

Regular Session, 2013

HOUSE BILL NO. 571

BY REPRESENTATIVE ROBIDEAUX

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/TAX REBATES: Provides relative to rebates and rebate programs

1 AN ACT

2 To amend and reenact R.S. 51:1791, 2453(1), (2)(a), (3), (4), (5)(introductory paragraph),

3 2454(A), (B)(1)(introductory paragraph), 2457(A)(1), (B), and (C), 2458(7), and

4 3121, to enact R.S. 47:6039 and Chapter 5 of Subtitle II of Title 47 of the Louisiana

5 Revised Statutes of 1950, to be comprised of R.S. 47:6360 through 6374 and R.S.

6 51:1792, 1793, 1794, and 2453(8)(g), 2457(D), (E), (F) and (G) and to repeal R.S.

7 51:2453(6), relative to rebates and rebate programs; to establish certain rebate

8 programs; to provide for the eligibility of rebate applicants; to provide for the

9 amount of rebate payments; to provide for the administration of rebate programs; to

10 authorize the promulgation of rules and regulations; to provide for the establishment

11 of certain registries; to require the registration of certain information; to authorize

12 the collection of a fee; to provide for effectiveness; and to provide for related

13 matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 47:6039 and Chapter 5 of Subtitle II of Title 47 of the Louisiana

16 Revised Statutes of 1950, to be comprised of R.S. 47:6360 through 6374 are hereby enacted

17 to read as follows:

18 §6039. Louisiana Tax Credit Registry

19 A. Purpose. The intent of this Section is to provide for a centralized

20 registration and recordation system for transferable tax credits granted, issued, and

1 authorized by the State of Louisiana. The provisions of this Section shall be known  
2 and cited as the "Louisiana Tax Credit Registry Act."

3 B. Definitions. For purposes of this Section, the following words and  
4 phrases shall have the following meaning, unless the context clearly indicates  
5 otherwise:

6 (1) "Department" means the Department of Revenue.

7 (2) "Secretary" means the secretary of the Department of Revenue.

8 (3) "Tax credit" means any transferable tax credit granted, issued, and  
9 authorized by the State of Louisiana.

10 (4) "Tax credit certificate" means any document granting tax credits issued  
11 by a state agency administering a tax credit program, such as tax credit certificates  
12 or final tax credit certification letters, which shall include the name of the individual  
13 or entity who has been issued the credits, the amount of tax credits issued and the  
14 applicable identification number.

15 (5) "Transfer" means any alienation, assignment, or conveyance of a  
16 transferable tax credit.

17 (6) "Transferee" means an individual or entity that receives a transfer of tax  
18 credits.

19 (7) "Transferor" means an individual or entity that makes a transfer of a tax  
20 credit.

21 C. Administration.

22 (1) There is hereby established a central Tax Credit Registry, hereinafter  
23 referred to as "registry", within the Department of Revenue for the registration and  
24 recordation of tax credits granted, issued, and authorized by the state.

25 (2) The department shall receive a copy of any tax credit certificate granted,  
26 issued, or authorized by the state, which includes but is not limited to transferable  
27 credits issued by the Department of Economic Development or the Department of  
28 Culture, Recreation, and Tourism.

1           (3) The notification submitted to the department shall include a processing  
2           fee of two hundred dollars per transferee.

3           (4) Upon receipt of any tax credit and the processing fee, the department  
4           shall assign an identification number to each credit, and the name of the individual  
5           or entity who has been issued the credits, the amount of tax credits issued, the  
6           applicable identification number, and any other information deemed necessary shall  
7           be recorded in the registry.

8           (5) Notwithstanding any other provision of law to the contrary, no issuance,  
9           conveyance, transfer, assignment, or alienation of transferable tax credits shall be  
10           effective as to third parties until it has been recorded in the registry.

11           (6) The effectiveness of the conveyance, transfer, assignment, and alienation  
12           of the transferable tax credits as between the transferor and transferee shall be as  
13           provided by agreement of the parties or, in the absence of an agreement, in  
14           accordance with the default provisions of the Louisiana Civil Code and its  
15           ancillaries.

16           D. Special provisions for disallowance and recapture of tax credits.

17           (1) Notwithstanding any other provision of law to the contrary, the tax  
18           credits shall be disallowed if the department or any state agency issuing tax credits  
19           finds that a taxpayer obtained a tax credit in violation of the provisions of the statute  
20           authorizing the tax credits, including but not limited to fraud or misrepresentation.

21           (2) Any tax credits previously granted to a taxpayer, but later disallowed,  
22           maybe be recovered by the secretary, as provided by R.S. 47:1561.

23           (3) To the extent that the transferor of a tax credit did not have the right to  
24           claim or use the credit at the time of the transfer, the transferees' recourse shall be  
25           against the transferor, as provided by agreement of the parties.

26           (4)(a) In case of disputed title to credits, prescription shall be suspended by  
27           any of the following:

28           (i) The filing of a summary proceeding in any state or federal court.

1                   (ii) A written agreement between all interested taxpayers and the secretary;

2                   or

3                   (iii) The filing of any pleading, either by the secretary or any taxpayer, with  
4 the Board of Tax Appeals.

5                   (b) Prescription shall begin to run again upon the issuance of a final  
6 administrative decision, or by a judgment which has become final and non-  
7 appealable.

8                   E. Public Access. Records maintained within the registry shall be available  
9 for public inspection and shall be exempt from the confidentiality provisions of R.S.  
10 47:1508.

11                   F. The department may promulgate rules and regulations in accordance with  
12 the Administrative Procedure Act as may be necessary to implement the provisions  
13 of this Chapter.

14                   G. Louisiana Department of Revenue Tax Fraud Statement. Tax fraud is  
15 considered to be any disregard of the rules and regulations set forth by the  
16 department. Tax fraud is investigated and handled on a case by case basis when  
17 there is reason to believe that there is a lack of compliance with the rules of the  
18 department. In circumstances of fraud the maximum penalties shall be applied for  
19 each specific instance. Fraud is either reported or discovered through audit by the  
20 department. Fraud is considered a violation and is subject to penalty if proven to be  
21 intentional. The department is responsible for investigating and proving fraudulent  
22 activity before the application of penalties.

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24                   CHAPTER 5. REBATES AND REBATE PROGRAMS

25                   §6360. General Administrative Provisions for Rebates

26                   A.(1) Beginning July 1, 2014, the Department of Revenue may begin making  
27 rebate payments in the manner provided for in this Section.

1           (2) For purposes of this Chapter, a rebate may be issued the year the  
2           Department of Revenue or the Department of Economic Development affirmatively  
3           issues, approves, grants, or certifies the rebate payment.

4           B.(1) Rebates shall be paid according to the following:

5           (a) Rebates earned by corporations shall be paid to the corporation.

6           (b) Rebates earned by entities not taxed as corporations for federal income  
7           tax purposes shall be paid to the entity and not the partners or members.

8           (c) Rebates earned by individuals in their individual capacity shall be paid  
9           to the individual.

10           (2) Amounts rebated shall bear interest at the rate established pursuant to  
11           R.S. 13:4202 computed from one hundred and eighty days after the filing date of a  
12           properly filed rebate claim. No interest on rebates shall be allowed if, the secretary  
13           proves by clear and convincing evidence that a person has deliberately overpaid a tax  
14           in order to derive the benefit of the interest allowed by this Section. Payments of  
15           interest authorized by this Section shall be made from funds derived from current  
16           collections of the taxes imposed by Title 47 of the Louisiana Revised Statutes of  
17           1950, as amended.

18           C.(1) Notwithstanding any provision of state law to the contrary, if any state  
19           agency that administers rebate programs finds that a taxpayer obtained a rebate in  
20           violation of the provisions of the enabling statute, including but not limited to  
21           misrepresentation, the rebate shall be subject to disallowance, in whole or in part, as  
22           further provided by rule. Any rebates previously granted to a taxpayer, but later  
23           disallowed, shall be subject to recapture.

24           (2) The amount of rebates paid and later disallowed or rebate payments  
25           subject to recapture shall be added to any tax liability of the taxpayer collected under  
26           Title 47 of the Louisiana Revised Statutes, with interest from the date of  
27           disallowance. The taxpayer shall be barred from receiving further rebates until the  
28           tax liability has been satisfied. Rebates issued to a taxpayer, but later disallowed,  
29           may be recovered by the secretary of the Department of Revenue through any

1 collection remedy authorized by R.S. 47:1561 and initiated within five years from  
2 December thirty-first of the year in which the rebate was granted. If the taxpayer  
3 that received the rebate is an entity, the Department shall first seek recapture from  
4 the entity that received the rebate. If the entire amount of the rebate subject to  
5 recapture cannot be recaptured from the entity, the remaining rebate shall be  
6 recaptured from the owners of the entity. The amount of the rebate subject to  
7 recapture shall be allocated among the partners, members or shareholders in  
8 proportion to their ownership interests at the time the rebate was issued.

9 (3) Except as otherwise provided in this Section, the only interest that may  
10 be assessed and collected on recovered rebates is interest at a rate three percentage  
11 points above the rate provided in R.S. 9:3500(B)(1), which shall be computed from  
12 the original date of the return on which the rebate was claimed.

13 (4) The provisions of this Subsection are in addition to and shall not limit the  
14 authority of the secretary of the Department of Revenue to assess or to collect under  
15 any other provision of law.

16 D.(1) Notwithstanding any provision of state law to the contrary, any person  
17 making an application, claim for rebate, or any report, return, statement, or other  
18 instrument or providing any other information pursuant to the provisions of any  
19 rebate program in this Chapter who willfully makes a false or fraudulent application,  
20 claim, report, return, statement, invoice, or other instrument or who willfully  
21 provides any false or fraudulent information, any person who willfully aids or abets  
22 another in making a false or fraudulent application, claim, report, return, statement,  
23 invoice, or other instrument, or any person who willfully aids or abets another in  
24 providing any false or fraudulent information, shall be subject to a fraud penalty of  
25 fifty percent of the amount of the rebate that was granted due to the fraud. This is in  
26 addition to any disallowance or recapture of the rebate and associated interest.

27 (2) Any person against whom such fraud is proven shall be liable for the  
28 repayment of all rebate amounts which were granted as a result of the false or

1 fraudulent information. Interest shall be due on such repayments at the annual rate  
2 of fifteen percent.

3 (3) Any person who willfully provides any false or fraudulent information,  
4 or who willfully aids or abets another person in providing false or fraudulent  
5 information shall not be eligible for any rebate under this Chapter for a period of  
6 three year from the date the fraud was proven.

7 E. The secretary of the Department of Revenue shall make any rebates paid  
8 under this Section from the current collections of the taxes imposed by Title 47 of  
9 the Louisiana Revised Statutes of 1950, as amended. The rebate shall constitute an  
10 overpayment, as defined in R.S. 47:1621(A).

11 F. A claim for a rebate payment under this Chapter shall be a return for  
12 purposes of Chapter 18 of Title 47 of the Louisiana Revised Statutes of 1950, as  
13 amended.

14 G. (1) The Department of Revenue may promulgate such rules and  
15 regulations in accordance with the Administrative Procedure Act as are necessary to  
16 implement the provisions of this Section. All rules and regulations promulgated  
17 pursuant to the provisions of this Section shall be subject to oversight by the House  
18 Committee on Ways and Means and the Senate Committee on Revenue and Fiscal  
19 Affairs.

20 (2) The Department of Economic Development, in consultation with the  
21 Department of Revenue, shall promulgate rules and regulations in accordance with  
22 the Administrative Procedure Act as are necessary to provide for an orderly  
23 transition for those taxpayers that earned tax credits prior to January 1, 2014 under  
24 the tax credit and incentive programs that existed under Chapter 1 of Subtitle VII of  
25 Title 47 of the Louisiana Revised Statutes of 1950, as amended. All rules and  
26 regulations promulgated shall be subject to oversight by the House Committee on  
27 Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

1        §6361. Family Assistance Rebate Program; eligibility of applicants; amount of  
2                rebate

3                A. The Family Assistance Rebate Program, hereinafter referred to as  
4                "program", is hereby established for purposes of authorizing a rebate payment for  
5                eligible Louisiana residents. The amount of the rebate shall be determined using the  
6                eligible resident's household income and number of dependents in the eligible  
7                resident's household at the time of application for the rebate.

8                B. The department shall establish the amount of rebate payments and income  
9                thresholds by rule. The department may annually adjust the income threshold and  
10               rebate amounts if the secretary of the Department of Children and Family Services,  
11               hereinafter referred to as "department" and "secretary", deems an adjustment is  
12               necessary. Adjustments in the income threshold and rebate amounts shall be  
13               published in the Louisiana Register no later than March 15<sup>th</sup> of each year. In  
14               determining whether an adjustment is necessary, the secretary shall consider all of  
15               the following:

16               (1) The percentage increase in the Consumer Price Index United States city  
17               average for all urban consumers (CPI-U), as prepared by the United States  
18               Department of Labor, Bureau of Labor Statistics;

19               (2) A change in the most recent Consumer Expenditure Survey data as  
20               prepared by the United States Department of Labor, Bureau of Labor Statistics; and

21               (3) Any other data that the secretary deems necessary to accurately reflect  
22               the sales tax burden on eligible Louisiana residents.

23               C. This program shall be administered by the Department of Children and  
24               Family Services. Beginning April 1, 2014, an eligible resident may apply for the  
25               rebate on a form prescribed by the secretary of the department.

26               D. If the secretary discovers that an eligible resident who received a rebate  
27               according to the provisions of this Section is in arrears for payment of child support  
28               obligations, the Department of Children and Family Services, office of children and  
29               family services, child support enforcement section is authorized to intercept rebate



1 payments under the provisions of R.S. 46:236.15 after notice of such arrearage has  
2 been made by certified or regular mail, personal service, or domiciliary service to the  
3 eligible resident.

4 E. The secretary, in consultation with the secretary of the Department of  
5 Revenue, shall promulgate rules and regulations in accordance with the  
6 Administrative Procedure Act as are necessary to implement and administer the  
7 provisions of this Section, including, but not limited to rules regarding the  
8 determination of the amount of rebate payments and thresholds in Subsection B of  
9 this Section. All rules shall be subject to oversight by the House Committee on  
10 Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

11 F. The secretary may enter into agreements, including memoranda of  
12 understanding and cooperative endeavor agreements with the Department of  
13 Revenue to assist in the administration of the rebate program. The agreements shall  
14 be executed by the secretary of each department and shall include all terms necessary  
15 to administer the rebate program, including but not limited to data sharing between  
16 the departments.

17 G. No Louisiana resident receiving a rebate pursuant to this Section shall be  
18 eligible for the rebate provided or in R.S. 47:6362.

19 §6362. Rebate Program; Assistance for Retirees and Military; eligibility of  
20 applicants; amount of rebate

21 A. A sales tax rebate program is hereby created for Louisiana residents who  
22 receive retirement benefits, disability benefits, social security benefits, Native  
23 American income, or active duty military pay that are exempt from Louisiana  
24 individual income taxation, and who may otherwise incur an increased overall state  
25 tax burden due to increases in the state sales and use tax rate.

26 B. The rebate program established pursuant to the provisions of this Section  
27 shall be administered by the Department of Revenue. Beginning April 1, 2015, there  
28 shall be an annual sales tax rebate payment for Louisiana residents who file a federal  
29 income tax return with an annual federal adjusted gross income of less than sixty

1 thousand dollars for the year in which the rebate is applied for, and who receive  
2 qualifying income from a qualified retirement system or other qualified source as  
3 provided for in Subsection C of this Section. Eligible applicants may apply for the  
4 rebate on a form prescribed by the secretary of the department.

5 C.(1) For purposes of the rebate authorized in this Section, qualifying  
6 income shall include income received from any of the following:

7 (a) Louisiana State Employees' Retirement System.

8 (b) Funded Judicial Retirement Plan.

9 (c) Non-contributory Judicial Retirement Plan.

10 (d) Teachers' Retirement System of Louisiana.

11 (e) Teachers' Retirement System of Orleans Parish.

12 (f) Louisiana School Employees' Retirement System.

13 (g) Louisiana State Police and Retirement System.

14 (h) Pensions for Confederate Veterans and Widows of Confederate Veterans.

15 (i) Assessors Retirement Fund.

16 (j) Clerks' of Court Retirement and Relief Fund.

17 (k) District Attorneys' Retirement System.

18 (l) Municipal Employees' Retirement System.

19 (m) City of Baton Rouge Retirement System.

20 (n) Employees' Retirement System of East Baton Rouge Parish.

21 (o) Employees' Retirement System of Shreveport.

22 (p) Parochial Employees' Retirement System.

23 (q) Employees' Retirement System of Jefferson Parish.

24 (r) City of Alexandria Employees' Retirement System.

25 (s) City of Bogalusa Employees' Retirement System.

26 (t) Registrars of Voters Employees' Retirement System.

27 (u) Sheriffs' Pension and Relief Fund.

28 (v) Municipal Police Employees' Retirement System.

29 (w) Firefighters Retirement System.

- 1           (x) Firemen’s Pension and Relief Fund for the Consolidated Fire Districts  
2           of Bastrop.
- 3           (y) Firemen’s Pension and Relief Fund for Baton Rouge.
- 4           (z) Firemen’s Pension and Relief Fund for Bogalusa.
- 5           (aa) Firefighters’ Pension and Relief Fund of New Orleans.
- 6           (bb) Policemen’s Pension and Relief Fund for the City of Monroe.
- 7           (cc) Policemen’s Pension and Relief Fund for Alexandria.
- 8           (dd) Policemen’s Pension and Relief Fund for the City of Bossier City.
- 9           (ee) Policemen’s Pension and Relief Fund for the City of Lafayette.
- 10           (ff) Policemen’s Pension and Relief Fund for the Police Department of the  
11           City of New Orleans.
- 12           (gg) Policemen’s Pension and Relief Fund for Lafayette.
- 13           (hh) Harbor Police Retirement System (Port of New Orleans).
- 14           (ii) Policemen’s Pension and Relief Fund for the City of Shreveport.
- 15           (jj) Bus Drivers’ Pension and Relief Fund for the City of Monroe.
- 16           (kk) Electrical Workers’ Pension and Relief Fund for the City of Monroe.
- 17           (ll) Employees’ Retirement System of the Sewage and Water Board of the  
18           City of New Orleans.
- 19           (mm) LSU Retirement System.
- 20           (nn) Firemen’s Pension and Relief Fund of Bogalusa, Bossier City, Houma,  
21           Kenner, Lafayette, Lake Charles, Monroe, Ouachita, Shreveport, and West Monroe.
- 22           (oo) Any retirement system for retirees of the United States Government.
- 23           (pp) Any system provided for under the Railroad Retirement Act of 1974  
24           under 42 U.S.C. 231.
- 25           (2) Qualifying income shall also include:
- 26           (a) Federal Social Security benefits provided under 42 U.S.C. 301.
- 27           (b) Up to thirty thousand dollars of active duty military pay received by a  
28           member of the armed forces of the United States for services performed outside this

1 state, for full-time duty which is or will be continuous and uninterrupted for one  
2 hundred twenty or more consecutive days.

3 (c) Income earned by Native Americans living and working on their tribe's  
4 reservation, 18 U.S.C. Section 1162.

5 (d) Up to six thousand dollars of disability income. "Disability income"  
6 means payment for permanent total disability as provided for in R.S. 23:1221(2).

7 (e) Up to six thousand annual pension and annuity income received by  
8 residents sixty-five years of age or older.

9 D.(1) The department shall establish an initial table of rebate amounts by  
10 rule. Thereafter, the department shall annually adjust the rebate amounts by adopting  
11 a new schedule of rebate amounts and shall publish the new schedule in the January  
12 issue of the Louisiana Register. In determining the annual schedule of rebate  
13 amounts, the secretary shall consider all of the following:

14 (a) The percentage increase in the Consumer Price Index United States city  
15 average for all urban consumers (CPI-U), as prepared by the United States  
16 Department of Labor, Bureau of Labor Statistics;

17 (b) Any relevant changes in the most recent Consumer Expenditure Survey  
18 data as prepared by the United States Department of Labor, Bureau of Labor  
19 Statistics; and

20 (c) Any other data that the secretary deems necessary to accurately reflect  
21 the sales tax burden on eligible Louisiana residents.

22 (2) The income threshold brackets provided for in Subsection B of this  
23 Section shall be adjusted annually for each calendar year by the percentage increase  
24 in the Consumer Price Index United States city average for all urban consumers  
25 (CPI-U), as prepared by the United States Department of Labor, Bureau of Labor  
26 Statistics.

27 E. The secretary of the department may promulgate rules and regulations in  
28 accordance with the Administrative Procedure Act as are necessary to administer the

1 rebate program. All rules shall be subject to oversight by the House Committee on  
2 Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

3 F. The secretary shall make the rebate payments authorized by this Section  
4 from the current collections of the taxes imposed under Subtitle II of Title 47 of the  
5 Louisiana Revised Statutes of 1950, as amended.

6 G. No Louisiana resident receiving a rebate pursuant to this Section shall be  
7 eligible for the rebate provided or in R.S. 47:6362.

8 H. The rebate provided for in this Section shall be subject to the provisions  
9 of R.S. 47:6360.

10 §6363. Rebate for local inventory taxes paid

11 A. There shall be allowed a rebate for ad valorem taxes paid to political  
12 subdivisions on inventory held by manufacturers, distributors, and retailers and on  
13 natural gas held, used, or consumed in providing natural gas storage services or  
14 operating natural gas storage facilities. The rebate provided for in this Section shall  
15 be subject to the provisions of R.S. 47:6360.

16 B. The term "manufacturer" as used herein means a person engaged in the  
17 business of working raw materials into wares suitable for use or which gives new  
18 shapes, qualities, or combinations to matter which already has gone through some  
19 artificial process. The term "distributor" as used herein means a person engaged in  
20 the sale of products for resale or further processing for resale. The term "retailer" as  
21 used herein means a person engaged in the sale of products to the ultimate consumer.

22 C. If the Department of Revenue has reason to believe that the assessment  
23 upon which the ad valorem tax on inventory or natural gas was paid was not based  
24 upon fair market value, the department may appeal the assessment to the Louisiana  
25 Tax Commission, hereinafter "commission", for a redetermination of the assessment.  
26 If the commission determines that the assessment was more than five percent above  
27 fair market value, the commission shall authorize and direct the collector to correct  
28 the assessment on the tax roll and the Department of Revenue shall reduce the rebate  
29 accordingly.

1           D. The amount of the rebate shall be equal to the amount of inventory taxes  
2           paid to political subdivisions.

3           §6364. Rebate for taxes paid with respect to vessels in Outer Continental Shelf  
4           Lands Act Waters

5           A. There shall be allowed a rebate for ad valorem taxes paid without protest  
6           to political subdivisions on vessels in Outer Continental Shelf Lands Act Waters as  
7           certified to the assessor pursuant to R.S. 47:1956(B) within the calendar year  
8           immediately preceding the taxable year of assessment of such vessel. For purposes  
9           of this Section, ad valorem taxes shall be deemed to be paid to political subdivisions  
10           when they are paid without protest.

11           B. For purposes of the rebate provided for in this Section, the term "vessel"  
12           shall include ships, oceangoing tugs, towboats, and barges. The term "Outer  
13           Continental Shelf Lands Act Waters" shall have the meaning ascribed to it in R.S.  
14           47:1702.

15           C. The amount of the rebate shall be equal to the amount of the ad valorem  
16           taxes paid on Outer Continental Shelf Lands Act Waters vessels paid to political  
17           subdivisions.

18           D. Nothing in this Section and no taxes paid by a taxpayer relative to any  
19           vessel, as defined herein, shall in any way prohibit a taxpayer from the payment of  
20           ad valorem taxes under protest or to otherwise resist the collection of such ad  
21           valorem taxes. Further, nothing in this Section shall affect, define, interpret, in  
22           whole or in part, or otherwise determine the applicability of the international trade  
23           exemption in Article VII, Section 21(C)(16) of the Constitution of Louisiana or any  
24           other applicable rights, exemptions, exclusions, preemptions, or preemptions under  
25           the Constitution of Louisiana as amended, the Constitution of the United States as  
26           amended, all treaties and executive agreements of the United States, all intrastate  
27           agreements and compacts between Louisiana and other states, all laws of Louisiana  
28           as amended, and all laws of the United States of America as amended.

1           E. The rebate provided for in this Section shall be subject to the provisions  
2           of R.S. 47:6360.

3           §6365. Rebates for motion picture investors

4           A. Purpose. The primary objective of this Section is to encourage  
5           development in Louisiana of a strong capital and infrastructure base for motion  
6           picture production in order to achieve an independent, self-supporting industry. This  
7           objective is divided into immediate and long-term objectives as follows:

8                   (1) Immediate objectives are to:

9                           (a) Attract private investment for the production of motion pictures in  
10                           Louisiana.

11                           (b) Develop a tax and capital infrastructure which encourages private  
12                           investment. This infrastructure will provide for state participation in the form of  
13                           rebates to encourage investment in state-certified productions.

14                   (2) Long-term objectives are to:

15                           (a) Encourage increased employment opportunities within this sector and  
16                           increased global competitiveness with other states in fully utilizing economic  
17                           development options within the motion picture industry.

18                           (b) Encourage new education curricula in order to provide a labor force  
19                           trained in all aspects of film and digital production.

20           B. Definitions. For the purposes of this Section:

21                   (1) "Base investment" means cash or cash equivalent investment made and  
22                   used for production expenditures in the state for a state-certified production.

23                   (2) "Box rental" means private property owned by an employee or individual  
24                   contractor and leased to a state-certified production for use in Louisiana on the state-  
25                   certified production, noted as additional income on a W2 or 1099 tax form.

26                   (3) "Expended in the state" means an expenditure to lease immovable  
27                   property located in the state; an expenditure as compensation for services performed  
28                   in the state; or an expenditure to purchase or lease tangible personal property within  
29                   the state where the transaction is subject to the state sales or lease tax provisions of

1        Title 47 of the Louisiana Revised Statutes of 1950. A transaction that is subject to  
2        the state sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes  
3        of 1950 shall include transactions which are also subject to a statutory exclusion or  
4        exemption.

5                (4) "Expenditure" means actual cash or cash equivalent exchanged for goods  
6                or services.

7                (5) "Headquartered in Louisiana" means a corporation incorporated in  
8                Louisiana or a partnership, limited liability company, or other business entity  
9                domiciled and headquartered in Louisiana for the purpose of producing nationally  
10               or internationally distributed motion pictures as defined in this Section.

11               (6) "Motion picture" means a nationally or internationally distributed  
12               feature-length film, video, television pilot, television series, television movie of the  
13               week, animated feature film, animated television series, or commercial made in  
14               Louisiana, in whole or in part, for theatrical viewing or television viewing, or any  
15               digital online platform as approved by the office. The term "motion picture" shall  
16               not include the production of television coverage of news and athletic events.

17               (7) "Motion picture production company" means a company engaged in the  
18               business of producing nationally or internationally distributed motion pictures as  
19               defined in this Section. Motion picture production company shall not mean or  
20               include any company owned, affiliated, or controlled, in whole or in part, by any  
21               company or person which is in default on a loan made by the state or a loan  
22               guaranteed by the state, nor with any company or person who has ever declared  
23               bankruptcy under which an obligation of the company or person to pay or repay  
24               public funds or monies was discharged as a part of such bankruptcy.

25               (8) "Office" means the office of entertainment industry development in the  
26               Department of Economic Development provided for in R.S. 51:938.1.

27               (9) "Payroll" means all salary, wages, and other compensation, including  
28               benefits paid to an employee for services relating to a state-certified production and  
29               taxable in this state. For applications received prior to August 1, 2013, "payroll" for



1 purposes of the additional rebate for Louisiana-resident payroll shall exclude any  
2 portion of an individual salary in excess of one million dollars. For applications  
3 received on or after August 1, 2013, payroll expenditures shall be limited to one  
4 million dollars per person, per state-certified production for each employee reported  
5 on a Form W2. Payments made to loan out companies or independent contractors  
6 reported on a Form 1099 shall also be subject to a limitation of one million dollars,  
7 per person, per state-certified production.

8 (10) "Production expenditures" means preproduction, production, and  
9 postproduction expenditures in this state directly relating to a state-certified  
10 production, including the following: set construction and operation; wardrobes,  
11 makeup, accessories, and related services; costs associated with photography and  
12 sound synchronization, lighting, and related services and materials; editing and  
13 related services; rental of facilities and equipment; leasing of vehicles; costs of food  
14 and lodging; digital or tape editing, film processing, transfer of film to tape or digital  
15 format, sound mixing, special and visual effects, box rentals; and payroll. This term  
16 shall not include expenditures for marketing and distribution, non-production related  
17 overhead, amounts reimbursed by the state or any other governmental entity, costs  
18 related to the transfer of tax credits or rebates, amounts that are paid to persons or  
19 entities as a result of their participation in profits from the exploitation of the  
20 production, the application fee, or state or local taxes. The cost of customization or  
21 custom development of a tangible good specifically designed for use by a state-  
22 certified production in Louisiana shall not be an eligible production expense, unless  
23 the customization services are performed in Louisiana. For applications received on  
24 or after August 1, 2013, the term "production expense" shall not include expenditures  
25 for airfare, finance fees, bond fees, loan interest, or insurance premiums.

26 (11) "Related party transaction" means a transaction between parties that are  
27 deemed to be related by common ownership or control, under generally accepted  
28 auditing principles. Related party transaction expenditures may be subject to

1 limitations, as provided for by rules promulgated by the Department, in accordance  
2 with the provisions of the Administrative Procedure Act.

3 (12) "Resident" or "resident of Louisiana" means a natural person domiciled  
4 in the state. A person who maintains a permanent place of abode within the state and  
5 spends in the aggregate more than six months of each year within the state shall be  
6 presumed to be domiciled in the state.

7 (13) "Secretary" means the secretary of the Department of Economic  
8 Development.

9 (14) "Source within the state" means a physical facility in Louisiana,  
10 operating with posted business hours and employing at least one full-time equivalent  
11 employee.

12 (15) "Special events" means an event that occurs irrespective of filming,  
13 such as Mardi Gras, music festivals, concerts or other similarly situated events.

14 (16) "Special event production expenditures" means only costs directly  
15 related to filming the special event shall qualify for tax credits. Costs that are  
16 indirectly related to filming shall not qualify for tax credits, including but not limited  
17 to artist compensation for festival or concert appearances and costs associated with  
18 the usual activities of a reality show or documentary.

19 (17) "State" means the state of Louisiana.

20 (18) "State-certified production" shall mean a production approved by the  
21 office and the secretary which is produced by a motion picture production company  
22 domiciled and headquartered in Louisiana and which has a viable multi-market  
23 commercial distribution plan.

24 C. Investor rebate; specific productions and projects.

25 (1) There is hereby authorized a rebate for Louisiana taxpayers for  
26 investment in state-certified productions. The rebate shall be earned by investors  
27 when certified by the office and the secretary. For state-certified productions,  
28 expenditures shall be certified no more than twice during the duration of a state-  
29 certified production unless the motion picture production company agrees to

1 reimburse the office for the costs of any additional certifications. The rebate shall  
2 be calculated as a percentage of the total base investment dollars certified per  
3 project.

4 (a) For state-certified productions approved by the office and the secretary  
5 on or after July 1, 2009:

6 (i) If the total base investment is greater than three hundred thousand dollars,  
7 each investor shall be allowed a rebate of thirty percent of the base investment made  
8 by that investor. For applications received on or after August 1, 2013, payroll  
9 expenditures shall be limited to one million dollars per person, per state certified  
10 production for each employee reported on a Form W2. Payments made to loan out  
11 companies or independent contractors reported on a Form 1099 shall also be subject  
12 to a limitation of one million dollars, per person, per state certified production.

13 (ii) To the extent that base investment is expended on payroll for Louisiana  
14 residents employed in connection with a state-certified production, each investor  
15 shall be allowed an additional rebate of five percent of such payroll. However, if the  
16 payroll to any one person exceeds one million dollars, this additional rebate shall  
17 exclude any salary for that person that exceeds one million dollars.

18 (b) Motion picture investor rebates associated with a state-certified  
19 production shall never exceed the total base investment in that production.

20 (c) An applicant shall not receive any other incentive administered by the  
21 Department of Economic Development for any expenditures for which the applicant  
22 has received a rebate under this Section.

23 D. Certification and administration.

24 (1)(a) The secretary of the Department of Economic Development and the  
25 office shall determine through the promulgation of rules the minimum criteria that  
26 a project must meet in order to qualify according to this Section. The secretary and  
27 the office, and the division of administration shall determine through the  
28 promulgation of rules the minimum criteria that a project must meet in order to  
29 qualify according to this Section. All rules promulgated pursuant to the provisions

1 of this Section shall be subject to oversight by the House Committee on Ways and  
2 Means and the Senate Committee on Revenue and Fiscal Affairs.

3 (b) The secretary and the office shall determine, through the promulgation  
4 of rules, an appeals process in the event that an application for or the certification of  
5 motion picture production rebate is denied. The office shall promptly provide  
6 written notice of such denial to the Senate Committee on Revenue and Fiscal Affairs  
7 and the House Committee on Ways and Means.

8 (c) When determining which productions may qualify, the office and the  
9 secretary of the Department of Economic Development shall take the following  
10 factors into consideration:

11 (i) The impact of the production on the immediate and long-term objectives  
12 of this Section.

13 (ii) The impact of the production on the employment of Louisiana residents.

14 (iii) The impact of the production on the overall economy of the state.

15 (2)(a) Application. An applicant for the motion picture investor rebate shall  
16 submit an application for initial certification to the office and the secretary of the  
17 Department of Economic Development that includes the following information:

18 (i) For state-certified productions the application shall include:

19 (aa) The multi-market commercial distribution plan.

20 (bb) A preliminary budget including estimated Louisiana payroll and  
21 estimated base investment.

22 (cc) The script or synopsis.

23 (dd) A list of the principal creative elements, including the cast, producer,  
24 and director.

25 (ee) Estimated start and completion dates.

26 (b) If the application is incomplete, additional information may be requested  
27 prior to further action by the office or the secretary of the Department of Economic  
28 Development. An application fee shall be submitted with the application based on  
29 the following:

1           (i) Two-tenths of one percent times the estimated total incentive tax credits.

2           (ii) The minimum application fee is two hundred dollars, and the maximum  
3 application fee is five thousand dollars.

4           (c) The office and the secretary shall submit their initial certification of a  
5 project as a state-certified production to investors and to the secretary of the  
6 Department of Revenue indicating the total base investment which shall be expended  
7 in the state on the state-certified production. The initial certification shall include  
8 a unique identifying number for each state-certified production.

9           (d) Prior to any final certification of the state-certified production, the  
10 motion picture production company shall submit to the office and the secretary an  
11 audit of the production expenditures certified by an independent certified public  
12 accountant approved by the office, as determined by rule. The office and the  
13 secretary shall review the audit, the production expense details, and may require  
14 additional information needed to make a determination. Upon approval of the audit,  
15 the office and the secretary shall issue a final rebate certification letter indicating the  
16 amount of the rebate certified for the state-certified production to the investors. The  
17 rules required by this Subparagraph shall, at a minimum, require that:

18           (i) The auditor shall be a certified public accountant licensed in the state of  
19 Louisiana and shall be an independent third party, not related to the producer. The  
20 auditor's opinion shall disclose all non-audit services provided for a state-certified  
21 production and independence shall be compromised, and an audit rejected if either  
22 consulting services or a tax credit assessments are performed, in addition to an audit  
23 of expenditures.

24           (ii) The auditor's opinion shall be addressed to the party which has engaged  
25 the auditor (e.g., directors of the production company, producer of the production).

26           (iii) The auditor's name, address, and telephone number shall be evident on  
27 the report.

28           (iv) The auditor's opinion shall be dated as of the completion of the audit  
29 fieldwork.

1           (v) The audit shall be performed in accordance with auditing standards  
2           generally accepted in the United States of America and the auditor shall have  
3           sufficient knowledge of accounting principles and practices generally recognized in  
4           the film and television industry.

5           (e) At the time of final certification, the office shall submit the final  
6           certification letter to the Department of Revenue on behalf of the investor who  
7           earned the rebate. The amount of the rebate shall be eighty five percent of the face  
8           value of the rebates. Upon receipt of the final rebate certification letter and any  
9           necessary additional information, the secretary of the Department of Revenue shall  
10          make payment to the company, or its irrevocable designee, which may include but  
11          not be limited to a bank or other lender, in the amount to which he is entitled from  
12          the current collections of the taxes collected pursuant to Chapter I, of Subtitle II of  
13          this Title, as amended.

14          (f) In addition to the requirements of Subparagraph (d) of this Paragraph,  
15          prior to any final certification of a state-certified production or infrastructure project,  
16          the motion picture production company or infrastructure project applicant shall  
17          submit to the office a notarized statement demonstrating conformity with, and  
18          agreeing to, the following:

19                 (i) To pay all undisputed legal obligations the film production company has  
20                 incurred in Louisiana.

21                 (ii) To publish, at completion of principal photography, a notice at least once  
22                 a week for three consecutive weeks in local newspapers in regions where filming has  
23                 taken place in order to notify the public of the need to file creditor claims against the  
24                 film production company by a specified date.

25                 (iii) That the outstanding obligations are not waived should a creditor fail to  
26                 file by the specified date.

27                 (iv) To delay filing a claim for the film production tax credit until the office  
28                 delivers written notification to the secretary of the Department of Revenue that the  
29                 film production company has fulfilled all requirements for the rebate.

1           (3) The secretary of the Department of Revenue, in consultation with the  
2           office and the secretary of the Department of Economic Development shall  
3           promulgate such rules and regulations as are necessary to carry out the intent and  
4           purposes of this Section in accordance with the general guidelines provided herein.

5           (4)(i) Any taxpayer applying for the rebate shall be required to reimburse the  
6           office for any audits required in relation to granting the rebate.

7           (ii)(aa) The production application fee provided for in Subparagraph (2)(b)  
8           of this Subsection received by the office shall be deposited upon receipt in the state  
9           treasury. After compliance with the requirements of Article VII, Section 9(B) of the  
10           Constitution of Louisiana relative to the Bond Security and Redemption Fund and  
11           prior to any money being placed into the general fund or any other fund, an amount  
12           equal to that deposited as required by this Item shall be credited by the treasurer to  
13           a special fund hereby created in the state treasury to be known as the Entertainment  
14           Promotion and Marketing Fund. The money in the fund shall be appropriated by the  
15           legislature to be used solely for promotion and marketing of Louisiana's  
16           entertainment industry.

17           (bb) The money in the fund shall be invested by the treasurer in the same  
18           manner as money in the state general fund and interest earned on the investment of  
19           the money shall be credited to the fund after compliance with the requirements of  
20           Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond  
21           Security and Redemption Fund. All unexpended and unencumbered money in the  
22           fund at the end of the year shall remain in the fund.

23           (5) A motion picture production company applying for the additional rebate  
24           for the employment of Louisiana residents must remit a schedule to the Department  
25           of Revenue, in a machine-sensible format approved by the secretary of the  
26           Department of Revenue, that includes the following information: the names of all  
27           persons who received salary, wages, or other compensation for services performed  
28           in Louisiana in connection with the state-certified production, and the address,

1 taxpayer identification number, permanent address of, and the amount of  
2 compensation for services performed in Louisiana received by each such person.

3 (6) With input from the Legislative Fiscal Office, the office shall prepare a  
4 written report to be submitted to the Senate Committee on Revenue and Fiscal  
5 Affairs and the House of Representatives Committee on Ways and Means no less  
6 than sixty days prior to the start of the Regular Session of the Legislature in 2007,  
7 and every second year thereafter. The report shall include the overall impact of the  
8 rebates, the amount of the rebates issued, the number of net new jobs created, the  
9 amount of Louisiana payroll created, the economic impact of the rebates and film  
10 industry, and any other factors that describe the impact of the program.

11 (7) The Department of Economic Development may request an additional  
12 audit of the expenditures submitted by the motion picture production company at the  
13 cost of the motion picture production company.

14 (8) As a condition for receiving certification of rebates under this Section,  
15 state-certified productions may be required to display an animated state brand or  
16 logo, or both, which includes a fleur de lis as prescribed by the secretary of the  
17 Department of Economic Development as long as the animated state brand or logo  
18 is not contrary to any rule or regulation of the Federal Communications Commission.

19 E. The rebate provided for in this Section shall be subject to the provisions  
20 of R.S. 47:6360.

21 §6366. Rebate for property taxes paid by certain telephone companies; fund

22 A. Pursuant to the provisions of this Section, there shall be allowed a rebate  
23 for, and in an amount equal to, forty percent of the aggregate ad valorem taxes paid  
24 to political subdivisions of this state after December 31, 2000, by a telephone  
25 company, as defined in R.S. 47:1851(Q), with respect to such telephone company's  
26 public service properties, as defined in R.S. 47:1851(M), which are assessed by the  
27 Louisiana Tax Commission at twenty-five percent of fair market value pursuant to  
28 R.S. 47:1854. The rebate provided for in this Section shall be subject to the  
29 provisions of R.S. 47:6360.



1           B.(1)(a) The avails of sales and use taxes imposed pursuant to R.S. 47:302,  
2           321, and 331 attributable to the furnishing of interstate and international  
3           telecommunication services, as both those terms are defined in Chapter 2 of Subtitle  
4           II of this Title, shall be credited to the Bond Security and Redemption Fund, and  
5           after a sufficient amount is allocated from that fund to pay all of the obligations  
6           secured by the full faith and credit of the state which become due and payable within  
7           any fiscal year, the treasurer shall deposit an amount of avails as determined  
8           pursuant to Subparagraph (b) of this Paragraph into a special fund which is hereby  
9           created and established in the state treasury and known as the "Telephone Company  
10           Property Assessment Relief Fund", hereinafter the "fund".

11           (b) The amount of such avails shall be determined by the secretary, by rule,  
12           using industry data as available at the time the fund was originally created, and as  
13           had been published by the Federal Communications Commission. The secretary  
14           shall adopt and promulgate such rule no later than March 1, 2006, and the rule shall  
15           be effective for tax periods starting on or after July 1, 2006.

16           (2) The monies in the fund shall be used solely and exclusively for the  
17           purpose of providing funds to pay the rebates as provided in this Section. The  
18           treasurer shall annually transfer to the state general fund an amount equal to the  
19           rebates issued pursuant to this Section.

20           (3) The monies in the fund shall be invested by the treasurer in the same  
21           manner as the monies in the state general fund. Interest earned on investment of  
22           monies in the fund shall be deposited in and credited to the fund. Unexpended and  
23           unencumbered monies in the fund at the close of each fiscal year shall remain in the  
24           fund.

25           (4) Notwithstanding any other provision of this Section to the contrary, in  
26           any fiscal year in which the balance in the fund which is available for appropriation,  
27           net of any credits or rebates previously allowed pursuant to this Section, does not  
28           equal or exceed the total amount of the rebates taken for that fiscal year pursuant to  
29           this Section, the rebates allowed in the succeeding fiscal year shall be

1 proportionately reduced by the amount of the shortfall; however, any reduction may  
2 be carried forward to any succeeding fiscal year. The secretary shall determine the  
3 amount of any reductions required pursuant to this Subsection.

4 §6367. Rebate; rehabilitation of historic structures

5 A.(1)(a) There shall be a rebate for the amount of eligible costs and expenses  
6 incurred during the rehabilitation of a historic structure located in a downtown  
7 development or a cultural product district. The rebate shall not exceed twenty-five  
8 percent of the eligible costs and expenses of the rehabilitation. No taxpayer, or any  
9 entity affiliated with such taxpayer, shall receive more than five million dollars of  
10 rebate for any number of structures rehabilitated within a particular downtown  
11 development or cultural product district.

12 (b) The rebate for qualified rehabilitation expenditures is earned only in the  
13 year in which the property attributable to the expenditures is placed in service.

14 (2)(a) In order to qualify for the rebate, the historic structure located in the  
15 downtown development or cultural product district shall also be listed on the  
16 National Register of Historic Places or be certified by the state historic preservation  
17 office as contributing to the historical significance of the district.

18 (b) Eligible structures must be nonresidential real property or residential  
19 rental property.

20 (c) A fee shall be charged by the state historic preservation office of two  
21 hundred fifty dollars per application.

22 B.(1) Definitions. For purposes of this Section, the following words and  
23 phrases shall have the meanings ascribed to them in this Subsection:

24 (a) "Cultural product district" shall mean a district designated by a local  
25 governing authority in accordance with law for the purpose of revitalizing a  
26 community by creating a hub of cultural activity, including affordable artist housing  
27 and workspace. The Department of Culture, Recreation and Tourism shall develop  
28 standard criteria for cultural product districts. Such criteria shall include that the  
29 district must be geographically contiguous and distinguished by cultural resources

1 that play a vital role in the life and cultural development of a community. The  
2 district shall focus on a cultural compound, a major art institution, art and  
3 entertainment businesses, an area with arts and cultural activities or cultural or  
4 artisan production and be engaged in the promotion, preservation, and educational  
5 aspects of the arts and culture of the locale and contribute to the public through  
6 interpretive and educational uses. The Department of Culture, Recreation and  
7 Tourism may determine whether or not a district complies with this definition.

8 (b) "Downtown development district" shall mean a downtown development  
9 district or central business development district created by law, pursuant to law, or  
10 by ordinance adopted prior to January 1, 2002, in a home rule charter municipality.

11 (c) "Eligible costs and expenses" shall mean qualified rehabilitation  
12 expenditures as defined in Section 47c(2)(A) of the Internal Revenue Code of 1986,  
13 as amended, except that "substantially rehabilitated" shall mean that the qualified  
14 rehabilitation expenditures must exceed ten thousand dollars.

15 (2) Federal law terms. Except as otherwise provided or clearly appearing  
16 from the context, any term used in this Section shall have the same meaning as when  
17 used in a comparable context in federal law.

18 C. The rebate provided for in this Section shall be subject to the provisions  
19 of R.S. 47:6360.

20 D. The provisions of this Section shall be effective for the taxable years  
21 ending prior to January 1, 2016.

22 §6368. Rebate; School Readiness Child Care Expense Program

23 A.(1) The School Readiness Child Care Expense Program, hereinafter  
24 "program", is hereby established for purposes of authorizing a rebate payment for  
25 eligible child care providers and child care facilities which participate in the quality  
26 rating system and which provide quality child care to children who are five years of  
27 age or less. For purposes of qualifying for the rebate authorized pursuant to the  
28 provisions of this Section, applicants must meet all program requirements and  
29 restrictions as provided for in Subsection of this Section. The amount of the

1        rebate shall be based on the quality rating awarded to an eligible child care facility  
2        by the quality rating system.

3                (2) The department, by rule, shall establish the amount of the rebate and the  
4        qualifying criteria for eligible applicants for the rebate. The department may  
5        annually adjust rebate amounts for each calendar year by the percentage increase in  
6        the Consumer Price Index United States city average for all urban consumers  
7        (CPI-U), as prepared by the United States Department of Labor, Bureau of Labor  
8        Statistics, as determined by the secretary of the Department of Revenue on  
9        December first of the preceding calendar year. Adjustments in rebate payment  
10       amounts shall be published in the Louisiana Register no later than March 15<sup>th</sup> of each  
11       year.

12                B. The following persons or entities shall be eligible applicants for the rebate  
13        authorized by this Section:

14                (1) A child care facility which the state administrator of the Child Care  
15        Development Fund determines is eligible to participate in the quality rating system  
16        according to criteria set forth by rule adopted by the department and which has  
17        applied for evaluation under such system, and is participating in the system.

18                (2) A child care provider who owns an eligible child care facility or  
19        facilities.

20                (3) A child care director enrolled in the state practitioner registry developed  
21        and maintained by the department, and who is employed in an eligible child care  
22        facility which participates in the quality rating system.

23                (4) An individual who is enrolled in the state practitioner registry developed  
24        and maintained by the department and who is employed in a child care facility which  
25        participates in the quality rating system.

26                (5) Businesses that make eligible donations to child care facilities.

27                C. This program shall be administered by the state agency designated as the  
28        state administrator of the Child Care Development Fund and responsible for

1 distributing and managing rebates associated with the fund. For purposes of this  
2 Section, this state agency shall be referred to as "department".

3 D. The department shall promulgate rules and regulations in accordance with  
4 the Administrative Procedure Act as are necessary to develop the rebate program  
5 established pursuant to the provisions of this Section. All rules promulgated  
6 according to the provisions of this Section shall be subject to oversight by the House  
7 Committee on Ways and Means and the Senate Committee on Revenue and Fiscal  
8 Affairs.

9 E. If the department or the Department of Revenue find that a child care  
10 provider, director, or staff member has obtained a rebate in violation of the  
11 provisions of this Section, the person awarded the rebate payment shall return the  
12 rebate payment to the state. The Department of Revenue may recover any rebates  
13 previously granted to any person or entity but are disallowed as authorized by R.S.  
14 47:1561.2 due to violation of rules. Persons or entities shall have the right to appeal  
15 as permitted in 47:1565.

16 F. The rebate provided for in this Section shall be subject to the provisions  
17 of R.S. 47:6360.

18 §6369. Rebate; Research and development

19 A. The Legislature of Louisiana hereby finds and declares that the health,  
20 safety, and welfare of the people of this state are dependent upon the continued  
21 encouragement, development, growth, and expansion of the private sector within the  
22 state. Therefore, it is declared to be the purpose of this Section to encourage new  
23 and continuing efforts to conduct research and development activities within this  
24 state.

25 B.(1) Any entity which employs fifty or more persons and claims the federal  
26 income rebate under 26 U.S.C. §41(a) in the most recently concluded federal tax year  
27 for increasing research activities shall be allowed a rebate payment for qualified  
28 research expenses as provided under this Section.

1           (2) Any entity which employs less than fifty persons and claims for the  
2           taxable year a federal income tax credit pursuant to 26 U.S.C.§41(a) for the most  
3           recently concluded federal tax year, or meets the requirements of Subparagraph (i)  
4           of this Paragraph shall be allowed a rebate of qualified research expenses.

5           (3) The Department of Economic Development, hereinafter "department",  
6           shall administer the rebate program provided for in this Section. Applicants for  
7           rebates authorized pursuant to the provisions of this Section shall submit applications  
8           to the department with an application fee of two hundred fifty dollars. Rebate  
9           applications shall include the following:

10           (a) A federal income tax return and supporting documentation that shows the  
11           amount of the federal research credit for the taxable year. If the applicant is claiming  
12           the rebate authorized in Subsection D of this Section, the applicant shall also remit  
13           supporting documentation for the federal Small Business Innovation Research Grant.

14           (b) The total amount of qualified research expenses and the qualified  
15           research expenses in this state.

16           (c) The total number of persons employed in Louisiana by the applicant and  
17           the number of persons employed in Louisiana directly engaged in research and  
18           development.

19           (d) The average wages of the persons employed in Louisiana not directly  
20           engaged in research and development and the average wages of the persons  
21           employed in Louisiana directly engaged in research and development.

22           (e) The average value of benefits received by all persons employed in  
23           Louisiana.

24           (f) The cost of health insurance coverage offered to all persons employed in  
25           Louisiana.

26           (g) At the department's request, the applicant shall allow the department  
27           access to federal income tax information related to federal research and development  
28           credits provided directly from the Internal Revenue Service. This access includes,

1 but is not limited to execution of IRS forms 8821 and 4506 in favor of the  
2 department.

3 (h) Any other information required by the department.

4 (i) An applicant who employs less than fifty employees is not required to file  
5 for the federal income tax credit under 26 U.S.C. §41(a) for increasing research  
6 activities in order to apply for rebates under this Section if all of the following  
7 criteria are met:

8 (i) The applicant must provide the department with a report from an  
9 independent certified public accountant licensed in the state of Louisiana finding that  
10 the applicant would not financially benefit from claiming the federal income tax  
11 credit under 26 U.S.C. §41(a) for increasing research activities and that the applicant  
12 is in compliance with the agreed-upon procedures as defined by the department.

13 (ii) Applicants that employ less than fifty employees and who do not claim  
14 the research credit on their federal income tax return for that year shall provide all  
15 supporting documentation required by the department to show the amount of the  
16 qualified research expenses for such taxable year.

17 (4) The department shall approve or disapprove each application. No rebates  
18 shall be granted to a applicant under this Section unless the rebate is approved.

19 (5) Professional services firms as defined by the department and businesses  
20 primarily engaged in custom manufacturing and custom fabricating as defined by the  
21 department shall be ineligible to receive rebates under this Section unless specifically  
22 invited to participate in the rebate program by the secretary of the department.

23 C.(1) For purposes of determining the amount of the rebate payment, an  
24 "entity" shall be determined by the total number of employees based on the  
25 aggregate of all affiliated companies.

26 (2) The amount of the rebate authorized in this Section shall be equal to  
27 either:

1           (a) Eight percent of the difference, if any, of the Louisiana qualified research  
2           expenses for the year minus the base amount, if the applicant is an entity that  
3           employs one hundred or more persons.

4           (b) Twenty percent of the difference, if any, of the Louisiana qualified  
5           research expenses for the year minus the base amount, if the applicant is an entity  
6           that employs fifty to ninety-nine persons.

7           (c) Forty percent of the Louisiana qualified research expenses for the year,  
8           if the applicant is an entity that employs fewer than fifty persons.

9           D. An applicant who receives a federal Small Business Innovation Research  
10          Grant as created by the Small Business Innovation Development Act of 1982 (P.L.  
11          97-219), reauthorized by the Small Business Research and Development  
12          Enhancement Act (P.L. 102-564), and reauthorized again by the Small Business  
13          Reauthorization Act of 2000 (P.L. 106-554), shall be allowed a rebate payment in an  
14          amount equal to forty percent of the award received during the tax year.

15          E. As used in this Section, the following terms shall have the meaning  
16          hereafter ascribed to them, unless the context clearly indicates otherwise:

17           (1) "Base amount" shall mean seventy percent of the average annual  
18           qualified research expenses within Louisiana during the three years preceding the  
19           federal tax year.

20           (2) "Department" shall mean the Department of Economic Development.

21           (3) "Person" shall mean a natural person.

22           (4) "Qualified research expenses" and "qualified research" shall have the  
23           same meanings as those terms are defined in 26 U.S.C. §41, as amended.

24          F. The department shall administer the provisions of this Section and shall  
25          have the following powers and duties in addition to those granted by other laws of  
26          this state:

27           (1) To monitor the implementation and operation of this Section and conduct  
28           a continuing evaluation of the program.



1           (2) To assist any applicant in obtaining the benefits of any incentive or  
2           inducement program authorized by Louisiana law.

3           (3) To promulgate program rules and regulations in consultation with the  
4           secretary of the Department of Revenue, in accordance with the Administrative  
5           Procedure Act. Rulemaking oversight for purposes of the Administrative Procedure  
6           Act shall be conducted by the House Committee on Ways and Means and Senate  
7           Committee on Revenue and Fiscal Affairs.

8           (4) To receive information from the Department of Revenue regarding the  
9           identity of the applicant and the amount of rebate claimed for any rebates claimed  
10          pursuant to this Section. Such information shall not be public record and shall be  
11          subject to the same prohibition of disclosure as in the possession of the Department  
12          of Revenue.

13          (5) To audit all relevant records and accounts of any applicant applying for  
14          rebates provided for by this Section.

15          G.(1) The department shall perform a detailed examination of at least ten  
16          percent of all applications received prior to the issuance of rebate payments.  
17          Selection of applications for examination shall be based on either a random sampling  
18          of applications, the applicant's business sector, or other selection criteria as  
19          determined by the department.

20          (2) If an applicant's application is selected for examination, the applicant  
21          shall submit all supporting documentation required by the department that verifies  
22          the amount of the qualified research expenses incurred in Louisiana for the taxable  
23          year.

24          (3) Upon examination, the department shall disallow any rebates that are not  
25          substantiated by documentation as required by the Internal Revenue Code, as  
26          amended; the regulations thereunder, as amended; and applicable case law.

27          (4) The applicant bears the burden of proving that the activities for which the  
28          rebate is claimed meet the Internal Revenue Code Section 41(d) definition of  
29          qualified research.

1           (5) Nothing in this Subsection shall preclude the department from examining  
2           a applicant's application for research and development rebates after the issuance of  
3           rebates. Rebates disallowed following an examination conducted after the issuance  
4           of such rebates shall be subject to recovery, recapture or offset.

5           H. An applicant shall not receive any other incentive administered by the  
6           Department of Economic Development for any expenditures for which the applicant  
7           has received a rebate pursuant to this Section.

8           I. No rebate shall be allowed pursuant to this Section for research  
9           expenditures incurred or Small Business Innovation Research Grant funds received  
10           after December 31, 2019.

11           J. The rebate provided for in this Section shall be subject to the provisions  
12           of R.S. 47:6360.

13           §6370. Rebate; Angel Investor Rebate Program

14           A. Purpose. The legislature finds that the welfare of the state is enhanced  
15           by a healthy entrepreneurial business environment and that ready sources of capital  
16           necessary to support this environment are not currently available. The Angel  
17           Investor Rebate Program is intended to achieve the following purposes:

18           (1) To encourage third parties to invest in early stage wealth-creating  
19           businesses in the state.

20           (2) To expand the economy of the state by enlarging its base of wealth-  
21           creating businesses.

22           (3) To enlarge the number of quality jobs available to retain the presence of  
23           young people educated in Louisiana.

24           B. Administration. (1) Program. Investments made on or after January 1,  
25           2011, by qualifying individuals or entities that invest in a Louisiana Entrepreneurial  
26           Business as defined by R.S. 51:2303(5) may apply for, and if qualified, be granted  
27           a rebate. The administration of rebate applications, certification of eligibility and  
28           qualification of applicants for rebates, and the provision for these rebates shall be  
29           known as the Angel Investor Rebate Program, hereinafter referred to as "program".

1           (2) Rules. The program shall be implemented and administered by the  
2           Department of Economic Development, hereinafter referred to as "department". In  
3           compliance with the Administrative Procedure Act, the department shall adopt and  
4           promulgate rules as are necessary for the efficient and effective administration of this  
5           program in keeping with the purposes for which it is enacted. The department shall  
6           work closely with the secretary of the Department of Revenue in the development  
7           and promulgation of rules. The rules shall include provisions for:

8                   (a) An application process through which the department may certify the  
9                   eligibility of an investor applicant for receipt of the rebate and the qualification of  
10                   an investor to claim the rebate.

11                   (b) The presentation of an investor's eligibility certification and any other  
12                   documentation required in order to earn or claim a rebate.

13                   (c) The submission of annual reports by the Louisiana Entrepreneurial  
14                   Business regarding the use of proceeds, number of employees, amount of payroll,  
15                   annual Revenue, and any other information requested by the department.

16           C. Qualifications. (1) To qualify for a rebate, the investor and the  
17           investment shall meet all of the following requirements:

18                   (a) The investment in the Louisiana Entrepreneurial Business must be an  
19                   investment that is at risk and not secured or guaranteed. "At risk" means that the  
20                   repayment of the investment is entirely dependent on the success of the Louisiana  
21                   Entrepreneurial Business. The funds invested by the applicant cannot have been  
22                   raised as a result of illegal activity.

23                   (b) For the purposes of the program, an angel investor or investors cannot  
24                   be the principal owner or owners of the business who are involved in the operation  
25                   of the business as a full-time professional activity, nor can their spouses and  
26                   relatives within the third degree of consanguinity or affinity. A principal owner  
27                   means one or more persons who own an aggregate of fifty percent or more of the  
28                   Louisiana Entrepreneurial Business.

1           (c) The use of proceeds from the investment must be used for capital  
2           improvements, plant equipment, research and development, working capital for the  
3           business, or other business activity as may be approved by the department. The  
4           proceeds cannot be used to pay dividends, repay shareholder's loans, redeem shares,  
5           or repay debt unless approved by the department.

6           (d) The investor applicant shall meet the definition of accredited investor  
7           established by Rule 501 in Regulation D of the General Rules and Regulations  
8           promulgated under the Securities Act of 1933.

9           (e) The investment in the Louisiana Entrepreneurial Business by the  
10          applicant must be maintained for three years unless otherwise approved by the  
11          Department of Economic Development.

12          (2) To qualify for an angel investor rebate, the Louisiana Entrepreneurial  
13          Business in which the investment is made shall meet all the following requirements:

14          (a) The principal business operations of the business are located in  
15          Louisiana.

16          (b) Prior to the investment, the department has approved the business as one  
17          which may receive investments which may qualify for a rebate under the program.

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

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

24          D. Rebates. (1) The total amount of rebates granted by the department in  
25          any calendar year shall not exceed five million dollars. The department shall by rule  
26          establish the method of allocating available rebates to investors including but not  
27          limited to a first-come, first-served system, reservation of rebates for a specific time  
28          period, or other method which the department, in its discretion, may find beneficial  
29          to the program. If the department does not grant the entire five million dollars in

1        rebates in any calendar year, the amount of residual unused rebates shall carry  
2        forward to subsequent calendar years and may be granted in any year without regard  
3        to the five million dollar per year limitation. After the approval of an investor pool,  
4        the department shall issue a letter identifying the amount of rebates that are available  
5        to that pool; however, no rebate shall be granted to an investor until the investment  
6        has been made in the Louisiana Entrepreneurial Business.

7                (2)(a) An investor may apply for and, if qualified, be granted a rebate  
8        payment in the amount approved by the secretary of the department. The amount of  
9        the rebate shall be based upon the amount of money invested by the investor in the  
10        Louisiana Entrepreneurial Business, which investment shall not exceed one million  
11        dollars per year per business and two million dollars total per business. The rebates  
12        approved by the department shall be granted at the rate of thirty-five percent of the  
13        amount of the investment with the rebate divided in equal portions for five years.

14                (b) After certifying the eligibility of the Louisiana Entrepreneurial Business  
15        and the amount of the investment, the secretary of the department shall issue a rebate  
16        certificate, a copy of which is to be attached to the tax return of the angel investor.

17                (c) The rebate certificate shall contain the investor's name, address, tax  
18        identification number, the amount of rebate, the name of the qualifying Louisiana  
19        Entrepreneurial Business, a statement certifying that the Louisiana Entrepreneurial  
20        Business was domiciled in Louisiana at the close of the previous calendar year, and  
21        other information which may be required by the Department of Revenue. The rebate  
22        certificate, unless rescinded by the department, shall be accepted by the Department  
23        of Revenue as proof of the rebate.

24                (d) The department shall maintain a list of the rebate certificates issued.

25                (3)(a) If at the close of any calendar year in the five-year period beginning  
26        with the first year in which a rebate certificate was issued to an investor, the  
27        Louisiana Entrepreneurial Business is no longer domiciled in Louisiana, the rebate  
28        shall be recaptured from the investor unless change of domicile is the result of a

1 merger, consolidation, or other acquisition of such business with or by a party not  
2 affiliated with the business.

3 (b) If at the close of any calendar year in the three-year period beginning  
4 with the first year a rebate certificate was issued to an investor, the investor transfers  
5 the equity received in connection with the qualified investment, the rebate shall be  
6 recaptured from the investor unless the transfer results from any of the following  
7 circumstances:

8 (i) The liquidation of the business issuing the equity;

9 (ii) The merger, consolidation, or other acquisition of such business with or  
10 by a party not affiliated with the business; or

11 (iii) The death of the investor.

12 E.(1) Any person making an application, claim for rebate, or any report,  
13 return, statement, or other instrument or providing any other information pursuant  
14 to the provisions of the Angel Investor Rebate Program who willfully makes a false  
15 or fraudulent application, claim, report, return, statement, invoice, or other  
16 instrument or who willfully provides any false or fraudulent information, any person  
17 who willfully aids or abets another in making a false or fraudulent application, claim,  
18 report, return, statement, invoice, or other instrument, or any person who willfully  
19 aids or abets another in providing any false or fraudulent information, shall be guilty,  
20 upon conviction, of a felony and shall be punished by the imposition of a fine of not  
21 less than one thousand dollars and not more than fifty thousand dollars or imprisoned  
22 for not less than two years and not more than five years, or both.

23 (2) Any person convicted of a violation of this Section shall be liable for the  
24 repayment of all rebate amounts which were granted to that person. Interest shall be  
25 due on such repayments at the rate of fifteen percent per annum.

26 F. The rebate provided for in this Section shall be subject to the provisions  
27 of R.S. 47:6360.

1        §6371. Rebate; Digital interactive media and software

2            A. Short title. This Section shall be known and may be referred to as the  
3        "Louisiana Digital Media and Software Act".

4            B. Purpose. The primary objective of this Section is to encourage  
5        development in Louisiana of a strong capital base for the production of digital  
6        interactive media products and platforms in order to achieve a more independent,  
7        self-supporting industry. This objective is divided into immediate and long-term  
8        objectives as follows:

9            (1) Immediate objectives are to:

10          (a) Attract private investment for the production of digital interactive media  
11        products and platforms in this state.

12          (b) Develop a tax infrastructure which encourages private investment. This  
13        infrastructure will provide for state participation in the form of rebates to encourage  
14        investment in state-certified productions.

15          (c) Develop a tax infrastructure utilizing rebates which encourage  
16        investments in multiple state-certified productions.

17          (2) Long-term objectives are to:

18          (a) Encourage increased employment opportunities within this sector and  
19        increased competition with other states in fully developing economic development  
20        options within digital interactive media products and platforms.

21          (b) Encourage new education curricula in order to provide a labor force  
22        trained in all aspects of digital interactive media.

23          (c) Encourage partnerships between digital interactive media developers and  
24        Louisiana educational institutions.

25          C. Definitions. For the purposes of this Section:

26          (1) "Base investment" means the actual funds expended in Louisiana by a  
27        state-certified production as production-related costs for design or development of  
28        digital interactive media, including costs for payroll and component parts, as defined  
29        in this Section.

1           (2) "Component parts", with respect to digital interactive media, means all  
2           elements that are integral to the functioning or development of such products and  
3           platforms. Some examples of "component parts" are software, computer code, image  
4           files, music files, audio files, video files, scripts and plays, concept mock-ups,  
5           software tools, and testing procedures. Component parts shall also include, but not  
6           be limited to computer servers, workstations, server racks, hard drives, optical  
7           drives, monitors, keyboards, integrated video and audio equipment, networking  
8           routers, switches, network cabling, and any other computer-related hardware  
9           necessary to create or operate a digital interactive media product or platform.

10           (3) "Department" means the Louisiana Department of Economic  
11           Development.

12           (4)(a) "Digital interactive media" means products or platforms that are  
13           intended for commercial production, use, or distribution; that contain at least two of  
14           the following types of data: text, sound, fixed images, animated images, video, or 3D  
15           geometry; and that have all of the following three characteristics:

16           (i) "Digital" means a system that uses discrete (discontinuous) values  
17           ordinarily symbolized numerically to represent information for input, processing,  
18           transmission, and storage. A digital system would be contrasted with an "analog"  
19           system which uses a continuous range of values to represent information. The term  
20           "digital" includes, but is not limited to information input, processed, transmitted and  
21           stored via the Internet.

22           (ii) "Interactive" means a digital media system for inputting, processing,  
23           transmitting, or storing information or data in which users of the system are able to  
24           respond to the digital media system by inputting, transmitting, processing, or storing  
25           information or data in response to the information or data provided to them through  
26           the digital media system. "Digital media system" means communications delivered  
27           via electronic energy where the information stored, transmitted, or received is in  
28           digital form.



1           (iii) "Media" means communication tools used to store, transmit, distribute,  
2           and deliver information and data. The term "media" includes methods and  
3           mechanisms for information distribution through, but not limited to distributed  
4           networks, such as the Internet, and through compact disc, CD-ROM, various types  
5           of DVD, and other removable storage drives and devices.

6           (b) Some examples of digital interactive media are:

7           (i) Video or interactive games.

8           (ii) Simulation software.

9           (iii) Interactive educational or training products.

10          (iv) Internet sites designed and developed as social media.

11          (v) Software applications that provide connectivity and communications  
12          between mobile devices and digital interactive media web platforms.

13          (vi) Technology designed to stream live or pre-recorded video content over  
14          the Internet to large simultaneous audiences.

15          (c) "Digital interactive media" shall not include:

16          (i) Software development designed and developed primarily for internal or  
17          operational purposes of the company.

18          (ii) Largely static Internet sites designed to provide information about a  
19          person, business, company, or firm.

20          (iii) Products regulated under the Louisiana Gaming Control Law.

21          (5) "Company" means an entity authorized to do business in the state of  
22          Louisiana and engaged in the business of producing digital interactive media as  
23          defined in this Section. "Company" shall not mean or include any company owned,  
24          affiliated, or controlled, in whole or in part, by any company or person subject to any  
25          of the following:

26          (a) Has a contract or application with the Department of Economic  
27          Development that is in default or noncompliance.

28          (b) Is in default on a loan made by the state or a loan guaranteed by the state.

1           (c) Has ever declared bankruptcy under which an obligation of the company  
2           or person to pay or repay public funds or monies was discharged as a part of such  
3           bankruptcy.

4           (6) "Expended in Louisiana" means an expenditure to lease immovable  
5           property located within the state; an expenditure as compensation for services  
6           performed in the state; or an expenditure to purchase or lease tangible personal  
7           property within the state where the transaction is subject to the state sales or lease tax  
8           provisions of Title 47 of the Louisiana Revised Statutes of 1950. A transaction that  
9           is subject to the state sales or lease tax provisions of Title 47 of the Louisiana  
10           Revised Statutes of 1950 shall include transactions which are also subject to a  
11           statutory exclusion or exemption.

12           (7) "Office" means the office of entertainment industry development in the  
13           Department of Economic Development as provided in R.S. 51:938.1.

14           (8) "Payroll" includes all salary, wages, and other compensation sourced or  
15           apportioned to Louisiana, including related benefits.

16           (9) "Person" means a natural person, corporation, partnership, limited  
17           partnership, limited liability company, joint venture, trust, estate, or association.

18           (10)(a) "Production expenses" means preproduction and production  
19           expenditures in the state directly relating to a state-certified production including  
20           without limitation the following: testing software, source code development, patches,  
21           updates, sprites, three-dimensional models, and level design; costs associated with  
22           photography and sound synchronization, lighting and related services; rental of  
23           Louisiana facilities and equipment; purchase of prepackaged audio files, video files,  
24           photographic, or libraries; purchase of licenses to use pre-recorded audio files, video,  
25           or photographic files; development costs associated with producing audio files and  
26           video files to be used in the production of the end product under development.

27           (b) "Production expenses" shall not include any of the following:

28           (i) Expenditures for or related to marketing, promotion and distribution.

1           (ii) Administrative, payroll, and management services which are not directly  
2 related to management of the state-certified production.

3           (iii) Food, entertainment, and lodging expenses.

4           (iv) Amounts that are later reimbursed by the state.

5           (v) Costs related to the transfer of rebates.

6           (vi) Amounts that are paid to persons or entities as a result of their  
7 participation in profits from the exploitation of the production.

8           (vii) Any application fee, or state or local taxes.

9           (11) "Related party transaction" means a transaction between parties that are  
10 deemed to be related by common ownership or control, under generally accepted  
11 auditing principles. Related party transaction expenditures may be subject to  
12 limitations, as provided for by rules promulgated by the Department, in accordance  
13 with the provisions of the Administrative Procedure Act.

14           (12) "Resident" or "resident of Louisiana" means a natural person and, for  
15 the purpose of determining eligibility for the tax incentives provided by this Section,  
16 any person domiciled in the state of Louisiana and any other person who maintains  
17 a permanent place of abode within the state and spends in the aggregate more than  
18 six months of each year within the state.

19           (13) "Secretary" means the secretary of the Louisiana Department of  
20 Economic Development.

21           (14) "State-certified production" shall mean a digital interactive media  
22 production or a component part thereof approved by the office.

23           (15) "Rebate" means the digital interactive media and software development  
24 rebate authorized by this Section.

25           D. Rebate; specific projects.

26           (1) For applications for state-certified productions submitted to the office on  
27 or after July 1, 2009, and subsequently approved by the office and secretary, there  
28 are hereby authorized rebates for expenditures in Louisiana on a state-certified  
29 production as follows:

1           (a) Rebates shall be earned at the rate of twenty-five percent of the base  
2           investment.

3           (b) To the extent that base investment is expended on payroll for Louisiana  
4           residents employed in connection with a state-certified production, additional rebates  
5           shall be earned at the rate of ten percent of the payroll.

6           (2) For rebates earned for expenditures made on or after January 1, 2012, at  
7           the time of final certification, the office shall submit the final certification letter to  
8           the Department of Revenue on behalf of the investor who earned the rebate. The  
9           amount of the rebate shall be eighty five percent of the face value of the rebates.  
10          Upon receipt of the final rebate certification letter and any necessary additional  
11          information, the secretary of the Department of Revenue shall make payment to the  
12          company, or its irrevocable designee, which may include but not be limited to a bank  
13          or other lender, in the amount to which he is entitled from the current collections of  
14          the taxes collected pursuant to Chapter I, of Subtitle II of this Title, as amended

15          E. Administration. (1) The office may promulgate rules in accordance with  
16          the Administrative Procedure Act to establish the policies and program elements  
17          regarding project qualifications of state-certified productions and any other matter  
18          necessary to carry out the intent and purposes of this Section. Such rules shall be  
19          subject to oversight by the House Committee on Ways and Means and the Senate  
20          Committee on Revenue and Fiscal Affairs.

21          (2)(a) Application. A company seeking to participate in the rebate program  
22          shall apply to the department through an application process established by the  
23          department.

24          (b) An application fee shall be submitted with the application based on the  
25          following:

26                  (i) Two-tenths of one percent times the estimated total incentive tax credits.

27                  (ii) The minimum application fee is two hundred dollars, and the maximum  
28          application fee is five thousand dollars.

1           (3) Certification. (a) The office shall review the company's application and  
2           any other information which it deems appropriate for determination of the project's  
3           eligibility for initial certification. For a project deemed eligible, the office shall  
4           provide an initial certification of the project as a state-certified production to the  
5           company and to the secretary of the Department of Revenue. The initial certification  
6           shall be effective for expenditures made no more than six months prior to the date  
7           of application and shall be valid until the project is completed. The initial  
8           certification shall include a unique identifying number for each state-certified  
9           production.

10           (b) Prior to final certification of rebates of a state-certified production or any  
11           portion thereof, but no more than once per calendar year, the company shall submit  
12           to the office a cost report of production expenditures. The cost report of  
13           expenditures shall be subject to an agreed-upon procedures engagement conducted  
14           by a certified public accountant in accordance with statements on standards for  
15           attestation engagements established by the American Institute of Certified Public  
16           Accountants. The accountant shall issue a report in the form of procedures and  
17           findings. The accountant shall be a certified public accountant licensed in the state  
18           of Louisiana and shall be an independent third party unrelated to the company. The  
19           agreed-upon procedures shall be established by the office and secretary, with  
20           assistance from the Society of Louisiana Certified Public Accountants. The  
21           department may request additional audits of the project expenditures, the cost of  
22           which shall be borne by the company.

23           (c) Upon completion of all or a portion of a state-certified production, the  
24           office shall review the production expenses and, if approved by the office and  
25           secretary, issue a final rebate certification letter to the company. The certification  
26           letter shall include the identifying number assigned to that state-certified production  
27           in the initial certification.

1           (d) As a condition for receiving certification of rebates under this Section,  
2           state-certified productions may be required to display the state brand or logo, or both,  
3           as prescribed by the secretary.

4           F. The provisions of this Section shall not apply to any investments or  
5           expenditures that qualify for rebates under R.S. 47:6007.

6           G. A applicant shall not receive any other incentive administered by the  
7           Department of Economic Development for any expenditures for which the applicant  
8           has received a rebate or tax rebate under this Section.

9           H. The rebate provided for in this Section shall be subject to the provisions  
10          of R.S. 47:6360.

11          §6372. Rebate; Sound recording investor

12           A. Purpose. The primary objective of this Section is to encourage  
13           development in Louisiana of a strong capital and infrastructure base for sound  
14           recording productions in order to achieve a more independent, self-supporting music  
15           and sound recording industry. This objective is divided into immediate and long-  
16           term objectives as follows:

17           (1) Immediate objectives are to:

18           (a) Attract private investment for the production of musical recordings or  
19           "sound recordings" in Louisiana.

20           (b) Develop a tax and capital infrastructure which encourages private  
21           investment. This tax infrastructure is to provide for state participation in the form  
22           of rebates to encourage investment in state-certified sound recording productions and  
23           infrastructure.

24           (c) Develop a tax infrastructure utilizing rebates which encourage  
25           investments in multiple state-certified production projects.

26           (2) Long-term objectives are to:

27           (a) Encourage increased employment opportunities within this sector and  
28           increased global competitiveness by fully utilizing economic development options  
29           within the music and sound recording industries.

1           (b) Encourage new education curricula in order to provide a labor force  
2           trained in all aspects of sound recording production.

3           (c) Encourage the development of a Louisiana sound recording production  
4           infrastructure with state-of-the-art facilities.

5           B. Definitions. For the purposes of this Section:

6           (1) "Base investment" shall mean the actual investment made and expended  
7           in the state by a state-certified production as production-related costs or as capital  
8           costs of a state-certified sound recording infrastructure project.

9           (2) "Expended in the state" or an "expenditure in the state" means an  
10           expenditure to acquire property from a source within the state which is subject to  
11           state sales or use tax, or an expenditure as compensation for services performed  
12           within the state which is subject to state income tax.

13           (3) "Production expenditures" shall mean all expenditures in this state  
14           directly relating to a state certified production, including musician fees, artist fees,  
15           lodging expenses, equipment rental expenses, per diems, studio and engineering fees,  
16           costs of mastering, remastering, producing and, mixing.

17           (4) "Related party transaction" shall mean a transaction between parties  
18           deemed to be related by common ownership or control, under generally accepted  
19           auditing principles. Related party transaction expenditures may be subject to  
20           limitations as provided for by rules promulgated by the department in accordance  
21           with the Administrative Procedure Act.

22           (5) "Sound recording" means any recording of sound used or is useful in the  
23           recording or producing of records for commercial release, including a recording of  
24           music, poetry, or spoken-word made in Louisiana, in whole or in part, mixing or  
25           mastering is an eligible component of production if such activities are performed in  
26           Louisiana irrespective of location or other production activities. The term "sound  
27           recording" shall not include the audio portions of dialogue or words spoken and  
28           recorded as part of television news coverage or athletic events.

1           (6) "Sound recording production company" shall mean a company engaged  
2           in the business of producing sound recordings as defined in this Section. Sound  
3           recording production company shall not mean or include any person or company, or  
4           any company owned, affiliated, or controlled, in whole or in part, by any company  
5           or person, which is in default on a loan made by the state or a loan guaranteed by the  
6           state, nor which has ever declared bankruptcy under which an obligation of the  
7           company or person to pay or repay public funds or monies was discharged as a part  
8           of such bankruptcy.

9           (7) "State-certified production" means a sound recording production, or a  
10          series of productions occurring over the course of a twelve-month period, and base  
11          investment related to such production or productions that are approved by the  
12          Louisiana Department of Economic Development within one hundred eighty days  
13          of the receipt by the Department of Economic Development of a complete  
14          application for initial certification of a production. If the production is not approved  
15          within one hundred eighty days, the Department of Economic Development shall  
16          provide a written report to the Senate Committee on Revenue and Fiscal Affairs and  
17          the House Committee on Ways and Means which states the reason that the  
18          production has not been approved.

19            C. Investor rebate; state-certified productions and infrastructure projects.

20            (1) Until January 1, 2019, there is hereby authorized a rebate for investments  
21            made in state-certified productions. The rebate shall be earned by investors at the  
22            time expenditures are certified by the Louisiana Department of Economic  
23            Development according to the total base investment certified for the sound recording  
24            production company per calendar year; however, no rebate shall be allowed under  
25            this Section for any expenditures for which a rebate was granted under R.S. 47:6365.  
26            For state-certified productions certified on and after July 1, 2007, if the total base  
27            investment is greater than fifteen thousand dollars, each investor shall be allowed a  
28            rebate of twenty-five percent of the base investment made by that investor.



1           (2) Sound recording investor rebates associated with a state-certified  
2           production shall never exceed the total base investment in that production or sound  
3           recording infrastructure project.

4           (3) Except as otherwise provided in this Paragraph, the aggregate amount of  
5           rebates certified for all investors pursuant to this Section during any calendar year  
6           shall not exceed three million dollars.

7           (a) An application for initial certification of a project shall be submitted to  
8           the Louisiana Department of Economic Development prior to the granting of the  
9           rebate, and the granting of rebates under this Section shall be on a first-come, first-  
10          served basis. The secretary of the Louisiana Department of Economic Development  
11          shall determine through the promulgation of rules the administration of the annual  
12          aggregate maximum. In addition, these rules shall be approved by the House  
13          Committee on Ways and Means and the Senate Committee on Revenue and Fiscal  
14          Affairs in accordance with the provisions of the Administrative Procedure Act.

15          (b) If the total amount of rebates applied for in any particular year exceeds  
16          the aggregate amount of rebates allowed for that year, the excess will be treated as  
17          having been applied for on the first day of the subsequent year.

18           D. Certification and administration.

19          (1) The secretary of the Department of Economic Development shall  
20          determine through the adoption and promulgation of rules which projects and  
21          expenditures, qualify according to this Section. In addition, these rules shall be  
22          approved by the House Committee on Ways and Means and the Senate Committee  
23          on Revenue and Fiscal Affairs in accordance with the provisions of the  
24          Administrative Procedure Act. When determining which projects qualify, the  
25          Louisiana Department of Economic Development shall take the following factors  
26          into consideration:

27           (a) The impact of the production on the immediate and long-term objectives  
28           of this Section.

29           (b) The impact of the production on the employment of Louisiana residents.

- 1                   (c) The impact of the production on the overall economy of the state.
- 2                   (2)(a) Application. An applicant for the sound recording investor rebate  
3                   shall submit an application for initial certification to the Louisiana Department of  
4                   Economic Development that includes the following information:
- 5                   (i) For state-certified productions the application shall include:
- 6                   (aa) The distribution plan.
- 7                   (bb) A preliminary budget including estimated Louisiana payroll and  
8                   estimated base investment.
- 9                   (cc) A description of the type of sound to be recorded.
- 10                  (dd) A list of the principal creative elements including performing artist(s)  
11                  and producer.
- 12                  (ee) The name and address of the recording studio or other location where  
13                  the recording production will take place.
- 14                  (ff) A statement that the production will qualify as a state-certified  
15                  production.
- 16                  (gg) Estimated start and completion dates.
- 17                  (ii) For state-certified sound recording infrastructure projects the application  
18                  shall include:
- 19                  (aa) A detailed description of the infrastructure project.
- 20                  (bb) A preliminary budget.
- 21                  (cc) A statement that the project meets the definition of a state-certified  
22                  infrastructure project.
- 23                  (dd) Estimated start and completion dates.
- 24                  (b) If the application is incomplete, additional information may be requested  
25                  prior to further action by the Louisiana Department of Economic Development.
- 26                  (c) The Louisiana Department of Economic Development shall submit its  
27                  initial certification of a project as a state-certified production or a state-certified  
28                  sound recording infrastructure project to investors and to the secretary of the

1        Department of Revenue. The initial certification shall include a unique identifying  
2        number for each state-certified production.

3                (d) Prior to any certification of the state-certified production, the sound  
4        recording production company shall submit to the Louisiana Department of  
5        Economic Development a cost report of production or project expenditures which  
6        the Louisiana Department of Economic Development may require to be prepared by  
7        an independent certified public accountant. The Louisiana Department of Economic  
8        Development shall review such expenditures and shall issue a rebate certification  
9        letter to the investors indicating the amount of rebates certified for the state-certified  
10       production or state-certified infrastructure project.

11               (3) The secretary of the Louisiana Department of Economic Development,  
12       in consultation with the Department of Revenue, shall adopt and promulgate such  
13       rules and regulations as are necessary to carry out the intent and purposes of this  
14       Section in accordance with the general guidelines provided herein.

15               (4) Any applicant applying for the rebate shall be required to reimburse the  
16       Louisiana Department of Economic Development for any audits required in relation  
17       to granting the rebate.

18               (5) With input from the Legislative Fiscal Office, the Louisiana Department  
19       of Economic Development shall prepare a written report to be submitted to the  
20       House Committee on Ways and Means and the Senate Committee on Revenue and  
21       Fiscal Affairs no less than sixty days prior to the start of the Regular Session of the  
22       Legislature in 2007, and every second year thereafter. The report shall include the  
23       overall impact of the rebates, the amount of the rebates issued, the number of new  
24       jobs created, the amount of Louisiana payroll created, the economic impact of the  
25       rebates and sound recording industry, the amount of new infrastructure that has been  
26       developed in the state, and any other factors that describe the impact of the program.

27               E. After certification, the Louisiana Department of Economic Development  
28       shall submit the rebate certification letter to the Department of Revenue on behalf  
29       of the investor who earned the sound recording rebates. The Department of Revenue

1 may require the investor to submit additional information as may be necessary to  
2 administer the provisions of this Section. Upon receipt of the rebate certification  
3 letter and any necessary additional information, the secretary of the Department of  
4 Revenue shall make payment to the investor in the amount to which he is entitled  
5 from the current collections of the taxes collected pursuant to Chapter 1 of Subtitle  
6 II of this Title, as amended.

7 F. Brand. As a condition for receiving certification of rebates under this  
8 Section, state-certified productions may be required to display the state brand or  
9 logo, or both, as prescribed by the secretary of the Department of Economic  
10 Development.

11 G. The rebate provided for in this Section shall be subject to the provisions  
12 of R.S. 47:6360.

13 §6373. Rebate; Musical and theatrical productions

14 A. Purpose. It is the intention of the legislature in creating these five  
15 different types of rebates: a rebate for qualified production expenditures made from  
16 investments in a state-certified musical or theatrical production; a rebate for the  
17 construction, repair, or renovation of facilities related to such productions and  
18 performances; a rebate for qualified transportation costs for performance-related  
19 property; a rebate for the payroll of Louisiana residents employed in connection with  
20 a state-certified musical or theatrical production; and a rebate for employing college,  
21 university, and vocational-technical students employed in connection with a state-  
22 certified musical or theatrical production, to establish and promote Louisiana as one  
23 of the primary places in the United States in which live performances, from creation  
24 to presentation are present and thriving. The live performance industry will enhance  
25 economic development because it fits well with the state's reputation as a tourist  
26 destination, will offer numerous and varied employment opportunities, and in  
27 conjunction with the available federal and state incentives, will be an attraction for  
28 new and relocating businesses and will provide for the reinventing of countless  
29 abandoned properties as either performance or rehearsal spaces. The live

1 performance industry will also spur educational development: Louisiana colleges,  
2 universities, and vocational-technical schools will be able to offer talented  
3 undergraduate and graduate students from this state, other states, and around the  
4 world a real-world opportunity to participate in degree programs across the state that  
5 work on the various productions in accounting, law, management, and marketing and  
6 to fill arts-related positions such as actors, writers, producers, stagehands, and  
7 directors, as well as technicians working on all aspects of the production such as  
8 lighting, sound, and actual stage production and operations.

9 B. Definitions. For the purposes of this Section:

10 (1) "Base investment" means the actual investment made and expended in  
11 this state by a state-certified musical or theatrical production as production-related  
12 costs or as capital costs of a state-certified musical or theatrical facility infrastructure  
13 project.

14 (2) "Company" or "financier" means any individual, firm, partnership,  
15 limited liability company, joint venture, association, corporation, estate, trust, or  
16 other entity, group, or combination acting as a unit, and the plural as well as the  
17 singular number.

18 (3) "Expended in the state" or "expenditures in the state" means an  
19 expenditure to acquire or lease immovable property located in the state, an  
20 expenditure to acquire movable property from a source within the state which is  
21 subject to state sales and use tax, or an expenditure as compensation for services  
22 performed within the state.

23 (4) "Musical or theatrical production" means the producing, rehearsing,  
24 marketing, administration, recording, performing, and/or filming of a live musical  
25 or theatrical performance in the state before live audiences, the costs of which are not  
26 certified for other rebates provided for in Louisiana law, whether or not there is a  
27 charge for admission. Such performances shall include, but not be limited to drama,  
28 comedy, comedy revue, opera, ballet, jazz, cabaret, and variety entertainment.

1           (5) "Payroll" means all salary, wages, and other compensation, including  
2           related benefits for services performed in Louisiana. For applications received on  
3           or after August 1, 2013, payroll expenditures shall be limited to one million dollars  
4           per person, per state certified production for each employee reported on a Form W2.  
5           Payments made to loan out companies or independent contractors reported on a Form  
6           1099 shall also be subject to a limitation of one million dollars, per person, per state  
7           certified production.

8           (6)(a) "Production expenditures" means a contemporaneous exchange of  
9           cash or cash equivalent for goods or services related to development, production, or  
10           operating expenditures in this state for a state-certified musical or theatrical  
11           production, including but not limited to expenditures for set construction and  
12           operation, including special and visual effects, costumes, wardrobes, make-up,  
13           accessories, costs associated with sound, lighting, staging, payroll, and other related  
14           costs.

15           (b) "Production expenditures" shall not include any indirect costs, any  
16           expenditures later reimbursed by a third party, and costs related to the transfer of the  
17           rebates, or any amounts that are paid to persons or entities as a result of their  
18           participation in profits from the exploitation of the production.

19           (7)(a) "Resident" or "resident of Louisiana" means a natural person and, for  
20           the purpose of determining eligibility for the tax incentives provided by this Section,  
21           a person who qualifies for any of the following reasons:

22           (i) The person is domiciled in the state of Louisiana.

23           (ii) The person maintains a permanent place of abode within the state and  
24           spends in the aggregate more than six months of each year within the state.

25           (iii) The person pays taxes to the state on the amount of money paid to such  
26           person for which a rebate is sought pursuant to this Section.

27           (b) A company owned or controlled by such a person and which lends the  
28           services of such a person for a state-certified musical or theatrical production shall  
29           also be deemed a resident if such company is organized or authorized to do business

1 in the state and such company pays taxes to the state on the amount of money paid  
2 to such company for such services of such person.

3 (8) "State-certified musical or theatrical facility infrastructure project" or  
4 "state-certified infrastructure project" means a capital infrastructure project in the  
5 state directly related to the production or performance of musical or theatrical  
6 productions as defined in this Section, and movable and immovable property and  
7 equipment related thereto, or any other facility which supports and is a necessary  
8 component of such facility, and any expenditures in the state related to the  
9 construction, repair, or renovation of such project, which are certified, verified, and  
10 approved as provided for in this Section.

11 (9)(a) "State-certified musical or theatrical production" means a musical or  
12 theatrical production, or a series of productions occurring over the course of a  
13 twelve-month period, and the recording or filming of such production, which  
14 originate, are developed, or have their initial public performance before an audience  
15 within Louisiana, or which have their United States debut within Louisiana, and the  
16 production expenditures, expenditures for the payroll of residents, transportation  
17 expenditures, and expenditures for employing college and vocational-technical  
18 students related to such production or productions, that are certified, verified, and  
19 approved as provided for in this Section. Non-qualifying projects include, but are  
20 not limited to non-touring music and cultural festivals, industry seminars, and trade  
21 shows.

22 (b) A "state-certified musical or theatrical production" which shall be  
23 eligible for recertification and the rebate provided for in this Section shall include a  
24 previously certified musical or theatrical production which received a rebate  
25 pursuant to this Section, and which is otherwise eligible pursuant to this Section,  
26 which returns for performances within the state after being performed on Broadway.

27 (10)(a) "Transportation expenditures" means expenditures for the packaging,  
28 crating, and transportation both to the state for use in a state-certified musical or  
29 theatrical production of sets, costumes, or other tangible property constructed or

1 manufactured out of state, and/or from the state after use in a state-certified musical  
2 or theatrical production of sets, costumes, or other tangible property constructed or  
3 manufactured in this state. Such term shall include the packaging, crating, and  
4 transporting of property and equipment used for special and visual effects, sound,  
5 lighting, and staging, costumes, wardrobes, make-up and related accessories and  
6 materials, as well as any other performance or production-related property and  
7 equipment; provided that transportation services are purchased through a company  
8 which has a significant business presence in the state.

9 (b) "Transportation expenditures" shall not include any costs to transport  
10 property and equipment to be used only for filming and not in a state-certified  
11 production, any indirect costs, any expenditures that are later reimbursed by a third  
12 party, or any amounts that are paid to persons or entities as a result of their  
13 participation in profits from the exploitation of the production.

14 C. Income rebates for state-certified productions and state-certified musical  
15 or theatrical facility infrastructure projects:

16 (1) There is hereby authorized the following types of rebates against the state  
17 income tax:

18 (a)(i)(aa) A base investment rebate may be granted for certified, verified, and  
19 approved production expenditures for a state-certified musical or theatrical  
20 production, or for investments made by a company or a financier in such production  
21 which are, in turn, expended for such production expenditures.

22 (bb) The initial certification shall be effective for a period of twelve months  
23 prior to and twelve months after the date of initial certification.

24 (ii)(aa) A base investment rebate may be granted for expenditures made on  
25 or before January 1, 2014, for the construction, repair, or renovation of a state-  
26 certified musical or theatrical facility infrastructure project, or for investments made  
27 by a company or a financier in such infrastructure project which are, in turn,  
28 expended on or before January 1, 2014, for such construction, repair, or renovation,  
29 not to exceed ten million dollars per state-certified infrastructure project, under



1 conditions provided for in this Item. No more than sixty million dollars in rebates  
2 under this Section shall be granted for infrastructure projects per year.

3 (bb) If all or a portion of an infrastructure project is a facility which may be  
4 used for other purposes not directly related to the production or performance of  
5 musical or theatrical production activities, then the project shall be approved only if  
6 a determination is made that the multiple-use facility will support and will be  
7 necessary to secure musical or theatrical production activities for the musical or  
8 theatrical production or performance facility and the applicant provides sufficient  
9 contractual assurances that:

10 (I) The facility will be used for the production or performance of musical or  
11 theatrical production activities, or as a support and component thereof, for the useful  
12 life of the facility.

13 (II) No rebates shall be earned on such multiple-use facilities until the  
14 facility directly used in musical or theatrical productions or performances is  
15 complete.

16 (cc) Rebates for infrastructure projects shall be earned only as follows:

17 (I) Construction of the infrastructure project shall begin within six months  
18 of the initial certification provided for in Subparagraph (E)(1)(d) of this Section.

19 (II) Expenditures shall be certified, verified, and approved as provided for  
20 in this Section, and rebates are not earned until such certification.

21 (III) Twenty-five percent of the total base investment provided for in the  
22 initial certification of an infrastructure project pursuant to Subparagraph (E)(1)(d)  
23 of this Section shall be certified, verified, and approved as expended before any  
24 rebates may be earned.

25 (IV) No rebate shall be allowed for expenditures made for any infrastructure  
26 project two years after its initial certification pursuant to Subparagraph (E)(1)(d) of  
27 this Section, unless fifty percent of total base investment provided for in the initial  
28 certification of the project pursuant to such Subparagraph has been expended prior  
29 to that time. The expenditures may be finally certified at a later date.

1            (dd) The initial certification may require the rebates to be taken and/or  
2            transferred in the tax period in which the rebate is earned or the rebates may be  
3            structured in the initial certification of the project to provide that only a portion of  
4            the rebate be taken over the course of two or more tax years.

5            (iii) Except as limited for state-certified infrastructure projects as provided  
6            for in this Subparagraph, the base investment rebate shall be for the following  
7            amounts:

8            (aa) If the total base investment is greater than one hundred thousand dollars  
9            and less than or equal to three hundred thousand dollars, a company shall be allowed  
10           a rebate of ten percent of the base investment made by that company.

11           (bb) If the total base investment is greater than three hundred thousand  
12           dollars and less than or equal to one million dollars, a company shall be allowed a  
13           rebate of twenty percent of the base investment made by that company.

14           (cc) If the total base investment is greater than one million dollars, a  
15           company shall be allowed a rebate of twenty-five percent of the base investment  
16           made by that company.

17           (b) Because the legislature hereby determines that the state lacks the  
18           facilities and services necessary to provide adequate resources for the construction  
19           of sets, costumes, and related property needed for productions and performances in  
20           the state, an additional transportation expenditure rebate shall be allowed for the  
21           following percentages of certified, verified, and approved transportation expenditures  
22           as defined in Paragraph (B)(10) of this Section; provided that transportation services  
23           are purchased through a company which has a significant business presence in the  
24           state:

25           (i) One hundred percent of such amounts incurred through calendar year  
26           2010.

27           (ii) Fifty percent of such amounts incurred during the calendar year 2011.

28           (iii) Twenty-five percent of such amounts incurred during the calendar year  
29           2012.

1           (iv) No such transportation expenses incurred after December 31, 2012, shall  
2           be eligible for such rebate.

3           (c) An additional rebate of one tenth of one percent of the amount expended  
4           to employ students enrolled in Louisiana colleges, universities, and vocational-  
5           technical schools in a state certified musical or theatrical production in arts-related  
6           positions, such as an actor, writer, producer, stagehand, or director, or as a technician  
7           working on aspects of the production such as lighting, sound, and actual stage work,  
8           or working indirectly on the production in accounting, law, management, and  
9           marketing.

10           (d) To the extent that base investment is expended on payroll for Louisiana  
11           residents employed in connection with a state-certified musical or theatrical  
12           production, except for the students provided for in Subparagraph (c) of this  
13           Paragraph, or the construction of a state-certified musical or theatrical facility  
14           infrastructure project, a company shall be allowed an additional rebate of ten percent  
15           of such payroll; however, if the amount paid to any one person exceeds one million  
16           dollars, the additional rebate shall not include any amount paid to that person that  
17           exceeds one million dollars.

18           (e) If all or a portion of an infrastructure project is a facility which may be  
19           used for purposes unrelated to live performance production or production-related  
20           activities, then the proposed base investment shall be approved only if the secretary  
21           of the Department of Economic Development determines that:

22           (i) The multiple-use facility will support and be necessary to secure live  
23           performance production activity for the project; and

24           (ii) The applicant provides sufficient contractual assurance that the project,  
25           including any multiple-use portion thereof, will be used as a live performance  
26           production facility, or as a support and component thereof, for the useful life of the  
27           facility.

28           (2)(a) The rebates shall be earned each calendar year to the extent the  
29           Louisiana Department of Economic Development verifies in writing that

1 expenditures qualifying for a rebate pursuant to this Section have been expended for  
2 the calendar year in accordance with the estimates of such expenditures for the  
3 calendar year set forth in the certification of the production or project.

4 (b) No rebate shall be allowed under this Section for any expenditure for  
5 which a financier receives a rebate pursuant to this Section, or for which a rebate is  
6 granted under R.S. 47:6007 or 6023. In addition, a state-certified production or  
7 state-certified infrastructure project which receives rebates pursuant to the provisions  
8 of this Chapter shall not be eligible to receive the rebates provided for in R.S.  
9 51:2451 through 2461 in connection with the activity for which the rebates were  
10 received.

11 (3) Rebates associated with a state-certified musical or theatrical production  
12 or a state-certified musical or theatrical facility infrastructure project shall never  
13 exceed the total base investment in that production or infrastructure project and  
14 transportation expenditures.

15 (4) The granting of rebates under this Section shall be on a first-come, first-  
16 served basis. If the total amount of rebates applied for in any particular year exceeds  
17 the aggregate amount of rebates allowed for that year, the excess shall be treated as  
18 having been applied for on the first day of the subsequent year.

19 D. Certification and administration:

20 (1)(a)(i) The secretary of the Department of Economic Development shall  
21 determine which musical or theatrical productions and which musical or theatrical  
22 facility infrastructure projects shall be certified pursuant to this Section through the  
23 adoption and promulgation of rules by the Department of Economic Development.  
24 The rules shall also provide for all of the following:

25 (aa) The minimum criteria for such certification.

26 (bb) The manner in which the department shall decide which expenditures  
27 for such productions or infrastructure projects will qualify for the rebates provided  
28 for in this Section.

1           ~~(cc) An appeals process in the event that an application for or the~~  
2           ~~certification of a production or infrastructure project, or an expenditure related to~~  
3           ~~such production or project, is denied.~~

4           (ii) In addition, these rules shall be approved by the House Committee on  
5           Ways and Means and the Senate Committee on Revenue and Fiscal Affairs in  
6           accordance with the provisions of the Administrative Procedure Act. No rebates  
7           shall be granted under this Section until adoption of such rules.

8           (b) State certification shall not be granted to a production or infrastructure  
9           project by any person or company, or financed by any person or company, or any  
10           company or financier owned, affiliated, or controlled, in whole or in part, by any  
11           company or person, which is in default on a loan made by the state or a loan  
12           guaranteed by the state, or which has ever declared bankruptcy under which an  
13           obligation of the company or person to pay or repay public funds or monies was  
14           discharged as a part of such bankruptcy.

15           (c) When determining which musical or theatrical productions or musical or  
16           theatrical facility infrastructure projects qualify for certification, the Department of  
17           Economic Development shall take the following factors into consideration:

18           (i) The contribution of the production or infrastructure project to establishing  
19           the state as a leader in the live performance industry.

20           (ii) The impact of the production or infrastructure project on the employment  
21           of Louisiana residents.

22           (iii) The extent to which students in Louisiana colleges, universities, and  
23           vocational-technical schools will have an opportunity to work in a production in an  
24           arts-related position, such as an actor, writer, producer, stagehand, or director, or as  
25           a technician working on aspects of the production such as lighting, sound, and actual  
26           stage work, or working indirectly on the production in accounting, law, management,  
27           and marketing.

1           (iv) The impact of the production or infrastructure project on the overall  
2           economy of the state including the manner in which available federal and state  
3           incentives will be utilized in the financing or operation of the infrastructure project.

4           (v) The availability and kind of musical or theatrical facilities within the area  
5           in which a musical or theatrical facility infrastructure project is proposed.

6           (d) Upon approval the Department of Economic Development shall initially  
7           certify a production or project as a state-certified production or state-certified  
8           infrastructure project and send notice of such certification to the applicant and to the  
9           secretary of the Department of Revenue. The initial certification shall include all of  
10          the following:

11           (i) The total base investment to be expended on the state-certified production  
12          or the state-certified infrastructure project.

13           (ii) The companies and financiers to whom the rebates shall be allocated.

14           (iii) The estimated amounts of the rebates to be allocated to each.

15           (iv) In the case of state-certified infrastructure projects, when such rebates  
16          may be taken or transferred.

17           (v) A unique identifying number for the state-certified production or state-  
18          certified infrastructure project.

19           (e) Prior to the final certification of a production or infrastructure project, the  
20          applicant shall submit to the Department of Economic Development a report of the  
21          final amount of expenditures qualifying for rebates pursuant to this Section, which  
22          report the Department of Economic Development may require to be prepared by an  
23          independent certified public accountant. The Department of Economic Development  
24          shall review the report and shall issue a final rebate certification letter, certifying the  
25          applicant and indicating the type and amount of rebates for which the applicant or  
26          other companies or financiers are eligible pursuant to this Section.

27           (f) An applicant applying for the rebates shall be required to reimburse the  
28          Department of Economic Development for any audits required in relation to granting  
29          the certification or rebates.

1           (2)(a) Application. An applicant for the rebate shall submit an application  
2           for initial certification to the Department of Economic Development that includes the  
3           following information:

4           (i) The application for state-certified productions shall include:

5           (aa) An application fee received by the Department of Economic  
6           Development based on the following:

7           (I) Two tenths of one percent times the estimated total incentive rebates.

8           (II) The minimum application fee shall not be less than two hundred dollars,  
9           and the maximum application fee shall not be more than five thousand dollars.

10          (III) The application fee shall be deposited upon receipt in the state treasury.  
11          After compliance with the requirements of Article VII, Section 9(B) of the  
12          Constitution of Louisiana relative to the Bond Security and Redemption Fund and  
13          prior to any money being placed into the general fund or any other fund, an amount  
14          equal to that deposited as required by this Item shall be rebated by the treasurer to  
15          a special fund which is hereby created in the state treasury to be known as the  
16          Entertainment Promotion and Marketing Fund.

17          (IV) The money in the fund shall be appropriated by the legislature to be  
18          used solely for promotion and marketing of Louisiana's entertainment industry. The  
19          money in the fund shall be invested by the treasurer in the same manner as money  
20          in the state general fund and interest earned on the investment of the money shall be  
21          rebated to the fund after compliance with the requirements of Article VII, Section  
22          9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption  
23          Fund. All unexpended and unencumbered money in the fund at the end of the year  
24          shall remain in the fund.

25          (bb) A preliminary budget including estimated Louisiana payroll, estimated  
26          transportation expenditures, and estimated base investment, including the manner in  
27          which available federal and state incentives will be utilized in the financing or  
28          operation of the production.

1           (cc) A general description of the production and performance which may,  
2           at the request of the department, include the book, libretto, score, or concept, and  
3           plans for recording and/or filming such production.

4           (dd) A list of the principal creative elements including the cast, musicians,  
5           headline performers, conductor, producer, or director.

6           (ee) A possibility of offering students in Louisiana colleges, universities, and  
7           vocational-technical schools an opportunity to work directly in the production in an  
8           arts-related position, including a description of possible job or trainee positions  
9           working with professional actors, writers, producers, stagehands, directors, or  
10           technicians working on all aspects of the production such as lighting, sound, and  
11           actual stage work, or working indirectly on the production with professionals in  
12           accounting, law, management, and marketing.

13           (ff) Estimated dates for start and completion of rehearsals before paid  
14           performances and the estimated dates of performances in the state.

15           (gg) Plans, if any, for a national tour or for any performances in other states.

16           (hh) The companies and financiers to whom the rebates shall be allocated  
17           and the estimated amounts of the rebates to be allocated to each.

18           (ii) A discussion of any other reasons why the applicant believes the  
19           production should be considered a state-certified production as defined in this  
20           Section.

21           (iii) The application for state-certified musical or theatrical facility  
22           infrastructure projects shall include:

23           (aa) An application fee received by the Department of Economic  
24           Development based on the following:

25           (I) Two tenths of one percent times the estimated total incentive rebates.

26           (II) The minimum application fee shall not be less than two hundred dollars,  
27           and the maximum application fee shall not be more than five thousand dollars.

28           (III) The application fee shall be deposited upon receipt in the state treasury.

29           After compliance with the requirements of Article VII, Section 9(B) of the



1       Constitution of Louisiana relative to the Bond Security and Redemption Fund and  
2       prior to any money being placed into the general fund or any other fund, an amount  
3       equal to that deposited as required by this Item shall be rebated by the treasurer to  
4       a special fund known as the Entertainment Promotion and Marketing Fund.

5               (IV) The money in the fund shall be appropriated by the legislature to be  
6       used solely for promotion and marketing of Louisiana's entertainment industry. The  
7       money in the fund shall be invested by the treasurer in the same manner as money  
8       in the state general fund and interest earned on the investment of the money shall be  
9       rebated to the fund after compliance with the requirements of Article VII, Section  
10       9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption  
11       Fund. All unexpended and unencumbered money in the fund at the end of the year  
12       shall remain in the fund.

13               (bb) A detailed description of the infrastructure project.

14               (cc) A preliminary budget, including the manner in which available federal  
15       and state incentives will be utilized in the financing or operation of the infrastructure  
16       project.

17               (dd) The companies and financiers to whom the rebates shall be allocated  
18       and the estimated amounts of the rebates to be allocated to each.

19               (ee) A complete, detailed business plan and market analysis.

20               (b) Additional information may be requested if deemed necessary by the  
21       Department of Economic Development.

22               (3) In addition to the rules and regulations provided for in Subparagraph  
23       (E)(1)(a) of this Section, the secretary of the Department of Economic Development,  
24       in consultation with the Department of Revenue, shall adopt and promulgate such  
25       other rules and regulations as are necessary to carry out the intent and purposes of  
26       this Section in accordance with the general guidelines provided herein.

27               E. The Department of Economic Development shall prepare, with input from  
28       the Legislative Fiscal Office, a written report to be submitted to the Senate  
29       Committee on Revenue and Fiscal Affairs and the House of Representatives

1 Committee on Ways and Means no less than sixty days prior to the start of the  
2 Regular Session of the Legislature in 2008, and every second year thereafter. The  
3 report shall include the overall impact of the rebates, the amount of the rebates  
4 issued, the number of net new jobs created, the amount of Louisiana payroll created,  
5 the economic impact of the rebates and the state-certified musical and theatrical  
6 productions and infrastructure projects, the amount of new infrastructure that has  
7 been developed in the state, and any other factors that describe the impact of the  
8 program.

9 F. Fifty percent of the rebates annually granted according to the provisions  
10 of this Section for infrastructure projects shall be reserved for projects located  
11 outside of Jefferson and Orleans parishes, provided that the availability of rebates for  
12 infrastructure projects in Jefferson and Orleans parishes shall not be conditioned  
13 upon the granting of infrastructure rebates for projects outside of those parishes.

14 G. Brand. As a condition for receiving certification of rebates under this  
15 Section, state-certified productions and infrastructure projects may be required to  
16 display the state brand or logo, or both, as prescribed by the secretary of the  
17 Department of Economic Development.

18 H. The rebate provided for in this Section shall be subject to the provisions  
19 of R.S. 47:6360.

20 §6374. Rebate; Ports of Louisiana

21 A. Purpose.

22 The primary purpose of this Section is to encourage private investment in and  
23 the use of state port facilities in Louisiana. Because public funding sources for ports  
24 and port infrastructure facilities have not kept pace with the need to expand our ports  
25 and port facilities, it is determined that private investment and public-private  
26 partnerships should be encouraged as a means to assist the state in financing  
27 improvements to our state ports and port infrastructure facilities. The development,  
28 improvement, expansion, and maintenance of the state's ports and port infrastructure  
29 facilities, and the utilization of public port facilities for the import and export of their

1 cargo to or from distribution, manufacturing, fabrication, assembly, processing, or  
2 warehousing sites in Louisiana, are essential to Louisiana's economic health and the  
3 ability of business and industry associated with the maritime industry to compete  
4 cost effectively on a regional, national, and global scale.

5 B. Definitions.

6 For purposes of this Section, the following words shall have the following  
7 meanings unless the context clearly indicates otherwise:

8 (1) "Breakbulk cargo" shall mean machinery, equipment, materials,  
9 products, or commodities, including but not limited to palletized or unpalletized  
10 bagged, packaged, wrapped, drummed, baled, or crated goods and commodities.  
11 Breakbulk cargo shall mean offshore drilling platforms and equipment. Breakbulk  
12 cargo shall not include any liquid or dry commodities that are handled in bulk.

13 (2) "Capital costs" shall mean and include all costs and expenses incurred  
14 by one or more investing companies in connection with the acquisition, construction,  
15 installation, and equipping of a qualifying project during the period commencing  
16 with the date on which the acquisition, construction, installation, and equipping  
17 commences and ending on the date on which the qualifying project is placed in  
18 service. Capital costs shall include, but not be limited to the following:

19 (a) The costs of acquiring, constructing, installing, equipping, and financing  
20 a qualifying project, including all obligations incurred for labor and to contractors,  
21 subcontractors, builders, and materialmen.

22 (b) The costs of acquiring land or rights in land and any cost incidental  
23 thereto, including recording fees.

24 (c) The costs of contract bonds and of insurance of any kind that may be  
25 required or necessary during the acquisition, construction, or installation of a  
26 qualifying project.

27 (d) The costs of architectural and engineering services, including test  
28 borings, surveys, estimates, plans, and specifications, preliminary investigations,  
29 environmental mitigation, and supervision of construction, as well as for the

1 performance of all the duties required by or consequent upon the acquisition,  
2 construction, and installation of a qualifying project.

3 (e) The costs associated with installation of fixtures and equipment; surveys,  
4 including archaeological and environmental surveys; site tests and inspections;  
5 subsurface site work; excavation; removal of structures, roadways, cemeteries, and  
6 other surface obstructions; filling, grading, paving, and provisions for drainage,  
7 storm water retention, installation of utilities, including water, sewerage treatment,  
8 gas, electricity, communications, and similar facilities; off-site construction of utility  
9 extensions to the boundaries of the property.

10 (f) All other costs of a nature comparable to those described, including but  
11 not limited to all project costs required to be capitalized for federal income tax  
12 purposes pursuant to the provisions of 26 U.S.C. §263(A).

13 (g) Costs otherwise defined as capital costs incurred by the investing  
14 company where the investing company is the lessee under a lease that contains a  
15 term of not less than five years and is characterized as a capital lease for federal  
16 income tax purposes. Capital costs shall not include property owned or leased by the  
17 investing company or a related party before the commencement of the acquisition,  
18 construction, installation, or equipping of the qualified project unless such property  
19 was physically located outside the state for a period of at least one year prior to the  
20 date on which the qualifying project was placed in service.

21 (3) "Containerized cargo" shall mean any machinery, equipment, materials,  
22 products, or commodities including but not limited to containers which are rigid,  
23 sealed, reusable metal boxes in which merchandise is shipped by vessel, truck, or  
24 rail.

25 (4) "Import cargo" and "export cargo" shall mean any breakbulk or  
26 containerized cargo brought to the state of Louisiana from a foreign country or from  
27 the state of Louisiana to a foreign country.

28 (5) "International business entity" shall mean a applicant corporation,  
29 partnership, limited liability company, or other commercial entity, all or a portion of

1 whose activities involve the import or export of breakbulk or containerized cargo to  
2 or from manufacturing, fabrication, assembly, distribution, processing, or  
3 warehousing facilities located within Louisiana.

4 (6) "Investing company" shall mean and include any corporation,  
5 partnership, limited liability company, proprietorship, trust, or other business entity,  
6 regardless of form, making a qualified investment.

7 (7) "Oceangoing vessel" shall mean any vessel, ship, barge, or watercraft that  
8 floats, including offshore oil exploration platforms.

9 (8) "Port or port and harbor activity" shall mean and include any trade or  
10 business described in the 1997 North American Industry Classification System  
11 (NAICS) within Subsector 493 (Warehousing and Storage), Industry Number  
12 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo  
13 Handling), when the trade or business is conducted on premises in which a duly  
14 recognized port authority has an ownership, leasehold, or other possessory interest  
15 and such premises are used as part of the operations of a duly recognized port  
16 authority, including the above trades and businesses as they may hereafter be  
17 reclassified in any subsequent publication of the NAICS or similar classification  
18 system developed in conjunction with the United States Department of Commerce  
19 and Office of Management and Budget.

20 (9) "Project" shall mean and include any land, building, or other  
21 improvement, and all real and personal properties deemed necessary or useful in  
22 connection therewith, whether or not previously in existence, located or to be located  
23 in a public port of this state.

24 (10) "Public port" shall mean any deep-water port commission or port,  
25 harbor and terminal district as defined in Article VI, Section 44 of the Constitution  
26 of Louisiana, and any other port, harbor, and terminal district established under Title  
27 34 of the Louisiana Revised Statutes of 1950.

28 (11) "Qualified cargo" shall mean any breakbulk or containerized machinery,  
29 equipment, materials, products, or commodities owned by an international business

1 entity which are imported or exported to or from a manufacturing, fabrication,  
2 assembly, distribution, processing, or warehouse facility located in Louisiana and  
3 which are so moved by way of an oceangoing vessel berthed at a public port facility  
4 during the taxable year.

5 (12) "Qualifying investment" shall mean and include the undertaking by one  
6 or more investing companies of a qualifying project.

7 (13) "Qualifying project" shall mean and include a project to be sponsored  
8 or undertaken by a public port and one or more investing companies that have a  
9 capital cost of not less than five million dollars and at which the predominant trade  
10 or business activity conducted will constitute industrial, warehousing, or port and  
11 harbor operations and cargo handling, including any port or port and harbor activity.

12 (14) "Ton" shall be a net ton of two thousand pounds and in the case of  
13 containerized cargo it shall exclude the weight of the container.

14 C. Investor rebate.

15 (1)(a) There are hereby authorized the following rebates against state income  
16 and corporate franchise tax:

17 (i) An Investor Rebate as provided for in Subsections A through H of this  
18 Section for the total capital costs of a qualifying project in the manner and according  
19 to the provisions of those Subsections.

20 (ii) An Import Export Cargo Rebate as provided for in Subsection I of this  
21 Section in the manner and according to the provisions of that Subsection.

22 (b) The Investor Rebate provided for in this Subsection shall be issued by the  
23 Department of Economic Development for a qualifying project if the commissioner  
24 of administration, after approval of the Joint Legislative Committee on the Budget,  
25 and the state bond commission certifies to the secretary of the department that there  
26 will be sufficient Revenue received by the state to offset the effect to the state of the  
27 rebates provided for the capital costs of the project, whether from increased port or  
28 port and harbor activity because of the grant of the rebate or otherwise. If the  
29 commissioner with the approval of the committee so certifies, then the Department

1 of Economic Development may grant a rebate equal to the total capital costs of a  
2 qualifying project to be taken at five percent per tax year; however, the total amount  
3 of rebates granted on a qualifying project shall not exceed the total cost of the  
4 project.

5 (c) The Department of Economic Development shall certify capital cost  
6 expenditures no less than twice during the duration of the qualifying project unless  
7 the investing company agrees, in writing, to reimburse the Department of Economic  
8 Development for the costs of any additional certifications.

9 (2) Prior to issuance of any rebate pursuant to the provisions of this  
10 Subsection, a cooperative endeavor agreement shall be fully executed between the  
11 investing company or entity proposing the qualifying project and the public port in  
12 whose geographic jurisdiction the proposed qualifying project is to be located  
13 indicating cooperation and support among all of the parties. Failure to fully execute  
14 the cooperative endeavor agreement shall render the qualifying project ineligible for  
15 the rebate authorized by this Subsection.

16 D. Certification and administration.

17 (1) The secretary of the Department of Economic Development shall  
18 determine through the promulgation of rules and regulations in accordance with the  
19 Administrative Procedure Act, which projects and capital cost expenditures,  
20 including amounts expended in this state on qualifying projects, qualify for rebates.  
21 The Department of Economic Development shall take the following factors into  
22 consideration when determining which projects qualify:

23 (a) The economic impact of the qualifying project on similar or existing  
24 publicly owned or privately owned projects located within fifty miles of the  
25 qualifying project. The Department of Economic Development may require the  
26 investing company or entity proposing the qualifying project to conduct a public  
27 meeting, properly noticed in accordance with the open meetings law, in the  
28 geographic area the proposed project is to be located.

1           (b) The impact of the qualifying project on the immediate and long-term  
2           objectives of the rebate provided for such investment.

3           (c) The impact of the qualifying project on the employment of Louisiana  
4           residents.

5           (d) The impact of the qualifying project on the overall economy of the state.

6           (e) The availability of similar infrastructure or facilities within fifty miles of  
7           the proposed qualifying project.

8           (2)(a) Application. An applicant for the ports of Louisiana investor rebate  
9           shall submit an application for initial certification of the qualifying project to the  
10          Department of Economic Development that includes the following information:

11           (i) A preliminary budget including the actual or if not known, the estimated  
12          capital costs of the qualifying project and the qualifying project's estimated  
13          Louisiana payroll.

14           (ii) A detailed description of the qualifying project.

15           (iii) A statement that the proposed project will qualify as a qualifying  
16          project.

17           (iv) Estimated start and completion dates. The estimated start date shall  
18          include the estimated date on which the acquisition, construction, installation, or  
19          equipping of the qualifying project was commenced or is expected to commence.

20           (v) The name of each investing company, or the name or names of its  
21          shareholders, partners, members, owners, or beneficiaries to become entitled to the  
22          rebate.

23           (vi) Any other information required by the Department of Economic  
24          Development.

25           (b) If the application is incomplete, additional information may be requested  
26          prior to further action by the Department of Economic Development.

27           (c) The Department of Economic Development shall submit its initial  
28          certification of a project as a qualifying project to the investing company and to the  
29          secretary of the Department of Revenue. The initial certification shall include a



1 unique identifying number for each qualifying project, the total amount of rebates  
2 issued for the capital costs of the qualifying project, and the amount to be taken at  
3 five percent per tax year.

4 (d) Prior to any certification of a qualifying project, the investing company  
5 shall submit to the Department of Economic Development a cost report of project  
6 expenditures which the Department of Economic Development may require to be  
7 prepared by an independent certified public accountant. Additionally, the  
8 Department of Transportation and Development shall inspect the construction site  
9 of the qualifying project and shall verify that the capital costs expenditures for which  
10 the investing company is applying for rebates has been expended by the investing  
11 company. The Department of Economic Development shall review such  
12 expenditures and shall issue a rebate certification letter to the investing company  
13 indicating the amount of rebates certified for the state-certified qualifying project and  
14 the amount to be taken at five percent per tax year.

15 (3) The secretary of the Department of Economic Development, in  
16 consultation with the Department of Revenue, shall promulgate rules and regulations  
17 in accordance with the Administrative Procedure Act as are necessary to carry out  
18 the intent and purposes of the rebate for port investors. All rules promulgated to  
19 implement the provisions of the rebate for port investors shall be subject to oversight  
20 and approval by the House Ways and Means Committee and the Senate Committee  
21 on Revenue and Fiscal Affairs.

22 (4) Any applicant applying for the rebate shall be required to reimburse the  
23 Department of Economic Development for any audit required in relation to granting  
24 the rebate.

25 E. Termination of Investor Rebate.

26 The provisions of Subsection C of this Section shall be effective until January  
27 1, 2017, and no investor rebate pursuant to the provisions of this Section shall be  
28 granted after such date.

1           F. No new employees shall be hired by the Department of Economic  
2           Development for the implementation of the Investor Rebate provided for in this  
3           Section.

4           G. Import Export Cargo Rebate.

5           (1) Certification of applicant. Only those applicants who have received  
6           certification from the secretary of the Department of Economic Development shall  
7           be eligible to take the rebates provided for by this Subsection and then only for the  
8           taxable year or years and for the amount provided for in the commissioner of  
9           administration's certification, approved by the Joint Legislative Committee on the  
10          Budget and the state bond commission, provided for in Item (2)(a)(ii) of this  
11          Subsection as allocated by the secretary. The secretary shall promulgate rules in  
12          accordance with the Administrative Procedure Act which establish the process by  
13          which a applicant shall apply for certification.

14          (a) Applicants eligible for certification include those international business  
15          entities which provide to the department a verified statement of cargo volume data  
16          for the calendar year prior to the year of the application, specifically including the  
17          total annual volume and tons of breakbulk or containerized cargo imported and  
18          exported from or to, manufacturing, fabrication, assembly, distribution, processing,  
19          or warehousing facilities located in Louisiana.

20          (b) In no event, however, shall an applicant be certified if its exports and  
21          imports are limited to bulk commodities.

22          (c) The secretary shall provide a statement of certification to each applicant  
23          which he has certified as eligible to take the rebate after approval of the Joint  
24          Legislative Committee on the Budget and the state bond commission, which shall  
25          contain the taxable year or years for which the applicant is allowed the rebate and  
26          the amount of rebate allocated for such taxable year or years. The secretary shall  
27          also transmit a copy of such statement to the secretary of the Department of  
28          Revenue.



1 development zone which do not otherwise qualify for an enterprise zone or an  
2 economic development zone under the criteria established pursuant to this Chapter  
3 subject to approval by the department and the Board of Commerce and Industry.

4 Any enterprise zone or economic development zone established pursuant to this  
5 Section shall comply with all other requirements of law as established by this  
6 Chapter, including but not limited to the provisions of R.S. 51:1785, 1786, and ~~1787~~  
7 1792 et seq. insofar as those provisions are otherwise applicable to enterprise zones  
8 and economic development zones.

9 §1792. Enterprise Zone Program Eligibility Requirements

10 A. To receive the benefits provided for under this Program, a business shall  
11 either be located in an enterprise zone or if the business is not located in an  
12 enterprise zone then, at least fifty percent of its net new employees must meet one  
13 of the following requirements:

14 (1) Reside in an enterprise zone; or

15 (2) Within the thirty day period prior to employment, the employee was  
16 either receiving assistance under the Family Independence Temporary Assistance  
17 Program or the Family Assistance Rebate Program, or the employee was considered  
18 unemployable by traditional standards, due to having no prior work history or job  
19 training, a felony criminal conviction, a history of being unable to retain employment  
20 after gaining it, a disability as defined 42 USC §12102, or lack basic skills by virtue  
21 of exhibiting below a ninth grade level proficiency in reading, writing or math.

22 B. Notwithstanding the provisions of Subsection A of this Section, retail  
23 businesses as defined by the Department of Economic Development with more than  
24 one hundred employees nationwide including affiliates prior to the contract effective  
25 date are ineligible to participate in the program unless they are a grocery store or  
26 pharmacy as defined by the department located in an enterprise zone.

27 C. To receive benefits provided under this program, a business must create  
28 a minimum of five permanent full-time net new jobs within the first two years after  
29 the effective date of the contract, or the number of permanent full-time net new jobs

1 equal ten percent of the nationwide employment of the business within the first year  
2 after the effective date of the contract, whichever is less. For good cause shown, the  
3 board may grant an extension of not more than two years to comply with the  
4 foregoing job creation requirements.

5 §1793. Benefits under the Enterprise Zone Program Contract

6 A. The Board of Commerce and Industry, or its successor, after consultation  
7 with the secretaries of the Louisiana Workforce Commission and the Department of  
8 Revenue, with the approval of the governor, may enter into a contract with an  
9 employer complying with the provisions of this Chapter for a period of up to five  
10 years.

11 B. Businesses with an Enterprise Zone Program contract are entitled to the  
12 following benefits:

13 (1) A two thousand five hundred dollar rebate per net new job as determined  
14 by the company's average annual employment reported under the Louisiana  
15 Employment Security Law during the taxable year for which credit is claimed; and

16 (2) Either of the following:

17 (a)(i) A rebate of the sales and use tax imposed by the state and imposed by  
18 its political subdivisions upon approval of the governing authority of the appropriate  
19 municipality or the appropriate parish where applicable, or both, and of the  
20 governing authority of any other political subdivision, including the office of sheriff  
21 in the case of a law enforcement district, for the following:

22 (aa) The use of customer-owned tooling in a compression molding process.

23 (bb) Purchases of the material used in the construction of a building, or any  
24 addition or improvement thereon, for housing any legitimate business enterprise and  
25 machinery and equipment used in that enterprise.; or

26 (b) A project facility expense rebate equal to two and one-half percent of the  
27 amount of qualified expenditures. For purposes of this Paragraph, the term  
28 "qualified expenditures" shall mean amounts classified as capital expenditures for  
29 federal income tax purposes related to the project plus exclusions from capitalization

1 provided for in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the  
2 capitalized cost of land, capitalized leases of land, capitalized interest, capitalized  
3 costs of manufacturing machinery and equipment to the extent the capitalized  
4 manufacturing machinery and equipment costs are excluded from sales and use tax  
5 pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing  
6 building. When a participating business purchases an existing building and capital  
7 expenditures are used to rehabilitate the building, the costs of the rehabilitation only  
8 shall be considered qualified expenditures. Additionally, a participating business  
9 shall be allowed to increase their qualified expenditures to the extent a participating  
10 business's capitalized basis is properly reduced by claiming a federal credit. A  
11 qualified business earns the project facility expense rebate in the fiscal year in which  
12 the project is placed in service but the qualified business may not be issued the  
13 project facility expense rebate until the Department of Economic Development signs  
14 a project completion report.

15 (3) The state sales and use tax rebate and project facility expense rebate shall  
16 be limited to one hundred thousand dollars for each net new job created under the  
17 Enterprise Zone contract as provided by rule.

18 C. The rebate provided in Paragraph (1) of Subsection A of this Section shall  
19 be applicable only to a position within the state that did not previously exist in the  
20 business enterprise and that is filled by a person who is a citizen of the United States  
21 and who is domiciled in Louisiana, or who is a citizen of the United States and  
22 becomes domiciled in Louisiana within sixty days after his employment in such  
23 position, performing duties in connection with the operation of the business  
24 enterprise as a regular, full-time employee. The total number of credits allowed to  
25 a business enterprise for employees who are citizens of the United States and who  
26 become domiciled in Louisiana within sixty days after employment shall not exceed  
27 fifty percent of the total number of credits allowed to the business enterprise under  
28 the contract.

1           D.(1) The request for a rebate of local sales and use tax shall be accompanied  
2           by an endorsement resolution approved by the governing body of the appropriate  
3           municipality, parish, port district, industrial development board, or other political  
4           subdivision or the written approval of the office of sheriff in the case of a law  
5           enforcement district, in whose jurisdiction the establishment is to be located.

6           (2) The endorsement resolution or letter of approval shall be submitted by  
7           the governing body or sheriff's office within ninety days of receipt of notification  
8           that the department has received an advance notification to file an application for  
9           benefits under this Chapter. The department shall notify the appropriate local  
10          governing body or sheriff's office of receipt of the application.

11          (3) If the governing body of the appropriate jurisdiction has not submitted  
12          an endorsement resolution, written reasons for denial, or a written request for delay  
13          of consideration of the application, the board may take unilateral action, for the  
14          rebate of sales and use taxes imposed by the state only, in approving or denying the  
15          request.

16          (4) If there are no local sales and use taxes that can be rebated, as in the  
17          event that all such taxes are dedicated, no endorsement resolution shall be required  
18          of a local governing authority before the board considers its application for benefits  
19          under this Chapter.

20          §1794. Issuance and Claim of Benefits

21           A. Jobs Incentive Rebate. The Department of Economic Development shall  
22           annually certify the amount of jobs incentive rebates for a participating business.  
23           After the Department of Economic Development certifies the amount of the rebate,  
24           a business shall redeem the rebate with the Department of Revenue.

25           B. Sales and Use Tax Rebate. (1) Application for the payment of the rebate  
26           of state sales and use taxes granted pursuant to this Section shall be filed no later  
27           than six months after the Department of Economic Development signs a project  
28           completion report and sends it to the Department of Revenue, the political  
29           subdivision, and the business, or no later than thirty days after the end of the calendar

1 year in the case of customer-owned tooling used in a compression molding process.  
2 The project completion report cannot be signed until the project is complete and the  
3 contract has been approved by the board and the governor.

4 (2) Requests for rebates of state sales and use tax pursuant to this Section  
5 shall be processed by the Department of Revenue as follows:

6 (a) A properly completed rebate request shall be submitted to the Department  
7 of Revenue on forms provided by the Department of Revenue. A properly  
8 completed rebate request shall mean a rebate request that includes the general  
9 information required on the face of the request, a certification from the Department  
10 of Economic Development stating the number of net new jobs created, a copy of the  
11 executed incentive contract, a copy of each invoice over fifteen thousand dollars, is  
12 signed, and all required schedules. The request shall be submitted electronically  
13 unless the secretary of the Department of Revenue grants permission to submit the  
14 request in an alternate form.

15 (b) Within ten business days of the receipt of a properly completed rebate  
16 request, the Department of Revenue shall rebate eighty percent of the total amount  
17 claimed for rebate in the rebate request. Within three months of the date of filing the  
18 rebate request, the Department of Revenue shall audit the rebate request. During  
19 such three-month period, the Department of Revenue shall disallow items  
20 determined to be ineligible for rebate. Within ten business days following the  
21 expiration of such three-month period, the Department of Revenue shall rebate the  
22 remaining twenty percent of the amount claimed on the rebate request less any  
23 amounts properly disallowed during the three-month audit period. The Department  
24 of Revenue shall make such rebates from the current collections of the taxes  
25 collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title  
26 47 of the Louisiana Revised Statutes of 1950, as amended. Any sales and use tax  
27 rebate issued shall be subject to subsequent audit by the Department of Revenue, and  
28 any rebate amount determined to be in excess of that which should have been  
29 allowed shall be subject to collection by the Department of Revenue.



1            C. Project Facility Expense Rebate. (1) Application for the payment of the  
2            project facility expense rebate provided for pursuant to this Section shall be filed no  
3            later than six months after the Department of Economic Development signs a project  
4            completion report and sends it to the Department of Revenue, the political  
5            subdivision, and the business, or no later than thirty days after the end of the calendar  
6            year in the case of customer-owned tooling used in a compression molding process.  
7            The project completion report cannot be signed until the project is complete and the  
8            contract has been approved by the board and the governor.

9            (2) Requests for the project facility expense rebate pursuant to this Section  
10           shall be processed by the Department of Revenue as follows:

11           (a) A properly completed project facility expense rebate request shall be  
12           submitted to the Department of Revenue on forms provided by the Department of  
13           Revenue. A properly completed project facility expense rebate request shall mean  
14           a rebate request that includes the general information required on the face of the  
15           request, a certification from the Department of Economic Development stating the  
16           number of new jobs created, a copy of the executed incentive contract, is signed, and  
17           a copy all required schedules. The request shall be submitted electronically unless  
18           the secretary of the Department of Revenue grants permission to submit the request  
19           in an alternate form.

20           (b) Within thirty business days of the receipt of a properly completed rebate  
21           request, the Department of Revenue shall rebate one hundred percent of the total  
22           amount claimed as a rebate. The Department of Revenue shall make such credit  
23           payment from the current collections of the taxes collected pursuant to Chapter 2,  
24           Chapter 2-A, or Chapter 2-B of Subtitle II of Title 47 of the Louisiana Revised  
25           Statutes of 1950, as amended. Any rebate issued shall be subject to subsequent audit  
26           by the Department of Revenue, and any rebate amount determined to be in excess  
27           of that which should have been allowed shall be subject to collection by the  
28           Department of Revenue.

1           D. Failure of the Department of Revenue to timely pay sales and use tax  
2           rebates and project facility expense rebates as provided herein shall entitle the  
3           taxpayer to interest, which shall begin to accrue on the statutory deadline for  
4           payment of the rebate or credit at the rate established pursuant to the provisions of  
5           R.S. 13:4202. Payments of interest authorized according to the provisions of this  
6           Section shall be made from the current collections of taxes collected pursuant to  
7           Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title 47 of the Louisiana  
8           Revised Statutes of 1950, as amended.

9           E. For purposes of filing the application provided for in Paragraph (B)(1) and  
10          (C)(1) of this Section, the business filing the application, upon request, shall receive  
11          a thirty-day extension of time in which to file its application, provided such request  
12          for extension is received by the Department of Revenue prior to the expiration of  
13          such filing period. The Department of Revenue is also authorized to grant the  
14          business an additional extension of time, not to exceed sixty days, in which to file  
15          its application provided that the business shows reasonable cause for granting such  
16          extension.

17          F. If the collecting agencies receive notice that the rebate or credit, or any  
18          part thereof, has ceased by reason of a violation of the terms of the contract under  
19          which it was granted, then the amount of the rebate for the year in which the  
20          violation occurred and for each year thereafter in which the violation is not remedied  
21          shall be considered a tax due as of December thirty-first of the year in which the  
22          violation occurred, and for each year thereafter in which a rebate is claimed and the  
23          violation is not remedied, and it shall be collected by the collecting agencies in the  
24          same manner and subject to the same provisions for the collection of other tax debts.

25          G. Local Sales and Use Tax Rebate. (1) The business makes its request for  
26          rebate of local sales and use tax or the tax credit either:

27                 (a) Prior to beginning construction of its building, or any addition or  
28                 improvement thereon; or

1           (b) Prior to installation of the machinery or equipment to be used in the  
2           enterprise zone; or

3           (c) Prior to beginning use of customer-owned tooling used in a compression  
4           molding process.

5           (2) At any time subsequent to the deadlines established in Items (a), (b), and  
6           (c) of Subparagraph (1), if the board determines that the business was unable, due to  
7           good cause, to file the request within the time frame provided, the board may  
8           consider a late request, but the business shall have the burden to establish good  
9           cause.

10          (3) Within ninety days from the date that a properly completed rebate request  
11          submitted by a taxpayer is received by the appropriate local taxing authority, the  
12          taxing authority shall review the rebate request and issue a rebate check to the  
13          taxpayer for allowed items and shall notify the taxpayer of any disallowed items.

14          (4) For purposes of this Subsection, a properly completed rebate request  
15          shall mean a rebate request that includes the general information required on the face  
16          of the request, is signed, and includes a copy of each invoice and all required  
17          schedules.

18          (5) Within sixty days from receipt of the notification of disallowed items, the  
19          taxpayer shall resubmit a properly completed rebate request for disallowed items to  
20          the taxing authority for reconsideration. The time periods for reconsideration of  
21          disallowed items in a rebate request shall be the same as the time periods for  
22          consideration of the initial rebate request.

23          (6) Rebate requests may be submitted electronically with the approval of the  
24          local taxing authority.

25          (7) Failure by a local taxing authority to timely process and pay a local sales  
26          and use tax rebate in accordance with the provisions of this Subsection shall entitle  
27          the taxpayer to interest on the amount of the allowed items contained in the properly  
28          completed rebate request.



1 Section, the benefit rate shall be six percent, ~~provided that at least fifty percent of the~~  
2 ~~employees holding new direct jobs accept the health care benefits offered.~~

3 (3) "Code" means the Internal Revenue Code of 1983 and incorporates the  
4 meaning of any Treasury Regulations promulgated under a particular Section of the  
5 Code.

6 (2) (4) "Employer" shall mean a legal person who executes a contract with  
7 the department pursuant to the provisions of this Chapter and who offers, or will  
8 offer within ninety days of the effective date of qualifying for the incentive rebates  
9 pursuant to the provisions of this Chapter, a basic health benefits plan to the  
10 individuals it employs in new direct jobs in this state which shall be determined by  
11 the Department of Economic Development to have a value of at least one dollar and  
12 twenty-five cents per hour.

13 (a) ~~The "basic health benefits plan" or the "health insurance coverage"~~  
14 ~~required to be offered or provided by this Paragraph shall also include coverage for~~  
15 ~~basic hospital care, and coverage for physician care, as well as coverage for health~~  
16 ~~care, which shall be the same coverage as is provided to employees employed in a~~  
17 ~~bona fide executive, administrative, or professional capacity by the employer who~~  
18 ~~are exempt from the minimum wage and maximum hour requirements of the federal~~  
19 ~~Fair Labor Standards Act, 29 U.S.C.A. §201, et seq. as follows:~~

20 (a) Employers classified as an Applicable Large Employer under Section  
21 4980(c)(2) of the Code, shall meet both of the following requirements:

22 (i) Offer to provide minimum essential coverage in accordance with Section  
23 5000A(f)(1)(B) of the Code for employer sponsored plans to the employee and such  
24 coverage must comply with the requirements for minimal essential coverage under  
25 Section 36B(c)(2)(C) of the Code.

26 (ii) Not be liable for any assessable payments under Sections 4890H(a)(1)  
27 or (b) of the Code after ninety days from the effective date of qualifying for the  
28 incentive rebates pursuant to the provisions of this Chapter.





1 §2456. Rebate; payments

2 A. The payroll rebates authorized in this Chapter shall be paid annually after  
3 the employer has filed its application for annual rebate at the end of the employer's  
4 fiscal year with the Department of Economic Development, and the department has  
5 determined from the information submitted along with such application as provided  
6 for in R.S. 51:2457 that the employer is eligible for such rebate for such year. The  
7 initial five year payroll rebate period shall begin within three years of the contract  
8 effective date but no later than the project completion date. For employers who do  
9 not claim either the sales and use tax rebate or a project facility expense rebate, the  
10 initial five year payroll rebate period shall begin on the contract effective date.

11 B. In addition to the rebates provided in this Chapter, an employer who has  
12 executed a contract under the provisions of this Chapter shall be entitled to ~~the same~~  
13 ~~a sales and use tax rebates or refundable investment income tax credit authorized in~~  
14 ~~R.S. 51:1787, if the employer meets the enterprise zone program hiring requirements~~  
15 ~~and all other limitations, procedures, and requirements in R.S. 51:1787. Any~~  
16 ~~contract executed under this Chapter which provides for a rebate of local sales and~~  
17 ~~use taxes shall include the same procedures and requirements under R.S. 51:1787 for~~  
18 ~~rebates involving local sales and use taxes, including but not limited to the~~  
19 ~~requirement that any such request for a rebate of local sales and use taxes be~~  
20 ~~accompanied by an endorsement resolution approved by the governing authority of~~  
21 ~~the appropriate municipality, parish, port district, or industrial district board in whose~~  
22 ~~jurisdiction the employer is or will be located. rebate for capital expenditures for the~~  
23 facility designated in the contract provided for in Paragraph (1) of Subsection (B) of  
24 this Section or project facility expense rebate provided for in Paragraph (2) of  
25 Subsection (B) of this Section.

26 (1) A rebate of sales and use tax imposed by the state for the purchases of  
27 the material used in the construction of a building, or any addition or improvement  
28 thereon, for housing any legitimate business enterprise and machinery and equipment



1 used in that enterprise for all years beginning the year after the contract effective  
2 date up to and including the year of project completion.

3 (2) In lieu of the state sales and use tax rebate, a qualified business shall be  
4 entitled to a project facility expense rebate equal to two and one-half percent of the  
5 amount of qualified capital expenditures for the facility or facilities designated in the  
6 contract for all years beginning the year after the contract effective date up to and  
7 including the year of project completion.

8 (a) For purposes of this Subparagraph, the term "qualified capital  
9 expenditures" means amounts classified as capital expenditures for federal income  
10 tax purposes related to the project plus exclusions from capitalization provided for  
11 in Internal Revenue Code Section 263 (a)(1)(A) through (L), minus the capitalized  
12 cost of land, capitalized leases of land, capitalized interest, capitalized costs of  
13 manufacturing machinery and equipment to the extent the capitalized manufacturing  
14 machinery and equipment costs are excluded from sales and use tax pursuant to R.S.  
15 47:301(3), and the capitalized cost for the purchase of an existing building.

16 (b) When a qualified business purchases an existing building and capital  
17 expenditures are used to rehabilitate the building, only the costs of the rehabilitation  
18 shall be considered qualified capital expenditures.

19 (c) A qualified business shall be allowed to increase its qualified capital  
20 expenditures to the extent the qualified business' capitalized basis is properly reduced  
21 by claiming a federal credit.

22 C. Any qualified business which receives a contract pursuant to this Chapter  
23 may also apply for a rebate of local sales and use taxes imposed by its political  
24 subdivisions upon approval of the governing authority of the appropriate  
25 municipality or the appropriate parish where applicable, or both, and of the  
26 governing authority of any other political subdivision, including the office of sheriff  
27 in the case of a law enforcement district, under the following procedures and  
28 requirements:



1 two hundred fifty thousand dollars, the tax liability for the tax period in which the  
2 failure to show such minimum occurs shall be increased by the amount of rebates  
3 previously allowed. If at any other time during the ten-year period when the  
4 employer applies for a rebate at the end of the employer's fiscal year, the actual  
5 verified gross payroll for such fiscal year does not show a minimum of five new  
6 direct jobs and an amount which equals or exceeds a total of five hundred thousand  
7 dollars, or, where applicable according to R.S. 51:2455(E)(1), two hundred fifty  
8 thousand dollars, the rebates shall be suspended and shall not be resumed until such  
9 time as the actual verified gross payroll shows a minimum of five new direct jobs  
10 and an amount which equals or exceeds five hundred thousand dollars or, where  
11 applicable according to R.S. 51:2455(E)(1), two hundred fifty thousand dollars. No  
12 rebate shall accrue or be paid to the employer during a period of suspension.

13 ~~€. (6)~~ An employer that has qualified pursuant to R.S. 51:2455 is eligible to  
14 receive rebates under this Chapter only in accordance with the provisions under  
15 which it initially applied and was approved. If an employer that is receiving rebates  
16 expands, it may apply for additional rebates based on the gross payroll anticipated  
17 from the expansion only, pursuant to R.S. 51:2455.

18 B. Issuance of State Sales and Use Tax Rebate

19 (1) Applications for the payment of the rebate of state sales and use taxes  
20 shall be made annually after the end of the fiscal year of an employer for all years  
21 after the effective date of the contract up to and including the year in which the  
22 project is completed.

23 (2) Qualifying purchases of material used in the construction, addition or  
24 improvement of a building made on or after the effective date of the contract shall  
25 be eligible for the rebate and shall be included in the application for payment of the  
26 rebate of sales and use taxes.

27 (3) Application for the final payment of the rebate of state sales and use  
28 taxes granted pursuant to this Section shall be filed no later than six months after the  
29 Department of Economic Development signs a project completion report and sends

1 it to the Department of Revenue, the political subdivision, and the business, or no  
2 later than thirty days after the end of the calendar year in the case of customer-owned  
3 tooling used in a compression molding process. The project completion report cannot  
4 be signed until the project is complete and the contract has been approved by the  
5 board and the governor.

6 (4) Requests for rebates of state sales and use tax pursuant to this Section  
7 shall be processed by the Department of Revenue as follows:

8 (a) A properly completed rebate request shall be submitted to the Department  
9 of Revenue on forms provided by the Department of Revenue. A properly completed  
10 rebate request shall mean a rebate request that includes the general information  
11 required on the face of the request, is signed and includes a copy of the executed  
12 incentive contract, a copy of each invoice over fifteen thousand dollars, and all  
13 required schedules. The request shall be submitted electronically unless the secretary  
14 of the Department of Revenue grants permission to submit the request in an alternate  
15 form.

16 (b) Within ten business days of the receipt of a properly completed rebate  
17 request, the Department of Revenue shall rebate eighty percent of the total amount  
18 claimed for rebate in the rebate request. Within three months of the date of filing the  
19 rebate request, the Department of Revenue shall audit the rebate request. During such  
20 three-month period, the Department of Revenue shall disallow items determined to  
21 be ineligible for rebate. Within ten business days following the expiration of such  
22 three-month period, the Department of Revenue shall rebate the remaining twenty  
23 percent of the amount claimed on the rebate request less any amounts properly  
24 disallowed during the three-month audit period. The Department of Revenue shall  
25 make such rebates from the current collections of the taxes collected pursuant to  
26 Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title 47 of the Louisiana  
27 Revised Statutes of 1950, as amended. Any sales and use tax rebate issued shall be  
28 subject to subsequent audit by the Department of Revenue, and any rebate amount

1 determined to be in excess of that which should have been allowed shall be subject  
2 to collection by the Department of Revenue.

3 C. Issuance of Project Facility Expense Rebate

4 (1) Applications for the payment of the project facility expense rebate shall  
5 be made annually after the end of the fiscal year of an employer for all years after the  
6 effective date of the contract up to and including the year in which the project is  
7 placed in service.

8 (2) Application for the final payment of the project facility expense rebate  
9 granted pursuant to this Section shall be filed no later than six months after the  
10 Department of Economic Development signs a project completion report and sends  
11 it to the Department of Revenue, the political subdivision, and the business. The  
12 project completion report cannot be signed until the project is complete and the  
13 contract has been approved by the board and the governor.

14 (3) Requests for the project facility expense rebate pursuant to this Section  
15 shall be processed by the Department of Revenue as follows:

16 (a) A properly completed project facility expense rebate request shall be  
17 submitted to the Department of Revenue on forms provided by the Department of  
18 Revenue. A properly completed project facility expense rebate request shall mean  
19 a rebate request that includes the general information required on the face of the  
20 request, is signed and includes a copy of the executed incentive contract, and a copy  
21 all required schedules. The request shall be submitted electronically unless the  
22 secretary of the Department of Revenue grants permission to submit the request in  
23 an alternate form.

24 (b) Within thirty business days of the receipt of a properly completed rebate  
25 request, the Department of Revenue shall rebate one hundred percent of the total  
26 amount claimed as a project facility expense rebate. The Department of Revenue  
27 shall make such rebate payment from the current collections of the taxes collected  
28 pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title 47 of the  
29 Louisiana Revised Statutes of 1950, as amended. Any project facility expense rebate

1 issued shall be subject to subsequent audit by the Department of Revenue, and any  
2 rebate amount determined to be in excess of that which should have been allowed  
3 shall be subject to collection by the Department of Revenue.

4 D. Failure of the Department of Revenue to timely pay sales and use tax  
5 rebates and project facility expense rebates as provided herein shall entitle the  
6 taxpayer to interest, which shall begin to accrue on the statutory deadline for  
7 payment of the rebate at the rate established pursuant to the provisions of R.S.  
8 13:4202. Payments of interest authorized according to the provisions of this Section  
9 shall be made from the current collections of taxes collected pursuant to Chapter 2,  
10 Chapter 2-A, or Chapter 2-B of Subtitle II of Title 47 of the Louisiana Revised  
11 Statutes of 1950, as amended.

12 E. For purposes of filing the application provided for in Subsection (B) and  
13 (C) of this Section, the business filing the application, upon request, shall receive a  
14 thirty-day extension of time in which to file its application, provided such request for  
15 extension is received by the Department of Revenue prior to the expiration of such  
16 filing period. The Department of Revenue is also authorized to grant the business an  
17 additional extension of time, not to exceed sixty days, in which to file its application  
18 provided that the business shows reasonable cause for granting such extension.

19 F. Issuance Local Sales and Use Tax

20 (1) The business makes its request for rebate of local sales and use tax:

21 (a) Prior to beginning construction of its building, or any addition or  
22 improvement thereon,

23 (b) Prior to installation of the machinery or equipment to be used in the  
24 enterprise zone, or

25 (c) Prior to beginning use of customer-owned tooling used in a compression  
26 molding process.

27 (2) At any time subsequent to the deadlines established in Subparagraph (a),  
28 (b), and (c) of Subsection (F), if the board determines that the business was unable,  
29 due to good cause, to file the request within the time frame provided, the board may

1 consider a late request, but the business shall have the burden to establish good  
2 cause.

3 (3) Within ninety days from the date that a properly completed rebate request  
4 submitted by a taxpayer is received by the appropriate local taxing authority, the  
5 taxing authority shall review the rebate request and issue a rebate check to the  
6 taxpayer for allowed items and shall notify the taxpayer of any disallowed items.

7 (4) For purposes of this Subsection, a properly completed rebate request  
8 shall mean a rebate request that includes the general information required on the face  
9 of the request, is signed, and includes a copy of each invoice and all required  
10 schedules.

11 (5) Within sixty days from receipt of the notification of disallowed items, the  
12 taxpayer shall resubmit a properly completed rebate request for disallowed items to  
13 the taxing authority for reconsideration. The time periods for reconsideration of  
14 disallowed items in a rebate request shall be the same as the time periods for  
15 consideration of the initial rebate request.

16 (6) Rebate requests may be submitted electronically with the approval of the  
17 local taxing authority.

18 (7) Failure by a local taxing authority to timely process and pay a local sales  
19 and use tax rebate in accordance with the provisions of this Subsection shall entitle  
20 the taxpayer to interest on the amount of the allowed items contained in the properly  
21 completed rebate request.

22 (8) Interest shall begin to accrue on the date the properly completed rebate  
23 request or reconsideration of disallowed items in a properly completed rebate request  
24 is received by the taxing authority at the rate established pursuant to the provisions  
25 of R.S. 13:4202.

26 (9) Sales and use taxes imposed by a political subdivision which are  
27 dedicated to the repayment of bonded indebtedness or dedicated to schools shall not  
28 be eligible for rebate. All other state and local sales and use taxes shall be eligible  
29 for rebate.





## 1 §3121. Competitive Projects Payroll Incentive Program

2 A. Definitions. For purposes of this Section, the following words or terms  
3 as used in this Chapter shall have the following meanings, unless a different meaning  
4 appears from the context:

5 (1) ~~"Basic health benefits plan" means coverage for basic hospital care,~~  
6 ~~coverage for physician care, and coverage for health care which is determined by the~~  
7 ~~Department of Economic Development to have a value of at least one dollar and~~  
8 ~~twenty-five cents per hour and which is the same coverage as is provided to~~  
9 ~~employees employed in a bona fide executive, administrative, or professional~~  
10 ~~capacity by the employers who are exempt from the minimum wage and maximum~~  
11 ~~hour requirements of the federal Fair Labor Standards Act, 29 U.S.C. 201, et seq.~~  
12 "Act" shall mean the Patient Protection and Affordable Care Act (enacted by Public  
13 Law 111-148) and subsequent consolidating amendments.

14 (2) "Business" means any individual, firm, joint venture, association,  
15 corporation, estate, partnership, business trust, receiver, syndicate, or any other legal  
16 business entity.

17 (3) "Code" shall mean the Internal Revenue Code of 1986 and shall  
18 incorporate the meaning of any Treasury Regulations promulgated under any  
19 Section of the Code.

20 (4) "Department" means the Department of Economic Development.

21 (5) "Health benefits" shall mean the following:

22 (a) Employers classified as an Applicable Large Employer under Section  
23 4980(c)(2) of the Code which offer to provide minimum essential coverage in  
24 accordance with Section 5000A(f)(1)(B) of the Code for employer sponsored plans  
25 to the employee and such coverage must comply with the requirements for minimal  
26 essential coverage under Section 36B(c)(2)(C) of the Code, and shall not be subject  
27 to any assessable payments under Sections 4890H(a)(1) or (b) of the Code after  
28 ninety days from the effective date of qualifying for the incentive rebates pursuant  
29 to the provisions of this Chapter.

1            (b) Employers not classified as an Applicable Large Employer under Section  
2            4980(c)(2) of the Code, shall either offer to provide minimum essential coverage in  
3            accordance with Section 5000A(f)(1)(B) of the Code for employer sponsored plans  
4            to the employee and such coverage must comply with the requirements for minimal  
5            essential coverage under Section 36B(c)(2)(C) of the Code, or pay a benefit of one  
6            dollar twenty-five cents per hour to the employee. Furthermore, beginning January  
7            1, 2014, the employer shall provide the employee, at the time of hiring, written  
8            notice informing the employee of the existence of an Exchange and how the  
9            employee may contact the Exchange to request assistance.

10            (6) "Exchange" shall have the same meaning as in 45 Code of Federal  
11            Regulations 155.20.

12            ~~(4)~~ (7) "New jobs" means permanent full-time direct new jobs based at the  
13            facilities designated in the contract and filled by residents of the state.

14            ~~(5)~~ (8) "New payroll" means payment by the business to its employees for  
15            new jobs, exclusive of benefits, and defined as wages under Louisiana Employment  
16            Security Law (R.S. 23:1472(20)).

17            ~~(6)~~ (9) "Program" means the Competitive Projects Payroll Incentive  
18            Program.

19            ~~(7)~~ (10) "Qualified business" means a business certified by the secretary as  
20            meeting the eligibility requirements of Subsection B of this Section, approved by the  
21            Joint Legislative Committee on the Budget to participate in the program, and  
22            executing a contract providing the terms and conditions for its participation.

23            ~~(8)~~ (11) "Secretary" means the secretary of the Department of Economic  
24            Development.

25            ~~(9)~~ (12) "Significant positive economic benefit" means net positive tax  
26            revenue. This shall be determined by taking into account direct, indirect, and induced  
27            impacts based on a standard economic impact methodology utilized by the  
28            department, the value of the rebate, and any other state tax and financial incentives  
29            that are used by the department to secure the project.

1           B. Eligibility requirements. (1) A business shall be eligible for participation  
2           in the program if all of the following requirements are met:

3           (a) At least fifty percent of the total annual sales of the business from a  
4           Louisiana site or sites is to out-of-state customers or buyers, or to in-state customers  
5           or buyers who resell the product or service to an out-of-state customer or buyer for  
6           ultimate use, or the federal government, or any combination thereof.

7           (b) The business will primarily engage in one of the following activities at  
8           the project site:

9           (i) Manufacturing of the following types of durable goods: automobiles,  
10          motorcycles or other passenger vehicles, or components thereof; aircraft or  
11          components thereof; spacecraft or components thereof; medical devices; batteries or  
12          other power storage devices; motors, engines, turbines or components thereof;  
13          environmental control systems; household appliances; computers, computer  
14          peripherals or components thereof; communications equipment; audio or video  
15          equipment; semiconductors; consumer-oriented electronic devices or components  
16          thereof; industrial machinery; or construction heavy equipment such as excavators.

17          (ii) Manufacturing of pharmaceutical products.

18          (iii) Conversion of natural gas to diesel, jet fuel, or other refined fuels.

19          (iv) Data storage or data services, provided at least seventy-five percent of  
20          sales meet the out-of-state sales requirements of Subparagraph (1)(a) of this  
21          Subsection.

22          (v) Other activities as recommended by the secretary and approved by the  
23          Joint Legislative Committee on the Budget.

24          (c) The business offers, or will offer within ninety days of the effective date  
25          of qualifying for the incentive rebates pursuant to the provisions of this Chapter, a  
26          basic health benefits plan to the individuals it employs as provided in Paragraph  
27          ~~(A)(1)~~ (A)(5) of this Section.

1           (2) The secretary, at his discretion, may include sales by affiliates of the  
2 business in determining the percentage of sales meeting the requirements of  
3 Paragraph (1) of this Subsection.

4           (3) All of the following shall not be eligible for the program:

5           (a) A business engaged in gaming or gambling.

6           (b) A business primarily engaged in natural resource extraction or  
7 exploration, unless the project activity is conversion of natural gas to diesel, jet fuel,  
8 or other refined fuels.

9           (c) A business primarily engaged in retail sales; real estate; professional  
10 services; financial services; venture capital funds; shipbuilding; wood products;  
11 agriculture; or manufacturing of machinery or equipment primarily intended to serve  
12 the energy industry.

13           C. Applications and contract approval and administration. (1) At the  
14 invitation of the secretary, a business may apply for a contract by submitting to the  
15 department such certified statements and substantiating documents as the department  
16 may require.

17           (2) The secretary may certify eligibility of the business and request approval  
18 by the Joint Legislative Committee on the Budget of its participation in the program  
19 on terms and conditions specified by the secretary in a proposed contract, if the  
20 secretary determines all of the following:

21           (a) The business meets the eligibility requirements provided for in  
22 Subsection B of this Section.

23           (b) Participation in the program is needed in a highly competitive site  
24 selection situation to encourage the business to locate or expand in the state.

25           (c) Securing the project will result in a significant positive economic benefit  
26 to the state.

27           (3)(a)(i) Upon the approval by the Joint Legislative Committee on the  
28 Budget of participation in the program by the business, the secretary shall execute

1 the contract with the business, and provide a copy to the Department of Revenue  
2 prior to the payment of any benefits under the contract.

3 (ii) No new contract shall be approved on or after July 1, 2017, but contracts  
4 existing on that date may continue and may be renewed.

5 (b) The contract shall provide for a rebate to the qualified business based  
6 upon new payroll and shall include the following provisions:

7 (i) The percentage of new payroll eligible for rebate, up to a maximum of  
8 fifteen percent.

9 (ii) The maximum amount of new payroll eligible for rebate.

10 (iii) The number of new jobs and amount of new payroll required to be  
11 created and maintained and any other performance obligations required to be met in  
12 order to remain qualified for participation in the program.

13 (iv) Designation of the facility or facilities eligible for participation in the  
14 program.

15 (v) Monitoring of performance and consequences for failure to perform and  
16 other contract violations.

17 (vi) An initial term of the contract, which may be up to five years, and any  
18 renewal term available at the discretion of the secretary, which may be up to an  
19 additional five years.

20 (4)(a) In addition, a qualified business shall be entitled to either the same  
21 sales and use tax rebates ~~authorized in R.S. 51:1787~~ for capital expenditures for the  
22 facility or facilities designated in the contract provided for in Subparagraph (b) of  
23 this Paragraph, or the project facility expense rebate provided for in Subparagraph  
24 (c) of this Paragraph, ~~if the employer meets the enterprise zone program hiring~~  
25 ~~requirements and all other limitations, procedures, and requirements in R.S. 51:1787.~~

26 (b) ~~Any qualified business which receives a contract pursuant to this Chapter~~  
27 ~~shall also be entitled to a rebate of local sales and use taxes under the same~~  
28 ~~procedures and requirements provided for in R.S. 51:1787 for approval of rebates for~~  
29 ~~the sales and use taxes of political subdivisions and law enforcement districts;~~

1 including but not limited to the requirement that any such request for a rebate of  
2 local sales and use taxes be accompanied by an endorsement resolution approved by  
3 the governing authority of the appropriate political subdivision or law enforcement  
4 district in whose jurisdiction the qualified business is or will be located. A rebate of  
5 sales and use tax imposed by the state and political subdivisions of the state upon  
6 approval of the governing authority of the appropriate parish or municipality, where  
7 applicable, or both, and of the governing authority of any other political subdivision,  
8 including the sheriff in the case of law enforcement districts, for the purchases of the  
9 material used in the construction of a building, or any addition or improvement  
10 thereon, for housing any legitimate business enterprise and machinery and equipment  
11 used in that enterprise.

12 (c) In lieu of the sales and use tax rebate, a qualified business shall be  
13 entitled to a project facility expense rebate equal to ~~one and one-half~~ one and one-  
14 half percent of the amount of qualified capital expenditures for the facility or  
15 facilities designated in the contract. For purposes of this Subparagraph, the term  
16 "qualified capital expenditures" means amounts classified as capital expenditures for  
17 federal income tax purposes related to the project plus exclusions from capitalization  
18 provided for in Internal Revenue Code Section 263 (a)(1)(A) through (L), minus the  
19 capitalized cost of land, capitalized leases of land, capitalized interest, capitalized  
20 costs of manufacturing machinery and equipment to the extent the capitalized  
21 manufacturing machinery and equipment costs are excluded from sales and use tax  
22 pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing  
23 building. When a qualified business purchases an existing building and capital  
24 expenditures are used to rehabilitate the building, only the costs of the rehabilitation  
25 shall be considered qualified capital expenditures. Additionally, a qualified business  
26 shall be allowed to increase its qualified capital expenditures to the extent the  
27 qualified business' capitalized basis is properly reduced by claiming a federal credit.  
28 A qualified business earns the project facility expense rebate in the qualified  
29 business' fiscal year in which the project is placed in service but the qualified

1 business may not be issued the project facility expense rebate until the Department  
2 of Economic Development signs a project completion report or such other time as  
3 provided for by rule or regulation. ~~The project completion report for the project~~  
4 ~~facility expense rebate shall adhere to the same requirements found in R.S.~~  
5 ~~51:1787(A)(1)(a)(ii) for the sales and use tax rebate.~~

6 (d) Any qualified business which receives a contract pursuant to this Chapter  
7 may also apply for a rebate of local sales and use taxes under the following  
8 procedures and requirements:

9 (i) The request for a rebate of local sales and use tax is accompanied by an  
10 endorsement resolution approved by the governing body of the appropriate  
11 municipality, parish, port district, industrial development board, or other political  
12 subdivision or the written approval of the office of sheriff in the case of a law  
13 enforcement district, in whose jurisdiction the establishment is to be located.

14 (ii) The endorsement resolution or letter of approval is to be submitted by  
15 the governing body or sheriff's office within ninety days of receipt of notification  
16 that the department has received an advance notification to file an application for  
17 benefits under this Chapter. The department shall notify the appropriate local  
18 governing body or sheriff's office of receipt of the application by certified mail.

19 (iii) If the governing body of the appropriate jurisdiction has not submitted  
20 an endorsement resolution, written reasons for denial, or a written request for delay  
21 of consideration of the application, the board may take unilateral action, for the  
22 rebate of sales and use taxes imposed by the state only, in approving or denying the  
23 request.

24 (iv) If there are no local sales and use taxes that can be rebated, as in the  
25 event that all such taxes are dedicated, no endorsement resolution shall be required  
26 of a local governing authority before the board considers its application for benefits  
27 under this Chapter.

1           D. The sales and use tax rebate and the project facility expense rebate shall  
2           be paid according to the terms of the contract between the department and the  
3           qualified business.

4           E. Payment of Local Sales and Use Tax Rebate

5           (1) The business shall its application for rebate of local sales and use tax  
6           prior to beginning construction of its building, or any addition or improvement  
7           thereon, prior to installation of the machinery or equipment to be used in the  
8           enterprise zone, or prior to beginning use of customer-owned tooling used in a  
9           compression molding process.

10           (2) At any time subsequent to the deadlines established in Paragraph 1 of this  
11           Subsection, if the board determines that the business was unable to file the request  
12           for good cause, within the time frame provided, the board may consider a late  
13           request. The burden of establishing good cause shall be born by the business making  
14           the rebate application.

15           (3) Within ninety days from the date that a properly completed rebate  
16           application was received by the appropriate local taxing authority, the taxing  
17           authority shall review the rebate request and issue a rebate check to the taxpayer for  
18           allowed items and shall notify the taxpayer of any disallowed items.

19           (4) For purposes of this Subsection, a properly completed rebate request  
20           shall mean a rebate request that includes the general information required on the face  
21           of the request, is signed, and includes a copy of each invoice and all required  
22           schedules.

23           (5) Within sixty days from receipt of the notification of disallowed items, the  
24           taxpayer shall resubmit a properly completed rebate request for disallowed items to  
25           the taxing authority for reconsideration. The time periods for reconsideration of  
26           disallowed items in a rebate request shall be the same as the time periods for  
27           consideration of the initial rebate request.

28           (6) Rebate requests may be submitted electronically with the approval of the  
29           local taxing authority.



1           (7) Failure by a local taxing authority to timely process and pay a local sales  
2           and use tax rebate in accordance with the provisions of this Subsection shall entitle  
3           the taxpayer to interest on the amount of the allowed items contained in the properly  
4           completed rebate request.

5           (8) Interest shall begin to accrue on the date the properly completed rebate  
6           request or reconsideration of disallowed items in a properly completed rebate request  
7           is received by the taxing authority at the rate established pursuant to the provisions  
8           of R.S. 13:4202.

9           (9) Sales and use taxes imposed by a political subdivision which are  
10           dedicated to the repayment of bonded indebtedness or dedicated to schools shall not  
11           be eligible for rebate. All other state and local sales and use taxes shall be eligible  
12           for rebate.

13           (10) No governing authority of a political subdivision or sheriff's office shall  
14           charge any fee or require any employment practice that conflicts with state or federal  
15           law as a precondition to authorizing tax benefits under this Chapter. The governing  
16           authority of each political subdivision or sheriff's office shall, after all requirements  
17           of this Chapter have been met, promptly rebate any sales and use taxes to the entity  
18           entitled to such rebate.

19           (11) If the collecting agencies receive notice that the rebate, or any part  
20           thereof, has ceased by reason of a violation of the terms of the contract under which  
21           it was granted, then the amount of the rebate for the year in which the violation  
22           occurred and for each year thereafter in which the violation is not remedied shall be  
23           considered a tax due as of December thirty-first of the year in which the violation  
24           occurred, and for each year thereafter in which a rebate is claimed and the violation  
25           is not remedied, and it shall be collected by the collecting agencies in the same  
26           manner and subject to the same provisions for the collection of other tax debts.

27           ~~D:~~ F. Annual Certification of Eligibility. (1) The qualified business shall  
28           file requests for approval of annual payroll rebates with the department. The request  
29           shall include documentation signed by a corporate officer of the qualified business

1 certifying its continued eligibility for the program, as provided in Subsection B of  
2 this Section, and its actual new payroll and the performance of any other contractual  
3 obligations for the subject year. The qualified business may be subject to a limited  
4 audit by the department, at the expense of the qualified business, to verify such  
5 eligibility and performance. The approved contract between the qualified business  
6 and the department shall authorize the continued rebate as long as the business  
7 remains eligible for the program and complies with the terms and performance  
8 obligations of the contract. If a qualified business fails to maintain the eligibility  
9 requirements for participation in the program or fails to meet all performance  
10 obligations of the contract, the secretary may suspend or terminate its participation  
11 in the program.

12 (2)(a) After verification of continued eligibility and performance, the  
13 department shall send a payroll rebate certification letter to the Department of  
14 Revenue, stating the amount of actual new payroll for the subject year, the amount  
15 of rebate to be issued, and the entity to which the rebate shall be issued. The  
16 Department of Revenue may require the business to submit additional information  
17 as may be necessary to properly issue the rebate. Payment of payroll rebates shall  
18 be made from the current collections of the taxes imposed pursuant to Title 47 of the  
19 Louisiana Revised Statutes of 1950, as amended.

20 (b) No payment of a rebate shall be made under a specific contract during  
21 the fiscal year in which such contract is approved by the Joint Legislative Committee  
22 on the Budget.

23 ~~E. G.~~ G. Incentive limitations. A taxpayer shall not receive any other incentive  
24 administered by the Department of Economic Development for any expenditures or  
25 jobs for which the taxpayer has received a rebate pursuant to this Section.

26 ~~F. H.~~ H. Economic Analysis Verification. Prior to the implementation of the  
27 program, an independent third-party economist selected by the Legislative Fiscal  
28 Office and the department, and retained by the department after approval of the Joint

1 Legislative Committee on the Budget, shall verify the standard economic impact  
2 methodology utilized by the department.

3 ~~G. I.~~ Rules. The department may promulgate rules and regulations after  
4 approval of the House Committee on Ways and Means and the Senate Committee  
5 on Revenue and Fiscal Affairs meeting jointly within sixty days of publication of  
6 such proposed rules and regulations in the State Register.

7 Section 3. R.S. 51:2453(6) is hereby repealed in its entirety.

8 Section 4. This Act shall take effect and become operative if and when the Acts  
9 which originated as House Bill Nos. \_\_\_\_ of this 2013 Regular Session of the Legislature are  
10 enacted and become effective.

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Robideaux

HB No. 571

**Abstract:** Creates a tax credit registry and establishes various rebate programs and provides for the administration of the programs and rebate payments to eligible applicants.

Proposed law establishes a tax credit registry and creates the following rebate programs:

- (1) Family Assistance Rebate Program.
- (2) Rebate Program for Assistance for Retirees and Military.
- (3) Rebate for local inventory taxes.
- (4) Rebate for taxes paid with respect to vessels in Outer Continental Shelf Lands Act Waters.
- (5) Rebates for motion picture investors.
- (6) Rebate for property taxes paid by certain telephone companies.
- (7) Rehabilitation of Historic Structures Rebate.
- (8) School Readiness Child Care Expense Program.
- (9) Research and Development Rebate.

- (10) Angel Investor Rebate Program.
- (11) Digital interactive media and software.
- (12) Sound recording investor rebate.
- (13) Musical and theatrical productions rebate.
- (14) Ports of Louisiana rebates.

Proposed law makes various changes to the Enterprise Zone Program and to the Competitive Projects Payroll Incentive Program.

Effective if and when House Bill Nos. \_\_\_\_ of this 2013 Regular Session are enacted and become effective.

(Amends R.S. 51:1791, 2453(1), (2)(a), (3), (4), (5)(intro. para.), 2454(A), (B)(1)(intro. para.), 2457(A)(1), (B), and (C), 2458(7), and 3121; Adds R.S. 47:6039 and 6360 through 6374, and R.S. 51:1792, 1793, 1794, and 2453(8)(g))