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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM.

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

1           SECTION 1. The legislature recognizes the economic and  
2 tourism benefits of Hawaii's film and creative industries, which  
3 represent fifty-four thousand entrepreneurs and businesses in  
4 the film, media, arts, culture, music, design, interactive,  
5 literary, broadcasting, and publishing industries. These  
6 industries are the foundation of Hawaii's creative economy.  
7 Anchored by the State's film industry, which had a record year  
8 in 2018 of an estimated \$477,000,000 in production expenditures,  
9 these collective industry clusters, along with technology, are  
10 integral to the State's innovation economy. Representing  
11 \$3,600,000,000 of Hawaii's gross domestic product and cited as  
12 one of the State's emerging industry clusters in a recent report  
13 from the research and economic analysis division of the  
14 department of business, economic development, and tourism, the  
15 legislature sees the creative sectors as key facets of the  
16 State's innovation strategy. With local screenwriters and



1 songwriters from Hawaii island to Hanalei successfully pitching  
2 and having their work produced for networks, such as Lifetime  
3 Television, and licensing original songs for placement in many  
4 television series, such as Fox's "Empire" or CW's "Nashville",  
5 the growth of entrepreneurial creative sector jobs in film and  
6 media are accelerating, aided by initiatives such as Creative  
7 Lab Hawaii, Ohina Labs, Hawaii Women and Film, and Pacific  
8 Islanders in Communications.

9       The creative industries division of the department of  
10 business, economic development, and tourism has grown beyond the  
11 startup phase in 2003 into a catalyst for our innovation economy  
12 through its expanded responsibilities to develop talent,  
13 infrastructure, and access to capital. The creative industries  
14 division focused on key initiatives including strengthening  
15 operations at the Hawaii film office, developing a pipeline of  
16 creative talent and workforce, providing creative access to  
17 decision-makers in media, music, and fashion design, providing  
18 creative co-working sites, and partnering with the university of  
19 Hawaii and the private sector to develop a commercial creative  
20 media sound stage and incubator facility in west Oahu, which  
21 will generate a pipeline of opportunities for students,



1 generating high-wage jobs in creative media sectors statewide  
2 and in the region.

3 The creative industries division is composed of the Hawaii  
4 film office, as well as the arts and culture development branch.  
5 The legislature finds that a restructuring of these  
6 organizations is needed to better provide growth in jobs within  
7 the State's creative sectors. The legislature also recognizes  
8 the need to better serve the neighbor islands to ensure that  
9 they are integrated into an overall strategy of growth for the  
10 State's creative economy. Therefore, it is in the interest of  
11 the State to rename the creative industries division as the  
12 office of creative, film, and media industries Hawaii, and  
13 transfer the employees and resources of the Hawaii film office  
14 to the office of creative, film, and media industries Hawaii.

15 Furthermore, the legislature finds that the creative  
16 industries division and the Hawaii film office have also been  
17 responsible for meeting the statutory requirements of film  
18 permitting and management with regard to the motion picture,  
19 digital media, and film production income tax credit. It is  
20 crucial to ensure that the State's investment in these  
21 industries will continue to be managed by accounting and audit



1 staffing in the office of creative, film, and media industries  
2 Hawaii. As recommended in the department's response to a 2016  
3 state auditor's report, the legislature concurs that additional  
4 positions dedicated to management, data collection, tracking,  
5 and reporting are critical to protecting the State's investment  
6 in this core industry. Therefore, the legislature finds that to  
7 adequately fulfill and strengthen Hawaii's creative economy, the  
8 office of creative, film, and media industries Hawaii must be  
9 provided with adequate staffing.

10 Accordingly, the purpose of this Act to:

- 11 (1) Require the department of business, economic  
12 development, and tourism to rename the creative  
13 industries division as the office of creative, film,  
14 and media industries Hawaii and establish the office  
15 in statute;
- 16 (2) Provide that the Hawaii film office and the arts and  
17 culture development branch shall be agencies of the  
18 office of creative, film, and media industries Hawaii;
- 19 (3) Require Hawaii film office employees and the arts and  
20 culture development branch to be transferred to the



1 office without any consequence to their employment  
2 benefits or status;

3 (4) Rename the Hawaii television and film development  
4 special fund as the creative, film, and media  
5 development special fund, and expand the uses of the  
6 fund to support creative intellectual property and  
7 related infrastructure development within the  
8 department of business, economic development, and  
9 tourism; and

10 (5) Provide appropriations for the office of creative,  
11 film, and media industries Hawaii and other creative  
12 media related expenses.

13 SECTION 2. Chapter 201, Hawaii Revised Statutes, is  
14 amended by adding a new section to part IX to be appropriately  
15 designated and to read as follows:

16 "§201- Office of creative, film, and media industries  
17 Hawaii; administration; Hawaii film office. (a) The department  
18 of business, economic development, and tourism shall establish  
19 an office of creative, film, and media industries Hawaii within  
20 the department.





1 "Creative industries" means sectors which comprise the  
2 State's creative economy, including but not limited to arts,  
3 culture, music, design, fashion, publishing, animation, and  
4 interactive and emerging media.

5 "Creative media" includes film, motion pictures,  
6 television, interactive, over-the-top direct-to-consumer  
7 television, virtual reality, multi-player videogames, and other  
8 digitally developed content for theatrical or digital  
9 distribution, streaming, mobile, and broadcast media.

10 "Department" means the department of business, economic  
11 development, and tourism.

12 "Fund" means the [Hawaii television and film] creative,  
13 film, and media development special fund.

14 ~~["Venture capital investment" means any of the following~~  
15 ~~investments in a project:~~

16 ~~(1) Common or preferred stock and equity securities~~  
17 ~~without a repurchase requirement for at least five~~  
18 ~~years;~~

19 ~~(2) A right to purchase stock or equity securities;~~

20 ~~(3) Any debenture, whether or not convertible or having~~  
21 ~~stock purchase rights, which is subordinated, together~~



1           ~~with security interests against the assets of the~~  
2           ~~borrower, by their terms to all borrowings of the~~  
3           ~~borrower from other institutional lenders, and that is~~  
4           ~~for a term of not less than three years, and that has~~  
5           ~~no part amortized during the first three years, and~~  
6           ~~(4) General or limited partnership interests.] "~~

7           SECTION 5. Section 201-113, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           " [{} §201-113 [{} ~~Hawaii television and film~~] Creative, film,  
10 and media development special fund. (a) There is established  
11 in the state treasury the [~~Hawaii television and film~~] creative,  
12 film, and media development special fund into which shall be  
13 deposited:

- 14           (1) Appropriations by the legislature;  
15           (2) Donations and contributions made by private  
16           individuals or organizations for deposit into the  
17           fund;  
18           (3) Grants provided by governmental agencies or any other  
19           source; [~~and~~  
20           ~~(4) Any profits or other amounts received from venture~~  
21           ~~capital investments.]~~





1       (4) Thirty-five per cent of all revenues, fees, and  
2       charges from the rental and operation of Hawaii film  
3       studios and post-production facilities operated or  
4       managed by the department, effective on July 1, 2019;

5       (5) All revenues, fees, and charges from the processing of  
6       film permits pursuant to section 201-14, effective on  
7       July 1, 2020; and

8       (6) All revenues, fees, and charges from the processing of  
9       the motion picture, digital media, and film production  
10       income tax credit pursuant to section 235-17,  
11       effective January 1, 2020.

12       (b) ~~The fund shall be used by the [board to assist in, and~~  
13 ~~provide incentives for, the production of eligible Hawaii~~  
14 ~~projects that are in compliance with criteria and standards~~  
15 ~~established by the board in accordance with rules adopted by the~~  
16 ~~board pursuant to chapter 91. In particular, the board shall~~  
17 ~~adopt rules to provide for the implementation of the following~~  
18 ~~programs:~~

19       ~~(1) A grant program. The board shall adopt rules pursuant~~  
20       ~~to chapter 91 to provide conditions and qualifications~~  
21       ~~for grants. Applications for grants shall be made to~~



1 ~~the board and shall contain such information as the~~  
2 ~~board shall require by rules adopted pursuant to~~  
3 ~~chapter 91. At a minimum, the applicant shall agree~~  
4 ~~to the following conditions:~~

5 ~~(A) The grant shall be used exclusively for eligible~~  
6 ~~Hawaii projects;~~

7 ~~(B) The applicant shall have applied for or received~~  
8 ~~all applicable licenses and permits;~~

9 ~~(C) The applicant shall comply with applicable~~  
10 ~~federal and state laws prohibiting discrimination~~  
11 ~~against any person on the basis of race, color,~~  
12 ~~national origin, religion, creed, sex, age, or~~  
13 ~~physical handicap;~~

14 ~~(D) The applicant shall comply with other~~  
15 ~~requirements as the board may prescribe;~~

16 ~~(E) All activities undertaken with funds received~~  
17 ~~shall comply with all applicable federal, state,~~  
18 ~~and county statutes and ordinances;~~

19 ~~(F) The applicant shall indemnify and save harmless~~  
20 ~~the State of Hawaii and its officers, agents, and~~  
21 ~~employees from and against any and all claims~~



1 ~~arising out of or resulting from activities~~  
2 ~~carried out or projects undertaken with funds~~  
3 ~~provided hereunder, and procure sufficient~~  
4 ~~insurance to provide this indemnification if~~  
5 ~~requested to do so by the department;~~

6 ~~(G) The applicant shall make available to the board~~  
7 ~~all records the applicant may have relating to~~  
8 ~~the project, to allow the board to monitor the~~  
9 ~~applicant's compliance with the purpose of this~~  
10 ~~chapter; and~~

11 ~~(H) The applicant, to the satisfaction of the board,~~  
12 ~~shall establish that sufficient funds are~~  
13 ~~available for the completion of the project for~~  
14 ~~the purpose for which the grant is awarded; and~~

15 ~~(2) A venture capital program. The board shall adopt~~  
16 ~~rules pursuant to chapter 91 to provide conditions and~~  
17 ~~qualifications for venture capital investments in~~  
18 ~~eligible Hawaii projects. The program may include a~~  
19 ~~written agreement between the borrower and the board,~~  
20 ~~as the representative of the State, that as~~  
21 ~~consideration for the venture capital investment made~~



~~under this part, the borrower shall share any royalties, licenses, titles, rights, or any other monetary benefits that may accrue to the borrower pursuant to terms and conditions established by the board by rule pursuant to chapter 91. Venture capital investments may be made on such terms and conditions as the board shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of this part.]~~

department to provide for:

- (1) A grant program to provide seed capital for creative intellectual property development projects for export, as determined by the department;
- (2) Programs that expand the skills of the State's resident workforce in the creative industries; and
- (3) Marketing programs that attract business opportunities within the creative, film, and media industries in the State."

SECTION 6. Section 201-114, Hawaii Revised Statutes, is repealed.



1       ~~["§201-114] Inspection of premises and records. The~~  
2       ~~board shall have the right to inspect, at reasonable hours, the~~  
3       ~~plant, physical facilities, equipment, premises, books, and~~  
4       ~~records of any applicant in connection with the processing of a~~  
5       ~~grant to the applicant."]~~

6       SECTION 7. Notwithstanding the renaming of the creative  
7       industries division as the office of creative, film, and media  
8       industries Hawaii as provided in this Act, the office of  
9       creative, film, and media industries Hawaii shall continue to be  
10      maintained without any reduction in staffing or funding, and all  
11      officers and employees of the office shall continue to perform  
12      their functions and duties under this Act.

13      SECTION 8. All rights, powers, functions, and duties of  
14      the Hawaii film office of the creative industries division are  
15      transferred to the office of creative, film, and media  
16      industries Hawaii.

17      All employees who occupy civil service positions and whose  
18      functions are transferred to the office of creative, film, and  
19      media industries Hawaii by this Act shall retain their civil  
20      service status, whether permanent or temporary. Employees shall  
21      be transferred without loss of salary, seniority (except as



1 prescribed by applicable collective bargaining agreements),  
2 retention points, prior service credit, any vacation and sick  
3 leave credits previously earned, and other rights, benefits, and  
4 privileges, in accordance with state personnel laws and this  
5 Act; provided that the employees possess the minimum  
6 qualifications and public employment requirements for the class  
7 or position to which transferred or appointed, as applicable;  
8 provided further that subsequent changes in status may be made  
9 pursuant to applicable civil service and compensation laws.

10 Any employee who, prior to this Act, is exempt from civil  
11 service and is transferred as a consequence of this Act may  
12 retain the employee's exempt status, but shall not be appointed  
13 to a civil service position as a consequence of this Act. An  
14 exempt employee who is transferred by this Act shall not suffer  
15 any loss of prior service credit, vacation or sick leave credits  
16 previously earned, or other employee benefits or privileges as a  
17 consequence of this Act; provided that the employees possess  
18 legal and public employment requirements for the position to  
19 which transferred or appointed, as applicable; provided further  
20 that subsequent changes in status may be made pursuant to  
21 applicable employment and compensation laws. The chief officer



1 of the office of creative, film, and media industries Hawaii may  
2 prescribe the duties and qualifications of these employees and  
3 fix their salaries without regard to chapter 76, Hawaii Revised  
4 Statutes.

5 SECTION 9. All appropriations, records, equipment,  
6 machines, files, supplies, contracts, books, papers, documents,  
7 maps, and other personal property heretofore made, used,  
8 acquired, or held by the Hawaii film office relating to the  
9 functions transferred to the office of creative, film, and media  
10 industries Hawaii shall be transferred with the functions to  
11 which they relate.

12 SECTION 10. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$ or so  
14 much thereof as may be necessary for fiscal year 2019-2020 and  
15 the same sum or so much thereof as may be necessary for fiscal  
16 year 2020-2021, to be expended by the department of business,  
17 economic development, and tourism as follows:

18 (1) \$ to support creative media laboratory  
19 programs on neighbor islands; and

20 (2) \$ for website development for the office of  
21 creative, film, and media industries Hawaii.



1       The sums appropriated shall be expended by the department  
2 of business, economic development, and tourism for the purposes  
3 of this Act.

4       SECTION 11. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$                   or so  
6 much thereof as may be necessary for fiscal year 2019-2020 and  
7 the same sum or so much thereof as may be necessary for fiscal  
8 year 2020-2021 for equipment and staffing for creative media co-  
9 working sites on multiple islands statewide.

10       The sums appropriated shall be expended by the department  
11 of business, economic development, and tourism for the purposes  
12 of this Act.

13       SECTION 12. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15       SECTION 13. This Act shall take effect upon its approval;  
16 provided that sections 10 and 11 shall take effect on July 1,  
17 2019.





**Report Title:**

DBEDT; Office of Creative, Film, and Media Industries Hawaii;  
Creative, Film, and Media Development Special Fund;  
Appropriation

**Description:**

Establishes the Office of Creative, Film, and Media Industries Hawaii and provides that the Hawaii Film Office and Arts and Culture Development Branch shall be agencies of the Office. Requires Hawaii Film Office employees to be transferred to the Office without any consequence to employment benefits or status. Renames the Hawaii Television and Film Development Special Fund as the Creative, Film, and Media Development Special Fund and expands the funding sources and uses of the fund. Appropriates funds for operations and programs. (SD1)

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

