 franchise tax purposes shall claim any credit allowed under this Section on their  
15 corporation income and corporation franchise tax return.

16                   (b) Individuals shall claim any credit allowed under this Section on their  
17 individual income tax return.

18                   (c) Estates or trusts shall claim any credit allowed under this Section on their  
19 fiduciary income tax returns.

20                   (d) Entities not taxed as corporations shall claim any credit allowed under this  
21 Section on the returns of the partners or members as follows:

22                   (i) Corporate partners or members shall claim their share of the credit on their  
23 corporation income or corporation franchise tax returns.

24                   (ii) Individual partners or members shall claim their share of the credit on  
25 their individual income tax returns.

26                   (iii) Partners or members that are estates or trusts shall claim their share of  
27 the credit on their fiduciary income tax returns.

28                   (4) For tax credit certificates credits approved by the department on or  
29 after January 1, 2020:



tax rate and bracket schedule as follows:

- (1) 4% on the first \$25,000 of La. taxable income.
- (2) 5% on La. taxable income above \$25,000 but not in excess of \$50,000.
- (3) 6% on La. taxable income above \$50,000 but not in excess of \$100,000.
- (4) 7% on La. taxable income above \$100,000 but not in excess of \$200,000.
- (5) 8% on all La. taxable income in excess of \$200,000.

Proposed law eliminates the graduated brackets and imposes the corporate income tax at a single rate of 3.95%.

Present law provides that taxpayers and the department of revenue may enter into agreement to use certain claims against the state arising from erroneous payments of corporate franchise tax against corporation income and franchise tax liability.

Proposed law retains present law authorization to use these claims against the state to offset corporation franchise tax, but eliminates the ability to use these claims to offset corporation income tax for all such agreements executed after Jan. 1, 2020.

Present law authorizes numerous tax credits that can be used to offset a corporation's Louisiana corporation income tax liability dollar for dollar.

Proposed law prohibits taxpayers from using tax credits to reduce their corporation income tax liability, but retains the credits for all other taxes that present law authorizes.

Proposed law provides for transition rules that authorize the continuation of corporation income tax credits issued pursuant to certain economic development contracts executed before Jan. 1, 2020.

Proposed law provides for a procedure for the utilization of corporation income tax credits with carryover balances that were earned before Jan. 1, 2020, provided that the credits cannot be used to offset franchise tax, there is additional time remaining in the carryover period, and the taxpayer notifies the department of revenue of the balance by July 1, 2020.

Proposed law specifically eliminates the ability of corporate taxpayers from using the following tax credits to offset or reduce their corporation income tax liability:

- (1) Insurance Company Premium Tax (R.S. 47:227)
- (2) Industrial Tax Equalization Program (R.S. 47:3201-3205)
- (3) Exemptions for Manufacturing Establishments (R.S. 47:4301-4306)
- (4) Inventory Tax/Ad Valorem Tax/Natural Gas (R.S. 47:6006)
- (5) Ad Valorem Tax on Offshore Vessels (R.S. 47:6006.1)
- (6) Motion Picture Investor Tax Credit (R.S. 47:6007)
- (7) Ad Valorem Tax Paid by Certain Telephone Companies (R.S. 47:6014)
- (8) Research and Development Tax Credit (R.S. 47:6015)
- (9) Rehabilitation of Historic Structures (R.S. 47:6019)

- (10) Digital Interactive Media & Software Tax Credit (R.S. 47:6022)
- (11) Musical & Theatrical Productions Tax Credit (R.S. 47:6034)
- (12) Ports of Louisiana Tax Credits (R.S. 47:6036)
- (13) School Readiness Child Care Provider (R.S. 47:6105)
- (14) Enterprise Zone tax credits (R.S. 51:1781-1791)
- (15) Retention and Modernization Credit (R.S. 51:2399.1-2399.6)

Proposed law applies to all taxable years beginning on or after Jan. 1, 2020.

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

(Amends R.S. 47:287.12, 1484(C)(1), 1675(B)(2) and (I), 3204(H), (I) and (J), 4305, 6006(A), 6006(B)(1)(intro para), (B)(2), and (4), 6006.1(A), (B)(1), (3), and (4), 6007(C)(1)(intro para), (C)(2) and (3), 6007(C)(4)(intro para), 6014(A), (B), and (C)(1), (3), (4) and (5), 6015(B)(1) and (2), (C)(3)(a) and (d)(i), (D)(2)(intro para), and (K), 6019(A)(1)(a), (3)(b)(ii)(aa), and (dd)(I), 6022(E)(2)(a), 6034(C)(1)(intro para) and 6034(D), 6036(C)(1)(a)(intro para), 6036(C)(4), and (I)(2)(a)(i) and (b), 6105(A), R.S. 51:1787(A)(1)(b) and (2), 2399.3(A)(3); adds R.S. 47:1484(C)(5), 1675(K), R.S. 51:1787(A)(3)(d), and 2399.3(A)(4); repeals R.S. 47:227, 287.748, 287.749, 287.752, 287.753, 287.755, 287.756, 287.758, and 287.759)