Sen. Elgie R. Sims, Jr.

Filed: 5/8/2026

AMENDMENT TO SENATE BILL 3592

AMENDMENT NO. ______. Amend Senate Bill 3592 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Income Tax Act is amended by changing Section 222 as follows:

(35 ILCS 5/222)

Sec. 222. Live theater production credit.

(a) For tax years beginning on or after January 1, 2012 and beginning prior to <u>January 1, 2039</u> ~~January 1, 2027~~, a taxpayer who has received a tax credit award under the Live Theater Production Tax Credit Act for a long-run production, a pre-Broadway production, or a commercial Broadway touring show is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount determined under that Act by the Department of Commerce and Economic Opportunity.

(b) For taxable years ending before December 31, 2023, if the taxpayer is a partnership, limited liability partnership, limited liability company, or Subchapter S corporation, the tax credit award is allowed to the partners, unit holders, or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. For taxable years ending on or after December 31, 2023, if the taxpayer is a partnership or Subchapter S corporation, then the provisions of Section 251 apply.

(c) A sale, assignment, or transfer of the tax credit award may be made by the taxpayer earning the credit within one year after the credit is awarded in accordance with rules adopted by the Department of Commerce and Economic Opportunity.

(d) The Department of Revenue, in cooperation with the Department of Commerce and Economic Opportunity, shall adopt rules to enforce and administer the provisions of this Section.

(e) The tax credit award may not be carried back. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 tax years following the excess credit year. The tax credit award shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset liability, the earlier credit shall be applied first. In no event may a credit under this Section reduce the taxpayer's liability to less than zero.

(Source: P.A. 102-16, eff. 6-17-21; 103-396, eff. 1-1-24; 103-592, eff. 6-7-24.)

Section 10. The Live Theater Production Tax Credit Act is amended by changing Sections 10-10, 10-20, and 10-45 as follows:

(35 ILCS 17/10-10)

Sec. 10-10. Definitions. As used in this Act:

"Accredited theater production" means a for-profit live stage presentation in a qualified production facility, as defined in this Section, that is either (i) a pre-Broadway production or (ii) a long-run production for which the aggregate Illinois labor and marketing expenditures exceed $100,000. For credits awarded under this Act on or after July 1, 2022, "accredited theater production" also includes any commercial Broadway touring show. For credits awarded under this Act on or after July 1, 2024, "accredited theater production" also includes non-profit theater productions.

"Commercial Broadway touring show" means a production that (i) is performed in a qualified production facility and plays in more than 2 other markets in North America outside of Illinois within 12 months of its Illinois presentation and

(ii) has Illinois production spending of not less than $100,000, as shown on the applicant's application for the credit.

"National tour launch" means a commercial Broadway touring show that has its first production in a qualified production facility.

"Pre-Broadway production" means a live stage production that, (i) in its original or adaptive version, is performed in a qualified production facility and has ~~with the goal of having~~ a presentation scheduled for Broadway's Theater District in New York City no later than 24 months after its Illinois presentation and (ii) has Illinois production spending of not less than $100,000, as shown on the applicant's application for the credit.

"Long-run production" means a live stage production that is performed in a qualified production facility for longer than 8 weeks, with at least 6 performances per week, and includes a production that spans the end of one tax year and the commencement of a new tax year that, in combination, meets the criteria set forth in this definition making it a long-run production eligible for a theater tax credit award in each tax year or portion thereof.

"Non-profit theater production" means a live stage production that is at least 75 minutes in length with a written script that (i) is produced by a 501(c)3 non-profit registered in the State of Illinois for at least 5 years, (ii) has

Illinois production spending of not less than $10,000, as shown on the applicant's application for the credit, and (iii) has a minimum annual operating budget of $25,000 or more, as shown on the applicant's application for the credit.

"Accredited theater production certificate" means a certificate issued by the Department certifying that the production is an accredited theater production that meets the guidelines of this Act.

"Applicant" means a theater producer, owner, licensee, operator, or presenter that is presenting or has presented a live stage presentation located within the State of Illinois who:

(1) owns or licenses the theatrical rights of the stage presentation for the Illinois production period; or

(2) has contracted or will contract directly with the owner or licensee of the theatrical rights or a person acting on behalf of the owner or licensee to provide live performances of the production.

An applicant that directly or indirectly owns, controls, or operates multiple qualified production facilities shall be presumed to be and considered for the purposes of this Act to be a single applicant; provided, however, that as to each of the applicant's qualified production facilities, the applicant shall be eligible to separately and contemporaneously (i) apply for and obtain accredited theater production certificates, (ii) stage accredited theater productions, and

(iii) apply for and receive a tax credit award certificate for each of the applicant's accredited theater productions performed at each of the applicant's qualified production facilities.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Department.

"Illinois labor expenditure" means gross salary or wages including, but not limited to, taxes, benefits, and any other consideration incurred or paid to non-talent employees of the applicant for services rendered to and on behalf of the accredited theater production. To qualify as an Illinois labor expenditure, the expenditure must be:

(1) incurred or paid by the applicant on or after the effective date of the Act for services related to any portion of an accredited theater production from its pre-production stages, including, but not limited to, the writing of the script, casting, hiring of service providers, purchases from vendors, marketing, advertising, public relations, load in, rehearsals, performances, other accredited theater production related activities, and load out;

(2) directly attributable to the accredited theater production;

(3) limited to the first $100,000 of wages incurred or paid to each employee of an accredited theater production

in each tax year;

(4) included in the federal income tax basis of the property;

(5) paid in the tax year for which the applicant is claiming the tax credit award, or no later than 60 days after the end of the tax year;

(6) paid to persons residing in Illinois at the time payments were made; and

(7) reasonable in the circumstances.

"Illinois production spending" means any and all expenses directly or indirectly incurred relating to an accredited theater production presented in any qualified production facility of the applicant, including, but not limited to, expenditures for:

(1) national marketing, public relations, and the creation and placement of print, electronic, television, billboard, and other forms of advertising; and

(2) the construction and fabrication of scenic materials and elements; provided, however, that the maximum amount of expenditures attributable to the construction and fabrication of scenic materials and elements eligible for a tax credit award shall not exceed the following maximum amounts: ~~$500,000 per applicant per production in any single tax year.~~

(A) for taxable years ending before June 30, 2026, $500,000 per applicant per production per taxable year; and

(B) for taxable years ending on or after June 30, 2026:

(i) if the applicant is not a pre-Broadway production or a national tour launch, $2,500,000 per applicant per production per taxable year; and

(ii) if the applicant is a pre-Broadway production or a national tour launch, $13,333,334 per applicant per production per taxable year.

For the purposes of this paragraph (2), expenditures for the construction and fabrication of scenic materials and elements include, but are not limited to, expenses, including labor, materials, and equipment rentals, incurred by the applicant from Illinois vendors across multiple Illinois employers for the creation of wigs and costumes and for scenic construction, installation, load out, and restoration; those expenditures include expenditures for scenic materials and elements used in rehearsals for a qualified production if those expenditures are incurred by the applicant and if the workers performing the work are Illinois residents, as established by providing the Illinois employer's payroll register and employer identification number as well as a copy of the employee's Illinois State identification card issued by the Secretary of State or Illinois driver's license.

"Qualified production facility" means a facility located in the State in which live theatrical productions are, or are intended to be, exclusively presented that contains at least one stage, a seating capacity of 1,200 or more seats or, if the live theater production is a non-profit theater production, a seating capacity of 50 or more seats, and dressing rooms, storage areas, and other ancillary amenities necessary for the accredited theater production.

"Tax credit award" means the issuance to a taxpayer by the Department of a tax credit award in conformance with Sections 10-40 and 10-45 of this Act.

"Tax year" means a calendar year for the period January 1 to and including December 31.

(Source: P.A. 102-1112, eff. 12-21-22; 103-592, eff. 6-7-24.)

(35 ILCS 17/10-20)

Sec. 10-20. Tax credit award. Subject to the conditions set forth in this Act, an applicant is entitled to a tax credit award as approved by the Department for qualifying Illinois labor expenditures and Illinois production spending for each tax year in which the applicant is awarded an accredited theater production certificate issued by the Department. The amount of tax credits awarded pursuant to this Act shall not exceed $2,000,000 in any State fiscal year ending on or before June 30, 2022. The amount of tax credits awarded pursuant to this Act for the State fiscal year ending on June 30, 2023 or the State fiscal year ending on June 30, 2024 shall not exceed $4,000,000. For the State fiscal year ending on June 30, 2023 and the State fiscal year ending on June 30, 2024, no more than $2,000,000 in credits may be awarded in either of those fiscal years to accredited theater productions that are not commercial Broadway touring shows, and no more than $2,000,000 in credits may be awarded in either of those fiscal years to commercial Broadway touring shows. For State fiscal years ending on or after June 30, 2025 and ending before June 30, 2026, the amount of tax credits awarded under this Act shall not exceed $6,000,000, with no more than $2,000,000 in credits awarded for long-run productions and pre-Broadway productions, no more than $2,000,000 in credits awarded for commercial Broadway touring shows, and no more than $2,000,000 in credits awarded for non-profit theater productions. For State fiscal years ending on or after June 30, 2026, the amount of tax credits awarded under this Act shall not exceed $9,000,000, allocated as follows:

(1) no more than $5,000,000, in the aggregate, may be awarded to pre-Broadway productions, long-run productions, and national tour launches in any State fiscal year; of that amount:

(A) $4,000,000 is available to be awarded to pre-Broadway and national tour launches for all eligible expenses, including the construction and fabrication of scenic materials and elements as set forth in the definition of Illinois production spending in Section 10-10 of this Act; and

(B) the remaining $1,000,000 is available to long-run productions and may be awarded at no more than $500,000 per applicant per production; and

(2) no more than $2,000,000 may be awarded to commercial Broadway touring shows at no more than $500,000 per applicant per production; and

(3) no more than $2,000,000 may be awarded to non-profit theatre productions.

If, in any State fiscal year beginning on or after June 30, 2026, less than $2,000,000 in credits has been awarded for pre-Broadway productions, long-run productions and national tour launches, then the difference between $2,000,000 and the amount actually awarded in that State fiscal year may be added to the maximum credits allowed to be awarded for commercial Broadway touring shows in that State fiscal year.

The $2,000,000 in credits that may be awarded for non-profit theater productions under this Act in a State fiscal year shall be allocated as follows:

(1) no credits may be awarded for non-profit theater productions that have an annual operating budget of less than $25,000;

(2) no more than $225,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of $25,000 or more but

less than $250,000;

(3) no more than $225,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of $250,000 or more but less than $1,000,000;

(4) no more than $250,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of $1,000,000 or more but less than $2,500,000;

(5) no more than $300,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of $2,500,000 or more but less than $5,000,000;

(6) no more than $300,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of $5,000,000 or more but less than $10,000,000; and

(7) no more than $700,000 in credits may be awarded, in the aggregate, for non-profit theater productions that have an annual operating budget of $10,000,000 or more.

Credits shall be awarded on a first-come, first-served basis. Notwithstanding the foregoing, if the amount of credits applied for in any fiscal year exceeds the amount authorized to be awarded under this Section, the excess credit amount shall be awarded in the next fiscal year in which credits remain available for award and shall be treated as having been

applied for on the first day of that fiscal year.
(Source: P.A. 102-700, eff. 4-19-22; 102-1112, eff. 12-21-22; 103-592, eff. 6-7-24; 103-1055, eff. 12-20-24.)

(35 ILCS 17/10-45)

Sec. 10-45. Amount and payment of the tax credit award. The tax credit award shall be calculated each tax year based upon the filing by the applicant on forms prescribed by the Department containing information regarding qualifying and quantified Illinois labor expenditures, as defined in Section 10-10, net of the limitation in that Section, and Illinois production spending, as defined in Section 10-10, net of the limitation in that Section. From the amount calculated, the applicant shall be entitled to receive a tax credit award as follows ~~of up to~~:

(1) for taxable years ending before July 1, 2026, an award of up to:

(A) ~~(1)~~ 20% of the Illinois labor expenditures for each tax year; plus

(B) ~~(2)~~ 20% of the Illinois production spending for each tax year; plus

(C) ~~(3)~~ 15% of the Illinois labor expenditures generated by the employment of Illinois residents in geographic areas of high poverty or high unemployment in each tax year, as determined by the Department; and ~~.~~

(2) for taxable years ending on or after July 1, 2026:

(A) if the applicant is a pre-Broadway production or national tour launch, an award of up to:

(i) 30% of the Illinois labor expenditures for each tax year; plus

(ii) 30% of the Illinois production spending for each tax year; plus

(iii) 30% of the Illinois labor expenditures generated by the employment of Illinois residents in geographic areas of high poverty or high unemployment in each tax year, as determined by the Department; and

(B) if the applicant is not a pre-Broadway production or national tour launch, an award of up to:

(i) 20% of the Illinois labor expenditures for each tax year; plus

(ii) 20% of the Illinois production spending for each tax year; plus

(iii) 15% of the Illinois labor expenditures generated by the employment of Illinois residents in geographic areas of high poverty or high unemployment in each tax year, as determined by the Department.

Following the Department's determination of the tax credit award, the Department shall issue the tax credit award to the applicant.

(Source: P.A. 97-636, eff. 6-1-12.)

Section 99. Effective date. This Act takes effect upon becoming law.".