

HLS 13RS-903

Regular Session, 2013

HOUSE BILL NO.

BY

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

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1

R

AN ACT

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

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

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3121, and to enact Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised

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Statutes of 1950, to be comprised of R.S. 47:6360 through 6374 and R.S. 51:1792,

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1792, 1793, 1794, and 2453(8)(g) relative to rebates; ..... and to provide

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for related matters.

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Be it enacted by the Legislature of Louisiana:

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Section 1. Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised Statutes of

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1950, to be comprised of R.S. 47:6360 through 6374 is hereby enacted to read as follows:

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CHAPTER 5. REBATES AND REBATE PROGRAMS

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§6360. General Administrative Provisions for Rebates

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A.(1) Beginning July 1, 2014, taxpayers earning rebates administered by the

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Department of Revenue and the Department of Economic Development may begin

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redeeming incentives in the manner provided for in this Section. For purposes of this

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Chapter, the year a rebate is issued shall be the year the Department of Revenue or

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the Department of Economic Development affirmatively issues, approves, grants, or

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certifies the rebate payment.

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

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

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

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

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

13           C.(1) The amount of rebates paid and later disallowed or rebate payments  
14           subject to recapture shall be added to any tax liability of the taxpayer collected under  
15           Title 47 of the Louisiana Revised Statutes, with interest from the date of  
16           disallowance. The taxpayer shall be barred from receiving further rebates until the  
17           tax liability has been satisfied. Rebates issued to a taxpayer, but later disallowed,  
18           may be recovered by the secretary of the Department of Revenue through any  
19           collection remedy authorized by R.S. 47:1561 and initiated within five years from  
20           December thirty-first of the year in which the rebate was granted. If the taxpayer  
21           that received the rebate is an entity, the Department shall first seek recapture from  
22           the entity that received the rebate. If the entire amount of the rebate subject to  
23           recapture cannot be recaptured from the entity, the remaining rebate shall be  
24           recaptured from the owners of the entity. The amount of the rebate subject to  
25           recapture shall be allocated among the partners, members or shareholders in  
26           proportion to their ownership interests at the time the rebate was issued.

27           (2) The only interest that may be assessed and collected on recovered rebates  
28           is interest at a rate three percentage points above the rate provided in R.S.

1 9:3500(B)(1), which shall be computed from the original date of the return on which  
2 the rebate was claimed.

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

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

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

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

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

27 §6361. Family Assistance Rebate Program: eligibility of applicants: amount of  
28 rebate

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

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

14           (1) 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           (2) A change in the most recent Consumer Expenditure Survey data as  
18           prepared by the United States Department of Labor, Bureau of Labor Statistics; and

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

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

25           D. If the secretary discovers that an eligible resident who received a rebate  
26           according to the provisions of this Section is in arrears for payment of child support  
27           obligations, the Department of Children and Family Services, office of children and  
28           family services, child support enforcement section is authorized to intercept rebate  
29           payments under the provisions of R.S. 46:236.15 after notice of such arrearage has

1 been made by certified or regular mail, personal service, or domiciliary service to the  
2 eligible resident.

3 E. The secretary, in consultation with the secretary of the Department of  
4 Revenue, shall promulgate rules and regulations in accordance with the  
5 Administrative Procedure Act as are necessary to implement and administer the  
6 provisions of this Section. All rules 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 F. The secretary may enter into an agreement with the Department of  
10 Revenue to assist in the administration of the program. The agreement between the  
11 Department of Children and Family Services and the Department of Revenue shall  
12 be executed by the secretary of each department and shall include all terms necessary  
13 to administer the program.

14 §6362. Rebate Program; Assistance for Retirees and Military; eligibility of  
15 applicants; amount of rebate

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

21 B. The rebate program established pursuant to the provisions of this Section  
22 shall be administered by the Department of Revenue. Beginning April 1, 2014, there  
23 shall be an annual sales tax rebate payment for Louisiana residents who file a federal  
24 income tax return with an annual federal adjusted gross income of less than sixty  
25 thousand dollars for the year in which the rebate is applied for, and who receive  
26 qualifying income from a qualified retirement system or other qualified source as  
27 provided for in Subsection C of this Section. Eligible applicants may apply for the  
28 rebate on a form prescribed by the secretary of the department.

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

- 3            (a) State Employees' Retirement System.
- 4            (b) Funded Judicial Retirement Plan.
- 5            (c) Non-contributory Judicial Retirement Plan.
- 6            (d) Teachers' Retirement System.
- 7            (e) Teachers' Retirement System of Orleans Parish.
- 8            (f) Louisiana School Employees' Retirement System.
- 9            (g) State Police Pension and Retirement System.
- 10           (h) ~~Pensions~~ for Confederate Veterans and Widows of Confederate Veterans.
- 11           (i) Assessors Retirement Fund.
- 12           (j) Clerks' of Court Retirement and Relief Fund.
- 13           (k) District Attorneys' Retirement System.
- 14           (l) Municipal Employees' Retirement System.
- 15           (m) City of Baton Rouge Retirement System.
- 16           (n) Employees' Retirement System of East Baton Rouge Parish.
- 17           (o) Employees' Retirement System of Shreveport.
- 18           (p) Parochial Employees' Retirement System.
- 19           (q) Employees' Retirement System of Jefferson Parish.
- 20           (r) City of Alexandria Employees' Retirement System.
- 21           (s) City of Bogalusa Employees' Retirement System.
- 22           (t) Registrars of Voters Employees' Retirement System.
- 23           (u) Sheriffs' Pension and Relief Fund.
- 24           (v) Municipal Police Employees' Retirement System.
- 25           (w) Firefighters Retirement System.
- 26           (x) Firemen's Pension and Relief Fund for the Consolidated Fire Districts  
27           of Bastrop.
- 28           (y) Firemen's Pension and Relief Fund for Baton Rouge.
- 29           (z) Firemen's Pension and Relief Fund for Bogalusa.

- 1            (aa) Firefighters’ Pension and Relief Fund of New Orleans.
- 2            (bb) Policemen’s Pension and Relief Fund for the City of Monroe.
- 3            (cc) Policemen’s Pension and Relief Fund for Alexandria.
- 4            (dd) Policemen’s Pension and Relief Fund for the City of Bossier City.
- 5            (ee) Policemen’s Pension and Relief Fund for the City of Lafayette.
- 6            (ff) Policemen’s Pension and Relief Fund for the Police Department of the

7            City of New Orleans.

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- 8            (gg) Policemen’s Pension and Relief Fund for Lafayette.
- 9            (hh) Harbor Police Retirement System (Port of New Orleans).

10           (ii) ~~P~~olicemen’s Pension and Relief Fund for the City of Shreveport.

11           (jj) Bus Drivers’ Pension and Relief Fund for the City of Monroe.

12           (kk) Electrical Workers’ Pension and Relief Fund for the City of Monroe.

13           (ll) Employees’ Retirement System of the Sewage and Water Board of the

14           City of New Orleans.

15           (mm) LSU Retirement System.

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16           (nn) Firemen’s Pension and Relief Fund of Bogalusa, Bossier City, Houma,  
17           Kenner, Lafayette, Lake Charles, Monroe, Ouachita, Shreveport, and West Monroe.

18           (oo) Any retirement system for retirees of the United States Government.

19           (pp) Any system provided for under the Railroad Retirement Act of 1974  
20           under 42 U.S.C. 231.

21           (2) Qualifying income shall also include:

22           (a) Federal Social Security benefits provided under 42 U.S.C. 301.

23           (b) Up to thirty thousand dollars of active duty military pay received by a  
24           member of the armed forces of the United States for services performed outside this  
25           state, for full-time duty which is or will be continuous and uninterrupted for one  
26           hundred twenty or more consecutive days.

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

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

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

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

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

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

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

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

23           E. The secretary of the department may promulgate rules and regulations in  
24           accordance with the Administrative Procedure Act as are necessary to administer the  
25           rebate program. All rules shall be subject to oversight by the House Committee on  
26           Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

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

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

6           §6363. Rebate for local inventory taxes paid

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

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

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

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

28           §6364. Rebate for taxes paid with respect to vessels in Outer Continental Shelf

29           Lands Act Waters

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

7           B. For purposes of the rebate provided for in this Section, the term "vessel"  
8           shall include ships, oceangoing tugs, towboats, and barges. The term "Outer  
9           Continental Shelf Lands Act Waters" shall have the meaning ascribed to it in R.S.  
10           47:1702.

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

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

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

27           §6365. Rebates for motion picture investors

28           A. Purpose. The primary objective of this Section is to encourage  
29           development in Louisiana of a strong capital and infrastructure base for motion

1 picture production in order to achieve an independent, self-supporting industry. This  
2 objective is divided into immediate and long-term objectives as follows:

3 (1) Immediate objectives are to:

4 (a) Attract private investment for the production of motion pictures in  
5 Louisiana.

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

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

11 (2) Long-term objectives are to:

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

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

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

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

20 (2) "Expended in the state" means an expenditure to lease immovable  
21 property located in the state; an expenditure as compensation for services performed  
22 in the state; or an expenditure to purchase or lease tangible personal property within  
23 the state where the transaction is subject to the state sales or lease tax provisions of  
24 Title 47 of the Louisiana Revised Statutes of 1950. A transaction that is subject to  
25 the state sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes  
26 of 1950 shall include transactions which are also subject to a statutory exclusion or  
27 exemption.

28 (3) "Expenditure" means actual cash or cash equivalent exchanged for goods  
29 or services.

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

5           (5) "Motion picture" means a nationally or internationally distributed  
6           feature-length film, video, television pilot, television series, television movie of the  
7           week, animated feature film, animated television series, or commercial made in  
8           Louisiana, in whole or in part, for theatrical or television viewing. The term "motion  
9           picture" shall not include the production of television coverage of news and athletic  
10           events.

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

19           (7) "Office" means the office of entertainment industry development in the  
20           Department of Economic Development provided for in R.S. 51:938.1.

21           (8) "Payroll" means all salary, wages, and other compensation, including  
22           benefits paid to an employee for services relating to a state-certified production and  
23           taxable in this state. For applications received prior to August 1, 2013, "payroll" for  
24           purposes of the additional rebate for Louisiana-resident payroll shall exclude any  
25           portion of an individual salary in excess of one million dollars. For applications  
26           received on or after August 1, 2013, payroll expenditures shall be limited to one  
27           million dollars per person, per state-certified production for each employee reported  
28           on a Form W2. Payments made to loan out companies or independent contractors

1 reported on a Form 1099 shall also be subject to a limitation of one million dollars,  
2 per person, per state-certified production.

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

21 (10) "Resident" or "resident of Louisiana" means a natural person domiciled  
22 in the state. A person who maintains a permanent place of abode within the state and  
23 spends in the aggregate more than six months of each year within the state shall be  
24 presumed to be domiciled in the state.

25 (11) "Secretary" means the secretary of the Department of Economic  
26 Development.

27 (12) "Source within the state" means a physical facility in Louisiana,  
28 operating with posted business hours and employing at least one full-time equivalent  
29 employee.

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

1           (13) "State" means the state of Louisiana.

2           (14) "State-certified production" shall mean a production approved by the  
3           office and the secretary which is produced by a motion picture production company  
4           domiciled and headquartered in Louisiana and which has a viable multi-market  
5           commercial distribution plan.

6           C. Investor rebate; specific productions and projects.

7           (1) There is hereby authorized a rebate for Louisiana taxpayers for  
8           investment in state-certified productions. The rebate shall be earned by investors at  
9           the time expenditures are made by a motion picture production company in a state-  
10           certified production. However, rebates cannot be applied against a tax or transferred  
11           until the expenditures are certified by the office and the secretary. For state-certified  
12           productions, expenditures shall be certified no more than twice during the duration  
13           of a state-certified production unless the motion picture production company agrees  
14           to reimburse the office for the costs of any additional certifications. The rebate shall  
15           be calculated as a percentage of the total base investment dollars certified per  
16           project.

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

19           (i) If the total base investment is greater than three hundred thousand dollars,  
20           each investor shall be allowed a rebate of thirty percent of the base investment made  
21           by that investor.

22           (ii) To the extent that base investment is expended on payroll for Louisiana  
23           residents employed in connection with a state-certified production, each investor  
24           shall be allowed an additional rebate of five percent of such payroll. However, if the  
25           payroll to any one person exceeds one million dollars, this additional rebate shall  
26           exclude any salary for that person that exceeds one million dollars. However, for  
27           applications received prior to August 1, 2013, "payroll" for purposes of the  
28           additional rebate for Louisiana-resident payroll shall exclude any portion of an  
29           individual salary in excess of one million dollars. For applications received on or

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1 after August 1, 2013, payroll expenditures shall be limited to one million dollars per  
2 person, per state-certified production for each employee reported on a Form W2.  
3 Payments made to loan out companies or independent contractors reported on a Form  
4 1099 shall also be subject to a limitation of one million dollars, per person, per state-  
5 certified production.

6 (d) Motion picture investor rebates associated with a state-certified  
7 production shall never exceed the total base investment in that production.

8 (2) Transferability of the rebate. Any motion picture rebate not previously  
9 claimed by any taxpayer may be transferred or sold to another Louisiana taxpayer  
10 or to the office, subject to the following conditions:

11 (a) A single transfer or sale may involve one or more transferees. The  
12 transferee of the rebate may transfer or sell the rebate subject to the conditions of this  
13 Subsection.

14 (b) Transferors and transferees shall submit to the office, and to the  
15 Department of Revenue in writing, a notification of any transfer or sale of rebates  
16 within thirty days after the transfer or sale of such rebate. The notification shall  
17 include the transferor's rebate balance prior to transfer, a copy of any rebate  
18 certification letter(s) issued by the office and the secretary of the Department of  
19 Economic Development and, the transferor's remaining rebate balance after transfer,  
20 all tax identification numbers for both transferor and transferee, the date of transfer,  
21 the amount transferred, a copy of the credit certificate, price paid by the transferee  
22 to the transferor, in the case when the transferor is a state-certified production, for  
23 the rebates, and any other information required by the office or the Department of  
24 Revenue. For the purpose of reporting transfer prices, the term "transfer" shall  
25 include allocations pursuant to Paragraph (2) of this Subsection as provided by rule.  
26 The office may post on its website an average tax credit transfer value, as determined  
27 by the office and the secretary of the Department of Economic Development to  
28 reflect adequately the current average rebate transfer value. The rebate transfer value  
29 means the percentage as determined by the price paid by the transferee to the

1        transferor divided by the dollar value of the rebates that were transferred in return.  
 2        The notification submitted to the office shall include a processing fee of up to two  
 3        hundred dollars per transferee, and any pricing information submitted by a transferor  
 4        or transferee shall be treated by the office and the Department of Revenue as  
 5        proprietary to the entity reporting such information and therefore confidential.  
 6        However, this shall not prevent the publication of summary data that includes no  
 7        fewer than three transactions.

8        D (c) Failure to comply with this Paragraph will result in the disallowance of  
 9        the rebate until the taxpayers are in full compliance.

10        R (d) The transfer or sale of this rebate does not extend the time in which the  
 11        rebate can be used.

12        A (e) To the extent that the transferor did not have rights to claim or use the  
 13        rebate at the time of the transfer, the Department of Revenue shall either disallow the  
 14        rebate claimed by the transferee or recapture the rebate from the transferee through  
 15        any collection method authorized by R.S. 47:1561. The transferee's recourse is  
 16        against the transferor.

17        T (f)(i) Beginning on and after January 1, 2007, the investor who earned the  
 18        motion picture investor rebate may transfer the rebate to the office for seventy-two  
 19        percent of the face value of the rebate. Beginning January 1, 2009, and every second  
 20        year thereafter, the percent of the face value of the rebates allowed for transferring  
 21        rebates to the office shall increase two percent until the percentage reaches eighty  
 22        percent. Upon the transfer, the Department of Economic Development shall notify  
 23        the Department of Revenue and shall provide it with a copy of the transfer  
 24        documentation. The Department of Revenue may require the transferor to submit  
 25        such additional information as may be necessary to administer the provisions of this  
 26        Section. The secretary of the Department of Revenue shall make payment to the  
 27        investor in the amount to which he is entitled from the current collections of the  
 28        taxes collected pursuant to Chapter ??? of Subtitle II, provided such rebates are  
 29        transferred to the office within one calendar year of certification.

1           (ii) For projects which receive initial certification on and after July 1, 2009,  
2           the investor who earned the motion picture investor rebates pursuant to such  
3           certification may transfer the rebates to the office for eighty-five percent of the face  
4           value of the credits in accordance with the procedures and requirements of Item (i)  
5           of this Subparagraph.

6           (5) Notwithstanding any other provision of law, on or after January 1, 2006,  
7           a state-certified production which receives rebates pursuant to the provisions of this  
8           Chapter shall not be eligible to receive the rebates provided for in R.S. 51:2451  
9           through 2461 in connection with the activity for which the rebates were received.

10           (7)(a) The processing fee provided for in Subparagraph (4)(b) of this  
11           Subsection received by the office shall be deposited upon receipt in the state  
12           treasury. After compliance with the requirements of Article VII, Section 9(B) of the  
13           Constitution of Louisiana relative to the Bond Security and Redemption Fund and  
14           prior to any money being placed into the state general fund or any other fund, an  
15           amount equal to that deposited as required by this Paragraph shall be credited by the  
16           treasurer to a special fund hereby created in the state treasury to be known as the  
17           Louisiana Filmmakers Grant Fund. The money in the fund shall be appropriated by  
18           the legislature to be used solely for the support of Louisiana's independent  
19           filmmakers through the Louisiana Filmmakers Grant Program.

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

26           (c) The office shall administer the Louisiana Filmmakers Grant Program in  
27           accordance with rules adopted by the office in accordance with the Administrative  
28           Procedure Act. The office shall award grants to filmmakers domiciled in Louisiana  
29           who make a film in Louisiana, the total cost of which film shall not exceed three

1 hundred thousand dollars. The maximum amount of any grant shall not exceed the  
2 lesser of fifty percent of the total cost of the film or one hundred thousand dollars.

3 D. Certification and administration.

4 (1)(a) The secretary of the Department of Economic Development and the  
5 office shall determine through the promulgation of rules the minimum criteria that  
6 a project must meet in order to qualify according to this Section. The secretary, the  
7 office, and the division of administration shall determine through the promulgation  
8 of rules the minimum criteria that a project must meet in order to qualify according  
9 to this Section. All rules promulgated pursuant to the provisions of this Section shall  
10 be subject to oversight by the House Committee on Ways and Means and the Senate  
11 Committee on Revenue and Fiscal Affairs.

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

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

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

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

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

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

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

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

1            (bb) A preliminary budget including estimated Louisiana payroll and  
2            estimated base investment.

3            (cc) The script, including a synopsis.

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

6            (ee) A statement that the production will qualify as a state-certified  
7            production.

*D*

8            (ff) Estimated start and completion dates.

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

*R*

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

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

*A*

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

*F*

21           (d) Prior to any final certification of the state-certified production, the  
22           motion picture production company shall submit to the office and the secretary an  
23           audit of the production expenditures certified by an independent certified public  
24           accountant as determined by rule. The office and the secretary shall review the audit,  
25           the production expense details, and may require additional information needed to  
26           make a determination. Upon approval of the audit, the office and the secretary shall  
27           issue a final rebate certification letter indicating the amount of the rebate certified for  
28           the state-certified production to the investors. The rules required by this  
29           Subparagraph shall, at a minimum, require that:

*T*

1           (i) The auditor shall be a certified public accountant licensed in the state of  
2           Louisiana and shall be an independent third party, not related to the producer.

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

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

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

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

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

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

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

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

26           (iv) To delay filing a claim for the film production tax credit until the office  
27           delivers written notification to the secretary of the Department of Revenue that the  
28           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. Recapture of rebates. If the office finds that monies for which an investor  
20 received rebates according to this Section are not invested in and expended with  
21 respect to a state-certified production within twenty-four months of the date that such  
22 rebates are earned, then the investor's state income tax for such taxable period shall  
23 be increased by such amount necessary for the recapture of credit provided by this  
24 Section.

25 F. Recovery of rebates by Department of Revenue. (1) Rebates previously  
26 granted to a taxpayer, but later disallowed, may be recovered by the secretary of the  
27 Department of Revenue through any collection remedy authorized by R.S. 47:1561  
28 and initiated within three years from December thirty-first of the year in which the  
29 twenty-four-month investment period specified in Subsection E of this Section ends.

1           (2) The only interest that may be assessed and collected on recovered rebates  
2           is interest at a rate three percentage points above the rate provided in R.S.  
3           9:3500(B)(1), which shall be computed from the original due date of the return on  
4           which the rebate was taken.

5           (3) The provisions of this Subsection are in addition to and shall not limit the  
6           authority of the secretary of the Department of Revenue to assess or to collect under  
7           any other provision of law.

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

10           R §6366. Rebate for property taxes paid by certain telephone companies: fund

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

19           B.(1)(a) The avails of sales and use taxes imposed pursuant to R.S. 47:302,  
20           321, and 331 attributable to the furnishing of interstate and international  
21           telecommunication services, as both those terms are defined in Chapter 2 of Subtitle  
22           II of this Title, shall be credited to the Bond Security and Redemption Fund, and  
23           after a sufficient amount is allocated from that fund to pay all of the obligations  
24           secured by the full faith and credit of the state which become due and payable within  
25           any fiscal year, the treasurer shall deposit an amount of avails as determined  
26           pursuant to Subparagraph (b) of this Paragraph into a special fund which is hereby  
27           created and established in the state treasury and known as the "Telephone Company  
28           Property Assessment Relief Fund", hereinafter the "fund".

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

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

10           **(3) The monies in the fund shall be invested by the treasurer in the same**  
11           **manner as the monies in the state general fund. Interest earned on investment of**  
12           **monies in the fund shall be deposited in and credited to the fund. Unexpended and**  
13           **unencumbered monies in the fund at the close of each fiscal year shall remain in the**  
14           **fund.**

15           **(4) Notwithstanding any other provision of this Section to the contrary, in**  
16           **any fiscal year in which the balance in the fund which is available for appropriation,**  
17           **net of any credits or rebates previously allowed pursuant to this Section, does ~~not~~**  
18           **equal or exceed the total amount of the rebates taken for that fiscal year pursuant to**  
19           **this Section, the rebates allowed in the succeeding fiscal year shall be**  
20           **proportionately reduced by the amount of the shortfall; however, any reduction may**  
21           **be carried forward to any succeeding fiscal year. The secretary shall determine the**  
22           **amount of any reductions required pursuant to this Subsection.**

23           **§6367. Rebate; rehabilitation of historic structures**

24           **A.(1)(a) There shall be a rebate for the amount of eligible costs and expenses**  
25           **incurred during the rehabilitation of a historic structure located in a downtown**  
26           **development or a cultural product district. The rebate shall not exceed twenty-five**  
27           **percent of the eligible costs and expenses of the rehabilitation. No taxpayer, or any**  
28           **entity affiliated with such taxpayer, shall receive more than five million dollars of**

1 rebate for any number of structures rehabilitated within a particular downtown  
2 development or cultural product district.

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

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

9 (b) Eligible structures must be nonresidential real property or residential  
10 rental property.

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

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

15 (a) "Cultural product district" shall mean a district designated by a local  
16 governing authority in accordance with law for the purpose of revitalizing a  
17 community by creating a hub of cultural activity, including affordable artist housing  
18 and workspace. The Department of Culture, Recreation and Tourism shall develop  
19 standard criteria for cultural product districts. Such criteria shall include that the  
20 district must be geographically contiguous and distinguished by cultural resources  
21 that play a vital role in the life and cultural development of a community. The  
22 district shall focus on a cultural compound, a major art institution, art and  
23 entertainment businesses, an area with arts and cultural activities or cultural or  
24 artisan production and be engaged in the promotion, preservation, and educational  
25 aspects of the arts and culture of the locale and contribute to the public through  
26 interpretive and educational uses. The Department of Culture, Recreation and  
27 Tourism may determine whether or not a district complies with this definition.

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

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

D

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

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

A

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

15           §6368. Rebate: School Readiness Child Care Expense Program

F

16           A.(1) The School Readiness Child Care Expense Program, hereinafter  
17           "program", is hereby established for purposes of authorizing a rebate payment for  
18           eligible child care providers and child care facilities which participate in the quality  
19           rating system and which provide quality child care to children who are five years of  
20           age or less. For purposes of qualifying for the rebate authorized pursuant to the  
21           provisions of this Section, applicants must meet all program requirements and  
22           restrictions as provided for in Subsection     of this Section. The amount of the  
23           rebate shall be based on the quality rating awarded to an eligible child care facility  
24           by the quality rating system.

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25           (2) The department, by rule, shall establish the amount of the rebate and the  
26           qualifying criteria for eligible applicants for the rebate. The department may  
27           annually adjust rebate amounts for each calendar year by the percentage increase in  
28           the Consumer Price Index United States city average for all urban consumers  
29           (CPI-U), as prepared by the United States Department of Labor, Bureau of Labor

1 Statistics, as determined by the secretary of the Department of Revenue on  
2 December first of the preceding calendar year. Adjustments in rebate payment  
3 amounts shall be published in the Louisiana Register no later than March 15<sup>th</sup> of each  
4 year.

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

7 (1) A child care facility which the state administrator of the Child Care  
8 Development Fund determines is eligible to participate in the quality rating system  
9 according to criteria set forth by rule adopted by the Department and which has  
10 applied to the Department of Children and Family Services for evaluation under such  
11 system, and is participating in the system. The child care facility shall apply to the  
12 department for an evaluation under its quality rating system and is participating in  
13 the quality rating system.

14 (2) A child care provider who owns an eligible child care facility or  
15 facilities.

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

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

22 C. This program shall be administered by the state agency designated as the  
23 state administrator of the Child Care Development Fund and responsible for  
24 distributing and managing rebates associated with the fund. For purposes of this  
25 Section, this state agency shall be referred to as "department".

26 D. The department shall promulgate rules and regulations in accordance with  
27 the Administrative Procedure Act as are necessary to develop the rebate program  
28 established pursuant to the provisions of this Section. All rules promulgated  
29 according to the provisions of this Section shall be subject to oversight by the House

1 Committee on Ways and Means and the Senate Committee on Revenue and Fiscal  
2 Affairs.

3 E. If the department or the Department of Revenue find that a child care  
4 provider, director, or staff member has obtained a rebate in violation of the  
5 provisions of this Section, the person awarded the rebate payment shall return the  
6 rebate payment to the state. The Department of Revenue may recover any rebates  
7 previously granted to any person or entity but are disallowed as authorized by R.S.  
8 47:1561.2 due to violation of rules. Persons or entities shall have the right to appeal  
9 as permitted in 47:1565.

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

12 §6369. Rebate: Research and development

13 A. The Legislature of Louisiana hereby finds and declares that the health,  
14 safety, and welfare of the people of this state are dependent upon the continued  
15 encouragement, development, growth, and expansion of the private sector within the  
16 state. Therefore, it is declared to be the purpose of this Section to encourage new  
17 and continuing efforts to conduct research and development activities within this  
18 state.

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

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

27 (3) The Department of Economic Development, hereinafter "department",  
28 shall administer the rebates provided for in this Section. Applicants for rebates  
29 authorized pursuant to the provisions of this Section shall submit applications to the

1 department with an application fee of two hundred fifty dollars. Rebate applications  
2 shall include the following:

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

7 *D* (b) The total amount of qualified research expenses and the qualified  
8 research expenses in this state.

9 *R* (c) The total number of persons employed in Louisiana by the applicant and  
10 the number of persons employed in Louisiana directly engaged in research and  
11 development.

12 *A* (d) The average wages of the persons employed in Louisiana not directly  
13 engaged in research and development and the average wages of the persons  
14 employed in Louisiana directly engaged in research and development.

15 *F* (e) The average value of benefits received by all persons employed in  
16 Louisiana.

17 *T* (f) The cost of health insurance coverage offered to all persons employed in  
18 Louisiana.

19 (g) At the department's request, the applicant shall allow the department  
20 access to federal income tax information related to federal research and development  
21 credits provided directly from the Internal Revenue Service. This access includes,  
22 but is not limited to execution of IRS forms 8821 and 4506 in favor of the  
23 department.

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

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

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

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

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

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

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

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

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

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

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

1           E. An applicant who receives a federal Small Business Innovation Research  
 2           Grant as created by the Small Business Innovation Development Act of 1982 (P.L.  
 3           97-219), reauthorized by the Small Business Research and Development  
 4           Enhancement Act (P.L. 102-564), and reauthorized again by the Small Business  
 5           Reauthorization Act of 2000 (P.L. 106-554), shall be allowed a rebate payment in an  
 6           amount equal to forty percent of the award received during the tax year.

7           F. As used in this Section, the following terms shall have the meaning  
 8           hereafter ascribed to them, unless the context clearly indicates otherwise:

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

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

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

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

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

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

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

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

28           (4) To receive information from the Department of Revenue regarding the  
 29           identity of the applicant and the amount of rebate claimed for any rebates claimed

1 pursuant to this Section. Such information shall not be public record and shall be  
2 subject to the same prohibition of disclosure as in the possession of the Department  
3 of Revenue.

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

6 G.(1) The department shall perform a detailed examination of at least ten  
7 percent of all applications received prior to the issuance of rebate payments.

8 Selection of applications for examination shall be based on either a random sampling  
9 of applications, the applicant's business sector, or other selection criteria as  
10 determined by the department.

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

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

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

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

25 H.(1) Recovery of rebates by the Department of Revenue. Rebate payments  
26 made under this Section, but later disallowed in whole or in part, may be recovered  
27 by the secretary of the Department of Revenue from the applicant through any  
28 collection remedy authorized by R.S. 47:1561 that is initiated within three years from  
29 December thirty-first of the year in which the rebate was originally granted. The

1 only interest that may be assessed and collected on these recovered rebates is interest  
2 at a rate three percentage points above the rate provided in R.S. 9:3500(B)(1), which  
3 shall be computed from the date upon which the original application for a rebate was  
4 received by the Department of Revenue.

5 (2) The provisions of this Subsection are in addition to and shall not limit the  
6 authority of the secretary of the Department of Revenue to assess or to collect under  
7 any other provision of law. This includes the disallowance of any disallowed rebate  
8 claimed by a applicant who received the rebate through purchase or through a  
9 distribution by an entity not taxed as a corporation.

10 I. An applicant shall not receive any other incentive administered by the  
11 Department of Economic Development for any expenditures for which the applicant  
12 has received a rebate pursuant to this Section.

13 J. No rebate shall be allowed pursuant to this Section for research  
14 expenditures incurred or Small Business Innovation Research Grant funds received  
15 after December 31, 2019.

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

18 §6370. Rebate; Angel Investor Rebate Program

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

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

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

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

1           B. Administration. (1) Program. Investments made on or after January 1,  
 2           2011, by qualifying individuals or entities that invest in a Louisiana Entrepreneurial  
 3           Business as defined by R.S. 51:2303(5) may apply for, and if qualified, be granted  
 4           a rebate. The administration of rebate applications, certification of eligibility and  
 5           qualification of applicants for rebates, and the provision for these rebates shall be  
 6           known as the Angel Investor Rebate Program, hereinafter referred to as "program".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           D. Rebates. (1) The total amount of rebates granted by the department in  
 2           any calendar year shall not exceed five million dollars. The department shall by rule  
 3           establish the method of allocating available rebates to investors including but not  
 4           limited to a first-come, first-served system, reservation of rebates for a specific time  
 5           period, or other method which the department, in its discretion, may find beneficial  
 6           to the program. If the department does not grant the entire five million dollars in  
 7           rebates in any calendar year, the amount of residual unused rebates shall carry  
 8           forward to subsequent calendar years and may be granted in any year without regard  
 9           to the five million dollar per year limitation. After the approval of an investor pool,  
 10           the department shall issue a letter identifying the amount of rebates that are available  
 11           to that pool; however, no rebate shall be granted to an investor until the investment  
 12           has been made in the Louisiana Entrepreneurial Business.

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

20           (b) After certifying the eligibility of the Louisiana Entrepreneurial Business  
 21           and the amount of the investment, the secretary of the department shall issue a rebate  
 22           certificate, a copy of which is to be attached to the tax return of the angel investor.  
 23           *The rebate available in the first year shall become deductible from tax liability in the*  
 24           *applicant's income tax year which occurs twenty-four months from the date the*  
 25           *department certifies the amount of the investment.*

26           (c) The rebate certificate shall contain the investor's name, address, tax  
 27           identification number, the amount of rebate, the name of the qualifying Louisiana  
 28           Entrepreneurial Business, a statement certifying that the Louisiana Entrepreneurial  
 29           Business was domiciled in Louisiana at the close of the previous calendar year, and

1 other information which may be required by the Department of Revenue. The rebate  
2 certificate, unless rescinded by the department, shall be accepted by the Department  
3 of Revenue as proof of the rebate.

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

5 (3) A rebate granted pursuant to the Angel Investor Program shall expire and  
6 have no value or effect on tax liability beginning with the eleventh tax year after the  
7 tax year in which it was originally granted.

8 (5)(a) If at the close of any calendar year in the five-year period beginning  
9 with the first year in which a rebate certificate was issued to an investor, the  
10 Louisiana Entrepreneurial Business is no longer domiciled in Louisiana, the rebate  
11 shall be recaptured from the investor unless change of domicile is the result of a  
12 merger, consolidation, or other acquisition of such business with or by a party not  
13 affiliated with the business.

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

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

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

22 (iii) The death of the investor.

23 E.(1) Any person making an application, claim for rebate, or any report,  
24 return, statement, or other instrument or providing any other information pursuant  
25 to the provisions of the Angel Investor Rebate Program who willfully makes a false  
26 or fraudulent application, claim, report, return, statement, invoice, or other  
27 instrument or who willfully provides any false or fraudulent information, any person  
28 who willfully aids or abets another in making a false or fraudulent application, claim,  
29 report, return, statement, invoice, or other instrument, or any person who willfully

1 aids or abets another in providing any false or fraudulent information, shall be guilty,  
2 upon conviction, of a felony and shall be punished by the imposition of a fine of not  
3 less than one thousand dollars and not more than fifty thousand dollars or imprisoned  
4 for not less than two years and not more than five years, or both.

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

8 D F. Transferability of the rebate. Any Angel Investor Rebates not previously  
9 claimed by any applicant against its tax may be transferred or sold to another  
10 Louisiana applicant, subject to the following conditions:

11 (1) A single transfer or sale may involve one or more transferees. The  
12 transferee of the rebates may transfer or sell such rebates subject to the conditions  
13 of this Subsection.

14 (2) Transferors and transferees shall submit to the department and the  
15 Department of Revenue in writing, a notification of any transfer or sale of rebates  
16 within thirty days after the transfer or sale of such rebates. The notification shall  
17 include the transferor's rebate balance prior to transfer, a copy of any rebate  
18 certificate issued by the secretary of the Department of Economic Development and,  
19 the transferor's remaining rebate balance after transfer, all tax identification numbers  
20 for both transferor and transferee, the date of transfer, the amount transferred, the  
21 price paid by the transferee to the transferor, and any other information required by  
22 the department or the Department of Revenue. Any pricing information submitted  
23 by a transferor or transferee shall be treated by the department and the Department  
24 of Revenue as proprietary to the entity reporting such information and therefore  
25 confidential. However, this shall not prevent the publication of summary data that  
26 includes no fewer than three transactions.

27 (3) Failure to comply with this Subsection will result in the disallowance of  
28 the rebate until the applicants are in full compliance.

1           (4) The transfer or sale of this rebate does not extend the time in which the  
2           rebate can be used. The carryforward period for rebate that is transferred or sold  
3           begins on the date on which the rebate was earned.

4           (5) To the extent that the transferor did not have rights to claim or use the  
5           rebate at the time of the transfer, the Department of Revenue shall either disallow the  
6           rebate claimed by the transferee or recapture the rebate from the transferee through  
7           any collection method authorized by this Section or R.S. 47:1561. The transferee's  
8           recourse is against the transferor.

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

11          §6371. Rebate; Digital interactive media and software

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

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

19                  (1) Immediate objectives are to:

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

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

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

27                  (2) Long-term objectives are to:

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

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

6           (c) Encourage partnerships between digital interactive media developers and  
7           Louisiana educational institutions.

8           D C. Definitions. For the purposes of this Section:

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

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

22           (3) "Department" means the Louisiana Department of Economic  
23           Development.

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

28           (i) "Digital" means a system that uses discrete (discontinuous) values  
29           ordinarily symbolized numerically to represent information for input, processing,

1 transmission, and storage. A digital system would be contrasted with an "analog"  
2 system which uses a continuous range of values to represent information. The term  
3 "digital" includes, but is not limited to information input, processed, transmitted and  
4 stored via the Internet.

5 (ii) "Interactive" means a digital media system for inputting, processing,  
6 transmitting, or storing information or data in which users of the system are able to  
7 respond to the digital media system by inputting, transmitting, processing, or storing  
8 information or data in response to the information or data provided to them through  
9 the digital media system. "Digital media system" means communications delivered  
10 via electronic energy where the information stored, transmitted, or received is in  
11 digital form.

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

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

18 (i) Video or interactive games.

19 (ii) Simulation software.

20 (iii) Interactive educational or training products.

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

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

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

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

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

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

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

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

8 D of the following:

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

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

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

15           (6) "Expended in Louisiana" means an expenditure to lease immovable  
16 property located within the state; an expenditure as compensation for services  
17 performed in the state; or an expenditure to purchase or lease tangible personal  
18 property within the state where the transaction is subject to the state sales or lease tax  
19 provisions of Title 47 of the Louisiana Revised Statutes of 1950. A transaction that  
20 is subject to the state sales or lease tax provisions of Title 47 of the Louisiana  
21 Revised Statutes of 1950 shall include transactions which are also subject to a  
22 statutory exclusion or exemption.

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

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

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

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

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

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

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

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

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

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

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

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

20           (11) "Resident" or "resident of Louisiana" means a natural person and, for  
21 the purpose of determining eligibility for the tax incentives provided by this Section,  
22 any person domiciled in the state of Louisiana and any other person who maintains  
23 a permanent place of abode within the state and spends in the aggregate more than  
24 six months of each year within the state.

25           (12) "Secretary" means the secretary of the Louisiana Department of  
26 Economic Development.

27           (13) "State-certified production" shall mean a digital interactive media  
28 production or a component part thereof approved by the office.

1           (14) "Rebate" means the digital interactive media and software development  
2           rebate authorized by this Section.

3           D. Rebate; specific projects.

4           (1) For applications for state-certified productions submitted to the office  
5           prior to July 1, 2009, and subsequently approved by the office and secretary, there  
6           is hereby authorized a rebate against state income tax which shall be earned by  
7           producers at the time funds are expended in Louisiana on a state-certified production  
8           as follows:

9           (a) For each of the first and second years following certification of the  
10           project as a state-certified production, the producer shall earn rebates at the rate of  
11           twenty percent of the base investment for that year.

12           (b) For each of the third and fourth years following certification of the  
13           project as a state-certified production, the producer shall earn rebates at the rate of  
14           fifteen percent of the base investment for that year.

15           (c) For each of the fifth and sixth years following certification of the project  
16           as a state-certified production, the producer shall earn rebates at the rate of ten  
17           percent of the base investment for that year.

18           (d) No rebates may be earned under this Section after the sixth year  
19           following the certification of the project as a state-certified production.

20           (2) For applications for state-certified productions submitted to the office on  
21           or after July 1, 2009, and subsequently approved by the office and secretary, there  
22           are hereby authorized rebates which shall be earned by a company at the time funds  
23           are expended in Louisiana on a state-certified production as follows:

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

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

29           E. Use of rebates

1           (1) For rebates earned for expenditures made on or before December 31,  
2           2011:

3           (a) The rebate shall be allowed against the income or franchise tax due from  
4           a applicant for the taxable period in which the rebate is earned as well as the  
5           immediately preceding period. If the rebate allowed pursuant to this Section exceeds  
6           the amount of such taxes due from a applicant, then any unused rebate may be  
7           carried forward by the applicant as a rebate against subsequent tax liability for a  
8           period not to exceed ten years. However, in no event shall the amount of the rebate  
9           applied by a applicant in a taxable period exceed the amount of such taxes due from  
10           the applicant for that taxable period.

11           (b) All entities taxed as corporations for Louisiana income tax purposes shall  
12           claim any rebate on their corporation income and franchise tax return.

13           (c) Individuals, estates, and trusts shall claim their share of any rebate on  
14           their income tax return.

15           (d) Entities not taxed as corporations shall claim their share of any rebate on  
16           the returns of the partners or members as follows:

17           (i) Corporate partners or members shall claim their share of any rebate on  
18           their corporation income tax returns.

19           (ii) Individual partners or members shall claim their share of any rebate on  
20           their individual income tax returns.

21           (iii) Partners or members that are estates or trusts shall claim their share of  
22           any rebate on their fiduciary income tax returns.

23           (e) Any rebates allocated to a person and not previously claimed by any  
24           applicant against his Louisiana state income or franchise tax may be transferred or  
25           sold by such person to another person, subject to the following conditions:

26           (i) A single transfer or sale may involve one or more transferees. The  
27           transferee of the rebates may transfer or sell such rebates subject to the conditions  
28           of this Section.

1           (ii) Transferors and transferees shall submit to the office and Department of  
2 Revenue in writing, a notification of any transfer or sale of rebates within thirty days  
3 after the transfer or sale of such rebates. The notification shall include the  
4 transferor's rebate balance prior to transfer, the state-certified production number, the  
5 name of the state-certified production, the transferor's remaining rebate balance after  
6 transfer, all tax identification numbers for both transferor and transferee, the date of  
7 transfer, the amount transferred, a copy of the rebate certificate, and any other  
8 information required by the office or the Department of Revenue.

9           (iii) Failure to comply with this Paragraph will result in the disallowance of  
10 the rebate until the applicants are in full compliance.

11           (iv) The transfer or sale of this rebate does not extend the time in which the  
12 rebate can be used. The carryforward period for rebate that is transferred or sold  
13 begins on the date on which the rebate was originally earned.

14           (v) The transferee shall apply such rebates in the same manner and against  
15 the same taxes as the applicant originally awarded the rebate.

16           (2) For rebates earned for expenditures made on or after January 1, 2012:

17           (a) The rebates shall be refundable and allowed against the individual or  
18 corporate income tax liability of the companies or financiers of the project in  
19 accordance with their share of the rebate as provided for in the application for  
20 certification for the project. The rebate shall be allowed for the taxable period in  
21 which expenditures eligible for a rebate are expended as set forth in the final rebate  
22 certification letter. Any excess of the rebate over the income tax liability against  
23 which the rebate may be applied shall constitute an overpayment, as defined in R.S.  
24 47:1621(A), and the secretary of the Department of Revenue shall make a refund of  
25 such overpayment from the current collections of the taxes imposed by Chapter 1 of  
26 Subtitle II of this Title, as amended. The right to a refund of any such overpayment  
27 shall not be subject to the requirements of R.S. 47:1621(B).

28           (b) At the time of final certification of rebates, a company may elect, on a  
29 one-time basis, to receive a rebate of the rebates. The amount of the rebate shall be

1 eighty-five percent of the face value of the rebates. Upon receipt of the final rebate  
2 certification letter and any necessary additional information, the secretary of the  
3 Department of Revenue shall make payment to the company, or its irrevocable  
4 designee, which may include but not be limited to a bank or other lender, in the  
5 amount to which he is entitled from the current collections of the taxes collected  
6 pursuant to Chapter 1 of Subtitle II of this Title, as amended.

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

13 (2) Application. A company seeking to participate in the rebate program  
14 shall apply to the department through an application process established by the  
15 department.

16 (3) Certification. (a) The office shall review the company's application and  
17 any other information which it deems appropriate for determination of the project's  
18 eligibility for initial certification. For a project deemed eligible, the office shall  
19 provide an initial certification of the project as a state-certified production to the  
20 company and to the secretary of the Department of Revenue. The initial certification  
21 shall be effective for expenditures made no more than six months prior to the date  
22 of initial certification and shall be valid until the project is completed. The initial  
23 certification shall include a unique identifying number for each state-certified  
24 production.

25 (b) Prior to final certification of rebates of a state-certified production or any  
26 portion thereof, the company shall submit to the office a cost report of production  
27 expenditures. The cost report of expenditures shall be subject to an agreed-upon  
28 procedures engagement conducted by a certified public accountant in accordance  
29 with statements on standards for attestation engagements established by the

1 American Institute of Certified Public Accountants. The accountant shall issue a  
2 report in the form of procedures and findings. The accountant shall be a certified  
3 public accountant licensed in the state of Louisiana and shall be an independent third  
4 party unrelated to the company. The agreed-upon procedures shall be established by  
5 the office and secretary, with assistance from the Society of Louisiana Certified  
6 Public Accountants. The department may request additional audits of the project  
7 expenditures, the cost of which shall be borne by the company.

8 *D* (c) Upon completion of all or a portion of a state-certified production, the  
9 office shall review the production expenses and, if approved by the office and  
10 secretary, issue a final rebate certification letter to the company. The certification  
11 letter shall include the identifying number assigned to that state-certified production  
12 in the initial certification.

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

16 G. Recapture of rebates. If the office finds that funds for which a company  
17 received rebates according to this Section are not actually expended in Louisiana as  
18 a production-related cost of a state-certified production, then the company's state  
19 income tax for such taxable period shall be increased by such amount necessary for  
20 the recapture of rebate provided by this Section.

21 H. Recovery of rebates by Department of Revenue. (1) Rebates previously  
22 granted to a applicant, but later disallowed, may be recovered by the secretary of the  
23 Department of Revenue through any collection remedy authorized by R.S. 47:1561  
24 and initiated within three years from December thirty-first of the year in which the  
25 rebates were earned.

26 (2) The only interest that may be assessed and collected on recovered rebates  
27 is interest at a rate of three percentage points above the rate provided in R.S.  
28 9:3500(B)(1), which shall be computed from the original due date of the return on  
29 which the rebate was taken.

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

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

6           J. 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           K. 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           (8) "State-certified sound recording infrastructure project" means a sound  
20           recording capital infrastructure project and base investment related to such project  
21           that are approved by the Louisiana Department of Economic Development within  
22           one hundred eighty days of the receipt by the Department of Economic Development  
23           of a complete application for initial certification of an infrastructure project. If the  
24           infrastructure project is not approved within one hundred eighty days, the  
25           Department of Economic Development shall provide a written report to the Senate  
26           Committee on Revenue and Fiscal Affairs and the House Committee on Ways and  
27           Means which states the reason that the infrastructure project has not been approved.

28           C. Investor rebate: state-certified productions and infrastructure projects.

1           (1) Until January 1, 2019, there is hereby authorized a rebate for investments  
 2           made in state-certified productions. The rebate shall be earned by investors at the  
 3           time expenditures are certified by the Louisiana Department of Economic  
 4           Development according to the total base investment certified for the sound recording  
 5           production company per calendar year; however, no rebate shall be allowed under  
 6           this Section for any expenditures for which a rebate was granted under R.S. 47:6365.

7           For state-certified productions certified on and after July 1, 2007, and state-certified  
 8           infrastructure projects which have applied on or before August 1, 2009, each investor  
 9           shall be allowed a rebate of twenty-five percent of the base investment made by that  
 10          investor in excess of fifteen thousand dollars.

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

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

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

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

28          D. Certification and administration.

1           (1) The secretary of the Department of Economic Development shall  
2 determine through the adoption and promulgation of rules which projects and  
3 expenditures, including amounts expended in this state on state-certified  
4 infrastructure projects, qualify according to this Section. In addition, these rules  
5 shall be approved by the House Committee on Ways and Means and the Senate  
6 Committee on Revenue and Fiscal Affairs in accordance with the provisions of the  
7 Administrative Procedure Act. When determining which projects qualify, the

8 Louisiana Department of Economic Development shall take the following factors  
9 into consideration:

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

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

13           (c) The impact of the production on the overall economy of the state.

14           (d) The availability of similar infrastructure facilities within fifty miles of  
15 the proposed infrastructure project.

16           (2)(a) Application. An applicant for the sound recording investor rebate  
17 shall submit an application for initial certification to the Louisiana Department of  
18 Economic Development that includes the following information:

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

20           (aa) The distribution plan.

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

23           (cc) A description of the type of sound to be recorded.

24           (dd) A list of the principal creative elements including performing artist(s)  
25 and producer.

26           (ee) The name and address of the recording studio or other location where  
27 the recording production will take place.

28           (ff) A statement that the production will qualify as a state-certified  
29 production.

- 1            (gg) Estimated start and completion dates.
- 2            (ii) For state-certified sound recording infrastructure projects the application
- 3            shall include:
- 4            (aa) A detailed description of the infrastructure project.
- 5            (bb) A preliminary budget.
- 6            (cc) A statement that the project meets the definition of a state-certified
- 7            infrastructure project.
- 8            (dd) Estimated start and completion dates.
- 9            (b) If the application is incomplete, additional information may be requested
- 10           prior to further action by the Louisiana Department of Economic Development.
- 11           (c) The Louisiana Department of Economic Development shall submit its
- 12           initial certification of a project as a state-certified production or a state-certified
- 13           sound recording infrastructure project to investors and to the secretary of the
- 14           Department of Revenue. The initial certification shall include a unique identifying
- 15           number for each state-certified production.
- 16           (d) Prior to any certification of the state-certified production or infrastructure
- 17           project, the sound recording production company shall submit to the Louisiana
- 18           Department of Economic Development a cost report of production or project
- 19           expenditures which the Louisiana Department of Economic Development may
- 20           require to be prepared by an independent certified public accountant. The Louisiana
- 21           Department of Economic Development shall review such expenditures and shall
- 22           issue a rebate certification letter to the investors indicating the amount of rebates
- 23           certified for the state-certified production or state-certified infrastructure project.
- 24           (3) The secretary of the Louisiana Department of Economic Development,
- 25           in consultation with the Department of Revenue, shall adopt and promulgate such
- 26           rules and regulations as are necessary to carry out the intent and purposes of this
- 27           Section in accordance with the general guidelines provided herein.

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

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

13           E. After certification, the Louisiana Department of Economic Development  
14           shall submit the rebate certification letter to the Department of Revenue on behalf  
15           of the investor who earned the sound recording rebates. The Department of Revenue  
16           may require the investor to submit additional information as may be necessary to  
17           administer the provisions of this Section. Upon receipt of the rebate certification  
18           letter and any necessary additional information, the secretary of the Department of  
19           Revenue shall make payment to the investor in the amount to which he is entitled  
20           from the current collections of the taxes collected pursuant to Chapter 1 of Subtitle  
21           II of this Title, as amended.

22           F. Recapture of rebates. If the Department of Economic Development finds  
23           that an applicant has obtained a rebate in violation of the provisions of this Chapter,  
24           including but not limited to fraud or misrepresentation then any tax liability of the  
25           taxpayer collected under Title 47 of the Louisiana Revised Statutes of 1950, as  
26           amended investor's shall be increased by such amount necessary for the recapture of  
27           the rebate provided by this Section.

28           G. Recovery of rebates by Department of Revenue.

1           (1) Rebates previously granted to a applicant, but later disallowed, may be  
2           recovered by the secretary of the Department of Revenue through any collection  
3           remedy authorized by R.S. 47:1561 and initiated within three years from December  
4           thirty-first of the year in which the rebate was taken.

5           (2) The only interest that may be assessed and collected on recovered rebates  
6           is interest at a rate three percentage points above the rate provided in R.S.  
7           9:3500(B)(1), which shall be computed from the original date upon which the  
8           original application for rebate was received by the Department of Revenue.

9           (3) The provisions of this Subsection are in addition to and shall not limit the  
10          authority of the secretary of the Department of Revenue to assess or to collect under  
11          any other provision of law.

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

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

18          §6373. Rebate; Musical and theatrical productions

19          A. Purpose. It is the intention of the legislature in creating these five  
20          different types of rebates: a rebate for qualified production expenditures made from  
21          investments in a state-certified musical or theatrical production; a rebate for the  
22          construction, repair, or renovation of facilities related to such productions and  
23          performances; a rebate for qualified transportation costs for performance-related  
24          property; a rebate for the payroll of Louisiana residents employed in connection with  
25          a state-certified musical or theatrical production; and a rebate for employing college,  
26          university, and vocational-technical students employed in connection with a state-  
27          certified musical or theatrical production, to establish and promote Louisiana as one  
28          of the primary places in the United States in which live performances, from creation  
29          to presentation are present and thriving. The live performance industry will enhance

1 economic development because it fits well with the state's reputation as a tourist  
 2 destination, will offer numerous and varied employment opportunities, and in  
 3 conjunction with the available federal and state incentives, will be an attraction for  
 4 new and relocating businesses and will provide for the reinventing of countless  
 5 abandoned properties as either performance or rehearsal spaces. The live  
 6 performance industry will also spur educational development: Louisiana colleges,  
 7 universities, and vocational-technical schools will be able to offer talented  
 8 undergraduate and graduate students from this state, other states, and around the  
 9 world a real-world opportunity to participate in degree programs across the state that  
 10 work on the various productions in accounting, law, management, and marketing and  
 11 to fill arts-related positions such as actors, writers, producers, stagehands, and  
 12 directors, as well as technicians working on all aspects of the production such as  
 13 lighting, sound, and actual stage production and operations.

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

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

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

23 (3) "Expended in the state" or "expenditures in the state" means an  
 24 expenditure to acquire or lease immovable property located in the state, an  
 25 expenditure to acquire movable property from a source within the state which is  
 26 subject to state sales and use tax, or an expenditure as compensation for services  
 27 performed within the state which is subject to state income tax.

28 (4) "Limited state-certified musical or theatrical production" means a  
 29 musical or theatrical production or a series of productions occurring in Louisiana by

1 a nonprofit community theater that held a public performance before an audience  
2 within this state during the 2008 calendar year which has been certified, verified, and  
3 approved in accordance with the provisions of this Section.

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

10 (6) "Payroll" means all salary, wages, and other compensation, including  
11 related benefits for services performed in Louisiana.

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

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

23 (8)(a) "Resident" or "resident of Louisiana" means a natural person and, for  
24 the purpose of determining eligibility for the tax incentives provided by this Section,  
25 a person who qualifies for any of the following reasons:

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

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

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

3           (b) A company owned or controlled by such a person and which lends the  
4           services of such a person for a state-certified musical or theatrical production shall  
5           also be deemed a resident if such company is organized or authorized to do business  
6           in the state and such company pays taxes to the state on the amount of money paid  
7           to such company for such services of such person.

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

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

27           (b) A "state-certified musical or theatrical production" which shall be  
28           eligible for recertification and the rebate provided for in this Section shall include a  
29           previously certified musical or theatrical production which received a rebate

1 pursuant to this Section, and which is otherwise eligible pursuant to this Section,  
2 which returns for performances within the state after being performed on Broadway.

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

14 (b) "Transportation expenditures" shall not include any costs to transport  
15 property and equipment to be used only for filming and not in a state-certified  
16 production, any indirect costs, any expenditures that are later reimbursed by a third  
17 party, 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 C. Income rebates for state-certified productions and state-certified musical  
20 or theatrical facility infrastructure projects:

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

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

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

1           (ii)(aa) Until January 1, 2014, a base investment rebate may be granted for  
2           certified, verified, and approved expenditures in the state for the construction, repair,  
3           or renovation of a state-certified musical or theatrical facility infrastructure project,  
4           or for investments made by a company or a financier in such infrastructure project  
5           which are, in turn, expended for such construction, repair, or renovation, not to  
6           exceed ten million dollars per state-certified infrastructure project, under conditions  
7           provided for in this Item. No more than sixty million dollars in rebates under this  
8           Section shall be granted for infrastructure projects per year.

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

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

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

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

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

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

27           (III) Twenty-five percent of the total base investment provided for in the  
28           initial certification of an infrastructure project pursuant to Subparagraph (E)(1)(d)

1 of this Section shall be certified, verified, and approved as expended before any  
2 rebates may be earned.

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

8 *D* (dd) The initial certification may require the rebates to be taken and/or  
9 transferred in the tax period in which the rebate is earned or the rebates may be  
10 structured in the initial certification of the project to provide that only a portion of  
11 the rebate be taken over the course of two or more tax years.

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

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

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

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

24 (b) Because the legislature hereby determines that the state lacks the  
25 facilities and services necessary to provide adequate resources for the construction  
26 of sets, costumes, and related property needed for productions and performances in  
27 the state, an additional transportation expenditure rebate shall be allowed for the  
28 following percentages of certified, verified, and approved transportation expenditures  
29 as defined in Paragraph (B)(10) of this Section; provided that transportation services

1 are purchased through a company which has a significant business presence in the  
2 state:

3 (i) One hundred percent of such amounts incurred through calendar year  
4 2010.

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

6 (iii) Twenty-five percent of such amounts incurred during the calendar year  
7 2012.

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

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

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

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

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

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

7           (f) If the total base investment for a limited state-certified musical or  
8           theatrical production is greater than twenty five thousand dollars and less than three  
9           hundred thousand dollars, the nonprofit community theater shall be allowed a rebate  
10           of ten percent of the base investment made by the nonprofit community theater for  
11           each of the 2009 and 2010 calendar years. However, the total amount of rebates  
12           eligible to be issued pursuant to the provisions of this Subparagraph shall not exceed  
13           two hundred fifty thousand dollars for each of the 2009 and 2010 calendar years.  
14           Applicants shall be limited to a maximum of two applications per year for the 2009  
15           and 2010 calendar years.

16           (2)(a) The rebates shall be earned each calendar year to the extent the  
17           Louisiana Department of Economic Development verifies in writing that  
18           expenditures qualifying for a rebate pursuant to this Section have been expended for  
19           the calendar year in accordance with the estimates of such expenditures for the  
20           calendar year set forth in the certification of the production or project.

21           (b) No rebate shall be allowed under this Section for any expenditure for  
22           which a financier receives a rebate pursuant to this Section, or for which a rebate is  
23           granted under R.S. 47:6007 or 6023. In addition, a state-certified production or  
24           state-certified infrastructure project which receives rebates pursuant to the provisions  
25           of this Chapter shall not be eligible to receive the rebates provided for in R.S.  
26           51:2451 through 2461 in connection with the activity for which the rebates were  
27           received.

28           (3) Rebates associated with a state-certified musical or theatrical production  
29           or a state-certified musical or theatrical facility infrastructure project shall never

1 exceed the total base investment in that production or infrastructure project and  
2 transportation expenditures.

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

7 D.(1) The rebate shall be allowed against individual or corporate income tax  
8 of the companies or financiers of the production or infrastructure project in  
9 accordance with their share of the rebate as provided for in the application for  
10 certification for the production or infrastructure project. A company or financier  
11 may on a one-time basis, transfer the rebate, and/or any refund of an overpayment,  
12 to an individual or other entity including without limitation a bank or other lender,  
13 provided that the transfer shall not be effective until receipt by the Department of  
14 Revenue of written notice of such transfer. The rebate shall be allowed for the  
15 taxable period in which expenditures eligible for a rebate are expended. Any excess  
16 of the rebate over the income tax liability against which the rebate may be applied  
17 shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary of  
18 the Department of Revenue shall make a refund of such overpayment from the  
19 current collections of the taxes imposed by Chapter 1 of Subtitle II of this Title, as  
20 amended. The right to a refund of any such overpayment shall not be subject to the  
21 requirements of R.S. 47:1621(B).

22 (2) Application of the rebate.

23 (a) Individuals, estates, and trusts shall claim their share of any rebate on  
24 their income tax return.

25 (b) Entities not taxed as corporations shall claim their share of any rebate on  
26 the returns of the partners or members.

27 (c) Corporate partners or members shall claim their share of any rebate on  
28 their corporation income tax returns.

1           (d) Individual partners or members shall claim their share of any rebate on  
2           their individual income tax returns.

3           (e) Partners or members that are estates or trusts shall claim their share of  
4           any rebate on their fiduciary income tax returns.

5           E. Certification and administration:

6           (1)(a)(i) The secretary of the Department of Economic Development shall  
7           determine which musical or theatrical productions and which musical or theatrical  
8           facility infrastructure projects shall be certified pursuant to this Section through the  
9           adoption and promulgation of rules by the Department of Economic Development.

10          The rules shall also provide for all of the following:

11           (aa) The minimum criteria for such certification.

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

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

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

22           (b) State certification shall not be granted to a production or infrastructure  
23           project by any person or company, or financed by any person or company, or any  
24           company or financier owned, affiliated, or controlled, in whole or in part, by any  
25           company or person, which is in default on a loan made by the state or a loan  
26           guaranteed by the state, or which has ever declared bankruptcy under which an  
27           obligation of the company or person to pay or repay public funds or monies was  
28           discharged as a part of such bankruptcy.

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

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

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

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

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

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

19           (d) Upon approval the Department of Economic Development shall initially  
20           certify a production or project as a state-certified production or state-certified  
21           infrastructure project and send notice of such certification to the applicant and to the  
22           secretary of the Department of Revenue. The initial certification shall include all of  
23           the following:

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

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

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

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

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

3           (e) Prior to the final certification of a production or infrastructure project, the  
4           applicant shall submit to the Department of Economic Development a report of the  
5           final amount of expenditures qualifying for rebates pursuant to this Section, which  
6           report the Department of Economic Development may require to be prepared by an  
7           independent certified public accountant. The Department of Economic Development  
8           shall review the report and shall issue a final rebate certification letter, certifying the  
9           applicant and indicating the type and amount of rebates for which the applicant or  
10           other companies or financiers are eligible pursuant to this Section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4           (ii) The application for state-certified musical or theatrical facility  
5 infrastructure projects shall include:

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

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

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

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

12 After compliance with the requirements of Article VII, Section 9(B) of the  
13 Constitution of Louisiana relative to the Bond Security and Redemption Fund and  
14 prior to any money being placed into the general fund or any other fund, an amount  
15 equal to that deposited as required by this Item shall be rebated by the treasurer to  
16 a special fund known as the Entertainment Promotion and Marketing Fund.

17           F (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           T (bb) A detailed description of the infrastructure project.

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

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

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

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

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

11           F.(1) Recapture of rebates. If the Department of Economic Development,  
12           or the Department of Revenue find that funds for which a applicant received rebates  
13           according to this Section were not expended for expenditures qualifying for a rebate  
14           as provided in this Section, then the applicant's state income tax for such taxable  
15           period shall be increased by such amount necessary for the recapture of rebate  
16           provided by this Section.

17           (2)(a) Recovery of rebates by Department of Revenue. Rebates granted to  
18           a applicant, but later disallowed, may be recovered by the secretary of the  
19           Department of Revenue through any collection remedy authorized by R.S. 47:1561  
20           and initiated within three years from December thirty-first of the year in which the  
21           rebate was taken.

22           (b) The only interest that may be assessed and collected on recovered rebates  
23           is interest at a rate three percentage points above the rate provided in R.S.  
24           9:3500(B)(1), which shall be computed from the original date of the return on which  
25           the rebate was taken.

26           (3) The provisions of this Subsection are in addition to and shall not limit the  
27           authority of the secretary of the Department of Revenue to assess or to collect under  
28           any other provision of law.

1           G. The Department of Economic Development shall prepare, with input from  
2           the Legislative Fiscal Office, a written report to be submitted to the Senate  
3           Committee on Revenue and Fiscal Affairs and the House of Representatives  
4           Committee on Ways and Means no less than sixty days prior to the start of the  
5           Regular Session of the Legislature in 2008, and every second year thereafter. The  
6           report shall include the overall impact of the rebates, the amount of the rebates  
7           issued, the number of net new jobs created, the amount of Louisiana payroll created,  
8           the economic impact of the rebates and the state-certified musical and theatrical  
9           productions and infrastructure projects, the amount of new infrastructure that has  
10           been developed in the state, and any other factors that describe the impact of the  
11           program.

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

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

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

23           §6374. Rebate; Ports of Louisiana

24           A. Purpose.

25           The primary purpose of this Section is to encourage private investment in and  
26           the use of state port facilities in Louisiana. Because public funding sources for ports  
27           and port infrastructure facilities have not kept pace with the need to expand our ports  
28           and port facilities, it is determined that private investment and public-private  
29           partnerships should be encouraged as a means to assist the state in financing

1 improvements to our state ports and port infrastructure facilities. The development,  
 2 improvement, expansion, and maintenance of the state's ports and port infrastructure  
 3 facilities, and the utilization of public port facilities for the import and export of their  
 4 cargo to or from distribution, manufacturing, fabrication, assembly, processing, or  
 5 warehousing sites in Louisiana, are essential to Louisiana's economic health and the  
 6 ability of business and industry associated with the maritime industry to compete  
 7 cost effectively on a regional, national, and global scale.

*D*

B. Definitions.

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

*R*

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

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

*T*

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

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

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

1           (d) The costs of architectural and engineering services, including test  
2           borings, surveys, estimates, plans, and specifications, preliminary investigations,  
3           environmental mitigation, and supervision of construction, as well as for the  
4           performance of all the duties required by or consequent upon the acquisition,  
5           construction, and installation of a qualifying project.

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

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

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

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

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

4           (5) "International business entity" shall mean a applicant corporation,  
5           partnership, limited liability company, or other commercial entity, all or a portion of  
6           whose activities involve the import or export of breakbulk or containerized cargo to  
7           or from manufacturing, fabrication, assembly, distribution, processing, or  
8           warehousing facilities located within Louisiana.

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

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

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

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

1           (10) "Public port" shall mean any deep-water port commission or port,  
2           harbor and terminal district as defined in Article VI, Section 44 of the Constitution  
3           of Louisiana, and any other port, harbor, and terminal district established under Title  
4           34 of the Louisiana Revised Statutes of 1950.

5           (11) "Qualified cargo" shall mean any breakbulk or containerized machinery,  
6           equipment, materials, products, or commodities owned by an international business  
7           entity which are imported or exported to or from a manufacturing, fabrication,  
8           assembly, distribution, processing, or warehouse facility located in Louisiana and  
9           which are so moved by way of an oceangoing vessel berthed at a public port facility  
10          during the taxable year.

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

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

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

20           C. Investor rebate.

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

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

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

28           (b) The Investor Rebate provided for in this Subsection shall be issued by the  
29           Department of Economic Development for a qualifying project if the commissioner

1 of administration, after approval of the Joint Legislative Committee on the Budget,  
 2 and the state bond commission certifies to the secretary of the department that there  
 3 will be sufficient Revenue received by the state to offset the effect to the state of the  
 4 rebates provided for the capital costs of the project, whether from increased port or  
 5 port and harbor activity because of the grant of the rebate or otherwise. If the  
 6 commissioner with the approval of the committee so certifies, then the Department  
 7 of Economic Development may grant a rebate equal to the total capital costs of a  
 8 qualifying project to be taken at five percent per tax year; however, the total amount  
 9 of rebates granted on a qualifying project shall not exceed the total cost of the  
 10 project.

11 (c) The rebate shall be earned by investors at the time expenditures are made  
 12 by an investing company; however, rebates shall not be applied against a tax liability  
 13 until the project is approved by the department after certification from the  
 14 commissioner with the approval of the committee and the state bond commission and  
 15 capital cost expenditures are certified by the department. The Department of  
 16 Economic Development shall certify capital cost expenditures no less than twice  
 17 during the duration of the qualifying project unless the investing company agrees,  
 18 in writing, to reimburse the Department of Economic Development for the costs of  
 19 any additional certifications.

20 (2) Prior to issuance of any rebate pursuant to the provisions of this  
 21 Subsection, a cooperative endeavor agreement shall be fully executed between the  
 22 investing company or entity proposing the qualifying project and the public port in  
 23 whose geographic jurisdiction the proposed qualifying project is to be located  
 24 indicating cooperation and support among all of the parties. Failure to fully execute  
 25 the cooperative endeavor agreement shall render the qualifying project ineligible for  
 26 the rebate authorized by this Subsection.

27 (3) If the rebate allowed pursuant to this Subsection exceeds the amount of  
 28 taxes due for such tax period, then any unused rebate may be carried forward as a  
 29 rebate against subsequent tax liability for a period not to exceed ten years.

1           (4) Application of the rebate.

2           (a) All entities taxed as corporations for Louisiana income tax purposes shall  
 3           claim any rebate allowed under this Subsection on their corporation income tax  
 4           return.

5           (b) Individuals, estates, and trusts shall claim any rebate allowed under this  
 6           Subsection on their income tax return.

7           (c) Entities not taxed as corporations shall claim any rebate allowed under  
 8           this Subsection on the returns of the partners or members as follows:

9           (i) Corporate partners or members shall claim their share of the rebate on  
 10           their corporation income tax returns.

11           (ii) Individual partners or members shall claim their share of the rebate on  
 12           their individual income tax returns.

13           (iii) Partners or members that are estates or trusts shall claim their share of  
 14           the rebate on their fiduciary income tax returns.

15           D. Certification and administration.

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

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

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

1           (c) The impact of the qualifying project on the employment of Louisiana  
2           residents.

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

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

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

*D*

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

*R*

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

13           (iii) A statement that the proposed project will qualify as a qualifying  
14           project.

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

*J*

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

*T*

21           (vi) Any other information required by the Department of Economic  
22           Development.

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

25           (c) The Department of Economic Development shall submit its initial  
26           certification of a project as a qualifying project to the investing company and to the  
27           secretary of the Department of Revenue. The initial certification shall include a  
28           unique identifying number for each qualifying project, the total amount of rebates

1 issued for the capital costs of the qualifying project, and the amount to be taken at  
2 five percent per tax year.

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

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

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

24 E. Recapture of rebates.

25 If the Department of Economic Development finds that funds for which an  
26 investing company received rebates according to the provisions of Subsection C of  
27 this Section are not invested in and expended with respect to capital costs of a  
28 qualifying investment, the investing company's state income tax for such taxable

1 period shall be increased by an amount necessary for the recapture of rebate provided  
2 by Subsection C of this Section.

3 F. Recovery of rebates by the Department of Revenue.

4 (1) Rebates previously granted to a applicant, but later disallowed, may be  
5 recovered by the Department of Revenue through any collection remedy authorized  
6 by R.S. 47:1561 and initiated within three years from December thirty-first of the  
7 year in which the rebates were earned.

8 D (2) The only interest that may be assessed and collected on recovered rebates  
9 is interest at a rate of three percentage points above the rate provided in R.S.  
10 9:3500(B)(1), which shall be computed from the original due date of the return on  
11 which the rebate was taken.

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

15 G. Termination of Investor Rebate.

16 The provisions of Subsection C of this Section shall be effective until January  
17 1, 2017, and no investor rebate pursuant to the provisions of this Section shall be  
18 granted after such date.

19 H. No new employees shall be hired by the Department of Economic  
20 Development for the implementation of the Investor Rebate provided for in this  
21 Section.

22 I. Import Export Cargo Rebate.

23 (1) Certification of applicant. Only those applicants who have received  
24 certification from the secretary of the Department of Economic Development shall  
25 be eligible to take the rebates provided for by this Subsection and then only for the  
26 taxable year or years and for the amount provided for in the commissioner of  
27 administration's certification, approved by the Joint Legislative Committee on the  
28 Budget and the state bond commission, provided for in Item (2)(a)(ii) of this  
29 Subsection as allocated by the secretary. The secretary shall promulgate rules in

1 accordance with the Administrative Procedure Act which establish the process by  
2 which a applicant shall apply for certification.

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

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

11 (c) The secretary shall provide a statement of certification to each applicant  
12 which he has certified as eligible to take the rebate after approval of the Joint  
13 Legislative Committee on the Budget and the state bond commission, which shall  
14 contain the taxable year or years for which the applicant is allowed the rebate and  
15 the amount of rebate allocated for such taxable year or years. The secretary shall  
16 also transmit a copy of such statement to the secretary of the Department of  
17 Revenue.

18 (2)(a)(i) For taxable years beginning on and after January 1, 2009, there shall  
19 be allowed a rebate against the individual income, corporation income, and  
20 corporation franchise tax liability of a applicant who has received certification  
21 pursuant to the provisions of Paragraph (1) of this Subsection. The amount of the  
22 rebate shall be equal to the product of multiplying five dollars by the applicant's  
23 number of tons of qualified cargo for the taxable year but only for the total amount  
24 of the allocation provided to the applicant by the secretary of the Department of  
25 Economic Development for such taxable year.

26 (ii) The rebate provided for in this Subsection shall only be allowed for all  
27 or a portion of a fiscal year if the commissioner of administration certifies to the  
28 secretary of the Department of Economic Development that there will be sufficient  
29 revenue received by the state to offset the effect to the state of the rebates provided



1 1792 et seq. insofar as those provisions are otherwise applicable to enterprise zones  
2 and economic development zones.

3 §1792. Enterprise Zone Program Eligibility Requirements

4 A. To receive the benefits provided for under this Section a business shall  
5 meet the following criteria:

6 (1) Have one hundred or fewer employees nationwide including affiliates  
7 prior to the contract effective date, and be located in an enterprise zone or if the  
8 business is not located in an enterprise zone, at least thirty-five percent of its net new  
9 employees must meet one of the following requirements as provided by rule:

10 (a) Reside in an enterprise zone; or

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

18 (2) Be a grocery store, pharmacy, or hospital as defined by the Department  
19 of Economic Development by rule located in an enterprise zone.

20 B. Participating businesses shall create a minimum of the lesser of five  
21 permanent full-time net new jobs to be in place within the two years of the effective  
22 date of the contract, or increase existing nationwide employment, including affiliates,  
23 by a minimum of ten percent, with a minimum of at least one permanent net new job,  
24 within a year of the effective date of the contract.

25 §1793. Benefits under the Enterprise Zone Program Contract

26 A. The Board of Commerce and Industry, or its successor, after consultation  
27 with the secretaries of the Louisiana Workforce Commission and the Department of  
28 Revenue, with the approval of the governor, may enter into a contract with an

1 employer complying with the provisions of this Chapter for a period of up to five  
2 years.

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

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

8 (2) Either of the following:

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

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

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

18 (b) A project facility expense rebate equal to two percent of the amount of  
19 qualified expenditures. For purposes of this Paragraph, the term "qualified  
20 expenditures" shall mean amounts classified as capital expenditures for federal  
21 income tax purposes related to the project plus exclusions from capitalization  
22 provided for in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the  
23 capitalized cost of land, capitalized leases of land, capitalized interest, capitalized  
24 costs of manufacturing machinery and equipment to the extent the capitalized  
25 manufacturing machinery and equipment costs are excluded from sales and use tax  
26 pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing  
27 building. When a participating business purchases an existing building and capital  
28 expenditures are used to rehabilitate the building, the costs of the rehabilitation only  
29 shall be considered qualified expenditures. Additionally, a participating business

1 shall be allowed to increase their qualified expenditures to the extent a participating  
2 business's capitalized basis is properly reduced by claiming a federal credit. A  
3 qualified business earns the project facility expense rebate in the fiscal year in which  
4 the project is placed in service but the qualified business may not be issued the  
5 project facility expense rebate until the Department of Economic Development signs  
6 a project completion report.

7 C. The rebate provided in Paragraph (1) of Subsection A of this Section shall  
8 be applicable only to a position within the state that did not previously exist in the  
9 business enterprise and that is filled by a person who is a citizen of the United States  
10 and who is domiciled in Louisiana, or who is a citizen of the United States and  
11 becomes domiciled in Louisiana within sixty days after his employment in such  
12 position, performing duties in connection with the operation of the business  
13 enterprise either as a regular, full-time employee or as a part-time employee  
14 employed for at least twenty hours per week for at least six months during the  
15 taxable year. The total number of credits allowed to a business enterprise for  
16 employees who are citizens of the United States and who become domiciled in  
17 Louisiana within sixty days after employment shall not exceed fifty percent of the  
18 total number of credits allowed to the business enterprise under the contract.

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

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

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

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

10           §1794. Issuance and Claim of Benefits

11           A. Jobs Incentive Rebate. The Department of Economic Development shall  
12           annually certify the amount of jobs incentive rebates for a participating business.  
13           After the Department of Economic Development certifies the amount of the rebate,  
14           a business shall redeem the rebate with the Department of Revenue.

15           B. Sales and Use Tax Rebate. (1) Application for the payment of the rebate  
16           of state sales and use taxes granted pursuant to this Section shall be filed no later  
17           than six months after the Department of Economic Development signs a project  
18           completion report and sends it to the Department of Revenue, the political  
19           subdivision, and the business, or no later than thirty days after the end of the calendar  
20           year in the case of customer-owned tooling used in a compression molding process.  
21           The project completion report cannot be signed until the project is complete and the  
22           contract has been approved by the board and the governor.

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

25           (a) A properly completed rebate request shall be submitted to the Department  
26           of Revenue on forms provided by the Department of Revenue. A properly  
27           completed rebate request shall mean a rebate request that includes the general  
28           information required on the face of the request, is signed and includes a copy of the  
29           executed incentive contract, a copy of each invoice over fifteen thousand dollars, and

1 all required schedules. The request shall be submitted electronically unless the  
2 secretary of the Department of Revenue grants permission to submit the request in  
3 an alternate form.

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

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

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

1           (a) A properly completed project facility expense rebate request shall be  
2           submitted to the Department of Revenue on forms provided by the Department of  
3           Revenue. A properly completed project facility expense rebate request shall mean  
4           a rebate request that includes the general information required on the face of the  
5           request, is signed and includes a copy of the executed incentive contract, and a copy  
6           all required schedules. The request shall be submitted electronically unless the  
7           secretary of the Department of Revenue grants permission to submit the request in  
8           an alternate form.

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

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

26           E. For purposes of filing the application provided for in Paragraph (B)(1) and  
27           (C)(1) of this Section, the business filing the application, upon request, shall receive  
28           a thirty-day extension of time in which to file its application, provided such request  
29           for extension is received by the Department of Revenue prior to the expiration of

1 such filing period. The Department of Revenue is also authorized to grant the  
 2 business an additional extension of time, not to exceed sixty days, in which to file  
 3 its application provided that the business shows reasonable cause for granting such  
 4 extension.

5 F. If the collecting agencies receive notice that the rebate or credit, or any  
 6 part thereof, has ceased by reason of a violation of the terms of the contract under  
 7 which it was granted, then the amount of the rebate for the year in which the  
 8 violation occurred and for each year thereafter in which the violation is not remedied  
 9 shall be considered a tax due as of December thirty-first of the year in which the  
 10 violation occurred, and for each year thereafter in which a rebate is claimed and the  
 11 violation is not remedied, and it shall be collected by the collecting agencies in the  
 12 same manner and subject to the same provisions for the collection of other tax debts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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§2453. Definitions

The following words or terms as used in this Chapter shall have the following meaning, unless a different meaning appears from the context:

(1) "Act" means the Patient Protection and Affordable Care Act (enacted by Public Law 111-1480) and subsequent consolidating amendments thereto.

(2) "Benefit rate" means the following percentages:

*D*

(a) For new direct jobs created which pay at least fourteen dollars and fifty cents per hour inclusive of wages ~~and the value of the~~ up to \$1.25 per hour paid for health care benefits ~~paid or offered~~ in accordance with Paragraph ~~(2)~~ (4) of this Section, the benefit rate shall be five percent, provided that at least fifty percent of the employees holding new direct jobs accept the health care benefits offered.

*R*

(b) For new direct jobs ~~created~~ which pay at least nineteen dollars and ten cents per hour inclusive of wages ~~and the value of the~~ up to \$1.25 per hour paid for health care benefits ~~paid or offered~~ in accordance with Paragraph ~~(2)~~ (4) of this Section, the benefit rate shall be six percent, ~~provided that at least fifty percent of the employees holding new direct jobs accept the health care benefits offered.~~

*F*

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

*T*

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

~~(a) The "basic health benefits plan" or the "health insurance coverage" required to be offered or provided by this Paragraph shall also include coverage for~~

1        ~~basic hospital care, and coverage for physician care, as well as coverage for health~~  
2        ~~care, which shall be the same coverage as is provided to employees employed in a~~  
3        ~~bona fide executive, administrative, or professional capacity by the employer who~~  
4        ~~are exempt from the minimum wage and maximum hour requirements of the federal~~  
5        ~~Fair Labor Standards Act, 29 U.S.C.A. §201, et seq. as follows:~~

6                (a) Employers classified as an Applicable Large Employer under Section  
7                4980(c)(2) of the Code, shall meet both of the following requirements:

8        D (i) Offer to provide minimum essential coverage in accordance with Section  
9        5000A(f)(1)(B) of the Code for employer sponsored plans to the employee and such  
10        coverage must comply with the requirements for minimal essential coverage under  
11        R Section 36B(c)(2)(C) of the Code.

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

15                (b) Employers not classified as an Applicable Large Employer under Section  
16        4890H(a)(1) or (b) of the Code, shall meet either of the following requirements:

17                (i) Offer to provide minimum essential coverage in accordance with Section  
18        5000A(f)(1)(B) of the Code for employer sponsored plans to the employee and such  
19        coverage shall comply with the requirements for minimal essential coverage under  
20        T Section 36B(c)(2)(C) of the Code.

21                (ii) Pay a benefit of \$1.25 per hour to the employee and beginning January  
22        1, 2014, provide to the employee at the time fo hiring written notice informing the  
23        employee of the existence of an Exchange, and the manner in which the employee  
24        may contact the Exchange to request assistance.

25                                \*        \*        \*

26                (3) (5) "Exchange" means the definition of "exchange" in 45 Code of  
27        Federal Regulations 155.20.

28                (6) "Gross payroll" means wages for the new direct jobs as defined herein  
29        upon which the particular benefit rate is calculated.

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





1 ~~contract executed under this Chapter which provides for a rebate of local sales and~~  
2 ~~use taxes shall include the same procedures and requirements under R.S. 51:1787 for~~  
3 ~~rebates involving local sales and use taxes, including but not limited to the~~  
4 ~~requirement that any such request for a rebate of local sales and use taxes be~~  
5 ~~accompanied by an endorsement resolution approved by the governing authority of~~  
6 ~~the appropriate municipality, parish, port district, or industrial district board in whose~~  
7 ~~jurisdiction the employer is or will be located. rebate for capital expenditures for the~~  
8 facility designated in the contract provided for in Paragraph (1) of Subsection (B) of  
9 this Section or project facility expense rebate provided for in Paragraph (2) of  
10 Subsection (B) of this Section.

11 (1) A rebate of sales and use tax imposed by the state for the purchases of  
12 the material used in the construction of a building, or any addition or improvement  
13 thereon, for housing any legitimate business enterprise and machinery and equipment  
14 used in that enterprise for all years beginning the year after the contract effective  
15 date up to and including the year of project completion.

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

21 (a) For purposes of this Subparagraph, the term "qualified capital  
22 expenditures" means amounts classified as capital expenditures for federal income  
23 tax purposes related to the project plus exclusions from capitalization provided for  
24 in Internal Revenue Code Section 263 (a)(1)(A) through (L), minus the capitalized  
25 cost of land, capitalized leases of land, capitalized interest, capitalized costs of  
26 manufacturing machinery and equipment to the extent the capitalized manufacturing  
27 machinery and equipment costs are excluded from sales and use tax pursuant to R.S.  
28 47:301(3), and the capitalized cost for the purchase of an existing building.

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

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

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

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

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

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



1 expands, it may apply for additional rebates based on the gross payroll anticipated  
2 from the expansion only, pursuant to R.S. 51:2455.

3 B. Issuance of State Sales and Use Tax Rebate

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

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

12 (3) Application for the final payment of the rebate of state sales and use  
13 taxes granted pursuant to this Section shall be filed no later than six months after the  
14 Department of Economic Development signs a project completion report and sends  
15 it to the Department of Revenue, the political subdivision, and the business, or no  
16 later than thirty days after the end of the calendar year in the case of customer-owned  
17 tooling used in a compression molding process. The project completion report cannot  
18 be signed until the project is complete and the contract has been approved by the  
19 board and the governor.

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

22 (a) A properly completed rebate request shall be submitted to the Department  
23 of Revenue on forms provided by the Department of Revenue. A properly completed  
24 rebate request shall mean a rebate request that includes the general information  
25 required on the face of the request, is signed and includes a copy of the executed  
26 incentive contract, a copy of each invoice over fifteen thousand dollars, and all  
27 required schedules. The request shall be submitted electronically unless the secretary  
28 of the Department of Revenue grants permission to submit the request in an alternate  
29 form.

1           (b) Within ten business days of the receipt of a properly completed rebate  
2           request, the Department of Revenue shall rebate eighty percent of the total amount  
3           claimed for rebate in the rebate request. Within three months of the date of filing the  
4           rebate request, the Department of Revenue shall audit the rebate request. During such  
5           three-month period, the Department of Revenue shall disallow items determined to  
6           be ineligible for rebate. Within ten business days following the expiration of such  
7           three-month period, the Department of Revenue shall rebate the remaining twenty  
8           percent of the amount claimed on the rebate request less any amounts properly  
9           disallowed during the three-month audit period. The Department of Revenue shall  
10           make such rebates from the current collections of the taxes collected pursuant to  
11           Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title 47 of the Louisiana  
12           Revised Statutes of 1950, as amended. Any sales and use tax rebate issued shall be  
13           subject to subsequent audit by the Department of Revenue, and any rebate amount  
14           determined to be in excess of that which should have been allowed shall be subject  
15           to collection by the Department of Revenue.

16           C. Issuance of Project Facility Expense Rebate

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

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

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

1           (a) A properly completed project facility expense rebate request shall be  
2           submitted to the Department of Revenue on forms provided by the Department of  
3           Revenue. A properly completed project facility expense rebate request shall mean  
4           a rebate request that includes the general information required on the face of the  
5           request, is signed and includes a copy of the executed incentive contract, and a copy  
6           all required schedules. The request shall be submitted electronically unless the  
7           secretary of the Department of Revenue grants permission to submit the request in  
8           an alternate form.

9           (b) Within thirty business days of the receipt of a properly completed rebate  
10           request, the Department of Revenue shall rebate one hundred percent of the total  
11           amount claimed as a project facility expense rebate. The Department of Revenue  
12           shall make such rebate payment from the current collections of the taxes collected  
13           pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title 47 of the  
14           Louisiana Revised Statutes of 1950, as amended. Any project facility expense rebate  
15           issued shall be subject to subsequent audit by the Department of Revenue, and any  
16           rebate amount determined to be in excess of that which should have been allowed  
17           shall be subject to collection by the Department of Revenue.

18           D. Failure of the Department of Revenue to timely pay sales and use tax  
19           rebates and project facility expense rebates as provided herein shall entitle the  
20           taxpayer to interest, which shall begin to accrue on the statutory deadline for  
21           payment of the rebate at the rate established pursuant to the provisions of R.S.  
22           13:4202. Payments of interest authorized according to the provisions of this Section  
23           shall be made from the current collections of 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.

26           E. For purposes of filing the application provided for in Subsection (B) and  
27           (C) of this Section, the business filing the application, upon request, shall receive a  
28           thirty-day extension of time in which to file its application, provided such request for  
29           extension is received by the Department of Revenue prior to the expiration of such

1 filing period. The Department of Revenue is also authorized to grant the business an  
2 additional extension of time, not to exceed sixty days, in which to file its application  
3 provided that the business shows reasonable cause for granting such extension.

4 F. Issuance Local Sales and Use Tax

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

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

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

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

12 (2) At any time subsequent to the deadlines established in Subparagraph (a),  
13 (b), and (c) of Subsection (F), if the board determines that the business was unable,  
14 due to good cause, to file the request within the time frame provided, the board may  
15 consider a late request, but the business shall have the burden to establish good  
16 cause.

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

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

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

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

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

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

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

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

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

1 §2458. Employers receiving rebates not eligible to receive certain other tax credits  
2 and exemptions

3 Notwithstanding any other provision of law and except as provided in R.S.  
4 51:2456(B), a qualified employer who receives a rebate pursuant to the provisions  
5 of this Chapter shall not be eligible to receive the other credits or exemptions  
6 provided for in the following provisions of law in connection with the activity for  
7 which the rebate was received:

*D*

\* \* \*

9 (7) ~~R.S. 51:1787~~ R.S. 51:1792 et seq. (incentives tax exemption from sales  
10 and use tax *R* materials to be used in the construction of a building and for machinery  
11 and income tax credit for each employee in enterprise zone).

\* *A* \*

12  
13 §3121. Competitive Projects Payroll Incentive Program

*F*

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

*T*

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

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

4 (3) "Code" shall mean the Internal Revenue Code of 1986 and shall  
5 incorporate the meaning of any Treasury Regulations promulgated under any  
6 Section of the Code.

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

*D*

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

9 (a) Employers classified as an Applicable Large Employer under Section  
10 4980(c)(2) of the Code which offer to provide minimum essential coverage in  
11 accordance with Section 5000A(f)(1)(B) of the Code for employer sponsored plans  
12 to the employee and such coverage must comply with the requirements for minimal  
13 essential coverage under Section 36B(c)(2)(C) of the Code, and shall not be subject  
14 to any assessable payments under Sections 4890H(a)(1) or (b) of the Code after  
15 ninety days from the effective date of qualifying for the incentive rebates pursuant  
16 to the provisions of this Chapter.

17 (b) Employers not classified as an Applicable Large Employer under Section  
18 4980(c)(2) of the Code, shall either offer to provide minimum essential coverage in  
19 accordance with Section 5000A(f)(1)(B) of the Code for employer sponsored plans  
20 to the employee and such coverage must comply with the requirements for minimal  
21 essential coverage under Section 36B(c)(2)(C) of the Code, or pay a benefit of one  
22 dollar twenty-five cents per hour to the employee. Furthermore, beginning January  
23 1, 2014, the employer shall provide the employee, at the time of hiring, written  
24 notice informing the employee of the existence of an Exchange and how the  
25 employee may contact the Exchange to request assistance.

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

28 (4) (7) "New jobs" means permanent full-time direct new jobs based at the  
29 facilities designated in the contract and filled by residents of the state.

1           ~~(5)~~ (8) "New payroll" means payment by the business to its employees for  
2 new jobs, exclusive of benefits, and defined as wages under Louisiana Employment  
3 Security Law (R.S. 23:1472(20)).

4           ~~(6)~~ (9) "Program" means the Competitive Projects Payroll Incentive  
5 Program.

6           ~~(7)~~ (10) "Qualified business" means a business certified by the secretary as  
7 meeting the eligibility requirements of Subsection B of this Section, approved by the  
8 Joint Legislative Committee on the Budget to participate in the program, and  
9 executing a contract providing the terms and conditions for its participation.

10           ~~(8)~~ (11) "Secretary" means the secretary of the Department of Economic  
11 Development.

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

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

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

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

25           (i) Manufacturing of the following types of durable goods: automobiles,  
26 motorcycles or other passenger vehicles, or components thereof; aircraft or  
27 components thereof; spacecraft or components thereof; medical devices; batteries or  
28 other power storage devices; motors, engines, turbines or components thereof;  
29 environmental control systems; household appliances; computers, computer

1 peripherals or components thereof; communications equipment; audio or video  
 2 equipment; semiconductors; consumer-oriented electronic devices or components  
 3 thereof; industrial machinery; or construction heavy equipment such as excavators.

4 (ii) Manufacturing of pharmaceutical products.

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

6 (iv) Data storage or data services, provided at least seventy-five percent of  
 7 sales meet the out-of-state sales requirements of Subparagraph (1)(a) of this  
 8 *D* Subsection.

9 (v) Other activities as recommended by the secretary and approved by the  
 10 Joint Legislative *R* Committee on the Budget.

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

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

18 (3) All of the following shall not be eligible for the program: *T*

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

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

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

27 C. Applications and contract approval and administration. (1) At the  
 28 invitation of the secretary, a business may apply for a contract by submitting to the

1 department such certified statements and substantiating documents as the department  
2 may require.

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

7 (a) The business meets the eligibility requirements provided for in  
8 *D* Subsection B of this Section.

9 (b) Participation in the program is needed in a highly competitive site  
10 selection situation *R* to encourage the business to locate or expand in the state.

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

13 (3)(a)(i) Upon the approval *A* by the Joint Legislative Committee on the  
14 Budget of participation in the program by the business, the secretary shall execute  
15 the contract with the business, and provide a copy to the Department *F* of Revenue  
16 prior to the payment of any benefits under the contract.

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

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

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

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

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

27 (iv) Designation of the facility or facilities eligible for participation in the  
28 program.

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

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

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

12 (b) ~~Any qualified business which receives a contract pursuant to this Chapter~~  
13 ~~shall also be entitled to a rebate of local sales and use taxes under the same~~  
14 ~~procedures and requirements provided for in R.S. 51:1787 for approval of rebates for~~  
15 ~~the sales and use taxes of political subdivisions and law enforcement districts,~~  
16 ~~including but not limited to the requirement that any such request for a rebate of~~  
17 ~~local sales and use taxes be accompanied by an endorsement resolution approved by~~  
18 ~~the governing authority of the appropriate political subdivision or law enforcement~~  
19 ~~district in whose jurisdiction the qualified business is or will be located. A rebate of~~  
20 sales and use tax imposed by the state and political subdivisions of the state upon  
21 approval of the governing authority of the appropriate parish or municipality, where  
22 applicable, or both, and of the governing authority of any other political subdivision,  
23 including the sheriff in the case of law enforcement districts, for the purchases of the  
24 material used in the construction of a building, or any addition or improvement  
25 thereon, for housing any legitimate business enterprise and machinery and equipment  
26 used in that enterprise.

27 (c) In lieu of the sales and use tax rebate, a qualified business shall be  
28 entitled to a project facility expense rebate equal to one and one-half percent of the  
29 amount of qualified capital expenditures for the facility or facilities designated in the

1 contract. For purposes of this Subparagraph, the term "qualified capital  
2 expenditures" means amounts classified as capital expenditures for federal income  
3 tax purposes related to the project plus exclusions from capitalization provided for  
4 in Internal Revenue Code Section 263 (a)(1)(A) through (L), minus the capitalized  
5 cost of land, capitalized leases of land, capitalized interest, capitalized costs of  
6 manufacturing machinery and equipment to the extent the capitalized manufacturing  
7 machinery and equipment costs are excluded from sales and use tax pursuant to R.S.  
8 47:301(3), and the capitalized cost for the purchase of an existing building. When  
9 a qualified business purchases an existing building and capital expenditures are used  
10 to rehabilitate the building, only the costs of the rehabilitation shall be considered  
11 qualified capital expenditures. Additionally, a qualified business shall be allowed  
12 to increase its qualified capital expenditures to the extent the qualified business'  
13 capitalized basis is properly reduced by claiming a federal credit. A qualified  
14 business earns the project facility expense rebate in the qualified business' fiscal year  
15 in which the project is placed in service but the qualified business may not be issued  
16 the project facility expense rebate until the Department of Economic Development  
17 signs a project completion report or such other time as provided for by rule or  
18 regulation. The project completion report for the project facility expense rebate shall  
19 adhere to the same requirements found in R.S. 51:1787(A)(1)(a)(ii) for the sales and  
20 use tax rebate.

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

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

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

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

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

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

18           E. Payment of Local Sales and Use Tax Rebate

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

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

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

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

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

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

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

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

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

28           (10) No governing authority of a political subdivision or sheriff's office shall  
29           charge any fee or require any employment practice that conflicts with state or federal

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

1 law as a precondition to authorizing tax benefits under this Chapter. The governing  
2 authority of each political subdivision or sheriff's office shall, after all requirements  
3 of this Chapter have been met, promptly rebate any sales and use taxes to the entity  
4 entitled to such rebate.

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

13 ~~D~~ E. Annual Certification of Eligibility. (1) The qualified business shall  
14 file requests for approval of annual payroll rebates with the department. The request  
15 shall include documentation signed by a corporate officer of the qualified business  
16 certifying its continued eligibility for the program, as provided in Subsection B of  
17 this Section, and its actual new payroll and the performance of any other contractual  
18 obligations for the subject year. The qualified business may be subject to a limited  
19 audit by the department, at the expense of the qualified business, to verify such  
20 eligibility and performance. The approved contract between the qualified business  
21 and the department shall authorize the continued rebate as long as the business  
22 remains eligible for the program and complies with the terms and performance  
23 obligations of the contract. If a qualified business fails to maintain the eligibility  
24 requirements for participation in the program or fails to meet all performance  
25 obligations of the contract, the secretary may suspend or terminate its participation  
26 in the program.

27 (2)(a) After verification of continued eligibility and performance, the  
28 department shall send a payroll rebate certification letter to the Department of  
29 Revenue, stating the amount of actual new payroll for the subject year, the amount

1 of rebate to be issued, and the entity to which the rebate shall be issued. The  
 2 Department of Revenue may require the business to submit additional information  
 3 as may be necessary to properly issue the rebate. Payment of payroll rebates shall  
 4 be made from the current collections of the taxes imposed pursuant to Title 47 of the  
 5 Louisiana Revised Statutes of 1950, as amended.

6 (b) No payment of a rebate shall be made under a specific contract during  
 7 the fiscal year in which such contract is approved by the Joint Legislative Committee  
 8 *D* on the Budget.

9 E. F. Incentive limitations. A taxpayer shall not receive any other incentive  
 10 *R* administered by the Department of Economic Development for any expenditures or  
 11 jobs for which the taxpayer has received a rebate pursuant to this Section.

12 F. G. Economic Analysis Verification. Prior to the implementation of the  
 13 *A* program, an independent third-party economist selected by the Legislative Fiscal  
 14 Office and the department, and retained by the department after approval of the Joint  
 15 Legislative Committee on the Budget, shall verify the *F* standard economic impact  
 16 methodology utilized by the department.

17 G. H. Rules. The department may promulgate rules and regulations after  
 18 *T* approval of the House Committee on Ways and Means and the Senate Committee  
 19 on Revenue and Fiscal Affairs meeting jointly within sixty days of publication of  
 20 such proposed rules and regulations in the State Register.

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

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#### 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)]

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HB No.

**Abstract:** ABSTRACT

(Adds CITE)