

FIRST REGULAR SESSION

SENATE BILL NO. 170

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

0604S.02I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for certain live entertainment events, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto
2 one new section, to be known as section 135.753, to read as
3 follows:

135.753. 1. This section shall be known and may be
2 cited as the "Entertainment Industry Jobs Act".

3 2. As used in this section, the following terms shall
4 mean:

5 (1) "Base investment", the aggregate funds actually
6 invested and expended by a Missouri taxpayer as a rehearsal
7 expense or tour expense pursuant to this section;

8 (2) "Concert", a ticketed live performance of music in
9 the physical presence of at least one thousand individuals
10 who view the performance live. For the purposes of this
11 subdivision, "ticketed" shall mean a concert where
12 individual tickets for attendance are offered for sale to
13 the public;

14 (3) "Concert tour equipment", stage, set, scenery,
15 design elements, automation, rigging, trusses, spotlights,
16 lighting, sound equipment, video equipment, special effects,
17 cases, communication devices, power distribution equipment,

18 backline and other miscellaneous equipment, or supplies used
19 during a concert or rehearsal;

20 (4) "Department", the Missouri department of economic
21 development;

22 (5) "Expense", any expense, expenditure, cost, charge,
23 or other disbursement or spending of funds;

24 (6) "Facility", a site with one or more studios.
25 Multiple studios at a single location shall not be
26 considered separate facilities. A site may include one or
27 more buildings on the same property or properties within a
28 five-mile radius, provided that the properties' purpose and
29 operations are interrelated and are owned or operated by the
30 same owner or operator, as applicable;

31 (7) "Facility full-time equivalent employee", an
32 employee that is scheduled to work an average of at least
33 thirty-five hours per week and is located at the qualified
34 rehearsal facility, or a combination of two or more
35 employees that combined, work an average of at least thirty-
36 five hours per week and are located at the qualified
37 rehearsal facility. An employee shall be considered to be
38 located at the qualified rehearsal facility if such employee
39 spends fifty percent or more of the employee's work time at
40 the qualified rehearsal facility or at a nearby location
41 serving the qualified rehearsal facility, including a
42 warehouse, located in Missouri and owned by the same owner
43 or operator, as applicable, of the qualified rehearsal
44 facility. An employee that spends less than fifty percent
45 of the employee's work time at the qualified rehearsal
46 facility or nearby location shall be considered to be
47 located at a qualified rehearsal facility if the employee
48 receives his or her directions and control from the

49 qualified rehearsal facility and is on the qualified
50 rehearsal facility's payroll;

51 (8) "Minimum rehearsal and tour requirements", the
52 occurrence of all of the following during a rehearsal or
53 tour:

54 (a) The purchase or rental of concert tour equipment,
55 related services, or both, in an amount of at least one
56 million dollars from a Missouri vendor for use in the
57 rehearsal, on the tour, or both;

58 (b) A rehearsal at a qualified rehearsal facility for
59 a minimum of ten days; and

60 (c) The holding of at least two concerts in the state
61 of Missouri;

62 (9) "Missouri vendor", an individual or entity located
63 in and maintaining a place of business in this state. Only
64 transactions made through a Missouri location of a Missouri
65 vendor shall constitute a transaction with a Missouri vendor
66 for the purposes of this section;

67 (10) "Nonresident", the same meaning as defined
68 pursuant to section 143.101;

69 (11) "Pass-through entity", any incorporated or
70 unincorporated entity that has or elects pass-through
71 taxation under federal law, including, without limitation, a
72 partnership, S corporation, or unincorporated entity with or
73 that elects pass-through taxation;

74 (12) "Qualified rehearsal facility", a facility
75 primarily used for rehearsals located in this state and
76 which meets all of the following criteria:

77 (a) Has a minimum of twelve thousand five hundred
78 square feet of column-free, unobstructed floor space in at
79 least one rehearsal studio in the facility;

80 (b) Has had a minimum of eight million dollars
81 invested in the facility in land or structure, or a
82 combination of land and structure;

83 (c) Has a permanent grid system with a capacity of a
84 minimum of five hundred thousand pounds in at least one
85 rehearsal studio in the facility;

86 (d) Has a height from floor to permanent grid of a
87 minimum of fifty feet in at least one rehearsal studio in
88 the facility;

89 (e) Has at least one sliding or roll-up access door
90 with a minimum height of fourteen feet in the facility;

91 (f) Has a security system which includes seven-days-a-
92 week security cameras and the use of access control
93 identification badges;

94 (g) Has a service area with production offices,
95 catering, and dressing rooms with a minimum of five thousand
96 square feet; and

97 (h) Is owned or operated by an entity that employs, on
98 average on an annual basis, at least eighty facility full-
99 time equivalent employees;

100 A qualified rehearsal facility shall not include a facility
101 at which concerts are regularly held;

102 (13) "Resident", the same meaning as defined pursuant
103 to section 143.101;

104 (14) "Rehearsal", an event or series of events which
105 occur in preparation for a tour prior to the start of the
106 tour or during a tour when additional preparation may be
107 needed;

108 (15) "Rehearsal expenses", includes all of the
109 following when incurred or when such expenses will be
110 incurred during a rehearsal:

- 111 (a) Total aggregate payroll;
- 112 (b) Payment to a personal service corporation
113 representing individual talent;
- 114 (c) Payment to a pass-through entity representing
115 individual talent;
- 116 (d) Expenses related to construction, operations,
117 editing, photography, staging, lighting, wardrobe, and
118 accessories;
- 119 (e) The leasing of vehicles from a Missouri vendor;
- 120 (f) The transportation of people or concert tour
121 equipment to or from a train station, bus depot, airport, or
122 other transportation location, or from a residence or
123 business entity;
- 124 (g) Insurance coverage for an entire tour if the
125 insurance coverage is purchased or will be purchased through
126 an insurance agent that is a Missouri vendor;
- 127 (h) Food and lodging from a Missouri vendor;
- 128 (i) The purchase or rental of concert tour equipment
129 from a Missouri vendor;
- 130 (j) The rental of a qualified rehearsal facility; and
- 131 (k) Emergency or medical support services required to
132 conduct a rehearsal;
- 133 (16) "Total aggregate payroll", the total sum expended
134 on salaries paid to resident employees, regardless of
135 whether such resident is working within or outside of this
136 state, or nonresident employees working within this state in
137 one or more tours or rehearsals, including, without
138 limitation, payments to a loan-out company. For the purposes
139 of this subdivision:
- 140 (a) With respect to a single employee, the portion of
141 any salary which exceeds two million dollars in the

142 aggregate for a single tour shall not be included when
143 calculating total aggregate payroll;

144 (b) All payments to a single employee and any legal
145 entity in which the employee has any direct or indirect
146 ownership interest shall be considered as having been paid
147 to the employee and shall be aggregated regardless of the
148 means of payment or distribution; and

149 (c) Total aggregate payroll shall include payments to
150 a loan-out company that has met its withholding tax
151 obligations as provided in this paragraph. The taxpayer
152 claiming the credit authorized pursuant to this section
153 shall withhold Missouri income tax at the rate imposed
154 pursuant to section 143.071 on all payments to loan-out
155 companies for services performed in Missouri. Any amounts
156 so withheld shall be deemed to have been withheld by the
157 loan-out company on wages paid to its employees for services
158 performed in Missouri, notwithstanding any exclusions under
159 Missouri law for short-term employment of nonresident
160 workers, out-of-state businesses, or otherwise. The amounts
161 so withheld shall be allocated to the loan-out company's
162 employees based on the payments made to the loan-out
163 company's employees for services performed in Missouri. For
164 the purposes of this section, loan-out company nonresident
165 employees performing services in Missouri shall be
166 considered taxable nonresidents and the loan-out company
167 shall be subject to income taxation in the taxable year in
168 which the loan-out company's employees perform services in
169 Missouri, notwithstanding any other provisions of chapter
170 143. Such withholding liability shall be subject to
171 penalties and interest in the same manner as the employee
172 withholding taxes imposed under chapter 143, and the

173 department of revenue shall provide by regulation the manner
174 in which such liability shall be assessed and collected.

175 (17) "Tour", a series of concerts or other
176 performances performed or to be performed by a musical or
177 other live performer, including at least one rehearsal, in
178 one or more locations over multiple days;

179 (18) "Tour expenses", expenses incurred or which will
180 be incurred during a tour including venues located in this
181 state, including:

182 (a) Total aggregate payroll;

183 (b) The transportation of people or concert tour
184 equipment to or from a train station, bus depot, airport, or
185 other transportation location, or from a residence or
186 business entity located in this state, or which is purchased
187 or will be purchased from a Missouri vendor;

188 (c) The leasing of vehicles provided by a Missouri
189 vendor;

190 (d) The purchasing or rental of facilities and
191 equipment from or through a Missouri vendor;

192 (e) Food and lodging which is incurred or will be
193 incurred from a Missouri vendor;

194 (f) Marketing or advertising a tour at venues located
195 within this state;

196 (g) Merchandise which is purchased or will be
197 purchased from a Missouri vendor and used on the tour;

198 (h) Payments made or that will be made to a personal
199 service corporation representing individual talent if income
200 tax will be paid or accrued on the net income of the
201 corporation for the taxable year pursuant to chapter 143; and

202 (i) Payments made or that will be made to a pass-
203 through entity representing individual talent for which

204 withholding tax will be withheld by the pass-through entity
205 on the payment as required pursuant to chapter 143;

206 "Tour expenses" shall not include development expenses,
207 including the writing of music or lyrics, or any expenses
208 claimed by a taxpayer as rehearsal expenses.

209 3. (1) For all tax years beginning on or after
210 January 1, 2024, a taxpayer shall be allowed a tax credit
211 for rehearsal expenses and tour expenses incurred by the
212 taxpayer. The amount of the tax credit shall be equal to
213 thirty percent of the taxpayer's base investment, subject to
214 the limitations provided in subsection 6 of this section.
215 No tax credit shall be authorized for rehearsal expenses or
216 tour expenses related to a rehearsal or tour that does not
217 meet the minimum rehearsal and tour requirements.

218 (2) Tax credits issued pursuant to this section shall
219 not be refundable. Any amount of tax credit that exceeds
220 the tax liability for a taxpayer's tax year may be carried
221 forward to any of the taxpayer's five subsequent taxable
222 years.

223 4. (1) Tax credits authorized pursuant to this
224 section may be transferred or sold in whole or in part by
225 the taxpayer that claimed the tax credit, provided that the
226 tax credit is transferred or sold to another Missouri
227 taxpayer.

228 (2) A transferor may make one or more transfers or
229 sales of tax credits claimed in a taxable year, and such
230 transfers or sales may involve one or more transferees.

231 (3) A transferor shall submit to the department and to
232 the department of revenue a written notification of any
233 transfer or sale of tax credits within thirty days after the
234 transfer or sale of such tax credits. Such notification

235 shall include the amount of the transferor's unredeemed tax
236 credits prior to transfer, the tax credit identifying
237 certificate number or other relevant identifying
238 information, the remaining amount of unredeemed tax credits
239 after transfer, all tax identification numbers for each
240 transferee, the date of transfer, the amount transferred,
241 and any other information required by the department or the
242 department of revenue.

243 (4) The transfer or sale of a tax credit authorized
244 pursuant to this section shall not extend the time in which
245 such tax credit may be redeemed. The carry-forward period
246 for a tax credit that is transferred or sold shall begin on
247 the date on which the tax credit was originally issued.

248 (5) A transferee shall have only such rights to claim
249 and redeem the tax credit that was available to such
250 transferor at the time of the transfer, except for the
251 transfer use of the tax credit authorized in subdivision (1)
252 of this subsection. To the extent that such transferor did
253 not have rights to claim or redeem the tax credit at the
254 time of the transfer, the department of revenue shall either
255 disallow the tax credit claimed by the transferee or
256 recapture the tax credit from the transferee. The
257 transferee's recourse shall be against such transferor.

258 (6) Tax credits shall not be transferred or sold for
259 less than sixty percent of the value of such tax credits.

260 (7) A taxpayer failing to comply with the provisions
261 of this subsection shall not be able to redeem a tax credit
262 until such taxpayer is in full compliance.

263 5. The tax credits authorized pursuant to this section
264 shall be subject to the following conditions and limitations:

265 (1) The tax credit may be taken beginning with the
266 taxable year in which the taxpayer earning the tax credit

267 has met the requirements provided pursuant to this section.
268 For each year in which such taxpayer either claims or
269 transfers the tax credit, the taxpayer shall attach a
270 schedule to the taxpayer's Missouri income tax return which
271 shall include the following information:

272 (a) A description of the qualifying activities and
273 expenses;

274 (b) A detailed listing of the employee names, Social
275 Security numbers, and Missouri wages when salaries are
276 included in the base investment;

277 (c) The amount of the tax credit claimed pursuant to
278 this section for the tax year;

279 (d) Any tax credit previously taken by the taxpayer
280 against Missouri income tax liabilities;

281 (e) The amount of the tax credit carried over from
282 prior years;

283 (f) The amount of the tax credit utilized by the
284 taxpayer claiming the tax credit in the current taxable
285 year; and

286 (g) The amount of the tax credit to be carried over to
287 subsequent tax years;

288 (2) In the initial tax year in which the taxpayer
289 claims the credit authorized pursuant to this section, the
290 taxpayer shall include a description of the qualifying
291 activities and expenses that demonstrates that the minimum
292 rehearsal and tour requirements are met; and

293 (3) Any taxpayer claiming, transferring, or selling a
294 tax credit pursuant to this section shall be required to
295 reimburse the department of revenue for any department-
296 initiated audits relating to the tax credit. The provisions
297 of this subdivision shall not apply to routine tax audits of

298 a taxpayer which may include the review of the tax credit
299 authorized pursuant to this section.

300 6. (1) The aggregate amount of tax credits that may
301 be authorized in a given fiscal year pursuant to this
302 section shall not exceed eight million dollars. If the
303 amount of tax credits applied for by taxpayers exceeds such
304 amount, the department may, at its discretion, authorize
305 additional tax credits in an amount not to exceed two
306 million dollars in such fiscal year, provided that the
307 maximum amount of tax credits that may be authorized during
308 the subsequent fiscal year shall be reduced by the amount of
309 additional tax credits that the department authorizes.

310 (2) Notwithstanding the provisions of subdivision (1)
311 of subsection 3 of this section to the contrary, the amount
312 of tax credits claimed by a taxpayer pursuant to this
313 section during a fiscal year shall not exceed the following
314 amounts:

315 (a) If a taxpayer's base investment is less than four
316 million dollars, the taxpayer shall not be awarded more than
317 one million dollars in tax credits in a fiscal year;

318 (b) If a taxpayer's base investment is at least four
319 million dollars but less than eight million dollars, the
320 taxpayer shall not be awarded more than two million dollars
321 in tax credits in a fiscal year; and

322 (c) If a taxpayer's base investment is at least eight
323 million dollars, the taxpayer shall not be awarded more than
324 three million dollars in tax credits in a fiscal year.

325 7. The department shall promulgate such rules and
326 regulations as are necessary to implement and administer the
327 provisions of this section. Any rule or portion of a rule,
328 as that term is defined in section 536.010, that is created
329 under the authority delegated in this section shall become

330 effective only if it complies with and is subject to all of
331 the provisions of chapter 536 and, if applicable, section
332 536.028. This section and chapter 536 are nonseverable and
333 if any of the powers vested with the general assembly
334 pursuant to chapter 536 to review, to delay the effective
335 date, or to disapprove and annul a rule are subsequently
336 held unconstitutional, then the grant of rulemaking
337 authority and any rule proposed or adopted after August 28,
338 2023, shall be invalid and void.

339 8. Pursuant to section 23.253 of the Missouri Sunset
340 Act:

341 (1) The program authorized pursuant to this section
342 shall automatically sunset on December 31, 2030, unless
343 reauthorized by an act of the general assembly;

344 (2) If such program is reauthorized, the program
345 authorized pursuant to this section shall automatically
346 sunset on December thirty-first, twelve years after the
347 effective date of the reauthorization;

348 (3) This section shall terminate on September first of
349 the calendar year immediately following the calendar year in
350 which the program authorized pursuant to this section is
351 sunset; and

352 (4) The provisions of this subsection shall not be
353 construed to limit or in any way impair the department's
354 ability to redeem tax credits authorized on or before the
355 date the program authorized pursuant to this section expires
356 or a taxpayer's ability to redeem such tax credits.

357 9. (1) Notwithstanding the provisions of subsection 8
358 of this section, the provisions of this section shall
359 automatically terminate and expire ninety days after the
360 department determines that all other state and local
361 governments in the United States of America have terminated

362 or let lapse their tax credit or other governmental
363 incentive program for the music or performance entertainment
364 industries, regardless of whether such credits or programs
365 are now in effect or first commence after the effective date
366 of this section. The department shall notify the revisor of
367 statutes upon the department's determination that the tax
368 credit authorized by this section shall terminate pursuant
369 to this subsection.

370 (2) The provisions of this subsection shall not be
371 construed to limit or in any way impair the ability of any
372 taxpayer that has met the requirements in this section prior
373 to the termination of this section to participate in the
374 program authorized under this section. The provisions of
375 this section shall not be construed to limit or in any way
376 impair the department's ability to redeem tax credits
377 qualified for on or before the date the program authorized
378 pursuant to this section expires.

Section B. Section A of this act shall become
2 effective July 1, 2024.

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