

Regular Session, 2011

SENATE BILL NO. 134

BY SENATORS CLAITOR AND MARIONNEAUX

TAX/TAXATION. Extends the Technology Commercialization Credit and Jobs Program from December 31, 2011 to December 31, 2017 and changes it from a refundable tax credit program to a "rebate" program. (7/1/11)

1 AN ACT

2 To amend and reenact the title to Part VI of Chapter 39 of Title 51 of the Louisiana Revised  
3 Statutes of 1950, R.S. 51:2352(3) and 2353 through 2356, relative to the Technology  
4 Commercialization Credit and Jobs Program; to extend the program; to change the  
5 program benefit from a tax credit to a rebate; to provide for a limitation on the  
6 receipt of other tax benefits and incentives; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The title to Part VI of Chapter 39 of Title 51 of the Louisiana Revised  
9 Statutes of 1950, R.S. 51:2352(3) and 2353 through 2356 are hereby amended and reenacted  
10 to read as follows:

11 PART VI. TECHNOLOGY COMMERCIALIZATION ~~CREDIT~~

12 REBATE AND JOBS PROGRAM

13 \* \* \*

14 §2352. Definitions

15 In this Part, the following terms shall have the meaning provided in this  
16 Section, unless the context clearly requires otherwise:

17 \* \* \*

(3) "Taxpayer" means a natural person, business, corporation, or other business entity that seeks to or has become qualified to claim a ~~credit on any income or corporation franchise tax liability against taxes owed to Louisiana~~ **rebate pursuant to this Part.**

\* \* \*

§2353. Technology Commercialization ~~Credit~~ **Rebate** and Jobs Program;  
establishment; qualifications; administration

A. Qualifying individuals or businesses that invest in the commercialization of Louisiana technology in Louisiana may earn, apply for, and be granted a ~~refundable tax credit~~ **rebate** on any income or corporation franchise tax liability and earn a ~~refundable tax credit~~ **rebate** based on new jobs created. Qualifying research centers that develop Louisiana technology to be commercialized may earn, apply for, and be granted a ~~refundable tax credit~~ **rebate** based on new jobs created. Such ~~credits~~ **rebates** shall be earned and granted for a period of not less than five tax years as provided in this Part. The administration of applications for these ~~credits~~ **rebates** and the provision of these ~~credits~~ **rebates** shall be called the Technology Commercialization ~~Credit~~ **Rebate** and Jobs Program.

B.(1) The Technology Commercialization ~~Credit~~ **Rebate** and Jobs Program shall be implemented and administered by the Department of Economic Development. In compliance with the Administrative Procedure Act and this Part, the department shall adopt and promulgate such rules as are necessary for the efficient and effective administration of this program in keeping with the purposes for which it is enacted.

(2) In providing for the implementation and administration of the program, the department shall work closely with the secretary of the Department of Revenue.

(3) Such rules shall include provisions for:

(a) The Department of Economic Development to certify the eligibility of any applicant for receipt of the ~~tax credit~~ **rebate** provided for in this Part and the ~~qualification of any claimant to claim the credit against state tax liability~~ **amount of**

1        **rebate granted.**

2                (b) The presentation of an applicant's eligibility certification and any other  
3        documentation required to be applied for and earn or claim a ~~credit~~ **rebate**.

4                C.(1) To qualify for a technology commercialization ~~credit~~ **rebate** for five  
5        tax years, all of the following qualifications shall be required by each applicant:

6                (a) The investment in commercialization costs, including investment by  
7        purchase or lease of machinery and equipment which is placed into and maintained  
8        in service in Louisiana that is directly related to the production of technology or is  
9        used to produce resources essential to the production of technology.

10               (b) An agreement with a Louisiana regionally accredited college, technical  
11        school, university, or research company to commercialize or research a technology.

12               (c) An investment, pursuant to Subparagraph (a) of this Paragraph, of no  
13        more than two hundred fifty thousand dollars in Louisiana shall be eligible for this  
14        ~~credit~~ **rebate**.

15               (2) To qualify for a technology commercialization ~~credit~~ **rebate** for five  
16        additional ~~tax~~ years immediately succeeding the first five years as provided in  
17        Paragraph (1) of this Subsection, the applicant shall demonstrate that it will continue  
18        to increase the number of jobs of the applicant in Louisiana and continue to meet the  
19        requirements of Paragraph (1) of this Subsection.

20               (3) To qualify for a ~~refundable tax credit~~ **rebate** based on new jobs created  
21        for five years, all of the following qualifications shall be required:

22               (a) The applicant must meet the requirements of Paragraph (1) of this  
23        Subsection or be a nonprofit or governmental research center approved by the  
24        secretary of the Department of Economic Development.

25               (b) The applicant must create a minimum of five new direct jobs in this state  
26        as defined by R.S. 51:2453(4).

27               (c) The applicant must offer a basic health benefits plan to the individuals it  
28        employs in new direct jobs in this state, and the plan shall be approved and meet the  
29        requirements that may be established by the Department of Economic Development.

1 (d) The new direct jobs shall pay an average minimum of fifty thousand  
2 dollars per year in wages to qualify for the new jobs ~~refundable tax credit~~ **rebate**,  
3 excluding wages to a person who owns more than thirty percent of the equity of the  
4 applicant.

5 (4) To qualify for a new jobs ~~refundable tax credit~~ **rebate** for five additional  
6 **tax** years immediately succeeding the first five **tax** years as provided in Paragraph  
7 (3) of this Subsection, the applicant shall demonstrate that it continues to meet the  
8 requirements of such Paragraph, and the statutory minimum wage requirement shall  
9 be increased by twelve percent.

10 D. No technology commercialization ~~refundable tax credit~~ **rebate** or  
11 ~~refundable tax credit~~ **rebate** based on jobs shall be earned, applied for, and granted  
12 for more than ten consecutive tax years with regard to the same location.

13 §2354. Technology commercialization ~~credit~~ **rebate**; amount; duration; forfeit

14 A. ~~Except as provided in Subsection B of this Section, The~~ **The** taxpayer may  
15 earn and apply for and, if qualified, be granted a ~~refundable credit~~ **rebate** ~~which may~~  
16 ~~be applied to any income or corporation franchise tax liability owed to the state by~~  
17 ~~the taxpayer seeking to claim the credit,~~ equal in value to forty percent of the amount  
18 of money invested by the taxpayer applicant in commercialization costs for one  
19 business location **meeting the requirements of R.S. 51:2353(C)(1) and (2) as**  
20 **certified by the Department of Economic Development.**

21 B. ~~A tax credit granted pursuant to this Part shall expire and have no value~~  
22 ~~or effect on tax liability beginning with the twenty-first tax year after the tax year in~~  
23 ~~which it was originally earned, applied for, and granted.~~

24 ~~C.~~ An applicant that meets the requirements of R.S. 51:2353 and is approved  
25 by the Department of Economic Development may receive a ~~refundable tax credit~~  
26 **rebate** based on new jobs for the period of time approved which shall be equal to six  
27 percent multiplied by the gross payroll of new direct jobs **meeting the requirements**  
28 ~~as verified~~ **certified** by the Department of Economic Development **of R.S.**  
29 **51:2353(C)(3) and (4).**

1           ~~D. C.~~ Upon approval of such an application, the Department of Economic  
2 Development shall notify the Department of Revenue and shall provide it with a  
3 copy of the ~~application~~ **certification**. The Department of Revenue may require the  
4 qualified employer to submit such additional information as may be necessary to  
5 administer the provisions of this Chapter. **Upon receipt of the approved**  
6 **certification and any such additional information, the secretary of the**  
7 **Department of Revenue shall make payment to the taxpayer in the amount to**  
8 **which he is entitled from the current collections of the taxes collected pursuant**  
9 **to Chapter 1 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.**

10 The approved employer shall file applications for ~~refundable tax credits~~ **rebates**  
11 based on new jobs with the Department of Economic Development to show its  
12 continued eligibility for the ~~refundable tax credits~~ **rebates**. The employer may be  
13 audited by the Department of Economic Development to verify such eligibility.

14 §2355. Applicant receiving ~~tax credits~~ **rebates** not eligible to receive ~~certain other~~  
15 ~~tax credits and exemptions~~ **benefits**

16 Notwithstanding any other provision of law to the contrary, ~~an applicant who~~  
17 ~~receives tax credits pursuant to the provisions of this Chapter shall not be eligible to~~  
18 ~~receive the other credits or exemptions provided for in the following provisions of~~  
19 ~~law in connection with the activity for which the tax credits or rebates were received:~~

20           ~~(1) The tax credit for generation of new jobs provided for in R.S. 47:34.~~

21           ~~(2) The Louisiana Quality Jobs Program provided for in R.S. 51:2451 et seq.~~

22           ~~(3) The employer credit for employment of previously unemployed persons~~  
23 ~~provided for in R.S. 47:6004.~~

24           ~~(4) The Louisiana basic skills training tax credit provided for in R.S. 47:6009.~~

25           ~~(5) The tax credit for employee alcohol and substance abuse treatment~~  
26 ~~programs provided for in R.S. 47:6010.~~

27           ~~(6) The sales tax rebate and income tax credits of the Enterprise Zone~~  
28 ~~Program provided for in R.S. 51:1787.~~

29           ~~(7) The reentrant jobs credit for formerly incarcerated employees provided~~

for in R.S. 47:287.748.

(8) ~~The corporation income tax credit for new jobs provided for in R.S. 47:287.749.~~

(9) ~~The neighborhood assistance tax credit provided for in R.S. 47:287.753.~~

**a taxpayer shall not receive any other state credit, exemption, exclusion, rebate, or any other tax incentive for any expenditures for which the taxpayer has received a rebate under this Section.**

§2356. Expiration date of ~~credit~~ **rebate**

There shall be no ~~tax credits~~ **rebates** granted or earned under this Part after December 31, 2011 **2017**.

Section 2. The provisions of this Act shall be applicable to qualifying expenditures made on or after July 1, 2011. However, any refundable tax credits earned and granted prior to July 1, 2011 pursuant to the Technology Commercialization Credit and Jobs Program shall continue to be valid and effective after that date provided that the taxpayer continues to meets the requirements of the Act for eligibility for rebates.

Section 3. This Act shall become effective on July 1, 2011; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2011, or on the day following such approval by the legislature, whichever is later.

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The original instrument was prepared by Riley Boudreaux. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

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#### DIGEST

Claitor (SB 134)

Present law provides for the Technology Commercialization Credit and Jobs Program administered by DED, consisting of two refundable tax credits which are limited to being earned for up to 10 "consecutive tax years" at the same location:

1. A refundable technology commercialization credit of 40% of an investment of up to \$250,000 per year in "commercialization costs" at one business location along with an agreement with a Louisiana regionally accredited college, technical school, university, or research company to commercialize or research a technology.

"Commercialization costs" is defined as investment in machinery and equipment directly used in Louisiana which is related to the production of "technology" or is used to produce resources essential to the production of "technology" and all expenditures associated with obtaining the rights to use or the use of "technology".

"Technology" is defined as the product or intellectual property owned or research sponsored at a regionally accredited college, technical school, or university located in Louisiana or any product or intellectual property to which significant development or enhancement occurred in Louisiana.

After the first 5 years, a tax credit for 5 additional years may be granted if the applicant meets the requirements above and can "demonstrate that it will continue to increase the number of jobs of the applicant in Louisiana."

2. A refundable tax credit based on 6% of the gross payroll of a minimum of 5 "direct new jobs" (as defined in the Quality Jobs Law at R.S. 51:2453(4)) created which pay an average minimum of \$50,000 per year in wages (excluding wages to a more than 30% equity owner) if the applicant meets the requirements of Paragraph (1) above or is a "nonprofit or governmental research center" approved by the secretary of DED.

Individuals employed in "new direct jobs" also must be "offered" a basic health benefits plan approved and meeting requirements that may be established by DED.

After the first 5 years, a tax credit for 5 additional years may be granted if the applicant demonstrates that it continues to meet the above requirements and the statutory minimum wage requirement is increased by 12%.

The refundable tax credits expire beginning with the 21<sup>st</sup> tax year after the tax year in which it was originally earned, applied for, and granted.

Proposed law changes the tax benefit from a refundable tax credit to a "rebate" payable by the secretary of DOR from current collections of income taxes upon receipt of certification from DED of the eligibility of the applicant and the amount of the rebate and any such additional information that the secretary may require. Therefore, the 21 year limit on using tax credits is also removed.

Present law prohibits tax credits from being granted or earned after December 31, 2011.

Proposed law extends the program as a tax rebate program to December 31, 2017.

Present law prohibited anyone receiving the tax credits from being eligible for a limited list of tax benefits.

Proposed law prohibits anyone receiving the rebates from receiving any other state credit, exemption, exclusion, rebate, or any other tax incentive for any expenditures for which the taxpayer has received a rebate under the program.

Applicable to qualifying expenditures made on or after July 1, 2011.

Effective July 1, 2011.

(Amends R.S. 51:2352(3) and 2353 through 2356)

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill.

1. Makes technical changes.