
HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 483 by Representative Nancy Landry

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) and (bb), (C)(3),
5 (E)(1)(e), (F), and (G), to enact R.S. 47:6034(B)(12), and to repeal R.S.
6 47:6034(C)(1)(b), (e), and (f),"

7 AMENDMENT NO. 2

8 On page 1, at the beginning of line 3, insert "state-certified" and after "productions" and
9 before the semicolon ";" insert "and state-certified infrastructure projects"

10 AMENDMENT NO. 3

11 On page 1, at the beginning of line 4, after "credits;" and before "and" insert the following:

12 "to provide with respect to a tax credit for state-certified higher education musical
13 or theatrical infrastructure projects; to provide relative to certain definitions; to
14 provide for certain requirements and limitations; to provide with respect to the
15 application for such tax credits and certification of productions and infrastructure
16 projects; to provide for the disallowance of credits; to provide for the recovery of
17 credits"

18 AMENDMENT NO. 4

19 On page 1, line 6, after "Section 1." delete the remainder of the line and insert the following:

20 "R.S. 47:6034(A), (B)(4), (8), (9), (10), and (11), (C)(1)(a)(ii)(aa) and (bb), (C)(3),
21 (E)(1)(e), (F), and (G) are hereby amended and reenacted and R.S. 47:6034(B)(12)
22 is hereby enacted to read as"

23 AMENDMENT NO. 5

24 On page 1, delete line 9 in its entirety and insert the following:

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

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

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

11 * * *

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

30 * * *

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

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

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

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

48 ~~(9)~~ (10) "State-certified higher education musical or theatrical infrastructure
49 project" means a new proscenium or black-box theatre infrastructure project situated
50 on a parcel of land located on the campus of a higher education institution in this
51 state, which is owned by a higher education campus institution or support foundation
52 related to the campus primarily operated to benefit and support campus students and
53 the higher education facility. The primary purpose of the proposed infrastructure

1 facility must be to host live performances and the facility must have a minimum
 2 fixed seating capacity of five hundred. Expenditures attributable to areas other than
 3 where live performances, will take place may comprise no more than twenty-five
 4 percent of total qualifying expenditures.

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

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

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

31 ~~(11)(a)~~ "Transportation expenditures" means ~~expenditures for the packaging,~~
 32 ~~crating, and transportation both to the state for use in a state-certified musical or~~
 33 ~~theatrical production of sets, costumes, or other tangible property constructed or~~
 34 ~~manufactured out of state, and/or from the state after use in a state-certified musical~~
 35 ~~or theatrical production of sets, costumes, or other tangible property constructed or~~
 36 ~~manufactured in this state. Such term shall include the packaging, crating, and~~
 37 ~~transporting of property and equipment used for special and visual effects, sound,~~
 38 ~~lighting, and staging, costumes, wardrobes, make-up and related accessories and~~
 39 ~~materials, as well as any other performance or production-related property and~~
 40 ~~equipment; provided that transportation services are purchased through a company~~
 41 ~~which has a significant business presence in the state.~~

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

47 AMENDMENT NO. 6

48 On page 1, delete lines 16 and 17 in their entirety and insert the following:

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

1 Development shall review the report audit and shall issue a final tax credit
 2 certification letter, certifying the applicant and indicating the type and amount of tax
 3 credits for which the applicant or other companies or financiers are eligible pursuant
 4 to this Section.

5 * * *

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

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

17 ~~(b) The only interest that may be assessed and collected on recovered credits~~
 18 ~~is interest at a rate three percentage points above the rate provided in R.S.~~
 19 ~~9:3500(B)(1), which shall be computed from the original date of the return on which~~
 20 ~~the credit was taken.~~

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

28 ~~G. The Department of Economic Development shall prepare, with input from~~
 29 ~~the Legislative Fiscal Office, a written report to be submitted to the Senate~~
 30 ~~Committee on Revenue and Fiscal Affairs and the House of Representatives~~
 31 ~~Committee on Ways and Means no less than sixty days prior to the start of the~~
 32 ~~Regular Session of the Legislature in 2008, and every second year thereafter. The~~
 33 ~~report shall include the overall impact of the tax credits, the amount of the tax credits~~
 34 ~~issued, the number of net new jobs created, the amount of Louisiana payroll created,~~
 35 ~~the economic impact of the tax credits and the state-certified musical and theatrical~~
 36 ~~productions and infrastructure projects, the amount of new infrastructure that has~~
 37 ~~been developed in the state, and any other factors that describe the impact of the~~
 38 ~~program. Recovery of credits by the Department of Revenue.~~

39 ~~(1) Credits previously granted to a taxpayer but later disallowed by the~~
 40 ~~Department of Economic Development may be recovered by the secretary of the~~
 41 ~~Department of Revenue through any collection remedy authorized by R.S. 47:1561~~
 42 ~~and initiated within three years from December thirty-first of the year in which the~~
 43 ~~credit was taken. If the taxpayer that claimed the credit is an entity, the Department~~
 44 ~~of Revenue shall first seek recapture from the entity that claimed the credit. If the~~
 45 ~~entire amount of the credit subject to recapture cannot be recaptured from the entity,~~
 46 ~~the remaining credit shall be recaptured from owners of the entity. The amount of~~
 47 ~~the credit subject to recapture shall be allocated among the partners, members, or~~
 48 ~~shareholders in proportion to their ownership interests at the time the credit was~~
 49 ~~claimed.~~

50 ~~(2) The only interest that may be assessed and collected on recovered credits~~
 51 ~~is interest at a rate three percentage points above the rate provided for in R.S.~~

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

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

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