

2019 Regular Session

HOUSE BILL NO. 444

BY REPRESENTATIVE MCFARLAND

TAX CREDITS: Establishes the La. Rural Jobs Act Tax Credit Program and authorizes a tax credit for rural growth investments made by rural growth funds

1 AN ACT

2 To enact 47:6016.2, relative to tax credits; to authorize a premium tax credit for rural growth
3 investments made by rural growth funds; to provide for certain definitions; to
4 provide for the amount of the credit; to provide for eligibility, application, usage, and
5 recapture of the credit; to provide for requirements of certain reports; to authorize the
6 promulgation for certain rules and regulations; to provide for requirements and
7 limitations; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6016.2 is hereby enacted to read as follows:

10 §6016.2. Louisiana Rural Jobs Act; premium tax credit

11 A. The provisions of this Section shall be known and cited as the "Louisiana
12 Rural Jobs Act".

13 B. Definitions. As used in this Section, the following words, terms, and
14 phrases have the meaning ascribed to them unless a different meaning is clearly
15 indicated by the context:

16 (1) "Affiliate" means an entity that directly, or indirectly through one or
17 more intermediaries, controls, is controlled by, or is under common control with
18 another entity. For purposes of this Paragraph, an entity is "controlled by" another
19 entity if the controlling entity holds, directly or indirectly, the majority voting or

1 ownership interest in the controlled entity or has control over the day-to-day
2 operations of the controlled entity by contract or by law.

3 (2) "Closing date" means the date on which a rural growth fund has collected
4 all amounts specified by Subparagraph (C)(6)(a) of this Section.

5 (3) "Department" means the Department of Revenue.

6 (4) "Full-time employment position" means an employment position that is
7 filled and requires at least thirty-five hours of work per week or other period of time
8 generally accepted by custom, industry, or practice as full-time employment.

9 (5) "Investment authority" means the amount stated on the notice issued
10 pursuant to Paragraph (C)(5) of this Section certifying the rural growth fund. At
11 least seventy-five percent of a rural growth fund's investment authority shall be
12 comprised of an amount equal to the authorized investor contributions.

13 (6) "Investor contribution" means an investment of cash in a rural growth
14 fund by a person with state premium tax liability that equals the amount specified on
15 a tax credit certificate issued by the department pursuant to Subparagraph (C)(6)(b)
16 of this Section. The investment shall purchase an equity interest in the rural growth
17 fund or purchase, at par value or premium, a debt instrument issued by the rural
18 growth fund that has a maturity date at least five years from the closing date.

19 (7) "Jobs created" means the difference between the following two numbers:

20 (a) The average number of full-time employment positions at a rural business
21 in the preceding calendar year, or if the initial rural growth investment occurred
22 during the preceding calendar year, the average number of full-time employment
23 positions for the months after the initial rural growth investment was made through
24 the end of the preceding calendar year.

25 (b) The number of full-time employment positions at the rural business on
26 the date of the initial rural growth investment.

27 (8) "Jobs retained" means the number of full-time employment positions that
28 existed before the initial rural growth investment and for which the rural business's

1 chief executive officer or similar officer certifies that the full-time employment
2 position would have been eliminated but for the initial rural growth investment.

3 (9) "Louisiana bank" means a bank, savings bank, or savings and loan
4 association that is a member of the Federal Deposit Insurance Corporation and is
5 operating in this state with a main office or one or more branches in this state.

6 (10) "Louisiana bank participation loan" means a secured loan to a rural
7 business made by a Louisiana bank with a main office or branch located in the parish
8 or a parish contiguous to the parish containing the location of the rural business's
9 principal business operations and where a rural growth fund provides a portion of the
10 total amount financed. In order to be considered a Louisiana bank participation loan,
11 the Louisiana bank shall be given the opportunity to obtain superior encumbrances
12 over the immovable and movable property, other than accounts receivable or
13 inventory, of the rural business relative to the encumbrances of the rural growth
14 fund, unless the Louisiana bank agrees to subordinate its ranking priority, and the
15 bank shall also be given the opportunity to decide its percentage of participation in
16 the total financing to be provided to the rural business relative to the rural growth
17 fund's participation.

18 (11) "Principal business operations" of a business are located at the place or
19 places where at least sixty percent of its employees work or where employees that
20 are paid at least sixty percent of its payroll work. A business that has agreed to
21 relocate or hire employees using the proceeds of a rural growth investment to
22 establish its principal business operations in a rural area in the state shall be deemed
23 to have its principal business operations in this new location provided it satisfies this
24 definition within one hundred eighty days after receiving the rural growth
25 investment, unless the department agrees to a later date.

26 (12) "Rural area" means all locations outside of census places with a
27 population greater than or equal to fifty thousand as of the latest decennial census of
28 the United States and their adjacent and contiguous urbanized areas.

1 (13) "Rural business" means a business that, at the time of the initial rural
2 growth investment in the company by a rural growth fund, meets all of the following
3 criteria:

4 (a) Has, together with its affiliates, fewer than one hundred employees.

5 (b) Has its principal business operations in one or more rural areas in the
6 state.

7 (c) Is engaged in industries assigned a North American Industry
8 Classification System code within Sectors 11, 21, 23, 31, 32, 33, 42, 48, 49, 54
9 excluding Industry Groups 5411 and 5412, 56, 62, and 81 or, if not engaged in any
10 of these industries, the department determines that the investment will be beneficial
11 to the rural area and the economic growth of the state.

12 (14) "Rural growth fund" means an entity certified by the department
13 pursuant to Paragraph (C)(5) of this Section.

14 (15)(a) "Rural growth investment" means any capital or equity investment
15 in a rural business or any loan to a rural business with a stated maturity of at least
16 one year after the date of issuance. A rural business obtaining a rural growth fund
17 investment shall maintain its operating deposit account at the same Louisiana bank
18 that is participating in the loan unless the Louisiana bank agrees to waive this
19 requirement or, if no Louisiana bank is participating in the loan, then the rural
20 business shall maintain its operating deposit account at any Louisiana bank.

21 (b) A rural growth investment shall not include any of the following:

22 (i) A loan secured by accounts receivable or inventory of a rural business.

23 (ii) Any loan that is secured by immovable property or other movable
24 property, other than accounts receivable or inventory of a rural business, unless a
25 Louisiana bank participation loan is made or a Louisiana bank declined to make a
26 Louisiana bank participation loan. If a Louisiana bank declines to make a Louisiana
27 bank participation loan, then prior to making the loan, the rural growth fund and the
28 chief executive officer, or similar officer of the rural business, certifies all of the
29 following:

1 (aa) That the rural business applied for and was declined financing of a
2 similar amount as the proposed rural growth investment from a Louisiana bank with
3 a main office or branch located in the parish or a parish contiguous to the parish
4 containing the location of the rural business's principal businesses operations.

5 (bb) That the rural growth fund submitted a written proposal for a Louisiana
6 bank participation loan which disclosed the name of the rural business, the general
7 terms of the proposed rural growth investment and the loan participation and the
8 Louisiana bank declined to participate or respond within thirty days of receiving the
9 proposal.

10 (iii) All certifications shall identify the Louisiana banks, points of contact,
11 and dates of contact at each Louisiana bank. A rural growth fund shall submit the
12 certification to the department prior to making a rural growth investment secured by
13 immovable property or other movable property other than accounts receivable or
14 inventory.

15 (16) "Rural parish" means a nonmetropolitan parish as designated by the
16 United States Office of Management and Budget.

17 (17) "State premium tax liability" means any liability incurred by any entity
18 under the provisions of R.S. 22:831, 836, 838, and 842, except for liability incurred
19 under R.S. 22:842(C).

20 C.(1) Beginning October 1, 2019, the department shall accept applications
21 for approval as a rural growth fund. On a form prescribed by the department, the
22 application shall include all of the following:

23 (a) The total investment authority sought by the applicant.

24 (b) Evidence that:

25 (i) The applicant or an affiliate of the applicant is licensed as a rural business
26 investment company pursuant to 7 U.S.C. 2009cc and the regulations and procedures
27 thereunder, or as a small business investment company pursuant to 15 U.S.C. 681
28 and the regulations and procedures thereunder.

1 (ii) At least one principal in a rural business investment company or small
2 business investment company is, and has been for at least four years, an officer or
3 employee of the applicant or an affiliate of the applicant on the date the application
4 is submitted.

5 (iii) The applicant or affiliates of the applicant have invested at least one
6 hundred million dollars in nonpublic companies located in nonmetropolitan counties
7 as defined by the Office of Management and Budget within the Office of the
8 President of the United States on the basis of county or county-equivalent units,
9 exclusive of any investments made pursuant to the provisions of this Section.

10 (c) An estimate of the number of jobs created and jobs retained in this state
11 because of the applicant's proposed rural growth investments.

12 (d) A business plan that includes a revenue impact assessment projecting
13 state and local tax revenue to be generated by the applicant's proposed rural growth
14 investments prepared by a nationally recognized third-party independent economic
15 forecasting firm using a dynamic economic forecasting model that analyzes the
16 applicant's business plan over the ten years following the date the application is
17 submitted to the department.

18 (e) A signed affidavit from each investor stating the amount of investor
19 contributions each investor shall commit.

20 (2) The department shall grant or deny the application, within thirty days
21 after receipt of a completed application containing the information set forth in
22 Paragraph (1) of this Subsection. The department shall deem applications received
23 on the same day to have been received simultaneously. The allocation of investment
24 authority and investor contributions shall be on a first-come, first-served basis. The
25 department shall not approve more than one hundred million dollars in investment
26 authority and not more than seventy-five million dollars in investor contributions
27 pursuant to this Section over the life of the program. If requests for investment
28 authority exceed this limitation, the department shall proportionally reduce the

1 investment authority and the investor contributions for each approved application as
2 necessary to avoid exceeding the limit.

3 (3) The department shall deny an application for any of the following:

4 (a) The application is incomplete.

5 (b) The applicant does not satisfy the criteria of Subparagraph (1)(b) of this
6 Subsection.

7 (c) The revenue impact assessment submitted pursuant to Subparagraph
8 (1)(d) of this Subsection does not demonstrate that the applicant's business plan will
9 result in a positive economic impact on this state over a ten-year period that exceeds
10 the cumulative amount of tax credits that would be issued to the applicant's investors.

11 (d) The combined investor contributions described in affidavits submitted
12 pursuant to Subparagraph (1)(e) of this Subsection do not equal at least seventy-five
13 percent of the total amount of investment authority for which the applicant applied.

14 (e) The department has already approved the maximum amount of
15 investment authority and investor contributions allowed pursuant to Paragraph (2)
16 of this Subsection.

17 (4) If the department denies an application for any reason other than as
18 provided for in Subparagraph (3)(d) of this Subsection, the applicant may provide
19 additional information to the department to complete, clarify, or cure defects in the
20 application within fifteen days of the notice of denial for reconsideration and
21 determination. The department shall review and reconsider such applications within
22 thirty days, and if approved, the application shall be considered approved as of its
23 original submission date and shall receive the pro rata allocation the application
24 would have received if it was approved on the original date of submission.

25 (5) The department shall not reduce the requested investment authority or
26 deny a rural growth fund application for reasons other than those described in
27 Paragraphs (2) and (3) of this Subsection. Upon approval of an application, the
28 department shall certify the applicant as a rural growth fund specifying:

29 (a) The amount of the applicant's investment authority.

1 (b) The investor contributions required from each taxpayer that submitted
2 an affidavit with the rural growth fund's application.

3 (c) The number of jobs created and jobs retained required of the rural growth
4 fund, which shall match those projected in the rural growth fund's application, as
5 prorated on the basis of the investment authority awarded to the rural growth fund.

6 (6)(a) The rural growth fund shall collect all investor contributions and
7 collect additional investments of cash that, when added to the investor contributions,
8 equal to at least the amount of the rural growth fund's investment authority, within
9 sixty days of receiving the approval issued pursuant to Paragraph (5) of this
10 Subsection. At least ten percent of the rural growth fund's investment authority shall
11 be comprised of equity investments directly or indirectly contributed by affiliates of
12 the rural growth fund, including employees, officers, and directors of such affiliates.
13 A rural growth fund shall send to the department documentation sufficient to prove
14 that the amounts required have been collected, within sixty-five days of receiving the
15 approval issued pursuant to Paragraph (5) of this Subsection.

16 (b) The department shall provide a tax credit certificate to each investor that
17 made an investor contribution in the amount of the investor's investor contribution,
18 upon receipt of the documentation required by Subparagraph (a) of this Paragraph.

19 (7) If the rural growth fund fails to fully comply with Subparagraph (6)(a)
20 of this Subsection, the rural growth fund's certification shall lapse and the
21 corresponding investment authority and investor contributions shall not count toward
22 the limits on the program size prescribed by Paragraph (2) of this Subsection. The
23 department shall first award lapsed investment authority pro rata to each rural growth
24 fund that was awarded less than the investment authority for which it applied. A
25 rural growth fund may allocate the associated investor contribution authority to any
26 of its investors with state premium tax liability at its discretion. Any remaining
27 investment authority may be awarded by the department to new applicants.

28 D.(1) Any taxpayer that makes an investor contribution and receives a tax
29 credit certificate pursuant to Subparagraph (C)(6)(b) of this Section shall be vested

1 with an earned credit against state premium tax liability, subject to the recapture
2 provisions of Subsection E and Paragraph (G)(3) of this Section. The amount of the
3 credit shall be equal to the amount of the investor contribution. Credits authorized
4 pursuant to the provisions of this Section shall first be applicable to the state
5 premium tax liability of the investor that begins in the taxable year containing the
6 fourth anniversary of the closing date. No more than one-third of the total amount
7 of the credit shall be applied in each of the taxable years beginning with the taxable
8 year containing the fourth anniversary of the closing date through the taxable year
9 containing the sixth anniversary of the closing date, exclusive of any carried forward
10 amounts authorized pursuant to Paragraph (2) of this Subsection.

11 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the
12 amount of the credit claimed by a taxpayer shall not exceed the amount of such
13 taxpayer's state premium tax liability for the tax year in which the credit is claimed.
14 Any amount of tax credit that the taxpayer does not claim in a taxable year may be
15 carried forward for use in future taxable years for a period not to exceed ten years.

16 (3) The credit authorized pursuant to the provisions of this Section shall be
17 nonrefundable and shall not be sold, transferred, or allocated to any other entity
18 except that a credit may be sold, transferred, or allocated to an affiliate that had state
19 premium tax liability at the time of the submission of the investor's affidavit included
20 in the rural growth fund's application.

21 (4) A taxpayer claiming a credit pursuant to this Section shall submit a copy
22 of the tax credit certificate to the Department of Insurance with the taxpayer's return
23 for each taxable year for which the credit is claimed.

24 (5) No additional retaliatory tax shall be due as a result of the claiming of the
25 credit pursuant to this Section.

26 E.(1) The department shall recapture any tax credit allowed pursuant to this
27 Section if any of the following occur before a rural growth fund exits the program
28 pursuant to Paragraph (5) of this Subsection:

1 (a) The rural growth fund has not invested at least one hundred percent of
2 its investment authority in rural growth investments in this state, including at least
3 fifty percent of its investment authority in rural businesses that maintain their
4 principal business operations in rural parishes, within two years of the closing date.

5 (b) The rural growth fund, after satisfying the provisions of Subparagraph
6 (1)(a) of this Subsection, fails to maintain rural growth investments equal to at least
7 one hundred percent of its investment authority, including at least fifty percent of its
8 investment authority in rural businesses that maintain their principal business
9 operations in rural parishes, until the seventh anniversary of the closing date. For the
10 purposes of this Subparagraph, an investment is "maintained" even if it is sold or
11 repaid so long as the rural growth fund reinvests an amount equal to the capital
12 returned or recovered from the original investment, exclusive of any profits realized,
13 in other rural growth investments in this state within twelve months of the receipt of
14 the capital. Amounts received periodically by a rural growth fund shall be treated
15 as continuously invested in rural growth investments if the amounts are reinvested
16 in one or more rural growth investments by the end of the following calendar year.
17 A rural growth fund shall not be required to reinvest capital returned from rural
18 growth investments after the sixth anniversary of the closing date, and the rural
19 growth investments shall be considered held continuously by the rural growth fund
20 through the seventh anniversary of the closing date.

21 (c) The rural growth fund, before exiting the program pursuant to Paragraph
22 (5) of this Subsection, makes a distribution or payment that results in the rural
23 growth fund having less than one hundred percent of its investment authority
24 invested in rural growth investments in this state or available for investment in rural
25 growth investments and held in cash and other marketable securities.

26 (d)(i) The rural growth fund makes a rural growth investment in a rural
27 business that directly, or indirectly through an affiliate, does any of the following:

28 (aa) Owns the rural growth fund, or an affiliate of or investor of the rural
29 growth fund.

1 (bb) Has the right to acquire an ownership interest in the rural growth fund,
2 or an affiliate of or investor in the rural growth fund.

3 (cc) Makes a loan to the rural growth fund, or an affiliate of or investor in
4 the rural growth fund.

5 (dd) Makes an investment to the rural growth fund, or an affiliate of or
6 investor in the rural growth fund.

7 (ii) This Paragraph shall not apply to investments in publicly traded
8 securities by a rural business or an owner or affiliate of such rural business. For
9 purposes of this Subparagraph, a rural growth fund shall not be considered an
10 affiliate of a rural business solely because of its rural growth investment.

11 (e) The rural growth fund, before exiting the program pursuant to Paragraph
12 (5) of this Subsection, pays any management fee to its affiliates in connection with
13 any activity under this program.

14 (2) For purposes of the investment amounts required by Subparagraphs
15 (1)(a) and (b) of this Subsection, a rural growth fund shall be allowed to take into
16 account up to five million dollars of rural growth investments per rural business,
17 including amounts invested in affiliates of the rural business. Any amounts
18 reinvested by a rural growth fund with the proceeds of repaid or redeemed rural
19 growth fund investments shall not be included in the five million dollar cap.

20 (3) Before recapturing any tax credit certificates pursuant to this Subsection,
21 the department shall notify the rural growth fund of the reasons for the pending
22 revocation. The rural growth fund shall have ninety days from the date the notice
23 was received to correct any violation outlined in the notice to the satisfaction of the
24 department and avoid recapture of the tax credit certificate.

25 (4) If tax credit certificates are recaptured pursuant to this Subsection, the
26 associated investment authority and investor contributions shall not count toward the
27 limit on total investment authority and investor contributions described by Paragraph
28 (C)(2) of this Section. The department shall first award reverted investment
29 authority pro rata to each rural growth fund that was awarded less than the requested

1 investment authority for which it applied. Such a rural growth fund may allocate the
2 associated investor contribution authority to any taxpayer with state premium tax
3 liability in its discretion. The department may award any remaining investment
4 authority to new applicants.

5 (5) A rural growth fund may apply to the department to exit the program and
6 no longer be subject to regulation, on or after the seventh anniversary of the closing
7 date. The department shall respond to the application within thirty days of receipt
8 of the request to exit the program. In evaluating the application, there shall be a
9 presumption that the rural growth fund is eligible for exit if no tax credit certificates
10 have been recaptured and the rural growth fund has not received a notice of recapture
11 that has not been cured pursuant to Paragraph (3) of this Subsection. The department
12 shall not unreasonably deny an application to exit the program submitted pursuant
13 to the provisions of this Paragraph. If the application is denied, the notice of denial
14 shall include the reasons for the determination.

15 (6) After exiting the program pursuant to Paragraph (5) of this Subsection,
16 a rural growth fund may not make any distribution to its equity holders or pay
17 management fees to any of its affiliates unless it has made rural growth investments
18 equal to at least one hundred fifty percent of its investment authority.

19 (7) Upon exit from the program pursuant to Paragraph (5) of this Subsection
20 a rural growth fund shall not make any distribution in excess of the amount of its
21 investor contributions until it first remits to the department a payment equal to the
22 difference between its investor contributions and the product of its investor
23 contributions and a fraction, the numerator of which is the aggregate number of jobs
24 created and jobs retained reported annually to the department pursuant to Subsection
25 (G)(1)(d) and the denominator of which is the number of jobs created and jobs
26 retained set forth in the rural growth fund's certification pursuant to Subsection
27 (C)(5). No payment is due if the aggregate number of jobs created and jobs retained
28 equals or exceeds the amount specified in the rural growth fund's certification.

1 (8) The department shall not recapture a tax credit certificate after a rural
2 growth fund exits from the program.

3 F. A rural growth fund, before making a rural growth investment, may
4 request from the department a written opinion as to whether the business in which
5 it proposes to invest satisfies the definition of a rural business. The department, not
6 later than the fifteenth business day after the date of receipt of the request, shall
7 notify the rural growth fund of its determination. If the department fails to notify the
8 rural growth fund by the fifteenth business day of its determination, the business in
9 which the rural growth fund proposes to invest shall be considered a rural business.

10 G.(1) Each rural growth fund shall submit an annual report to the
11 department, the House Committee on Ways and Means, and the Senate Committee
12 on Revenue and Fiscal Affairs on or before the fifth business day after each
13 anniversary of the closing date. The report shall provide documentation as to each
14 rural growth investment and shall include all of the following:

15 (a) A bank statement evidencing each rural growth investment.

16 (b) The name, location, and industry of each rural business receiving a rural
17 growth investment, including either the determination letter set forth in Subsection
18 F of this Section or evidence that the business qualified as a rural business at the time
19 the investment was made, and the certification referred to in Paragraph (C)(5) of this
20 Section if applicable with respect to the rural growth investment.

21 (c) The number of full-time employment positions at the rural business on
22 the date of the initial rural growth investment and jobs retained as a result of the
23 initial growth investment.

24 (d) The number of jobs created and jobs retained, provided the number of
25 jobs retained shall not exceed the number of jobs retained reported in the first annual
26 report and such number of jobs retained shall be reduced in subsequent annual
27 reports if the full-time employment positions drop below the number of jobs retained
28 reported in Subparagraph (c) of this Paragraph.

29 (e) Any other information required by the department.

1 (2) The rural growth fund shall not be required to provide the annual report
2 set forth in Paragraph (1) of this Subsection for rural growth investments that have
3 been redeemed or repaid but shall provide this information if the information is
4 available.

5 (3) In the event a report required by this Subsection is not timely submitted,
6 tax credits claimed by a taxpayer pursuant to this Section shall be disallowed until
7 the required report has been submitted.

8 (4) Within fifteen business days of submitting any report required by
9 Paragraph (1) of this Subsection, the rural growth fund shall provide the report with
10 the information required by Subparagraph (1)(a) of this Subsection and any other
11 confidential information redacted to the House Committee on Ways and Means and
12 the Senate Committee on Revenue and Fiscal Affairs.

13 H.(1) The department may promulgate rules and regulations in accordance
14 with the Administrative Procedure Act to implement the provisions of this Section.

15 (2) The department shall issue all forms and notices in accordance with the
16 provisions of this Section.

17 I. The department shall notify the Department of Insurance of the name of
18 any insurance company allocated tax credits pursuant to the provisions of this
19 Section and the amount of the credits.

20 Section 2. This Act shall become effective upon signature by the governor or, if not
21 signed by the governor, upon expiration of the time for bills to become law without signature
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 444 Reengrossed

2019 Regular Session

McFarland

Abstract: Establishes the "La. Rural Jobs Act" and allows a premium tax credit for investment made in certain rural businesses. The maximum amount of investment authority permitted by the Dept. of Revenue is \$150 million and the maximum amount of investor contributions is capped at \$112,500,000 for certification and allocation of tax credits.

Present law taxes insurers based on the amount of premiums, known as "premium tax".

Proposed law establishes the "La. Rural Jobs Act" for purposes of a tax credit which may be claimed against insurance premium tax. Eligibility for the credit is based on the investment of private capital in a rural business located in the state.

Proposed law defines "rural business" as a business, together with its affiliates, with fewer than 100 employees, which maintains its principal operations in one or more rural areas of the state, and is engaged in a business with certain NAICS codes.

Proposed law defines a "rural growth fund" as an entity certified by the Dept. of Revenue pursuant to proposed law. Further defines a "La. bank" as a bank, savings bank, or savings and loan association that is a member of the Federal Deposit Insurance Corporation and is operating in this state with a main office or one or more branches in this state.

Proposed law defines a "La. bank participation loan" as a secured loan to a rural business made by a La. bank with a main office or branch located in the parish or a parish contiguous to the parish containing the location of the rural business's principal business operations and where a rural growth fund provides a portion of the total amount financed. Proposed law further establishes requirements such as provides that in order to be considered a La. bank participation loan, the La. bank shall be given the opportunity to obtain superior encumbrances over certain property of the rural business relative to the encumbrances of the rural growth fund, unless the La. bank agrees to subordinate its ranking priority, and the bank shall also be given the opportunity to decide its percentage of participation in the total financing provided to the rural business relative to the rural growth fund's participation.

Proposed law defines the types of investments required for tax credit eligibility.

Proposed law requires a rural business obtaining a rural growth fund investment to maintain its operating deposit account at the same La. bank participating in the loan unless the bank agrees to waive this requirement or, if no La. bank is participating in the loan, then the rural business shall maintain its operating deposit account at any La. bank.

Proposed law excludes a loan secured by accounts receivable or inventory of a rural business or any loan secured by other property of a rural business, unless a La. bank participation loan is made or a La. bank declined to make a La. bank participation loan. If a Louisiana bank declines to make a Louisiana bank participation loan, then prior to making the loan, from being considered a rural growth investment. However, proposed law provides for an exception to the loan secured by property of a rural business if the La. bank has an outstanding loan to the rural business, a La. bank participates in the loan, or prior to making the loan, the rural growth fund and the chief executive officer of the rural business makes certain certifications. A rural growth fund shall submit the certification to the department

prior to making a rural growth investment secured by immovable property or other movable property.

Proposed law authorizes a maximum of \$100 million of investment authority and \$75 million of investor contributions for certification and allocation for the purpose of earning tax credits. The department shall begin accepting applications on Oct. 1, 2019.

Proposed law requires that investments eligible for the award of tax credits be certified by the Dept. of Revenue. If an applicant applies for approval as a rural growth fund, the department shall inform the entity within 30 days of application whether the application is certified or denied. In the case of denial, the entity shall have the right to provide additional information regarding the application within 15 days of receipt of the denial. If an application is subsequently approved, the application shall be considered approved as of its original submission date and shall receive the pro rata allocation the application would have received if it was approved on the original date of submission.

Proposed law provides that the amount of the tax credit shall be equal to the investor contribution and shall be allowed to be taken in an amount equal to 1/3 each year beginning with the 4th year through the 6th year of the investment. The total of all such credits taken cannot exceed the taxpayer's state premium tax liability for the tax year for which the credit is claimed; however, unused credits may be carried forward for up to 10 years. The credit can only be sold, transferred, or allocated to a related entity that has an insurance premium tax liability at the time the rural growth fund application was originally submitted.

Proposed law excludes taxes collected from healthcare premium assessments paid by Medicaid-enrolled managed care organizations from state premium tax liability under proposed law.

Proposed law provides for the Dept. of Revenue to recapture any tax credit if the rural growth fund exits the program when the rural growth fund has not invested 100% of its investment authority in investments in La., including at least 50% of its investment authority in rural businesses that maintain their principal business operations in rural parishes within two years of the closing date, fails to maintain investments equal to at least 100% of its investment authority, including at least 50% of its investment authority in rural businesses that maintain their principal business operations in rural parishes until the 7th anniversary of the closing date, makes a distribution or payment that results in the rural growth fund having less than 100% of its investment authority invested in rural growth investments in the state or available for investment in rural growth investments or held in case or other marketable securities, or makes an investment in certain rural business.

Proposed law requires the rural growth fund, before exiting the program, to pay any management fee to its affiliates in connection with any activity under proposed law.

Proposed law prohibits a rural growth fund from making any distribution to its equity holders or pay management fees to any of its affiliates after exiting the program unless the fund has made rural growth investments equal to at least 150% of its investment authority.

Proposed law requires reporting by each rural growth fund to the Dept. of Revenue, the House Committee on Ways and Means, and the Senate Committee on Revenue and Fiscal Affairs within 5 days of each anniversary closing date. Additionally requires the rural growth fund to submit a redacted annual report to the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs which includes bank statements evidencing each rural growth investment within 15 business days of submitting any report required pursuant to proposed law.

Proposed law authorizes a rural growth fund to apply to exit the program on or after the seventh anniversary of the closing date.

Proposed law requires the Dept. of Revenue to notify the Dept. of Insurance of the name of any insurance company allocated tax credits, as well as the amount of any credits.

Proposed law authorizes the Dept. of Revenue to promulgate rules to implement the provisions of proposed law in accordance with the Administrative Procedure Act.

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

(Adds R.S. 47:6016.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Define "Louisiana bank" and "rural parish" for purposes of proposed law.
2. Add requirement that a rural business obtaining a rural growth fund investment maintain its operating deposit account at the La. bank participating in the loan.
3. Exclude certain loans from being considered rural growth investments.
4. Require the rural growth fund and the chief executive officer of the rural business to make certain certifications before a loan secured by property of a rural business can qualify as a rural growth investment.
5. Exclude taxes collected from healthcare premium assessments paid by Medicaid-enrolled managed care organizations from state premium tax liability under proposed law.
6. Specify when applications that were originally denied and subsequently approved are considered approved and set forth the applications's pro rata allocation.
7. Add authorization for the recapture of credits if the rural growth fund does not invest at least 50% of its investment authority in rural businesses that maintain their principal business operations in rural parishes.
8. Add provisions relative to the amount of the payment due to the department when a rural growth fund exits the program.
9. Require the rural growth fund to submit a redacted annual report to the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs which includes bank statements evidencing each rural growth investment.

The House Floor Amendments to the engrossed bill:

1. Define "Louisiana bank participation loan" for purposes of proposed law and establishes requirements relative to the La. bank being given the opportunity to obtain superior encumbrances over certain property of the rural business, unless the La. bank agrees to subordinate its ranking priority, and the bank shall also be given the opportunity to decide its percentage of participation in the total financing provided to the rural business.
2. Decrease the maximum amount of investment authority from \$150 million to \$100 million and reduces the maximum amount of investor contribution for certification and allocation for the purpose of earning tax credits from \$112,500,000 to \$75 million.

3. Change the application of the credit from the taxable year containing the second anniversary of the closing date to the fourth anniversary of the closing date.
4. Change the limitation on the amount of credit that can be applied from no more than 1/5 of the total amount of the credit in each of the taxable years beginning with the taxable year containing the 3rd anniversary of the closing date through the taxable year containing the 7th anniversary of the closing date to no more than 1/3 of the total amount of the credit in each of the taxable years beginning with the taxable year containing the 4th anniversary of the closing date through the taxable year containing the 6th anniversary of the closing date.
5. Require the rural growth fund, before exiting the program, to pay any management fee to its affiliates in connection with any activity under proposed law.
6. Delete prohibition for the rural growth fund to exit the program unless the rural growth fund has made investments equal to at least 150% of its investment authority.
7. Add prohibition for the rural growth fund to make distributions to its equity holders or pay management fees after exiting the program unless the fund has made rural growth investments equal to at least 150% of its investment authority.
8. Technical amendments.