
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 film, 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 _____ 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 \$ _____ per
 19 employee, per project; provided that no eligible employer shall
 20 receive more than \$ _____ 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, trust,
13 the tax credit allowable is for film studio costs incurred by
14 the entity for the taxable year. The cost upon which the tax
15 credit is computed shall be determined at the entity level.
16 Distribution and share of credit shall be determined by rule.

17 If a deduction is taken under section 179 (with respect to
18 election to expense depreciable business assets) of the Internal
19 Revenue Code of 1986, as amended, no tax credit shall be allowed
20 for that portion of the film studio costs for which the
21 deduction is taken.



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

8 (b) The amount of the credit shall be per cent of
9 film studio costs incurred during the taxable year for each film
10 studio located in the State.

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

13 (d) The director of taxation:

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

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

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



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

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

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

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

16 (h) Every taxpayer claiming a tax credit under this
17 section, no later than ninety days following the end of each
18 taxable year in which film studio costs were expended, shall
19 submit a written, sworn statement to the department of business,
20 economic development, and tourism, together with a third party
21 audit, that identifies:



- 1 (1) All film studio costs as defined in subsection (k), if
2 any, incurred in the previous taxable year; and
3 (2) The amount of tax credits claimed pursuant to this
4 section, if any, in the previous taxable year.

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

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

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



- 1 (1) Maintain records of the names of the taxpayers
2 claiming the tax credits under subsection (a);
- 3 (2) Provide a letter to the director of taxation
4 specifying the amount of the tax credit per taxpayer
5 for each taxable year that a tax credit is claimed and
6 the cumulative amount of the tax credit for all years
7 claimed; and
- 8 (3) Submit a report to the legislature no later than
9 twenty days prior to the convening of each regular
10 session the dollar amount claimed, name of company,
11 and name of the qualified production of the taxpayers
12 claiming the credit.
- 13 (j) If in any year the annual amount of certified credits
14 reaches \$25,000,000 in the aggregate, the department of
15 business, economic development and tourism shall immediately
16 discontinue certifying credits and notify the department of
17 taxation. In no instance shall the department of business,
18 economic development and tourism certify a total amount of
19 credits exceeding \$25,000,000 per year.
- 20 (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 room 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 qualifying resident payroll expenditures, not to
 4 exceed \$1,000,000 in payroll expenditures per
 5 person; or

6 (2) With respect to productions within a designated
 7 enhanced film production zone:

8 (A) Twenty per cent of the approved company's:
 9 (i) Qualifying non-resident payroll expenditures
 10 for employees who are not resident
 11 taxpayers, not to exceed \$1,000,000 in
 12 payroll expenditures per person; and

13 (ii) Qualifying production expenditures; or
 14 (B) Thirty per cent of the approved company's
 15 qualifying resident payroll expenditures for
 16 employees who are Hawaii resident taxpayers, not
 17 to exceed \$1,000,000 in payroll expenditures per
 18 person.

19 In the case of a partnership, S corporation, estate, or
 20 trust, the tax credit allowable is for [~~qualified~~] qualifying
 21 production [~~costs~~] expenditures incurred by the entity for the



1 taxable year. The ~~[cost]~~ expenditures upon which the tax credit
2 is computed shall be determined at the entity level.

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

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

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

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

14 Tax incentive agreements for approved companies under the
15 tax credit program shall include a listing of the enhanced film
16 production zones as of the date of the Hawaii state film
17 office's approval of the project. Once an approved company
18 enters into a tax incentive agreement, the listed enhanced film
19 production zones shall maintain the enhanced benefits for the
20 term of the agreement, regardless of any change in the status of
21 the enhanced film production zones.



1 The approved company shall separately account for the
2 requisite expenditures within enhanced film production zones.
3 If the approved company demonstrates to the satisfaction of the
4 department of taxation that it is not practical to use a
5 separate accounting method to determine the expenditures within
6 the enhanced film production zones, the approved company shall
7 determine the correct expenditures within the enhanced film
8 production zones using an alternative method approved by the
9 department of taxation.

10 All previously approved tax credits shall remain valid
11 until the stated expiration date."

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

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

14 (1) Meet the definition of a qualified production
15 specified in subsection (o);

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

18 (3) Provide the State a qualified Hawaii promotion, which
19 shall be at a minimum, a shared-card, end-title screen
20 credit, where applicable;



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



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

10 ~~(7)~~ (9) Be compliant with all applicable requirements
11 under title 14, including tax return filing and
12 payments; and

13 ~~(8)~~ (10) Provide complete responses to the department of
14 taxation's inquiries and document requests, in the
15 form prescribed by the department, no later than
16 ninety days from the inquiry or request."

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

18 "(f) To receive the tax credit, the taxpayer shall first
19 prequalify the production for the credit by registering with the
20 department of business, economic development, and tourism during
21 the development or preproduction stage. Each prequalified



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

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

17 "(h) Every taxpayer claiming a tax credit under this
18 section for a qualified production shall, no later than ninety
19 days following the end of each taxable year in which [~~qualified~~]
20 qualifying production [~~costs~~] expenditures were expended, submit
21 a written, sworn statement, verified by an independent



1 third-party auditor, to the department of business, economic
2 development, and tourism that identifies:

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

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

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

- 15 (1) Maintain records of the names of the taxpayers and
16 qualified productions thereof claiming the tax credits
17 under subsection (a);
- 18 (2) Obtain and total the aggregate amounts of all
19 [~~qualified~~] qualifying production [~~costs~~] expenditures
20 per qualified production and per qualified production
21 per taxable year;



- 1 (3) Provide a letter to the director of taxation
2 specifying the amount of the tax credit per qualified
3 production for each taxable year that a tax credit is
4 claimed and the cumulative amount of the tax credit
5 for all years claimed; [~~and~~]
- 6 (4) Submit a report to the legislature no later than
7 twenty days prior to the convening of each regular
8 session detailing the non-aggregated [~~qualified~~]
9 qualifying production [~~costs~~ expenditures that form
10 the basis of the tax credit claims and expenditures,
11 itemized by taxpayer, in a redacted format to preserve
12 the confidentiality and that shall include the dollar
13 amount claimed, name of company, and name of the
14 qualified production of the taxpayers claiming the
15 credit [-];
- 16 (5) Publish on its website:
- 17 (A) A detailed list of film production goods and
18 services vendor requirements; and
- 19 (B) The names of qualified productions and the amount
20 of the tax credits certified per qualified
21 production per filing year; and



1 (6) Provide the legislature with an annual rolling six-
2 year forecast that details future productions,
3 proposed schedule, and corresponding infrastructure,
4 workforce, goods, and service needs.

5 (j) Upon each determination required under subsection (i),
6 the department of business, economic development, and tourism
7 shall issue a letter to the taxpayer, regarding the qualified
8 production, specifying the [~~qualified~~] qualifying production
9 [~~costs~~] expenditures and the tax credit amount qualified for in
10 each taxable year a tax credit is claimed; provided that the
11 department of business, economic development, and tourism shall
12 issue the letter to the taxpayer no later than seven months
13 after receipt of the taxpayer's statement under subsection (h).
14 The taxpayer for each qualified production shall file the letter
15 with the taxpayer's tax return for the qualified production to
16 the department of taxation. Notwithstanding the authority of
17 the department of business, economic development, and tourism
18 under this section, the director of taxation may audit and
19 adjust the tax credit amount to conform to the information filed
20 by the taxpayer."

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



1 "(n) The total amount of tax credits allowed under this
2 section in any particular year shall be \$50,000,000; [~~however,~~
3 ~~if~~] provided that in 2024, the total amount of tax credits
4 allowed under this section shall be \$75,000,000. If the total
5 amount of credits applied for in any particular year prior to
6 January 1, 2024 exceeds the aggregate amount of credits allowed
7 for that year under this section, the excess shall be treated as
8 having been applied for in the subsequent year and shall be
9 claimed in the subsequent year; provided that no excess shall be
10 allowed to be claimed after December 31, [~~2032-~~] 2024.

11 (o) For the purposes of this section:

12 "Above-the-line production crew" means employees involved
13 with the production of a motion picture or entertainment
14 production whose salaries are negotiated before the commencement
15 of production, including actors, directors, producers, and
16 writers.

17 "Approved company" means an eligible production company
18 approved for incentives under this section.

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



1 production, except above-the-line production crew.

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

3 (1) Casting assistants;

4 (2) Costume design;

5 (3) Extras;

6 (4) Gaffers;

7 (5) Grips;

8 (6) Location managers;

9 (7) Production assistants;

10 (8) Set construction staff;

11 (9) Set design staff; and

12 (10) Transportation staff.

13 "Commercial":

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

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

20 (3) Does not include an advertising message with
21 Internet-only distribution.



1 "Digital media" means production methods and platforms
2 directly related to the creation of cinematic imagery and
3 content, specifically using digital means, including but not
4 limited to digital cameras, digital sound equipment, and
5 computers, to be delivered via film, videotape, interactive game
6 platform, or other digital distribution media.

7 "Enhanced film production zone" means an area:

8 (1) That is a designated film production zone that follows
9 a same geographic area as a state enterprise zone

10 under chapter 209E; and

11 (2) In which qualifying production expenditures and
12 qualifying payroll expenditures are made.

13 "Excluded expenditures" means:

14 (1) Post-production expenditures for footage shot outside
15 of the State, marketing, publicity, story tights, or
16 distribution;

17 (2) Any expenditures for work or services not conducted or
18 rendered in the State;

19 (3) In any instance in which services are conducted or
20 rendered both in the State and outside the State, the



- 1 work that is conducted or rendered outside of the
- 2 State;
- 3 (4) Expenditures for services not performed at the filming
- 4 site, unless the vendor is based in the State;
- 5 (5) Expenditures for goods that were not purchased or
- 6 rented or leased in the State from a vendor based in
- 7 Hawaii, including goods shipped or delivered from the
- 8 Hawaii vendor's location outside of the State, unless
- 9 more than a de minimis amount of the type of goods
- 10 held and shipped or delivered from outside the State
- 11 are normally held in inventory in the ordinary course
- 12 of business in the State by the Hawaii vendor;
- 13 provided that, for the purposes of this paragraph, a
- 14 vendor that acts as a conduit to enable purchases or
- 15 rentals to qualify that would not otherwise qualify
- 16 shall not be considered to be vendor based in the
- 17 State;
- 18 (6) Expenditures for goods not used in the State;
- 19 (7) Freight or shipping charges incurred relating to a
- 20 vendor not based in the State; or



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

6 "Hawaii-based company" means a business:

7 (1) That has its principal place of business in the State;

8 or

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

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

11 (B) Its payroll paid in the State.

12 "Payroll" means salary, wages, or other compensation
13 including related benefits, paid to employees and withheld and
14 paid pursuant to section 235-62.

15 "Post-production" means production activities and services
16 conducted after principal photography is completed, including
17 but not limited to editing, film and video transfers,
18 duplication, transcoding, dubbing, subtitling, credits, closed
19 captioning, audio production, special effects (visual and
20 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 "Production partner" means a director, producer, production
10 supervisor or manager, director of photography, production
11 designer, casting director, production company, production
12 services company, or post-production services company.

13 "Qualified production":

14 (1) Means [~~a production,~~] an approved company, with
15 expenditures in the State, for the total or partial
16 production of a feature-length motion picture, short
17 film, made-for-television movie, commercial, music
18 video, interactive game, television series pilot,
19 single season (up to twenty-two episodes) of a
20 television series regularly filmed in the State (if
21 the number of episodes per single season exceeds



1 twenty-two, additional episodes for the same season
2 shall constitute a separate qualified production),
3 television special, single television episode that is
4 not part of a television series regularly filmed or
5 based in the State, national magazine show, or
6 national talk show. For the purposes of subsections
7 (d) and (l), each of the aforementioned qualified
8 production categories shall constitute separate,
9 individual qualified productions; and

10 (2) Does not include:

- 11 (A) News;
- 12 (B) Public affairs programs;
- 13 (C) Non-national magazine or talk shows;
- 14 (D) Televised sporting events or activities;
- 15 (E) Productions that solicit funds;
- 16 (F) Productions produced primarily for industrial,
17 corporate, institutional, or other private
18 purposes; and
- 19 (G) Productions that include any material or
20 performance prohibited by chapter 712.



1 "Qualifying nonresident payroll expenditure" means payroll
2 paid to nonresident cast and crew:

3 (1) Whose wages are subject to Hawaii income tax
4 withholding for that portion of their salary that is
5 earned in the State; and

6 (2) For their work on a project:

7 (A) That:

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

9 (ii) Is produced by a Hawaii subsidiary company
10 of the applicant production company;

11 (iii) Is produced by a production company in which
12 an owner, member, or principal is a Hawaii
13 resident taxpayer; or

14 (iv) Engages a Hawaii resident taxpayer or
15 company to serve as a production partner to
16 the applicant production company; and

17 (B) For which the applicant company, or the
18 individual or company serving as its production
19 partner, has been associated with the production
20 in Hawaii of at least two nationally-distributed
21 motion pictures within the previous ten years and



1 has filed Hawaii state income taxes for the three
2 most recent taxable years, as verified by the
3 department of taxation.

4 "Qualifying payroll expenditure" means compensation that
5 is:

- 6 (1) Paid to above-the-line production crew and
7 below-the-line production crew for services performed
8 in the State for work on a motion picture or
9 entertainment production; and
10 (2) Verified for proper remittance of withholding by the
11 approved company or payroll service.

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



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



1 (10) Shipping of equipment and supplies to or from Hawaii,
2 and interisland shipments; and

3 (11) Other direct production costs specified by the
4 department in consultation with the department of
5 business, economic development, and tourism;
6 provided that any government-imposed fines, penalties, or
7 interest that are incurred by a qualified production within the
8 State shall not be [~~"qualified]~~ "qualifying production [costs".
9 ~~"Qualified]~~ expenditures. "Qualifying production [costs"
10 expenditures" does not include any costs funded by any grant,
11 forgivable loan, or other amounts not included in gross income
12 for purposes of this chapter. "Qualifying production
13 expenditures" does not include excluded expenditures.

14 "Qualifying resident payroll expenditure" means payroll
15 paid to resident cast and crew:

16 (1) Domiciled in the State and physically present in the
17 State for not fewer than nine months of the qualified
18 production's taxable year; and

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

20 SECTION 6. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 7. This Act shall take effect on January 1, 2024;
6 provided that:

- 7 (1) Section 2 of this Act shall apply to qualifying wages
8 paid on or after July 1, 2023 and before July 1, 2024;
- 9 (2) Section 3 of this Act shall apply to film studio costs
10 incurred after December 31, 2023 and before January 1,
11 2033;
- 12 (3) Section 5 of this Act shall apply to qualifying
13 production expenditures incurred after December 31,
14 2023; provided further that the amendments to section
15 235-17(n), Hawaii Revised Statutes, by section 5 of
16 this Act shall take effect on July 1, 2023; and
- 17 (4) The amendments made to section 235-17, Hawaii Revised
18 Statutes, by section 5 of this Act shall not be
19 repealed when that section is reenacted on January 1,
20 2033, pursuant to section 4 of Act 88, Session Laws of
21 Hawaii 2006, as amended by Act 89, Session Laws of



1 Hawaii 2013, as amended by Act 143, Session Laws of
2 Hawaii 2017, as amended by Act 217, Session Laws of
3 Hawaii 2022.



Report Title:

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

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. (SD1)

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

