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
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt
Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
Tuesday, February 12, 2013
9:00 AM
State Capitol, Conference Room 312
in consideration of
HB698
RELATING TO TAXATION.

Chair Tsuji, Vice Chair Ward, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent with comments on HB698 which amends HRS 235-17; by: 1) adding workforce and infrastructure incentive credits; 2) establishing a qualified crew training program rebate; 3) a fee to apply for the tax credit; 4) increasing the cap of the tax credit; and 5) requiring a waiver to include wages of nonresident crew in qualified production costs section; and 6) extending the sunset date to January 1, 2018.

Due to the numerous fiscal, as well as staffing impacts of this proposal, the department prefers HB799 which extends the sunset date to January 1, 2025, increases the per production cap from $8 million to $12 million and includes internet distribution as a qualified activity. We also support HB566 which addresses the infrastructure aspects of this measure, provided its passage does not adversely impact the priorities of the executive budget. While there are merits to a workforce training program, it should be considered once new facilities are completed and in concert with Hawaii's film labor unions.

Please note that should any infrastructure credits pass this session, the film office will require additional staffing and resources to manage the program. We recognize that these proposed amendments, particularly the sunset date extension, will continue to do what the Legislature intended, which is to grow our film and digital media sectors. Thank you for the opportunity to testify on this measure.

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

BILL NUMBER: SB 401; HB 698 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki, Brower, Evans, Hanohano, Ing, Kawakami, Lee, Lowen, McKelvey, Mizuno, Nishimoto and 3 Democrats

BRIEF SUMMARY: Amends HRS section 235-17 to increase the motion picture, digital media, and film production tax credit from 15% to 20% 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 25% for costs incurred in a county with a population of 700,000 or less.

Allows taxpayers, between July1, 2013 and December 31, 2017, to claim: (1) a work credit of 5% of the qualified production costs incurred by a qualified production in the state; provided that the qualified production films at least 50% of its principal photography in the state or films at least nine consecutive episodes of a television program in a calendar year in the state; and (2) an infrastructure incentive credit of 10% of the qualified production costs incurred by a qualified production in any county of the state; provided that the production qualifies for the work credit if: (a) a qualified production with a budget of $30,000,000 or less, the qualified production builds a set and films for a minimum of one week at a qualified production facility; or (b) a qualified production with a budget of more than $30,000,000 and the qualified production builds a set and films for a minimum of two weeks at a qualified production facility.

There shall be a qualified persons crew training and advancement program rebate that shall be equal to 50% of the hourly wages of each resident participant in a qualified persons crew training and advancement program. A taxpayer claiming a rebate under this section shall be reimbursed up to the first nine hundred hours physically worked by the qualifying crew member in a specialized craft position. This program shall be supported by the application fee paid by a qualified production and to qualify for a rebate, a taxpayer shall hire a minimum of five qualified persons as trainees on each qualified production.

If the qualified production tax credit exceeds the taxpayer's income tax liability, the excess of credits over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than $1. The state shall not be obligated to make the refund earlier than 18 months from the date of the end of principal photography of the qualified production.

Increases the $8 million limit of the total production tax credits that may be claimed to $25 million.

Amends the definition of "qualified production costs" to include the costs of set construction and operations, purchases or rentals of wardrobe, props, accessories, food, office supplies, transportation, equipment, and related services that are not available in the state. The services shall be qualified only if they are obtained through an existing resident vendor that provides similar services and a mark-up and general excise tax are paid upon the services. Also provides that qualified production costs shall include wages or salaries of: (a) above-the-line crew (cast, directors, producers, and writers) and musicians; (b) below-the-line resident crew; and (c) below-the-line nonresident crew provided that a waiver is granted by the applicable local union or guild and certified by the Hawaii film office. Further provides that a waiver shall be issued when a resident crew from the Hawaii qualified crew roster prepared by the local unions, guilds, and the Hawaii film office is not available or proficient at a specialized craft position. A "qualified production facility" means a sound stage, built after July 1, 2013, with development costs of at least $10 million; or an existing sound stage, warehouse, or other building structure that has been renovated after July 1, 2013 with capital improvement costs equal to at least $10 million for the purpose of renting production or filming space to qualified productions.

Adds defines "qualified person" and "qualified person crew training and advancement program" for purposes of the measure.

Amends Act 88, SLH 2006, to provide that the motion picture, digital media and film production income tax credit shall be applicable to qualified expenditures incurred on or after July 1, 2006 and before January 1, 2018. Extends the repeal date of this act from January 1, 2016 to January 1, 2018.

EFFECTIVE DATE: July 1, 2013

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 legislature by Act 88, SLH 2006, 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. 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. The proposed measure: (1) increases the amount of the credit; (2) expands the credit to include a work credit of 5% of the qualified production costs of a qualified production; (3) expands the credit to include an infrastructure incentive tax credit of 10% of the qualified production costs incurred by a qualified production provided the qualified production builds a set; and (4) establishes a qualified person crew training and advancement program rebate of 50% of the hourly wages of resident participants of a qualified persons crew training and advancement program.

The flushing of state tax resources down the film industry hole needs to be juxtaposed against all of the other proposals introduced this session raising millions of dollars with a fee here and a fee there. While Hawaii residents are nickeled and dimed for single-use bags, sugary drinks, motor vehicle registration fees and the like that will raise $30 million here and another $15 million there, the state is giving away precious tax dollars so that film producers can shoot their productions in Hawaii. The tax system is designed to raise the funds necessary to operate government. The tax system should not be used to shape social or economic policy.

These motion picture credits have been morphing and expanding into full-blown tax credits since they "got their foot in the door" in 1997. It should be remembered that the perpetuation and expansion of the motion picture credits are a drain on the state treasury. 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 or for that matter begin to address the unfunded liabilities of the state employee pension and health systems, yet they are willing to throw additional public resources at a subsidy of film production and media infrastructure. 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 or fall below the federal poverty line yet still have to pay state income taxes.

There is absolutely no rational basis for expanding these tax credits 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 be 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."

Finally, given all of the other proposals by the administration to exact this or that fee or tax out of the economy and from Hawaii's residents, one must ask just how much can we afford? At the very time, Hawaii residents are being asked to chip in another dime for a single-use bag, or another dollar on their vehicle registration fee for a parking program for the disabled, or a penny per ounce on sugary drinks, can taxpayers really afford to hand out millions of dollars in tax credits to a film production in the promise that it will bring more jobs. Let's see, we are going to put people out of business by raising taxes and fees to create jobs for people who will have no where to go to buy their plate lunch. Instead of handing out tax credits for which lawmakers have no clue of the overall drain on state tax dollars, subsidies for these film productions, if that is what lawmakers believe is needed, should be subject to legislative review and appropriation like any other expenditure of state tax dollars.

Instead of handing out a tax credit to build the film infrastructure, be it a studio or a sound stage, lawmakers should appropriate a specific sum of money and put out a request for proposals to build such a project and see which bidder would come forward with the best proposal and offer to match the state's share. This way, each bidder could be evaluated as to what they have to offer and what benefit the state would get. Inasmuch as the state would probably be able to offer the land for such a facility, it could also offer a streamlined permitting process which would also be an in-kind contribution. Based on the responses to the request, a careful review done by experts in the field could be made and the best proposal selected. The persons responsible for making the final selection would then be held accountable for their selection and provide the justification for the selection. This lends far more transparency to the process than the proposed tax credit.

Digested 2/11/13

MAUI CHAMBER OF COMMERCE

OUR BUSINESS IS MAUI BUSINESS

Testimony in Support of Bills HB698 & HB726
Relating to Tax Credits for the Film Industry

Submitted to the Committee on
Economic Development & Business
Conference Room 312 at 9am
February 12, 2013

Dear Chair Tsuji, Vice-Chair Ward & Members of the Committee,

The Maui Chamber of Commerce supports HB698 & HB726 to help develop Hawaii's film and media industries as these industries:

- Strengthen and further diversify our economy statewide;
- Generate new investment in production and other facilities;
- Create additional, meaningful, jobs;
- Provide training and new career opportunities for our youth;
- Produce partnership and supplier opportunities to benefit many businesses statewide;
- Leverage investments made in developing Hawaii's film industry to date;
- Expand upon an industry that embraces our natural beauty, storytelling abilities, creative and other talents;
- Benefit our visitor industry and economic engine through additional exposure from more projects being created here; and
- Maximize the real prospect before us to boost our film industry and see our revenues multiple many times over from the interest expressed by numerous media companies thus far, as well as those who will come once we create this incentive.

We have a phenomenal opportunity to help turn our economy around, further develop what we have been building for years, take it to another level, and create a substantial return on our investment. It makes complete sense to us and expanding our economic pie should be a top priority.

We therefore support HB698 & HB726 to capture this opportunity and reap the rewards in the short-term and for generations to come.

Sincerely

Pamela Tumpap
President

270 Hookahi Street ♦ Suite 212 ♦ Wailuku ♦ Hawaii ♦ 96793♦ *t* 808.244.0081♦ *f* 808.244-0083 ♦ www.MauiChamber.com

edbtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 11, 2013 1:04 PM
To: edbtestimony
Cc: rgalindez@islandfilmgroup.com
Subject: *Submitted testimony for HB698 on Feb 12, 2013 09:00AM*

HB698
Submitted on: 2/11/2013
Testimony for EDB on Feb 12, 2013 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Ricardo Galindez		Support	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing , improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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edbtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 11, 2013 7:51 AM
To: edbtestimony
Cc: tabraham08@gmail.com
Subject: *Submitted testimony for HB698 on Feb 12, 2013 09:00AM*

HB698
Submitted on: 2/11/2013
Testimony for EDB on Feb 12, 2013 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

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