

---

# A BILL FOR AN ACT

RELATING TO THE MOTION PICTURE, DIGITAL MEDIA, AND FILM  
PRODUCTION INCOME TAX CREDIT.

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

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

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

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

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

14       (2) [~~Twenty-seven~~] Thirty-two per cent of the qualified  
15 production costs incurred by a qualified production in



1           any county of the State with a population of seven  
2           hundred thousand or less.

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

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

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

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

20           2. By amending subsection (h) to read:



1       "(h) Every taxpayer claiming a tax credit under this  
2 section for a qualified production shall, no later than ninety  
3 days following the end of each taxable year in which qualified  
4 production costs were expended, submit [a]:

5       (1) A written, sworn statement to the department of  
6 business, economic development, and tourism that  
7 identifies:

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

11       ~~[(2)]~~ (B) The amount of tax credits claimed pursuant to  
12 this section, if any, in the previous taxable  
13 year; and

14       ~~[(3)]~~ (C) The number of total hires versus the number of  
15 local hires by category and by county~~[-]~~; and

16       (2) An independent third-party certification issued by a  
17 qualified certified public accountant, that verifies  
18 the information described in paragraph (1) (A), (B),  
19 and (C) and other representations made for the  
20 purposes of claiming the credit under this section,  
21 using procedures prescribed by the department of



1           business, economic development, and tourism and the  
2           department of taxation.

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

6           3. By amending subsection (l) to read:

7           "(l) Total tax credits claimed per qualified production  
8   shall not exceed \$17,000,000~~[-]~~; provided that this limit shall  
9   not apply to any qualified production that incurs at least  
10   \$60,000,000 of qualified production costs."

11          4. By amending subsections (n) and (o) to read:

12          "(n) The total amount of tax credits allowed under this  
13   section in any particular year shall be [~~\$50,000,000,~~]  
14   \$60,000,000; however, if the total amount of credits applied for  
15   in any particular year exceeds the aggregate amount of credits  
16   allowed for that year under this section, the excess shall be  
17   treated as having been applied for in the subsequent year and  
18   shall be claimed in the subsequent year; provided that no excess  
19   shall be allowed to be claimed after December 31, [~~2032,~~] 2037.

20          (o) For the purposes of this section:

21          "Commercial":



- 1 (1) Means an advertising message that is filmed using  
2 film, videotape, or digital media, for dissemination  
3 via television broadcast or theatrical distribution;
- 4 (2) Includes a series of advertising messages if all parts  
5 are produced at the same time over the course of six  
6 consecutive weeks; and
- 7 (3) Does not include an advertising message with  
8 Internet-only distribution.

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

15 "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 "Qualified production":

10 (1) Means a production, with expenditures in the State,  
11 for the total or partial production of a feature-  
12 length motion picture, short film, made-for-television  
13 movie, commercial, music video, interactive game,  
14 broadcast television or streaming platform series  
15 pilot, single season (up to twenty-two episodes[+] for  
16 a broadcast television series and up to eight episodes  
17 for an ongoing series for streaming platforms) of a  
18 [television] series [regularly] filmed in the State  
19 [+if]. If the number of episodes per single season  
20 exceeds twenty-two[+] for a broadcast television  
21 series or eight for a streaming platform series,



1 additional episodes for the same season shall  
2 constitute a separate qualified production[~~77~~].  
3 "Qualified production" includes a broadcast television  
4 or streaming platform special, single [~~television~~]  
5 episode that is not part of a broadcast television or  
6 streaming platform series regularly filmed or based in  
7 the State, national magazine show, [~~or~~] and national  
8 talk show. For the purposes of subsections (d) and  
9 (l), each of the aforementioned qualified production  
10 categories shall constitute separate, individual  
11 qualified productions; and

12 (2) Does not include:

- 13 (A) News;  
14 (B) Public affairs programs;  
15 (C) Non-national magazine or talk shows;  
16 (D) Televised sporting events or activities;  
17 (E) Productions that solicit funds;  
18 (F) Productions produced primarily for industrial,  
19 corporate, institutional, or other private  
20 purposes; and



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

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

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

(2) Costs of set construction and operations, purchases or rentals of wardrobe, props, accessories, food, office supplies, transportation, equipment, and related services;

(3) Wages or salaries of cast, crew, and musicians;

(4) Costs of photography, sound synchronization, lighting, and related services;

(5) Costs of editing, visual effects, music, other post-production, and related services;





(6) Rentals and fees for use of local facilities and locations, including rentals and fees for use of state and county facilities and locations that are not subject to general excise tax under chapter 237 or income tax under this chapter;

(7) Rentals of vehicles and lodging for cast and crew;

(8) Airfare for flights to or from Hawaii, and interisland flights;

(9) Insurance and bonding;

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

(11) Other direct production costs specified by the department of taxation in consultation with the department of business, economic development, and tourism;

provided that any government-imposed fines, penalties, or interest that are incurred by a qualified production within the State shall not be "qualified production costs". "Qualified production costs" does not include any costs funded by any grant, forgivable loan, or other amounts not included in gross income for purposes of this chapter.



1       "Streaming platform" means an online provider of  
2       entertainment, including but not limited to movies and music,  
3       that delivers content via an internet connection to the  
4       subscriber's computer, television, or mobile device through a  
5       paid subscription."

6       SECTION 2. Act 88, Session Laws of Hawaii 2006, as amended  
7       by section 3 of Act 89, Session Laws of Hawaii 2013, as amended  
8       by section 3 of Act 143, Session Laws of Hawaii 2017, as amended  
9       by section 4 of Act 217, Session Laws of Hawaii 2022, is amended  
10      by amending section 4 to read as follows:

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

13      (1) Section 2 of this Act shall apply to qualified  
14      production costs incurred on or after July 1, 2006,  
15      and before January 1, ~~[2033,]~~ 2038; and

16      (2) This Act shall be repealed on January 1, ~~[2033,]~~ 2038,  
17      and section 235-17, Hawaii Revised Statutes, shall be  
18      reenacted in the form in which it read on the day  
19      before the effective date of this Act."

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



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

11       SECTION 4. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13       SECTION 5. This Act shall take effect on July 1, 2050;  
14 provided that section 1 shall apply to costs incurred after  
15 December 31, 2025.



**Report Title:**

DBEDT; Department of Taxation; Motion Picture, Digital Media, and Film Production Income Tax Credit; Qualified Production; Costs; Third-Party Certification

**Description:**

Increases the Motion Picture, Digital Media, and Film Production Income Tax Credit to 27 per cent of qualified production costs in counties with a population of over seven hundred thousand and 32 per cent in counties with a population of seven hundred thousand or less. Requires each taxpayer claiming the tax credit to submit an independent third-party certification verifying certain information to the Department of Business, Economic Development, and Tourism. Excludes qualified productions that incur at least \$60 million of qualified production costs from the per-production total tax credit cap of \$17 million. Increases the total amount of tax credits allowed to be claimed annually to \$60 million. Defines "streaming platform" and amends the definition of "qualified production" to include certain streaming productions. Extends the sunset date of the tax credit to 1/1/2038. Effective 7/1/2050. (SD1)

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

