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# A BILL FOR AN ACT

RELATING TO THE FILM INDUSTRY.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended  
2 by adding a new section to part V to be appropriately designated  
3 and to read as follows:

4 **"§46- Motion picture, digital media, and film**  
5 **production income tax credit; waiver of permitting fees.** (a)  
6 Notwithstanding any law to the contrary, each county shall waive  
7 any applicable permitting fees for film activity conducted on  
8 county lands by a qualified production that qualifies for the  
9 tax credit under section 235-17.

10 (b) For the purposes of this section, "qualified  
11 production" shall have the same meaning as in section 235-17."

12 SECTION 2. Chapter 237, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 **"§237- Exemption for entertainment payroll companies.**  
16 There shall be exempted from, and excluded from the measure of,



1 the taxes imposed by this chapter all of the gross proceeds  
2 arising from entertainment payroll companies."

3 SECTION 3. Section 235-9, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§235-9 Exemptions; generally.** Except as provided in  
6 sections 235-61 to 235-67 relating to withholding and collection  
7 of tax at source, and section 235-2.4 relating to "unrelated  
8 business taxable income", the following persons and  
9 organizations shall not be taxable under this chapter: banks,  
10 building and loan associations, financial services loan  
11 companies, financial corporations, small business investment  
12 companies, trust companies, mortgage loan companies, financial  
13 holding companies, subsidiaries of financial holding companies  
14 as defined in chapter 241, and development companies taxable  
15 under chapter 241; insurance companies, agricultural cooperative  
16 associations, and fish marketing associations exclusively  
17 taxable under other laws [~~and persons engaged in the business~~  
18 ~~of motion picture and television film production as defined by~~  
19 ~~the director of taxation]."~~

20 SECTION 4. Section 235-17, Hawaii Revised Statutes, is  
21 amended as follows:



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

2 "(a) Any law to the contrary notwithstanding, there shall  
3 be allowed to each taxpayer subject to the taxes imposed by this  
4 chapter, an income tax credit that shall be deductible from the  
5 taxpayer's net income tax liability, if any, imposed by this  
6 chapter for the taxable year in which the credit is properly  
7 claimed. The amount of the credit shall be:

8 (1) Twenty-two per cent of the qualified production costs  
9 incurred by a qualified production in any county of  
10 the State with a population of over seven hundred  
11 thousand; or

12 (2) Twenty-seven per cent of the qualified production  
13 costs incurred by a qualified production in any county  
14 of the State with a population of seven hundred  
15 thousand or less[-];

16 provided that a qualified production with a workforce of at  
17 least eighty per cent local hires shall be credited an  
18 additional five per cent of the qualified production costs  
19 incurred.

20 A qualified production occurring in more than one county  
21 may prorate its expenditures based upon the amounts spent in



1 each county, if the population bases differ enough to change the  
2 percentage of tax credit.

3 In the case of a partnership, S corporation, estate, or  
4 trust, the tax credit allowable is for qualified production  
5 costs incurred by the entity for the taxable year. The cost  
6 upon which the tax credit is computed shall be determined at the  
7 entity level. Distribution and share of credit shall be  
8 determined by rule.

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

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

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

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

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

20 (2) Have qualified production costs totaling at least  
21 \$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 evidence of contacting all local labor unions  
18                  servicing Hawaii's film industry before the start date  
19                  of production;



1       ~~[(7)]~~ (8) Provide evidence of reasonable efforts to comply  
2               with all applicable requirements under title 14,  
3               including tax return filing and payments; and  
4       ~~[(8)]~~ (9) Provide complete responses to the department of  
5               taxation's inquiries and document requests, in the  
6               form prescribed by the department, no later than  
7               ninety days from the inquiry or request;  
8 provided that a taxpayer shall be given notice of and an  
9 opportunity to cure any failure to meet the requirements of this  
10 subsection, including chapter 237, within thirty days of receipt  
11 of the notice; provided further that nothing in this subsection  
12 shall be interpreted as waiving any act required by this  
13 section."

14       3. By amending subsection (h) to read:

15       "(h) Every taxpayer claiming a tax credit under this  
16 section for a qualified production shall, no later than ninety  
17 days following the end of each taxable year in which qualified  
18 production costs were expended, submit a written, sworn  
19 statement to the department of business, economic development,  
20 and tourism that identifies:



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

8 If the qualified production costs of a taxpayer exceed  
 9 \$1,000,000 in a taxable year, the written, sworn statement shall  
 10 be accompanied by an independent third-party certificate, issued  
 11 by a certified public accountant, that verifies all  
 12 representations made for the purpose of claiming the credit  
 13 under this section. The certificate shall be prepared and  
 14 submitted in accordance with standards and procedures prescribed  
 15 by the department of business, economic development, and tourism  
 16 and the department of taxation. This information may be  
 17 reported from the department of business, economic development,  
 18 and tourism to the legislature pursuant to subsection (i) (4)."

19 4. By amending subsections (n) and (o) to read:  
 20 "(n) The total amount of tax credits allowed under this  
 21 section in any particular year shall be [~~\$50,000,000; however,~~

1 ~~if~~] \$ \_\_\_\_\_ ; provided that beginning on January 1, 2028,  
2 there shall be an annual one-sixth reduction of the total amount  
3 allowed, over a five-year period. If the total amount of  
4 credits applied for in any particular year exceeds the aggregate  
5 amount of credits allowed for that year under this section, the  
6 excess shall be treated as having been applied for in the  
7 subsequent year and shall be claimed in the subsequent year;  
8 provided that no excess shall be allowed to be claimed after  
9 December 31, 2032.

10 (o) For the purposes of this section:

11 "Commercial":

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

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

18 (3) Does not include an advertising message with  
19 Internet-only distribution.

20 "Digital media" means production methods and platforms  
21 directly related to the creation of cinematic imagery and



1 content, specifically using digital means, including but not  
2 limited to digital cameras, digital sound equipment, and  
3 computers, to be delivered via film, videotape, interactive game  
4 platform, or other digital distribution media.

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

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

19 "Qualified production":

20 (1) Means a production, with expenditures in the State,  
21 for the total or partial production of a feature-



1 length motion picture, short film, made-for-television  
2 movie, commercial, music video, interactive game,  
3 television (including broadcast and streaming  
4 platforms) series pilot, single season (up to  
5 twenty-two episodes[~~}]~~ for broadcast television and up  
6 to eight episodes for an ongoing series for streaming  
7 platforms) of a [~~television~~] series [~~regularly~~] filmed  
8 in the State [~~if~~]. If the number of episodes per  
9 single season for a broadcast television series  
10 exceeds twenty-two, and if the number of episodes per  
11 single season for a streaming platform series exceeds  
12 eight, additional episodes for the same season shall  
13 constitute a separate qualified production[~~}]~~.  
14 "Qualified production" also includes a television or  
15 streaming platform special, single [~~television~~]  
16 episode that is not part of a television or streaming  
17 platform series regularly filmed or based in the  
18 State, national magazine show, [~~or~~] and national talk  
19 show. For the purposes of subsections (d) and (1),  
20 each of the aforementioned qualified production



1 categories shall constitute separate, individual  
2 qualified productions; and

3 (2) Does not include:

4 (A) News;

5 (B) Public affairs programs;

6 (C) Non-national magazine or talk shows;

7 (D) Televised sporting events or activities;

8 (E) Productions that solicit funds;

9 (F) Productions produced primarily for industrial,  
10 corporate, institutional, or other private  
11 purposes; and

12 (G) Productions that include any material or  
13 performance prohibited by chapter 712.

14 "Qualified production costs" means the costs incurred by a  
15 qualified production within the State that are subject to the  
16 general excise tax under chapter 237 at the highest rate of tax  
17 or income tax under this chapter if the costs are not subject to  
18 general excise tax and that have not been financed by any  
19 investments for which a credit was or will be claimed pursuant  
20 to section 235-110.9. "Qualified production costs" include but  
21 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 post-  
11 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 production costs". "Qualified  
9 production costs" [~~does~~] do not include any costs funded by any  
10 grant, forgivable loan, or other amounts not included in gross  
11 income for purposes of this chapter.

12 "Streaming platform" means an online provider of media  
13 content that delivers the content via internet connection to the  
14 subscriber's computer, television, or mobile device."

15 SECTION 5. Section 237-13, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§237-13 Imposition of tax.** There is hereby levied and  
18 shall be assessed and collected annually privilege taxes against  
19 persons on account of their business and other activities in the  
20 State measured by the application of rates against values of



1 products, gross proceeds of sales, or gross income, whichever is  
2 specified, as follows:

3 (1) Tax on manufacturers.

4 (A) Upon every person engaging or continuing within  
5 the State in the business of manufacturing,  
6 including compounding, canning, preserving,  
7 packing, printing, publishing, production as  
8 defined in section 235-17, milling, processing,  
9 refining, or preparing for sale, profit, or  
10 commercial use, either directly or through the  
11 activity of others, in whole or in part, any  
12 article or articles, substance or substances,  
13 commodity or commodities, the amount of the tax  
14 to be equal to the value of the articles,  
15 substances, or commodities, manufactured,  
16 compounded, canned, preserved, packed, printed,  
17 milled, processed, refined, or prepared for sale,  
18 as shown by the gross proceeds derived from the  
19 sale thereof by the manufacturer or person  
20 compounding, preparing, or printing them,  
21 multiplied by one-half of one per cent.



1 (B) The measure of the tax on manufacturers is the  
2 value of the entire product for sale.

3 (2) Tax on business of selling tangible personal property;  
4 producing.

5 (A) Upon every person engaging or continuing in the  
6 business of selling any tangible personal  
7 property whatsoever, there is likewise hereby  
8 levied, and shall be assessed and collected, a  
9 tax equivalent to four per cent of the gross  
10 proceeds of sales of the business; provided that,  
11 in the case of a wholesaler, the tax shall be  
12 equal to one-half of one per cent of the gross  
13 proceeds of sales of the business; and provided  
14 further that insofar as the sale of tangible  
15 personal property is a wholesale sale under  
16 section 237-4(a)(8), the tax shall be one-half of  
17 one per cent of the gross proceeds. Upon every  
18 person engaging or continuing within this State  
19 in the business of a producer, the tax shall be  
20 equal to one-half of one per cent of the gross



1 proceeds of sales of the business, or the value  
2 of the products, for sale.

3 (B) Gross proceeds of sales of tangible property in  
4 interstate and foreign commerce shall constitute  
5 a part of the measure of the tax imposed on  
6 persons in the business of selling tangible  
7 personal property, to the extent, under the  
8 conditions, and in accordance with the provisions  
9 of the Constitution of the United States and the  
10 Acts of the Congress of the United States which  
11 may be now in force or may be hereafter adopted,  
12 and whenever there occurs in the State an  
13 activity to which, under the Constitution and  
14 Acts of Congress, there may be attributed gross  
15 proceeds of sales, the gross proceeds shall be so  
16 attributed.

17 (C) No manufacturer or producer, engaged in such  
18 business in the State and selling the  
19 manufacturer's or producer's products for  
20 delivery outside of the State (for example,  
21 consigned to a mainland purchaser via common



1 carrier f.o.b. Honolulu), shall be required to  
2 pay the tax imposed in this chapter for the  
3 privilege of so selling the products, and the  
4 value or gross proceeds of sales of the products  
5 shall be included only in determining the measure  
6 of the tax imposed upon the manufacturer or  
7 producer.

8 (D) A manufacturer or producer, engaged in such  
9 business in the State, shall pay the tax imposed  
10 in this chapter for the privilege of selling its  
11 products in the State, and the value or gross  
12 proceeds of sales of the products, thus subjected  
13 to tax, may be deducted insofar as duplicated as  
14 to the same products by the measure of the tax  
15 upon the manufacturer or producer for the  
16 privilege of manufacturing or producing in the  
17 State; provided that no producer of agricultural  
18 products who sells the products to a purchaser  
19 who will process the products outside the State  
20 shall be required to pay the tax imposed in this



1 chapter for the privilege of producing or selling  
2 those products.

3 (E) A taxpayer selling to a federal cost-plus  
4 contractor may make the election provided for by  
5 paragraph (3) (C), and in that case the tax shall  
6 be computed pursuant to the election,  
7 notwithstanding this paragraph or paragraph (1)  
8 to the contrary.

9 (F) The department, by rule, may require that a  
10 seller take from the purchaser of tangible  
11 personal property a certificate, in a form  
12 prescribed by the department, certifying that the  
13 sale is a sale at wholesale; provided that:

14 (i) Any purchaser who furnishes a certificate  
15 shall be obligated to pay to the seller,  
16 upon demand, the amount of the additional  
17 tax that is imposed upon the seller whenever  
18 the sale in fact is not at wholesale; and

19 (ii) The absence of a certificate in itself shall  
20 give rise to the presumption that the sale



1                   is not at wholesale unless the sales of the  
2                   business are exclusively at wholesale.

3       (3) Tax upon contractors.

4           (A) Upon every person engaging or continuing within  
5           the State in the business of contracting, the tax  
6           shall be equal to four per cent of the gross  
7           income of the business.

8           (B) In computing the tax levied under this paragraph,  
9           there shall be deducted from the gross income of  
10          the taxpayer so much thereof as has been included  
11          in the measure of the tax levied under  
12          subparagraph (A), on another taxpayer who is a  
13          contractor, as defined in section 237-6; provided  
14          that any person claiming a deduction under this  
15          paragraph shall be required to show in the  
16          person's return the name and general excise  
17          number of the person paying the tax on the amount  
18          deducted by the person.

19          (C) In computing the tax levied under this paragraph  
20          against any federal cost-plus contractor, there  
21          shall be excluded from the gross income of the



1 contractor so much thereof as fulfills the  
2 following requirements:

3 (i) The gross income exempted shall constitute  
4 reimbursement of costs incurred for  
5 materials, plant, or equipment purchased  
6 from a taxpayer licensed under this chapter,  
7 not exceeding the gross proceeds of sale of  
8 the taxpayer on account of the transaction;  
9 and

10 (ii) The taxpayer making the sale shall have  
11 certified to the department that the  
12 taxpayer is taxable with respect to the  
13 gross proceeds of the sale, and that the  
14 taxpayer elects to have the tax on gross  
15 income computed the same as upon a sale to  
16 the state government.

17 (D) A person who, as a business or as a part of a  
18 business in which the person is engaged, erects,  
19 constructs, or improves any building or  
20 structure, of any kind or description, or makes,  
21 constructs, or improves any road, street,



1 sidewalk, sewer, or water system, or other  
2 improvements on land held by the person (whether  
3 held as a leasehold, fee simple, or otherwise),  
4 upon the sale or other disposition of the land or  
5 improvements, even if the work was not done  
6 pursuant to a contract, shall be liable to the  
7 same tax as if engaged in the business of  
8 contracting, unless the person shows that at the  
9 time the person was engaged in making the  
10 improvements the person intended, and for the  
11 period of at least one year after completion of  
12 the building, structure, or other improvements  
13 the person continued to intend to hold and not  
14 sell or otherwise dispose of the land or  
15 improvements. The tax in respect of the  
16 improvements shall be measured by the amount of  
17 the proceeds of the sale or other disposition  
18 that is attributable to the erection,  
19 construction, or improvement of such building or  
20 structure, or the making, constructing, or  
21 improving of the road, street, sidewalk, sewer,



1 or water system, or other improvements. The  
2 measure of tax in respect of the improvements  
3 shall not exceed the amount which would have been  
4 taxable had the work been performed by another,  
5 subject as in other cases to the deductions  
6 allowed by subparagraph (B). Upon the election  
7 of the taxpayer, this paragraph may be applied  
8 notwithstanding that the improvements were not  
9 made by the taxpayer, or were not made as a  
10 business or as a part of a business, or were made  
11 with the intention of holding the same. However,  
12 this paragraph shall not apply in respect of any  
13 proceeds that constitute or are in the nature of  
14 rent, which shall be taxable under paragraph (9);  
15 provided that insofar as the business of renting  
16 or leasing real property under a lease is taxed  
17 under section 237-16.5, the tax shall be levied  
18 by section 237-16.5.

19 (4) Tax upon theaters, amusements, radio broadcasting  
20 stations, etc.



- 1 (A) Upon every person engaging or continuing within  
2 the State in the business of operating a theater,  
3 opera house, moving picture show, vaudeville,  
4 amusement park, dance hall, skating rink, radio  
5 broadcasting station, or any other place at which  
6 amusements are offered to the public, the tax  
7 shall be equal to four per cent of the gross  
8 income of the business, and in the case of a sale  
9 of an amusement at wholesale under section 237-  
10 4(a)(13), the tax shall be one-half of one per  
11 cent of the gross income.
- 12 (B) The department may require that the person  
13 rendering an amusement at wholesale take from the  
14 licensed seller a certificate, in a form  
15 prescribed by the department, certifying that the  
16 sale is a sale at wholesale; provided that:
- 17 (i) Any licensed seller who furnishes a  
18 certificate shall be obligated to pay to the  
19 person rendering the amusement, upon demand,  
20 the amount of additional tax that is imposed



1                   upon the seller whenever the sale is not at  
2                   wholesale; and

3                   (ii) The absence of a certificate in itself shall  
4                   give rise to the presumption that the sale  
5                   is not at wholesale unless the person  
6                   rendering the sale is exclusively rendering  
7                   the amusement at wholesale.

8           (5) Tax upon sales representatives, etc. Upon every  
9           person classified as a representative or purchasing  
10          agent under section 237-1, engaging or continuing  
11          within the State in the business of performing  
12          services for another, other than as an employee, there  
13          is likewise hereby levied and shall be assessed and  
14          collected a tax equal to four per cent of the  
15          commissions and other compensation attributable to the  
16          services so rendered by the person.

17          (6) Tax on service business.  
18                (A) Upon every person engaging or continuing within  
19                the State in any service business or calling  
20                including professional services not otherwise  
21                specifically taxed under this chapter, there is



1           likewise hereby levied and shall be assessed and  
2           collected a tax equal to four per cent of the  
3           gross income of the business, and in the case of  
4           a wholesaler under section 237-4(a)(10), the tax  
5           shall be equal to one-half of one per cent of the  
6           gross income of the business.

7           (B) The department may require that the person  
8           rendering a service at wholesale take from the  
9           licensed seller a certificate, in a form  
10          prescribed by the department, certifying that the  
11          sale is a sale at wholesale; provided that:

12          (i) Any licensed seller who furnishes a  
13                certificate shall be obligated to pay to the  
14                person rendering the service, upon demand,  
15                the amount of additional tax that is imposed  
16                upon the seller whenever the sale is not at  
17                wholesale; and

18          (ii) The absence of a certificate in itself shall  
19                give rise to the presumption that the sale  
20                is not at wholesale unless the person



1 rendering the sale is exclusively rendering  
2 services at wholesale.

3 (C) Where any person is engaged in the business of  
4 selling interstate or foreign common carrier  
5 telecommunication services within and without the  
6 State, other than as a home service provider, the  
7 tax shall be imposed on that portion of gross  
8 income received by a person from service which is  
9 originated or terminated in this State and is  
10 charged to a telephone number, customer, or  
11 account in this State notwithstanding any other  
12 state law (except for the exemption under section  
13 237-23(a)(1)) to the contrary. If, under the  
14 Constitution and laws of the United States, the  
15 entire gross income as determined under this  
16 paragraph of a business selling interstate or  
17 foreign common carrier telecommunication services  
18 cannot be included in the measure of the tax, the  
19 gross income shall be apportioned as provided in  
20 section 237-21; provided that the apportionment



1 factor and formula shall be the same for all  
2 persons providing those services in the State.  
3 (D) Where any person is engaged in the business of a  
4 home service provider, the tax shall be imposed  
5 on the gross income received or derived from  
6 providing interstate or foreign mobile  
7 telecommunications services to a customer with a  
8 place of primary use in this State when the  
9 services originate in one state and terminate in  
10 another state, territory, or foreign country;  
11 provided that all charges for mobile  
12 telecommunications services which are billed by  
13 or for the home service provider are deemed to be  
14 provided by the home service provider at the  
15 customer's place of primary use, regardless of  
16 where the mobile telecommunications originate,  
17 terminate, or pass through; provided further that  
18 the income from charges specifically derived from  
19 interstate or foreign mobile telecommunications  
20 services, as determined by books and records that  
21 are kept in the regular course of business by the



1 home service provider in accordance with section  
2 239-24, shall be apportioned under any  
3 apportionment factor or formula adopted under  
4 subparagraph (C). Gross income shall not  
5 include:

6 (i) Gross receipts from mobile  
7 telecommunications services provided to a  
8 customer with a place of primary use outside  
9 this State;

10 (ii) Gross receipts from mobile  
11 telecommunications services that are subject  
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile  
14 telecommunications services taxed under  
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider  
17 acting as a serving carrier providing mobile  
18 telecommunications services to another home  
19 service provider's customer.

20 For the purposes of this paragraph, "charges for  
21 mobile telecommunications services", "customer",



1 "home service provider", "mobile  
2 telecommunications services", "place of primary  
3 use", and "serving carrier" have the same meaning  
4 as in section 239-22.

5 (7) Tax on insurance producers. Upon every person engaged  
6 as a licensed producer pursuant to chapter 431, there  
7 is hereby levied and shall be assessed and collected a  
8 tax equal to 0.15 per cent of the commissions due to  
9 that activity.

10 (8) Tax on receipts of sugar benefit payments. Upon the  
11 amounts received from the United States government by  
12 any producer of sugar (or the producer's legal  
13 representative or heirs), as defined under and by  
14 virtue of the Sugar Act of 1948, as amended, or other  
15 Acts of the Congress of the United States relating  
16 thereto, there is hereby levied a tax of one-half of  
17 one per cent of the gross amount received; provided  
18 that the tax levied hereunder on any amount so  
19 received and actually disbursed to another by a  
20 producer in the form of a benefit payment shall be  
21 paid by the person or persons to whom the amount is



1 actually disbursed, and the producer actually making a  
2 benefit payment to another shall be entitled to claim  
3 on the producer's return a deduction from the gross  
4 amount taxable hereunder in the sum of the amount so  
5 disbursed. The amounts taxed under this paragraph  
6 shall not be taxable under any other paragraph,  
7 subsection, or section of this chapter.

8 (9) Tax on other business. Upon every person engaging or  
9 continuing within the State in any business, trade,  
10 activity, occupation, or calling not included in the  
11 preceding paragraphs or any other provisions of this  
12 chapter, there is likewise hereby levied and shall be  
13 assessed and collected, a tax equal to four per cent  
14 of the gross income thereof. In addition, the rate  
15 prescribed by this paragraph shall apply to a business  
16 taxable under one or more of the preceding paragraphs  
17 or other provisions of this chapter, as to any gross  
18 income thereof not taxed thereunder as gross income or  
19 gross proceeds of sales or by taxing an equivalent  
20 value of products, unless specifically exempted."



1 SECTION 6. Section 237-24.75, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§237-24.75 Additional exemptions.** In addition to the  
4 amounts exempt under section 237-24, this chapter shall not  
5 apply to:

6 (1) Amounts received as a beverage container deposit  
7 collected under chapter 342G, part VIII;

8 (2) Amounts received by the operator of the Hawaii  
9 convention center for reimbursement of costs or  
10 advances made pursuant to a contract with the Hawaii  
11 tourism authority under section 201B-7; [~~and~~]

12 (3) Amounts received by a professional employer  
13 organization that is registered with the department of  
14 labor and industrial relations pursuant to chapter  
15 373L, from a client company equal to amounts that are  
16 disbursed by the professional employer organization  
17 for employee wages, salaries, payroll taxes, insurance  
18 premiums, and benefits, including retirement,  
19 vacation, sick leave, health benefits, and similar  
20 employment benefits with respect to covered employees  
21 at a client company; provided that this exemption



1 shall not apply to amounts received by a professional  
2 employer organization after:

3 (A) Notification from the department of labor and  
4 industrial relations that the professional  
5 employer organization has not fulfilled or  
6 maintained the registration requirements under  
7 this chapter; or

8 (B) A determination by the department that the  
9 professional employer organization has failed to  
10 pay any tax withholding for covered employees or  
11 any federal or state taxes for which the  
12 professional employer organization is  
13 responsible.

14 As used in this paragraph, "professional employer  
15 organization", "client company", and "covered  
16 employee" shall have the meanings provided in  
17 section 373L-1[-]; and

18 (4) Amounts received by a motion picture project employer  
19 from a client equal to amounts that are disbursed by  
20 the motion picture project employer for employee  
21 wages, salaries, payroll taxes, insurance premiums,



1 and benefits, including retirement, vacation, sick  
2 leave, health benefits, and similar employment  
3 benefits with respect to motion picture project  
4 workers at a client and for payments to loan-out  
5 companies.

6 As used in this paragraph, "motion picture  
7 project employer" and "motion picture project worker"  
8 have the same meanings as in section 3512 of the  
9 Internal Revenue Code of 1986, as amended."

10 SECTION 7. Act 88, Session Laws of Hawaii 2006, as amended  
11 by Act 89, Session Laws of Hawaii 2013, as amended by Act 143,  
12 Session Laws of Hawaii 2017, as amended by Act 217, Session Laws  
13 of Hawaii 2022, is amended by amending section 4 to read as  
14 follows:

15 "SECTION 4. This Act shall take effect on July 1, 2006;  
16 provided that:

17 (1) Section 2 of this Act shall apply to qualified  
18 production costs incurred on or after July 1, 2006,  
19 and before January 1, 2033; and

20 (2) This Act shall be repealed on January 1, 2033~~[, and~~  
21 ~~section 235-17, Hawaii Revised Statutes, shall be~~



1           ~~reenacted in the form in which it read on the day~~  
2           ~~before the effective date of this Act]."~~

3           SECTION 8. Act 143, Session Laws of Hawaii 2017, is  
4 amended by amending section 6 to read as follows:

5           "SECTION 6. [~~No later than January 1, 2018, and each~~  
6 ~~January 1 thereafter, each film production that has production~~  
7 ~~expenditures of \$1,000,000 or more and is claiming a tax credit~~  
8 ~~pursuant to section 235-17, Hawaii Revised Statutes, shall~~  
9 ~~obtain an independent third party certification of qualified~~  
10 ~~production costs eligible for the motion picture, digital media,~~  
11 ~~and film production income tax credit in the form of a tax~~  
12 ~~opinion, as required under section 235-17(h), Hawaii Revised~~  
13 ~~Statutes, submitted to the department of business, economic~~  
14 ~~development, and tourism.] Repealed."~~

15           SECTION 9. Section 235-17, Hawaii Revised Statutes, is  
16 repealed.

17           [~~"§235-17 Motion picture, digital media, and film~~  
18 ~~production income tax credit. (a) Any law to the contrary~~  
19 ~~notwithstanding, there shall be allowed to each taxpayer subject~~  
20 ~~to the taxes imposed by this chapter, an income tax credit that~~  
21 ~~shall be deductible from the taxpayer's net income tax~~



1 ~~liability, if any, imposed by this chapter for the taxable year~~  
2 ~~in which the credit is properly claimed. The amount of the~~  
3 ~~credit shall be:~~

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

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

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

16 ~~In the case of a partnership, S corporation, estate, or~~  
17 ~~trust, the tax credit allowable is for qualified production~~  
18 ~~costs incurred by the entity for the taxable year. The cost~~  
19 ~~upon which the tax credit is computed shall be determined at the~~  
20 ~~entity level. Distribution and share of credit shall be~~  
21 ~~determined by rule.~~



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

5 ~~The basis for eligible property for depreciation of~~  
6 ~~accelerated cost recovery system purposes for state income taxes~~  
7 ~~shall be reduced by the amount of credit allowable and claimed.~~

8 ~~(b) The credit allowed under this section shall be claimed~~  
9 ~~against the net income tax liability for the taxable year. For~~  
10 ~~the purposes of this section, "net income tax liability" means~~  
11 ~~net income tax liability reduced by all other credits allowed~~  
12 ~~under this chapter.~~

13 ~~(c) If the tax credit under this section exceeds the~~  
14 ~~taxpayer's income tax liability, the excess of credits over~~  
15 ~~liability shall be refunded to the taxpayer; provided that no~~  
16 ~~refunds or payment on account of the tax credits allowed by this~~  
17 ~~section shall be made for amounts less than \$1. All claims,~~  
18 ~~including any amended claims, for tax credits under this section~~  
19 ~~shall be filed on or before the end of the twelfth month~~  
20 ~~following the close of the taxable year for which the credit may~~  
21 ~~be claimed. Failure to comply with any of the foregoing~~



1 ~~provision shall constitute a waiver of the right to claim the~~  
2 ~~credit.~~

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

4 ~~(1) Meet the definition of a qualified production~~  
5 ~~specified in subsection (c);~~

6 ~~(2) Have qualified production costs totaling at least~~  
7 ~~\$100,000;~~

8 ~~(3) Provide the State a qualified Hawaii promotion, which~~  
9 ~~shall be at a minimum, a shared card, end title screen~~  
10 ~~credit, where applicable;~~

11 ~~(4) Provide evidence of reasonable efforts to hire local~~  
12 ~~talent and crew;~~

13 ~~(5) Provide evidence when making any claim for products or~~  
14 ~~services acquired or rendered outside of this State~~  
15 ~~that reasonable efforts were unsuccessful to secure~~  
16 ~~and use comparable products or services within this~~  
17 ~~State;~~

18 ~~(6) Provide evidence of financial or in-kind contributions~~  
19 ~~or educational or workforce development efforts, in~~  
20 ~~partnership with related local industry labor~~  
21 ~~organizations, educational institutions, or both,~~



1           ~~toward the furtherance of the local film and~~  
2           ~~television and digital media industries;~~

3           ~~(7) Provide evidence of reasonable efforts to comply with~~  
4           ~~all applicable requirements under title 14, including~~  
5           ~~tax return filing and payments; and~~

6           ~~(8) Provide complete responses to the department of~~  
7           ~~taxation's inquiries and document requests, in the~~  
8           ~~form prescribed by the department, no later than~~  
9           ~~ninety days from the inquiry or request;~~

10          ~~provided that a taxpayer shall be given notice of and an~~  
11          ~~opportunity to cure any failure to meet the requirements of this~~  
12          ~~subsection, including chapter 237, within thirty days of receipt~~  
13          ~~of the notice; provided further that nothing in this subsection~~  
14          ~~shall be interpreted as waiving any act required by this~~  
15          ~~section.~~

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

20          ~~(f) To receive the tax credit, the taxpayer shall first~~  
21          ~~prequalify the production for the credit by registering with the~~



1 ~~department of business, economic development, and tourism during~~  
2 ~~the development or preproduction stage.~~

3 ~~(g) The director of taxation shall prepare forms as may be~~  
4 ~~necessary to claim a credit under this section. The director~~  
5 ~~may also require the taxpayer to furnish information to~~  
6 ~~ascertain the validity of the claim for credit made under this~~  
7 ~~section and may adopt rules necessary to effectuate the purposes~~  
8 ~~of this section pursuant to chapter 91.~~

9 ~~(h) Every taxpayer claiming a tax credit under this~~  
10 ~~section for a qualified production shall, no later than ninety~~  
11 ~~days following the end of each taxable year in which qualified~~  
12 ~~production costs were expended, submit a written, sworn~~  
13 ~~statement to the department of business, economic development,~~  
14 ~~and tourism that identifies:~~

- 15 ~~(1) All qualified production costs as provided by~~  
16 ~~subsection (a), if any, incurred in the previous~~  
17 ~~taxable year;~~
- 18 ~~(2) The amount of tax credits claimed pursuant to this~~  
19 ~~section, if any, in the previous taxable year; and~~
- 20 ~~(3) The number of total hires versus the number of local~~  
21 ~~hires by category and by county.~~



1 ~~This information may be reported from the department of~~  
2 ~~business, economic development, and tourism to the legislature~~  
3 ~~pursuant to subsection (i) (4).~~

4 ~~(i) The department of business, economic development, and~~  
5 ~~tourism shall:~~

6 ~~(1) Maintain records of the names of the taxpayers and~~  
7 ~~qualified productions thereof claiming the tax credits~~  
8 ~~under subsection (a);~~

9 ~~(2) Obtain and total the aggregate amounts of all~~  
10 ~~qualified production costs per qualified production~~  
11 ~~and per qualified production per taxable year;~~

12 ~~(3) Provide a letter to the director of taxation~~  
13 ~~specifying the amount of the tax credit per qualified~~  
14 ~~production for each taxable year that a tax credit is~~  
15 ~~claimed and the cumulative amount of the tax credit~~  
16 ~~for all years claimed; and~~

17 ~~(4) Submit a report to the legislature no later than~~  
18 ~~twenty days prior to the convening of each regular~~  
19 ~~session detailing the non-aggregated qualified~~  
20 ~~production costs that form the basis of the tax credit~~  
21 ~~claims and expenditures, itemized by taxpayer, in a~~



1 ~~redacted format to preserve the confidentiality and~~  
2 ~~that shall include the dollar amount claimed, name of~~  
3 ~~company, and name of the qualified production of the~~  
4 ~~taxpayers claiming the credit.~~

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



1       ~~(k) Each taxpayer claiming a tax credit under this section~~  
2       ~~shall submit to the department of business, economic~~  
3       ~~development, and tourism a fee for the motion picture, digital~~  
4       ~~media, and film production income tax credit in an amount equal~~  
5       ~~to 0.2 per cent of the tax credit claimed by the qualified~~  
6       ~~production no later than the deadline stated in subsection (c).~~  
7       ~~The department of business, economic development, and tourism~~  
8       ~~may prescribe the form and method by which this fee is remitted,~~  
9       ~~including through electronic means. The fees collected under~~  
10       ~~this subsection shall be deposited into the Hawaii film and~~  
11       ~~creative industries development special fund under section 201-~~  
12       ~~113.~~

13       ~~(l) Total tax credits claimed per qualified production~~  
14       ~~shall not exceed \$17,000,000.~~

15       ~~(m) Qualified productions shall comply with subsections~~  
16       ~~(d), (e), (f), (h), and (k).~~

17       ~~(n) The total amount of tax credits allowed under this~~  
18       ~~section in any particular year shall be \$50,000,000; however, if~~  
19       ~~the total amount of credits applied for in any particular year~~  
20       ~~exceeds the aggregate amount of credits allowed for that year~~  
21       ~~under this section, the excess shall be treated as having been~~



1 ~~applied for in the subsequent year and shall be claimed in the~~  
2 ~~subsequent year; provided that no excess shall be allowed to be~~  
3 ~~claimed after December 31, 2032.~~

4 ~~(e) For the purposes of this section:~~

5 ~~"Commercial":~~

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

9 ~~(2) Includes a series of advertising messages if all parts~~  
10 ~~are produced at the same time over the course of six~~  
11 ~~consecutive weeks; and~~

12 ~~(3) Does not include an advertising message with Internet-~~  
13 ~~only distribution.~~

14 ~~"Digital media" means production methods and platforms~~  
15 ~~directly related to the creation of cinematic imagery and~~  
16 ~~content, specifically using digital means, including but not~~  
17 ~~limited to digital cameras, digital sound equipment, and~~  
18 ~~computers, to be delivered via film, videotape, interactive game~~  
19 ~~platform, or other digital distribution media.~~

20 ~~"Post-production" means production activities and services~~  
21 ~~conducted after principal photography is completed, including~~



1 ~~but not limited to editing, film and video transfers,~~  
2 ~~duplication, transcoding, dubbing, subtitling, credits, closed~~  
3 ~~captioning, audio production, special effects (visual and~~  
4 ~~sound), graphics, and animation.~~

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

13 ~~"Qualified production":~~

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



1 ~~same season shall constitute a separate qualified~~  
2 ~~production), television special, single television~~  
3 ~~episode that is not part of a television series~~  
4 ~~regularly filmed or based in the State, national~~  
5 ~~magazine show, or national talk show. For the~~  
6 ~~purposes of subsections (d) and (l), each of the~~  
7 ~~above-mentioned qualified production categories shall~~  
8 ~~constitute separate, individual qualified productions;~~  
9 ~~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       ~~"Qualified production costs" means the costs incurred by a~~  
2 ~~qualified production within the State that are subject to the~~  
3 ~~general excise tax under chapter 237 at the highest rate of tax~~  
4 ~~or income tax under this chapter if the costs are not subject to~~  
5 ~~general excise tax and that have not been financed by any~~  
6 ~~investments for which a credit was or will be claimed pursuant~~  
7 ~~to section 235-110.9. Qualified production costs include but~~  
8 ~~are not limited to:~~

- 9       ~~(1) Costs incurred during preproduction such as location~~  
10       ~~scouting and related services;~~
- 11       ~~(2) Costs of set construction and operations, purchases or~~  
12       ~~rentals of wardrobe, props, accessories, food, office~~  
13       ~~supplies, transportation, equipment, and related~~  
14       ~~services;~~
- 15       ~~(3) Wages or salaries of cast, crew, and musicians;~~
- 16       ~~(4) Costs of photography, sound synchronization, lighting,~~  
17       ~~and related services;~~
- 18       ~~(5) Costs of editing, visual effects, music, other post-~~  
19       ~~production, and related services;~~
- 20       ~~(6) Rentals and fees for use of local facilities and~~  
21       ~~locations, including rentals and fees for use of state~~



1           ~~and county facilities and locations that are not~~  
2           ~~subject to general excise tax under chapter 237 or~~  
3           ~~income tax under this chapter;~~  
4           ~~(7) Rentals of vehicles and lodging for cast and crew;~~  
5           ~~(8) Airfare for flights to or from Hawaii, and interisland~~  
6           ~~flights;~~  
7           ~~(9) Insurance and bonding;~~  
8           ~~(10) Shipping of equipment and supplies to or from Hawaii,~~  
9           ~~and interisland shipments; and~~  
10          ~~(11) Other direct production costs specified by the~~  
11          ~~department in consultation with the department of~~  
12          ~~business, economic development, and tourism;~~  
13          ~~provided that any government imposed fines, penalties, or~~  
14          ~~interest that are incurred by a qualified production within the~~  
15          ~~State shall not be "qualified production costs". "Qualified~~  
16          ~~production costs" does not include any costs funded by any~~  
17          ~~grant, forgivable loan, or other amounts not included in gross~~  
18          ~~income for purposes of this chapter." ]~~

19           SECTION 10. Statutory material to be repealed is bracketed  
20          and stricken. New statutory material is underscored.



1 SECTION 11. This Act shall take effect on July 1, 3000;  
2 provided that:

3 (1) Sections 1, 2, 5, and 6 shall be repealed on January  
4 1, 2033, and sections 237-13 and 237-24.75, Hawaii  
5 Revised Statutes, shall be reenacted in the form in  
6 which they read on the day before the effective date  
7 of this Act;

8 (2) Section 3 shall take effect on January 1, 2033, and  
9 apply to taxable years beginning after December 31,  
10 2032;

11 (3) Section 4 shall apply to taxable years beginning after  
12 December 31, 2025 and be repealed on December 31,  
13 2032, and section 235-17, Hawaii Revised Statutes,  
14 shall be reenacted in the form in which it read on the  
15 day before the effective date of this Act; and

16 (4) Section 9 shall take effect on January 1, 2033.



**Report Title:**

Counties; Permitting Fees; Entertainment Payroll Companies; Unions; General Excise Tax; Motion Picture, Digital Media, and Film Production Income Tax Credit; Broadcast and Streaming Platforms; Income Tax; Exemptions

**Description:**

Requires counties to waive permitting fees for certain film activity. Exempts entertainment payroll companies from the GET. Repeals an income tax exemption for persons engaged in the business of motion picture and television film production for taxable years beginning after 12/31/2023. Amends the Motion Picture, Digital Media, and Film Production Income Tax Credit by providing an additional credit to qualified productions with a workforce of at least eighty percent local hires; requiring productions to contact all local labor unions servicing Hawaii's film industry to qualify for the credit; requiring qualified production costs of a taxpayer that exceed \$1,000,000 to be certified by a CPA, rather than via tax opinion; increasing the aggregate cap amount on credits allowed in any given year, ramped down by one-sixth over five years beginning on 1/1/2028; and including broadcast and streaming platform productions under the credit. Applies the GET rate for manufacturers to productions. Exempts from the GET amounts received by a motion picture project employer from a client equal to amounts that are disbursed by the motion picture project employer for employee wages, salaries, payroll taxes, insurance premiums, and employment benefits and payments to loan-out companies. Repeals certain tax exemptions and the Motion Picture, Digital Media, and Film Production Income Tax Credit on 1/1/2033. Appropriates funds. Effective 7/1/3000. (HD2)

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

