

Regular Session, 2013

HOUSE BILL NO. 571

BY REPRESENTATIVE ROBIDEAUX

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

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

1 AN ACT

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

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

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

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

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

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

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

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

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

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

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

13 matters.

14 Be it enacted by the Legislature of Louisiana:

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

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

17 to read as follows:

18 §6039. Louisiana Tax Credit Registry

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

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

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

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

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

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

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

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

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

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

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

21 C. Administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (a) Louisiana State Employees' Retirement System.

8 (b) Funded Judicial Retirement Plan.

9 (c) Non-contributory Judicial Retirement Plan.

10 (d) Teachers' Retirement System of Louisiana.

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

12 (f) Louisiana School Employees' Retirement System.

13 (g) Louisiana State Police and Retirement System.

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

15 (i) Assessors Retirement Fund.

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

17 (k) District Attorneys' Retirement System.

18 (l) Municipal Employees' Retirement System.

19 (m) City of Baton Rouge Retirement System.

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

21 (o) Employees' Retirement System of Shreveport.

22 (p) Parochial Employees' Retirement System.

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

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

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

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

27 (u) Sheriffs' Pension and Relief Fund.

28 (v) Municipal Police Employees' Retirement System.

29 (w) Firefighters Retirement System.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 §6363. Rebate for local inventory taxes paid

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

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

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

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

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

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

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

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

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

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

3 §6365. Rebates for motion picture investors

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

8 (1) Immediate objectives are to:

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

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

14 (2) Long-term objectives are to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 C. Investor rebate; specific productions and projects.

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

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

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

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

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

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

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

23 D. Certification and administration.

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

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

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

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

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

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

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

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

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

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

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

22 (cc) The script or synopsis.

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

25 (ee) Estimated start and completion dates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 §6367. Rebate; rehabilitation of historic structures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 §6369. Rebate; Research and development

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 §6370. Rebate; Angel Investor Rebate Program

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (iii) The death of the investor.

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

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

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

1 §6371. Rebate; Digital interactive media and software

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

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

9 (1) Immediate objectives are to:

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

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

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

17 (2) Long-term objectives are to:

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

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

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

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

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

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

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

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

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

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

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

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

7 (i) Video or interactive games.

8 (ii) Simulation software.

9 (iii) Interactive educational or training products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 D. Rebate; specific projects.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 §6372. Rebate; Sound recording investor

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

17 (1) Immediate objectives are to:

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

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

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

26 (2) Long-term objectives are to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 D. Certification and administration.

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

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

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

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

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

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

6 (aa) The distribution plan.

7 (bb) A preliminary budget including estimated Louisiana payroll and
8 estimated base investment.

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

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

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

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

16 (gg) Estimated start and completion dates.

17 (ii) For state-certified sound recording infrastructure projects the application
18 shall include:

19 (aa) A detailed description of the infrastructure project.

20 (bb) A preliminary budget.

21 (cc) A statement that the project meets the definition of a state-certified
22 infrastructure project.

23 (dd) Estimated start and completion dates.

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

26 (c) The Louisiana Department of Economic Development shall submit its
27 initial certification of a project as a state-certified production or a state-certified
28 sound recording infrastructure project to investors and to the secretary of the

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

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

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

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

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

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

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

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

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

13 §6373. Rebate; Musical and theatrical productions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 D. Certification and administration:

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

25 (aa) The minimum criteria for such certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 §6374. Rebate; Ports of Louisiana

21 A. Purpose.

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

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

5 B. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 C. Investor rebate.

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

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

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

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

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

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

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

16 D. Certification and administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 E. Termination of Investor Rebate.

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

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

4 G. Import Export Cargo Rebate.

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

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

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

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

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

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

9 §1792. Enterprise Zone Program Eligibility Requirements

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

14 (1) Reside in an enterprise zone; or

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

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

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

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

5 §1793. Benefits under the Enterprise Zone Program Contract

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

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

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

16 (2) Either of the following:

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

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

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

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

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

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

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

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

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

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

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

20 §1794. Issuance and Claim of Benefits

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 §2456. Rebate; payments

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

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

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

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

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

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

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

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

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

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

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

18 B. Issuance of State Sales and Use Tax Rebate

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

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

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

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

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

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

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

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

3 C. Issuance of Project Facility Expense Rebate

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

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

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

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

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

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

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

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

19 F. Issuance Local Sales and Use Tax

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

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

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

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

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

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

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

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

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

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

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

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

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

1 §3121. Competitive Projects Payroll Incentive Program

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (ii) Manufacturing of pharmaceutical products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 E. Payment of Local Sales and Use Tax Rebate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DIGEST

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

Robideaux

HB No. 571

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

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

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

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

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

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

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