

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Analysis

The modifications to the Enterprise Zone Program could cause a direct economic impact on some small retail, restaurants and hotels that have no more than 50 employees who are newly eligible for the program, if meeting certain criteria. However, the benefit from additional funding received, at a nominal cost of some additional planning and paperwork associated with the application process and reporting requirements should provide a positive impact to any small businesses that choose to apply to the program.

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on Monday, October 26, 2020 at Department of Economic Development, 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Stephanie.Legrange@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 3 p.m. on Tuesday, October 27, 2020 in the LaBelle Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Enterprise Zone Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on expenditures of the Department of Economic Development (LED) as a result of the proposed rules establishing guidelines for the Enterprise Zone Program. The program encourages job creation in rural enterprise zones, urban enterprise zones, or economic development zones by offering job tax credits, or sales and use tax rebates or refundable investment tax credits to qualifying businesses. The proposed amendments align the rules with the current statutory provisions and administrative practices as required by Act 18 of 2016 IES and Act 28 of 2020 IES. Administration of the program will be carried out utilizing existing staff and resources at LED.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be increased revenues (decreased costs) to the State General Fund (Direct) to the extent that entities take advantage of the tax credits pursuant to Act 18 of 2016 IES, which implemented restrictions to the program. Based upon LED historical data, the increases in revenue are as follows: 1) increased revenue (decreased costs) of \$2 M by FY 22 and beyond due to changing the job tax credit, from \$2,500 to \$3,500, per net new job for employees receiving public assistance 6 months prior to employment or those projects located in enterprise zones, and decreasing the job credit to \$1,000 for all others; 2) increased revenue (decreased costs) of as much as \$20.5 M for FY 22 and beyond from limiting the

sales rebate and investment tax credits to \$100,000 per net new job; and 3) increased revenue (decreased costs) of \$2 M for FY 22 and beyond from the elimination of employment services and living accommodations from program eligibility. The actual cost of the Enterprise Zone program in FY 15 was \$46.9 M, including job credits and sales tax rebate/investment credits.

There will be decreased revenues (increased costs) to the State General Fund (Direct) to the extent that entities take advantage of the tax credits pursuant to Act 28 of 2020 IES, which extends the program as a whole by allowing advance notification filings up to July 1, 2026. Current program costs range near \$25 M annually for credit and rebate realizations. Allowing the program to stop accepting participation as of July 1, 2021 would result in a gradual phase-down of annual revenue costs over roughly a five-year period. The extension of the current program will prevent this from occurring. The annual dollar distribution of this phase-down, based upon LED's assessment of the historical lag time between entry into the program and benefit claims, will result in the cumulative annual revenue loss relative to the baseline: \$0 in FY 21; \$5M in FY 22; \$15 M in FY 23; \$22.5 M in FY 24; and \$25 M in FY 25.

Act 28 of 2020 IES further expanded the program to allow businesses classified as retail, restaurants, and hotels, that have no more than 50 employees nationwide including affiliates, into the program with advance notification filings from July 1, 2020 to December 31, 2021. Eligibility to earn benefits terminates after June 30, 2023. The extent of qualifying participation in the program is speculative, however, based upon historical claims, much of this program cost is likely to be the investment tax credit component, and the state's exposure is estimated to be: \$0 in FY 21; \$150,000 in FY 22; \$300,000 in FY 23; \$225,000 in FY 24; \$75,000 in FY 25.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The income of new businesses participating in the program may decrease in comparison to existing approved businesses due to the heightened eligibility criteria and decreased benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits.

Anne G. Villa
Undersecretary
2009#027

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development

Quality Jobs Program
(LAC 13:I.Chapter 11)

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104, hereby proposes to amend the rules for the Quality Jobs Program (R.S. 51:2451, et seq.) to better align the rules with current statutory provisions and administrative practices, as required by portions of Act 386 of the 2017 Regular Session and Act 29 of the 2020 First Extraordinary Session of the Louisiana Legislature.

Title 13
ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 11. Quality Jobs Program

§1101. General

A.- B1. ...

2. The employer may be entitled to sales and use tax rebates or the project facility expense rebate—authorized in R.S. 51:2456 (B) (1), in addition to the requirements of this Chapter.

C. Effective date of Act 387 of the 2007 Regular Session

1. The provisions of Act 387 shall apply to all advance notification filed prior to July 1, 2017, except as provided below.

2. - 4 ...

D. Effective Date of Act 386 of the 2017 Regular Session

1. The provisions of Act 386 shall apply to advance notifications filed on or after July 1, 2017, except as provided below.

a. a COVID-19-impacted retail business, hotel or restaurant, that has no more than 50 employees nationwide including affiliates on the date of the filing of the advance notification and which is assigned a NAICS Code of 44, 45, 721, or 722, and which files or enters into an advance notification on or after July 1, 2020, and on or before December 31, 2021, shall be eligible for benefits. However, no such COVID-19-impacted business employer shall be eligible to earn benefits pursuant to the provisions of this Chapter after June 30, 2023.

2. The provisions of Act 387 shall apply to advance notifications for companies meeting the provisions of Section 4 of Act 386, as approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2305 (November 2003), amended by the Office of Business Development, LR 37:2587 (September 2011), amended by the Department of Economic Development, Office of Business Development, LR 46:

§1103. Definitions

Act 386—Act 386 of the 2017 Regular Session of the Louisiana Legislature

* * *

Approved Rehire Employees—a former employee who was previously on the payroll of the Company, parent entity, subsidiary, or affiliate in Louisiana, but has been off such payroll for a period of at least twelve months, may be considered a New Direct Job if rehired into a position that is not part of the Baseline Jobs. When determining New Direct Job qualifications, the department shall consider all relevant factors including but not limited to; ES4's, W2's and Company re-hiring practices, and the intent of the program to permanently locate new or expand existing operations in Louisiana.

Basic Health Benefits Plan or the Health Insurance Coverage—that which is required to be offered shall include individual coverage for basic hospital care, coverage for physician care, and coverage for health care which shall be

the same as that provided to executive, administrative, or professional employees. Coverage must become effective no later than the first day of the month 90 days after hire date. For companies subject to provisions of Act 386, the coverage shall be in compliance with federally mandated health care requirements but if no such federally mandated requirements exist, the coverage for the employer portion of employee only coverage shall have a value of at least one dollar and twenty-five cents per hour.

Benefit Rate—one of the following percentages:

1. contracts subject to the provisions of Act 386:

a. the benefit rate shall be 4 percent for new direct jobs which pay at least \$18 per hour in wages;

b. the benefit rate shall be 6 percent for new direct jobs which pay at least \$21.66 per hour in wages

2. contracts subject to the provisions of Act 387:

a. the benefit rate shall be 5 percent for new direct jobs which pay at least \$14.50 per hour in wages and health care benefits;

b. the benefit rate shall be 6 percent for new direct jobs which pay at least \$19.10 per hour in wages and health care benefits;

c. health care benefits paid shall be the value of the health care benefits plan elected by an employee, as determined by the department;

3. contracts not subject to the provisions of Act 386 or Act 387:

a. the benefit rate shall be 5 percent for new direct jobs which pay at least 1 3/4 times the federal minimum hourly wage rate;

b. the benefit rate shall be 6 percent for new direct jobs which pay at least 2 1/4 times the federal minimum hourly wage rate and meet one of the following criteria:

i. the new direct jobs are located in a distressed region, or at least 50 percent of the new direct jobs shall be filled by persons who reside in a distressed region;

ii. the new direct jobs are with an employer categorized in a traditional or seed cluster targeted by the department.

* * *

Corporate Headquarters of a Multi-State Business—a multi-state business whose primary function is identified by NAICS 55114.

COVID-19-Impacted Retail Business—a for-profit corporation, a limited liability company, a partnership, or a sole proprietorship that had a physical and active operation in Louisiana on March 13, 2020, and ceased operations due to either one of the governor's public health emergency proclamations or a mayor's proclamation or executive order related to the public health emergency, or a decrease in customer activity or the inability to retain sufficient staff due to the COVID-19 public health emergency, as approved by the Department.

* * *

Distressed Region—for companies subject to the provisions of Act 387, as designated by the department:

1. a parish with a per capita income in the lowest 25 percent of the parishes; or

2. a census tract and block group that is below the state median per capita income, based on the most recent federal decennial census.

Domicile—the place of a person's principal establishment or habitual residence. A change of domicile may be shown by positive and satisfactory proof of establishment of domicile as a matter of fact with the intention of remaining in the new place and of abandoning the former domicile. Such proof may include a sworn declaration of intent recorded in the parish to which a person intends to move, voter registration, or similar evidence of such intent. Workers in the United States who are working on an H-1B Visa are not deemed to be domiciled in Louisiana.

Employment Baseline—the median statewide number of employees of an employer, including affiliates, working the average hours per week required in §1105, excluding employees engaged in lines of business that the department determines are unrelated to the activities for which quality job program benefits are sought, during the payroll periods including the twelfth day of the month, in the last twelve months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining ten months). The employment baseline must be maintained in any year for which the employer requests payroll rebates. The employment baseline may be reduced by the number of employees retained and continued in employment for at least one year by an unrelated third party business acquiring a site or line of business.

* * *

Multi-State Business—a business entity operating in more than one state, with a physical presence in more than one state, as approved by the department.

LED—the Louisiana Department of Economic Development

* * *

New Direct Job—employment at a Louisiana site:

1. of an employee:
 - a. whose domicile is in the state of Louisiana;
 - b. working the average hours per week required by §1105; and
 - c. who prior to the contract effective date was not on the payroll in Louisiana of:
 - i. the employer;
 - ii. the employer's parent entity, subsidiary, or affiliate; or
 - iii. any business whose physical plant and employees were or are substantially the same as those of the employer, unless either:

(a). there has been an arm's length transfer of ownership between unrelated companies (not affiliates), and either the location has been out of operations for at least three months; or

(b). the secretary determines that the jobs would have likely been lost to the state absent the transfer (under such circumstances jobs at the re-opened plant are deemed not to have previously existed for purposes of Subparagraph 2.b. below); or

(c) the employee is an Approved Rehire Employee.

2. in a job (a position of employment) that:
 - a. is with an employer that has qualified for the incentive rebate;

b. did not exist in this state prior to the advance notification being filed by the employer with the department pursuant to the provisions of R.S. 51:2455; and

c. is not part of the employment baseline;

d. is based at the project site, as determined by the department considering the employee's physical work site, the site to which the employee reports or which administers the employment, the site from which the employee receives work, and the nature of the business;

3. the following jobs are not new direct jobs:

a. jobs created as a result of the employer securing a contract to supply goods and services in the state of Louisiana, if another business was under an obligation to supply the same goods and services from a facility located in Louisiana and such obligation was terminated within three months prior to creation of the job by the employer;

b. jobs transferred, or jobs associated with work or sales transferred, from other Louisiana sites as a result of the employer (including affiliates) acquiring a business operation, or substantially all of its assets, and continuing the business operation.

Physical Presence—the department may, in its sole discretion, consider all relevant evidence in evaluating multi-state presence, including, but not limited to; the location of offices, facilities, tangible property and employees. Ancillary services provided through use of technology, without more, shall be insufficient to establish a physical presence.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2306 (November 2003), amended by the Office of Business Development, LR 37:2588 (September 2011), amended by the Department of Economic Development, Office of Business Development, LR 46:

§1105. Qualified Employers

A. For companies subject to the provisions of Act 387, to qualify for a Quality Jobs Program contract, an employer must meet the following requirements.

1 - 5d. ...

B. For companies subject to the provisions of Act 386, to qualify for a Quality Jobs Program contract, an employer must meet the following requirements.

1. Eligible Businesses. The nature of the employer's business must fall within one of the following categories;

a. the employer is in one of the following industries:

i. biotechnology, biomedical, and medical industries serving rural hospitals;

ii. micromanufacturing;

iii. software, Internet or telecommunications technologies;

iv. clean energy technology;

v. food technologies; or

vi. advanced materials.

b. the employer is a manufacturer whose primary function is identified by NAICS Codes 113310, 211, 213111, 541360, 311-339, 511-512, or 54171;

c. the employer is an oil and gas field services business identified by the NAICS Code 213112, that has Louisiana as the national or regional headquarters of a multi-state business whose service territory includes at least Louisiana and the Gulf of Mexico;

d. the employer is a business that has, or within one year will have, at least 50 percent of its total annual sales to:

- i. out-of-state customers or buyers;
- ii. in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or
- iii. the federal government;
- iv. an independent Louisiana certified public accountant shall annually verify that the contract site meets the out-of-state sales requirement, in accordance with guidelines provided by the department.

e. the employer is a business that is located in a parish which is within the lowest twenty-five percent of parishes based on per capita income. Such designation shall be maintained during the contract period, including any renewal period.

f. the employer is the corporate headquarters of a multi-state business;

g. the employer is a business that spends 50 percent or more of its time performing services for its out-of-state parent company. These services include, but are not limited to, legal, marketing, finance, information technology, order management, distribution center operations or overall operations support.

h. the employer is in the business of maintenance, repair, and overhaul operations for commercial transport aircraft.

2. Ineligible Businesses. The following employers or persons shall not be eligible for benefits provided under this Chapter:

a. retail employers identified by NAICS Code Sections 44 and 45, except that;

i. COVID-19-impacted retail employers identified by the NAICS Codes of 44 and 45 that have no more than 50 employees nationwide including affiliates on the date of the filing of the advance notification shall be eligible to participate in this rebate program if such employers file or enter into an advance notification on or after July 1, 2020, and on or before December 31, 2021. However, no such COVID-19-impacted retail business employer shall be eligible to earn benefits pursuant to the provisions of this Chapter after June 30, 2023.

b. business associations and professional organizations identified by NAICS Code 8139;

c. state and local government enterprises;

d. real estate agents, operators, and lessors;

e. automotive rental and leasing;

f. local solid waste disposal, local sewage systems, and local water systems businesses;

g. nonprofit organizations, unless the department determines that the new direct jobs created by the organization would have a significant impact on Louisiana;

h. employers engaged in the gaming industry identified by NAICS Code sections 713210 and 721120; and

i. professional services firms assigned a NAICS code beginning with 54, unless the business can demonstrate that more than 50 percent of its services are provided to out-

of-state customers or for the corporate headquarters of a multi-state business or if the employer can demonstrate that the company has or will have one year sales of at least 50 percent of its total sales out-of-state customers or buyers, to in-state customers or buyers or buyers if the products or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government.

j. construction companies, unless the company is the corporate headquarters of a multi-state business or can demonstrate that the company has, or will have within one year, sales of at least 50 percent of its total sales to either out-of-state customers or the federal government.

k. all businesses assigned a NAICS code beginning with 5613.

l. medical professionals assigned a NAICS code beginning with 62, except for those engaged in biomedical industries, biotechnology industries or those who provide services to rural hospitals or those who provide services or will within one year provide services to a patient base made up of at least 50 percent out-of-state patients.

m. Out-of-state sales or out-of-state patient requirements can be demonstrated by submission of documents including, but not limited to, a report issued by an independent Louisiana certified public accountant, in accordance with guidelines provided by the department.

3. Minimum New Direct Jobs and Annual Gross Payroll

a. New Direct Jobs. The employer must create a minimum of:

i. 5 new direct jobs for companies who employ 50 or fewer baseline employees; or

ii. 15 new direct jobs for companies who employ more than 50 baseline employees.

b. Annual Gross Payroll. The employer must have an annual gross payroll of:

i. equal to or greater than \$225,000, for companies who employ 50 or fewer employees prior to the beginning of the contract, or

ii. jobs equal to or greater than \$675,000, for companies who employ more than 50 employees prior to the beginning of the contract.

c. The employer shall have the required annual payroll for new direct jobs and the minimum number of new direct jobs for the employer's fiscal year for which the employer is applying for its third annual rebate, or the contract is cancelled and any rebates received must be repaid.

4. Full-Time Employee Work Hours

a. The employer must employ full-time employees working 30 or more hours per week in new direct jobs.

5. Health Benefits. The employer must offer, or will offer within 90 days of the contract effective date, a basic health benefits plan or health insurance coverage to the individuals it employs in new direct jobs, in compliance with federally mandated healthcare requirements or, if no federally mandated healthcare requirements exist, is determined to have a value of at least \$1.25 per hour. The employer must offer health insurance coverage for the dependents of full-time employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry,

Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2307 (November 2003), amended by the Office of Business Development, LR 37:2590 (September 2011), LR 42:865 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 46:

§1107. Application Fees, Timely Filing

A. ...

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, Business Incentives Services, through the department's online Fastlane portal no later than 24 months after the department has received the advance notification and fee, except that upon request, a business shall receive a 30-day extension of time in which to file its application, provided that the request for extension is received by the department no later than the filing deadline. Failure to file an application within the prescribed timeframe will result in the expiration of the advance notification.

1. The application shall include a detailed project description clearly stating the nature and scope of the proposed project. For example, whether the project is the construction of a new facility, renovation of an existing facility, or an increase in workforce. Where possible, identify specific project goals, milestones and costs that may be verified by both the department and LDR for subsequent contract compliance review.

2. Applications submitted by COVID-19 impacted retail businesses shall include support documentation evidencing a physical and active operation in Louisiana on March 13, 3 2020, and that it ceased operations due to either one of the governor's public health emergency proclamations or a mayor's proclamation or executive order related to the public health emergency, or a decrease in customer activity or the inability to retain sufficient staff due to the COVID-19 public health emergency.

C. - C3. ...

D. An application to renew a contract shall be submitted with an application fee and filed six months prior to the initial contract expiring. The board may approve a request for renewal of an expired contract filed less than five years after expiration of the initial contract, and may impose a penalty for the late filing of the renewal request, including a reduction of the five-year renewal period.

1. The application for renewal shall include a detailed project description clearly stating the nature and scope of the proposed project. The application may revise or update the original project description, but must be within the nature and scope of the project description originally proposed and approved.

E. ...

F. Applications may be deferred to a later board meeting date at the request of the applicant, but in no instance shall exceed presentation at a board meeting occurring more than 6 months after the filing of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308

(November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), LR 41:1085 (June 2015), LR 42:865 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR

§1109. Application Review and Determination

A. - A1. ...

2. The application packet must be completed through the department's online Fastlane portal by the due date. If the application is incomplete, the department may request additional information prior to further action. The application fee must accompany the application packet pursuant to §1107.C.

3. ...

4. LED reserves the right to request missing information, which shall be provided to LED within 30 days. Applications with missing or inadequate information after this time frame shall be considered late filings.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), amended by the Department of Economic Development, Office of Business Development, LR 46:

§1111. Consultation with the LWC and the LDR

A. ...

B. The department must receive a letter-of-no-objection or a letter-of-approval from the LWC and the LDR, prior to submitting the application to the board for action.

C. If LWC or LDR issues an objection to an application, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date the department notifies the company of the objection received from LWC or LDR.

1. Except that the department may, in its sole discretion, grant an extension in the following circumstances.

a. Active Negotiation. An extension may be granted to applicants which demonstrate active negotiation to the department by providing written documentation of ongoing, bilateral communications between the applicant or its representative and LWC or LDR as applicable, even if such communication begins after the objection was issued, or other written verification as approved by the department.

i. the extension shall not exceed six months, and an application with an active, unresolved objection shall be cancelled by the department one year after notifying the company of the objection.

b. Litigation. The department may grant an extension to applicants which demonstrate active litigation with LDR, including but not limited to submission of a written complaint or petition, as approved by the department.

i. the extension shall be valid during the pendency of the action, but shall not exceed five years.

c. As otherwise approved by the department for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:866 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 46:

§1117. The Contract

A. The board, after no objection from the executive director of the LWC and secretary of the LDR, and with the approval of the governor, may enter into a contract with an employer for a period up to five years. The business must execute its portion of the contract and return it to Business Incentive Services within 90 days. If the contract is not returned within 90 days, the board's approval shall be deemed rescinded.

1. ...

2. Upon written approval of the department, an employer may have one additional contract in effect for a project site for a subsequent expansion project that is distinct from the project associated with the original contract, and that increases the number of new direct jobs at the site by at least 50 percent. If new direct jobs are not increased by at least 50 percent by the end of the third fiscal year of the additional contract, the contract shall be terminated and all benefits for the site shall be determined under the original contract.

3 - 5. ...

6. A contract shall be limited to one employer receiving payroll rebates at the project site, however the employer's named affiliate may receive a sale and use tax rebate or project facility expense rebate for their expenditures directly relating to the project site if; a) the employer meets all program requirements; b) the affiliate is disclosed by the employer in its application and c) the affiliate is listed in the contract attachment Schedule One, which may be amended with the approval of the department and the board.

7. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location.

B. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:866 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 46:

§1118. Project Completion Reports

A. All companies, whether seeking a payroll rebate, sales and use tax rebate or project facility expense rebate, shall file a minimum of one project completion report as follows.

1. An applicant may file a preliminary project completion report no earlier than with its third fiscal year filing.

2. An applicant shall file a final project completion report within six months after the project ending date or the governor's signature on the contract, whichever is later.

3. No more than two project completion reports (one preliminary and one final report) may be filed per five-year contract period.

4. Project completion reports shall be submitted through the department's online Fastlane portal.

5. A fee of \$250 shall accompany all project completion report filings, or any project completion report amendment filings.

B. The project completion report shall confirm the beginning of the project, the project ending date, and the incentive benefits elected. Local sales and use tax rebate is not available if the project facility expense rebate is elected. The project facility expense rebate may not be elected if more than 50 percent of the qualified expenditures related to the project (including intangible costs such as architectural and/or engineering fees prior to construction) are incurred before the filing of the advance notification.

C. The project completion report shall list all eligible purchases and qualified expenditures for the project, with a description of the buildings, equipment, or other assets, and the cost of each item.

D. After completion of the project and the governor's signature of the contract, the department shall sign the project completion report and forward copies to the business, the Department of Revenue, and any political subdivision rebating local sales and use tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 46:

§1119. Payroll Incentive Rebates

A. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2310 (November 2003), amended by the Office of Business Development, LR 37:2593 (September 2011), amended by the Department of Economic Development, Office of Business Development, LR 46:

§1120. Sales and Use Tax Rebate or Project Facility Expense Rebate

A. Project Facility Expense Rebate

1. The project facility expense rebate is earned in the year in which the project is placed in service, and is based upon all qualified capitalized expenditures related to the project as of the date it is placed in service.

2. The project facility expense rebate claim must be filed with the Department of Revenue, Office Audit Division, with the required documentation.

3. The project facility expense rebate may be taken on qualified expenditures that are related to the project and are placed in service during the project period. The project facility expense rebate applies to the assets that are related to the qualified expenditures, provided that the business

reasonably intends for such assets to remain at the project site for their expected useful life. The assets may be recorded on the financial statements of a company that is an affiliate of the business.

4. The claim for the project facility expense rebate must be filed with the Department of Revenue no later than six months after the governor's signature of the contract and the department's signature of the project completion report, and must be accompanied by the signed project completion report. Upon request, the business shall receive a 30-day extension of time in which to file its claim, provided such request for extension is received by the Department of Revenue prior to the expiration of such filing period. The Department of Revenue is also authorized to grant the business an additional extension of time, not to exceed 60 days, in which to file its claim provided that the business shows reasonable cause for granting such extension.

B. Sales and Use Tax Rebates

1. The Quality Jobs Program contract will not authorize the business to make tax exempt purchases from vendors. The Department of Revenue will advise the business on the proper procedures to obtain the state sales and use tax rebate. The request for rebate of sales and use taxes must be made by filing a claim with the Department of Revenue, Office Audit Division, and must include the following:

a. list of eligible purchases, including a brief description of each item, the vendor's name, date of the delivery, sales price and the amount of state sales and use tax paid. The listed items must have been purchased by the business, or by a builder, a contractor, or other party that contracted with the owner to provide materials, equipment, machinery, or software that is used by the business at the project site or by the contract holders named affiliates listed in the Quality Jobs Program contract;

b. certification that the listed materials are reasonably expected to qualify for a rebate under the Quality Jobs Program; and

c. certification that state sales and use taxes have been paid on the listed items.

2. The request may be filed on the official Department of Revenue "claim for rebate" form or on other forms prepared by the business. After the Department of Revenue has validated the information on the claim for rebate, a rebate check will be issued for the amount of substantiated state sales and use taxes paid.

3. The request for rebate must be filed with the Louisiana Department of Revenue, and the political subdivision rebating local sales and use tax, 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 30 days after the end of the calendar year and must be accompanied by the signed project completion report. Upon request, the business shall receive a 30-day extension of time in which to file its claim, provided such request for extension is received by the Department of Revenue prior to the expiration of such filing period. The Department of Revenue is also authorized to grant the business an additional extension of time, not to exceed 60 days, in which to file its claim, provided that the

business shows reasonable cause for granting such extension.

4. The business should contact the political subdivision issuing the endorsement resolution to determine the procedure for local sales and use tax rebate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 46:

§1121. Rebate Payments

A. In addition to the payroll rebates, an employer shall be entitled to sales and use tax rebates or the project facility expense rebate as authorized in R.S. 51: 2456, if the employer meets the hiring requirements of the Quality Jobs Program and meets the other limitations, procedures, and requirements of R.S. 51:2456 and 2457 and the rules promulgated there under, Louisiana Administrative Code, Title 13, Part I, Chapter 11.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2310 (November 2003), amended by the Office of Business Development, LR 37:2593 (September 2011), amended by the Department of Economic Development, Office of Business Development, LR 46:

§1123. Rebate Claim Filing

A. Payroll Rebate

1. An annual certification and a fee of \$250 shall be filed annually, commencing within 6 months after completion of the applicant's fiscal year or execution of the contract, whichever is later. The department may grant an extension of up to an additional 30 days provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe shall result in a penalty equal to the amount of the annual rebate being reduced by 5 percent for each month or portion of a month late-up to a maximum reduction of 100 percent after 20 months. An annual certification is required in each year the contract is active, irrespective of whether annual rebates are being claimed.

2. - 4. ...

5. If the actual verified annual gross payroll for the employer's third fiscal year does not show a minimum of 15 or five new direct jobs and does not equal or exceed a total annual payroll for new direct jobs of either \$675,000 or \$225,000, whichever is applicable, the employer will be determined to be ineligible under this Chapter. The LDR will be notified and the tax liability for the current tax period in which the failure to meet the requirements occurs shall be increased by the amount of rebates previously allowed.

6. ...

B. Sales and Use Tax Rebate or Project Facility Expense Rebate

1. An annual employee certification report with a \$250 annual employee certification report fee must be filed on all active contracts for the employer to qualify for the sales and use tax rebate or project facility expense rebate under this Chapter.

2. Sales and Use Tax Rebate or Project Facility Expense Rebate—Advance Notification. An employer who

receives a Quality Jobs Act contract and who meets the requirements for sales and use tax rebates as authorized in R.S. 51: 2456 and §1121 of these rules, will satisfy the advance notification requirement for sales and use tax rebates or project facility expense rebate for the Quality Jobs Act contract by submission of the Quality Jobs Act Program advance notification referred to in §1107 of these rules. The sales and use tax rebate or project facility expense rebate period shall begin on the contract effective date, unless otherwise provided in the contract, and shall be no longer than 5 years, and shall not extend beyond the term of the Quality Jobs Act contract. In order to receive rebates of local sales and use taxes, the employer must satisfy the provisions of §1121.B of these rules.

3. Subsequent Sales and Use Tax Rebate/ Project Facility Expense Rebate Periods. On the expiration of the initial sale and use tax rebate or project facility expense rebate period under the Quality Jobs Act contract, the employer may file additional advance notifications on Form, "Quality Jobs Act Sales and Use Tax Rebate/ Project Facility Expense Rebate-Advance Notification," to seek additional state and local sales and use tax rebates or project facility expense rebates during the renewal contract period as authorized in R.S. 51:2456 and §1121 of these rules if the employer meets the hiring requirements as defined in the Quality Jobs Program Act and meets the other limitations, procedures, and requirements of R.S. 51: 2456 and 2457 and the rules promulgated thereunder, Louisiana Administrative Code, Title 13, Part I, Chapter 11, for a-subsequent sales and use tax rebate or project facility expense rebate period during the renewal term of the Quality Jobs Act contract. The subsequent sales and use tax rebate or project facility expense rebate period shall be no longer than the 5-year renewal contract period. The local endorsement resolution requirements of §1121.B shall apply to the subsequent sales and use tax rebate period for which the employer under a Quality Jobs Act contract seeks the rebate of local sales and use taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:2594 (September 2011), LR 42:866 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 46:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Analysis

The modifications to the Quality Jobs Program could cause a direct economic impact on some small COVID-19 impacted retail, restaurants and hotels that have no more than 50 employees who are newly eligible for the program,

if meeting certain criteria. However, the benefit from additional funding received, at a nominal cost of some additional planning and paperwork associated with the application process and reporting requirements should provide a positive impact to any small businesses that choose to apply to the program.

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on Monday, October 26, 2020 at Department of Economic Development, 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Stephanie.Legrange@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 2 p.m. on Tuesday, October 27, 2020 in the LaBelle Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Quality Jobs Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on expenditures of the Department of Economic Development (LED) as a result of the proposed rules establishing guidelines for the Quality Jobs Program. The program encourages certain businesses to locate or expand existing operations in Louisiana by offering rebates directly related to the new direct jobs created and the new annual gross payroll generated. The program offers payroll incentive rebates and sales and use tax rebate or project facility expense rebates. The proposed amendments align the rules with the current statutory provisions and administrative practices as required by portions of Act 386 of 2017 and Act 29 of 2020 IES. Administration of the program will be carried out utilizing existing staff and resources at LED.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be increased revenues (decreased costs) to the State General Fund (Direct) to the extent that entities take advantage of the tax credits pursuant to Act 386 of 2017, which implemented extensive changes and restrictions to the program. Using data from applications submitted for FY 14-16 and FY 16 participating wages, the changes in revenue are as follows: 1) increased revenue up to \$7.9 M by FY 22 and beyond, from raising the eligibility hourly wage from \$14.50 to \$18.00 to receive a 4% subsidy and from \$19.10 to \$21.66 to receive a 6% subsidy; 2) increased revenue up to \$4.3 M by FY 22 and beyond, by increasing the job count requirement from 5 to 15 for businesses with 50 or more employees; and 3) increased total revenue from the program is estimated up to \$25 M in FY 22 and beyond. Revenue derived is realized by the state fisc as greater net state tax receipts.

There will be decreased revenues (increased costs) to the State General Fund (Direct) to the extent that entities take advantage of the tax credits pursuant to the changes in the program as enacted in Act 29 of 2020 IES. The program allows businesses classified as COVID-19 impacted retail, hotels and restaurants, that have no more than 50 employees nationwide including affiliates, to participate in the program with advance notification filings from July 1, 2020 to

December 31, 2021. Eligibility to earn benefits terminates after June 30, 2023. The extent of qualifying participation in the program, is speculative; however, assuming 1% of the potentially eligible firms qualifying for participation and being rebated 4% of the minimum amount of participating payroll (5 employees at \$18/hour for 30 hours per week for 52 weeks) results in \$1.6 million per year of state payroll rebate cost exposure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The income of new businesses participating in the program may decrease in comparison to existing approved businesses due to the heightened eligibility criteria and decreased benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits.

Anne G. Villa
Undersecretary
2009#026

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Angel Investor Tax Credit Program (LAC 13:I.Chapter 33)

Under the authority of R.S.47:6020 through 6020.4 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development proposes to amend the rules for the administration of the Angel Investor Tax Credit Program.

The purpose of this regulation is to implement legislative changes to the Angel Investor Tax Credit program under R.S. 47:6020 as enacted by Act 22 of the 2020 Special Session of the Louisiana Legislature.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit Program

§3303. Accredited Investor

A.1.-3...

4. the investment in the Louisiana Entrepreneurial Business must be maintained for three years unless otherwise approved by the Department of Economic Development;

5. persons, including corporations, partnerships, limited liability partnerships and limited liability corporations composed of persons meeting the qualifications of Paragraphs A.2 and 3 above, provided that the person's share of the tax credits of the entrepreneurial business shall not exceed that person's share of the profits of the entrepreneurial business or a person's share of the tax credits as a partner or a member of a limited liability corporation or partnership shall not exceed that person's share of the profits of the LLC.

B.1.-4...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006), amended LR 32:1594 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3495 (December 2011), amended by Department of Economic Development, Office of the Secretary, LR 46:

§3307. The Amount, Allocation and Limitations of the Angel Investor Tax Credits

A. ...

1. For calendar year 2011, the department will begin accepting applications on September 1, and for all other calendar years, the department will begin accepting applications on January 1. The allocation of credits for all years will be administered on a first come, first serve basis until the annual \$3,600,000 cap has been reached. However, on the day that the cap is reached, all applications received that day will be treated as received at the same time and the credits remaining for allocation that day will be prorated.

a. - e. ...

f.i. Any returned reservation credits whose businesses could not provide proof of investment within 120 days, will be allocated when available on a first come, first serve basis until the annual cap has been reached. However, on the day that the cap is reached, all applications received that day will be treated as received at the same time and the credits remaining for allocation that day will be prorated. Returned reservation credits will be made available the sooner of:

(a) the day returned reservation credits exceed the amount of credits requested in applications in line to receive credits the next day; or

(b) the day all 120-day proof of investment periods have expired.

ii. ...

g. A business that fails to provide proof of investment on the full reservation amount within 120 days will not be allowed to apply for angel investor credits again for a three-month period. The three-month period will begin on the day following the end of the 120-day period for proof of investment.

B. - E. ...

F. The Angel Investor Tax Credit Program has a program cap of three million six hundred thousand dollars in tax credits granted per calendar year. If the department does not grant the entire \$3,600,000 in tax credits in any calendar year, the amount of residual unused tax credits shall carry forward to subsequent calendar years and may be granted in any year without regard to the three million six hundred thousand dollar per year limitation. No tax credit shall be granted to an investor until the investment has been made in the Louisiana Entrepreneurial Business.

G. For purposes of receiving angel investor tax credits, an investor may not invest more than seven hundred twenty thousand dollars per year per business or more than \$1,440,000 total per business over the life of the program. The credit shall be allowed against the income tax for the taxable period in which the credit is earned and the franchise tax for the taxable period following the period in which the credit is earned. The credits approved by the department shall be granted