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# A BILL FOR AN ACT

RELATING TO CREATIVE MEDIA DEVELOPMENT.

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

1           SECTION 1. The legislature finds that the film and digital  
2 media industries in Hawaii are important components of a  
3 diversified economy and that their financial impact can be  
4 strengthened significantly if existing incentives for the  
5 industries are adjusted.

6           The legislature also finds that nearly every country and  
7 state has implemented tax incentives to attract film and digital  
8 media productions. These jurisdictions have experienced  
9 dramatic increases in spending and significant growth in  
10 workforce and infrastructure development. More productions in  
11 Hawaii would stimulate more direct and indirect tax revenue.

12           The legislature further finds that it is desirable to  
13 provide incentives to the film and digital media industries to  
14 encourage similar dramatic growth in Hawaii because the film and  
15 digital media industries:

16           (1) Infuse significant amounts of new money into the  
17 economy, which are dispersed across many communities



- 1           and businesses and which benefit a wide array of  
2           residents;
- 3           (2) Create skilled, high-paying jobs;
- 4           (3) Have a natural dynamic synergy with Hawaii's top  
5           industry (tourism) and are used as a destination  
6           marketing tool for the visitor industry; and
- 7           (4) Are clean, nonpolluting industries that value the  
8           natural beauty of Hawaii and its diverse multicultural  
9           population and wide array of architecture.

10           The purpose of this Act is to continue to encourage the  
11 film and digital media industries by:

- 12           (1) Allowing Hawaii to compete with other film production  
13           centers in attracting a greater number of significant  
14           projects to the islands;
- 15           (2) Continuing to build the State's local film and digital  
16           media industries; and
- 17           (3) Encouraging the growth of the film and digital media  
18           industries by providing enhanced incentives to attract  
19           more film and digital media productions to Hawaii,  
20           thereby generating increased tax revenues.



1 SECTION 2. Chapter 394, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§394- Workforce development training program. (a) The  
5 department of labor and industrial relations shall administer a  
6 workforce development training program that provides wage  
7 reimbursement for on-the-job training to persons who are newly  
8 hired by motion picture, digital media, television, and film  
9 production entities that are prequalified by the department of  
10 business, economic development, and tourism to receive a tax  
11 credit as described in section 235-17(f). These prequalified  
12 entities shall be eligible for a fifty per cent reimbursement of  
13 wages, for up to 1,040 hours per employee who receives on-the-  
14 job training and is newly hired in a job paying at least thirty-  
15 two hours per week. Wages, fringe benefits, and other benefits  
16 paid to the new hire must be the same or comparable to others  
17 similarly employed by that entity. The entity shall not be  
18 reimbursed for fringe and other benefits. The new hire must be  
19 guaranteed full-time employment of a minimum of thirty-two hours  
20 per week with the entity upon successful completion of the  
21 training period or until the termination of the motion picture,  
22 digital media, television, or film production.



1        (b) The director may adopt rules pursuant to chapter 91 to  
2 carry out the purposes of this section."

3        SECTION 3. Section 235-17, Hawaii Revised Statutes, is  
4 amended as follows:

5        1. By amending subsection (h) to read:

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

12        (1) All qualified production costs as provided by  
13 subsection (a), if any, incurred in the previous  
14 taxable year;

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

17        (3) The number of total hires versus the number of local  
18 hires by category [~~i.e., department~~] and by county."

19        2. By amending subsection (1) to read:

20        "(1) 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 Internet-  
8 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 [~~excluding~~  
15 ~~Internet-only distribution~~].

16 [~~"Post-production"~~] "Post-production" means production  
17 activities and services conducted after principal photography is  
18 completed, including but not limited to editing, film and video  
19 transfers, duplication, transcoding, dubbing, subtitling,  
20 credits, closed captioning, audio production, special effects  
21 (visual and 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.~~] 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 television series pilot, single season (up to twenty-  
15 two episodes) of a television series regularly filmed  
16 in the State (if the number of episodes per single  
17 season exceeds twenty-two, additional episodes for the  
18 same season shall constitute a separate qualified  
19 production), television special, single television  
20 episode that is not part of a television series  
21 regularly filmed or based in the State, national  
22 magazine show, or national talk show. For the



1 purposes of subsections (d) and (j), each of the  
2 aforementioned qualified production categories shall  
3 constitute separate, individual qualified productions;  
4 and

5 (2) Does not include: [~~daily news; public~~]

6 (A) News;

7 (B) Public affairs programs; [~~non-national~~]

8 (C) Non-national magazine or talk shows; [~~televised~~]

9 (D) Televised sporting events or activities;

10 [~~productions~~]

11 (E) Productions that solicit funds; [~~productions~~]

12 (F) Productions produced primarily for industrial,  
13 corporate, institutional, or other private  
14 purposes; and [~~productions~~]

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

17 "Qualified production costs" means the costs incurred by a  
18 qualified production within the State that are subject to the  
19 general excise tax under chapter 237 or income tax under this  
20 chapter and that have not been financed by any investments for  
21 which a credit was or will be claimed pursuant to section



1 235-110.9. Qualified production costs include but are not  
2 limited to:

- 3 (1) Costs incurred during preproduction such as location  
4 scouting and related services;
- 5 (2) Costs of set construction and operations, purchases or  
6 rentals of wardrobe, props, accessories, food, office  
7 supplies, transportation, equipment, and related  
8 services;
- 9 (3) Wages or salaries of cast, crew, and musicians;
- 10 (4) Costs of photography, sound synchronization, lighting,  
11 and related services;
- 12 (5) Costs of editing, visual effects, music, other post-  
13 production, and related services;
- 14 (6) Rentals and fees for use of local facilities and  
15 locations[+], but excluding state and county facility  
16 and location fees that are not subject to the general  
17 excise tax under chapter 237 or income tax under this  
18 chapter;
- 19 (7) Rentals of vehicles and lodging for cast and crew;
- 20 (8) Airfare for flights to or from Hawaii, and interisland  
21 flights;
- 22 (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 SECTION 4. Act 88, Session Laws of Hawaii 2006, is amended  
7 by amending section 4 to read as follows:

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

10 (1) Section 2 of this Act shall apply to qualified  
11 production costs incurred on or after July 1, 2006,  
12 and before January 1, [~~2016~~] 2025; and

13 (2) This Act shall be repealed on January 1, [~~2016~~] 2025,  
14 and section 235-17, Hawaii Revised Statutes, shall be  
15 reenacted in the form in which it read on the day  
16 before the effective date of this Act."

17 SECTION 5. The department of business, economic  
18 development, and tourism shall submit an annual report to the  
19 legislature twenty days prior to each regular session beginning  
20 with the 2014 regular session. The report shall contain a cost  
21 benefit analysis of the motion picture, digital media, and film



1 production income tax credit, including but not limited to the  
2 following:

- 3 (1) The total number of full-time, part-time, and contract  
4 personnel on the payroll necessary to administer the  
5 film production tax credit; and  
6 (2) The average wage of each of the above personnel groups  
7 and total earnings for the year.

8 The department of business, economic development, and  
9 tourism shall report the data collected under this section along  
10 with a cumulative total of tax credits granted for each  
11 qualified production. The legislature may use the information  
12 to determine whether the tax credits are meeting the objectives  
13 of the motion picture, digital media, and film production tax  
14 credit and this Act.

15 SECTION 6. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$ or so  
17 much thereof as may be necessary for fiscal year 2013-2014 and  
18 the same sum or so much thereof as may be necessary for fiscal  
19 year 2014-2015 for the implementation of the workforce  
20 development training program established by this Act.

21 The sums appropriated shall be expended by the department  
22 of labor and industrial relations for the purposes of this Act.



1           SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 8. This Act, upon its approval, shall take effect  
4 on July 1, 2030; provided that this Act shall apply to taxable  
5 years beginning after December 31, 2012, and before January 1,  
6 2025.



**Report Title:**

Creative Media Development; Tax Credit; Workforce Development Training Program; Appropriation

**Description:**

Establishes a Workforce Development Training Program that provides wage reimbursement for on-the-job training by entities who receive a Motion Picture, Digital Media, and Film Production Tax Credit. Deletes Internet-only distribution exclusion for advertising; clarifies definitions of qualified production costs; and extends the sunset date of the Tax Credit to January 1, 2025. Appropriates funds for the Training Program. (SD1)

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

