HLS 13RS-396 ORIGINAL

Regular Session, 2013

HOUSE BILL NO. 283

20

BY REPRESENTATIVE LEGER

TAX CREDITS: Provides relative to tax credits for state-certified musical or theatrical productions and state-certified infrastructure projects

1 AN ACT To amend and reenact R.S. 47:6034(A), (B)(3), (5), (7)(a), (9), and (10)(a), 2 3 (C)(1)(introductory paragraph), (a), and (d), and (E)(1)(c)(i) and (2)(a)(i)(ff), relative 4 to income tax credits; to provide relative to tax credits for state-certified musical or 5 theatrical productions and state-certified infrastructure projects; to provide relative to the tax credit for certain payroll; to provide relative to certain definitions; to 6 7 extend issuance of the tax credit for certain state-certified infrastructure projects; to 8 provide for certain requirements; to provide relative to the application for such tax 9 credits and certification of productions and projects; to provide for an effective date; 10 and to provide for related matters. 11 Be it enacted by the Legislature of Louisiana: 12 Section 1. R.S. 47:6034(A), (B)(3), (5), (7)(a), (9), and (10)(a), (C)(1)(introductory 13 paragraph), (a), and (d), and (E)(1)(c)(i) and (2)(a)(i)(ff) are hereby amended and reenacted 14 to read as follows: 15 §6034. Musical and theatrical production income tax credit 16 A. Purpose. It is the intention of the legislature in creating these five 17 different types of tax credits: a credit for qualified production expenditures made 18 from investments in a state-certified musical or theatrical production; a credit for the 19 construction, repair, or renovation of facilities related to such productions and

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performances; a credit for qualified transportation costs for performance-related

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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property; a credit for the payroll of Louisiana residents employed in connection with a state-certified musical or theatrical production; and a credit for employing college, university, and vocational-technical students employed in connection with a statecertified musical or theatrical production, to establish and promote Louisiana as one of the primary places in the United States in which live performances, from creation to presentation are present and thriving. The live performance industry will enhance economic development because it fits well with the state's reputation as a tourist destination, will offer numerous and varied employment opportunities, and in conjunction with the available federal and state incentives, will be an attraction for new and relocating businesses and will provide for the reinventing of countless abandoned properties as either performance or rehearsal spaces. performance industry will also spur educational development: Louisiana colleges, universities, and vocational-technical schools will be able to offer talented undergraduate and graduate students from this state, other states, and around the world a real-world opportunity to participate in degree programs across the state that work on the various productions in accounting, law, management, and marketing and to fill arts-related positions such as actors, writers, producers, stagehands, and directors, as well as technicians working on all aspects of the production such as lighting, sound, and actual stage production and operations. <u>In addition, Louisiana</u> has the opportunity to centralize much of the concert touring industry by serving as a place where artists, performers, technicians, crew, vendors, and other service providers are welcome and encouraged to do business.

B. Definitions. For the purposes of this Section:

\* \* \*

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

is subject to state sales and use tax shall include transactions which are also eligible for statutory exclusions or exemptions.

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

\* \* \*

(7)(a) "Production expenditures" means a contemporaneous exchange of cash or cash equivalent for goods or services related to development, production, or operating expenditures in this state for a state-certified musical or theatrical production, including but not limited to expenditures for set construction and operation, including special and visual effects, costumes, wardrobes, make-up makeup, accessories, costs associated with sound, lighting, transportation, staging, payroll, finance, and other related costs. For purposes of determining the portion of an artist or performer's compensation that constitutes production expenditures, a valid and enforceable guarantee signed by a promoter, producer, or other guarantor shall be deemed as the portion of such artist or performer's compensation that is not related to profits from the exploitation of the production. The proportion of the guaranteed compensation that shall constitute a qualifying production expenditure shall be determined by multiplying the amount of guaranteed compensation by a fraction, the numerator of which is the total number of duty days inclusive of development and rehearsal days spent working on the production within the state and the denominator of which is the total number of performances plus Louisiana duty days.

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1	(9) State-certified musical of theatrical facility infrastructure project of
2	"state-certified infrastructure project" means a capital infrastructure project in the
3	state directly related to the production, servicing, or performance of musical or
4	theatrical productions as defined in this Section, and movable and immovable
5	property and equipment related thereto, or any other facility which supports and is
6	a necessary component of such facility, and any expenditures in the state related to
7	the construction, repair, or renovation of such project, which are certified, verified,
8	and approved as provided for in this Section. A state-certified musical or theatrical
9	facility infrastructure project shall include the creation, development, or acquisition
10	of vendor operations and the costs related thereto designed to service musical or
11	theatrical productions, regardless if such productions are in-state, multistate, or
12	multinational productions, from a base of operations within Louisiana.
13	(10)(a) "State-certified musical or theatrical production" means a musical or
14	theatrical production, including concerts and multistate and multinational concert
15	tours, or a series of productions occurring over the course of a twelve-month period,
16	and the recording or filming of such production, which originate, are developed, or
17	have their initial public performance before an audience within Louisiana, or which
18	have their United States debut within Louisiana, and the production expenditures,
19	expenditures for the payroll of residents, transportation expenditures, and
20	expenditures for employing college and vocational-technical students related to such
21	production or productions, that are certified, verified, and approved as provided for
22	in this Section. Non-qualifying Nonqualifying projects include, but are not limited
23	to non-touring music and cultural festivals, industry seminars, and trade shows.
24	* * *
25	C. Income tax credits for state-certified productions and state-certified
26	musical or theatrical facility infrastructure projects:

state income tax are hereby authorized:

(1) There is hereby authorized the The following types of credits against the

contractual assurances that:

1	(a)(i)(aa) A base investment credit may shall be granted for certified,
2	verified, and approved production expenditures for a state-certified musical or
3	theatrical production, or for investments made by a company or a financier in such
4	production which are, in turn, expended for such production expenditures.
5	(bb) The initial certification shall be effective for a period of twelve months
6	prior to and twelve months after the date of initial certification.
7	(ii)(aa) Until January 1, 2014 2022, a base investment credit may be granted
8	for <del>certified</del> , <del>verified</del> , <del>and approved</del> expenditures in the state for the <u>creation</u> ,
9	development, acquisition, construction, repair, or renovation of a state-certified
10	musical or theatrical facility infrastructure project, or for investments made by a
11	company or a financier in such infrastructure project which are, in turn, expended for
12	such construction, repair, or renovation, not to exceed ten million dollars per state-
13	certified infrastructure project, under conditions provided for in this Item. No more
14	than sixty million dollars in tax credits under this Section shall be granted for
15	infrastructure projects per year. If twenty-five percent of the total base investment
16	provided for in the initial certification of a state-certified musical or theatrical facility
17	infrastructure project has been expended prior to January 1, 2022, then the state-
18	certified musical or theatrical facility infrastructure project shall continue to earn
19	base investment credits as funds are expended until such time as all of the funds
20	provided for in the initial certification have been expended.
21	(bb) If all or a portion of an infrastructure project is a facility which may be
22	used for other purposes not directly related to the production or performance of
23	musical or theatrical production activities, then the project shall be approved only if
24	a determination is made that the multiple-use facility will support and will be
25	necessary to secure musical or theatrical production activities for the musical or
26	theatrical production or performance facility and the applicant provides sufficient

1	(I) The facility will be used for the production or performance of musical or
2	theatrical production activities, or as a support and component thereof, for the useful
3	life of the facility.
4	(II) No tax credits shall be earned on such multiple-use facilities until the
5	facility directly used in musical or theatrical productions or performances is
6	complete.
7	(cc) Tax credits for infrastructure projects shall be earned only as follows:
8	(I) Construction, creation, development, or acquisition of the infrastructure
9	project shall begin within six months of the initial certification provided for in
10	Subparagraph (E)(1)(d) of this Section.
11	(II) Expenditures shall be certified, verified, and approved as provided for
12	in this Section, and credits are not earned until such certification.
13	(III) Twenty-five No credits shall be issued until twenty-five percent of the
14	total base investment provided for in the initial certification of an infrastructure
15	project pursuant to Subparagraph (E)(1)(d) of this Section shall be certified, verified,
16	and approved as expended before any credits may be earned has been expended.
17	(IV) No tax credit shall be allowed for expenditures made for any
18	infrastructure project two years after its initial certification pursuant to Subparagraph
19	(E)(1)(d) of this Section, unless fifty percent of total base investment provided for
20	in the initial certification of the project pursuant to such Subparagraph has been
21	expended prior to that time. The expenditures may be finally certified at a later date.
22	(dd) The initial certification may require the tax credits to be taken and/or
23	transferred in the tax period in which the credit is earned or the tax credits may be
24	structured in the initial certification of the project to provide that only a portion of
25	the tax credit be taken over the course of two or more tax years.
26	(iii) Except as limited for state-certified infrastructure projects as provided
27	for in this Subparagraph, the base investment credit shall be for the following
28	amounts:

2	and less than or equal to three hundred thousand dollars, a company shall be allowed
3	a tax credit of ten percent of the base investment made by that company.
4	(bb) If the total base investment is greater than three hundred thousand
5	dollars and less than or equal to one million dollars, a company shall be allowed a
6	tax credit of twenty percent of the base investment made by that company.
7	(cc) If the total base investment is greater than one million dollars, a
8	company shall be allowed a tax credit of twenty-five percent of the base investment
9	made by that company.
10	* * *
11	(d) To the extent that base investment is expended on payroll for Louisiana
12	residents employed in connection with a state-certified musical or theatrical
13	production, except for the students provided for in Subparagraph (c) of this
14	Paragraph, or the creation, development, acquisition, or construction of a state-
15	certified musical or theatrical facility infrastructure project, a company shall be
16	allowed an additional tax credit of ten percent of such payroll; however, if the
17	amount paid to any one person exceeds one million dollars, the additional credit shall
18	not include any amount paid to that person that exceeds one million dollars.
19	* * *
20	E. Certification and administration:
21	(1)
22	* * *
23	(c) When determining which musical or theatrical productions or musical or
24	theatrical facility infrastructure projects qualify for certification, the Department of
25	Economic Development shall take the following factors into consideration:
26	(i) The contribution of the production or infrastructure project to establishing
27	the state as a leader in the live performance industry or as a central base of vendor
28	operations for the industry.
29	* * *

(aa) If the total base investment is greater than one hundred thousand dollars

1	(2)(a) Application. An applicant for the tax credit shall submit an
2	application for initial certification to the Department of Economic Development that
3	includes the following information:
4	(i) The application for state-certified productions shall include:
5	* * *
6	(ff) Estimated dates for start and completion of rehearsals before paid
7	performances and the estimated dates of performances in the state and outside of this
8	state.
9	* * *
10	Section 2. The provisions of this Act shall become effective on January 1, 2014, and
11	shall be applicable to all tax years beginning on and after January 1, 2014.

## **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)]

Leger HB No. 283

**Abstract:** Extends authority to grant tax credits for state-certified musical or theatrical facility infrastructure projects from Jan. 1, 2014, to Jan. 1, 2022, and expands the definitions of "musical or theatrical production", "state-certified musical or theatrical production" and "state-certified infrastructure project", "expenditures in the state", and "production expenditures".

<u>Present law</u> authorizes income tax credits for state-certified musical or theatrical productions and state-certified infrastructure projects. Further provides that, until Jan. 1, 2014, a base investment credit may be granted for certified, verified, and approved expenditures in the state for the construction, repair, or renovation of a state-certified infrastructure project, or for investments made by a company in such infrastructure projects, not to exceed \$10 million per project. Present law limits the annual amount of credits issued for infrastructure projects to \$60 million. Requires that credits be granted on a first-come, first-served basis and if the total amount of credits applied for in a year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

Proposed law extends the date for approval of tax credits from Jan. 1, 2014, to Jan. 1, 2022, and further provides that in addition to issuing credits for the construction, repair, or renovation of state-certified infrastructure projects, credits shall also be issued for the creation, development, and acquisition of state-certified infrastructure projects.

Proposed law provides that if 25% of the total base investment provided for in the initial certification of a state-certified infrastructure project has been expended prior to Jan. 1, 2022, then the project shall continue to earn base investment credits as funds are expended until such time as all of the funds provided for in the initial certification have been expended.

<u>Present law</u> requires construction of the infrastructure project to begin within six months of the initial certification of the project and that 25% of the total base investment in the initial certification be certified, verified, and approved as expended before any credits are earned. Further provides that credits are not earned until expenditures are certified.

<u>Proposed law</u> changes <u>present law</u> to require that construction, creation, development, or acquisition of the project begin within six months of initial certification and to provide that no credits shall be issued until 25% of the total base investment in the initial certification of an infrastructure project has been expended. Deletes provision that credits are not earned until expenditures are certified.

<u>Present law</u> provides that the initial certification may require the tax credits to be taken or transferred in the tax period in which the credit is earned or the tax credits may be structured in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more tax years.

## Proposed law deletes present law.

<u>Present law</u> provides for an additional tax credit of 10% of payroll expended for La. residents employed in connection with a state-certified musical or theatrical production, excluding payroll for certain students, or the construction of a state-certified infrastructure project; however, the additional credit shall not include any amount paid to any one person that exceeds \$1 million.

<u>Proposed law</u> retains <u>present law</u> but extends the additional tax credit to payroll for La. residents employed for the creation, development, or acquisition of state-certified infrastructure projects.

<u>Present law</u> defines "expended in the state" as an expenditure to acquire or lease immovable property located in the state, an expenditure to acquire movable property from a source within the state subject to state sales and use tax, or an expenditure as compensation for services performed within the state subject to state income tax.

<u>Proposed law</u> retains <u>present law</u> but adds that a transaction that is subject to state sales and use tax shall include transactions which are also subject to a statutory exclusion or exemption.

<u>Present law</u> defines a "musical or theatrical production" as the producing, rehearsing, marketing, administration, recording, performing, and/or filming of a live musical or theatrical performance in the state before live audiences, whether or not there is a charge for admission. Such performances include drama, comedy, comedy revue, opera, ballet, jazz, cabaret, and variety entertainment.

<u>Proposed law</u> removes the requirement that such performance be in this state and expands the definition of "musical or theatrical production" to include the servicing of a musical or theatrical performance before a live audience. Also includes concerts, multistate and multinational concert tours to the performances that qualify as "musical or theatrical productions".

<u>Present law</u> defines "production expenditures" as a contemporaneous exchange of cash or cash equivalent for goods or services related to development, production, or operating expenditures in this state for a state-certified musical or theatrical production.

<u>Proposed law</u> retains <u>present law</u> but adds transportation and finance to the list of expenditures which qualify as "production expenditures". Further adds provisions for determining the portion of an artist or performer's compensation which constitutes production expenditures and provisions for the determination of the proportion of the guaranteed compensation that constitutes a qualifying production expenditure.

<u>Present law</u> defines a "state-certified infrastructure project" as a capital infrastructure project in the state directly related to the production or performance of musical or theatrical productions and related property and equipment, any facility which supports and is a necessary component of such facility, and any certified expenditures in the state related to the construction, repair, or renovation of such project.

<u>Proposed law</u> retains <u>present law</u> but expands the definition to include the servicing of musical or theatrical productions. Further provides that a state-certified infrastructure project shall include the creation, development, or acquisition of vendor operations designed to service musical or theatrical productions, regardless if such productions are in-state, multistate, or multinational productions, from a base of operations within La.

<u>Present law</u> defines a "state-certified musical or theatrical production" as a musical or theatrical production, or a series of productions occurring over a 12-month period, and the recording or filming of such production, which originate, are developed, or have their initial public performance before an audience within La., or which debut within La., and the production expenditures, payroll expenditures for residents, transportation expenditures, and expenditures for employing college and vocational-technical students related to such production or productions.

<u>Proposed law</u> retains <u>present law</u> but expands the definition of "state-certified musical or theatrical production" to include concerts and multistate and multinational concert tours.

<u>Present law</u> requires the secretary of the Dept. of Economic Development (DED) to determine which musical or theatrical productions and which infrastructure projects shall be certified pursuant to the provisions of <u>present law</u>.

<u>Proposed law</u> retains <u>present law</u> but adds to the list of factors the department should consider when determining which productions and infrastructure projects are certified the contribution of the production or infrastructure project in establishing the state as a central base of vendor operations for the industry.

<u>Present law</u> requires a tax credit applicant to submit an application for initial certification to DED that includes the estimated dates for start and completion of rehearsals before paid performances and the estimated dates of performances in the state.

<u>Proposed law</u> retains <u>present law</u> but requires the application to include estimated start and completion of rehearsals before paid performances and performance dates outside of the state.

Effective on Jan. 1, 2014, and applicable to tax years beginning on and after that date.

(Amends R.S. 47:6034(A), (B)(3), (5), (7)(a), (9) and (10)(a), (C)(1)(intro.para.), (a), and (d), and (E)(1)(c)(i) and (2)(a)(i)(ff))