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# A BILL FOR AN ACT

RELATING TO DIGITAL MEDIA.

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

PART I

1  
2 SECTION 1. The purpose of this Act is to leverage the  
3 unique opportunities for digital media industry development in  
4 Hawaii that converged when Governor Lingle and Disney  
5 Productions announced in January 2010 that the company plans to  
6 film the popular "Pirates of the Caribbean" series on Kauai and  
7 Oahu this summer, which coincides with University of Hawaii's  
8 (UH's) groundbreaking for the long-awaited UH-West Oahu campus.

9 The UH-West Oahu Campus will house such centers of  
10 excellence as the Academy for Creative Media's (ACM) Student  
11 Digital Media Production Facility, which will provide global-  
12 standard student facilities to anchor the premiere media school  
13 of the Pacific Rim, and a state-of-the-art Motion Picture and  
14 Digital Media Studio Complex to serve film and video production.  
15 The complex includes four sound stages, two production support  
16 buildings, a mill/shop and extension, commissary/kitchen,  
17 festival pavilion and screening room to host event and  
18 conferences, and extra stage, back-lot retail/shopping/dining



1 area and office buildings that could provide incubator space for  
2 new media companies. The UH-West Oahu campus will also house  
3 the Henry Ku'ualoha Giugni Digital Archives, which is designed  
4 to preserve, digitize, and make accessible on the Internet the  
5 moving image history of Hawaii.

6 The digital media tax incentives in this measure are also  
7 designed to align the strengths of the UH system with the  
8 creativity of UH ACM graduates and the talented media workforce  
9 from leeward Oahu emerging from the Waianae Seariders' pipeline  
10 since 1998, and from the schools and businesses that the  
11 Seariders have helped to incubate. The digital media production  
12 infrastructure credits and workforce development credits for  
13 animation/special effects target new media industry development,  
14 educational public-private facility/infrastructure development  
15 and job creation with a focus on measurable economic benefits  
16 over time, by requiring that beneficiaries of the credit locate  
17 in enterprise zones. At present, the current and new UH-West  
18 Oahu campuses are located in an existing enterprise zone  
19 covering most of the Kapolei region, with Leeward Community  
20 College and Honolulu Community College also located



1 within existing enterprise zones. Neighbor island community  
2 college campuses on Maui, Kauai, and Big Island are in  
3 enterprise zones, as is the UH-Hilo campus on the Big Island.

4 SECTION 2. Chapter 209E, Hawaii Revised Statutes, is  
5 amended by adding a new part to be appropriately designated and  
6 to read as follows:

7 "PART . DIGITAL MEDIA ENTERPRISE SUBZONES

8 §209E-A Definitions. As used in this part:

9 "Base investment" means the cost, including fabrication and  
10 installation, paid or accrued in the taxable year of tangible  
11 assets of a type that are, or under the Internal Revenue Code  
12 will become, eligible for depreciation, amortization, or  
13 accelerated capital cost recovery for federal income tax  
14 purposes; provided that the assets are physically located in  
15 this State for use in a business activity in this State and are  
16 not mobile tangible assets expended by a person in the  
17 development of a qualified digital media infrastructure project.  
18 Base investment does not include a direct production expenditure  
19 or qualified personnel expenditure eligible for a tax credit  
20 under section 235-17.

21 "Department" means the department of business, economic  
22 development, and tourism.



1 "Digital media" shall have the same meaning as in section  
2 235-17.

3 "Digital media enterprise subzone" means a geographic area  
4 that is located within an enterprise zone established pursuant  
5 to part I of this chapter and:

6 (1) Is located within a mile radius of a University  
7 of Hawaii campus, on or off campus; or

8 (2) Is any other delineated geographic area designated as  
9 a digital media enterprise subzone by the legislature  
10 pursuant to this part;

11 provided that effective July 1, 2010, and for the first two  
12 years thereafter, "digital media enterprise subzone" shall be  
13 limited to a geographic area located within an enterprise zone,  
14 and within a mile radius, on or off campus, of the  
15 University of Hawaii-West Oahu.

16 "Director" means the director of business, economic  
17 development, and tourism.

18 "Qualified digital media infrastructure project" means the  
19 development, construction, renovation, or operation of a digital  
20 media production facility, a postproduction facility, or both,  
21 that is located in this State within a digital media enterprise  
22 subzone; provided that the facility may include a movie theater



1 or other commercial exhibition facility to assist in offsetting  
2 operating costs of the production or postproduction facility,  
3 but shall not include a facility used to produce pornographic  
4 matter or a pornographic performance.

5 **§209E-B Digital media infrastructure tax credit. (a)**

6 There shall be allowed to a taxpayer qualifying for a tax credit  
7 under this part and subject to the taxes imposed under chapter  
8 235, a tax credit that shall be deductible from the taxpayer's  
9 net state income tax liability for investment expenditures made  
10 by the taxpayer for all qualified digital media infrastructure  
11 projects within a digital media enterprise subzone. The tax  
12 credit shall be equal to \_\_\_\_\_ per cent of the taxpayer's  
13 base investment. The tax credit under this section shall be  
14 reduced by any credit claimed by the taxpayer under chapter 235  
15 for the same base investment.

16 (b) No more than \$ \_\_\_\_\_ in total tax credits under  
17 this section shall be authorized in any one taxable year.

18 (c) If all or a portion of a qualified digital media  
19 infrastructure project is a facility that may be used for  
20 purposes unrelated to production or postproduction activities,  
21 then the project shall be eligible for the tax credit provided  
22 under this section only if the department determines that the



1 facility will support and be necessary to secure production or  
2 postproduction activity for the production and postproduction  
3 facility and the taxpayer agrees to both of the following:

4 (1) The facility will be used as a state of the art  
5 production or postproduction facility or as support  
6 and component of the facility for the useful life of  
7 the facility; and

8 (2) The tax credit will not be claimed under this section  
9 until the facility is complete.

10 (d) To claim a tax credit under this section, a taxpayer  
11 shall submit an investment expenditure certificate issued under  
12 section 209E-C to the department. If the tax credit allowed  
13 under this section exceeds the amount of taxes owed by the  
14 taxpayer under chapter 235 for a tax year, that portion of the  
15 tax credit that exceeds the tax liability of the taxpayer for  
16 the tax year shall not be refunded but may be carried forward to  
17 offset net income tax liability under chapter 235 in subsequent  
18 tax years for a period not to exceed ten tax years or until  
19 exhausted, whichever occurs first.

20 (e) The tax credit under this section shall be claimed  
21 after all other tax credits available to the taxpayer have been  
22 claimed. A taxpayer eligible to claim a tax credit under this



1 section may assign all or a portion of a tax credit under this  
2 section to any assignee. An assignee may subsequently assign a  
3 tax credit or any portion of a tax credit assigned under this  
4 subsection to one or more assignees. A taxpayer may claim a  
5 portion of a tax credit and assign the remaining tax credit  
6 amount. A tax credit assignment under this subsection shall be  
7 irrevocable. The tax credit assignment under this subsection  
8 shall be made on a form prescribed by the department. A  
9 taxpayer claiming a tax credit under this section shall send a  
10 copy of the completed assignment form to the department in the  
11 tax year in which the assignment is made and shall attach a copy  
12 of the form to the tax return on which the tax credit is  
13 claimed.

14 (f) In addition to the \$100 application fee established  
15 under section 209E-C(b), the department may establish, assess,  
16 and collect a tax credit certification fee to cover the costs of  
17 administering the tax credit certification program established  
18 under this part. The fee shall not exceed one-half of one per  
19 cent of the tax credit claimed, and shall be paid to the department  
20 by the taxpayer prior to filing for the tax credit. The  
21 department shall deposit any proceeds derived from the fee in



1 the Hawaii film office special fund established under section  
2 201-113.

3 (g) A taxpayer that wilfully submits information under  
4 this section that the taxpayer knows to be fraudulent or false  
5 shall be, in addition to any other penalties provided by law,  
6 liable for a civil penalty equal to the amount of the taxpayer's  
7 credit under this section. A penalty collected under this  
8 section shall be deposited in the Hawaii film office special  
9 fund established under section 201-113.

10 §209E-C Eligibility and procedures to claim a digital  
11 media infrastructure tax credit. (a) In addition to any tax  
12 credits or exemptions provided under this chapter, any taxpayer  
13 that develops, constructs, renovates, or operates a digital  
14 media infrastructure project in this State within a digital  
15 media enterprise subzone shall be eligible for certification by  
16 the department to qualify for a tax credit as provided in this  
17 part; provided that the taxpayer:

18 (1) Receives from the department a written certification  
19 that the taxpayer has undertaken, or will undertake  
20 within one hundred eighty days of the issuance of the  
21 certification, the development, construction,  
22 renovation, or operation of a qualified digital media





1 infrastructure project within a digital media  
2 enterprise subzone; provided that, upon request  
3 submitted by the taxpayer based on good cause, the  
4 department may extend the period for commencement of  
5 work for up to an additional ninety days;

6 (2) Before July 1, 2011, shall expend not less than  
7 \$100,000 on the base investment for a qualified  
8 digital media infrastructure project within a digital  
9 media enterprise subzone, and the taxpayer, after  
10 July 1, 2011, shall expend not less than \$250,000 on  
11 the base investment for a qualified digital media  
12 infrastructure project in a digital media enterprise  
13 subzone;

14 (3) Enters into an agreement as provided in this section;

15 (4) Receives an investment expenditure certificate from  
16 the department under subsection (e);

17 (5) Submits the investment expenditure certificate issued  
18 by the department under subsection (e) to the  
19 department of taxation; and

20 (6) Shall not be delinquent in a tax or other obligation  
21 owed to the State or be owned or under common control



1 of an entity that is delinquent in a tax or other  
2 obligation owed to the State.

3 (b) To qualify for the tax credit established under  
4 section 209E-B, the taxpayer shall submit an application to  
5 enter into an agreement under this section to the department.  
6 The application shall be submitted in a form prescribed by the  
7 department and shall be accompanied by a \$100 application fee  
8 and all of the information and records requested by the  
9 department. The application fee received by the department  
10 under this subsection shall be deposited in the Hawaii film  
11 office special fund established pursuant to section 201-113.  
12 The department shall not process an application until it is  
13 complete. If the department enters into an agreement under this  
14 section, the agreement shall provide for all of the following:

- 15 (1) A unique number assigned to the qualified digital  
16 media infrastructure project;
- 17 (2) A detailed description of the qualified digital media  
18 infrastructure project;
- 19 (3) A detailed business plan and market analysis for the  
20 qualified digital media infrastructure project;
- 21 (4) A projected budget for the qualified digital media  
22 infrastructure project;



- 1 (5) An estimated start date and completion date for the  
2 qualified digital media infrastructure project;
- 3 (6) A requirement that the taxpayer not file a claim for  
4 the credit under section 209E-B until at least twenty-  
5 five per cent of the base investment in the qualified  
6 digital media infrastructure project identified in the  
7 agreement has been expended; and
- 8 (7) A requirement that the taxpayer provide the department  
9 with the information and independent certification the  
10 department deems necessary to verify investment  
11 expenditures and eligibility for the credit under  
12 section 209E-B.
- 13 (c) If at the close of any taxable year:
- 14 (1) The digital media infrastructure project no longer  
15 qualifies for the tax credit established under this  
16 section;
- 17 (2) The digital media infrastructure project or an  
18 interest in the digital media infrastructure project  
19 has been sold by the taxpayer making a base investment  
20 in the qualified digital media infrastructure project;  
21 or



1           (3) The taxpayer has withdrawn the taxpayer's base  
2           investment wholly or partially from the qualified  
3           digital media infrastructure project;  
4 the tax credit claimed under section 209E-B shall be recaptured.  
5 The recapture shall be equal to twenty-five per cent of the  
6 amount of the total tax credit claimed under this section in the  
7 preceding two taxable years. The amount of the tax credit  
8 recaptured shall apply only to the investment in the particular  
9 digital media infrastructure project that meets the requirements  
10 of paragraph (1), (2), or (3). The amount of the recaptured tax  
11 credit determined under this subsection shall be added to the  
12 taxpayer's tax liability for the taxable year in which the  
13 recapture occurs under this subsection.

14           (d) In determining whether to enter into an agreement  
15 under this section, the department shall consider all of the  
16 following:

17           (1) The potential that in the absence of the tax credit  
18           allowed under section 209E-B, the qualified digital  
19           media infrastructure project will be constructed in a  
20           location other than this State;

21           (2) The extent to which the qualified digital media  
22           infrastructure project may have the effect of



1 promoting economic development or job creation in this  
2 State;

3 (3) The extent to which the tax credit will attract  
4 private investment for the production of motion  
5 pictures, videos, television programs, and digital  
6 media in this State; and

7 (4) The extent to which the tax credit will encourage the  
8 development of film, video, television, and digital  
9 media production and postproduction facilities in this  
10 State.

11 (e) The taxpayer shall submit a request to the department  
12 for an investment expenditure certificate on a form prescribed  
13 by the office, along with any information or independent  
14 certification the office or the department deems necessary. The  
15 department shall process each request within sixty days after  
16 the request is complete. However, the department may request  
17 additional information or independent certification before  
18 issuing an investment expenditure certificate and need not issue  
19 the investment expenditure certificate until satisfied that  
20 investment expenditures and eligibility are adequately  
21 established. The additional information requested may include a  
22 report of expenditures audited and certified by an independent



1 certified public accountant. If the department determines that  
2 a taxpayer has complied with the terms of an agreement entered  
3 into under this section, the department shall issue an  
4 investment expenditure certificate to the taxpayer. Each  
5 investment expenditure certificate shall be signed by the  
6 director and shall include the following information:

- 7 (1) The name of the taxpayer;
- 8 (2) A description of the qualified digital media  
9 infrastructure project;
- 10 (3) The taxpayer's eligible base investment for the  
11 qualified digital media infrastructure project;
- 12 (4) The unique number assigned to the qualified digital  
13 media infrastructure project by the department under  
14 subsection (b);
- 15 (5) The taxpayer's federal employer identification number  
16 or state taxpayer identification number; and
- 17 (6) Any independent certification required by the  
18 department.
- 19 (f) Information, records, or other data received,  
20 prepared, used, or retained by the department under this section  
21 that are submitted by an eligible taxpayer and considered by the  
22 taxpayer and acknowledged by the department as confidential



1 shall not be subject to public disclosure. Information,  
2 records, or other data shall only be considered confidential to  
3 the extent that the information or records describe the  
4 commercial and financial operations or intellectual property of  
5 the taxpayer, the information or records have not been publicly  
6 disseminated at any time, and disclosure of the information or  
7 records may put the taxpayer at a competitive disadvantage."

8 SECTION 3. Chapter 209E, Hawaii Revised Statutes, is  
9 amended by designating sections 209E-1 through 209E-14 to read:

10 "PART I. ENTERPRISE ZONES"

11 SECTION 4. Chapter 235, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14 "§235- Digital media enterprise subzone workforce  
15 development tax credit. (a) Any law to the contrary  
16 notwithstanding, there shall be allowed to each taxpayer that  
17 operates a business that is deemed a qualified animation or  
18 visual effects business and located within a digital media  
19 enterprise subzone as defined in section 209E-A and subject to  
20 the taxes imposed by this chapter, an income tax credit that  
21 shall be deductible from the taxpayer's net income tax  
22 liability, if any, imposed by this chapter for the taxable year



1 in which the tax credit is properly claimed. The amount of the  
2 tax credit shall be per cent of the wages paid to  
3 animation or visual effects hires who are Hawaii residents.

4 In the case of a partnership, S corporation, estate, or  
5 trust, the tax credit allowable is for qualified labor costs  
6 incurred by the entity for the taxable year. The cost upon  
7 which the tax credit is computed shall be determined at the  
8 entity level. Distribution and share of credit shall be  
9 determined under section 235-110.

10 (b) The tax credit allowed under this section shall be  
11 claimed against the net income tax liability for the taxable  
12 year. For the purposes of this section, "net income tax  
13 liability" means net income tax liability reduced by all other  
14 credits allowed under this chapter and chapter 209E.

15 (c) If the tax credit under this section exceeds the  
16 taxpayer's income tax liability, the excess of credits over  
17 liability shall be refunded to the taxpayer; provided that no  
18 refunds or payment on account of the tax credits allowed by this  
19 section shall be made for amounts less than \$1. All claims,  
20 including any amended claims, for tax credits under this section  
21 shall be filed on or before the end of the twelfth month  
22 following the close of the taxable year for which the credit may





1 be claimed. Failure to comply with the foregoing provision  
2 shall constitute a waiver of the right to claim the credit.

3 (d) To qualify for this tax credit, a business shall:

4 (1) Meet the definition of a qualified animation or visual  
5 effects business specified in subsection (j);

6 (2) Have qualified animation or visual effects labor costs  
7 totaling at least \$200,000;

8 (3) Provide evidence of reasonable efforts to hire Hawaii  
9 residents as animation or visual effects personnel;

10 (4) Keep accurate records of all animation or visual  
11 effects hires who are Hawaii residents whose wages may  
12 qualify for the tax credit; and

13 (5) Require any wages attributable to minimum cost  
14 thresholds for which the wage reimbursement tax credit  
15 does not apply to have Hawaii income tax withheld;  
16 provided that the wage and tax information is subject  
17 to verification by the department of taxation.

18 (e) The director of taxation shall prepare forms as may be  
19 necessary to claim a tax credit under this section. The  
20 director may also require the taxpayer to furnish information to  
21 ascertain the validity of the claim for credit made under this



1 section and may adopt rules necessary to effectuate the purposes  
2 of this section pursuant to chapter 91.

3 (f) Every taxpayer claiming a tax credit under this  
4 section for a qualified animation or visual effects business  
5 shall submit, no later than ninety days following the end of  
6 each taxable year in which qualified labor costs were expended,  
7 a written, sworn statement to the department of business,  
8 economic development, and tourism, identifying:

- 9 (1) All qualified labor costs as provided by subsection
- 10 (a), if any, incurred in the previous taxable year;
- 11 (2) The amount of tax credits claimed pursuant to this
- 12 section, if any, in the previous taxable year; and
- 13 (3) The number of hires working in Hawaii by category
- 14 (i.e., department) and by county.

15 (g) The department of business, economic development, and  
16 tourism shall:

- 17 (1) Maintain records of the names of the taxpayers and
- 18 qualified animation or visual effects businesses
- 19 thereof claiming the tax credits under subsection (a);
- 20 (2) Obtain and total the aggregate amounts of all
- 21 qualified labor costs per qualified animation or
- 22 visual effects business per taxable year; and



1       (3) Provide a letter to the director of taxation  
2           specifying the amount of the tax credit per qualified  
3           animation or visual effects business for each taxable  
4           year that a tax credit is claimed and the cumulative  
5           amount of the tax credit for all years claimed.

6       Upon each determination required under this subsection, the  
7       department of business, economic development, and tourism shall  
8       issue a letter to the taxpayer, regarding the qualified  
9       animation or visual effects business, specifying the qualified  
10       labor costs and the tax credit amount qualified for in each  
11       taxable year a tax credit is claimed. The taxpayer for each  
12       qualified animation or visual effects business shall file the  
13       letter with the taxpayer's tax return for the qualified  
14       animation or visual effects business to the department of  
15       taxation. Notwithstanding the authority of the department of  
16       business, economic development, and tourism under this section,  
17       the director of taxation may audit and adjust the tax credit  
18       amount to conform to the information filed by the taxpayer.

19       The department of business, economic development, and  
20       tourism may impose a tax credit certification fee to cover the  
21       costs of administering the tax credit certification program  
22       established under this subsection. The fee shall not exceed



1                   . The department shall deposit any proceeds  
2 derived from the fee in the Hawaii film office special fund  
3 established under section 201-113.

4           (h) Total tax credits claimed per qualified production  
5 shall not exceed \$                   in any given tax year.

6           (i) Qualified animation or visual effects businesses shall  
7 comply with subsections (d), (e), (f), and (g).

8           (j) For the purposes of this section:

9           "Animation or visual effects" means animation and visual  
10 effects created primarily with digital technologies for  
11 designing, modeling, rendering, lighting, painting, animating,  
12 and composing for qualified productions as that term is defined  
13 under section 235-17, but does not include:

14           (1) Audio effects;

15           (2) In-camera effects;

16           (3) Credit rolls;

17           (4) Subtitles;

18           (5) Animation or visual effects all or substantially all  
19 of which are created by editing activities;

20           (6) Animation or visual effects for use in promotional  
21 material for a production eligible for the tax credit  
22 established under section 235-17; or



1       (7) Activities that are of a scientific or experimental  
2           nature.

3       "Digital media" means production methods and platforms  
4 directly related to the creation of cinematic imagery and  
5 content, specifically using digital means, including but not  
6 limited to digital cameras, digital sound equipment, and  
7 computers, to be delivered via film, videotape, interactive game  
8 platform, or other digital distribution media (excluding  
9 Internet-only distribution).

10       "Hawaii resident" means a person who:

11       (1) Has demonstrated the intent to permanently reside in  
12           Hawaii, as indicated by actions including voting or  
13           registering to vote in Hawaii, filing a Hawaii  
14           resident state personal income tax return, or  
15           permanent employment; and

16       (2) Has been physically residing in Hawaii for at least  
17           twelve consecutive months, and during any part of  
18           which time has been paid the wages claimed as the  
19           basis for the tax credit claimed by the taxpayer under  
20           this section.

21       "Qualified animation or visual effects business" means a  
22 business, with expenditures in the state, for the total or



1 partial production of animation or visual effects that are to be  
2 used in a feature-length motion picture, short film, made-for-  
3 television movie, commercial, music video, interactive game,  
4 television series pilot, single season of a television series  
5 regularly filmed in the state, television special, single  
6 television episode that is not part of a television series  
7 regularly filmed or based in the state, national magazine show,  
8 or national talk show.

9 "Qualified labor costs" means the costs incurred by a  
10 qualified animation or visual effects business within the state  
11 that attributable to wages or salaries paid by the qualified  
12 animation or visual effects business to animation or visual  
13 effects personnel who are residents of the State of Hawaii,  
14 subject to taxation under this chapter, and for whom the  
15 qualified animation or visual effects business otherwise incurs  
16 tax liability under chapter 383."

17 SECTION 5. Chapter 431:7, Hawaii Revised Statutes, is  
18 amended by adding a new section to part II to be appropriately  
19 designated and to read as follows:

20 "§431:7- Digital media infrastructure tax credit. The  
21 digital media infrastructure tax credit provided under section  
22 209E-B shall be operative for this chapter.



## PART II

SECTION 6. Section 201-113, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§201-113[+]~~ Hawaii [~~television and film development~~] film office special fund. (a) There is established in the state treasury the Hawaii [~~television and film development~~] film office special fund, into which shall be deposited:

- (1) Appropriations by the legislature;
- (2) Rents from any lease of the Hawaii Film Studio pursuant to Act 127, Session Laws of Hawaii 1997;
- (3) Certification fees for digital media infrastructure tax credits received under section 209E-B;
- (4) Application fees for digital media infrastructure tax credits received under section 209E-C;
- (5) Certification fees for digital media enterprise subzone workforce development tax credits received under section 235- ;
- (6) Penalties collected under section 209E-B;
- ~~[+2+]~~ (7) Donations and contributions made by private individuals or organizations for deposit into the fund; and



1       ~~[(3)]~~ (8) Grants provided by governmental agencies or any  
2           other source ~~[, and~~

3       ~~(4) Any profits or other amounts received from venture~~  
4           ~~capital investments].~~

5       ~~[(b) The fund shall be used by the board to assist in, and~~  
6       ~~provide incentives for, the production of eligible Hawaii~~  
7       ~~projects that are in compliance with criteria and standards~~  
8       ~~established by the board in accordance with rules adopted by the~~  
9       ~~board pursuant to chapter 91. In particular, the board shall~~  
10       ~~adopt rules to provide for the implementation of the following~~  
11       ~~programs:~~

12       ~~(1) A grant program. The board shall adopt rules pursuant~~  
13       ~~to chapter 91 to provide conditions and qualifications~~  
14       ~~for grants. Applications for grants shall be made to~~  
15       ~~the board and shall contain such information as the~~  
16       ~~board shall require by rules adopted pursuant to~~  
17       ~~chapter 91. At a minimum, the applicant shall agree~~  
18       ~~to the following conditions:~~

19       ~~(A) The grant shall be used exclusively for eligible~~  
20           ~~Hawaii projects;~~

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





- 1           ~~(C) The applicant shall comply with applicable~~  
2           ~~federal and state laws prohibiting discrimination~~  
3           ~~against any person on the basis of race, color,~~  
4           ~~national origin, religion, creed, sex, age, or~~  
5           ~~physical handicap;~~
- 6           ~~(D) The applicant shall comply with other~~  
7           ~~requirements as the board may prescribe;~~
- 8           ~~(E) All activities undertaken with funds received~~  
9           ~~shall comply with all applicable federal, state,~~  
10           ~~and county statutes and ordinances;~~
- 11           ~~(F) The applicant shall indemnify and save harmless~~  
12           ~~the State of Hawaii and its officers, agents, and~~  
13           ~~employees from and against any and all claims~~  
14           ~~arising out of or resulting from activities~~  
15           ~~carried out or projects undertaken with funds~~  
16           ~~provided hereunder, and procure sufficient~~  
17           ~~insurance to provide this indemnification if~~  
18           ~~requested to do so by the department;~~
- 19           ~~(G) The applicant shall make available to the board~~  
20           ~~all records the applicant may have relating to~~  
21           ~~the project, to allow the board to monitor the~~



1           ~~applicant's compliance with the purpose of this~~  
2           ~~chapter; and~~

3       ~~(H) The applicant, to the satisfaction of the board,~~  
4           ~~shall establish that sufficient funds are~~  
5           ~~available for the completion of the project for~~  
6           ~~the purpose for which the grant is awarded; and~~

7       ~~(2) A venture capital program. The board shall adopt~~  
8           ~~rules pursuant to chapter 91 to provide conditions and~~  
9           ~~qualifications for venture capital investments in~~  
10          ~~eligible Hawaii projects. The program may include a~~  
11          ~~written agreement between the borrower and the board,~~  
12          ~~as the representative of the State, that as~~  
13          ~~consideration for the venture capital investment made~~  
14          ~~under this part, the borrower shall share any~~  
15          ~~royalties, licenses, titles, rights, or any other~~  
16          ~~monetary benefits that may accrue to the borrower~~  
17          ~~pursuant to terms and conditions established by the~~  
18          ~~board by rule pursuant to chapter 91. Venture capital~~  
19          ~~investments may be made on such terms and conditions~~  
20          ~~as the board shall determine to be reasonable,~~  
21          ~~appropriate, and consistent with the purposes and~~  
22          ~~objectives of this part.~~



1 ~~(3) Operations of the department's film industry branch.]~~

2 (b) Moneys in the fund shall be used for the operations of  
3 the Hawaii film office, including personnel costs of staff  
4 positions existing on November 1, 2009; provided that the use of  
5 moneys from the fund for current and future personnel costs  
6 shall be limited to those employees performing specialized  
7 duties and assigned solely to the Hawaii film office  
8 operations."

9 PART III

10 SECTION 7. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun, before its effective date.

13 SECTION 8. In codifying the new part added by this Act,  
14 the revisor shall designate appropriate section numbers for the  
15 letters used in designating the new sections in this Act.

16 SECTION 9. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect on July 1, 2112;  
19 provided that sections 2 through 6 shall be repealed on June 30,  
20 2020, and section 201-113, Hawaii Revised Statutes, shall be  
21 reenacted in the form in which it read on the day before the  
22 effective date of this Act.



**Report Title:**

Digital Media Enterprise Subzones; Tax Incentives; Investments

**Description:**

Establishes digital media enterprise subzones near University of Hawaii campuses and within enterprise zones; establishes tax credits for digital media infrastructure development and local workforce employment; authorizes insurance companies to invest in qualified digital media infrastructure projects in lieu of certain state taxes; renames the Hawaii Television and Film Development Special Fund the Hawaii Film Office Special Fund; sunsets on 6/30/2020; effective July 1, 2112. (HB2382 HD1)

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

