**South Carolina General Assembly**

126th Session, 2025-2026

**H. 3832**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. W. Newton, Herbkersman, Dillard, Kirby and Henderson-Myers

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Introduced in the House on January 29, 2025

Currently residing in the House

Summary: Film incentives

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/29/2025 House Introduced and read first time (House Journal‑page 15)

 1/29/2025 House Referred to Committee on **Ways and Means** (House Journal‑page 15)

 3/26/2025 House Member(s) request name added as sponsor: Dillard

 4/1/2025 House Member(s) request name added as sponsor: Kirby

 4/9/2025 House Committee report: Favorable with amendment **Ways and Means**

 4/14/2025 Scrivener's error corrected

 4/22/2025 House Member(s) request name added as sponsor:
 Henderson-Myers

 4/23/2025 House Requests for debate-Rep(s). Caskey, Gatch, Hiott, Pace, Frank, Edgerton, Magnuson, White, Terrible, Martiin, Cromer, Gilreath, Reese, Huff, Harris, Hixon, Mitchell (House Journal‑page 11)

 4/30/2025 House Debate adjourned

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**VERSIONS OF THIS BILL**

[01/29/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3832_20250129.docx)

[04/09/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3832_20250409.docx)

[04/14/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3832_20250414.docx)

[04/14/2025-A](https://www.scstatehouse.gov/sess126_2025-2026/prever/3832_20250414a.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

April 9, 2025

H. 3832

Introduced by Reps. W. Newton, Herbkersman, Dillard and Kirby

S. Printed 4/9/25--H. [SEC 4/14/2025 12:26 PM]

Read the first time January 29, 2025

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The committee on House Ways and Means

To whom was referred a Bill (H. 3832) to amend the South Carolina Code of Laws by amending Section 12‑62‑50, relating to the tax rebate for certain motion picture production companies, so as to increase, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

 Amend the bill, as and if amended, by striking SECTIONS 4.A and 4.B and inserting:

SECTION X.A. Title 12 of the S.C. Code is amended by adding:

CHAPTER 71

South Carolina Theater Production Incentive Act

 Section 12-71-10. This chapter may be cited as the "South Carolina Theater Production Incentive Act."

 Section 12-71-20. For purposes of this chapter:

 (1) “Accredited theater production” means a for profit live stage presentation in a qualified production facility, as defined in this section that is either a pre-Broadway production or a post-Broadway production.

 (2) “Company” means a corporation, partnership, limited liability company, or other business entity.

 (3) “Department” means the Department of Parks, Recreation and Tourism.

 (4) “Director” means the director of the Department of Parks, Recreation and Tourism, or his designee.

 (5) “Pre-Broadway production” means a live stage production that, in its original or adaptive version, is performed in a qualified production facility having a presentation scheduled for Broadway’s theater district in New York City within twelve months after its South Carolina presentation.

 (6) “Post-Broadway production” means a live stage production that, in its original or adaptive version, is performed in a qualified production facility and opens its United States tour in South Carolina after a presentation scheduled for Broadway’s theater district in New York City.

 (7) “Qualified production facility” means a facility located in this State in which live theatrical productions are, or are intended to be, exclusively presented, that contains at least one stage, a seating capacity of one thousand or more seats, and dressing rooms, storage areas, and other ancillary amenities necessary for the accredited theater production.

 Section 12-71-30. An accredited theater production that intends to expend in the aggregate two hundred fifty thousand dollars or more in connection with a production in the State of South Carolina within a consecutive twelve-month period, upon making application for, meeting the requirements of, and receiving written certification of that designation from the department as provided in this chapter, is relieved from the payment of state and local sales and use taxes administered and collected by the Department of Revenue on funds expended in South Carolina in connection with the production.

 Section 12-71-40. (A) An accredited theater production company that intends to put on a production in South Carolina and desires to be relieved from the payment of state and local sales and use taxes, administered and collected by the Department of Revenue, as provided in this chapter, shall provide an estimate of total expenditures expected to be made in South Carolina in connection with the production. The estimate of expenditures must be filed with the department before the commencement of the production in South Carolina.

 (B) At the time the accredited theater production company provides the estimate of expenditures to the department, it also shall designate a member or representative of the accredited theater production company to work with the department and the Department of Revenue on reporting of expenditures and other information necessary to take advantage of the tax relief afforded by this chapter.

 (C)(1) An application for the tax relief provided by this chapter must be accepted only from those in accredited theater production companies that report anticipated expenditures in the State in the aggregate equal to or exceeding two hundred fifty thousand dollars in connection with the production of one or more productions in the State within a consecutive twelve-month period.

 (2) The application must be approved by the director.

 (3) Once the application is approved by the director, the Department of Revenue shall issue a sales and use tax exemption certificate to the accredited theater production company as evidence of the exemption. The exemption is effective on the date the application is approved by the director.

 (D) An accredited theater production company that is approved and receives a sales and use tax exemption certificate but fails to expend two hundred fifty thousand dollars within a consecutive twelve-month period is liable for the sales and use taxes that would have been paid had the approval not been granted; except, that the accredited theater production company must be given a sixty day period in which to pay the sales and use taxes without incurring penalties. The sales and use taxes are considered due as of the date the tangible personal property was purchased in or brought into South Carolina for use, storage, or consumption.

 (E) Upon completion of the production, the accredited theater production company must return the sales and use tax exemption certificate to the Department of Revenue and submit a report to the department of the actual expenditures made in South Carolina in connection with the production.

 Section 12-71-50. (A)(1) The department may rebate to an accredited theater production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with the production. The rebate may not exceed twenty percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax withholdings and may not exceed twenty-five percent for South Carolina residents, for persons employed in connection with the production when total production costs in South Carolina equal or exceed two hundred fifty thousand dollars during the taxable year. The rebates in total may not annually exceed two million dollars and shall come from the state's general fund. Any unused rebates may be carried forward for the next three tax years thereby increasing the annual limit in those subsequent years. For purposes of this section, "total aggregate payroll" does not include the salary of an employee whose salary is equal to or greater than one million dollars for each production.

 (2)(a) For purposes of this section, an employee is an individual directly involved in the production in South Carolina and who is an employee of:

 (i) an accredited theater production company that is directly involved in the post-production in South Carolina; or

 (ii) a personal service corporation retained by an accredited theater production company to provide persons used directly in the production in South Carolina; or

 (iii) a payroll services or loan out company that is retained by an accredited theater production company to provide employees who work directly in the production in South Carolina.

 (b) For his wages to qualify for the rebate, the employee must be certified by the department as a qualifying employee, and the employee must have had South Carolina income tax withholding withheld and remitted to the Department of Revenue by a company described in item (2)(a).

 (3) The rebate applies with respect to an employee described in subsection (A)(2)(a)(ii) or (iii) only if, before commencement of the production in South Carolina, the personal services corporation, payroll services company, or loan out company is approved and certified by the department and makes an irrevocable assignment of its rebate to the accredited theater production company that put on the production. The assignment must be made on a form provided by the Department of Revenue, which must include a waiver of confidentiality pursuant to Section 12-54-240. Upon assignment, the rebate may be paid only to the accredited theater production company.

 (B)(1) The rebate provided in subsection (A) is available to the accredited theater production company at the end of the production in South Carolina. The accredited theater production company must apply to the department for a certificate of completion once the production in South Carolina is complete. The accredited theater production company must provide the information the department considers necessary to determine if the two hundred fifty thousand dollar expenditure requirement has been met.

 (2) An accredited theater production company may claim the rebate by filing a request for rebate with the department once the certificate of completion is obtained. The request for rebate must be filed by the last day of February of the year following the year in which the certificate of completion is obtained. To claim the rebate, the accredited theater production company and all companies described in subsection (A)(2)(a)(ii) or (iii) must be current with respect to all taxes due and owing the State at the time of filing the request for rebate. If the accredited theater production company or a company described in subsection (A)(2)(a)(ii) or (iii) is not current with respect to all taxes due and owing the State, the accredited theater production company is permanently barred from claiming the rebate.

 (3) The accredited theater production company must attach to its request for rebate a copy of the certificate of completion and a copy of all assignments of the rebate, if applicable.

 (C) An accredited theater production company claiming a rebate pursuant to this section, and all companies described in subsection (A)(2)(a)(ii) or (iii), must make payroll books and records available for inspection to the department at the times requested by the department. Each accredited theater production company claiming the rebate, at the time of filing, must provide a report to the department that includes the project's name, the name of each employee who worked on the production, the social security number for each employee, the dates employed, the dates the employee worked on the production, a job description for each employee, the total gross wages for each employee, the South Carolina taxable wages subject to withholding for each employee, the amount of rebate attributable to that employee, and other information considered necessary by the department. The report also must contain the total amount of withholding attributable to all employees who worked on the production in South Carolina.

 (D) For purposes of this section, and as an exception to Section 12-54-240, an accredited theater production company and a company described in subsection (A)(2)(a)(ii) or (iii) agree that the department may share or provide information concerning the request for rebate and the certificate of completion among the respective taxpayers and the respective agencies.

 (E) A taxpayer may not claim a rebate pursuant to this chapter and Chapter 62 for the same project. Further, a taxpayer may not use state funds, state loans, or state-guaranteed loans to qualify for such rebates.

 Section 12-71-55. At the time the accredited theater production company is certified by the department, it may make an irrevocable assignment of future payments attributable to the rebates made pursuant to Section 12-71-40 or 12-71-50 to a designated trustee. For purposes of this chapter, "designated trustee" means the single financier or financial institution designated by the council to receive all assignments of payments made pursuant to this chapter and to the terms of an agreement entered into by the accredited theater production company. If an accredited theater production company elects to assign payments to the designated trustee, the election must be made on a form provided by the department, including a waiver of confidentiality pursuant to Section 12-54-240, and the payments may be paid only to the designated trustee. The accredited theater production company must file an application for the assignment with the director no later than thirty days after the production begins in South Carolina.

 Section 12-71-60. (A)(1) In addition to the rebates allowed pursuant to Section 12-71-50, the department may rebate to an accredited theater production company up to thirty percent of the expenditures made by the accredited theater production company in the State if the accredited theater production company has a minimum in-state expenditure of two hundred fifty thousand dollars. Rebates awarded pursuant to this section shall count against the maximum rebate amount set forth in Section 12-71-50.

 (2) This subsection does not apply to payroll paid for accredited theater production employees subject to Section 12-71-50 or money paid to the companies described in Section 12-71-50(A)(2)(a)(ii) or (iii). Unexpended funds from this source may be carried over to the next and succeeding fiscal years.

 (B) The allocations to theater production companies contemplated by this section must be made by the department. The department may adopt rules and promulgate regulations for the application for and award of the rebate.

 Section 12-71-80. The department may form a South Carolina Theater Foundation to solicit donations for the recruitment of theater productions in furtherance of the purposes of this chapter.

 Section 12-71-90. A production that utilizes a South Carolina tax credit or rebate must recognize the State of South Carolina by placing a logo, selected by the department, in a conspicuous location on any advertisement for the production and on the front of the playbill. However, the State of South Carolina reserves the right to refuse the use of its name in any production put on in the State.

 Section 12-71-95. The provisions of this chapter do not apply if the production that is made in South Carolina is found to contain scenes the average person, applying contemporary state community standards would find that the production, taken as a whole, appeals to the prurient interest, whether the production depicts or describes, in a patently offensive way, sexual conduct, and whether the production, taken as a whole, lacks serious literary, artistic, political, or scientific value. The department may not award any benefit offered by this chapter to an accredited theater production company putting on such a production.

 Section 12-71-100. To the extent not already provided, the department may adopt rules and promulgate regulations to carry out the intent and purposes of this chapter.

B. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2024.

Renumber sections to conform.

Amend title to conform.

B.W. BANNISTER for Committee.

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12‑62‑50, RELATING TO THE TAX REBATE FOR CERTAIN MOTION PICTURE PRODUCTION COMPANIES, SO AS TO INCREASE THE ANNUAL LIMIT, AND BY ALLOWING THE USE OF REBATES FOR CERTAIN EXPENDITURES AND EXPENSES; BY REPEALING SECTION 12‑62‑60 RELATING TO DISTRIBUTION OF ADMISSIONS TAXES FOR REBATES TO MOTION PICTURE PRODUCTION COMPANIES AND CERTAIN DEPARTMENTAL EXPENSES; AND BY ADDING SECTION 12‑6‑3830 SO AS TO PROVIDE A TAX CREDIT FOR AN ACCREDITED THEATER PRODUCTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12‑62‑50(A)(1) of the S.C. Code is amended to read:

 (1) The South Carolina Film Commission may rebate to a motion picture production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of a motion picture. The rebate may not exceed twenty percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax withholdings, and may not exceed twenty‑five percent for South Carolina residents, for persons employed in connection with the production when total production costs in South Carolina equal or exceed one million dollars during the taxable year. The rebates in total may not annually exceed ten thirty million dollars and shall come from the state’s general fund. Any unused rebates may be carried forward for the next three tax years thereby increasing the annual limit in those subsequent years. For purposes of this section, “total aggregate payroll” does not include the salary of an employee whose salary is equal to or greater than one million dollars for each motion picture.

SECTION 2. Section 12‑62‑50 of the S.C. Code is amended by adding:

 (E)(1) In addition to the rebates allowed pursuant to subsection (A), the department may rebate to a motion picture production company up to thirty percent of the expenditures made by the motion picture production company in the State if the motion picture production company has a minimum in‑state expenditure of one million dollars. This item does not apply to payroll paid for motion picture production employees subject to this section or money paid to the companies described in subsection (A)(2)(a)(ii) or (iii). The allocations to motion picture production companies contemplated by this chapter must be made by the department. The department shall report annually to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee on the use of all funds pursuant to this item. The report is a public record pursuant to the Freedom of Information Act, Chapter 4, Title 30, and must be posted annually on the commission’s website by July first.

 (2) Also, the department may use a portion of the rebate allotment to fund the operations for the South Carolina Film Commission and for the promotion of collaborative production and educational efforts between institutions of higher learning in South Carolina and motion picture‑related entities.

 (3) Any rebates allowed or funds used by the department pursuant to this subsection shall reduce the annual limit set forth in subsection (A) by an equal amount.

 (4) The department, in conjunction with the South Carolina Film Commission, shall adopt rules and promulgate regulations necessary to administer this subsection.

SECTION 3. Section 12‑62‑60 of the S.C. Code is repealed.

SECTION 4.A. Article 25, Chapter 6, Title 12 of the S.C. Code is amended by adding:

 Section 12‑6‑3830. (A) As used in this section:

 (1) “Accredited theater production” means a for profit live stage presentation in a qualified production facility, as defined in this section that is either a pre‑Broadway production or a post Broadway production.

 (2) “Accredited theater production certificate” means a certificate issued by the Department of Parks, Recreation and Tourism certifying that the production is an accredited theater production that meets the guidelines of this chapter.

 (3) “Advertising and public relations expenditure” means costs incurred within the state by the accredited theater productions for goods or services related to the national marketing, public relations, creation and placement of print, electronic, television, billboards and other forms of advertising to promote the accredited theater production.

 (4) “Department” means the Department of Parks, Recreation, and Tourism.

 (5) “Payroll” means all salaries, wages, fees, and other compensation including related benefits for services performed and costs incurred within the State.

 (6) “Pre‑Broadway production” means a live stage production that, in its original or adaptive version, is performed in a qualified production facility having a presentation scheduled for Broadway’s theater district in New York City within twelve months after its South Carolina presentation.

 (7) “Post‑Broadway production” means a live stage production that, in its original or adaptive version, is performed in a qualified production facility and opens its United States tour in South Carolina after a presentation scheduled for Broadway’s theater district in New York City.

 (8) “Production and performance expenditures” means a contemporaneous exchange of cash or cash equivalent for goods or services related to development, production, performance, or operating expenditures incurred in this State for a qualified theater production including, but not limited to, expenditures for design, construction and operation, including sets, special and visual effects, costumes, wardrobes, make up, accessories; costs associated with sound, lighting, staging, payroll, transportation expenditures, advertising and public relations expenditures, facility expenses, rentals, per diems, accommodations, and other related costs.

 (9) “Qualified production facility” means a facility located in this State in which live theatrical productions are, or are intended to be, exclusively presented, that contains at least one stage, a seating capacity of one thousand or more seats, and dressing rooms, storage areas, and other ancillary amenities necessary for the accredited theater production.

 (10) “Transportation expenditures” means expenditures for the packaging, crating, and transportation both to the State for use in a qualified theater production of sets, costumes, or other tangible property constructed or manufactured out of state, or from the State after use in a qualified theater production of sets, costumes, or other tangible property constructed or manufactured in this State and the transportation of the cast and crew to and from the State. The term includes the packaging, crating, and transporting of property and equipment used for special and visual effects, sound, lighting and staging, costumes, wardrobes, make up, and related accessories and materials, as well as any other performance or production related property and equipment. Transportation expenditures do not include any costs to transport property and equipment to be used only for filming and not in a qualified theater production, any indirect costs, and expenditures that are later reimbursed by a third party; or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production.

 (B)(1) Any taxpayer that receives an accredited theater production certificate pursuant to subsection (C) is allowed an income tax credit equal to thirty percent of the total production and performance expenditures and transportation expenditures for the accredited theater production and to be computed as provided in this section. The credit is limited to certified production costs directly attributable to activities in the State and transportation expenditures. The credits must be awarded on a first come first serve basis, and the total amount of credits allowed for all taxpayers in a tax year may not exceed two million dollars. To be eligible to claim the credit, the total production budget must be at least one hundred thousand dollars. The tax credit may be claimed in the year in which the credit is earned and may be carried forward for the next three tax years.

 (2) Credits allowed to a company that is a subchapter S corporation, partnership, or a limited liability company that is taxed as a partnership, must be passed through respectively to persons designated as partners, members, or owners on a pro rata basis or pursuant to an executed agreement among such persons designated as subchapter S corporation shareholders, partners, or members documenting an alternate distribution method without regard to their sharing of other tax or economic attributes of such entity.

 (3) A taxpayer may sell, exchange, or otherwise transfer tax credits earned pursuant to this section. A tax credit or increment of a tax credit may be transferred only once. The credit may be transferred to any taxpayer. A taxpayer to whom a credit has been transferred may use the credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but the transferred credit may not be used more than three years after it was originally earned. With regard to the sale or exchange of a credit allowed under this section, general income tax principles apply for purposes of the state income tax.

 (C)(1) To obtain eligibility, a taxpayer must properly prepare, sign, and submit to the department an application for initial certification of the theater production. The application shall include the information and data as the department deems reasonably necessary for the proper evaluation and administration of the application including, but not limited to, any information about the theater production company and a specific South Carolina live theater or musical production. The department shall review the completed application and determine whether it meets the requisite criteria and qualifications for the initial certification for the production. If the initial certification is granted, the department shall issue a notice of initial certification of the accredited theater production to the theater production company and to the Department of Revenue. The notice shall state that, after appropriate review, the initial application meets the appropriate criteria for conditional eligibility. The notice of initial certification will provide a unique identification number for the production and is only a statement of conditional eligibility for the production and, as such, does not grant or convey any tax benefits.

 (2) Upon completion of an accredited theater production, the taxpayer shall properly prepare, sign, and submit to the department an application for final certification of the accredited theater production. The final application shall also contain a cost report and an accountant’s certification. The Department of Parks, Recreation and Tourism and the Department of Revenue may rely without independent investigation, upon the accountant’s certification, in the form of an opinion, confirming the accuracy of the information included in the cost report. Upon review of a duly completed and filed application and upon no later than thirty days of submission thereof, the Department of Revenue shall make a determination pertaining to the final certification of the accredited theater production and the resultant tax credits.

 (3) Upon determination that the taxpayer qualifies for final certification and the resultant tax credits, the Department of Revenue shall issue to the taxpayer: (i) an accredited theater production certificate; and (ii) a tax credit certificate in an amount in accordance with subsection (B). A musical and theatrical production company is prohibited from using state funds, state loans, or state-guaranteed loans to qualify for the motion picture tax credit. All documents that are issued by the department pursuant to this section shall reference the identification number that was issued to the production as part of its initial certification.

 (4) The department shall promulgate rules and regulations as are necessary to carry out the intent and purposes of this section for the certification of the production and the resultant production credit.

 (5) If information comes to the attention of the department that is materially inconsistent with representations made in an application, the department may deny the requested certification. In the event that tax credits or a portion of tax credits are subject to recapture for ineligible costs and the tax credits have been transferred, assigned, or allocated, the State will pursue its recapture remedies and rights against the applicant of the theater production tax credits. No redress shall be sought against assignees, sellers, transferees, or allocates of the credits.

 (6) Pursuant to subsection (B), the department shall not approve any application if approval would cause tax credits to be earned in the tax year that exceeds the maximum amount of two million dollars.

 (D) For the purpose of ascertaining the correctness of any credit claimed under the provisions of this chapter, the Department of Parks, Recreation and Tourism and the Department of Revenue may examine any books, paper, records, or memoranda bearing upon the matters required to be included in the return, report, or other statement, and may require the attendance of the person executing the return, report, or other statement, or of any officer or employee of any taxpayer, or the attendance of any other person, and may examine the person under oath respecting any matter that the department deems pertinent or material in administration and application of this section and where not inconsistent with other legal provisions, the director may request information from the tax administrator.

B. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2024.

SECTION 5. This act takes effect upon approval by the Governor.

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