

2020 Regular Session

HOUSE BILL NO. 846

BY REPRESENTATIVE WRIGHT

1 AN ACT

2 To enact R.S. 51:3122, relative to the payroll incentive program; to establish a payroll  
3 incentive for certain businesses impacted by certain public health emergencies; to  
4 provide for the amount of the incentive; to provide for definitions; to provide for  
5 eligibility; to provide for requirements and limitations; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 51:3122 is hereby enacted to read as follows:

9 §3122. Payroll Incentive Program for COVID-19-Impacted Businesses

10 A. For purposes of this Section, the following words shall have the following  
11 meanings unless the context clearly indicates otherwise:

12 (1) "Benefit rate" shall mean the rate for new jobs created by a COVID-19-  
13 impacted business that pay at least the federal minimum wage. The benefit rate for  
14 eligible businesses shall be six percent of the wages for each new job.

15 (2) "COVID-19-impacted business" means a for-profit corporation, a limited  
16 liability company, a partnership, or a sole proprietorship that satisfies all of the  
17 following criteria:

18 (a) The business is registered to do business in the state of Louisiana.

19 (b) The business is assigned a North American Industry Classification Code  
20 of 44, 45, or 72.

21 (c) The business had a physical and active operation in Louisiana on March  
22 13, 2020.

1           (d) The business is in good standing with the Secretary of State, if  
 2           applicable.

3           (e) The business filed all applicable Louisiana state tax returns for tax year  
 4           2018 or 2019, or, for an eligible business formed on or after January 1, 2020, intends  
 5           to file Louisiana taxes for tax year 2020.

6           (f) The business had no more than fifty full-time equivalent employees as of  
 7           March 1, 2020.

8           (g) The business is not a subsidiary of a business with more than fifty  
 9           full-time equivalent employees, is not part of a larger business enterprise with more  
 10          than fifty full-time equivalent employees, and is not owned by a business with more  
 11          than fifty full-time equivalent employees.

12          (h) The business filed an initial application with the department to be  
 13          recognized as a COVID-19 impacted business on or before December 31, 2021, and  
 14          included a hiring start date. Initial application for a COVID-19-impacted business  
 15          may include a hiring start date that precedes the initial application filing date, but the  
 16          hiring start date shall not be before March 13, 2020, nor shall it be after December  
 17          31, 2021.

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

19          (4) "New jobs" shall mean employment with a COVID-19-impacted business  
 20          where each employee satisfies all of the following criteria:

21               (a) The employee is employed by the COVID-19-impacted business at its  
 22               place of operation in this state.

23               (b) The employee is a Louisiana resident.

24               (c) The employee's hire or rehire date is on or after May 15, 2020.

25               (d) The employee is paid, as a base wage, at least the federal minimum wage  
 26               excluding tips, bonuses, and commissions.

27               B.(1) There is hereby established a rebate for any eligible COVID-19-  
 28               impacted business that meets the requirements of this Section. The amount of the  
 29               rebate shall be based on the benefit rate for each new job. In order to qualify for the  
 30               rebate, the COVID-19-impacted business shall create a minimum of five new jobs

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           between May 15, 2020, and December 31, 2021, and shall create a minimum new  
2           annual payroll from new jobs of at least forty thousand dollars before December 31,  
3           2021. In order to determine the number of new jobs eligible for the rebate  
4           established pursuant to the provisions of this Section, the applicant's employment  
5           baseline shall be the total number of active full-time and part-time employees at the  
6           COVID-19-impacted business's place of operation that are Louisiana residents on  
7           May 14, 2020.

8                   (2)(a) Initial rebate amounts shall be based on new jobs and annual payroll  
9                   created between May 15, 2020 and December 31, 2021.

10                   (b) A business shall be eligible for a rebate for each year that it maintains or  
11                   exceeds the minimum required new jobs and annual payroll as provided in Paragraph  
12                   (1) of this Subsection.

13                   (3)(a) Payroll eligible for this rebate is limited to \$500,000 per COVID-19  
14                   impacted business per calendar year.

15                   (b) No COVID-19 impacted business shall receive a rebate pursuant to this  
16                   Section for more than three years.

17                   (c) No rebates shall be paid under this program for new jobs or payroll  
18                   created after December 31, 2022.

19                   C.(1)(a) The rebates authorized in this Section shall be paid annually after  
20                   the business's has filed its application for annual rebate with the department, and the  
21                   department has determined that the business is eligible for the rebate for that year.

22                   (b) Businesses may file their annual rebate application at the end of the  
23                   business's fiscal year or the date that the hiring and payroll thresholds provided in  
24                   Subsection B are met, whichever is earlier.

25                   (2) The application shall contain a sworn statement by a duly authorized  
26                   officer of the business concerning with respect to the business's fiscal year:

27                   (a) That the business remained a qualified COVID-19 impacted business  
28                   under the provisions of this Section.

29                   (b) The total number of and the gross payroll of the new jobs created.

1                   (c) That the new jobs were not jobs retained following the acquisition of all  
2                   or part of an in-state business by the business.

3                   (d) That the employees holding the new jobs were paid at least the applicable  
4                   federal minimum wage and were Louisiana residents.

5                   (3) The department may request such additional information from the  
6                   business as may be necessary to determine whether the application is correct and  
7                   whether the business is eligible for the annual rebate for that year, or may request  
8                   that the business revise its application.

9                   (4) Upon approval of the application for an annual rebate, the department  
10                  shall send a certification letter to the Department of Revenue for payment of the  
11                  rebate. The letter shall provide the name of the business and the amount of the  
12                  rebate. The Department of Revenue shall verify the tax return filing information  
13                  required by Paragraph (2) of Subsection A and may require the business to submit  
14                  any additional information as may be necessary to effect the payment of the rebate.  
15                  Payment shall be made from the current collections of the taxes imposed by Title 47  
16                  of the Louisiana Revised Statutes of 1950, as amended.

17                  D. Recovery of rebates

18                  (1) If a business receives a rebate pursuant to this Section and it is  
19                  subsequently determined that the business did not qualify for such rebate, the future  
20                  rebates issued to the business shall be reduced by the amount of such rebate monies  
21                  previously received by the business.

22                  (2) If there are no future rebates from which to deduct the amount owed back  
23                  to the state, the tax liability of the business for the taxable period in which the  
24                  determination was made shall be increased by the amount of such rebate monies  
25                  previously received by the business.

26                  (3) The secretary of the Department of Revenue may recover any rebates  
27                  previously granted to a business that are later disallowed as authorized by R.S.  
28                  47:1561.2.

1                   E. A business shall not receive any other nondiscretionary statutory  
2                   incentive administered by the department for any payroll expenditures for which the  
3                   business has received a rebate pursuant to this Section.

4                   F. The department, in consultation with the Department of Revenue, may  
5                   adopt and promulgate rules and regulations that are necessary to carry out the intent  
6                   and purposes of this Section.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_