

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1743**

**Amendment Number: H2**

**Bill Subtitle: TO AMEND THE DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF 2009.**

---

### Basic Change :

**Sponsors: Rep. C. Fite and Sen. J. Dismang**

**House Amendment No. 2** --- HB1743-H2 (engrossed 04/01/21) authorizes the incentive offered under the Digital Product and Motion Picture Industry Development Act to be taken as either a rebate or a tax incentive with a five-year carry-forward period. The tax incentive must meet the same standards and record-keeping requirements for the existing rebate but may be transferred or sold by the production company. HB1743-H2 clarifies the procedure by which the tax credits will be issued, transferred, and administered.

The Arkansas Economic Development Commission may only approve up to \$4,000,000 of tax credits per fiscal year. HB1743-H2 provides a mechanism to issue tax credits in excess of \$4,000,000 if the Secretary of the Department of Commerce and the Secretary of the Department of Finance and Administration certify that there is a positive cost-benefit analysis for projects exceeding the cap. Tax credits that exceed the cap may not exceed the amount of funding that is allocated to the Arkansas Supplemental Digital Product and Motion Picture Industry Development Trust Fund. After certification of the tax credits in excess of the cap, the funding in the trust fund is added to the general revenue of the state.

**House Amendment No. 1** --- HB1743-H1 (engrossed 03/30/21) removes the provision for the "approved auditor" program that would have utilized a third-party auditor to audit the expenses of a state-certified project. HB1743-H1 also clarifies that both the production and post-production tax credits are transferable rather than refundable.

**Original Bill** --- HB1743 amends the Digital Product and Motion Picture Industry Development Act of 2009 by:

- Changing the program from a rebate for qualifying productions and expenses to an uncapped transferable tax credit;
- Expanding the timeframe an applicant has in which to qualify for the tax credit from six months to one year, and allowing a production company to meet the \$50,000 threshold collectively with multiple productions; and
- Allowing an additional tax credit for certain qualifying expenditures related to veterans, economically distressed areas of Arkansas, and participation with the Arkansas uplift promotion.

In addition to the Department of Finance and Administration's (DFA) existing review of a state-certified production company's application for tax credit, HB1743 creates an alternative that will allow the company to obtain an approved audit to substitute for DFA's review. HB1743 requires the approved audit to be conducted by an "approved auditor." An approved auditor is a private certified professional accountant (CPA) that is retained by a production company to undertake an audit of the expenditures of the production company for purposes of determining the amount of the tax credit. HB1743 requires the DFA to certify CPAs as "approved auditors" and to maintain a list of the approved auditors on the DFA website. HB1743 also requires DFA to promulgate rules to provide for an approved audit.

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1743**

**Amendment Number: H2**

**Bill Subtitle: TO AMEND THE DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF 2009.**

---

### **Revenue Impact :**

Negligible impact to General Revenue.

### **Taxpayer Impact :**

A taxpayer will need to complete the documentation required for any credits earned or transferred and records will need to be maintained for audit. A taxpayer must file an application and estimate with AEDC prior to production. The production company must file weekly reports with the commission during the project. The taxpayer must apply for the tax credit within 180 days of the final expenditures of the production and the expenditures comply with rules of eligibility.

### **Resources Required :**

Computer programs, tax forms and instructions will need to be updated.

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

Department employees will need to be educated on changes as well as the taxpayer community.

### **Other Comments :**

None.

### **Legal Analysis :**

None.