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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-17, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§235-17 Motion picture, digital media, and film**  
4 **production income tax credit.** (a) Any law to the contrary  
5 notwithstanding, there shall be allowed to each taxpayer subject  
6 to the taxes imposed by this chapter, an income tax credit that  
7 shall be deductible from the taxpayer's net income tax  
8 liability, if any, imposed by this chapter for the taxable year  
9 in which the credit is properly claimed. The amount of the  
10 credit shall be~~[+]~~ equal to the sum of the following:

11 (1) Either:

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

16 ~~[-2+]~~ (B) Twenty-seven per cent of the qualified production  
17 costs incurred by a qualified production in any



1 county of the State with a population of seven  
2 hundred thousand or less[-];

3 (2) An additional five per cent of the qualified  
4 production costs incurred by a qualified production  
5 with a workforce of at least:

6 (A) Eighty per cent local hires in the first taxable  
7 year or second consecutive taxable year that the  
8 additional credit amount is claimed;

9 (B) Eighty-two per cent local hires in the third  
10 consecutive taxable year that the additional  
11 credit amount is claimed; and

12 (C) Eighty-five per cent local hires in the fifth  
13 consecutive taxable year that the additional  
14 credit amount is claimed; and

15 (3) The greatest of either:

16 (A) Five per cent of the qualified production costs  
17 incurred by a qualified production with an above-  
18 the-line workforce of at least thirty per cent  
19 local hires;



- 1           (B) Three per cent of the qualified production costs  
2           incurred by a qualified production that invests  
3           in qualified production infrastructure;
- 4           (C) Three per cent of the qualified production costs  
5           incurred by a qualified production that features  
6           indigenous content; or
- 7           (D) Two per cent of the qualified production costs  
8           incurred by a qualified production that conducts  
9           post-production in the State for qualified  
10           productions filmed in the State;
- 11           provided that the Hawaii film office, in collaboration  
12           with the department of taxation, shall establish  
13           policies to determine standards and minimum  
14           qualifications for investment in qualified production  
15           infrastructure and featuring of indigenous content  
16           pursuant to subparagraphs (B) and (C).
- 17 A qualified production occurring in more than one county may  
18 prorate its expenditures based upon the amounts spent in each  
19 county, if the population bases differ enough to change the  
20 percentage of tax credit.



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

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

11 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 For the purposes of this subsection, "above-the-line  
15 workforce" means the employees involved with the production of a  
16 qualified production whose salaries are negotiated before the  
17 commencement of production, including but not limited to actors,  
18 directors, producers, and writers.

19 (b) The credit allowed under this section shall be claimed  
20 against the net income tax liability for the taxable year. For  
21 the purposes of this section, "net income tax liability" means



1 net income tax liability reduced by all other credits allowed  
2 under this chapter.

3 (c) If the tax credit under this section exceeds the  
4 taxpayer's income tax liability, the excess of credits over  
5 liability shall be refunded to the taxpayer; provided that no  
6 refunds or payment on account of the tax credits allowed by this  
7 section shall be made for amounts less than \$1. All claims,  
8 including any amended claims, for tax credits under this section  
9 shall be filed on or before the end of the twelfth month  
10 following the close of the taxable year for which the credit may  
11 be claimed. Failure to comply with any of the foregoing  
12 provision shall constitute a waiver of the right to claim the  
13 credit.

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

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

17 (2) Have qualified production costs totaling at least  
18 \$100,000;

19 (3) Provide the State a qualified Hawaii promotion, which  
20 shall be at a minimum, a shared-card, end-title screen  
21 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 evidence of reasonable efforts to comply with  
15 all applicable requirements under title 14, including  
16 tax return filing and payments; and
- 17 (8) Provide complete responses to the department of  
18 taxation's inquiries and document requests, in the  
19 form prescribed by the department, no later than  
20 ninety days from the inquiry or request;



1 provided that a taxpayer shall be given notice of and an  
2 opportunity to cure any failure to meet the requirements of this  
3 subsection, including chapter 237, within thirty days of receipt  
4 of the notice; provided further that nothing in this subsection  
5 shall be interpreted as waiving any act required by this  
6 section.

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

11 (f) To receive the tax credit, the taxpayer shall first  
12 prequalify the production for the credit by registering with the  
13 department of business, economic development, and tourism during  
14 the development or preproduction stage.

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



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

7 (1) All qualified production costs as provided by  
8 subsection (a), if any, incurred in the previous  
9 taxable year;

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

12 (3) The number of total hires versus the number of local  
13 hires by category and by county.

14 This information may be reported from the department of  
15 business, economic development, and tourism to the legislature  
16 pursuant to subsection (i) (4). No later than January 1, 2027,  
17 and each January 1 thereafter, each film production that is  
18 claiming a tax credit pursuant to this section shall obtain an  
19 independent third-party certification of qualified production  
20 costs eligible for the motion picture, digital media, and film  
21 production income tax credit in the form of a tax opinion, as



1 required under this subsection, submitted to the department of  
2 business, economic development, and tourism.

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

- 5 (1) Maintain records of the names of the taxpayers and  
6 qualified productions thereof claiming the tax credits  
7 under subsection (a);
- 8 (2) Obtain and total the aggregate amounts of all  
9 qualified production costs per qualified production  
10 and per qualified production per taxable year;
- 11 (3) Provide a letter to the director of taxation  
12 specifying the amount of the tax credit per qualified  
13 production for each taxable year that a tax credit is  
14 claimed and the cumulative amount of the tax credit  
15 for all years claimed; and
- 16 (4) Submit a report to the legislature no later than  
17 twenty days prior to the convening of each regular  
18 session detailing the non-aggregated qualified  
19 production costs that form the basis of the tax credit  
20 claims and expenditures, itemized by taxpayer, in a  
21 redacted format to preserve the confidentiality and



1           that shall include the dollar amount claimed, name of  
2           company, and name of the qualified production of the  
3           taxpayers claiming the credit.

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

20          (k) Each taxpayer claiming a tax credit under this section  
21          shall submit to the department of business, economic



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

11 (1) Total tax credits claimed per qualified production  
12 shall not exceed \$17,000,000[-]; provided that:

13 (1) The department of business, economic development, and  
14 tourism may waive this cap for one qualified  
15 production each fiscal year; provided further that the  
16 total tax credits claimed by a qualified production in  
17 any fiscal year shall not exceed seventy per cent of  
18 the total amount of tax credits allowed under this  
19 section pursuant to subsection (n);

20 (2) No qualified production shall have the cap waived for  
21 more than two fiscal years; and



1       (3) The department of business, economic development, and  
2       tourism shall submit a report to the legislature no  
3       later than twenty days prior to the convening of each  
4       regular session that provides a justification for the  
5       selection of the qualified production designated for  
6       the waiver and the status of the qualified production.

7       (m) Qualified productions shall comply with subsections  
8       (d), (e), (f), (h), and (k).

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

17      (o) The Hawaii film office shall submit an annual report  
18      to the legislature no later than twenty days prior to the  
19      convening of each regular session. The annual report shall  
20      include the following information:



- 1       (1) A list of the qualified productions that received the  
2           tax credit;
- 3       (2) How funds received from the tax credit were spent in  
4           the State and to what extent local communities,  
5           workers, and businesses benefited;
- 6       (3) The impact of the tax credit on tax revenue, job  
7           creation, industry development, and tourism; and
- 8       (4) An analysis of why the tax credit provides greater  
9           long-term value to the State than other tax credits  
10          and alternative uses of state funds.

11       [~~(p)~~] (p) For the purposes of this section:

12       "Commercial":

- 13       (1) Means an advertising message that is filmed using  
14           film, videotape, or digital media, for dissemination  
15           via television broadcast or theatrical distribution;
- 16       (2) Includes a series of advertising messages if all parts  
17           are produced at the same time over the course of six  
18           consecutive weeks; and
- 19       (3) Does not include an advertising message with Internet-  
20           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 "Post-production" means production activities and services  
8 conducted after principal photography is completed, including  
9 but not limited to editing, film and video transfers,  
10 duplication, transcoding, dubbing, subtitling, credits, closed  
11 captioning, audio production, special effects (visual and  
12 sound), graphics, and animation.

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

21 "Qualified production":



- 1           (1) Means a production, with expenditures in the State,  
2           for the total or partial production of a feature-  
3           length motion picture, short film, made-for-television  
4           movie, commercial, music video, interactive game,  
5           television series pilot, single season (up to twenty-  
6           two episodes) of a television series regularly filmed  
7           in the State (if the number of episodes per single  
8           season exceeds twenty-two, additional episodes for the  
9           same season shall constitute a separate qualified  
10          production), television special, single television  
11          episode that is not part of a television series  
12          regularly filmed or based in the State, national  
13          magazine show, or national talk show. For the  
14          purposes of subsections (d) and (l), each of the  
15          aforementioned qualified production categories shall  
16          constitute separate, individual qualified productions;  
17          and
- 18          (2) Does not include:
- 19               (A) News;
- 20               (B) Public affairs programs;
- 21               (C) Non-national magazine or talk shows;



- 1 (D) Televised sporting events or activities;
- 2 (E) Productions that solicit funds;
- 3 (F) Productions produced primarily for industrial,  
4 corporate, institutional, or other private  
5 purposes; and
- 6 (G) Productions that include any material or  
7 performance prohibited by chapter 712.

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

- 16 (1) Costs incurred during preproduction such as location  
17 scouting and related services;
- 18 (2) Costs of set construction and operations, purchases or  
19 rentals of wardrobe, props, accessories, food, office  
20 supplies, transportation, equipment, and related  
21 services;



- 1 (3) Wages or salaries of cast, crew, and musicians;
- 2 (4) Costs of photography, sound synchronization, lighting,  
3 and related services;
- 4 (5) Costs of editing, visual effects, music, other post-  
5 production, and related services;
- 6 (6) Rentals and fees for use of local facilities and  
7 locations, including rentals and fees for use of state  
8 and county facilities and locations that are not  
9 subject to general excise tax under chapter 237 or  
10 income tax under this chapter;
- 11 (7) Rentals of vehicles and lodging for cast and crew;
- 12 (8) Airfare for flights to or from Hawaii, and interisland  
13 flights;
- 14 (9) Insurance and bonding;
- 15 (10) Shipping of equipment and supplies to or from Hawaii,  
16 and interisland shipments; and
- 17 (11) Other direct production costs specified by the  
18 department in consultation with the department of  
19 business, economic development, and tourism;
- 20 provided that any government-imposed fines, penalties, or  
21 interest that are incurred by a qualified production within the



1 State shall not be "qualified production costs". "Qualified  
2 production costs" does not include any costs funded by any  
3 grant, forgivable loan, or other amounts not included in gross  
4 income for purposes of this chapter."

5 SECTION 2. Act 143, Session Laws of Hawaii 2017, is  
6 amended by amending section 6 to read as follows:

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

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 3000, and  
20 shall apply to taxable years beginning after December 31, 2025;  
21 provided that on January 1, 2033, this Act shall be repealed to



1 coincide with the repeal date of Act 88, Session Laws of Hawaii  
2 2006, as amended by Act 89, Session Laws of Hawaii 2013, as  
3 amended by Act 143, Session Laws of Hawaii 2017, as amended by  
4 Act 217, Session Laws of Hawaii 2022, and section 235-17, Hawaii  
5 Revised Statutes, shall be reenacted in the form in which it  
6 read on the day before the effective date of Act 88, Session  
7 Laws of Hawaii 2006.



**Report Title:**

DBEDT; Motion Picture, Digital Media, and Film Production Income Tax Credit; Local Workforce Incentive; Qualified Production Incentives; Third-party Certification; Per Production Cap; Waiver; Hawaii Film Office; Report

**Description:**

Amends the Motion Picture, Digital Media, and Film Production Income Tax Credit (film tax credit) by providing additional credits to qualified productions that have a workforce of at least eighty per cent local hires and meet other specific requirements, then increasing the local workforce threshold to eighty-two per cent in the third consecutive taxable year and eighty-five per cent in the fifth taxable year, that the additional credit is claimed; requiring independent third-party certification of qualified production costs for all film productions claiming the film tax credit; authorizing DBEDT to waive the credit cap per qualified production for one qualified production each fiscal year; and requiring the Hawaii Film Office to submit an annual report to the Legislature. Repeals 1/1/2033. Effective 7/1/3000. (HD1)

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

