

2017 Regular Session

SENATE BILL NO. 231

BY SENATOR LAFLEUR

TAX/TAXATION. Provides premium tax credits for certain investments made in rural growth funds. (gov sig)

1 AN ACT

2 To enact R.S. 47:6016.2, relative to premium tax credits; to authorize a premium tax credit
3 for rural growth investments made by rural growth funds; to provide for the amount
4 of the credit; to provide for eligibility, usage, and revocation of the credit; to provide
5 for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

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

8 **§6016.2. Louisiana Rural Jobs Act; premium tax credit**

9 **A. The provisions of this Section shall be known and cited as the**
10 **"Louisiana Rural Jobs Act".**

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

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

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

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

5 (3) "Department" means the Department of Economic Development.

6 (4) "Investment authority" means the amount stated on the notice issued
7 under Paragraph (C)(5) of this Section certifying the rural growth fund. At least
8 sixty percent of a rural growth fund's investment authority shall be comprised
9 of an amount equal to the authorized investor contributions.

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

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

25 (7) "Rural area" means any area of the state not in a city or
26 unincorporated area that has a population of more than fifty thousand per the
27 latest decennial census of the United States or in the urbanized area contiguous
28 and adjacent to a city or unincorporated area that has a population of more
29 than fifty thousand inhabitants.

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

4 (a) Has fewer than two hundred employees.

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

7 (c) Is engaged in industries related to agribusiness, manufacturing, plant
8 sciences, services or technology or, if not engaged in such industries, the
9 department determines that the investment will be beneficial to the rural area
10 and the economic growth of the state.

11 (9) "Rural growth fund" means an entity certified by the department
12 under Paragraph (C)(5) of this Section.

13 (10) "Rural growth investment" means any capital or equity investment
14 in a rural business or any loan to a rural business with a stated maturity at least
15 one year after the date of issuance.

16 (11) "State premium tax liability" means any liability incurred by any
17 entity under the provisions of R.S. 22:831, 836, 838, or 842.

18 C. (1) Beginning January 1, 2018, the department shall accept
19 applications for approval as a rural growth fund. On a form prescribed by the
20 department, the application shall include all of the following:

21 (a) The total investment authority sought by the applicant under the
22 business plan.

23 (b) A copy of the applicant or an affiliate of the applicant's license as a
24 rural business investment company issued pursuant to 7 U.S.C. 2009cc and the
25 regulations and procedures thereunder, or as a small business investment
26 company issued pursuant to 15 U.S.C. 681 and the regulations and procedures
27 thereunder.

28 (c) Evidence that as of the date the application is submitted, the
29 applicant or affiliates of the applicant have invested at least one hundred million

1 dollars in nonpublic companies located in nonmetropolitan counties as defined
2 by the Office of Management and Budget within the Office of the President of
3 the United States on the basis of county or county-equivalent units.

4 (d) An estimate of the number of jobs that will be created or retained in
5 this state because of the applicant's proposed rural growth investments.

6 (e) A business plan that includes a revenue impact assessment projecting
7 state and local tax revenue to be generated by the applicant's proposed rural
8 growth investments prepared by a nationally recognized third-party
9 independent economic forecasting firm using a dynamic economic forecasting
10 model that analyzes the applicant's business plan over the ten years following
11 the date the application is submitted to the department.

12 (f) A signed affidavit from each investor stating the amount of investor
13 contributions each investor commits to make.

14 (2) Within thirty days after receipt of a completed application containing
15 the information set forth in Paragraph (C)(1) of this Section, the department
16 shall grant or deny the application. The department shall deem applications
17 received on the same day to have been received simultaneously. The allocation
18 of investment authority and investor contributions shall be on a first-come,
19 first-served basis, and department shall not approve more than one hundred
20 fifty million dollars in investment authority and not more than ninety million
21 dollars in investor contributions under this Section over the life of the program.
22 If requests for investment authority exceed this limitation, the department shall
23 proportionally reduce the investment authority and the investor contributions
24 for each approved application as necessary to avoid exceeding the limit.

25 (3) The department shall deny an application if any of the following is
26 true:

27 (a) The application is incomplete.

28 (b) The applicant does not satisfy all the criteria described in
29 Subparagraphs (C)(1)(b) and (C)(1)(c) of this Section.

1 (c) The revenue impact assessment submitted under Subparagraph
2 (C)(1)(e) of this Section does not demonstrate that the applicant's business plan
3 will result in a positive economic impact on this state over a ten-year period that
4 exceeds the cumulative amount of tax credits that would be issued to the
5 applicant's investors.

6 (d) The combined investor contributions described in affidavits
7 submitted under Subparagraph (C)(1)(f) of this Section do not equal at least
8 sixty percent of the total amount of investment authority sought under the
9 applicant's business plan.

10 (e) The department has already approved the maximum amount of
11 investment authority and investor contributions allowed under Paragraph
12 (C)(2) of this Section.

13 (4) If the department denies an application, the applicant may provide
14 additional information to the department to complete, clarify, or cure defects
15 in the application identified by the department within fifteen days of the notice
16 of denial for reconsideration and determination. The department shall review
17 and reconsider such applications within thirty days before any pending
18 application submitted after the original submission date of the reconsidered
19 application.

20 (5) The department shall not reduce the requested investment authority
21 or deny a rural growth fund application for reasons other than those described
22 in Paragraphs (C)(2) and (C)(3) of this Section. Upon approval of an
23 application, the department shall certify the applicant as a rural growth fund
24 specifying the amount of the applicant's investment authority and the investor
25 contributions required from each taxpayer that submitted an affidavit with the
26 rural growth fund's application.

27 (6)(a) Within sixty days of receiving the approval issued under
28 Paragraph (C)(5) of this Section, the rural growth fund shall collect all investor
29 contributions and collect additional investments of cash that, when added to the

1 investor contributions, at least equal the rural growth fund's investment
2 authority. At least ten percent of the rural growth fund's investment authority
3 shall be comprised of equity investments contributed by affiliates of the rural
4 growth fund, including employees, officers, and directors of such affiliates.
5 Within sixty-five days of receiving the approval issued under Paragraph (C)(5)
6 of this Section, a rural growth fund shall send to the department documentation
7 sufficient to prove that the amounts described in this Subparagraph have been
8 collected.

9 (b) Upon receipt of the documentation required by Subparagraph
10 (C)(6)(a), the department shall provide a tax credit certificate to each investor
11 that made an investor contribution in the amount of such investor's investor
12 contribution.

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

23 D.(1) Any taxpayer that makes an investor contribution is vested with an
24 earned credit against state premium tax liability equal to such investor
25 contribution that may be utilized twenty-five percent in each of the taxable
26 years that includes the third through sixth anniversaries of the closing date,
27 exclusive of amounts carried forward pursuant to Paragraph (D)(3) of this
28 Section.

29 (2) The credit is nonrefundable and may not be sold, transferred or

1 allocated to any other entity other than an affiliate that had state premium tax
2 liability at the time of the submission of the investor's affidavit included in the
3 rural growth fund's application.

4 (3) The amount of the credit claimed by a taxpayer shall not exceed the
5 amount of such taxpayer's state premium tax liability for the tax year for which
6 the credit is claimed. Any amount of tax credit that the entity does not claim in
7 a taxable year may be carried forward for use in future taxable years for a
8 period not to exceed ten years.

9 (4) A taxpayer claiming a credit under this Section shall submit a copy
10 of the tax credit certificate with the taxpayer's return for each taxable year for
11 which the credit is claimed.

12 E.(1) The department shall revoke a tax credit certificate issued under
13 Subparagraph (C)(6)(b) if any of the following occur with respect to a rural
14 growth fund before a rural growth fund exits the program in accordance with
15 Paragraph (E)(5) of this Section:

16 (a) The rural growth fund does not invest one hundred percent of its
17 investment authority in rural growth investments in this state within two years
18 of the closing date.

19 (b) The rural growth fund, after satisfying Subparagraph (E)(1)(a), fails
20 to maintain rural growth investments equal to one hundred percent of its
21 investment authority until the sixth anniversary of the closing date. For the
22 purposes of this Paragraph, an investment is "maintained" even if it is sold or
23 repaid so long as the rural growth fund reinvests an amount equal to the capital
24 returned or recovered from the original investment, exclusive of any profits
25 realized, in other rural growth investments in this state within twelve months
26 of the receipt of such capital. Amounts received periodically by a rural growth
27 fund shall be treated as continuously invested in rural growth investments if the
28 amounts are reinvested in one or more rural growth investments by the end of
29 the following calendar year. A rural growth fund is not required to reinvest

1 capital returned from rural growth investments after the fifth anniversary of
2 the closing date, and such rural growth investments shall be considered held
3 continuously by the rural growth fund through the sixth anniversary of the
4 closing date.

5 (c) The rural growth fund, before exiting the program in accordance
6 with Paragraph (E)(5) of this Section, makes a distribution or payment that
7 results in the rural growth fund having less than one hundred percent of its
8 investment authority invested in rural growth investments in this state or
9 available for investment in rural growth investments and held in cash and other
10 marketable securities.

11 (d) The rural growth fund makes a rural growth investment in a rural
12 business that directly or indirectly through an affiliate owns, has the right to
13 acquire an ownership interest, makes a loan to, or makes an investment in the
14 rural growth fund, an affiliate of the rural growth fund, or an investor in the
15 rural growth fund. This Paragraph does not apply to investments in publicly
16 traded securities by a rural business or an owner or affiliate of such rural
17 business. For purposes of this Subparagraph, a rural growth fund will not be
18 considered an affiliate of a rural business solely because of its rural growth
19 investment.

20 (2) The maximum amount of rural growth investments in a rural
21 business, including amounts invested in affiliates of the rural business, that a
22 rural growth fund may count towards its satisfaction of the requirements of
23 Subparagraphs (E)(1)(a) and (E)(1)(b) of this Section is the greater of five
24 million dollars or twenty percent of its investment authority.

25 (3) Before revoking tax credit certificates under this Subsection, the
26 department shall notify the rural growth fund of the reasons for the pending
27 revocation. The rural growth fund shall have ninety days from the date the
28 notice was dispatched to correct any violation outlined in the notice to the
29 satisfaction of the department and avoid revocation of the tax credit certificate.

1 **(4) If tax credit certificates are revoked under this Subsection, the**
2 **associated investment authority and investor contributions shall not count**
3 **toward the limit on total investment authority and investor contributions**
4 **described by Paragraph (C)(2) of this Section. The department shall first award**
5 **reverted investment authority pro rata to each rural growth fund that was**
6 **awarded less than the requested investment authority for which it applied, a**
7 **such rural growth fund may allocate the associated investor contribution**
8 **authority to any taxpayer with state premium tax liability in its discretion. The**
9 **department may award any remaining investment authority to new applicants.**

10 **(5) On or after the sixth anniversary of the closing date, a rural growth**
11 **fund may apply to the department to exit the program and no longer be subject**
12 **to regulation. The department shall respond to the application within thirty**
13 **days of receipt. In evaluating the application, the fact that no tax credit**
14 **certificates have been revoked and that the rural growth fund has not received**
15 **a notice of revocation that has not been cured under pursuant to Paragraph**
16 **(E)(3) of this Section shall be sufficient evidence to prove that the rural growth**
17 **fund is eligible for exit. The department shall not unreasonably deny an**
18 **application submitted under this Paragraph. If the application is denied, the**
19 **notice shall include the reasons for the determination.**

20 **(6) The department shall not revoke a tax credit certificate after the**
21 **rural growth fund's exit from the program.**

22 **F. A rural growth fund, before making a rural growth investment, may**
23 **request from the department a written opinion as to whether the business in**
24 **which it proposes to invest satisfies the definition of a rural business. The**
25 **department, not later than the fifteenth business day after the date of receipt of**
26 **the request, shall notify the rural growth fund of its determination. If the**
27 **department fails to notify the rural growth fund by the fifteenth business day**
28 **of its determination, the business in which the rural growth fund proposes to**
29 **invest shall be considered a rural business.**

1 **G.(1) Each rural growth fund shall submit a report to the department on**
2 **or before the fifth business day after the second anniversary of the closing date.**

3 **The report shall provide documentation as to each rural growth investment and**
4 **include:**

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

6 **(b) The name, location and industry of each rural business receiving a**
7 **rural growth investment, including either the determination letter set forth in**
8 **Subsection F or evidence that the business qualified as a rural business at the**
9 **time the investment was made.**

10 **(c) The number of employment positions created or retained because of**
11 **the rural growth fund's rural growth investments as of the last day of the**
12 **preceding calendar year.**

13 **(d) Any other information required by the department.**

14 **(2) Thereafter, the rural growth fund will submit an annual report to the**
15 **department within forty-five days of the beginning of the calendar year during**
16 **the compliance period. The report shall include:**

17 **(a) The number of employment positions created or retained because of**
18 **the rural growth fund's rural growth investments as of the last day of the**
19 **preceding calendar year.**

20 **(b) The average annual salary of the positions described in**
21 **Subparagraph (G)(2)(c) of this Section.**

22 **(c) Any other information required by the department.**

23 **(3) The rural growth fund is not required to provide the annual report**
24 **set forth in Paragraph (G)(2) of this Section for rural growth investments that**
25 **have been redeemed or repaid but shall provide such information if available.**

26 **H.(1) The department may promulgate rules to implement the provisions**
27 **of this Section.**

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

1 **I. The department shall notify the Department of Insurance of the name**
 2 **of any insurance company allocated tax credits pursuant to the provisions of**
 3 **this Section and the amount of such credits.**

4 **J. The provisions of this Section shall apply only to tax returns or reports**
 5 **originally due on or after January 1, 2018.**

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 231 Original

2017 Regular Session

LaFleur

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

Proposed law establishes the "Louisiana 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 with fewer than 200 employees, maintains its principal operations in one or more rural areas of the state, and is engaged in agribusiness, manufacturing, plant sciences, services, technology, or an industry that is determined to be beneficial to the rural area and the state. Further defines a "rural growth fund" as an entity certified by the Dept. of Economic Development as meeting the capitalization, job creation, and revenue impact assessment requirements of the program.

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

Proposed law authorizes a maximum of \$150,000,000 of investment authority and \$90,000,000 of investor contributions for certification and allocation for the purpose of earning tax credits. The department shall begin accepting applications on January 1, 2018.

Proposed law requires that investments eligible for the award of tax credits be certified by the Dept. of Economic Development. If an applicant applies for approval as a rural growth fund, the department shall inform such entity within 30 days of application whether the application is certified or denied. In the case of a denial, the entity shall have the right to provide additional information regarding the application within 15 days of the denial.

Proposed law requires the issuance of investments within 20 days of receiving certification.

Proposed law provides that the amount of the tax credit shall be equal to the investor contribution and will be utilized at 25% per year for the third through sixth years 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 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 provides for conditions under which the Dept. of Insurance shall revoke tax credits which include a failure to invest an amount equal to 100% of the purchase price of the investment within 24 months of the issuance of the investment or failure to maintain the investment through year six.

Proposed law requires reporting by a rural growth fund to the Dept. of Economic Development within five days of the second anniversary of the initial credit allowance date, as well as annual reporting with regard to the number of employment positions created and retained as a result of the investments and the average annual salary of such positions.

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

Proposed law requires the Dept. of Economic Development 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 department to promulgate rules to implement the provisions of proposed law.

Proposed law applies to tax returns or reports originally due on or after Jan. 1, 2018.

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

(Adds R.S. 47:6016.2)