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EMERGENCY RULE NOTICE OF INTENT RULE POTPOURRI

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This is your authority to publish in the (month) April, 2022 *Louisiana Register* the document indicated above.

Office of Business Development

Office/Board/Commission promulgating this document

Anne G. Villa Undersecretary

(name) (title)
 Name and title of person whose signature will appear in the publication (at the end of the document)

Department of Economic Development

Department under which office/board/commission is classified

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Quality Jobs Program

Short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX

File name

Anne G. Villa

Signature of Agency Head or Designee

Anne G. Villa, Undersecretary

Print Name and Title of Agency Head or Designee

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here:

CERTIFICATION OF AVAILABLE FUNDS

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LAGOV AGENCY:

I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

<u>252</u>		<u>2522141400</u>		<u>2520000000</u>				
Business Area	General Ledger	Cost Center	Grant	Fund	WBS	Internal Order	Functional	

NON-LAGOV AGENCY:

I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Contact Information:

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Anne G. Villa

Signature of Agency Head or Designee

Phone Number

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POTPOURRI

Department of Economic Development Office of Business Development

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

The Department of Economic Development published a Notice of Intent in the January 2022 issue of the *Louisiana Register* (LR 48:83-90). A public hearing was held pursuant to R.S. 49:953 (A) (2) on March 3, 2022 and interested parties were invited to provide comment. After a thorough review and careful consideration of the comments and testimony received, the department proposes to amend the time period for calculating an employment base line in 1103, the time period for deferring applications to the Board in 1107 (F) and correcting by generalizing the reference to required new direct jobs and payroll in 1117 E (2). The redline changes are available for viewing on our website at www.opportunitylouisiana.com. No fiscal or economic impact will result from the amendments proposed in this notice.

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.

E. Effective date of the 2022 Quality Jobs Program rule changes.

1. The provisions of the 2022 Quality Jobs Program rule changes shall apply to advance notifications filed after the date of promulgation, detailed in the *Louisiana Register* published on (Month) 20, 2022, or unless otherwise stipulated by the Louisiana Legislature, in Section 1101.C and D.

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.

§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 six 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 four 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 shall 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.

§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 2131 12, 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. An employer that qualifies for a contract under this Item at the time of the initial quality jobs contract executed pursuant to this Chapter shall remain qualified for a contract through and during the renewal period regardless of any change in the per capita income of the parish,

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

g. the employer is a business that spends fifty 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 fifty 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 fifty 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 fifty 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 fifty 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. five new direct jobs for companies who employ 50 or fewer baseline employees, or

ii. fifteen 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

§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 thirty-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, 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 within 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 5-year renewal period.

1. The application for renewal shall include a detailed project description stating the nature and scope of the project.

E. ...

F. Applications may be deferred to a later board meeting date at the request of the applicant, but shall not exceed presentation at a board meeting occurring more than twelve months after the filing of the application, except as otherwise approved by LED.

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 60 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.

§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. If LWC or LDR issues an objection to an application other than an objection because an applicant is in active negotiations with, under audit by or in litigation with the department issuing the objection, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date LED sends written notification to the company of the objection received from

LWC or LDR. Applicants may demonstrate active negotiation to LED by providing written documentation periodically, but at least every 6 months, 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 LED.

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

§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 25 percent. If new direct jobs are not increased by at least 25 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, however the employer's named related entity or affiliate may generate a sale and use tax rebate or project facility expense rebate for their expenditures directly relating to the project site, but payable to the contract holder, if the following conditions are met; a) the employer meets all program requirements; b) the entity is disclosed by the employer in its application or c) the entity 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. – E1

2. After the employer's fiscal year for which the employer applied for his third annual rebate, if at any other time during the 10-year contract period the employer applies for a rebate following the end of the employer's fiscal year, and the verified gross payroll for the fiscal year does not demonstrate the required minimum new direct jobs and the required gross payroll, the rebates shall be suspended and shall not be resumed until such time as the payroll and job requirements are met. No rebate (payroll rebate, sales and use tax rebate or project facility expense rebate) shall accrue or be paid to the employer during a period of suspension.

F. ...

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

§1118. Project Completion

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 and one affidavit of final cost as follows;

1. An applicant may file a preliminary project completion report no earlier than with its third fiscal year filing, but no later than with the filing of a final project completion report.

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.

C. The affidavit of final cost 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.

E. The basis for rebate claims (sales and use tax rebate or project facility expense rebate) shall not exceed the costs listed on the affidavit of final cost.

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

§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

§ 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.

a. Qualified expenditures include intangible costs such as architectural and/or engineering fees prior to the contract effective date.

b. The project facility expense rebate may not be elected if more than 50 percent of the qualified expenditures relating to the project are incurred before the filing of the advance notification.

2. The project facility expense rebate claim must be filed with the Department of Revenue, Taxpayer Compliance – SSEW 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 Department of Economic Development signs a project completion report and it is received by the Department of Revenue, the political subdivision, and the business. The project completion report shall not be signed until the project is complete and the contract has been approved by the board and the governor. 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, Taxpayer Compliance – SSEW 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. Invoices as required under R.S. 51:2457 shall also be required;

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 LDR approved 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

§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 R.S. 51:2455 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.

§1123. Rebate Claim Filing

A. Payroll Rebate

1. An annual certification and a fee of \$250 shall be filed annually, commencing within six 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 sixty days provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe may result in the annual rebate being denied or restricted. 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 Program 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 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 Program 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. No more than two project facility expense rebate claims may be filed during each 5 year contract period.

4. Sales and use tax rebates claims may be filed on a monthly, quarterly or annual basis during each 5 year contract period, at the discretion of the company receiving the benefit, as long as all requirements for issuance have been met.

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

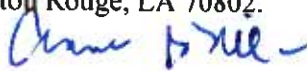
HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:2594 (September 2011), LR 42:866 (June 2016), amended by the Department of Economic Development,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

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on Tuesday, May 24, 2022 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 10 a.m. on Wednesday, May 25, 2022 in the Griffon Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.


Anne G. Villa
Undersecretary, LED

Chapter 11. Quality Jobs Program

§1101. General

A. Purpose. The Quality Jobs Program provides rebates as an inducement for businesses in traditional or seed clusters targeted for development by the department to locate or expand existing operations in Louisiana, and to support employers who will make significant contributions to the development of the state economy.

B. Program Description

1. The amount of the rebate is directly related to the new direct jobs created and to the new annual gross payroll generated as the result of the employer locating or expanding existing operations in the state.

2. The employer may be entitled to sales and use tax rebates or the ~~investment tax credit~~ **project facility expense rebate** authorized in R.S. 51:4787 **2456 (B) (1)** ~~if the employer meets the Enterprise Zone Program hiring requirements,~~ 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 ~~contracts executed on or after June 30, 2007~~ **advance notification filed prior to July 1, 2017**, except as provided below.

2. The provisions of the Quality Jobs Program prior to the enactment of Act 387 shall apply to contracts executed or advance notifications filed prior to June 30, 2008, if at the time the contract is executed, amended or renewed the employer does not elect to apply the provisions of Act 387.

3. The provisions of Act 387 shall apply to contracts executed or advance notifications filed prior to June 30, 2008 if at the time the contract is executed, amended or renewed the employer elects to apply the provisions of Act 387. Upon such election, the provisions of Act 387 shall be applied beginning with the fiscal year in which the election is made.

4. The provisions of Act 387 may not be applied to any fiscal year beginning prior to January 1, 2007.

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 ~~retail 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.

E. Effective date of the 2022 Quality Jobs Program rule changes.

1. The provisions of the 2022 Quality Jobs Program rule changes shall apply to **advance notifications** filed after the date of promulgation, detailed in the Louisiana Register published on (Month) 20, 2022, or unless otherwise stipulated by the Louisiana Legislature, in Section 1101.C and D.

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).

§1103. Definitions

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

Act 387—Act 387 of the 2007 Regular Session of the Louisiana Legislature.

Affiliate—

1. any business entity that is:
 - a. controlled by the employer;
 - b. a controlling owner of the employer; or
 - c. controlled by an entity described in Subparagraph a or b;
2. control, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:
 - a. a majority of the voting stock or other voting interest of such business entity or the employer; or
 - b. stock or other interest whose value is a majority of the total value of such business entity or the employer;
3. a controlled or controlling business entity will be deemed a non-affiliate (not an affiliate) if the department determines that neither the employer nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

*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.

Board—the Louisiana Board of Commerce and Industry.

Contract Effective Date—the day that the advance notification and fee were received by the department, or a later contract effective date specified on the application. The contract effective date cannot be earlier than the date the advance notification and fee are received by the department.

Contract Execution—means the date the contract is signed by the governor.

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.

Department—the Louisiana Department of Economic Development.

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 ~~four~~ *twelve* ~~six~~ 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 ~~two~~ *ten* ~~four~~ 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.

Employer—a legal person who applies for and executes a Quality Jobs Program contract with the department pursuant to the provisions of R.S. 51:2452-2462.

Gross Payroll—

1. wages for the new direct jobs upon which the specified benefit rate is calculated;
2. for medical industries serving rural hospitals, gross wages shall include only those wages directly related to providing services to a rural hospital.

Health Care Benefits—means the amount of any payment to or on behalf of an individual in its employ for individual coverage under a plan or system established by an employer which makes provision for individuals in its employ generally or for a class or classes of such individuals including any amount paid by an employer for insurance or

annuities, or into a fund to provide for any such payment for the basic health benefits plan or health insurance coverage, or the value of the health plan or health insurance coverage offered by the employer to an individual it employs.

Hire Date—the first day of work for which the employer directly pays an employee.

Medical Industries—a person, or entity licensed or certified by this state to provide health care or professional services as a physician, hospital, nursing home, community blood center, tissue bank, dentist, registered or licensed practical nurse or certified nurse assistant, ambulance service, certified registered nurse anesthetist, nurse midwife, licensed midwife, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, psychologist, social worker, licensed professional counselor, licensed perfusionist.

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

LDR—the Louisiana Department of Revenue.

LWC—the Louisiana Workforce Commission, formerly the Louisiana Department of Labor.

NAICS—North American Industrial Classification System.

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 shall 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.

Project Site—the single contiguous physical location shown on the application.

Rural Hospital—as defined by R.S. 40:1300.

Wages—all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, and dismissal payments which the employer is required by law or contract to make. Gratuities shall be estimated in accordance with the Internal Revenue Code and its rules and regulations. Wages shall not include the following:

1. the amount of any payment with respect to services performed after January 1, 1951, to or on behalf of an individual in its employ under a plan or system established by an employer which makes provision for individuals in its employ generally, or for a class of classes of such individuals, including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment, on account of:

a. retirement;

b. sickness or accident disability;

c. medical and hospitalization expenses in connection with sickness or accident disability;

d. death, provided the individual in its employment does not have the option to receive, instead of provision of such death benefit, any part of such payment or, if such death benefit is insured, any part of the premium or contributions to premiums paid by his employer or does not have the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon the termination of such plan or system or policy of insurance or of his services with such employer; or

e. a bona fide thrift or savings fund, providing such payment is conditioned upon a payment of a substantial sum by such individuals in its employment and such sum paid by the employer cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any 12 month period, except upon an individual's separation from that employment;

2. any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26 U.S.C. 3306(b)(5)(G);

3. any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such financing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C. 127 or a dependent care assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C. 3306(b)(13);

4. the payment by an employer, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under Section 3101 of the federal Internal Revenue Code with respect to domestic services in a private home of the employer or for agricultural labor performed after December 31, 1980;

5. dismissal payments that the employer is not required by law or contract to make; or

6. the value of any meals and lodging furnished by or on behalf of an employer to an individual in his employ, provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer.

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).

§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. Eligible Businesses. The nature of the employer's business must fall within one of the following categories:
 - a. one of the following six Vision 2020 cluster industries:
 - i. biotechnology, biomedical, or medical industries serving rural hospitals;
 - ii. micromanufacturing;
 - iii. software, auto regulation, Internet, or telecommunications technologies;
 - iv. environmental technologies;
 - v. food technologies; or
 - vi. advanced materials;
 - b. a manufacturer whose primary function is identified by NAICS Codes 113310, 211, 213111, 541360, 311-339, 511-512, or 54171;
 - c. 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 Louisiana and the Gulf of Mexico, with new direct jobs that pay wages not less than \$30,000 per year;
 - d.i. a business that has, or within one year will have, at least 50 percent of its total annual sales to:
 - (a). out-of-state customers or buyers;
 - (b). 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
 - (c). the federal government;
 - ii. for contracts not subject to the provisions of Act 387, qualification under this Subparagraph also requires either:
 - (a). 75 percent of total annual sales to the buyers specified above; or
 - (b). the nature of the employer's business must fall within one of the following categories:
 - (i). an industry defined by NAICS codes that have a direct state employer multiplier of 2.0 or greater in accordance with the most current edition of the Regional Input/Output Multiplier System II or its successor;
 - (ii). a central administrative office that influences the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions are accomplished;
 - (iii). data processing, back office operations, and telephone call center operations (NAICS Code 56142);
 - (iv). a wholesale trade business (NAICS Code 42) with a distribution center of not less than 25,000 square feet;
 - e. located in a designated distressed region. Such designation shall be maintained during the contract period, including any renewal period. The employer must be located in a distressed region or at least 50 percent of the new direct jobs must be filled by persons residing in a distressed region.
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;
 - 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 72 1120; and
- i. attorneys.

3. Payroll

- a. The employer must create a minimum of five new direct jobs.
- b. If the employer employs more than 50 employees prior to the beginning of the contract, it must have an annual gross payroll for new direct jobs equal to or greater than \$500,000.
- c. If the employer employs 50 or fewer employees prior to the beginning of the contract, it must have an annual gross payroll for new direct jobs equal to or greater than \$250,000.
- d. The employer shall have the required annual payroll for new direct jobs and the minimum five 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. For contracts subject to Act 387, the employer must employ full-time employees working 30 or more hours per week in new direct jobs.
- b. For contracts prior to Act 387, the employer must employ full-time employees working 35 or more hours per week in new direct jobs. If the employer is a call center (NAICS Code 56142) it 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 accordance with the following requirements:

- a. contract effective dates before June 1, 2000—the employer shall pay not less than 50 percent of the insurance premium;
- b. contract effective dates on or after June 1, 2000, but before May 1, 2002—the employer shall pay not less than 75 percent of the premium for full-time employees. The employer shall offer group coverage for dependents of full-time employees, but the employer is not required to pay the premium;
- c. contract effective dates on or after May 1, 2002—the employer shall offer the employee the choice of one of the following:
 - i. the employer shall pay not less than 85 percent of the total premium for full-time employees choosing to participate under individual coverage and shall offer coverage for dependents of full-time employees, but the employer is not required to pay the premium; or
 - ii. the employer shall pay not less than 50 percent of the total premium for full-time employees who choose to participate and choose to cover their dependents;
- d. for contracts subject to the provisions of Act 387, the health care benefits must be determined by the department to have a value of at least \$1.25 per hour. The department's valuation analysis shall be made in accordance with standard operating procedures which shall be posted on the department's website.

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. An employer that qualifies for a contract under this Item at the time of the initial quality jobs contract executed pursuant to this Chapter shall remain qualified for a contract through and during the renewal period regardless of any change in the per capita income of the parish,
- f. the employer is the corporate headquarters of a multi-state business;
- g. the employer is a business that spends fifty 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 fifty 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 fifty 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 fifty 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 fifty 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. five new direct jobs for companies who employ 50 or fewer baseline employees, or
 - ii. fifteen 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).

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$250, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under *Louisiana Revised Statutes*, title 44, chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, Business Incentives Services, ~~P.O. Box 94185, Baton Rouge, LA 70804-9185 on the prescribed forms~~ 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 thirty-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, 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. An application fee shall be submitted with the application based on the following:

1. 0.5 percent (.005) times the estimated total incentive rebates (see application fee worksheet to calculate);
2. the minimum application fee is \$500 and the maximum application fee is \$15,000 for a single project;
3. an additional application fee will be due if a project's employment or investment scope is or has increased, unless the maximum has been paid.

D. An application to renew a contract shall be submitted with an application fee and filed ~~within 60 days of six months prior to the initial contract expiring. A fee of \$250 must be filed with the renewal contract.~~ The board may approve a request for renewal of an expired contract filed more than 60 days but 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 5-year renewal period.

1. The application for renewal shall include a detailed project description stating the nature and scope of the project.

E. The advance notification, application, or annual certification is not deemed to be filed until all information requested on the form and the required fees are received by LED. Processing fees for advance notifications, applications, or annual certification that have been accepted for eligible projects shall not be refundable.

F. Applications may be deferred to a later board meeting date at the request of the applicant, but shall not exceed presentation at a board meeting occurring more than 6 ~~twelve~~ months after the filing of the application, except as otherwise approved by LED.

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).

§1109. Application Review and Determination

A. Application Review

1. The department will assign a project number and review the advance notification form to determine if the employer is qualified pursuant to §1105. The employer will be notified of the project number and due date of the application packet. Certification of the employer's primary qualification, on the prescribed form, must be submitted by the applicant, prior to the application being received by the department.

2. The application packet must be completed ~~and returned to~~ 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. The employer must provide all information requested by the department for purposes of verifying employer qualifications, gross payroll, wages, new direct jobs, and the value of the basic health benefits plan or health insurance coverage, including but not limited to a list of all employees, their positions and wages, and a copy of the basic health benefits plan or health insurance coverage policy.

4. LED reserves the right to request missing information, which shall be provided to LED within 60 days. Applications with missing or inadequate information after this time frame shall be considered late filings.

B. Determination. The department shall determine whether the employer is qualified, the amount of gross payroll, the value of the basic health benefits plan or the health insurance coverage, the number of new direct jobs and the benefit rate.

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).

§1111. Consultation with the LWC and the LDR

A. The department will provide a copy of the application and all relative information to the LWC and the LDR for review. Either the LWC or the LDR or both may require additional information from the applicant.

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. If LWC or LDR issues an objection to an application other than an objection because an applicant is in active negotiations with, under audit by or in litigation with the department issuing the objection, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date LED sends written notification to the company of the objection received from LWC or LDR. Applicants may demonstrate active negotiation to LED by providing written documentation periodically, but at least every 6 months, 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 LED.

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).

§1115. Department Recommendations to Board

A. After its review and determination the department will prepare the application information in a format suitable for presentation to the board.

B. The department will make a presentation to the board as to the economic impact and the benefits to be received.

C. The department will make recommendations for approval or disapproval, and will provide information on behalf of the LWC and the LDR.

D. The board must approve the application prior to a contract being issued.

E. Applicant or its representatives will be notified of the board meeting date at which their application will be considered. The applicant should have someone present who is able to answer any questions the board may have regarding the information contained in the application, otherwise, the application may be deferred or denied.

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).

§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. A contract with an employer shall be limited to a single project site and the benefits the employer shall receive will be based upon the operations at that location. An employer may have only one contract in effect for a project site, except as provided below.

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 25 percent. If new direct jobs are not increased by at least 25 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. An employer may have multiple contracts covering multiple locations. The eligibility of each location shall be determined separately.

4. For each contract, the department shall certify that the employer has a net overall increase in employment statewide for each new direct job.

5. A contract may, with the approval of the board, be transferred to a business entity purchasing and continuing the operation of a project site. Upon such transfer, the employment baseline shall be that of the purchaser during the 45-day period prior to the purchase.

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

6.7. 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. The contract may be renewed for an additional five years provided that:

1. the employer has complied with all the terms of the contract;

2. the employer has met the statutory minimum hourly wage for the new direct jobs subject to the benefit rate established when the contract was entered into; and

3. the hourly wage rate has increased by an amount which is no less than the greater of either of the following:

a. the hourly wage rate has grown by the percentage increase in the Consumer Price Index published by the U.S. Department of Labor for the five years of the initial term of the contract, compounded; or

b. the hourly wage rate has increased by 2 percent for each of the five years of the initial term of the contract, compounded annually;

c. the greater of the increases required under items a. and b. above shall become the minimum hourly wage for the renewal contract.

C. No contract shall be executed if:

1. the employer has defaulted, not repaid a loan, or not repaid an obligation involving public funds;
2. the employer declared bankruptcy and the obligation to pay or repay public funds or monies was discharged as part of such bankruptcy a contract shall not be executed; or
3. the employer is in default on any filing or payment to the state, or any of its agencies or political subdivisions, for which an assessment or judgment is final.

D. Contract Voided. Violation of the provisions of §1117.C shall void the contract and any rebates paid to the employer prior to the date the violation is discovered, the rebates will be recovered by adding to the income tax liability for the taxable year the violation occurred. Additionally, interest will be assessed from the date of the violation and the employer shall receive no further rebates.

E. Contract Suspended

1. If a rebate is received by an employer as provided under this provision and the employer is rendered an assessment or judgment that is final and nonappealable in favor of the state or any of its agencies or any of its political subdivisions, the contract shall be suspended pending the settlement of the assessment. No rebate shall accrue to the employer under the contract during the period of suspension.

2. After the employer's fiscal year for which the employer applied for his third annual rebate, if at any other time during the 10-year contract period the employer applies for a rebate following the end of the employer's fiscal year, and the verified gross payroll for the fiscal year does not demonstrate the required minimum of five new direct jobs and the required gross payroll ~~does not equal or exceed a total of \$500,000 or \$250,000, whichever is applicable to said contract,~~ the rebates shall be suspended and shall not be resumed until such time as the payroll and job requirements are met. No rebate (payroll rebate, sales and use tax rebate or project facility expense rebate) shall accrue or be paid to the employer during a period of suspension.

F. Contract Rebates Reduced

1. If the employer receives a rebate and it is subsequently determined the employer did not qualify for the rebate, future rebates will be reduced by the amount received by the employer.

2. If there are no future rebates to deduct the amount owed the state, the tax liability of the employer will be increased by the amount of the rebate for the taxable period non-qualification was determined.

3. The secretary of the LDR may recover any rebates previously granted to an employer but which rebates disallowed as authorized by R.S. 47:1561.2. The employer shall waive prescription for the purpose of recovering any disallowed rebates.

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).

§1118. Project Completion

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 and one affidavit of final cost as follows;

1. An applicant may file a preliminary project completion report no earlier than with its third fiscal year filing, but no later than with the filing of a final project completion report.
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.

C. The affidavit of final cost 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.

E. The basis for rebate claims (sales and use tax rebate or project facility expense rebate) shall not exceed the costs listed on the affidavit of final cost.

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

§1119. Payroll Incentive Rebates

A. Except as otherwise provided herein an employer who has entered into a contract may receive a rebate that is calculated by multiplying the benefit rate times the annual gross payroll.

B. Notwithstanding anything to the contrary in either Chapter 1 or Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended, the following rules shall apply with respect to the application of the rebate allowed.

1. The incentive rebate allowed an S corporation shall be paid to the S corporation entity and not the individual shareholders of the corporation.

2. The incentive rebate allowed a partnership, limited liability partnership (LLP), or limited liability company (LLC) shall be paid to the entity and shall not be paid to the individual partners or members of the entity.

C. Notwithstanding any other provision of law to the contrary in Title 47 of the Louisiana Revised Status of 1950, as amended, the secretary of the LDR shall make the rebate.

D. In order to receive the rebate provided for by the contract, an employer shall apply with the department.

1. The application shall be filed on the prescribed form designated by the department and shall contain the required information to determine if the applicant is qualified.

2. The application shall contain a sworn statement, by a duly authorized officer of the employer, listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits of this program.

E. In order to qualify to receive the rebate, the employer applying shall meet the requirements of §1101.B.1 and 2.

F. The department shall determine if an applicant is qualified to receive rebates.

G. The approved employer shall apply annually for rebates with the department in the prescribed format and provide the information as described in §1123. The employer may be audited by the department to verify eligibility. The rebates may continue as long as the employer complies with the approved contract and remains eligible.

H. The benefit rate shall be determined annually based on information provided by the employer on the rebate claim reports made annually.

I. The payroll rebates shall be paid annually after the employer submits the required annual report as specified in §1123 and the department determines the employer is eligible for the rebate for that fiscal year. The report shall be filed within 90 days following the end of the employer's fiscal year with 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 22:965 (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).

§ 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.

a. Qualified expenditures include intangible costs such as architectural and/or engineering fees prior to the contract effective date.

b. The project facility expense rebate may not be elected if more than 50 percent of the qualified expenditures relating to the project are incurred before the filing of the advance notification.

2. The project facility expense rebate claim must be filed with the Department of Revenue, Taxpayer Compliance – SSEW 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 Department of Economic Development signs a project completion report and it is received by the Department of Revenue, the political subdivision, and the business. The project completion report shall not be signed until the project is complete and the contract has been approved by the board and the governor. 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, Taxpayer Compliance – SSEW 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. Invoices as required under R.S. 51:2457 shall also be required;

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 LDR approved 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

§1121. Rebate Payments

A. In addition to the payroll rebates, an employer shall be entitled to sales and use tax rebates or the ~~investment tax credit~~ ~~project facility expense rebate~~ as authorized in R.S. 51:~~1787~~ 2456, if the employer meets the hiring requirements as defined in the Enterprise Zone of R.S. 51:2455 Program and meets the other limitations, procedures, and requirements of R.S. 51:~~1787~~ 2456 and 2457 and the rules promulgated there under, Louisiana Administrative Code, Title 13, Part I, Chapter 711.

B. A request for rebate of local sales and use taxes must be accompanied by an endorsement resolution approved by the governing authority of the appropriate political subdivision from which rebates will be sought. The endorsement resolution must clearly state the local governmental subdivision intends to rebate the allowable sales and use taxes for the project. The resolution must be filed with the department prior to the board taking action on 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 Business Development, Business Resources Division. LR 29:2310 (November 2003), amended by the Office of Business Development, LR 37:2593 (September 2011).

§1123. Rebate Claim Filing

A. Payroll Rebate

1. An annual certification and a fee of \$250 shall be filed annually, commencing within six 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 ~~six months~~ sixty days provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe may result in the annual rebate being denied or restricted. An annual certification is required in each year the contract is active, irrespective of whether annual rebates are being claimed.

2. The annual report will provide information on the number of employees at the site, the number of employees statewide, the number of new direct jobs created at the site, the number of hours worked by each employee weekly, the hourly wage paid employees in the new direct jobs, the position title, the employee's address, the hire date, the term date, the insurance acceptability, the percentage of the insurance paid by the employer, and the annual gross wages.

3. The department may request additional information and documentation from the employer as may be necessary to determine the eligibility for the annual rebate for that fiscal year or may request the employer revise the annual report.

4. Upon approval the department will advise the LDR of the eligible rebate. The LDR shall make payment of the rebate after offset, if applicable, under R.S. 47:1622. The rebate shall be considered a refundable overpayment for the purpose of such offset.

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 \$500,675,000 or \$250,225,000, 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. If the department determines that the employer has large number of employees, multiple locations, or other factors that would cause the number of new direct jobs to be not readily determined, the department may require the

employer to obtain a new and separate unemployment compensation number with the LWC for reporting new direct jobs.

B. Sales and Use Tax Rebate or ~~Investment Tax Credit~~ 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 ~~investment tax credit~~ **project facility expense rebate** under this Chapter. ~~Employers must meet the requirements of the Enterprise Zone legislation and rules to qualify.~~

2. Sales and Use Tax Rebate or ~~Investment Tax Credit~~ **Project Facility Expense Rebate** Advance Notification. An employer who receives a Quality Jobs **Program** contract and who meets the requirements for sales and use tax rebates as authorized in R.S. 51:~~1787~~ 2456 and §1121 of these rules, will satisfy the advance notification requirement for sales and use tax rebates or ~~investment tax credit~~ **project facility expense rebate** for the Quality Jobs Act contract by submission of the Quality Jobs 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 ~~24 months~~ **5 years**, ~~except to the extent that a longer period is authorized under the Enterprise Zone Program, but~~ **and** shall not extend beyond the term of the Quality Jobs ~~Act~~ **Program** 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/Investment Tax Credit Project Facility Expense Rebate Periods. On the expiration of the initial sale and use tax rebate or investment tax credit 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/Investment Tax Credit Project Facility Expense Rebate Advance Notification," to seek additional state and local sales and use tax rebates or investment tax credits project facility expense rebates during the renewal contract period as authorized in R.S. 51:1787-2456 and §1121 of these rules if the employer meets the hiring requirements as defined in the Enterprise Zone Quality Jobs Program Act and meets the other limitations, procedures, and requirements of R.S. 51:1787-2456 and 2457 and the rules promulgated thereunder, Louisiana Administrative Code, Title 13, Part I, Chapter 7-11, for each a subsequent sales and use tax rebate or investment tax credit project facility expense rebate period during the renewal term of the Quality Jobs Act Program contract. Each The subsequent sales and use tax rebate or investment tax credit project facility expense rebate period shall be no longer than 24 months the 5 year renewal contract period, except to the extent that a longer period is authorized under the Enterprise Zone Program. The local endorsement resolution requirements of §1121.B shall apply to each the subsequent sales and use tax rebate period for which the employer under a Quality Jobs Act Program contract seeks the rebate of local sales and use taxes.~~

3. No more than two project facility expense rebate claims may be filed during each 5 year contract period.

4. Sales and use tax rebates claims may be filed on a monthly, quarterly or annual basis during each 5 year contract period, at the discretion of the company receiving the benefit, as long as all requirements for issuance have been met.

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).

§1125. Prohibited Incentives

A. A qualified employer that enters into a contract under this Chapter shall not be eligible to receive the other credits or exemptions provided for in the following provisions of law except as provided for in R.S. 51:2456(B):

1. R.S. 47:34 (tax credit for generation of new jobs in Louisiana);
2. R.S. 47:38 and 287.757 (income tax credit for conversion of vehicles to alternate fuel usage);
3. R.S. 47:4301 through 4306 (Industry Assistance Program—income tax, corporate franchise tax, state sales tax, and excise tax exemptions for manufacturing establishments);
4. R.S. 47:6004 (employer credit for employment of previously unemployed person);

5. R.S. 47:6009 (Louisiana basic skills training tax credit-income tax credit);
6. R.S. 47:6010 (employer income tax credit for employee alcohol and substance abuse treatment programs);
7. R.S. 51:1787 (Enterprise Zone Program—incentives tax exemption from sales and use tax materials to be used in the construction of a building and for machinery and income tax credit for each employee in an enterprise zone);
8. R.S. 47:287.748 (re-entrant jobs credit for formerly incarcerated employees—corporate income tax);
9. R.S. 47:287.749 (corporate income tax credit for new jobs);
10. R.S. 47:287.753 (neighborhood assistance income tax credit);
11. R.S. 51:2351 et seq. (Technology Commercialization Credit and Jobs Program).

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).

§1127. Penalties

A. Penalties are provided under R.S. 51:2460 for false or fraudulent information in making application, making a claim for rebate, or other instrument.

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 29:2312 (November 2003), amended by the Office of Business Development, LR 37:2595 (September 2011).

§1131. Severability

A. If any Section or provision of this Chapter is held invalid, such invalidity shall not affect other provisions of this Chapter. Any provision of this Chapter that is in conflict with R.S. 51:2451-R.S. 51:2462 or any other statute will be invalid and will be severable.

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 29:2312 (November 2003), amended by the Office of Business Development, LR 37:2595 (September 2011).

§1133. Applicability of Act 126 of the 2015 Legislative Session to the Quality Jobs Program

A. Pursuant to Act 126 of the 2015 Regular Session of the Louisiana Legislature:

1. for projects filing an advance notification on or after July 1, 2015, from July 1, 2015, through June 30, 2018, annual payroll rebates will be approved for payment at a rate of 5 percent or 6 percent (as applicable) multiplied by 80 percent of payroll. Payroll rebates approved on and after July 1, 2018, will be calculated on 100 percent of payroll. However, annual payroll rebates claims that are due before July 1, 2018, but not timely filed are subject to reduction in the discretion of the Board of Commerce and Industry;

2. projects filing advance notification before July 1, 2015, are not affected by Act 126, and payroll rebates will be calculated on 100 percent of payroll irrespective of date of approval for payment.

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 42:866 (June 2016).