
HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 501 by Representative Moreno

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" and before "relative" delete "R.S. 47:6034(C)(1)(a)(ii)(aa),"
3 and insert the following:

4 "R.S. 47:6034(A),(B)(4), (8), (9), (10), and (11), (C)(1)(a)(ii)(aa), (C)(3), (E)(1)(e),
5 (F), and (G) and to repeal R.S. 47:6034(C)(1)(b), (e), and (f)"

6 AMENDMENT NO. 2

7 On page 1, delete line 3 in its entirety and insert "respect to the state-certified musical or
8 theatrical facility infrastructure income tax credit;"

9 AMENDMENT NO. 3

10 On page 1, line 5, after "credit;" and before "and" insert the following:

11 "to provide relative to certain definitions; to provide for certain requirements and
12 limitations; to provide with respect to the application for such tax credits and
13 certification of productions and infrastructure projects; to provide for the
14 disallowance of credits; to provide for the recovery of credits;"

15 AMENDMENT NO. 4

16 On page 1, line 8, after "Section 1." delete the remainder of the line and insert the following:

17 "R.S. 47:6034(A),(B)(4), (8), (9), (10), and (11), (C)(1)(a)(ii)(aa), (C)(3), (E)(1)(e),
18 (F), and (G) are hereby amended to read"

19 AMENDMENT NO. 5

20 On page 1, delete line 11 in its entirety and insert the following:

21 "A. Purpose. It is the intention of the legislature in creating these five
22 different types of tax credits: a credit for qualified production expenditures made
23 from investments in a state-certified musical or theatrical production; a credit for the
24 construction, repair, or renovation of facilities related to such productions and
25 performances; ~~a credit for qualified transportation costs for performance-related~~
26 ~~property~~; a credit for the payroll of Louisiana residents employed in connection with
27 a state-certified musical or theatrical production; and a credit for employing college,
28 university, and vocational-technical students employed in connection with a state-
29 certified musical or theatrical production, to establish and promote Louisiana as one
30 of the primary places in the United States in which live performances, from creation
31 to presentation are present and thriving. The live performance industry will enhance
32 economic development because it fits well with the state's reputation as a tourist
33 destination, will offer numerous and varied employment opportunities, and in
34 conjunction with the available federal and state incentives, will be an attraction for
35 new and relocating businesses and will provide for the reinventing of countless
36 abandoned properties as either performance or rehearsal spaces. The live
37 performance industry will also spur educational development: Louisiana colleges,
38 universities, and vocational-technical schools will be able to offer talented
39 undergraduate and graduate students from this state, other states, and around the

1 world a real-world opportunity to participate in degree programs across the state that
2 work on the various productions in accounting, law, management, and marketing and
3 to fill arts-related positions such as actors, writers, producers, stagehands, and
4 directors, as well as technicians working on all aspects of the production such as
5 lighting, sound, and actual stage production and operations.

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

7 * * *

8 ~~(4) "Limited state-certified musical or theatrical production" means a~~
9 ~~musical or theatrical production or a series of productions occurring in Louisiana by~~
10 ~~a nonprofit community theater that held a public performance before an audience~~
11 ~~within this state during the 2008 calendar year which has been certified, verified, and~~
12 ~~approved in accordance with the provisions of this Section. "Infrastructure~~
13 ~~expenditures" means expenditures directly related to the state-certified infrastructure~~
14 ~~project, including land and land acquisition costs, construction costs, design fees,~~
15 ~~furniture, fixtures, and equipment purchased subject to a sale agreement or capital~~
16 ~~lease. Infrastructure expenditures shall not include indirect costs such as general~~
17 ~~administrative costs, insurance, or any costs related to the transfer or allocation of~~
18 ~~tax credits. The Department of Economic Development may determine if~~
19 ~~expenditures submitted as production-related costs or capital costs related to an~~
20 ~~infrastructure facility, represent legitimate expenditures for the actual costs or related~~
21 ~~goods or services, having economic substance and a business purpose related to the~~
22 ~~certified production or facility, and not constructive dividends, self-dealing, inflated~~
23 ~~prices or similar transactions entered into for the purpose of inflating the amount of~~
24 ~~tax credits earned rather than for the benefit of the production or facility.~~

25 * * *

26 (8) "Related party transaction" means a transaction between parties deemed
27 to be related by common ownership or control, under generally accepted auditing
28 principles. Related party transaction expenditures may be subject to limitations, as
29 provided for by rules and regulations promulgated by the department.

30 (9)(a) "Resident" or "resident of Louisiana" means a natural person and, for
31 the purpose of determining eligibility for the tax incentives provided by this Section,
32 a person who qualifies for any of the following reasons:

- 33 (i) The person is domiciled in the state of Louisiana.
- 34 (ii) The person maintains a permanent place of abode within the state and
35 spends in the aggregate more than six months of each year within the state.
- 36 (iii) The person pays taxes to the state on the amount of money paid to such
37 person for which a credit is sought pursuant to this Section.

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

43 ~~(9)~~ (10) "State-certified musical or theatrical facility infrastructure project"
44 or "state-certified infrastructure project" means a capital infrastructure project in the
45 state directly related to the production or performance of musical or theatrical
46 productions as defined in this Section, and movable and immovable property and
47 equipment related thereto, or any other facility which supports and is a necessary
48 component of such facility, a new or rehabilitated proscenium or black-box theatre
49 infrastructure project located in the state and any expenditures in the state directly
50 related to the construction, repair, or renovation of such project, which are certified,
51 verified, and approved as provided for in this Section. The primary purpose of the
52 proposed facility must be to host live performances and must have a minimum
53 capacity of five hundred. Expenditures attributable to areas other than where live

1 performances will take place may comprise no more than twenty-five percent of total
2 qualifying expenditures.

3 ~~(10)(a)~~ (11)(a) "State-certified musical or theatrical production" means a
4 musical or theatrical production performed in this state including, but not limited to
5 concerts, musical tours, ballet, dance, comedy revue, or live variety entertainment,
6 or a series of productions occurring over the course of a twelve-month period, and
7 the recording or filming of such production, which originate, are developed, or have
8 their initial public performance before an audience within Louisiana, or which have
9 their United States debut within Louisiana, and the production expenditures,
10 expenditures for the payroll of residents, ~~transportation expenditures,~~ and
11 expenditures for employing college and vocational-technical students related to such
12 production or productions, that are certified, verified, and approved as provided for
13 in this Section. Non-qualifying projects include, but are not limited to non-touring
14 music and cultural festivals, industry seminars, ~~and trade shows, and any production~~
15 activity taking place outside the state.

16 (b) A "state-certified musical or theatrical production" which shall be
17 eligible for recertification and the credit provided for in this Section shall include a
18 previously certified musical or theatrical production which received a credit pursuant
19 to this Section, and which is otherwise eligible pursuant to this Section, which
20 returns for performances within the state after being performed on Broadway.

21 ~~(11)(a) "Transportation expenditures" means expenditures for the packaging,~~
22 ~~crating, and transportation both to the state for use in a state-certified musical or~~
23 ~~theatrical production of sets, costumes, or other tangible property constructed or~~
24 ~~manufactured out of state, and/or from the state after use in a state-certified musical~~
25 ~~or theatrical production of sets, costumes, or other tangible property constructed or~~
26 ~~manufactured in this state. Such term shall include the packaging, crating, and~~
27 ~~transporting of property and equipment used for special and visual effects, sound,~~
28 ~~lighting, and staging, costumes, wardrobes, make-up and related accessories and~~
29 ~~materials, as well as any other performance or production-related property and~~
30 ~~equipment, provided that transportation services are purchased through a company~~
31 ~~which has a significant business presence in the state.~~

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

37 AMENDMENT NO. 6

38 On page 1, delete lines 18 and 19 in their entirety and insert the following:

39 ~~(ii)(aa) Until~~ For state-certified infrastructure projects which receive initial
40 certification on or before January 1, 2014, a base investment credit may be ~~granted~~
41 ~~earned for certified, verified, and approved expenditures made in the state on or~~
42 before January 1, 2015, for the construction, repair,"

43 AMENDMENT NO. 7

44 On page 2, line 4, after "Item." delete the remainder of the line, delete line 5 in its entirety
45 and from the beginning of line 6 delete "January 1, 2015."

46 AMENDMENT NO. 8

47 On page 2, after line 8, insert the following:

48 "(3) Tax credits associated with a state-certified musical or theatrical
49 production or a state-certified musical or theatrical facility infrastructure project shall

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

1 never exceed the total base investment in that production or infrastructure project
2 and transportation expenditures.

3 * * *

4 E. Certification and administration:

5 (1)

6 * * *

7 (e) Prior to the final certification of a production or infrastructure project, the
8 applicant shall submit to the Department of Economic Development ~~a report~~ an audit
9 of the final amount of expenditures qualifying for credits pursuant to this Section,
10 which report the Department of Economic Development may require to be prepared
11 by an independent certified public accountant. The Department of Economic
12 Development shall review the ~~report~~ audit and shall issue a final tax credit
13 certification letter, certifying the applicant and indicating the type and amount of tax
14 credits for which the applicant or other companies or financiers are eligible pursuant
15 to this Section.

16 * * *

17 ~~F.(1) Recapture of credits. If the Department of Economic Development, or~~
18 ~~the Department of Revenue find that funds for which a taxpayer received credits~~
19 ~~according to this Section were not expended for expenditures qualifying for a credit~~
20 ~~as provided in this Section, then the taxpayer's state income tax for such taxable~~
21 ~~period shall be increased by such amount necessary for the recapture of credit~~
22 ~~provided by this Section.~~

23 ~~(2)(a) Recovery of credits by Department of Revenue. Credits granted to a~~
24 ~~taxpayer, but later disallowed, may be recovered by the secretary of the Department~~
25 ~~of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated~~
26 ~~within three years from December thirty-first of the year in which the credit was~~
27 ~~taken.~~

28 ~~(b) The only interest that may be assessed and collected on recovered credits~~
29 ~~is interest at a rate three percentage points above the rate provided in R.S.~~
30 ~~9:3500(B)(1), which shall be computed from the original date of the return on which~~
31 ~~the credit was taken.~~

32 ~~(3) The provisions of this Subsection are in addition to and shall not limit the~~
33 ~~authority of the secretary of the Department of Revenue to assess or to collect under~~
34 ~~any other provision of law. Disallowance of credits by the Department of Economic~~
35 ~~Development. Tax credits shall be subject to disallowance in whole or in part, if the~~
36 ~~Department of Economic Development finds that a taxpayer has obtained a tax credit~~
37 ~~in violation of the provisions of this Section, including but not limited to fraud or~~
38 ~~misrepresentation, as further provided by rule.~~

39 G. ~~The Department of Economic Development shall prepare, with input from~~
40 ~~the Legislative Fiscal Office, a written report to be submitted to the Senate~~
41 ~~Committee on Revenue and Fiscal Affairs and the House of Representatives~~
42 ~~Committee on Ways and Means no less than sixty days prior to the start of the~~
43 ~~Regular Session of the Legislature in 2008, and every second year thereafter. The~~
44 ~~report shall include the overall impact of the tax credits, the amount of the tax credits~~
45 ~~issued, the number of net new jobs created, the amount of Louisiana payroll created,~~
46 ~~the economic impact of the tax credits and the state-certified musical and theatrical~~
47 ~~productions and infrastructure projects, the amount of new infrastructure that has~~
48 ~~been developed in the state, and any other factors that describe the impact of the~~
49 ~~program. Recovery of credits by the Department of Revenue.~~

1 (1) Credits previously granted to a taxpayer but later disallowed by the
2 Department of Economic Development may be recovered by the secretary of the
3 Department of Revenue through any collection remedy authorized by R.S. 47:1561
4 and initiated within three years from December thirty-first of the year in which the
5 credit was taken. If the taxpayer that claimed the credit is an entity, the Department
6 of Revenue shall first seek recapture from the entity that claimed the credit. If the
7 entire amount of the credit subject to recapture cannot be recaptured from the entity,
8 the remaining credit shall be recaptured from owners of the entity. The amount of
9 the credit subject to recapture shall be allocated among the partners, members, or
10 shareholders in proportion to their ownership interests at the time the credit was
11 claimed.

12 (2) The only interest that may be assessed and collected on recovered credits
13 is interest at a rate three percentage points above the rate provided for in R.S.
14 9:3500(B)(1), which shall be computed from the original date of the return on which
15 the credit was taken.

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

19 Section 2. R.S. 47:6034(C)(1)(b), (e), and (f) are hereby repealed in their entirety."