

2015 Regular Session

SENATE BILL NO. 222

BY SENATOR DONAHUE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FISCAL CONTROLS. Provides for an incentive expenditure forecast to be established and included in the executive budget. (7/1/15)

1 AN ACT

2 To amend and reenact R.S. 39:34(A) and to enact R.S. 39:2(15.1) and (15.2), 24.1, and  
3 36(A)(7), relative to budgetary procedures; to define incentive expenditures; to  
4 provide for an incentive expenditure forecast; to provide for the inclusion of the  
5 incentive expenditure forecast in the executive budget; to provide for an effective  
6 date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 39:34(A) is hereby amended and reenacted and R.S. 39:2(15.1) and  
9 (15.2), 24.1, and 36(A)(7) are hereby enacted to read as follows:

10 §2. Definitions

11 As used in this Chapter, except where the context clearly requires otherwise,  
12 the words and expressions defined in this Section shall be held to have the meanings  
13 here given to them.

14 \* \* \*

15 **(15.1) "Incentive expenditures" means the reductions of and payments**  
16 **from current tax collections because of the following incentive benefit statutes:**

17 **(a) Atchafalaya Trace Heritage Area Development Zone Tax Exemption**

1 (Part II of Chapter 26 of Title 25 of the Louisiana Revised Statutes of 1950,  
2 comprised of R.S. 25:1226 et seq.).

3 (b) Brownfields Investor Tax Credit (R.S. 47:6021).

4 (c) Cane River Heritage Tax Credit (R.S. 47:6026).

5 (d) Louisiana Community Economic Development Act (R.S. 47:6031).

6 (e) Ports of Louisiana Tax Credits (R.S. 47:6036).

7 (f) Motion Picture Investor Tax Credit (R.S. 47:6007).

8 (g) Research and Development Tax Credit (R.S. 47:6015).

9 (h) Digital Interactive Media and Software Tax Credit (R.S. 47:6022).

10 (i) Louisiana Motion Picture Incentive Program (Chapter 12 of Subtitle  
11 II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S.  
12 47:1121 et seq.).

13 (j) Louisiana Capital Companies Tax Credit Program (Chapter 26 of  
14 Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:1921 et  
15 seq.).

16 (k) New Markets Tax Credit (R.S. 47:6016).

17 (l) University Research and Development Parks (R.S. 17:3389).

18 (m) Industrial Tax Equalization Program (Chapter 1 of Subtitle V of  
19 Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:3201  
20 through 3205).

21 (n) Exemptions for Manufacturing Establishments (Chapter 3 of Subtitle  
22 V of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S.  
23 47:4301 through 4306).

24 (o) Enterprise Zones (Chapter 21 of Title 51 of the Louisiana Revised  
25 Statutes of 1950, comprised of R.S. 51:1781 et seq.).

26 (p) Sound Recording Investor Tax Credit (R.S. 47:6023).

27 (q) Urban Revitalization Tax Incentive Program (Chapter 22 of Title 51  
28 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:1801).

29 (r) Technology Commercialization Credit and Jobs Program (Part VI of

1 Chapter 39 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of  
2 R.S. 51:2351 et seq.).

3 (s) Angel Investor Tax Credit Program (R.S. 47:6020).

4 (t) Musical and Theatrical Productions Income Tax Credit (R.S.  
5 47:6034).

6 (u) Retention and Modernization Act (Chapter 39-C of Title 51 of the  
7 Louisiana Revised Statutes of 1950, comprised of R.S. 51:2399.1 through  
8 2399.6).

9 (v) Green Jobs Industries Tax Credit (R.S. 47:6037).

10 (w) Louisiana Quality Jobs Program (Chapter 42 of Title 51 of the  
11 Louisiana Revised Statutes of 1950, comprised of R.S. 51:2451 et seq.).

12 (x) Corporate Headquarters Relocation Program (Chapter 54 of Title 51  
13 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:3111 through  
14 3115).

15 (y) Competitive Projects Payroll Incentive Program (R.S. 51:3121).

16 (z) Procurement Processing Company Rebate Program (R.S. 47:6351).

17 (aa) Rehabilitation of Historic Structures Tax Credit (R.S. 47:6019).

18 (bb) Rebates for Donations to School Tuition Organizations (R.S.  
19 47:6301).

20 (15.2) "Current tax collections" means the current collections of the  
21 taxes imposed by Subtitle II of Title 47 of the Louisiana Revised Statutes of  
22 1950.

23 \* \* \*

24 §24.1. Incentive expenditure forecast

25 A. The Revenue Estimating Conference shall establish a forecast of  
26 incentive expenditures for each fiscal year, beginning for Fiscal Year 2016-2017,  
27 hereinafter referred to as the incentive expenditure forecast, which shall be  
28 derived and revised only as provided in this Section. The incentive expenditure  
29 forecast shall include a forecast of the amount of payments from and reductions

1 of current tax collections to be granted by each of the incentive benefit statutes  
2 listed in R.S. 39:2(15.1) for the forecasted year. The forecast shall be an amount  
3 that is no less than the estimated amount of payments from and reductions of  
4 current tax collections which will be made by each of the incentive benefit  
5 statutes listed in R.S. 39:2(15.1) for the forecasted fiscal year. Such forecast  
6 shall be used to provide for the statement of incentive expenditures in the  
7 proposed executive budget.

8 B. The incentive expenditure forecast shall be derived and based upon  
9 the assumption that the current law and current administrative procedures will  
10 remain in effect for the forecast period.

11 C. The department which administers the incentive benefit shall notify  
12 the conference when the incentive expenditure forecast is not sufficient to meet  
13 the requirements of current law or current administrative procedures. The  
14 conference may revise the forecast as necessary.

15 D. The incentive expenditure forecast shall be a separate forecast and  
16 shall not be included in the estimates of the money to be received by the state  
17 general fund and dedicated funds for the current and next fiscal years which are  
18 available for appropriation.

19 E.(1) The Revenue Estimating Conference may utilize whatever staff,  
20 information, and technical expertise which it may determine is required to  
21 derive or revise the incentive expenditure forecast. The conference may request  
22 and shall receive from all public officers, departments, agencies, and authorities  
23 of the state such assistance and data as will enable the conference to fulfill its  
24 duties.

25 (2) Each agency of the state, including the Department of Revenue, the  
26 Department of Economic Development, and the Department of Culture,  
27 Recreation and Tourism, which administers an incentive expenditure program  
28 shall furnish the Revenue Estimating Conference, legislative fiscal office, and  
29 the division of administration data reflecting the program's operations and shall

1 prepare a report setting forth the dollar amount of incentive expenditures for  
2 each incentive benefit program administered by the respective department,  
3 agency, or authority. In order for such information to be included in the  
4 incentive expenditure forecast for the next fiscal year, such reports shall include  
5 data beginning July first of each fiscal year through the date of the report and  
6 the report shall be due monthly. An initial report detailing historical  
7 participation and applicable dollar amounts of incentive expenditures shall also  
8 be provided. The initial historical report and subsequent monthly reports shall  
9 be developed in consultation with the Revenue Estimating Conference, the  
10 legislative fiscal office, and the division of administration.

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

24 F. The incentive expenditure forecast shall be determined by the  
25 Revenue Estimating Conference through a process to be decided by the  
26 conference except that any final action establishing an incentive expenditure  
27 forecast shall be taken pursuant only to a unanimous decision by all of the  
28 conference principals.

29 \* \* \*

1 §34. Executive budget

2 A.(1) The governor shall cause to be prepared an executive budget presenting  
3 a complete financial and programmatic plan for the ensuing fiscal year which shall  
4 include recommendations for appropriations from the state general fund and  
5 dedicated funds which shall not exceed the official forecast of the Revenue  
6 Estimating Conference. Except as provided by R.S. 39:75(E), the executive budget  
7 shall not include recommendations for appropriations from any fund in excess of the  
8 official forecast of money available for appropriation from that fund.

9 **(2) The executive budget for Fiscal Year 2016-2017 and each fiscal year**  
10 **thereafter shall include a separate statement of incentive expenditures as**  
11 **contained in the incentive expenditure forecast. The incentive expenditures**  
12 **shall be stated as a separate description in the program activities of the**  
13 **respective agency of the state which administers an incentive expenditure as**  
14 **defined in R.S. 39:2(15.1). A statement of total incentive expenditures shall also**  
15 **be provided in the executive budget proposal. Such incentive expenditures shall**  
16 **not be included as, nor counted towards the operating expenses of the**  
17 **administering agency. The statement of incentive expenditures shall not be**  
18 **deemed to be a recommendation for appropriation.**

19 \* \* \*

20 §36. Contents and format of executive budget; supporting document

21 A. The executive budget shall present a complete financial and programmatic  
22 plan for the ensuing year, and it shall be configured in a format so as to clearly  
23 present and highlight the functions and operations of state government and the  
24 financial requirements associated with those functions and operations. The executive  
25 budget shall be a performance-based budget and as such may include key objectives  
26 and key performance indicators. The commissioner of administration may designate  
27 key objectives and key performance indicators to be included in the executive  
28 budget. Additionally, the executive budget shall include at a minimum the  
29 following:

\* \* \*

**(7) A separate statement of incentive expenditures as contained in the incentive expenditure forecast. The incentive expenditures shall be stated as a separate description in the program activities of the respective agency of the state which administers an incentive expenditure as defined in R.S. 39:2(15.1). Such incentive expenditures shall not be included as, nor counted towards the operating expenses of the administering agency. The statement of incentive expenditures shall not be deemed to be a recommendation for appropriation.**

Section 2. This Act shall become effective on July 1, 2015; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2015, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Martha S. Hess.

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## DIGEST

SB 222 Original

2015 Regular Session

Donahue

Present law provides for the definitions of words used in Title 39 of the Louisiana Revised Statutes. Proposed law would retain present law and add the definition of "incentive expenditures" to mean the reductions of and payments from current tax collections because of the following incentive benefit statutes:

- (1) Atchafalaya Trace Heritage Area Development Zone Tax Exemption (Part II of Chapter 26 of Title 25 of the Revised Statutes, comprised of R.S. 25:1226 et seq.).
- (2) Brownfields Investor Tax Credit (R.S. 47:6021).
- (3) Cane River Heritage Tax Credit (R.S. 47:6026).
- (4) Louisiana Community Economic Development Act (R.S. 47:6031).
- (5) Ports of Louisiana Tax Credits (R.S. 47:6036).
- (6) Motion Picture Investor Tax Credit (R.S. 47:6007).
- (7) Research and Development Tax Credit (R.S. 47:6015).
- (8) Digital Interactive Media and Software Tax Credit (R.S. 47:6022).
- (9) Louisiana Motion Picture Incentive Program (Chapter 12 of Subtitle II of Title 47 of the La. Revised Statutes of 1950, comprised of R.S. 47:1121 et seq.).
- (10) Louisiana Capital Companies Tax Credit Program (Chapter 26 of Title 51 of the La. Revised Statutes of 1950, comprised of R.S. 51:1921 et seq.).
- (11) New Markets Tax Credit (R.S. 47:6016).

- (12) University Research and Development Parks (R.S. 17:3389).
- (13) Industrial Tax Equalization Program (Chapter 1 of Subtitle V of Title 47 of the La. Revised Statutes of 1950, comprised of R.S. 47:3201 through 3205).
- (14) Exemptions for Manufacturing Establishments (Chapter 3 of Subtitle V of Title 47 of the La. Revised Statutes of 1950, comprised of R.S. 47:4301 through 4306).
- (15) Enterprise Zones (Chapter 21 of Title 51 of the La. Revised Statutes of 1950, comprised of R.S. 51:1781 et seq.).
- (16) Sound Recording Investor Tax Credit (R.S. 47:6023).
- (17) Urban Revitalization Tax Incentive Program (Chapter 22 of Title 51 of the La. Revised Statutes of 1950, comprised of R.S. 51:1801).
- (18) Technology Commercialization Credit and Jobs Program (Part VI of Chapter 22 of Title 51 of the La. Revised Statutes of 1950, comprised of R.S. 51:2351 et seq.).
- (19) Angel Investor Tax Credit Program (R.S. 47:6020).
- (20) Musical and Theatrical Productions Income Tax Credit (R.S. 47:6034).
- (21) Retention and Modernization Act (Chapter 39-C of Title 51 of the La. Revised Statutes of 1950, comprised of R.S. 51:2399.1 through 2399.6).
- (22) Green Jobs Industries Tax Credit (R.S. 47:6037).
- (23) Louisiana Quality Jobs Program (Chapter 42 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:2451 et seq.).
- (24) Corporate Headquarters Relocation Program (Chapter 54 of Title 51 of the La. Revised Statutes of 1950, comprised of R.S. 51:3111 through 3115).
- (25) Competitive Projects Payroll Incentive Program (R.S. 51:3121).
- (26) Procurement Processing Company Rebate Program (R.S. 47:6351).
- (27) Rehabilitation of Historic Structures Tax Credit (R.S. 47:6019).
- (28) Rebates for Donations to School Tuition Organizations (R.S. 47:6301).

Proposed law also defines "current tax collections" to mean the current collections of the taxes imposed by Subtitle II of Title 47 of the La. Revised Statutes of 1950.

Proposed law requires the Revenue Estimating Conference (REC) to establish a forecast of incentive expenditures for each fiscal year, beginning for fiscal year 2016-2017, which shall include a forecast of the amount of payments from and reductions of current tax collections to be granted by each of the incentive benefit statutes listed in the definition of incentive benefit for the forecasted year. Provides that the forecast shall be an amount that is no less than the estimated amount of payments from and reductions of current tax collections which will be made by each of the incentive benefit statutes. Such forecast shall be used to provide for the statement of incentive expenditures in the proposed executive budget.

Proposed law provided that the incentive expenditure forecast shall be derived and based upon the assumption that the current law and current administrative procedures will remain in effect for the forecast period. Provides that the agency which administers the incentive benefit shall notify the conference when the incentive expenditure forecast is not sufficient

to meet the requirements of current law or current administrative procedures. The conference may revise the forecast as necessary. Provides that the incentive expenditure forecast shall be a separate forecast and shall not be included in the estimates of the money to be received by the state general fund and dedicated funds for the current and next fiscal years which are available for appropriation.

Proposed law provides for the information, and the timing of submission of the information, that agencies of the state are to provide in order for the REC to prepare an incentive expenditure forecast.

Proposed law provides that the incentive expenditure forecast shall be determined by the REC through a process to be decided by the conference except that any final action establishing an incentive expenditure forecast shall be taken only pursuant to a unanimous decision by all of the conference principals.

Present law provides that the governor shall cause to be prepared an executive budget presenting a complete financial and programmatic plan for the ensuing fiscal year which shall include recommendations for appropriations from the state general fund and dedicated funds which shall not exceed the official forecast of the REC.

Proposed law retains present law and further provides that the executive budget for Fiscal Year 2016-2017 and each fiscal year thereafter shall include a statement of incentive expenditures as contained in the incentive expenditure forecast. The incentive expenditures shall be stated as a separate description in the program activities of the respective agency of the state which administers an incentive expenditure. A statement of total incentive expenditures shall also be provided in the executive budget proposal. Such incentive expenditures shall not be included as, nor counted towards the operating expenses of the administering agency. Would further provide that the statement of incentive expenditures shall not be deemed to be a recommendation for appropriation.

Present law provides for the contents and format of executive budget. Proposed law retains present law and further provides that the executive budget shall contain a statement of incentive expenditures as contained in the incentive expenditure forecast. The incentive expenditures shall be stated as a separate description in the program activities of the respective agency of the state which administers an incentive expenditure. A statement of total incentive expenditures shall also be provided in the executive budget proposal. Such incentive expenditures shall not be included as, nor counted towards the operating expenses of the administering agency.

Effective July 1, 2015.

(Amends R.S. 39:34(A); adds R.S. 39:2(15.1) and (15.2), 24.1, and 36(A)(7))