SLS 182ES-32 **ENGROSSED**

2018 Second Extraordinary Session

SENATE BILL NO. 23

BY SENATOR MORRELL

TAX/TAXATION. Changes certain rebates to nonrefundable tax credits. (gov sig)

AN ACT

To amend and reenact the introductory paragraph of R.S. 51:1787(A), R.S. 51:1787(A)(1)(c), and the introductory paragraph of R.S. 51:2456(B)(1) and to enact R.S. 51:1787(A)(1)(d) and 2456(C), relative to tax credits and rebates; to change certain rebates to nonrefundable tax credits; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 51:1787(A), R.S. 51:1787(A)(1)(c), and the introductory paragraph of R.S. 51:2456(B)(1) are hereby amended and reenacted and R.S. 51:1787(A)(1)(d) and 2456(C) are hereby enacted to read as follows:

§1787. Incentives

A. ~~The~~ **For advance notifications filed before July 1, 2018, the** board, after consultation with the secretaries of the Department of Economic Development and Department of Revenue, and with the approval of the governor, may enter into contracts not to exceed five years to provide:

(1) For either:

* * *

(c) For advance notifications filed on or after July 1, 2018, the board,

after consultation with the secretaries of the Department of Economic Development and Department of Revenue, and with the approval of the governor, may enter into contracts not to exceed five years to provide a nonrefundable investment income tax credit equal to one and one-half percent of the amount of qualified expenditures.

(i) For purposes of this credit, the term "qualified expenditures" shall mean amounts classified as capital expenditures for federal income tax purposes plus exclusions from capitalization provided for in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the capitalized cost of land, capitalized leases of land, capitalized interest, capitalized costs of manufacturing machinery and equipment to the extent the capitalized manufacturing machinery and equipment costs are excluded from sales and use tax pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing building. When a taxpayer purchases an existing building and capital expenditures are used to rehabilitate the building, the costs of the rehabilitation only shall be considered qualified expenditures. Additionally, a taxpayer shall be allowed to increase his qualified expenditures to the extent his capitalized basis is properly reduced by claiming a federal credit.

(ii) A taxpayer earns the investment tax credit in the year in which the project is placed in service, but the taxpayer may not claim the investment tax credit until the Department of Economic Development signs the project completion report or such other time as provided for by rule or regulation.

(iii) Application for the investment income tax credit granted pursuant to this Subsection shall be filed no later than six months after the Department of Economic Development signs a project completion report and sends it to the Department of Revenue, the political subdivision, and the business, or no later than thirty days after the end of the calendar year in the case of customer-owned tooling used in a compression molding process. The project completion report cannot be signed until the project is complete and the

contract has been approved by the board and the governor.

(iv) This credit shall be allowed against the income tax for the taxable period in which the project is placed in service and against the franchise tax for the taxable period following the taxable period in which the project is placed in service. If the tax credit allowed pursuant to this Subparagraph exceeds the amount of such taxes due, any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed ten years.

~~(c)~~**(d)**(i) For projects for which the advance notification is filed on or after April 1, 2016, the amount of the rebate of sales and use taxes and the investment income tax credit granted pursuant to the provisions of this Paragraph shall not exceed one hundred thousand dollars per net new job created under this Chapter.

(ii) A business shall not receive any sales and use tax rebate or refundable investment income tax credit until it has provided all documentation, including filing the annual certification report as required by rule, and has shown proof of the creation of the net new jobs.

(iii) For purposes of determining the maximum rebate or income tax credit allowed, each net new job shall only be counted once. The limitation provided for in this Subparagraph shall only apply to the sales and use tax rebates and refundable investment income tax credits granted to businesses participating in the Enterprise Zone Program.

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§2456. Rebate; payments**; additional investment tax credit**

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B.(1) ~~In~~ **For advance notifications filed before July 1, 2018, in** addition to the rebates provided in this Chapter, an employer who has executed a contract under the provisions of this Chapter and who meets the requirements of R.S. 51:2455(E) shall be entitled to either:

* * *

C. For advance notifications filed on or after July 1, 2018, in addition to

the payroll rebates provided in this Chapter, an employer who has executed a contract under the provisions of this Chapter and who meets the requirements of R.S. 51:2455(E) shall be entitled to a nonrefundable investment income tax credit equal to one and one-half percent of the amount of qualified expenditures.

(1) For purposes of this credit, the term "qualified expenditures" shall mean amounts classified as capital expenditures for federal income tax purposes plus exclusions from capitalization provided for in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the capitalized cost of land, capitalized leases of land, capitalized interest, capitalized costs of manufacturing machinery and equipment to the extent the capitalized manufacturing machinery and equipment costs are excluded from sales and use tax pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing building. When a taxpayer purchases an existing building and capital expenditures are used to rehabilitate the building, the costs of the rehabilitation only shall be considered qualified expenditures. Additionally, a taxpayer shall be allowed to increase his qualified expenditures to the extent his capitalized basis is properly reduced by claiming a federal credit.

(2) A taxpayer earns the investment tax credit in the year in which the project is placed in service, but the taxpayer may not claim the investment tax credit until the Department of Economic Development signs the project completion report or such other time as provided for by rule or regulation.

(3) Application for the investment income tax credit granted pursuant to this Subsection shall be filed no later than six months after the Department of Economic Development signs a project completion report and sends it to the Department of Revenue, the political subdivision, and the business, or no later than thirty days after the end of the calendar year in the case of customer-owned tooling used in a compression molding process. The project completion report cannot be signed until the project is complete and the

contract has been approved by the board and the governor.

(4) This credit shall be allowed against the income tax for the taxable period in which the project is placed in service and against the franchise tax for the taxable period following the taxable period in which the project is placed in service. If the tax credit allowed pursuant to this Subparagraph exceeds the amount of such taxes due, any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed ten years.

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

The original instrument was prepared by Leonore F. Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by James Benton.

DIGEST

SB 23 Engrossed 2018 Second Extraordinary Session Morrell

Present law provides businesses that are a party to an enterprise zone contract either a rebate of sales tax paid for purchases of machinery and equipment and on purchases of the material used in the construction or improvement of a facility or a refundable investment tax credit of 1.5% of the capitalized costs of construction of the facility.

Proposed law eliminates the sales tax rebate option for enterprise zone advance notifications filed on or after July 1, 2018.

Proposed law retains the 1.5% investment tax credit, but changes the credit from a refundable tax credit to a nonrefundable tax credit with a 10-year carryforward for advance notifications filed on or after July 1, 2018.

Present law provides businesses that are a party to a quality jobs contract either a rebate of sales tax paid for purchases of machinery and equipment and on purchases of the material used in the construction or improvement of a facility or a rebate of 1.5% of the capitalized costs of construction of the facility.

Proposed law provides that the credit will be allowed against the income tax for the taxable period in which the project is placed in service and against the franchise tax for the taxable period following the taxable period in which the project is placed in service. Further provides that if the tax credit allowed pursuant to proposed law exceeds the amount of such taxes due, any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed ten years.

Proposed law eliminates the sales tax rebate option for quality jobs advance notifications filed on or after July 1, 2018.

Proposed law retains the 1.5% capitalized project cost incentive, but changes the incentive from a rebate to a nonrefundable income and corporation franchise investment tax credit with a 10-year carryforward for advance notifications filed on or after July 1, 2018.

Effective upon the signature of the governor.

(Amends R.S. 51:1787(A)(intro para), R.S. 51:1787(A)(1)(c), and of R.S. 51:2456(B)(1) (intro para); adds R.S. 51:1787(A)(1)(d) and 2456(C))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Provides that the credits will be allowed against the income tax for the taxable period in which the project is placed in service and against the franchise tax for the taxable period following the taxable period in which the project is placed in service. Further provides for the carry forward of unused credits.

2. Makes technical changes.