

Regular Session, 2009

SENATE BILL NO. 287

BY SENATORS MARTINY, ALARIO, APPEL, MORRELL AND QUINN AND REPRESENTATIVES LABRUZZO, TEMPLET AND TUCKER

TAX/TAXATION. Authorizes a musical and theatrical production income tax credit for limited state-certified musical or theatrical productions. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:6034(B)(4), (5), (6), (7), (8), (9), and (10) and to enact R.S.
3 47:6034(B)(11) and (C)(1)(e), relative to the musical and theatrical production
4 income tax credit; to provide relative to certain definitions; to authorize a tax credit
5 for limited state-certified musical or theatrical productions; to provide for the amount
6 of the credit; to provide for a sunset of the issuance of such credit; to provide for an
7 effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6034(B)(4), (5), (6), (7), (8), (9), and (10) are hereby amended and
10 reenacted and R.S. 47:6034(B)(11) and (C)(1)(e) are hereby enacted to read as follows:

11 §6034. Musical and theatrical production income tax credit

12 * * *

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

14 * * *

15 **(4) "Limited state-certified musical or theatrical production" means a**
16 **musical or theatrical production or a series of productions occurring in**
17 **Louisiana by a non-profit community theater that held a public performance**

1 **before an audience within this state during the 2008 calendar year which has**
2 **been certified, verified, and approved in accordance with the provisions of this**
3 **Section.**

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

10 ~~(5)~~**(6)** "Payroll" means all salary, wages, and other compensation, including
11 related benefits for services performed in Louisiana.

12 ~~(6)(a)~~**(7)(a)** "Production expenditures" means development, production, or
13 operating expenditures in this state for a state-certified production, including, but not
14 limited to expenditures for the following:

- 15 (i) Set construction and operation, including special and visual effects.
16 (ii) Costumes, wardrobes, make-up, accessories, and related services.
17 (iii) Costs associated with sound, lighting, staging, and related services and
18 materials.
19 (iv) Payroll.
20 (v) Rental of facilities and equipment and leasing of vehicles.
21 (vi) Food and lodging.
22 (vii) Airfare for people to, from, or within the state shall be considered
23 production expenditures if purchased through a Louisiana-based travel agency or
24 travel company.
25 (viii) Music performed live in the state or recorded in the state, including the
26 costs of sound, digital, analogue recordings or the recording of music by any other
27 means, and the mixing of such recordings if performed or recorded by a musician
28 who is a resident of Louisiana, a group of musicians based in Louisiana, or if
29 contracted for through a Louisiana-based agency. Such costs incurred when a group

1 of musicians based in Louisiana provide the musical accompaniment for non-resident
2 performers, or the costs of music directors, conductors, or composers who are non-
3 residents shall also be included as a production expenditure.

4 (ix) Preproduction, production, and postproduction expenditures in this state
5 that are directly incurred in connection with filming such production which
6 expenditures do not otherwise qualify as a production expenditure in this Paragraph,
7 including but not limited to costs associated with the following: photography and
8 sound synchronization, lighting, and related services and materials; editing and
9 related services; digital or tape editing, film processing, transfer of film to tape or
10 digital format, sound mixing, special and visual effects.

11 (x) Administration and professional services, including but not limited to
12 management, accounting, and legal services incurred in connection with a state-
13 certified musical or theatrical production.

14 (xi) The costs of insurance or bonding incurred in connection with a state-
15 certified musical or theatrical production, if purchased through a Louisiana-based
16 insurance agency.

17 (xii) Preproduction and postproduction expenditures for marketing and
18 distribution within and without the state, if purchased through an agency which has
19 offices in Louisiana, if the creators of materials used in such marketing are residents
20 of Louisiana, or if the expenditures to create materials used in such marketing occur
21 within Louisiana.

22 (xiii) The costs of acquiring permits, licenses, or other rights related to state-
23 certified musical or theatrical productions.

24 (xiv) Similar production expenditures in the state as determined by rule.

25 (b) "Production expenditures" shall not include any indirect costs, any
26 expenditures later reimbursed by a third party, or any amounts that are paid to
27 persons or entities as a result of their participation in profits from the exploitation of
28 the production.

29 ~~(7)(a)~~**(8)(a)** "Resident" or "resident of Louisiana" means a natural person

1 and, for the purpose of determining eligibility for the tax incentives provided by this
2 Section, a person who qualifies for any of the following reasons:

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

4 (ii) The person 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.

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

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

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

21 ~~(9)(a)~~**(10)(a)** "State-certified musical or theatrical production" means a
22 musical or theatrical production, or a series of productions occurring over the course
23 of a twelve-month period, and the recording or filming of such production, which
24 originate, are developed, or have their initial public performance before a paying
25 audience within Louisiana, or which have their United States debut within Louisiana,
26 and the production expenditures, expenditures for the payroll of residents,
27 transportation expenditures, and expenditures for employing college and vocational-
28 technical students related to such production or productions, that are certified,
29 verified, and approved as provided for in this Section.

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

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

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

22 C. Income tax credits for state-certified productions and state-certified
23 musical or theatrical facility infrastructure projects:

24 (1) There is hereby authorized the following types of credits against the state
25 income tax:

26 * * *

27 **(e) If the total base investment for a limited state-certified musical or**
28 **theatrical production is greater than one dollar and less than three hundred**
29 **thousand dollars, the non-profit community theater shall be allowed a tax credit**

