

Regular Session, 2014

SENATE BILL NO. 543

BY SENATORS DONAHUE, ALLAIN, BUFFINGTON, CHABERT, CLAITOR, JOHNS,
LAFLEUR, MILLS, MURRAY, TARVER AND WHITE

FISCAL CONTROLS. Provides with respect to the state budget. (7/1/14)

AN ACT

To amend and reenact R.S. 39:34(A) and 56(A) and to enact R.S. 39:2(15.1) and (15.2),
24.1, 36(A)(7), and 51(A)(5), relative to budgetary procedures; to define incentive
expenditures; to provide for inclusion in the incentive expenditure forecast, the
executive budget, the general appropriation bill, other appropriation bills, and the
state budget of incentive expenditures; to provide for an effective date; and to
provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:34(A) and 56(A) are hereby amended and reenacted and R.S.
39:2(15.1) and (15.2), 24.1, 36(A)(7), and 51(A)(5) are hereby enacted to read as follows:

§2. Definitions

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

* * *

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

1 (a) Atchafalaya Trace Heritage Area Development Zone Tax Exemption
2 (Part II of Chapter 26 of Title 25 of the Louisiana Revised Statutes of 1950,
3 comprised of R.S. 25:1226 et seq.).

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

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

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

7 (e) Ports of Louisiana Tax Credit (R.S. 47:6036).

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

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

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

11 (i) Louisiana Motion Picture Incentive Program (Chapter 12 of Subtitle
12 II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S.
13 47:1121 et seq.).

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

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

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

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

22 (n) Exemptions for Manufacturing Establishments (Chapter 3 of Subtitle
23 V of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S.
24 47:4301 through 4306).

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

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

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

1 (r) Technology Commercialization Credit and Jobs Program (Part VI of
2 Chapter 22 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of
3 R.S. 51:2351 et seq.).

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

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

6 (u) Retention and Modernization Credit (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 Credit (R.S. 47:6037).

10 (w) Louisiana Quality Jobs Program (R.S. 51:2451 et seq.).

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

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

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

16 (aa) Rehabilitation of Historic Structures (R.S. 47:6019).

17 (15.2) "Current tax collections" means the current collections of the
18 taxes imposed by Subtitle II of Title 47 of the Louisiana Revised Statutes of
19 1950.

20 * * *

21 §24.1. Incentive expenditure forecast

22 A. Beginning fiscal year 2015-2016, the Revenue Estimating Conference
23 shall establish a forecast of incentive expenditures for each fiscal year,
24 hereinafter referred to as the incentive expenditure forecast, which shall be
25 derived and revised only as provided in this Section. The forecast of incentive
26 expenditures shall include a forecast of the amount of payments from and
27 reductions of current tax collections to be granted by each of the incentive
28 benefit statutes provided for in R.S. 39:2(15.1) for the forecasted year. The
29 forecast shall be an amount that is no less than the estimated amount of

1 payments from and reductions of current tax collections which will be made by
2 each of the incentive benefit statutes provided for in R.S. 39:2(15.1) for the
3 forecasted fiscal year. Such forecast shall be used to provide for the statement
4 of incentive expenditures in the proposed executive budget, the general
5 appropriation bill and other appropriation bills, and the state budget.

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

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

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

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

23 (2) Public officers, departments, agencies, and authorities of the state,
24 including the Department of Revenue, the Department of Economic
25 Development, and the Department of Culture, Recreation and Tourism, which
26 administer an incentive expenditure program shall furnish the Revenue
27 Estimating Conference, legislative fiscal office, and the division of
28 administration with data reflecting the program's operations and shall prepare
29 a report setting forth the dollar amount of incentive expenditures for each

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

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

§34. Executive budget

A.~~(1)~~ 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 Revenue Estimating Conference. Except as provided by R.S. 39:75(E), the executive budget shall not include recommendations for appropriations from any fund in excess of the official forecast of money available for appropriation from that fund.

(2) The executive budget for Fiscal Year 2015-2016 and each fiscal year thereafter shall include 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 department, agency, or authority of the state which administers an incentive expenditure as defined in R.S. 39:2(15.1). 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 relevant department, agency, or authority.

* * *

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

A. The executive budget shall present a complete financial and programmatic plan for the ensuing year, and it shall be configured in a format so as to clearly present and highlight the functions and operations of state government and the financial requirements associated with those functions and operations. The executive budget shall be a performance-based budget. It shall include at a minimum the 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 department,

agency, or authority 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 relevant department, agency, or authority.

* * *

§51. General Appropriation Bill; other appropriation bills

A.

* * *

(5) The General Appropriation Bill and other appropriation bills 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 department, agency, or authority 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 relevant department, agency, or authority. The statement of incentive expenditures shall not be deemed to be an appropriation and shall be under the heading of "Incentive Expenditure Categories Required by Specific Laws".

* * *

§56. State budget to be prepared by governor

A. After the passage of the appropriation and revenue acts, but not later than October first of each year, the governor shall cause to be prepared a complete state budget for the fiscal year. The budget so prepared shall include all the details of the financial plan for the fiscal year, as to both expenditures and means of financing as presented in the executive budget, with such revision as may be necessary to bring them into conformity with the appropriation and revenue acts and other acts to provide means of financing, and with the legislative provisions in effect, governing administration of the budget. The budget so prepared for Fiscal Year 2015-2016 and each fiscal year thereafter shall include a statement of total incentive

expenditures and a statement of incentive expenditures by department.

* * *

Section 2. This Act shall become effective on July 1, 2014; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2014, or on the day following such approval by the legislature, whichever is later.

The original instrument was prepared by Martha Hess. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

DIGEST

Donahue (SB 543)

Present law provides for the definitions of words used in Title 39 of the Revised Statutes.

Proposed law retains present law and adds 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 (R.S. 47:6031).
- (5) Ports of Louisiana Tax Credit (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 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 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 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 Revised Statutes of 1950, comprised of R.S. 47:4301 through 4306).
- (15) Enterprise Zones (Chapter 21 of Title 51 of the 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 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 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 Tax Credit (R.S. 47:6034).
- (21) Retention and Modernization Credit (Chapter 39-C of Title 51 of the Revised Statutes of 1950, comprised of R.S. 51:2399.1 through 2399.6).
- (22) Green Jobs Industries Credit (R.S. 47:6037).
- (23) Louisiana Quality Jobs Program (R.S. 51:2451 et seq.).
- (24) Corporate Headquarters Relocation Program (Chapter 54 of Title 51 of the 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 (R.S. 47:6019).

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 provides that beginning fiscal year 2015-2016, the Revenue Estimating Conference (REC) shall establish a forecast of incentive expenditures for each fiscal year, 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, the general appropriation bill and other appropriation bills, and the state budget.

Proposed law provides 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 department 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, dedicated funds and self-generated revenues 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 public officers, departments, agencies, and authorities of the state are to provide in order for the Revenue Estimating Conference to prepare an incentive expenditure forecast.

Proposed law provides that the incentive expenditure forecast shall be determined by the

Revenue Estimating Conference 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 Revenue Estimating Conference.

Proposed law retains present law and further provides that the executive budget for Fiscal Year 2015-2016 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 department, agency, or authority 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 relevant department, agency, or authority.

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 department, agency, or authority 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 relevant department, agency, or authority.

Present law provides relative to the general appropriation bill and provides that the general appropriation bill and other appropriation bills shall not appropriate any funds, which are not part of the official forecast except appropriations from existing statutorily dedicated funds for purposes other than the fund's statutory purpose as provided in present law.

Proposed law retains present law and further provides that the General Appropriation Bill and other appropriation bills 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 department, agency, or authority of the state which administers an incentive expenditure. Such incentive expenditures shall not be included as, nor counted towards the operating expenses of the relevant department, agency, or authority. The statement of incentive expenditures shall not be deemed to be an appropriation and shall be under the heading of "Incentive Expenditure Categories Required by Specific Laws".

Present law provides that after the passage of the appropriation and revenue acts, but not later than October first of each year, the governor shall cause to be prepared a complete state budget for the fiscal year. The budget so prepared shall include all the details of the financial plan for the fiscal year, as to both expenditures and means of financing as presented in the executive budget, with such revision as may be necessary to bring them into conformity with the appropriation and revenue acts and other acts to provide means of financing, and with the legislative provisions in effect, governing administration of the budget.

Proposed law retains present law but further provides that the budget so prepared for FY 2015-2016 and each fiscal year thereafter shall include a statement of total incentive expenditures and a statement of incentive expenditures by department.

Effective July 1, 2014.

(Amends R.S. 39:34(A) and 56(A); adds R.S. 39:2(15.1) and (15.2), 24.1, 36(A)(7), and

51(A)(5))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Finance to the original bill

1. Deletes definition of "expenditures for payments to businesses and individuals" and adds definition of "incentive expenditures" and "current tax collections".
2. Removes provisions relative to the official forecast of the Revenue Estimating Conference.
3. Provides for an incentive expenditure forecast of the Revenue Estimating Conference and the procedures relating to same.
4. Removes provisions relative to appropriations for expenditures for payments to businesses and individuals in amounts not to exceed the official forecast for expenditures for payments to businesses and individuals in the executive budget, the General Appropriation Bill and other appropriation bills, and the state budget.
5. Provides for statements of incentive expenditure allocations as contained in the incentive expenditure forecast in the executive budget, the General Appropriation Bill and other appropriation bills, and the state budget.

Senate Floor Amendments to engrossed bill

1. Specifies that the incentive expenditures forecast is not an REC official forecast of monies available for expenditure.
2. Clarifies that the incentive expenditure forecast and statement are not a part of the appropriation process.
3. Provides that the statement of incentive expenditures shall not be deemed to be an appropriation and shall be under the heading of "Incentive Expenditure Categories Required by Specific Laws".
4. Technical amendments.