

# SENATE BILL NO. 733

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

3843S.02I

ADRIANE D. CROUSE, 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 full-time equivalent employee", an  
25 employee that is scheduled to work an average of at least  
26 thirty-five hours per week and is located at the qualified  
27 rehearsal facility, or a combination of two or more  
28 employees that combined work an average of at least thirty-  
29 five hours per week and are located at the qualified  
30 rehearsal facility. An employee shall be considered to be  
31 located at the facility if such employee spends fifty  
32 percent or more of the employee's work time at the qualified  
33 rehearsal facility or at a nearby facility serving the  
34 qualified rehearsal facility, including a warehouse, located  
35 in Missouri and owned by the same owner or operator, as  
36 applicable, of the qualified rehearsal facility. An  
37 employee that spends less than fifty percent of the  
38 employee's work time at the qualified rehearsal facility or  
39 nearby facility shall be considered to be located at a  
40 qualified rehearsal facility if the employee receives his or  
41 her directions and control from that facility and is on the  
42 facility's payroll;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

103 (a) Total aggregate payroll;

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

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

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

- 111 (e) The leasing of vehicles from a Missouri vendor;
- 112 (f) The transportation of people or concert tour  
113 equipment to or from a train station, bus depot, airport, or  
114 other transportation facility, or from a residence or  
115 business entity;
- 116 (g) Insurance coverage for an entire tour if the  
117 insurance coverage is purchased or will be purchased through  
118 an insurance agent that is a Missouri vendor;
- 119 (h) Food and lodging from a Missouri vendor;
- 120 (i) The purchase or rental of concert tour equipment  
121 from a Missouri vendor;
- 122 (j) The rental of a qualified rehearsal facility; and
- 123 (k) Emergency or medical support services required to  
124 conduct a rehearsal;
- 125 (15) "Total aggregate payroll", the total sum expended  
126 on salaries paid to resident employees, regardless of  
127 whether such resident is working within or outside of this  
128 state, or nonresident employees working within this state in  
129 one or more tours or rehearsals, including, without  
130 limitation, payments to a loan-out company. For the purposes  
131 of this subdivision:
- 132 (a) With respect to a single employee, the portion of  
133 any salary which exceeds two million dollars in the  
134 aggregate for a single tour shall not be included when  
135 calculating total aggregate payroll; and
- 136 (b) All payments to a single employee and any legal  
137 entity in which the employee has any direct or indirect  
138 ownership interest shall be considered as having been paid  
139 to the employee and shall be aggregated regardless of the  
140 means of payment or distribution;
- 141 (16) "Tour", a series of concerts or other  
142 performances performed or to be performed by a musical or

143 other live performer, including at least one rehearsal, in  
144 one or more locations over multiple days;

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

148 (a) Total aggregate payroll;

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

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

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

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

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

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

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

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

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

175 3. (1) For all tax years beginning on or after  
176 January 1, 2023, a taxpayer shall be allowed a tax credit  
177 for rehearsal expenses and tour expenses incurred by the  
178 taxpayer. The amount of the tax credit shall be equal to  
179 thirty percent of the taxpayer's base investment, subject to  
180 the limitations provided in subsection 6 of this section.  
181 No tax credit shall be authorized for rehearsal expenses or  
182 tour expenses related to a rehearsal or tour that does not  
183 meet the minimum rehearsal and tour requirements.

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

191 4. (1) In order to claim a tax credit pursuant to  
192 this section, a taxpayer shall apply to the department on a  
193 form to be provided by the department. Such application  
194 shall include:

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

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

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

203 (d) Any other information required by the department.

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

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

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

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

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

221           5. (1) Tax credits authorized pursuant to this  
222 section may be transferred or sold in whole or in part by  
223 the taxpayer that claimed the tax credit, provided that the  
224 tax credit is transferred or sold to another Missouri  
225 taxpayer.

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

229           (3) A transferor shall submit to the department and to  
230 the department of revenue a written notification of any  
231 transfer or sale of tax credits within thirty days after the  
232 transfer or sale of such tax credits. Such notification  
233 shall include the amount of the transferor's unredeemed tax  
234 credits prior to transfer, the tax credit identifying  
235 certificate number or other relevant identifying

236 information, the remaining amount of unredeemed tax credits  
237 after transfer, all tax identification numbers for each  
238 transferee, the date of transfer, the amount transferred,  
239 and any other information required by the department or the  
240 department of revenue.

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

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

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

253 6. (1) The aggregate amount of tax credits that may  
254 be authorized in a given fiscal year pursuant to this  
255 section shall not exceed eight million dollars. If the  
256 amount of tax credits applied for by taxpayers exceeds such  
257 amount, the department may, at its discretion, authorize  
258 additional tax credits in an amount not to exceed two  
259 million dollars in such fiscal year, provided that the  
260 maximum amount of tax credits that may be authorized during  
261 the subsequent fiscal year shall be reduced by the amount of  
262 additional tax credits that the department authorizes.

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

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

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

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

278 7. The department shall promulgate such rules and  
279 regulations as are necessary to implement and administer the  
280 provisions of this section. Any rule or portion of a rule,  
281 as that term is defined in section 536.010, that is created  
282 under the authority delegated in this section shall become  
283 effective only if it complies with and is subject to all of  
284 the provisions of chapter 536 and, if applicable, section  
285 536.028. This section and chapter 536 are nonseverable and  
286 if any of the powers vested with the general assembly  
287 pursuant to chapter 536 to review, to delay the effective  
288 date, or to disapprove and annul a rule are subsequently  
289 held unconstitutional, then the grant of rulemaking  
290 authority and any rule proposed or adopted after August 28,  
291 2022, shall be invalid and void.

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

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

297 (2) If such program is reauthorized, the program  
298 authorized pursuant to this section shall automatically

299 sunset on December thirty-first, twelve years after the  
300 effective date of the reauthorization;

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

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

Section B. Section A of this act shall become  
2 effective July 1, 2023.

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