

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 961 &amp; 733

AN ACT

To repeal section 135.750, RSMo, and to enact in lieu thereof two new sections relating to tax credits for the production of certain entertainment, with an effective date for a certain section.

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

Section A. Section 135.750, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.750 and 135.753, to read as follows:

135.750. 1. This section shall be referred to as the "Show MO Act".

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

(1) ["Highly compensated individual", any individual who receives compensation in excess of one million dollars in connection with a single qualified film production project] "Above-the-line individual", any individual hired or credited on screen for a qualified motion media production project as any type of producer, principal cast that is at a screen actors guild schedule f and above payment rate, screenwriter, and the director;

(2) "Qualified [film] motion media production project", any film[, video, commercial, or television production] or series production, including videos, commercials, video games, webisodes, music videos, content-based mobile applications, virtual reality, augmented reality, multi-media, and new media, as well as standalone visual effects and post-production for such motion media production project, as approved by the department of economic development and the office of the Missouri film commission, that features a statement and logo designated by

the department of economic development in the credits of the completed production indicating that the project was filmed in Missouri and that is under thirty minutes in length with [an] expected [in-state expenditure budget] qualifying expenses in excess of fifty thousand dollars[,] or [that] is over thirty minutes in length with [an] expected [in-state expenditure budget] qualifying expenses in excess of one hundred thousand dollars. Regardless of the production costs, "qualified [film production] motion media project" shall not include any:

- (a) News or current events programming;
- (b) Talk show;
- (c) Production produced primarily for industrial, corporate, or institutional purposes, and for internal use;
- (d) Sports event or sports program;
- (e) Gala presentation or awards show;
- (f) Infomercial or any production that directly solicits funds;
- (g) Political ad;
- (h) Production that is considered obscene, as defined in section 573.010;

(3) "Qualifying expenses", the sum of the total amount spent in this state for the following by a production company in connection with a qualified [film] motion media production project:

(a) Goods and services leased or purchased by the production company. For goods with a purchase price of twenty-five thousand dollars or more, the amount included in qualifying expenses shall be the purchase price less the fair market value of the goods at the time the production is completed;

(b) Compensation and wages paid by the production company on which the production company remitted withholding

payments to the department of revenue under chapter 143. For purposes of this section, compensation and wages [shall not include any amounts paid to a highly compensated individual] paid to all above-the-line individuals shall be limited to twenty-five percent of the overall qualifying expenses;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or otherwise due under chapter 148;

(5) "Taxpayer", any individual, partnership, or corporation as described in section 143.441, 143.471, or section 148.370 that is subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in chapter 148 or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

[2. For all taxable years beginning on or after January 1, 1999, but ending on or before December 31, 2007, a taxpayer shall be granted a tax credit for up to fifty percent of the amount of investment in production or production-related activities in any film production project with an expected in-state expenditure budget in excess of three hundred thousand dollars. For all taxable years beginning on or after January 1, 2008, a taxpayer shall be allowed a tax credit for up to thirty-five percent of the amount of qualifying expenses in a qualified film production project. Each film production company shall be limited to one qualified film production project per year.]

3. (1) For all tax years beginning on or after January 1, 2022, a taxpayer shall be allowed a tax credit equal to twenty percent of qualifying expenses.

(2) An additional five percent may be earned for qualifying expenses if at least fifty percent of the qualified motion media production project is filmed in Missouri.

(3) An additional five percent may be earned for qualifying expenses if at least fifteen percent of the qualified motion media production project that is filmed in Missouri takes place in a rural or blighted area in Missouri.

(4) An additional five percent may be earned for qualifying expenses if at least three departments of the qualified motion media production hire a Missouri resident ready to advance to the next level in a specialized craft position or learn a new skillset.

(5) An additional five percent may be earned for qualifying expenses if the department of economic development determines that the script of the qualified motion media production project positively markets a city or region of the state, the entire state, or a tourist attraction located in the state, and the qualified motion media production provides no less than five high resolution photographs containing cast with the rights cleared for promotional use by the Missouri film commission, accompanied by a list with the title of production, location, names, and titles of the individuals shown in the photography and photographer credit.

(6) The total dollar amount of tax credits authorized pursuant to subdivision (1) of this subsection shall be increased by ten percent for qualified film production projects located in a county of the second, third, or fourth class.

(7) Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

4. A qualified motion media production project shall not be eligible for tax credits pursuant to this section unless such project employs the following number of Missouri registered apprentices or veterans residing in Missouri with transferable skills:

(1) If the qualifying expenses are less than five million dollars, two;

(2) If the qualifying expenses are at least five million dollars but less than ten million dollars, three;

(3) If the qualifying expenses are at least ten million dollars but less than fifteen million dollars, six;  
or

(4) If the qualifying expenses are at least fifteen million dollars, eight.

**[3.]** 5. Taxpayers shall apply for the **[film]** motion media production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected **[in-state expenditures]** qualifying expenses of the qualified **[film]** motion media production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the **[film]** qualified motion media production project. Such economic impact statement shall indicate the impact on the region of the state in which the **[film]** qualified motion media production or production-related activities are located and on the state as a whole. Final applications shall be accompanied by a report by a certified public accountant located and licensed by the state of

Missouri, prepared at the expense of the applicant, attesting that the amounts in the final application are qualifying expenses.

[4.] 6. [For all taxable years ending on or before December 31, 2007, tax credits certified pursuant to subsection 2 of this section shall not exceed one million dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million five hundred thousand dollars per year.] For all [taxable] tax years beginning on or after January 1, [2008] 2022, the total amount of tax credits [certified under subsection 1 of] authorized by this section for film production shall not exceed a total [for all tax credits certified] of [four] eight million [five hundred thousand] dollars per year, and the total amount of all tax credits authorized by this section for series production shall not exceed a total of eight million dollars per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the [film] qualified motion media production or production-related activities for which the credits are certified by the department occurred.

[5.] 7. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection [2] 3 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or chapter 148. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the [film] qualified motion media production or production-

related activities for which the credits are certified by the department occurred.

8. The tax credit authorized by this section shall be considered a business recruitment tax credit, as defined in section 135.800, and shall be subject to the provisions of sections 135.800 to 135.830.

9. The department of economic development may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

**[6.]** 10. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the **[new]** program authorized under this section shall automatically sunset **[six years after November 28, 2007]** on December 31, 2029, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first, twelve years after the effective date of the reauthorization of this section; and

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

which the program authorized under this section is sunset;  
and

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

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

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

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

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

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

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

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

(6) "Facility full-time equivalent employee", an employee that is scheduled to work an average of at least thirty-five hours per week and is located at the qualified



rehearsal facility, or a combination of two or more employees that combined work an average of at least thirty-five hours per week and are located at the qualified rehearsal facility. An employee shall be considered to be located at the facility if such employee spends fifty percent or more of the employee's work time at the qualified rehearsal facility or at a nearby facility serving the qualified rehearsal facility, including a warehouse, located in Missouri and owned by the same owner or operator, as applicable, of the qualified rehearsal facility. An employee that spends less than fifty percent of the employee's work time at the qualified rehearsal facility or nearby facility shall be considered to be located at a qualified rehearsal facility if the employee receives his or her directions and control from that facility and is on the facility's payroll;

(7) "Minimum rehearsal and tour requirements", the occurrence of all of the following during a rehearsal or tour:

(a) The purchase or rental of concert tour equipment in an amount of at least five hundred thousand dollars from a Missouri vendor for use in the rehearsal, on the tour, or both;

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

(c) The holding of a concert in at least one location in the state of Missouri;

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

(9) "Nonresident", the same meaning as defined pursuant to section 143.101;

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

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

(a) Has a minimum of twelve thousand five hundred square feet of column-free, unobstructed floor space in each studio used for rehearsals;

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

(c) Has a permanent grid system with a capacity of a minimum of five hundred thousand pounds in each studio used for rehearsals;

(d) Has a height from floor to permanent grid of a minimum of fifty feet in each studio used for rehearsals;

(e) Has at least one sliding or roll-up access door with a minimum height of fourteen feet in each studio used for rehearsals;

(f) Has a security system which includes twenty-four-hour, seven-days-a-week security cameras and the use of access control identification badges;

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

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

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

(12) "Resident", the same meaning as defined pursuant to section 143.101;

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

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

(a) Total aggregate payroll;

(b) Payment to a personal service corporation representing individual talent;

(c) Payment to a pass-through entity representing individual talent;

(d) Expenses related to construction, operations, editing, photography, staging, lighting, wardrobe, and accessories;

(e) The leasing of vehicles from a Missouri vendor;

(f) The transportation of people or concert tour equipment to or from a train station, bus depot, airport, or other transportation facility, or from a residence or business entity;

(g) Insurance coverage for an entire tour if the insurance coverage is purchased or will be purchased through an insurance agent that is a Missouri vendor;

(h) Food and lodging from a Missouri vendor;

(i) The purchase or rental of concert tour equipment from a Missouri vendor;

(j) The rental of a qualified rehearsal facility; and

(k) Emergency or medical support services required to conduct a rehearsal;

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

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

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

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

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

(a) Total aggregate payroll;

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

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

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

(e) Food and lodging which is incurred or will be incurred from a facility located in this state;

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

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

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

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

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

3. (1) For all tax years beginning on or after January 1, 2023, a taxpayer shall be allowed a tax credit for rehearsal expenses and tour expenses incurred by the taxpayer. The amount of the tax credit shall be equal to thirty percent of the taxpayer's base investment, subject to the limitations provided in subsection 6 of this section. No tax credit shall be authorized for rehearsal expenses or tour expenses related to a rehearsal or tour that does not meet the minimum rehearsal and tour requirements.

(2) Tax credits issued pursuant to this section shall not be refundable. Any amount of tax credit that exceeds the tax liability for a taxpayer's tax year may be carried forward to any of the taxpayer's five subsequent taxable years, after which all remaining unredeemed tax credits shall expire, regardless of whether such tax credits are transferred or sold pursuant to subsection 5 of this section.

4. (1) In order to claim a tax credit pursuant to this section, a taxpayer shall apply to the department on a form to be provided by the department. Such application shall include:

(a) A detailed list of qualifying activities, rehearsal expenses, and tour expenses, including dates and locations for all rehearsal and tour events;

(b) A detailed listing of the employee names, social security numbers, and Missouri wages when salaries are included in the base investment;

(c) Any other tax credits taken by the taxpayer against Missouri income tax liabilities; and

(d) Any other information required by the department.

(2) For each year in which a taxpayer redeems a tax credit claimed pursuant to this section, the taxpayer shall include with his or her tax return the information required by subdivision (1) of this section, as well as:

(a) The amount of tax credits being redeemed for the current tax year;

(b) The amount of tax credits redeemed in prior tax years; and

(c) The amount of unredeemed tax credits to be carried over to subsequent tax years.

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

5. (1) Tax credits authorized pursuant to this section may be transferred or sold in whole or in part by the taxpayer that claimed the tax credit, provided that the

tax credit is transferred or sold to another Missouri taxpayer.

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

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

(4) A transferee shall not subsequently transfer or sell any tax credit acquired from a transferor. A tax credit that is transferred or sold shall not be redeemed by a transferee for any tax year that is more than five years after the initial date of issuance to the transferor, regardless of when the tax credit was acquired by the transferee.

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

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

6. (1) The aggregate amount of tax credits that may be authorized in a given fiscal year pursuant to this section shall not exceed eight million dollars. If the amount of tax credits applied for by taxpayers exceeds such

amount, the department may, at its discretion, authorize additional tax credits in an amount not to exceed two million dollars in such fiscal year, provided that the maximum amount of tax credits that may be authorized during the subsequent fiscal year shall be reduced by the amount of additional tax credits that the department authorizes.

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

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

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

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

7. The department shall promulgate such rules and regulations as are necessary to implement and administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking



authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

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

(1) The program authorized pursuant to this section shall automatically sunset on December 31, 2029, unless reauthorized by an act of the general assembly;

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

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

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

Section B. The enactment of section 135.753 of this act shall become effective July 1, 2023.