
A BILL FOR AN ACT

RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

1
2 SECTION 1. The legislature finds that 2010 was the first
3 \$400,000,000 year in direct spending in film and television
4 production in Hawaii and also marked the growth of locally-
5 produced Tetris and massive multiplayer platform Avatar/Blue
6 Mars, and international recognition for Hawaii's human capital
7 with breakout talent ranging from Andy South in fashion, Bruno
8 Mars in music, "The Descendants" author Kauai Hemmings in
9 writing, and Ty Sanga, the academy for creative media graduate,
10 whose "Stones" premiered as the first Hawaiian language film at
11 the 2011 Sundance Film Festival. Also in 2011, CBS Network's
12 remake of the iconic "Hawaii Five-0" series averaged over
13 fourteen million viewers for each episode, represented the
14 season's highest-rated television series among adults 18-49, and
15 was the most digitally recorded series on the air. In 2012,
16 director Alexander Payne's critically-acclaimed film, "The
17 Descendants" has been nominated for best picture, director and



1 actor awards and all of its soundtrack (forty songs) was
2 composed and performed by notable Hawaiian entertainers.

3 The legislature further finds that the success of the Act
4 88, Session Laws of Hawaii 2006, production credits in
5 generating additional production work within the State indicates
6 that Hawaii could have a billion dollar industry through the
7 right combination of responsible incentives, dedicated
8 infrastructure, broader development of Hawaii's intellectual
9 property workforce, and a global perspective. The right
10 incentives also represent an investment to bolster the local
11 economy and provide an international marketing advantage for the
12 State's number one industry, tourism.

13 The purpose of this Act is to capitalize on the convergence
14 of Hawaii's film, television, entertainment, digital media, and
15 music industries by pursuing long-term growth through a
16 comprehensive strategy to expand the number of high-quality
17 local jobs in these industries. The incentives in this Act are
18 intended to implement the strategy by encouraging the use of
19 Hawaii as a site for filming, for the digital production of
20 films, and to develop and sustain the workforce and
21 infrastructure for Hawaii's film, television, entertainment,
22 digital media, and music industries.

PART II

SECTION 2. The purpose of this part is to:

- (1) Establish the Hawaii film and digital media special fund; and
- (2) Repeal part IX, chapter 201, Hawaii Revised Statutes, relating to Hawaii television and film development.

SECTION 3. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201- Hawaii film and digital media special fund. (a)
There is established in the state treasury the Hawaii film and digital media special fund into which shall be deposited:

- (1) Appropriations by the legislature;
- (2) Donations and contributions made by private individuals or organizations for deposit into the fund;
- (3) Grants provided by governmental agencies or from any other source;
- (4) Fees collected pursuant to section 235-17; and
- (5) Beginning July 1, 2013, quarterly payments made by the department of taxation, in an amount equal to two per cent of the total aggregate wages and salaries paid to



1 legal residents of this State, as calculated by the
2 department of taxation using individual residency
3 information provided by the department of business,
4 economic development, and tourism, to qualify for the
5 tax credit under section 235-17(d) (4) and satisfy the
6 requirements of section 235- (d) (3).

7 (b) The fund shall be used for:

8 (1) The operation of the department's film and digital
9 media programs;

10 (2) Specific development projects, including but not
11 limited to grants to filmmakers and film festivals,
12 loans, and other programs or activities to stimulate
13 the growth of the film and digital media industry in
14 the State; and

15 (3) Internships, apprenticeships, and training programs
16 that expand the skill sets of Hawaii's film and
17 digital media workforce, and enhance the growth of the
18 film and digital media industry in the State."

19 SECTION 4. Chapter 201, part IX, Hawaii Revised Statutes,
20 is repealed.

21 PART III

22 SECTION 5. The purpose of this part is to:



1 (1) Amend the motion picture, digital media, and film
 2 production income tax credit to strengthen incentives
 3 for hiring greater numbers of residents and to support
 4 training and employment opportunities for those
 5 residents; and

6 (2) Amend the law to reflect advances in technology and
 7 changes in the creation and distribution of motions
 8 picture, digital media, and film productions.

9 SECTION 6. Section 235-17, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "§235-17 Motion picture, digital media, and film
 12 production income tax credit. (a) Any law to the contrary
 13 notwithstanding, there shall be allowed to each taxpayer subject
 14 to the taxes imposed by this chapter, an income tax credit which
 15 shall be deductible from the taxpayer's net income tax
 16 liability, if any, imposed by this chapter for the taxable year
 17 in which the credit is properly claimed. The amount of the
 18 credit shall be:

- 19 (1) [~~Fifteen~~]
 20 (A) Fifteen per cent of the qualified production
 21 costs incurred by a qualified production in any



1 county of the State with a population of over
2 seven hundred thousand; [~~or~~] and

3 [~~(2)~~ Twenty]

4 (B) Twenty per cent of the qualified production costs
5 incurred by a qualified production in any county
6 of the State with a population of seven hundred
7 thousand or less [~~-~~]; and

8 (2) An additional per cent of the qualified
9 production costs paid to legal residents of this State
10 and to Hawaii vendors and Hawaii suppliers; provided
11 that:

12 (A) Any law to the contrary notwithstanding, for
13 purposes of this section, legal residency is
14 demonstrated by:

15 (i) Evidence that an individual has filed a
16 Hawaii income tax return for the previous
17 taxable year; or

18 (ii) A valid Hawaii driver's license or other
19 state-issued identification confirming
20 residency; and

21 (B) Hawaii vendors and Hawaii suppliers are vendors
22 and suppliers that are registered with the State,



1 have a physical location in the State, and employ
2 one or more legal residents of this State.

3 A qualified production occurring in more than one county may
4 prorate its expenditures based upon the amounts spent in each
5 county, if the population bases differ enough to change the
6 percentage of tax credit.

7 In the case of a partnership, S corporation, estate, or
8 trust, the tax credit allowable is for qualified production
9 costs incurred by the entity for the taxable year. The cost
10 upon which the tax credit is computed shall be determined at the
11 entity level. Distribution and share of credit shall be
12 determined by rule. Notwithstanding any provision of law to the
13 contrary, the credit may be recovered directly by the entity
14 that incurred the qualified production costs.

15 If a deduction is taken under section 179 (with respect to
16 election to expense depreciable business assets) of the Internal
17 Revenue Code of 1986, as amended, no tax credit shall be allowed
18 for those costs for which the deduction is taken.

19 The basis for eligible property for depreciation of
20 accelerated cost recovery system purposes for state income taxes
21 shall be reduced by the amount of credit allowable and claimed.

1 (b) The credit allowed under this section shall be claimed
2 against the net income tax liability for the taxable year. For
3 the purposes of this section, "net income tax liability" means
4 net income tax liability reduced by all other credits allowed
5 under this chapter. A taxpayer eligible to claim a tax credit
6 under this section may assign all or a portion of a tax credit
7 under this section to any assignee. An assignee may
8 subsequently assign a tax credit or any portion of a tax credit
9 assigned under this subsection to one or more assignees. A
10 taxpayer may claim a portion of a tax credit and assign the
11 remaining tax credit amount. A tax credit assignment under this
12 subsection shall be irrevocable. The tax credit assignment
13 under this subsection shall be made on a form prescribed by the
14 department of taxation. A taxpayer claiming a tax credit under
15 this section shall submit a copy of the completed assignment
16 form to the department in the tax year in which the assignment
17 is made and shall attach a copy of the form to the tax return on
18 which the tax credit is claimed.

19 (c) If the tax credit under this section exceeds the
20 taxpayer's income tax liability, the excess of credits over
21 liability shall be refunded to the taxpayer; provided that no
22 refunds or payment on account of the tax credits allowed by this



1 section shall be made for amounts less than \$1. All claims,
 2 including any amended claims, for tax credits under this section
 3 shall be filed on or before the end of the twelfth month
 4 following the close of the taxable year for which the credit may
 5 be claimed. Failure to comply with the foregoing provision
 6 shall constitute a waiver of the right to claim the credit.

7 (d) To qualify for this tax credit, a production shall:

- 8 (1) Meet the definition of a qualified production
- 9 specified in subsection ~~[(1)]~~ (o);
- 10 (2) Have qualified production costs totaling at least
- 11 \$200,000 ~~[7]~~ for a qualified production, or \$50,000 for
- 12 a qualified digital media project or qualified
- 13 independent and emerging media project;
- 14 (3) Provide ~~[the State, at a minimum, a shared card, end-~~
- 15 ~~title screen credit, where applicable;]~~ marketing
- 16 materials promoting the State as a tourist destination
- 17 or film and digital media production destination, when
- 18 appropriate, and by mutual agreement, at no cost to
- 19 the State, which shall, at a minimum, include
- 20 placement of a "Filmed in Hawaii" or "Produced in
- 21 Hawaii" logo in the end credits; and

1 (4) Provide evidence of reasonable efforts to hire local
2 talent and crew; [and

3 ~~(5) Provide evidence of financial or in-kind contributions~~
4 ~~or educational or workforce development efforts, in~~
5 ~~partnership with related local industry labor~~
6 ~~organizations, educational institutions, or both,~~
7 ~~toward the furtherance of the local film and~~
8 ~~television and digital media industries.] provided
9 that:~~

10 (A) For a digital media project or an independent and
11 emerging media project, at least fifty per cent
12 of the positions that make up the production cast
13 and below-the-line production crew are filled by:

14 (i) Legal residents of this State, whose
15 residency is demonstrated as specified in
16 subsection (a) (2); or

17 (ii) Students enrolled full-time in a film-and-
18 entertainment-related course of study at an
19 institution of higher education in the
20 State; or

21 (B) For a production, beginning January 1, 2016, the
22 percentage of positions in the production cast



1 and below-the-line production crew to be filled
2 by legal residents of this State shall be set at
3 levels certified by the State of Hawaii as
4 reflecting an appropriate workforce requirement,
5 based on the prior three years' levels of
6 aggregate wages and salaries paid for positions
7 created by productions and projects that received
8 tax credits under this section.

9 (e) On or after July 1, 2006, no qualified production cost
10 that has been financed by investments for which a credit was
11 claimed by any taxpayer pursuant to section 235-110.9 is
12 eligible for credits under this section.

13 (f) To receive the tax credit, the taxpayer shall first
14 prequalify the production for the credit by registering with the
15 department of business, economic development, and tourism during
16 the development or preproduction stage. Failure to comply with
17 this provision may constitute a waiver of the right to claim the
18 credit.

19 (g) The director of taxation shall prepare forms as may be
20 necessary to claim a credit under this section. The director
21 may also require the taxpayer to furnish information to
22 ascertain the validity of the claim for credit made under this



1 section and may adopt rules necessary to effectuate the purposes
2 of this section pursuant to chapter 91.

3 (h) Every taxpayer claiming a tax credit under this
4 section for a qualified production shall, no later than ninety
5 days following the end of each taxable year in which qualified
6 production costs were expended, submit a written, sworn
7 statement to the department of business, economic development,
8 and tourism, identifying:

- 9 (1) All qualified production costs as provided by
10 subsection (a), if any, incurred in the previous
11 taxable year;
- 12 (2) The amount of tax credits claimed pursuant to this
13 section, if any, in the previous taxable year; and
- 14 (3) ~~[The number of total hires versus the number of local~~
15 ~~hires]~~ An estimate of the full-time equivalent
16 positions for legal residents of this State created by
17 each production, by category (i.e., department), and
18 by county.

19 (i) The department of business, economic development, and
20 tourism shall:



- 1 (1) Maintain records of the names of the taxpayers and
- 2 qualified productions thereof claiming the tax credits
- 3 under subsection (a);
- 4 (2) Obtain and total the aggregate amounts of all
- 5 qualified production costs per qualified production
- 6 and per qualified production per taxable year; and
- 7 (3) Provide a letter to the director of taxation
- 8 specifying the amount of the tax credit per qualified
- 9 production for each taxable year that a tax credit is
- 10 claimed and the cumulative amount of the tax credit
- 11 for all years claimed.

12 Upon each determination required under this subsection, the

13 department of business, economic development, and tourism shall

14 issue a letter to the taxpayer, regarding the qualified

15 production, specifying the qualified production costs and the

16 tax credit amount qualified for in each taxable year a tax

17 credit is claimed. The department of business, economic

18 development, and tourism may establish a fee of \$ _____ to

19 process the taxpayer letter. The fee revenues shall be

20 deposited into the Hawaii film and digital media special fund

21 established in section 201-_____. The taxpayer for each qualified

22 production shall file the letter with the taxpayer's tax return

1 for the qualified production to the department of taxation.
2 Notwithstanding the authority of the department of business,
3 economic development, and tourism under this section, the
4 director of taxation may audit and adjust the tax credit amount
5 to conform to the information filed by the taxpayer.

6 (j) Total tax credits claimed per qualified production
7 shall not exceed [~~\$8,000,000.~~] \$ _____.

8 (k) The director of taxation may revoke or modify any
9 written decision qualifying, certifying, or otherwise granting
10 eligibility for tax credits under this section if it is
11 discovered that the taxpayer submitted any materially false
12 statement, representation, or certification in any application,
13 record, report, plan, or other document filed in an attempt to
14 receive tax credits under this section.

15 (l) A taxpayer that fraudulently submits materially false
16 information under this section shall be liable to reimburse the
17 State for the amount of any credit obtained by fraud plus the
18 reasonable costs and fees associated with the review,
19 processing, investigation, and prosecution of the fraudulent
20 claim.

21 (m) No later than December 31 of each year, the department
22 of business, economic development, and tourism shall provide a



1 report for the previous calendar year to the governor and the
2 legislature that outlines the return on investment and economic
3 benefits of the tax credits to the State. The report shall also
4 include:

5 (1) An estimate of the full-time equivalent positions for
6 legal residents of this State;

7 (2) Aggregate wages and salaries paid for positions
8 created by each production or project that received
9 tax credits under this section; and

10 (3) Information relating to the distribution of
11 productions receiving credits,
12 by county and by type of production.

13 [~~(k)~~] (n) Qualified productions shall comply with
14 subsections (d), (e), (f), and (h).

15 [~~(l)~~] (o) For the purposes of this section:

16 "Commercial":

17 (1) Means an advertising message that is filmed using
18 film, videotape, or digital media, for dissemination
19 via television broadcast, the Internet, by wireless
20 transmission, or theatrical distribution; and



1 (2) Includes a series of advertising messages if all parts
2 are produced at the same time over the course of six
3 consecutive weeks [~~7~~ and

4 ~~(3) Does not include an advertising message with~~
5 ~~Internet only distribution].~~

6 "Digital media" means any and all production methods and
7 platforms, now existing, or hereafter developed, which are
8 directly related to the creation of cinematic imagery and other
9 content, specifically using digital means, including but not
10 limited to digital cameras, digital sound equipment, and
11 computers, to be delivered via film, videotape, interactive game
12 platform, internet, wireless, or other digital distribution
13 media [~~(excluding Internet only distribution).~~] now existing, or
14 hereafter developed.

15 "Legal resident" shall have the same meaning as "resident"
16 in section 235-1.

17 "Post production" means production activities and services
18 conducted after principal photography is completed, including
19 but not limited to editing, film and video transfers,
20 duplication, transcoding, dubbing, subtitling, credits, closed
21 captioning, audio production, special effects (visual and
22 sound), graphics, and animation.



1 "Production" means a series of activities that are directly
2 related to the creation of visual and cinematic imagery to be
3 delivered via film, videotape, or digital media and to be sold,
4 distributed, or displayed as entertainment or the advertisement
5 of products for mass public consumption, including but not
6 limited to scripting, casting, set design and construction,
7 transportation, videography, photography, sound recording,
8 interactive game design, and post production.

9 "Qualified digital media project" means development of
10 animation, graphics, visual effects, related sound recordings,
11 post production, and interactive media for entertainment and
12 education in any and all formats, now existing, or hereafter
13 developed that is produced for distribution in commercial or
14 educational markets, including but not limited to applications
15 for electronic devices, now existing, or hereafter developed,
16 video games and productions intended for game platform, physical
17 media, internet or wireless distribution.

18 "Qualified independent and emerging media project" means a
19 qualified production of film, video, television, or interactive
20 entertainment that is produced for distribution in commercial or
21 educational markets, including but not limited to feature film,
22 short film, television show, television series, a video game or



1 production intended for game platform, physical media, internet,
2 or wireless distribution.

3 "Qualified production":

4 (1) Means a production, with expenditures in the State,
5 for the total or partial production of a feature-
6 length motion picture, short film, made-for-television
7 movie, commercial, music video, interactive game,
8 television series pilot, single season (up to
9 twenty-two episodes) of a television series regularly
10 filmed in the State (if the number of episodes per
11 single season exceeds twenty-two, additional episodes
12 for the same season shall constitute a separate
13 qualified production), television special, single
14 television episode that is not part of a television
15 series regularly filmed or based in the State,
16 national magazine show, or national talk show. For
17 the purposes of subsections (d) and (j), each of the
18 aforementioned qualified production categories shall
19 constitute separate, individual qualified
20 productions [7]. Notwithstanding the foregoing, for
21 purposes of satisfying the criteria of subsection (d),
22 a taxpayer shall claim as part of a qualified



1 production the creation of related content intended
2 for distribution over the Internet, wireless network,
3 or similar methods of distribution now existing or
4 hereafter developed; and

5 (2) Does not include: daily news; public affairs
6 programs; non-national magazine or talk shows;
7 televised sporting events or activities; productions
8 that solicit funds; productions produced primarily for
9 industrial, corporate, institutional, or other private
10 purposes; and productions that include any material or
11 performance prohibited by chapter 712.

12 "Qualified production costs" means the costs incurred by a
13 qualified production within the State that are subject to the
14 general excise tax under chapter 237 or income tax under this
15 chapter and that have not been financed by any investments for
16 which a credit was or will be claimed pursuant to section
17 235-110.9. Qualified production costs include but are not
18 limited to:

19 (1) Costs incurred during preproduction such as location
20 scouting and related services;

21 (2) Costs of set construction and operations, purchases or
22 rentals of wardrobe, props, accessories, food, office



- 1 supplies, transportation, equipment, and related
2 services;
- 3 (3) Wages or salaries of cast, technical and production
4 crew, and musicians;
- 5 (4) Costs of photography, sound synchronization, lighting,
6 and related services;
- 7 (5) Costs of editing, digital effects, visual effects,
8 music, other post-production, and related services;
- 9 (6) Rentals and fees for use of local facilities and
10 locations;
- 11 (7) Rentals of vehicles and lodging for cast and crew;
- 12 (8) [~~Airfare~~] Costs for meals, accommodation, and travel
13 including but not limited to airfare for flights to or
14 from Hawaii, and interisland flights;
- 15 (9) Insurance [~~and~~], bonding [~~+~~], legal, accounting, and
16 payroll service fees;
- 17 (10) Shipping of equipment and supplies to or from Hawaii,
18 and interisland shipments; [~~and~~]
- 19 (11) Up to \$300,000 of the costs of newly purchased
20 computer software and hardware unique to the project,
21 including servers, data processing, and visualization



1 technologies that are located in and used exclusively
2 in the State for the production of digital media; and
3 [~~(11)~~] (12) Other direct production costs specified by the
4 department in consultation with the department of
5 business, economic development, and tourism."

PART IV

7 SECTION 7. The purpose of this part is to:

- 8 (1) Establish a motion picture, digital media, and film
9 production infrastructure tax credit for an
10 unspecified percentage of qualified infrastructure
11 costs;
- 12 (2) Require the expenditure of at least \$10,000,000 in
13 qualified infrastructure costs to qualify for the tax
14 credit established in this part; and
- 15 (3) Provide for one hundred per cent recapture of the tax
16 credit established in this part.

17 SECTION 8. Chapter 235, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§235- Motion picture, digital media, and film
21 production infrastructure income tax credit. (a) Any law to
22 the contrary notwithstanding, there shall be allowed to each



1 taxpayer subject to the taxes imposed by this chapter, an income
 2 tax credit that shall be deductible from the taxpayer's net
 3 income tax liability, if any, imposed by this chapter for the
 4 taxable year in which the credit is properly claimed. The
 5 amount of the credit shall be per cent of the qualified
 6 infrastructure costs incurred by a qualified taxpayer in any
 7 county of the State; provided that the tax credit claimed per
 8 qualified infrastructure project shall not exceed \$ _____ .

9 In the case of a partnership, S corporation, estate, or
 10 trust, the tax credit allowable is for qualified infrastructure
 11 costs incurred by the entity for the taxable year. The cost
 12 upon which the tax credit is computed shall be determined at the
 13 entity level. Distribution and share of credit shall be
 14 determined by rule.

15 (b) The credit allowed under this section shall be claimed
 16 against the net income tax liability for the taxable year. For
 17 the purposes of this section, "net income tax liability" means
 18 net income tax liability reduced by all other credits allowed
 19 under this chapter.

20 (c) If the tax credit under this section exceeds the
 21 taxpayer's income tax liability, the excess of credits over
 22 liability shall be refunded to the taxpayer; provided that no

1 refunds or payment on account of the tax credits allowed by this
2 section shall be made for amounts less than \$1. All claims,
3 including any amended claims, for tax credits under this section
4 shall be filed on or before the end of the twelfth month
5 following the close of the taxable year for which the credit may
6 be claimed. Failure to comply with the foregoing provision
7 shall constitute a waiver of the right to claim the credit.

8 (d) To qualify for this tax credit, a qualified
9 infrastructure project shall:

- 10 (1) Meet the definition of a qualified infrastructure
11 project specified in subsection (1);
- 12 (2) Have qualified infrastructure costs totaling at least
13 \$10,000,000; and
- 14 (3) Provide evidence that for the first two years of the
15 infrastructure project credit, at least sixty per
16 cent, and thereafter, at least seventy per cent, of
17 the positions are filled by legal residents of this
18 State, whose residency is demonstrated as specified in
19 section 235-17(a)(2), or students enrolled in a
20 construction or related course of study at an
21 educational institution in the State.



1 (e) To receive the tax credit, the taxpayer shall first
2 prequalify the infrastructure project for the credit by
3 registering with the department of business, economic
4 development, and tourism during the development stage. Failure
5 to comply with this provision may constitute a waiver of the
6 right to claim the credit.

7 (f) If all or a portion of an infrastructure project is a
8 facility that may be used for other purposes unrelated to
9 production or post-production activities, then the project shall
10 be approved only if a determination is made by the department of
11 business, economic development, and tourism that the multiple-
12 use facility will support and will be necessary to secure
13 production or post-production activity.

14 The taxpayer may also request a comfort ruling from the
15 department of taxation regarding the applicability of the tax
16 credit to a specific qualified infrastructure project.

17 (g) The director of taxation shall prepare forms as may be
18 necessary to claim a credit under this section. The director
19 may also require the taxpayer to furnish information to
20 ascertain the validity of the claim for credit made under this
21 section and may adopt rules necessary to effectuate the purposes
22 of this section pursuant to chapter 91.



1 (h) Every taxpayer claiming a tax credit under this
2 section for a qualified infrastructure project, no later than
3 ninety days following the end of each taxable year in which
4 qualified infrastructure costs were incurred, shall submit a
5 written, sworn statement to the department of business, economic
6 development, and tourism, identifying:

7 (1) All qualified infrastructure costs, if any, incurred
8 in the previous taxable year;

9 (2) The amount of tax credits claimed pursuant to this
10 section, if any, in the previous taxable year; and

11 (3) An estimate of the full-time equivalent positions for
12 legal residents of this State created by each project,
13 by job category and by county.

14 (i) The department of business, economic development, and
15 tourism shall:

16 (1) Maintain records of the names of the taxpayers and
17 qualified infrastructure projects thereof claiming the
18 tax credits under subsection (a);

19 (2) Obtain and total the aggregate amounts of all
20 qualified infrastructure costs per qualified
21 infrastructure project per taxable year; and



1 (3) Provide a letter to the director of taxation
2 specifying the amount of the tax credit per qualified
3 infrastructure project for each taxable year that a
4 tax credit is claimed and the cumulative amount of the
5 tax credit for all years claimed.

6 (j) Upon each determination required under this
7 subsection, the department of business, economic development,
8 and tourism shall issue a letter to the taxpayer, regarding the
9 qualified infrastructure project, specifying the qualified
10 infrastructure costs and the tax credit amount qualified for in
11 each taxable year a tax credit is claimed. The department of
12 business, economic development, and tourism may establish a fee
13 of \$ to process the taxpayer letter. The fee revenues
14 shall be deposited into the Hawaii film and digital media
15 special fund established in section 201- . The taxpayer for
16 each qualified infrastructure project shall file the letter with
17 the taxpayer's tax return for the qualified infrastructure
18 project to the department of taxation. Notwithstanding the
19 authority of the department of business, economic development,
20 and tourism under this section, the director of taxation may
21 audit and adjust the tax credit amount to conform to the
22 information filed by the taxpayer.



1 (k) No later than December 31 of each year, the department
2 of business, economic development, and tourism shall provide a
3 report for the previous fiscal year to the governor and the
4 legislature that outlines the return on investment and economic
5 benefits of the tax credits to the State. The report shall also
6 include:

7 (1) An estimate of the full-time equivalent positions for
8 legal residents of this State;

9 (2) Aggregate wages and salaries paid for the positions
10 created by each qualified infrastructure project that
11 received tax credits under this section; and

12 (3) Information relating to the distribution of qualified
13 infrastructure projects receiving credits,
14 by county and by type of project.

15 (1) For the purposes of this section:

16 "Qualified infrastructure costs" means the total costs
17 incurred by a qualified infrastructure project within the State,
18 including the cost of purchasing or leasing real property, which
19 are subject to the general excise tax under chapter 237 or
20 income tax under this chapter and that have not been financed by
21 any investments for which a credit was or will be claimed
22 pursuant to section 235-110.9.



1 "Qualified infrastructure project" means a construction
2 project in the State, for the development, construction, or
3 renovation of a film, video, television, or media production or
4 post-production facility and the immovable property and
5 equipment related thereto, or any other facility that supports
6 and is a necessary component of such infrastructure project.

7 (m) For a qualified infrastructure project, the tax credit
8 claimed under this section shall be repaid through an annual
9 payment from the taxpayer to the State equal to fifteen per cent
10 of the qualified infrastructure project's taxable income until
11 such time as the tax credit has been repaid; provided that if
12 the ownership of a qualified infrastructure project is
13 transferred, the transferee shall be obligated to the terms of
14 the recapture under this subsection.

15 (n) If at any time the infrastructure project ceases to be
16 a qualified infrastructure project, the credit claimed under
17 this section shall be recaptured. The amount of the recaptured
18 tax credit determined under this subsection shall be added to
19 the taxpayer's tax liability for the taxable year in which the
20 recapture occurs under this subsection."



1 PART V

2 SECTION 9. Act 88, Session Laws of Hawaii 2006, is amended
3 by amending section 4 to read as follows:

4 "SECTION 4. This Act shall take effect on July 1, 2006;
5 provided that[+]

6 ~~(1)~~ ~~Section]~~ section 2 of this Act shall apply to
7 qualified production costs incurred on or after
8 July 1, 2006 [~~, and before January 1, 2016, and~~

9 ~~(2)~~ ~~This Act shall be repealed on January 1, 2016, and~~
10 ~~section 235-17, Hawaii Revised Statutes, shall be~~
11 ~~reenacted in the form in which it read on the day~~
12 ~~before the effective date of this Act]."~~

13 PART VI

14 SECTION 10. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so
16 much thereof as may be necessary for fiscal year 2012-2013 for
17 additional resource and staffing support to assist state
18 agencies in collecting and reporting annually on estimates of
19 the full-time equivalent positions for legal Hawaii residents by
20 each production receiving tax credits, aggregate wages and
21 salaries paid to legal Hawaii residents in prior years, as well



1 as distribution of productions receiving credits, by county and
2 type of production.

3 The sum appropriated shall be expended by the department of
4 business, economic development, and tourism for the purposes of
5 this Act.

6 SECTION 11. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so
8 much thereof as may be necessary for fiscal year 2012-2013 for
9 additional resource and staffing support for the office of
10 information management and technology to assist state agencies
11 in collecting and reporting annually on estimates of the full-
12 time equivalent positions for legal Hawaii residents by each
13 production receiving tax credits, aggregate wages and salaries
14 paid to legal Hawaii residents in prior years, as well as
15 distribution of productions receiving credits, by county and
16 type of production.

17 The sum appropriated shall be expended by the department of
18 accounting and general services for the purposes of this Act.

19 PART VII

20 SECTION 12. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 13. This Act shall take effect on July 1, 2050;
2 provided that:

3 (1) Section 6 of this Act shall apply to qualified
4 expenditures incurred on or after July 1, 2012, and
5 before January 1, 2027;

6 (2) Section 8 of this Act shall apply to taxable years
7 beginning after June 30, 2012, and before January 1,
8 2027; and

9 (3) This Act shall be repealed on January 1, 2027;
10 provided further that section 235-17, Hawaii Revised
11 Statutes, shall be reenacted in the form in which it
12 read on the day before the effective date of Act 88,
13 Session Laws of Hawaii 2006.



Report Title:

Taxation; Motion Picture, Digital Media, and Film Production Credit; Infrastructure Tax Credit; Appropriation

Description:

Establishes the Hawaii film and digital media special fund; repeals part IX, chapter 201, Hawaii Revised Statutes, relating to Hawaii television and film development (part II); amends the motion picture, digital media, and film production income tax credit to add an additional credit for an unspecified per cent of the qualified production costs paid to legal residents of this State and to Hawaii vendors and Hawaii suppliers; amends the total tax credit cap to an unspecified amount; requires annual report; increases requirements for hiring of legal residents of this State; applies to qualified expenditures incurred on or after July 1, 2012, and before January 1, 2027 (part III); establishes a motion picture, digital media, and film production infrastructure tax credit of fifty per cent of qualified infrastructure costs; requires qualified expenditure of at least \$10,000,000; increases requirements for hiring of legal residents of this State; requires the credit to be repaid through an annual payment to the State equal to fifteen per cent of the qualified infrastructure project's taxable income until the credit has been repaid; provides for a 100 per cent recapture of the tax credit if the facilities are no longer used for a qualified activity; requires annual report; applies to taxable years beginning after June 30, 2012 (part IV); appropriates funds for additional resource and staffing support to assist state agencies in collecting and reporting annually on estimates of the full-time equivalent positions for legal Hawaii residents by each production receiving tax credits; effective July 1, 2050; repeals on January 1, 2027. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

