

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 10, Page 18, Section 67.5060, Line 360,

2 by inserting after all of said line the following:

3 "135.753. 1. This section shall be known and may be
4 cited as the "Entertainment Industry Jobs Act".

5 2. As used in this section, the following terms shall
6 mean:

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

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

16 (3) "Concert tour equipment", stage, set, scenery,
17 design elements, automation, rigging, trusses, spotlights,
18 lighting, sound equipment, video equipment, special effects,
19 cases, communication devices, power distribution equipment,
20 backline and other miscellaneous equipment, or supplies used
21 during a concert or rehearsal;

22 (4) "Department", the Missouri department of economic
23 development;

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

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

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

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

56 (a) The purchase or rental of concert tour equipment,
57 related services, or both, in an amount of at least one

58 million dollars from a Missouri vendor for use in the
59 rehearsal, on the tour, or both;

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

62 (c) The holding of at least two concerts in the state
63 of Missouri;

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

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

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

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

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

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

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

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

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

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

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

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

102 A qualified rehearsal facility shall not include a facility
103 at which concerts are regularly held;

104 (13) "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 (14) "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 (15) "Resident", the same meaning as defined pursuant
134 to section 143.101;

135 (16) "Total aggregate payroll", the total sum expended
136 on salaries paid to resident employees, regardless of
137 whether such resident is working within or outside of this
138 state, or nonresident employees working within this state in
139 one or more tours or rehearsals, including, without
140 limitation, payments to a loan-out company. For the purposes
141 of this subdivision:

142 (a) With respect to a single employee, the portion of
143 any salary which exceeds two million dollars in the
144 aggregate for a single tour shall not be included when
145 calculating total aggregate payroll;

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

151 (c) Total aggregate payroll shall include payments to
152 a loan-out company that has met its withholding tax
153 obligations as provided in this paragraph. The taxpayer
154 claiming the credit authorized pursuant to this section
155 shall withhold Missouri income tax at the rate imposed
156 pursuant to section 143.071 on all payments to loan-out

157 companies for services performed in Missouri. Any amounts
158 so withheld shall be deemed to have been withheld by the
159 loan-out company on wages paid to its employees for services
160 performed in Missouri, notwithstanding any exclusions under
161 Missouri law for short-term employment of nonresident
162 workers, out-of-state businesses, or otherwise. The amounts
163 so withheld shall be allocated to the loan-out company's
164 employees based on the payments made to the loan-out
165 company's employees for services performed in Missouri. For
166 the purposes of this section, loan-out company nonresident
167 employees performing services in Missouri shall be
168 considered taxable nonresidents and the loan-out company
169 shall be subject to income taxation in the taxable year in
170 which the loan-out company's employees perform services in
171 Missouri, notwithstanding any other provisions of chapter
172 143. Such withholding liability shall be subject to
173 penalties and interest in the same manner as the employee
174 withholding taxes imposed under chapter 143 and the
175 department of revenue shall provide by regulation the manner
176 in which such liability shall be assessed and collected;

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

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

184 (a) Total aggregate payroll;

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

190 (c) The leasing of vehicles provided by a Missouri
191 vendor;

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

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

196 (f) Marketing or advertising a tour at venues located
197 within this state;

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

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

204 (i) Payments made or that will be made to a pass-
205 through entity representing individual talent for which
206 withholding tax will be withheld by the pass-through entity
207 on the payment as required pursuant to chapter 143.

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

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

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

223 forward to any of the taxpayer's five subsequent taxable
224 years.

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

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

233 (3) A transferor shall submit to the department and to
234 the department of revenue a written notification of any
235 transfer or sale of tax credits within thirty days after the
236 transfer or sale of such tax credits. Such notification
237 shall include the amount of the transferor's unredeemed tax
238 credits prior to transfer, the tax credit identifying
239 certificate number or other relevant identifying
240 information, the remaining amount of unredeemed tax credits
241 after transfer, all tax identification numbers for each
242 transferee, the date of transfer, the amount transferred,
243 and any other information required by the department or the
244 department of revenue.

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

250 (5) A transferee shall have only such rights to claim
251 and redeem the tax credits that were available to such
252 transferor at the time of the transfer, except for the
253 transfer use of the tax credit authorized in subdivision (1)
254 of this subsection. To the extent that such transferor did
255 not have rights to claim or redeem the tax credit at the

256 time of the transfer, the department of revenue shall either
257 disallow the tax credit claimed by the transferee or
258 recapture the tax credit from the transferee. The
259 transferee's recourse shall be against such transferor.

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

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

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

267 (1) The tax credit may be taken beginning with the
268 taxable year in which the taxpayer earning the tax credit
269 has met the requirements provided pursuant to this section.
270 For each year in which such taxpayer either claims or
271 transfers the tax credit, the taxpayer shall attach a
272 schedule to the taxpayer's Missouri income tax return which
273 shall include the following information:

274 (a) A description of the qualifying activities and
275 expenses;

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

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

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

283 (e) The amount of the tax credit carried over from
284 prior years;

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

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

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

295 (3) Any taxpayer claiming, transferring, or selling a
296 tax credit pursuant to this section shall be required to
297 reimburse the department of revenue for any department-
298 initiated audits relating to the tax credit. The provisions
299 of this subdivision shall not apply to routine tax audits of
300 a taxpayer which may include the review of the tax credit
301 authorized pursuant to this section.

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

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

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

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

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

327 7. The department shall promulgate such rules and
328 regulations as are necessary to implement and administer the
329 provisions of this section. Any rule or portion of a rule,
330 as that term is defined in section 536.010, that is created
331 under the authority delegated in this section shall become
332 effective only if it complies with and is subject to all of
333 the provisions of chapter 536 and, if applicable, section
334 536.028. This section and chapter 536 are nonseverable and
335 if any of the powers vested with the general assembly
336 pursuant to chapter 536 to review, to delay the effective
337 date, or to disapprove and annul a rule are subsequently
338 held unconstitutional, then the grant of rulemaking
339 authority and any rule proposed or adopted after August 28,
340 2023, shall be invalid and void.

341 8. [Pursuant to section 23.253 of the Missouri sunset
342 act:

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

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

350 (3) This section shall terminate on September first of
351 the calendar year immediately following the calendar year in

352 which the program authorized pursuant to this section is
353 sunset; and

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

359 9. (1) Notwithstanding the provisions of subsection 8
360 of this section,] The provisions of this section shall
361 automatically terminate and expire ninety days after the
362 department determines that all other state and local
363 governments in the United States of America have terminated
364 or let lapse their tax credit or other governmental
365 incentive program for the music or performance entertainment
366 industries, regardless of whether such credits or programs
367 are now in effect or first commence after January 1, 2024.
368 The department shall notify the revisor of statutes upon the
369 department's determination that the tax credit authorized by
370 this section shall terminate pursuant to this subsection.

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

380 Further amend the title and enacting clause accordingly.