
A BILL FOR AN ACT

RELATING TO WORKFORCE DEVELOPMENT.

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

1 SECTION 1. The legislature finds that the Hawaii film and
2 television industry has continued to grow over the past twenty
3 years due to state tax incentives and the resulting increase in
4 the number of feature films, television series, and commercial
5 productions filming in Hawaii, which has directly contributed to
6 the increase in the number of trained local crew members as well
7 as service and equipment vendors.

8 The legislature further finds that the existing motion
9 picture, digital media, and film production income tax credit,
10 which currently provides a twenty-two or twenty-seven per cent
11 refundable tax credit for Hawaii-based film and television
12 projects, has attracted a number of blockbuster feature films
13 and long-running television series to the State. This tax
14 incentive is ideally suited for large, studio-funded projects
15 that search locations across the globe to find ones that meet
16 both their artistic and financial requirements.



1 The legislature also finds that the tax credit claiming
2 process is both expensive and time-consuming. Voluminous
3 reports are required, department of taxation rules relating to
4 the tax credit are confusing and cumbersome, and it can take
5 more than two years to receive the tax credit. While these
6 issues do not deter large-budget projects, the burden on
7 smaller-budget projects is substantial.

8 The legislature additionally finds that smaller projects,
9 with total budgets around \$5,000,000 and wages around
10 \$2,000,000, generally rely more heavily on local crew members
11 since the cost of hiring a nonresident crew member can exceed
12 \$2,000 per week in additional costs. Some smaller projects may
13 also attempt to pay crew members as independent contractors in
14 order to save money. That practice does not meet federal and
15 state labor laws, subjects local crew members to potentially
16 uninsured injury claims, and results in a reduction in state tax
17 and unemployment insurance collections.

18 Accordingly, the purpose of this Act is to address these
19 issues and encourage the growth of local independent film and
20 television productions by:



- 1 (1) Requiring the department of business, economic
- 2 development, and tourism to administer a workforce
- 3 development incentive rebate program that incentivizes
- 4 local independent film and television productions;
- 5 (2) Establishing a new film studio tax credit; and
- 6 (3) Amending the administration of the motion picture,
- 7 digital media, and film production income tax credit.

8 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
 9 amended by adding a new section to be appropriately designated
 10 and to read as follows:

11 "§201- Workforce development incentive; rebate program.

12 (a) The department shall administer a workforce development
 13 incentive rebate program that incentivizes local independent
 14 film and television productions.

15 (b) Beginning January 1, 2024, each eligible employer
 16 shall receive a rebate equal to fifty per cent of all Hawaii W-2
 17 wages paid for the filming of film, television, commercial, and
 18 print projects, which shall be capped at \$50,000 per employee,
 19 per project; provided that no eligible employer shall receive
 20 more than \$1,000,000 in total rebates.



1 (c) To receive a rebate under this section, an eligible
2 employer shall submit project information, a cost report, a
3 payroll report, and the department of taxation statement of
4 Hawaii income tax withheld and wages paid (form HW-2), or an
5 equivalent document showing all Hawaii W-2 wages paid, to the
6 department quarterly or after completion of the project.

7 (d) An eligible employer shall receive the rebate within
8 thirty days of submitting the documentation required under
9 subsection (c).

10 (e) An eligible employer who claims a rebate under this
11 section shall not be eligible for the motion picture, digital
12 media, and film production income tax credit under section
13 235-17 for the same project.

14 (f) Rebates issued pursuant to this section shall not be
15 subject to income tax or general excise tax.

16 (g) The total amount of rebates allowed under this section
17 in any applicable year shall be \$2,500,000.

18 (h) For the purposes of this section, "eligible employer"
19 means a common law employer that:

20 (1) Hires one or more employees;

21 (2) Is registered to do business in the State;



1 (3) Obtains a general excise license number; and

2 (4) Has production insurance."

3 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§235- Film studio tax credit. (a) There shall be
7 allowed to each taxpayer subject to the taxes imposed by this
8 chapter, an income tax credit that shall be deductible from the
9 taxpayer's net income tax liability, if any, imposed by this
10 chapter for the taxable year in which the credit is properly
11 claimed.

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

18 If a deduction is taken under section 179 (with respect to
19 election to expense depreciable business assets) of the Internal
20 Revenue Code of 1986, as amended, no tax credit shall be allowed



1 for that portion of the film studio costs for which the
2 deduction is taken.

3 The basis of eligible property for depreciation or
4 accelerated cost recovery system purposes for state income taxes
5 shall be reduced by the amount of credit allowable and claimed.
6 In the alternative, the taxpayer shall treat the amount of the
7 credit allowable and claimed as a taxable income item for the
8 taxable year in which it is properly recognized under the method
9 of accounting used to compute taxable income.

10 (b) The amount of the credit shall be twenty-five per cent
11 of film studio costs incurred during the taxable year for each
12 film studio located in the State.

13 (c) The credit allowed under this section shall be claimed
14 against the net income tax liability for the taxable year.

15 (d) The director of taxation:

16 (1) Shall prepare any forms that may be necessary to claim
17 a tax credit under this section;

18 (2) May require the taxpayer to furnish reasonable
19 information to ascertain the validity of the claim for
20 the tax credit made under this section; and



1 (3) May adopt rules under chapter 91 necessary to
2 effectuate the purposes of this section.

3 (e) If the tax credit under this section exceeds the
4 taxpayer's income tax liability, the excess of the credit over
5 liability may be used as a credit against the taxpayer's income
6 tax liability in subsequent years until exhausted.

7 All claims for the tax credit under this section, including
8 amended claims, shall be filed on or before the end of the
9 twelfth month following the close of the taxable year for which
10 the credit may be claimed. Failure to comply with the foregoing
11 provision shall constitute a waiver of the right to claim the
12 credit.

13 (f) No taxpayer that claims a credit under this section
14 shall claim any other credit for the same film studio costs
15 under this chapter.

16 (g) This section shall not apply to film studio costs
17 incurred after December 31, 2032.

18 (h) Every taxpayer claiming a tax credit under this
19 section, no later than ninety days following the end of each
20 taxable year in which film studio costs were expended, shall
21 submit a written, sworn statement to the department of business,



1 economic development, and tourism, together with a third-party
2 audit, that identifies:

3 (1) All film studio costs as defined in subsection (k), if
4 any, incurred in the previous taxable year; and

5 (2) The amount of tax credits claimed pursuant to this
6 section, if any, in the previous taxable year.

7 Upon each determination required under this subsection, the
8 department of business, economic development, and tourism shall
9 issue a letter to the taxpayer, regarding the qualified film
10 studio costs and the tax credit amount qualified for in each
11 taxable year a tax credit is claimed; provided that the
12 department of business, economic development, and tourism shall
13 issue the letter to the taxpayer no later than seven months
14 after receipt of the taxpayer's statement under this subsection.

15 The taxpayer shall file the letter with the taxpayer's tax
16 return for the film studio tax credit to the department of
17 taxation. Notwithstanding the authority of the department of
18 business, economic development, and tourism under this section,
19 the director of taxation may audit and adjust the tax credit
20 amount to conform to the information filed by the taxpayer.



1 (i) The department of business, economic development, and
2 tourism shall:

3 (1) Maintain records of the names of the taxpayers
4 claiming the tax credits under subsection (a);

5 (2) Provide a letter to the director of taxation
6 specifying the amount of the tax credit per taxpayer
7 for each taxable year that a tax credit is claimed and
8 the cumulative amount of the tax credit for all years
9 claimed; and

10 (3) Submit a report to the legislature no later than
11 twenty days prior to the convening of each regular
12 session detailing the dollar amount claimed and name
13 of the taxpayers claiming the credit.

14 (j) If in any year the annual amount of certified credits
15 reaches \$25,000,000 in the aggregate, the department of
16 business, economic development, and tourism shall immediately
17 discontinue certifying credits and notify the department of
18 taxation. In no instance shall the department of business,
19 economic development, and tourism certify a total amount of
20 credits exceeding \$25,000,000 per year.

21 (k) As used in this section:



1 "Film studio costs" means costs incurred after January 1,
2 2024, to plan, design, and construct film studio infrastructure.

3 "Film studio infrastructure" means:

4 (1) A large area of external works with significant areas
5 of hard standing adjacent to the studios for
6 production companies' support gallery vans, trailers,
7 general parking, and back lots;

8 (2) Permanent space for:

9 (A) Actors, presenters, and other on-screen
10 personnel, including dressing rooms, hair and
11 make-up areas, and green rooms;

12 (B) Catering and laundry facilities; and

13 (C) Production spaces, including editing suites,
14 galleries, screening rooms, and control rooms;

15 (3) Spaces for:

16 (A) Set design and set building;

17 (B) Costume planning and script writing;

18 (C) Set building workshops located next to the studio
19 or stage that they are supporting; and

20 (D) Office accommodation for pre-production
21 activities,



1 regardless of whether they are in a single location
2 and adjacent to individual studios or stages, or
3 spread across the development;

4 (4) Sound insulation required between studios and other
5 spaces inside and outside the building, or acoustic
6 isolation to avoid bleed into the space from nearby
7 traffic or industrial activity;

8 (5) Electrical power infrastructure:

9 (A) To support demand of up to one megawatt in a
10 standard thirty-thousand-foot production stage;

11 (B) That is provided in a dimmer room that is
12 duplicated within the stages;

13 (C) Through which power connectivity is typically
14 delivered via a combination of various-sized
15 commando sockets and Powerlock 400A connectors;

16 (D) That, to the extent necessary to respond to high
17 electrical loads, employs backup generators and a
18 high-voltage power network; and

19 (E) That employs a utility-owned high-voltage
20 substation as the point of connection to the
21 studio site;



- 1 (6) Potable water and fire system infrastructures that
2 employ:
 - 3 (A) A single point of connection, which is then
4 distributed across the development, unless this
5 configuration is inappropriate for the purposes
6 of the studio;
 - 7 (B) A fire hydrant network to comply with applicable
8 laws, and fed either by:
 - 9 (i) A direct connection to the private network
10 from the utility provider, dependent on
11 guaranteed flow rate and pressure; or
 - 12 (ii) An indirect connection to the private
13 network via storage tanks and a booster set;
14 and
 - 15 (C) A sprinkler system,
16 to the extent appropriate for the purposes of a
17 studio;
- 18 (7) Heating infrastructure for a studio;
- 19 (8) Ventilation or cooling infrastructure for a production
20 stage, through the use of displacement ventilation
21 through low-level displacement outlets;



- 1 (9) Information and communications technology and data
- 2 infrastructure that:
- 3 (A) Ensures the provision of a site-wide information
- 4 and communications technology network, with
- 5 appropriate storage capabilities;
- 6 (B) Provides pre-production and post-production
- 7 facilities with connectivity, as appropriate; and
- 8 (C) Provides wi-fi connectivity across the site; and
- 9 (10) Security infrastructure that provides perimeter
- 10 protection that includes:
- 11 (A) Secure perimeter fencing, to provide a physical
- 12 and visual barrier;
- 13 (B) Perimeter closed circuit television to monitor
- 14 activities around the site boundary;
- 15 (C) External lighting to provide secure and safe
- 16 routes around the development and improved
- 17 visibility for closed circuit television
- 18 monitoring; and
- 19 (D) Secure and managed entrances and exits for the
- 20 site, to monitor all access.



1 "Net income tax liability" means income tax liability
2 reduced by all other credits allowed under this chapter."

3 SECTION 4. Section 23-92, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) This section shall apply to the following:

6 (1) Sections 235-12.5 and 241-4.6--Credit for renewable
7 energy technology system installed and placed in
8 service in the State. For the purpose of
9 section 23-91(b) (5), this credit shall be deemed to
10 have been enacted for an economic benefit; and

11 (2) Section 235-17--Credit for [~~qualified~~] qualifying
12 production [~~costs~~] expenditures incurred for a
13 qualified motion picture, digital media, or film
14 production."

15 SECTION 5. Section 235-17, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending subsection (a) to read:

18 "(a) [~~Any law to the contrary notwithstanding, there~~]
19 There shall be allowed to each taxpayer subject to the taxes
20 imposed by this chapter, an income tax credit that shall be
21 deductible from the taxpayer's net income tax liability, if any,



1 imposed by this chapter for the taxable year in which the credit
2 is properly claimed. The amount of the credit shall be:

3 ~~[(1) Twenty two per cent of the qualified production costs~~
4 ~~incurred by a qualified production in any county of~~
5 ~~the State with a population of over seven hundred~~
6 ~~thousand; or~~

7 ~~(2) Twenty seven per cent of the qualified production~~
8 ~~costs incurred by a qualified production in any county~~
9 ~~of the State with a population of seven hundred~~
10 ~~thousand or less.~~

11 ~~A qualified production occurring in more than one county may~~
12 ~~prorate its expenditures based upon the amounts spent in each~~
13 ~~county, if the population bases differ enough to change the~~
14 ~~percentage of tax credit.]~~

15 (1) With respect to productions not within a designated
16 enhanced film production zone:

17 (A) Twenty per cent of the approved company's:

18 (i) Qualifying non-resident payroll expenditures
19 for employees who are not resident
20 taxpayers, not to exceed \$1,000,000 in
21 payroll expenditures per person; and



- 1 (ii) Qualifying production expenditures; or
- 2 (B) Twenty-five per cent of the approved company's:
- 3 (i) Qualifying resident payroll expenditures,
- 4 not to exceed \$1,000,000 in payroll
- 5 expenditures per person; and
- 6 (ii) Qualifying production expenditures; or
- 7 (2) With respect to productions within a designated
- 8 enhanced film production zone:
- 9 (A) Twenty per cent of the approved company's:
- 10 (i) Qualifying non-resident payroll expenditures
- 11 for employees who are not resident
- 12 taxpayers, not to exceed \$1,000,000 in
- 13 payroll expenditures per person; and
- 14 (ii) Qualifying production expenditures; or
- 15 (B) Thirty per cent of the approved company's:
- 16 (i) Qualifying resident payroll expenditures for
- 17 employees who are Hawaii resident taxpayers,
- 18 not to exceed \$1,000,000 in payroll
- 19 expenditures per person; and
- 20 (ii) Qualifying production expenditures.



1 In the case of a partnership, S corporation, estate, or
2 trust, the tax credit allowable is for ~~[qualified]~~ qualifying
3 production ~~[costs]~~ expenditures incurred by the entity for the
4 taxable year. The ~~[cost]~~ expenditures upon which the tax credit
5 is computed shall be determined at the entity level.

6 Distribution and share of credit shall be determined by rule.

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

11 Any taxpayer who claims a tax credit under this section
12 shall not be eligible for a workforce development incentive
13 rebate under section 201- for the same project.

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

17 Tax incentive agreements for approved companies under the
18 tax credit program shall include a listing of the enhanced film
19 production zones as of the date of the Hawaii film office's
20 approval of the project. Once an approved company enters into a
21 tax incentive agreement, the listed enhanced film production



1 zones shall maintain the enhanced benefits for the term of the
2 agreement, regardless of any change in the status of the
3 enhanced film production zones.

4 The approved company shall separately account for the
5 requisite expenditures within enhanced film production zones.

6 If the approved company demonstrates to the satisfaction of the
7 department of taxation that it is not practical to use a
8 separate accounting method to determine the expenditures within
9 the enhanced film production zones, the approved company shall
10 determine the correct expenditures within the enhanced film
11 production zones using an alternative method approved by the
12 department of taxation.

13 All previously approved tax credits shall remain valid
14 until the stated expiration date."

15 2. By amending subsection (d) to read:

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

17 (1) Meet the definition of a qualified production
18 specified in subsection (o);

19 (2) Have [~~qualified~~] qualifying production [~~costs~~]
20 expenditures totaling at least \$100,000;



- 1 (3) Provide the State a qualified Hawaii promotion, which
2 shall be at a minimum, a shared-card, end-title screen
3 credit, where applicable;
- 4 (4) Provide evidence of reasonable efforts to hire local
5 talent and crew;
- 6 (5) Provide evidence when making any claim for products or
7 services acquired or rendered outside of this State
8 that reasonable efforts were unsuccessful to secure
9 and use comparable products or services within this
10 State;
- 11 (6) Provide evidence of financial or in-kind contributions
12 or educational or workforce development efforts, in
13 partnership with related local industry labor
14 organizations, educational institutions, or both,
15 toward the furtherance of the local film and
16 television and digital media industries;
- 17 (7) Provide proof of contact for every supporting union,
18 signatory or non-signatory, including IATSE, SAG,
19 Teamsters, IBEW, DGA AFM, and others, and a list of
20 all members and their position titles that will be
21 employed on the production; provided that, for all



1 other production staff, the production shall provide a
2 list of names, position titles, and state resident
3 status;

4 (8) Provide proof of contact for every supporting union,
5 signatory or non-signatory, including IATSE, SAG,
6 Teamsters, IBEW, DGA AFM, and others, and a list of
7 all members and their position titles that will be
8 employed on the production, to qualify for an open and
9 accessible epermit or standard film permit; provided
10 that, for all other production staff, the production
11 shall provide a list of names, position titles, and
12 state resident status;

13 [~~7~~] (9) Be compliant with all applicable requirements
14 under title 14, including tax return filing and
15 payments; and

16 [~~8~~] (10) Provide complete responses to the department of
17 taxation's inquiries and document requests, in the
18 form prescribed by the department, no later than
19 ninety days from the inquiry or request."

20 3. By amending subsection (f) to read:



1 "(f) To receive the tax credit, the taxpayer shall first
2 prequalify the production for the credit by registering with the
3 department of business, economic development, and tourism during
4 the development or preproduction stage. Each prequalified
5 production shall provide the department of business, economic
6 development, and tourism a shooting schedule not later than
7 seven days before the commencement of filming. If there are
8 changes to the production schedule, an updated schedule shall be
9 submitted to the department of business, economic development,
10 and tourism. The department of business, economic development,
11 and tourism shall conduct unannounced on-site audits based on
12 the information the production submitted in the preproduction
13 registration. If discrepancies are found between the
14 preproduction submission and the actual onsite production, the
15 production shall have seven working days to comply with the
16 certified preproduction documentation. A follow-up onsite audit
17 shall be conducted within one week of the seven-working day
18 deadline. If the production remains noncompliant, the tax
19 credit under this section shall be forfeited."

20 4. By amending subsections (h) to (j) to read:



1 "(h) Every taxpayer claiming a tax credit under this
2 section for a qualified production shall, no later than ninety
3 days following the end of each taxable year in which [~~qualified~~]
4 qualifying production [~~costs~~] expenditures were expended, submit
5 a written, sworn statement, verified by an independent
6 third-party auditor, to the department of business, economic
7 development, and tourism that identifies:

- 8 (1) All [~~qualified~~] qualifying production [~~costs~~]
9 expenditures as provided by subsection (a), if any,
10 incurred in the previous taxable year;
- 11 (2) The amount of tax credits claimed pursuant to this
12 section, if any, in the previous taxable year; and
- 13 (3) The number of total hires versus the number of local
14 hires by category and by county.

15 This information may be reported from the department of
16 business, economic development, and tourism to the legislature
17 pursuant to subsection (i)(4).

18 (i) The department of business, economic development, and
19 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]~~ qualifying production ~~[costs]~~ expenditures
6 per qualified production and per qualified production
7 per taxable year;
- 8 (3) Provide a letter to the director of taxation
9 specifying the amount of the tax credit per qualified
10 production for each taxable year that a tax credit is
11 claimed and the cumulative amount of the tax credit
12 for all years claimed; ~~[and]~~
- 13 (4) Submit a report to the legislature no later than
14 twenty days prior to the convening of each regular
15 session detailing the non-aggregated ~~[qualified]~~
16 qualifying production ~~[costs]~~ expenditures that form
17 the basis of the tax credit claims and expenditures,
18 itemized by taxpayer, in a redacted format to preserve
19 the confidentiality and that shall include the dollar
20 amount claimed, name of company, and name of the



1 qualified production of the taxpayers claiming the
2 credit[-];

3 (5) Publish on its website:

4 (A) A detailed list of film production goods and
5 services vendor requirements; and

6 (B) The names of qualified productions and the amount
7 of the tax credits certified per qualified
8 production per filing year; and

9 (6) Provide the legislature with an annual rolling six-
10 year forecast that details future productions;
11 proposed schedule; and corresponding infrastructure,
12 workforce, goods, and service needs.

13 (j) Upon each determination required under subsection (i),
14 the department of business, economic development, and tourism
15 shall issue a letter to the taxpayer, regarding the qualified
16 production, specifying the ~~qualified~~ qualifying production
17 ~~costs~~ expenditures and the tax credit amount qualified for in
18 each taxable year a tax credit is claimed; provided that the
19 department of business, economic development, and tourism shall
20 issue the letter to the taxpayer no later than seven months
21 after receipt of the taxpayer's statement under subsection (h).



1 The taxpayer for each qualified production shall file the letter
2 with the taxpayer's tax return for the qualified production to
3 the department of taxation. Notwithstanding the authority of
4 the department of business, economic development, and tourism
5 under this section, the director of taxation may audit and
6 adjust the tax credit amount to conform to the information filed
7 by the taxpayer."

8 5. By amending subsections (n) and (o) to read:

9 "(n) The total amount of tax credits allowed under this
10 section in any particular year shall be \$50,000,000; [~~however,~~
11 ~~if~~] provided that in 2024, the total amount of tax credits
12 allowed under this section shall be \$75,000,000. If the total
13 amount of credits applied for in any particular year prior to
14 January 1, 2024, exceeds the aggregate amount of credits allowed
15 for that year under this section, the excess shall be treated as
16 having been applied for in the subsequent year and shall be
17 claimed in the subsequent year; provided that no excess shall be
18 allowed to be claimed after December 31, [~~2032.~~] 2024.

19 (o) For the purposes of this section:

20 "Above-the-line production crew" means employees involved
21 with the production of a motion picture or entertainment



1 production whose salaries are negotiated before the commencement
2 of production, including actors, directors, producers, and
3 writers.

4 "Approved company" means an eligible production company
5 approved for incentives under this section.

6 "Below-the-line production crew" means employees involved
7 with the production of a motion picture or entertainment
8 production, except above-the-line production crew.

9 "Below-the-line production crew" includes:

- 10 (1) Casting assistants;
- 11 (2) Costume design;
- 12 (3) Extras;
- 13 (4) Gaffers;
- 14 (5) Grips;
- 15 (6) Location managers;
- 16 (7) Production assistants;
- 17 (8) Set construction staff;
- 18 (9) Set design staff; and
- 19 (10) Transportation staff.

20 "Commercial":



1 (1) Means an advertising message that is filmed using
2 film, videotape, or digital media, for dissemination
3 via television broadcast or theatrical distribution;

4 (2) Includes a series of advertising messages if all parts
5 are produced at the same time over the course of six
6 consecutive weeks; and

7 (3) Does not include an advertising message with
8 Internet-only distribution.

9 "Digital media" means production methods and platforms
10 directly related to the creation of cinematic imagery and
11 content, specifically using digital means, including but not
12 limited to digital cameras, digital sound equipment, and
13 computers, to be delivered via film, videotape, interactive game
14 platform, or other digital distribution media.

15 "Enhanced film production zone" means an area:

16 (1) That is a designated film production zone that follows
17 a same geographic area as a state enterprise zone
18 under chapter 209E; and

19 (2) In which qualifying production expenditures and
20 qualifying payroll expenditures are made.

21 "Excluded expenditures" means:



- 1 (1) Post-production expenditures for footage shot outside
2 of the State, marketing, publicity, story rights, or
3 distribution;
- 4 (2) Any expenditures for work or services not conducted or
5 rendered in the State;
- 6 (3) In any instance in which services are conducted or
7 rendered both in the State and outside the State, the
8 work that is conducted or rendered outside of the
9 State;
- 10 (4) Expenditures for services not performed at the filming
11 site, unless the vendor is based in the State;
- 12 (5) Expenditures for goods that were not purchased or
13 rented or leased in the State from a vendor based in
14 Hawaii, including goods shipped or delivered from the
15 Hawaii vendor's location outside of the State, unless
16 more than a de minimis amount of the type of goods
17 held and shipped or delivered from outside the State
18 are normally held in inventory in the ordinary course
19 of business in the State by the Hawaii vendor;
20 provided that, for the purposes of this paragraph, a
21 vendor that acts as a conduit to enable purchases or



1 rentals to qualify that would not otherwise qualify
2 shall not be considered to be a vendor based in the
3 State;

4 (6) Expenditures for goods not used in the State;

5 (7) Freight or shipping charges incurred relating to a
6 vendor not based in the State; or

7 (8) Any transaction subject to taxation under chapter 238,
8 for which taxes have not been demonstrably paid;
9 provided that, for the purposes of this paragraph, use
10 taxes paid by the production company itself shall be
11 considered to have been demonstrably paid.

12 "Hawaii-based company" means a business:

13 (1) That has its principal place of business in the State;
14 or

15 (2) With not less than fifty per cent of:

16 (A) Its property located in the State; and

17 (B) Its payroll paid in the State.

18 "Payroll" means salary, wages, or other compensation
19 including related benefits, paid to employees and withheld and
20 paid pursuant to section 235-62.



1 "Post-production" means production activities and services
2 conducted after principal photography is completed, including
3 but not limited to editing, film and video transfers,
4 duplication, transcoding, dubbing, subtitling, credits, closed
5 captioning, audio production, special effects (visual and
6 sound), graphics, and animation.

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

15 "Production partner" means a director, producer, production
16 supervisor or manager, director of photography, production
17 designer, casting director, production company, production
18 services company, or post-production services company.

19 "Qualified production":

20 (1) Means [~~a production,~~] an approved company, with
21 expenditures in the State, for the total or partial



1 production of a feature-length motion picture, short
2 film, made-for-television movie, commercial, music
3 video, interactive game, television series pilot,
4 single season (up to twenty-two episodes) of a
5 television series regularly filmed in the State (if
6 the number of episodes per single season exceeds
7 twenty-two, additional episodes for the same season
8 shall constitute a separate qualified production),
9 television special, single television episode that is
10 not part of a television series regularly filmed or
11 based in the State, national magazine show, or
12 national talk show. For the purposes of subsections
13 (d) and (1), each of the aforementioned qualified
14 production categories shall constitute separate,
15 individual qualified productions; and

16 (2) Does not include:

- 17 (A) News;
- 18 (B) Public affairs programs;
- 19 (C) Non-national magazine or talk shows;
- 20 (D) Televised sporting events or activities;
- 21 (E) Productions that solicit funds;



1 (F) Productions produced primarily for industrial,
2 corporate, institutional, or other private
3 purposes; and

4 (G) Productions that include any material or
5 performance prohibited by chapter 712.

6 "Qualifying nonresident payroll expenditure" means payroll
7 paid to nonresident cast and crew:

8 (1) For wages subject to Hawaii income tax withholding for
9 that portion of their salary that is earned in the
10 State; and

11 (2) For their work on a project:

12 (A) That:

13 (i) Is produced by a Hawaii-based company;

14 (ii) Is produced by a Hawaii subsidiary company
15 of the applicant production company;

16 (iii) Is produced by a production company in which
17 an owner, member, or principal is a Hawaii
18 resident taxpayer; or

19 (iv) Engages a Hawaii resident taxpayer or
20 company to serve as a production partner to
21 the applicant production company; and



1 (B) For which the applicant company, or the
 2 individual or company serving as its production
 3 partner, has been associated with the production
 4 in Hawaii of at least two nationally-distributed
 5 motion pictures within the previous ten years and
 6 has filed Hawaii state income taxes for the three
 7 most recent taxable years, as verified by the
 8 department of taxation.

9 "Qualifying payroll expenditure" means compensation that
 10 is:

11 (1) Paid to above-the-line production crew and
 12 below-the-line production crew for services performed
 13 in the State for work on a motion picture or
 14 entertainment production; and

15 (2) Verified for proper remittance of withholding by the
 16 approved company or payroll service.

17 ~~["Qualified]~~ "Qualifying production [~~costs~~"] expenditures"
 18 means the costs incurred by a qualified production within the
 19 State that are subject to the general excise tax under
 20 chapter 237 at the highest rate of tax or income tax under this
 21 chapter if the costs are not subject to general excise tax and



1 that have not been financed by any investments for which a
2 credit was or will be claimed pursuant to section 235-110.9.
3 [~~Qualified~~] Qualifying production [costs] expenditures include
4 [~~but are not limited to~~]:

- 5 (1) Costs incurred during preproduction such as location
6 scouting and related services;
- 7 (2) Costs of set construction and operations, purchases or
8 rentals of wardrobe, props, accessories, food, office
9 supplies, transportation, equipment, and related
10 services;
- 11 (3) Wages or salaries of cast, crew, and musicians;
- 12 (4) Costs of photography, sound synchronization, lighting,
13 and related services;
- 14 (5) Costs of editing, visual effects, music, other
15 post-production, and related services;
- 16 (6) Rentals and fees for use of local facilities and
17 locations, including rentals and fees for use of state
18 and county facilities and locations that are not
19 subject to general excise tax under chapter 237 or
20 income tax under this chapter;
- 21 (7) Rentals of vehicles and lodging for cast and crew;



- 1 (8) Airfare for flights to or from Hawaii, and interisland
2 flights;
- 3 (9) Insurance and bonding;
- 4 (10) Shipping of equipment and supplies to or from Hawaii,
5 and interisland shipments; and
- 6 (11) Other direct production costs specified by the
7 department in consultation with the department of
8 business, economic development, and tourism;
- 9 provided that any government-imposed fines, penalties, or
10 interest that are incurred by a qualified production within the
11 State shall not be [~~qualified~~] qualifying production [costs].
12 Qualified] expenditures. Qualifying production [costs]
13 expenditures" does not include any costs funded by any grant,
14 forgivable loan, or other amounts not included in gross income
15 for purposes of this chapter. Qualifying production
16 expenditures" does not include excluded expenditures.
- 17 Qualifying resident payroll expenditure" means payroll
18 paid to resident cast and crew:
- 19 (1) Domiciled in the State and physically present in the
20 State for not fewer than nine months of the qualified
21 production's taxable year; and



1 (2) Whose wages are subject to section 235-61."

2 SECTION 6. There is appropriated out of the general
3 revenues of the State of Hawaii the sum of \$80,184 or so much
4 thereof as may be necessary for fiscal year 2023-2024 and the
5 same sum or so much thereof as may be necessary for fiscal year
6 2024-2025 for the establishment of one full-time equivalent (1.0
7 FTE) program specialist VI position, which shall be exempt from
8 chapter 76, Hawaii Revised Statutes, to manage the
9 infrastructure and workforce development incentive rebate
10 programs and listing, audit, and reporting requirements of
11 section 235-17, Hawaii Revised Statutes.

12 The sums appropriated shall be expended by the department
13 of business, economic development, and tourism for the purposes
14 of this Act.

15 SECTION 7. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on January 1, 2024;
4 provided that:

5 (1) Section 2 of this Act shall apply to qualifying wages
6 paid on or after July 1, 2023, and before July 1,
7 2024;

8 (2) Section 3 of this Act shall apply to film studio costs
9 incurred after December 31, 2023, and before
10 January 1, 2033;

11 (3) Section 5 of this Act shall apply to qualifying
12 production expenditures incurred after December 31,
13 2023; provided further that the amendments to section
14 235-17(n), Hawaii Revised Statutes, by section 5 of
15 this Act shall take effect on July 1, 2023;

16 (4) The amendments made to section 235-17, Hawaii Revised
17 Statutes, by section 5 of this Act shall not be
18 repealed when that section is reenacted on January 1,
19 2033, pursuant to section 4 of Act 88, Session Laws of
20 Hawaii 2006, as amended by Act 89, Session Laws of
21 Hawaii 2013, as amended by Act 143, Session Laws of



1 Hawaii 2017, as amended by Act 217, Session Laws of
2 Hawaii 2022; and
3 (5) Section 6 of this Act shall take effect on July 1,
4 2023.



Report Title:

Creative Industries; Workforce Development Incentive; Rebate Program; DBEDT; Tax Credits; Appropriation

Description:

Beginning 1/1/2024, requires the Department of Business, Economic Development, and Tourism to administer a Workforce Development Incentive Rebate Program that incentivizes local independent film and television productions. Establishes a new Film Studio Tax Credit. Amends the administration of the Motion Picture, Digital Media, and Film Production Income Tax Credit by increasing the tax credit cap from \$50,000,000 to \$75,000,000 for calendar year 2024 and eliminating the ability for credits exceeding the tax cap to be allowed to be claimed after December 31, 2024. Appropriates funds. (SD2)

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