Regular Session, 2014 **ENROLLED**

SENATE BILL NO. 543

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

VETOED
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AN ACT

To amend and reenact R.S. 39:34(A) and to enact R.S. 39:2(15.1) and (15.2), 24.1, and 36(A)(7), relative to budgetary procedures; to define incentive expenditures; to provide for an incentive expenditure forecast; to provide for the inclusion of the incentive expenditure forecast in the executive budget; 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) is hereby amended and reenacted and R.S. 39:2(15.1) and (15.2), 24.1, and 36(A)(7) 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:

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

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

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) Technology Commercialization Credit and Jobs Program (Part VI of Chapter 39 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:2351 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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§24.1. Incentive expenditure forecast

A. The Revenue Estimating Conference shall establish a forecast of incentive expenditures for each fiscal year, beginning for fiscal year 2015-2016, hereinafter referred to as the incentive expenditure forecast, which shall be derived and revised only as provided in this Section. The forecast of incentive expenditures 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 provided for in R.S. 39:2(15.1) for the forecasted year. 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 provided for in R.S. 39:2(15.1) for the forecasted fiscal year. Such forecast shall be used to provide for the statement of incentive expenditures in the proposed executive budget.

B. 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.

C. 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.

D. 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.

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

(2) Public officers, departments, agencies, and authorities of the state, including the Department of Revenue, the Department of Economic Development, and the Department of Culture, Recreation and Tourism, which administer an incentive expenditure program shall furnish the Revenue Estimating Conference, legislative fiscal office, and the division of administration with data reflecting the program's operations and shall prepare a report setting forth the dollar amount of incentive expenditures for each incentive benefit program administered by the respective department, agency, or authority. In order for such information to be included in the incentive expenditure forecast for the next fiscal year, such reports shall include data beginning July first of each fiscal year through the date of the report and the report shall be due monthly. An initial report detailing historical participation and applicable dollar amounts of incentive expenditures shall also be provided.

The initial historical report and subsequent monthly reports shall be developed in consultation with the Revenue Estimating Conference, the legislative fiscal office, and the division of administration.

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

F. 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 pursuant only to a unanimous decision by all of the conference principals.

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§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. The statement of incentive expenditures shall not be deemed to be a recommendation for appropriation.

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§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. 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, 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.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________

VETO MESSAGE

"Senate Bill No. 543 requires the Revenue Estimating Conference to estimate, and approve such estimate by unanimous vote, the annual expenditure of certain tax incentives. Not only could this have the unintended consequence of an aggregate tax increase on businesses and/or individuals, but it could create uncertainty about the state's commitment to job creation and economic development. Further, the bill only applies to the five percent of tax incentives that have performance requirements, such as job creation and capital investment.

Since 2008, we have worked together to achieve economic growth that is 50 percent higher than the nation's, and one of the best records of private-sector job growth in the country. Louisiana has the lowest unemployment rate in the South. We also have people moving here, coming to raise their families and build a better future, both for themselves and our state. After more than two decades of more people leaving Louisiana than moving into the state, Louisiana has experienced six years in a row of population in-migration. This bill could make Louisiana businesses and companies interested in moving to Louisiana doubt their decision to build, expand, and hire Louisiana citizens.

Furthermore, Louisiana is one of the best states in the country when it comes to the transparency of tax exemptions and economic-development incentives. Unlike other states, which don't publish any information about their tax exemptions, the Louisiana Department of Revenue annually publishes a comprehensive, online report listing all tax exemptions, including both historical and projected utilization for each of them. Louisiana Economic Development, which oversees the five percent of incentives singled out by the bill, also publishes an annual, detailed report on its website specific to those programs.

We are committed to transparent and accountable tax incentive programs, but not to the point of discouraging businesses from coming to or expanding in Louisiana and potentially impacting the jobs of our hard working citizens. Americans for Tax Reform agrees and has asked for a veto. For these reasons, I have vetoed Senate Bill No. 543 and hereby return it to the Senate."