NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Monday, February 6, 2012
1:30 p.m.
State Capitol, Conference Room 016

in consideration of
SB2043
RELATING TO BUSINESS DEVELOPMENT IN HAWAII

Chair Fukunaga, Vice Chair Wakai, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) offers the following comments on SB2043, which seeks to increase the existing Motion Picture, Television and Digital Media refundable tax credit (HRS 235-17) to unspecified percentages of qualified production costs; provides an additional non-refundable tax credit for qualified visual effects and animation production costs; and an additional non-refundable tax credit for qualified media infrastructure projects in certain qualifying counties. The measure further amends this statute by removing the tax credit cap and providing an additional rebate for a qualified local crew training program.

We prefer the Administration's bill, SB2741, due to concerns about the cost implications generated by this proposal.

We defer to the Department of Taxation on the fiscal impacts of these amendments.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Carol Fukunaga, Chair,
and Members of the Senate Committee on Economic Development & Technology

Date: Monday, February 6, 2012
Time: 1:15 P.M.
Place: Conference Room 016, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 2043 Relating to Business Development in Hawaii

The Department of Taxation (Department) defers to the Department of Business Economic Development and Tourism (DBEDT) on the merits of S.B. 2043. However, due to the anticipated difficulty in administering this bill, as well as the potential for a substantial increase in revenue loss due to the broadening of the scope of the tax credits in the bill, the Department would prefer adoption of S.B. 2741, which takes a more measured approach to supporting the creative media industry.

In several areas, S.B. 2043 does not provide any figures from which to estimate the proposed financial impact of the tax credit on State revenues. Taking those considerations into account, the Department still has concerns about several provisions set forth in this measure, including:

- Increases to the production tax credit of an undetermined amount;
- Proposes an additional tax credit for special or visual effects type productions;
- Proposes a new local crew training program rebate program;
- Allows all or a portion of the cost to construct a production or post-production facility, which may include the construction of a movie theater or other commercial exhibition facility, to qualify as production costs eligible for tax credit;
- Deletes the current aggregate cap of $8 million in tax credits allowed for a qualified production;
- Requires the Department to actively monitor an infrastructure facility project before an infrastructure facility project may be certified;

- Requires the Department to certify the infrastructure facility project based on the taxpayer's business plan and marketing analysis, and construction schedule, as the basis to award the tax credit; and
- Allows the taxpayer to assign all or a portion of the tax credit to any assignee.

Thank you for the opportunity to provide comments.

ALAN M. ARAKAWA
MAYOR

200 South High Street
Wailuku, Hawai'i 96793-2155
Telephone (808) 270-7855
Fax (808) 270-7870
e-mail: mayors.office@mauicounty.gov

OFFICE OF THE MAYOR

Ke'ena O Ka Meia
COUNTY OF MAUI – Kalana O Maui

February 1, 2011

The Honorable Shan Tsutsui, Senate President
Honorable Members of the Senate

The Honorable Calvin Say, House Speaker
Honorable Members of the House

SUBJECT: **POSITION STATEMENT & TESTIMONY OF MAUI COUNTY MAYOR ALAN ARAKAWA ON BILLS RELATING TO FILM, TELEVISION, AND DIGITAL MEDIA TAX CREDITS**

Thank you for this opportunity to offer our "Position Statement" and testimony on bills relating to film, television, and digital media tax credits. Maui County **supports** the intent and spirit of such bills. In this 2012 legislative session, it is the continued and consistent position of Maui County that:

1) We support and respectfully request that any bill being considered include:

   a. A "Qualified media infrastructure project tax credit";

   b. A "Motion picture, digital media, film production, special or visual effects and animation production income tax credit";

   c. The establishment of a qualified Hawaii crew training program; and,

   d. All neighbor counties should receive a 10% differential between themselves and the City & County of Honolulu (the existing differential is currently at 5%).

2) We believe that HB1308 (HD 2, SD 2, CD 1, Proposal), which remains in conference from last session, encompasses the issues referenced herein-above in 1 (a) – (d), and accordingly, we fully support this proposed bill as currently written.

Reasons:

1) The County of Maui supports HB1308 (HD 2, SD 2, CD 1, Proposal) and legislation that includes the measures referenced herein-above in 1 (a) – (d), with the firm belief that:

   - Legislation will benefit the entire State of Hawaii by bringing a new industry to the state, and thereby diversifying and stimulating our economy, creating new jobs for our residents, and producing long-term opportunities for our children through training/deeming programs.

   - According to presentations made to the legislature during last year's session, (a) each stage built in the State of Hawaii would inject nearly $140 million into our economy via the hiring of local labor and purchasing materials locally over a two year period; and, (b) Each movie filmed in Hawaii (i.e. $90 million budget) would create approximately 193 local jobs immediately.

   An infrastructure tax credit is especially important to Maui County (and, the neighbor islands) as outside of the City & County of Honolulu, there isn't a single: soundstage, post-production facility; nor camera equipment rental houses; etc.

   - Our own research shows that on March 5, 2011, the governor of Puerto Rico signed a new law that increased the amount of its existing tax credits. In passing the law, the PR Film Commissioner announced that in 2010, 12 projects were filmed on the island, creating 17,528 jobs and 22,671 hotel nights. Nearly $70 million was said to have been injected into their local economy through a dozen movies, TV series, and documentaries. And, in 2011, a film was shot in Alaska ("Everybody Loves Whales") which reportedly generated $12 million in Anchorage that benefited local Teamsters, cafes, carpenters, caterers, and many more. It was also reported that during that 2 months, hotel rooms occupancy exceeded 12,000; and, that more than 1,300 Alaska residents received paychecks or revenue from the production.

2) 10% Differential – Currently the Neighbor Counties receive a 5% differential in the tax incentive program over the City & County of Honolulu (Honolulu currently has a 15% Film & TV tax incentive while the Neighbor Counties are at 20%). The Chief Officer of the Creative Industries Division Film Office, released industry numbers at the latest Hawaii Film & Entertainment Board (HFEB) meeting in January, 2012. These numbers reinforced the disparity between the counties showing: (a) The City & County of Honolulu, with a 15% tax incentive, managed to file $126,441,000 spending in 2011; while (b) the three neighboring counties, with a 20% tax incentive, filed $5,183,245. The three neighbor counties combined managed a mere 4.09% of the market.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

TO: The Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology

FROM: Don Couch
Council Member, South Maui District

DATE: Friday, February 3, 2012

SUBJECT: **SUPPORT OF SB 2043, RELATING TO BUSINESS DEVELOPMENT IN HAWAII**

Thank you for the opportunity to testify in support of this measure. I provide this testimony as an individual member of the Maui County Council.

I **support SB 2043** for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to support this measure.

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February 2, 2012

TO: The Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology

FROM: Mike White
Council Member, Makawao - Ha'ikū - Pā'ia

SUBJECT: **HEARING OF FEBRUARY 6, 2012; TESTIMONY IN SUPPORT OF SB 2043, RELATING TO BUSINESS DEVELOPMENT IN HAWAII**

Thank you for the opportunity to testify in **support** of this important measure. This proposal increases the tax credit and dollar amounts to provide additional tax credits for media infrastructure projects in certain qualifying counties, provides tax credits for special or visual effects and animation production costs and raises tax credit caps.

I am aware that the Maui County Council Chair Danny Mateo has submitted testimony on behalf of the Council in support of this measure, which is in the Maui County Council's Legislative Package. As Chair of the Economic Development, Agricultural and Recreation Committee on the Maui County Council, I concur with the testimony submitted by our Chair, and urge you to support this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White

Director of Council Services
Ken Fukuoka

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www.mauicounty.gov/council

February 3, 2012

The Honorable Carol Fukunaga, Chair
Committee on Economic Development and Technology
Hawaii State Capitol, Room 216
Honolulu, Hawaii 96813

Dear Chair Fukunaga:

Re: Testimony in Support of Senate Bill 2043 relating to Business Development in Hawaii

As the Lana`i member on the Maui County Council, I would like to offer testimony in support of S.B. 2043. This measure amends the motion picture, digital media, and film production tax credits to increase the tax credits to unspecified percentages and dollar amounts and to provide additional nonrefundable tax credits for qualified media infrastructure projects in certain qualifying counties; provides an additional tax credit for qualified special or visual effects and animation production costs; raises the tax credit caps to unspecified amounts.

The proposed measure provides needed incentives to expand motion picture, film and digital media production in Hawaii and make us more competitive with other locales. Also, this measure supports efforts to diversify the economy and create new job opportunities.

Thank you for the opportunity to offer this testimony in support.

Sincerely,

Riki Hokama, Councilmember- Lana`i

cc: Council Chair Danny Mateo

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White

Director of Council Services
Ken Fukuoka

COUNTY COUNCIL

COUNTY OF MAUI
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www.mauicounty.gov/council

January 31, 2012

TO: Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology

FROM: Robert Carroll
Council Member, East Maui
Robert Carroll

DATE: Monday, February 6, 2012

SUBJECT: **SUPPORT SB 2043, RELATING TO BUSINESS DEVELOPMENT IN HAWAII**

I support SB 2043 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to support this measure.

TESTIMONY OF NBC UNIVERSAL MEDIA, LLC

HEARING DATE/TIME: Monday, February 6, 2012
1:30 p.m. in Conference Room 016

TO: Senate Committee on Economic Development and Technology

RE: • Testimony in Strong Support of SB2111 and SB2741.

• Testimony in Support of the Spirit and Intent of SB2043 and SB2462.

Dear Chair, Vice-Chair and Committee Members:

I. INTRODUCTION

NBC Universal Media, LLC ("NBC/U") develops, produces, broadcasts and distributes motion pictures, television programs and related content around the world. Over the last several years, local industry stakeholders, the Hawaii Legislature and the people of Hawaii have developed a clear consensus that the motion picture, television and related digital media industries (the "Film Industry") in Hawaii has become an important component of a diversified economy and has had a positive financial impact on the State of Hawaii which can be strengthened significantly if Hawaii's existing incentives for the Film Industry are enhanced.

As a result of the enormous infusion of cash that Film Industry productions bring to production locales, there has been a dramatic increase in the number of state and local governments attempting to attract film productions. Recent studies have confirmed that these jurisdictions have experienced dramatic increases in in-state spending and significant growth in workforce and infrastructure development due to film productions in those state and local jurisdictions and that such productions stimulate more direct and indirect tax revenue and that a properly designed tax incentive program can actually increase (on a net basis) local tax revenues. (See, Ernst & Young - Economic and Fiscal Impacts of the New Mexico Film Product Tax Credit; Meyers Norris Penny - Economic Contributions of the Georgia Film and Television Industry; Cloudberry Communications – The Millennium Report (Economic impact and exposure value for the Stockholm region in the Swedish Millennium feature films)).

It is also clear that the State of Hawaii should encourage similar dramatic growth in Hawaii because the Film Industry:

(1) Infuses significant amounts of new money into the economy, which is dispersed across many communities and businesses and which benefits a wide array of residents; and

(2) Creates skilled, high-paying jobs; and

(3) Has a natural dynamic synergy with Hawaii's top industry, tourism, and is used as a destination marketing tool for the visitor industry; and

(4) Acts synergistically to bolster the local music industry and thereby assists in preserving and disseminating Hawaii's host culture by introducing millions of people around the world to Hawaii's recording artists, music and dance. A compelling example of these benefits can be seen in connection with the critically acclaimed and popular motion picture "The Descendents" produced and directed by Alexander Payne and based upon a novel by local author Kaui Hart Hemmings. The Descendents garnered a Best Picture award at the prestigious Golden Globe Awards and landed George Clooney a Golden Globe for Best Actor. In addition, The Descendents has been nominated for the following Oscars in 2012: Best Picture, Best Actor, Best Director, Best Adapted Screenplay, and Best Editing. The Descendents boasts a fabulous sound track consisting entirely of preexisting musical compositions and sound recordings written and performed by up and coming and iconic local musicians from Makana and Jeff Peterson to Sonny Chillingworth and Gabby Pahinui (see attached hereto as Exhibit "A" for a complete list of the music used in The Descendents); and

(5) Is a clean, nonpolluting industry that values the natural beauty of Hawaii and its diverse multicultural population and wide array of architecture.

The Film Industry also has a strong desire to hire locally and invest in the training and workforce development of island-based personnel and intends to continue the practice of hiring a significant number of residents and to support training and opportunities for those residents.

However, it is respectfully submitted that in order to stimulate such dramatic growth it is necessary to enhance Hawaii's existing tax incentive program (that uses the front-end budgeting methods normally used by the Film Industry and that lower production costs) in order to allow Hawaii to effectively compete with other film production centers in attracting a greater number of significant projects to the islands and to continue to build our local film industry infrastructure.

In the Spring of 2011, the State of Hawaii, through the Creative Industries Division of DBEDT, reached out to NBC/U to inquire as to what NBC/U would consider to be essential modifications to Hawaii film tax incentive program in order to build and sustain a robust Film Industry in Hawaii. After careful consideration, NBC/U recommended a few reasonable and measured modifications to Act 88 designed to make Hawaii's incentive program more stable, competitive and technologically friendly given the emerging significance of internet delivered content as an adjunct to traditional content delivery. Specifically, the following modifications to Act 88 (the "Proposed Act 88 Modifications") were respectfully recommended:

PROPOSED MODIFICATIONS TO ACT 88 THAT ARE LIKELY TO SIGNIFICANTLY INCREASE PRODUCTION ACTIVITY IN HAWAII

(1) Increase the refundable production credit ("RPC") by 10% **with the increase tied to local hires/vendors**.

(2) Eliminate the prohibition against internet only projects from qualifying for the RPC.

(3) Allow pass-through entities to recover the RPC directly.

(4) Increase the per production RPC cap from $8,000,000 to $16,000,000.

(5) Allow webisodes to be included in the RPC application for the related series (avoids failing to meet the $200K minimum spend).

(6) Extend sunset date of Act 88 to 2025 to assure certainty and predictability for long term production planning.

II. THE BILLS

Several bills are before this Committee which, in various ways, seek to encourage business development in Hawaii through the growth of the film industry by providing enhanced incentives that attract more film and television productions to Hawaii, thereby generating increased tax revenues.

A) SB2111. SB2111 embodies the Proposed Act 88 Modifications and is therefore strongly supported by NBC/U. NBC/U also supports the notion that the proposed increase in the RPC be tied to "local" hires thereby creating more jobs for Hawaii residents. In this regard, other jurisdictions have successfully tied some portion of their tax credit program to "local" hires. These other programs may provide guidance regarding the appropriate language/mechanism to be used to implement a "local" hire tie-in.

B) SB2741. SB2741 eliminates the Act 88 sunset date. The elimination of a sunset date or the extension of the sunset date for a significant period of time is important to the Film Industry because it provides some degree of assurance that the program will be around for years to come thereby allowing major projects, which require long term planning, to consider Hawaii as a production locale. Accordingly, NBC/U strongly supports the spirit and intent of SB2741.

C) SB2043. SB2043 seeks to increase the production credit available under Act 88 but does not provide a specified percentage increase. It is respectfully submitted that the tipping point at which an incentive program will have a meaningful pull on production activity exists at around 25%. This is especially true in the case of Hawaii because the cost of doing business here is considerably higher than on the mainland.

SB2043 also seeks to develop Hawaii's Film Industry infrastructure by providing nonrefundable tax credits for qualified media infrastructure projects in the State of Hawaii. NBC/U, as a general proposition, supports the development of infrastructure as an integral part of a robust Film Industry but not at the expense of a competitive production credit. In other words, given limited resources, if the State of Hawaii had to choose between allocating tax dollars to infrastructure development or production credits, it is respectfully submitted that an increase in the production credit would have a more significant and profound ability to bring production work to the State of Hawaii than the addition of an infrastructure credit. If both infrastructure development and an increase in the RPC can be carried out simultaneously, that would be the best of both worlds. However, given a choice between one or the other, it is submitted that the increase in the production credit would result in increased demand and that the local marketplace would respond to that demand by utilizing and/or repurposing existing assets for production use.

D) SB2462. SB2462, like SB2043, is intended to help develop Film Industry infrastructure in the State of Hawaii. For the same reasons stated hereinabove with respect to SB2043, it is respectfully submitted that the priority should be to increase the production credit to fill the "pipeline" with production projects. As the "pipeline" fills, the local marketplace will respond to this demand as noted above.

III. CONCLUSION

While Hawaii may be perceived as a highly desirable destination that would instinctively attract the Film Industry, the State needs to take affirmative steps to ensure Hawaii is at the top of the list and not left behind in the wake of other domestic and international locales. SB2111 will help to ensure Hawaii is competitive with film destinations around the globe and does so in a manner that is sustainable and rational for the long term. NBC/U stands ready to work with the Legislature, the Administration and local Film Industry stakeholders to improve and enhance Hawaii's film incentive program to help build a robust, stable and sustainable Film Industry in the State of Hawaii.

William G. Meyer, III
On behalf of
NBC Universal Media, LLC

THE DESCENDANTS
MUSIC CREDITS

1. KA MAKANI KA'ILI ALOHA
   Written by Matthew Kane
   Arranged and Performed by Gabby Pahinui

2. KALENA KAI
   Written by John Kalapana
   Performed by Keola Beamer and George Winston

3. PAKA UA
   Written by Ozzie Kotani
   Performed by Ozzie Kotani and Daniel Ho

4. JEAN'S THEME
   Written by Andrew Lein
   Performed by Steve Di Laudo and Andrew Lein

5. HI'ILAWE
   Traditional
   Arranged and Performed
   by Sonny Chillingworth

6. AN ARTIST'S VISION
   Written and Performed
   by Anthony Natividad

7. KA MELE OKU'U PU'UWAI
   Traditional
   Arranged by Solomon Ho'opi'i
   Performed by Sol Hoopii's Novelty Trio

8. KALENA KAI
   Written by John Kalapana
   Performed by Keola Beamer

9. KAUA'I BEAUTY
   Written by Henry Wai'au
   Arranged and Performed by Gabby Pahinui

10. PAPA SIA
    Written by Johnny Noble
    Performed by 'Elua Kane

EXHIBIT A

THE DESCENDANTS
Music Credits

11. LEAHI
Written by Mary Robins and Johnny Noble
Performed by Gabby Pahinui

12. AUWE
Written and Performed by Ray Kane

13. POLI`AHU
Written and Performed by Keola Beamer

14. HI`ILAWE
Traditional
Arranged and Performed by Gabby Pahinui

15. INTERLUDE WITH UKELELE
Written and Performed
by George Kahumoku, Jr. and Richard Ford

16. `IMI AU IA `OE
Written by Charles E. King & Queen Lydia Lili'uokalani
Arranged and Performed by Keola Beamer

17. HOLOHOLO KA`A
Written and Performed by Jeff Peterson

18. IN YA SYSTEM
Written by Don Kawaauhau, Shane Veincent and Caleb Richards
Performed by Sudden Rush
By arrangement with Robert Sterling Music New York

19. PUA LANI
Written and Performed by Jeff Peterson

20. NIGHT BLOOMING CEREUS
Written and Performed by Jeff Peterson and Riley Lee

21. HAWAIIAN SKIES
Written and Performed
by Jeff Peterson

22. DEEP IN AN ANCIENT HAWAIIAN FOREST
Written and Performed by Makana

23. MISS BEA
Written and Performed by McCoy Tyner
By arrangement with Manhattan Production Music

24. WAI O KE ANIANI
Traditional
Arranged and Performed by Gabby Pahinui

25. KA LOKE
Written by Mary Heanu and Johnny Noble
Performed by Makaha Sons with Dennis Pavao

26. `ULILI E
Written by Johnny Noble, Harry Naope and George Koahi
Performed by Rev. Dennis Kamakahi

27. ‘ULILI E
Written by Johnny Noble, Harry Naope and George Koahi
Performed by Jeff Peterson

28. PUA HONE
Written and Performed by Rev. Dennis Kamakahi

29. PINE TREE SLACK KEY
Written and Performed by Pancho Graham

30. WONDERLAND
Written and Performed by
Eugene Kulikov

31. SANOE
Written by Queen Lydia Lili`uokalani
Arranged and Performed by Danny Carvalho

32. NANI WAI`ALE`ALE
Written by Dan Pokipala, Sr.
Performed by Kanak Attack

33. THE YODEL SONG
Written by Gary Haleamau
Performed by Kanak Attack

THE DESCENDANTS
Music Credits

34. FAITH IN RAIN
Written by Maureen Davis and Adam Daniel
Performed by The Flutterbies featuring Maureen Davis

35. HUMMINGBIRD HEART
Written by Maureen Davis and Adam Daniel
Performed by The Flutterbies featuring Maureen Davis

36. HE`EIA
Written by David Bray, Linda Bray and Johnny Noble
Performed by Gabby Pahinui and Sons Of Hawaii

37. HAPUNA SUNSET
Written and Performed by
Charles Michael Brotman

38. THE HARSHEST PLACE ON EARTH
(from the motion picture March Of The Penguins)
Composed by Alex Wurman

39. HI`ILAWE
Traditional
Arranged by Bernie Ka`ai
Performed by Ernest Tavares

40. MOM
Written and Performed by Lena Machado

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 05, 2012 1:17 PM
To: EDTTestimony
Cc: rgalindez@islandfilmgroup.com
Subject: Testimony for SB2043 on 2/6/2012 1:30:00 PM

Testimony for EDT 2/6/2012 1:30:00 PM SB2043

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Ricardo Galindez
Organization: Individual
E-mail: rgalindez@islandfilmgroup.com
Submitted on: 2/5/2012

Comments:

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Expand motion picture, digital media and film production credit

BILL NUMBER: SB 2043; HB 1758 (Identical)

INTRODUCED BY: SB by Tsutsui by request; HB by Say by request

BRIEF SUMMARY: Amends HRS section 235-17 to increase the motion picture, digital media, and film production tax credit from 15% to ___% for the costs incurred in a county with a population over 700,000 for qualified production costs incurred by a qualified production company and from 20% to ___% for costs incurred in a county with a population of 700,000 or less. Allows taxpayers to claim a credit of ___% of the qualified special or visual effects and animation production costs incurred by a qualified production in the state, in addition to the motion picture income tax credit.

Allows taxpayers, between July1, 2012 and December 31, 2016, to claim a credit of ___% of the qualified costs incurred for qualified media infrastructure projects in any county with a population over 700,000; or ___% of the qualified costs incurred for qualified media infrastructure projects in any county with a population of 700,000 or less. To qualify for the credit: (1) the base investment for a qualified media infrastructure project shall be in excess of $________; (2) the qualified media infrastructure project tax credit shall be non-refundable so any tax credit that exceeds the tax liability of the taxpayer may be carried forward to offset net income tax liability in subsequent tax years for up to ten years or until exhausted, whichever occurs first. The director of taxation may require the tax credits to be taken or assigned in the tax period in which the credit is earned or may structure the tax credit in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more years; (3) the total qualified media infrastructure project tax credit allowed for any state-certified infrastructure project shall not exceed $___________; (4) if any portion of an infrastructure project is a facility that may be used for other purposes unrelated to production or post production activities, then the project shall be approved only if a determination is made that the multiple use facility will support and will be necessary to secure production or post production activity for the production and post production facility; provided that no tax credits shall be earned on such multiple use facilities until the production or post production facility is complete; (5) tax credits for infrastructure projects shall be earned only if: (a) construction of the infrastructure project begins within six months of the initial certification and shall be completed within a five-year time frame; (b) expenditures shall be certified by the director of taxation and credits shall not be earned until certification is received; (c) the tax credits shall be deemed earned at the time the expenditures are made, provided that all requirements of this subsection have been met and the tax credits have been certified; (6) for state-certified infrastructure projects, the application for a qualified media infrastructure project tax credit shall include: (a) a detailed description of the infrastructure project; (b) a preliminary budget; (c) a complete detailed business plan and market analysis; (d) estimated start and completion dates; and (e) if the application is incomplete, additional information may be requested prior to further action by the director of taxation; (7) an application fee (minimum of $400 to max of $5,000) of ___% times the estimated total incentive tax credits, shall be submitted with the application for a qualified media infrastructure project tax credit; (8) prior to any final certification of a tax credit for a state-certified infrastructure project, the applicant for the infrastructure project tax credit shall submit to the director of taxation an audit of the expenditures certified by an independent certified public accountant as determined by rule. Upon approval of the audit, the director of taxation shall issue a final tax credit certification letter indicating the amount of tax credits certified for the state-certified infrastructure project to the investors. Bank loan finance fees applicable to the qualified media infrastructure project expenditures, as certified by the director of taxation, and any general excise taxes that have been paid on the bank loan finance fees and remitted to the state may be included as part of the tax credit.

There shall be a qualified local crew training program rebate equal to ___% of the hourly wages of each resident participant in a qualified local crew training program up to the first ______ hours physically worked by the qualifying crew member in a specialized craft position.

Deletes the $8,000,000 million limit of the total production tax credits that may be claimed under this section per qualified production and provides that the qualified media infrastructure project income tax credits shall be capped at $__________ in the aggregate.

Allows a taxpayer eligible to claim a tax credit under this section to assign all or a portion of a tax credit under this section to any assignee. A tax credit assignment under this section shall be irrevocable and shall be made on a form prescribed by the director of taxation. A taxpayer claiming a tax credit under this section shall send a copy of the completed assignment form to the department of taxation in the tax year in which the assignment is made and shall attach a copy of the form to the tax return on which the tax credit is claimed.

Adds definitions of "base investment," "director," "qualified local crew training programs," "qualified media infrastructure project" and "qualified special or visual effects and animation production" for purposes of the measure.

Amends the definition of "qualified production costs" to include: (1) costs for equipment or items not readily obtainable in the state which are passed through a qualified resident vendor and upon which a mark-up and general excise tax are paid; (2) bank loan finance fees applicable to the qualified production expenditures as finally certified by the director of taxation to the extent that a general excise tax is paid and remitted to the state. For the purposes of this section, banks providing loans to qualified productions shall be considered service vendors that are providing services to a production company where the motion picture film product consists in part of the value of services provided and shall be subject to the one-half of one percent tax rate under HRS section 237-18(c).

EFFECTIVE DATE: July 1, 2012; applicable to tax years beginning after December 31, 2011

STAFF COMMENTS: The legislature by Act 107, SLH 1997, enacted an income tax credit of 4% for costs incurred as a result of producing a motion picture or television film in the state and 7.25% for transient accommodations rented in connection with such activity. The credit was adopted largely to address the impost of the state's general excise tax on goods and services used by film producers. The exclusion of income received from royalties was initially established by Act 178, SLH 1999, as an incentive to attract high technology businesses to Hawaii. The original proposal would have applied to royalties and other income received from high technology businesses. This section of the law was later amended in 2000 by Act 297 which added the inclusion of royalties from "performing arts products" and again amended by Act 221, SLH 2001, to include authors of "performing arts products."

In the early years of the Act 221 tax credits for investment in high technology enterprises and research, some film productions took advantage of that overly generous tax credit which provided a 100% tax credit for investment in such high technology ventures which at the time included digital media productions

Thus, when the legislature adopted Act 88, SLH 2006, which increased the 4% credit to 15% in a county with a population over 700,000 and to 20% in a county with a population of 700,000 or less, it appeared that the legislature was reining in the tax incentive for film productions and digital media. Act 88 also repealed the income tax credit for transient accommodations and expanded the credit to include commercials and digital media productions, and limited the credit to $8 million per qualified production.

These credits have been morphing and expanding into full-blown tax credits since they "got their foot in the door" in 1997. This measure proposes to increase the motion picture, digital media, and film production tax credit from 15% to ___% in a county with a population of 700,000 or over and from 20% to ___% in a county with a population of under 700,000. While the initial 4% credit for production costs may have been justified as alleviating this additional cost for film producers because such imposts may not be levied in other jurisdictions, increasing the amount of the credit amounts to nothing more than a generous subsidy of these productions by the state. That being the case, then an appropriation of state funds would be more accountable and transparent than a wide-open, back door tax credit.

The proposed measure also expands the existing motion picture, digital media and film production income tax credits to special or visual effects and animation and media infrastructure projects. As proposed in this measure there are new tax credits for: (1) ___% of the qualified special or visual effects and animation production costs; (2) qualified media infrastructure projects which may include rentals of any transient accommodations for cast and crew, certain equipment costs, bank loan finance fees attributable to a qualified production, and other direct production costs. This measure would also eliminate the $8 million cap of the tax credits which may be claimed by a qualified production.

It should be remembered that the perpetuation and expansion of the motion picture credits are a drain on the state treasury. Proponents of the film tax incentives like to argue that these productions create many jobs for residents and infuse millions of dollars into the state's economy, but truth be told, nearly all of the jobs filled by residents are temporary and are usually the lower paid positions. Proponents also argue that having an active film industry will create demand for skilled labor, however, if the price is continual subsidies, the cost of the subsidies mean the burden of taxation is shifted to all other taxpayers who are not so favored with a tax credit.

Proponents also argue that if Hawaii is to stay in the game in competition for such productions, it must continue to provide incentives to attract those productions to Hawaii. While nearly all the states offer some sort of financial incentives, only eight of the states, including Hawaii, provide for an open-ended subsidy, that is there is no aggregate cap to the number of film production credits it can hand out in any one year. The majority of the states with such film tax incentives actually appropriate moneys to fund their programs and have boards or committee to evaluate proposed productions as to the impact they will have on a state's economy. Certainly the idea of making such film production incentives permanent sell Hawaii short of its natural attributes as an ideal place to make films and television series.

Lawmakers need to acknowledge that by conferring such subsidies on a particular activity, such as film production, means that it is revenue forgone that would otherwise have been used to fund public services or in the alternative allowed lawmakers to lower the burden of taxes on all taxpayers. It is incredulous how lawmakers can bemoan the fact that there are insufficient resources to catch up on the backlog of school repairs and maintenance, to fund social programs and not being able to provide tax relief to residents and yet they are willing to throw additional public resources at a subsidy of film productions and media infrastructure as proposed in this measure. Taxpayers should be insulted that lawmakers can provide breaks for film productions but refuse to provide tax relief for residents, many of whom work two or three jobs just to keep a roof over their head and food on the table.

There is absolutely no rational basis for this proposal that the credits be increased and expanded to include media infrastructure projects, other than that other states are offering similar tax credits. Then again those states can't offer paradise, year-round good weather during which to film. Instead of utilizing back door subsidies through tax credits, film industry advocates need to promote the beauty that is synonymous with Hawaii.

Income tax credits are designed to reduce the tax burden by providing relief for taxes paid. Tax credits are justified on the basis that taxpayers with a lesser ability to pay should be granted relief for state taxes imposed. While the sponsors try to make an argument that Hawaii needs to enact such an incentive to compete for this type of business, one has to ask "at what price?" Promoters of the film industry obviously don't give much credit to Hawaii's natural beauty and more recently its relative security. Just ask the actors of "Lost" or "Hawaii 5-0" who have bought homes here if they would like to work elsewhere. While film producers may moan that they will lose money without the proposed tax credits, is there any offer to share the wealth when a film makes millions of dollars? If promoters of the film industry would just do their job in outlining the advantages of doing this type of work in Hawaii and address some of the costly barriers by correcting them, such tax incentives would not be necessary. From permitting to skilled labor to facilitating transportation of equipment, there are ways that could reduce the cost of filming in Hawaii. Unless these intrinsic elements are addressed, movie makers will probably demand subsidies, such as this incentive. Unfortunately, they come at the expense of all taxpayers and industries struggling to survive in Hawaii. While lawmakers look like a ship of fools, movie producers and promoters are laughing all the way to the bank and the real losers in this scenario are the poor taxpayers who continue to struggle to make ends meet.

So while there may be the promise of a new industry and increased career opportunities, lawmakers must return to the cold hard reality of solving the problems at hand. The long and short of it is that due in large part to the irresponsibility of handling state finances in the past, taxpayers cannot afford proposals like this. Thanks to the gushing generosity of those lawmakers who gave the state's bank away in all sorts of tax incentive schemes in recent years, taxpayers cannot afford what looks like a promising opportunity.

Robert Tannenwald, a senior fellow at the Center for Budget and Policy Priorities, drew the following conclusions in a report entitled "State Film Subsidies Offer 'Little Bang for the Buck'," published in State Tax Notes Magazine, December 13, 2010:

> "State film subsidies are a wasteful, ineffective, and unfair instrument of economic development. While they appear to be a "quick fix" that provides jobs and businesses to state residents with only a short lag, in reality they benefit mostly nonresidents, especially well-paid nonresident film and TV professionals. Some

residents benefit from these subsidies, but most end up paying for them in the form of fewer services - such as education, healthcare and police and fire protection - or higher taxes elsewhere. The benefits to the few are highly visible; the costs to the majority are hidden because they are spread so widely and detached from the subsidies.

State governments cannot afford to fritter away scarce public funds on film subsidies, or, for that matter, any other wasteful tax break. Instead, policymakers should broaden the base of their taxes to create a fairer and more neutral tax system. Economic development funds should be targeted on programs that are much more likely to e effective in the long run, such as support of education and training, enhancement of public safety, and maintenance and improvement of public infrastructure. Effective public support of economic development may not be glamorous, but at its best, it creates lasting benefits for residents from all walks of life."

Digested 2/2/12