

Regular Session, 2005

HOUSE BILL NO. 520

BY REPRESENTATIVE JEFFERSON

TAX CREDITS: Creates the angel investor tax credit

1 AN ACT

2 To enact R.S. 47:6020 and 6021, relative to tax credits; to create the Angel Investor Tax
3 Credit Program; to provide for the amount of the credit and the taxes against which
4 the credit may be taken; to provide for qualifications for the credit; to provide for the
5 implementation and administration of the program by the Department of Economic
6 Development; to provide for definitions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6020 and 6021 are hereby enacted to read as follows:

9 §6020. Angel Investor Tax Credit Program; establishment; qualifications;
10 administration

11 A. Qualifying individuals or businesses that invest in a Louisiana
12 Entrepreneurial Business as defined by R.S. 51:2303(5) may earn, apply for, and be
13 granted a transferable tax credit on any income or corporation franchise tax liability.
14 Such credits shall be earned and granted for a period of five tax years as provided in
15 this Section. The administration of applications for these credits and the provision
16 of these credits shall be called the Angel Investor Tax Credit Program.

17 B.(1) The Angel Investor Tax Credit Program shall be implemented and
18 administered by the Department of Economic Development. In compliance with the
19 Administrative Procedure Act and this Section, the department shall adopt and

1 promulgate such rules as are necessary for the efficient and effective administration
2 of this program in keeping with the purposes for which it is enacted.

3 (2) In providing for the implementation and administration of the program,
4 the department shall work closely with the secretary of the Department of Revenue
5 in order to promulgate rules. Such rules shall include provisions for:

6 (a) The Department of Economic Development to certify the eligibility of
7 any taxpayer applicant for receipt of the tax credit provided for in this Section and
8 the qualification of any taxpayer claimant to claim the credit against state tax
9 liability.

10 (b) The presentation of a taxpayer's eligibility certification and any other
11 documentation required to be applied for to earn or claim a credit.

12 (c) After certifying the eligibility of a qualifying business, the Department
13 of Economic Development shall issue a tax credit certificate, a copy of which is to
14 be attached to the tax return of the angel investor or his transferee. The tax credit
15 certificate shall contain the taxpayer's name, address, tax identification number, the
16 amount of credit, the name of the qualifying business, and other information required
17 by the Department of Revenue. The tax credit certificate, unless rescinded by the
18 Department of Economic Development, shall be accepted by the Department of
19 Revenue as payment for taxes as outlined in R.S. 47:6021(A)(3).

20 (d) The Department of Economic Development shall maintain a list of the
21 tax credit certificates issued and provide for the sale of certified angel investor tax
22 credits to other taxpayers.

23 (e) The use of proceeds from the investment must be used for capital
24 improvements, plant equipment, research and development, working capital for the
25 business, or other business activity as may be approved by the Department of
26 Economic Development. The proceeds cannot be used to pay dividends, repay
27 shareholder's loans, redeem shares, or repay debt, unless approved by the Department
28 of Economic Development.

1 (f) Provide for an annual report of the Louisiana Entrepreneurial Business
2 regarding the use of proceeds, number of employees, amount of payroll, annual
3 revenue and any other information requested by the Department of Economic
4 Development.

5 C.(1) To qualify for an angel investor tax credit for five tax years, all of the
6 following qualifications shall be required by each applicant:

7 (a) The investment in the Louisiana Entrepreneurial Business must be an
8 investment that is at risk and not secured or guaranteed.

9 (b) The funds invested by the applicant cannot have been raised as a result
10 of other Louisiana tax incentive programs, funds pooled, or organized through
11 capital placement agreements for the purpose of equity and venture capital investing,
12 or as the result of illegal activity.

13 (c) For the purposes of this Angel Investor Tax Credit Program, an angel
14 investor or investors cannot be the principal owner or owners of the business who are
15 involved in the operation of the business as a full-time professional activity, nor can
16 their spouses and relatives within the third degree of consanguinity or affinity. A
17 principal owner means one or more persons who own an aggregate of fifty percent
18 or more of the Louisiana Entrepreneurial Business.

19 (2) To qualify for an angel investor tax credit, the Louisiana Entrepreneurial
20 Business shall meet all the following requirements:

21 (a) The principal business operations of the business are located in
22 Louisiana.

23 (b) Prior to the investment by the taxpayer, the business has received
24 approval as qualified to receive angel investor tax credits by the Department of
25 Economic Development.

26 (c) The Louisiana Entrepreneurial Business must demonstrate that it will be
27 a wealth-creating business for Louisiana by demonstrating in its business plan that
28 it will have more than fifty percent of its sales from outside Louisiana.

1 (d) The business is not a business engaged primarily in retail sales, real
2 estate, professional services, gaming or gambling, natural resource extraction or
3 exploration, or financial services including venture capital funds.

4 §6021. Angel investor tax credit; amount; duration; forfeit

5 A.(1) Except as provided in Subsection B of this Section, the taxpayer may
6 earn and apply for and, if qualified, be granted a credit on any income or corporation
7 franchise tax liability owed to the state by the taxpayer seeking to claim the credit,
8 in the amount approved by the secretary of the Department of Economic
9 Development for the amount of money invested by the taxpayer in the Louisiana
10 Entrepreneurial Business, which shall be a minimum of fifty thousand dollars but
11 shall not exceed one million dollars per year per business and shall not exceed two
12 million dollars total per business.

13 (2)(a) The credits approved by the Department of Economic Development
14 shall be granted at the rate of fifty percent of the amount of money invested by the
15 taxpayer in the Louisiana Entrepreneurial Business, with the credit divided in equal
16 portions for five years, subject to the limitations provided for in Paragraph (1) of this
17 Subsection.

18 (b) The total angel investor tax credits portions granted by the Department
19 of Economic Development in any calendar year shall not exceed five million dollars.

20 (c) In selling tax credits granted to them, the taxpayer applicants shall sell
21 them for no less than seventy-five percent of the value of the tax credit and shall have
22 the tax credit certificate transferred by the Department of Economic Development.

23 (3)(a) All entities taxed as corporations for Louisiana income or corporation
24 franchise tax purposes shall claim any credit allowed under this Section on their
25 corporation income and corporation franchise tax return.

26 (b) Individuals shall claim any credit allowed under this Section on their
27 individual income tax return.

28 (c) Estates or trusts shall claim any credit allowed under this Section on their
29 fiduciary income tax returns.

1 (d) Entities not taxed as corporations shall claim any credit allowed under
2 this Section on the returns of the partners or members as follows:

3 (i) Corporate partners or members shall claim their share of the credit on
4 their corporation income or corporation franchise tax returns.

5 (ii) Individual partners or members shall claim their share of the credit on
6 their individual income tax returns.

7 (iii) Partners or members that are estates or trusts shall claim their share of
8 the credit on their fiduciary income tax returns.

9 B. A tax credit granted pursuant to this Section shall expire and have no
10 value or effect on tax liability beginning with the eleventh tax year after the tax year
11 in which it was originally granted.

12 Section 2. This Act shall become effective for all income tax and corporation
13 franchise tax years beginning on or after January 1, 2005. This Act shall become null and
14 void on December 31, 2009, provided that credits granted prior to that time may be used or
15 carried forward for five years from the date the credit was granted.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Jefferson

HB No. 520

Abstract: Establishes the angel investor tax credit.

Proposed law creates the Angel Investor Tax Credit Program and provides for the implementation and administration of the program by the Dept. of Economic Development.

Provides that qualifying individuals or businesses which invest in Louisiana Entrepreneurial Business as defined by law may earn credits against any income or franchise tax liability. Authorizes credits to be granted for five tax years.

Provides for the qualifications of applicants. Authorizes credits for investments of at least \$50,000 and not more than \$1 million dollars per year per business and not to exceed \$2 million per business.

Provides that the credits are equal to 50% of the amount of money invested, divided in equal portions over five years.

Provides that total credits granted by DED may not exceed \$5 million in any calendar year.

Authorizes transferability of credits and requires credits be sold for no less than 75% of the value of the credit.

Effective for taxable years beginning on or after Jan. 1, 2005. Provisions of Act are null and void on Dec. 31, 2009, except that credits can be used for five years from the date the credit was issued.

(Adds R.S. 47:6020 and 6021)