SB 1550

EDT/TSM

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
INTERIM DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Bldg., 250 South Hotel St., 5th Flr., 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, INTERIM DIRECTOR
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

BEFORE THE

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

AND SENATE COMMITTEE ON TOURISM

Monday, February 14, 2011
1:30 a.m.
State Capitol, Conference Room 016

in consideration of

SB1550
RELATING TO TAX CREDITS

Chairs Fukunaga and Kim, Vice-Chairs Wakai and Kouchi and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB1550 and defers to the Department of Taxation on the overall fiscal impacts of this measure in relation to the increased and new incentives and the Transient Accommodations Tax (TAT). Though we do have some initial concerns about increasing the existing HRS 235-17 (Act 88) Motion Picture, Television and Digital Media refundable tax credits, SB1550 (HB1551) the department feels this measure develops important incentives that are key to significantly improving Hawaii's infrastructure and workforce development for the film and creative sectors.

In 2010, an estimated $416 million in production expenditures were generated in film and television ; $395 million through Act 88 and $21 million in non-Act 88 related production activity, providing over $683 million in estimated economic impact for our state. This credit remains crucial to Hawaii's competitive advantage in the global entertainment industry and SB1550 has key elements which assist the state in growing this advantage.

We agree that the interest and commitment of companies like Relativity Media, RelativityREAL, Shangri-La , Hawaii Animation Studios, Avatar Reality, Blue Water Multimedia, Prox13 and our local production community are helping to define Hawaii as a vibrant hub of creative industry development. Coupled with the creative talent of Hawaii's visual storytellers and our educational programs in creative media, the state has an unprecedented opportunity to build a sustainable sector through a broad spectrum of strategic partnerships for scalable industry growth.

We believe the ideas and programs proposed in SB1550 (HB1551 HD1) could provide an important flash point for establishing Hawaii as a major production center, as well as other measures this session that enhance support for digital media education, expanded training programs and facilities development.

DBEDT and its Creative Industries Division encourages moving these measures forward. We are committed to working in collaboration with lawmakers, the administration and industry leaders to advance these concepts.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

FREDERICK D. PABLO
INTERIM 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) 587-1530
FAX NO: (808) 587-1584

SENATE COMMITTEES ON ECONOMIC DEVELOPMENT & TECHNOLOGY AND TOURISM

TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING SB 1550 RELATING TO TAX CREDITS

TESTIFIER:	**FREDERICK D. PABLO, INTERIM DIRECTOR OF TAXATION (OR DESIGNEE)**
COMMITTEE:	**EDT/TSM**
DATE:	**FEBRUARY 14, 2011**
TIME:	**1:30pm**
POSITION:	**DEFER TO DBEDT; CONCERNS; OPPOSED TO TRANSFERABILITY OF CREDITS**

This bill proposes to amend Chapter 235 by expanding the film credit to include special effects or digital animation and media infrastructure projects. It also increases the amount of the credit. The bill amends Chapter 237D by adding an exemption to the transient accommodations tax for accommodations furnished beyond thirty days to the cast and crew of a qualified production.

The Department of Taxation (Department) **defers to DBEDT** on the merits of expanding the film credit in general.

The Department has the following **concerns and technical comments** regarding this bill.

CONCERNED OVER THE NEED FOR THIS CREDIT – The credit is not allowed for expenditures made for a project after July 1, 2011 unless 30% of the total base investment has already been expended by that date. The

Department asks why there is a need to incentivize investment in a project which presumably is already spending money on infrastructure if it intends to meet the 30% threshold by July 1 of this year. Since the bill may not be enacted into law before July 1, 2011, this deadline is unrealistic for anyone who would not be incurring these costs without this incentive.

CREATE A NEW SECTION – The existing Section 235-17 is made confusing by the addition of these new subsections. It would be cleaner to simply remove the new language for a credit for media infrastructure projects and place it in its own section.

OPPOSED TO TRANSFERABILITY OF CREDITS - The Department is strongly opposed to any provision that allows Hawaii tax credits to be sold, assigned, or transferred from one taxpayer to another. Allowing taxpayers to market or sell their tax credits is fundamentally poor tax policy. Selling tax credits can be subject to abuse and suspect motivation by parties involved.

The Department's fundamental and primary concerns regarding credit transfers are the following:

- The transferability rewards a separate taxpayer unrelated to the taxpayer that generated the credit, which is fundamentally poor tax policy for encouraging behavior and directly rewarding that behavior;

- The Department is not setup to regulate credit transfers. Will the Department be required to establish a "Bureau of Credit Conveyances" in order to track transfers? If this is the case, resources will have to be dedicated to this;

- Abuse relating to tax credit transfer prices will be problematic. The State will be out a $1 when taxpayers will be transferring this $1 for pennies;

- And, there will be problems on audit. The taxpayer being audited may have sold the credit to another taxpayer.

RECOMMEND ADHERENCE TO THE PROPOSED REGULATIONS CONTAINED IN TIR 2009-5 – The Department has published proposed administrative rules in Tax Information Release 2009-05 for the existing film credit and recommends that this bill's expanded credit also be subject to those rules.

RECOMMEND ALLOWING ANY TAX PRACTITIONER TO PERFORM THE INDEPENDENT AUDIT – The bill requires an independent certified public accountant to certify applications submitted to the Director of Taxation. The Department recommends allowing any tax practitioner to make this certification.

CONCERN OVER AGGREGATE CAP—The Department generally opposes aggregate caps, especially in this measure's form. There is no legislative guidance on how the cap is to be administered. Is the cap based on who files first? Do taxpayers need to apply for the credit? Should the credit be spread evenly amongst all taxpayers? All of these issues arise when an aggregate cap is instituted. These issues become even more concerning when there are a substantial number of taxpayer claiming the credit

CONCERN OVER TAT EXEMPTION – The Department recommends that the transient accommodations exemption be amended to specify that the furnished accommodations for cast and crew be thirty *consecutive* days.

REVENUE IMPACT – Estimated revenue loss of $46.3 million/year for FY 2012 and thereafter.

TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011

ON THE FOLLOWING MEASURE:
S.B. NO. 1550, RELATING TO TAX CREDITS.

BEFORE THE:

SENATE COMMITTEES ON ECONOMIC DEVELOPMENT AND TECHNOLOGY AND ON TOURISM

DATE: Monday, February 14, 2011 **TIME:** 1:30 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Mary Bahng Yokota, Deputy Attorney General

Chairs Fukunaga and Kim and Members of the Committee:

The Attorney General provides the following comments on this bill.

The stated purpose of this bill is to "encourage the growth of the film industry by providing enhanced incentives that attract more film and television productions to Hawaii, thereby generating increased tax revenues." For this purpose, this bill provides for income tax credits, a transient accommodations tax exemption, and a rebate.

This bill may be challenged as being unconstitutional because it appears to embrace more than one subject. Article III, section 14, of the Constitution of the State of Hawaii provides in part:

> Each law shall embrace but one subject, which shall be expressed in its title.

The title of this bill is "A BILL FOR AN ACT RELATING TO TAX CREDITS." This bill relates to tax credits but it also provides for a transient accommodations tax exemption in section 3 (and page 9, lines 8-10) of the bill. It may be challenged that tax exemptions are beyond the scope of the subject title of this bill.

Although contained in a statutory section for tax credits, this bill also provides for a rebate (page 9, lines 1-7, of the bill). It may also be challenged that rebates are beyond the scope of the subject of the title of this bill.

Ryan Kavanaugh, Founder and CEO, Relativity Media, LLC

Testimony presented before the Committee on Economic Development and Technology and the Committee on Tourism

Monday, February 14, 2011 at 1:30PM

SB 1550—Relating to Tax Credits

Members of the Committees:

My name is Ryan Kavanaugh, founder and Chief Executive Officer of Relativity Media, LLC. I am here to testify in support of S.B. 1550, and the positive impact passing it will have on Hawaii's economy, employment opportunities and businesses.

I thank this Committee for the opportunity to present testimony on this matter.

Ryan Kavanaugh
CEO and Founder
Relativity Media, LLC

Kenneth Halsband, President, Physical Production, Relativity Media, LLC

Testimony presented before the Committee on Economic Development and Technology and the Committee on Tourism

Monday, February 14, 2011, 1:30 PM

SB 1550—Relating to Tax Credits

Members of the Committee:

My name is Ken Halsband. I am President of Physical Production at Relativity Media, LLC and have over 25 years experience in film production. I am here to testify in support of S.B. 1550, specifically as it relates to making Hawaii the most attractive filming location in the U.S.A. S.B. 1550 will create more jobs and stimulate the economy of the state of Hawaii.

I thank the Committees for the opportunity to present testimony on this matter.

Kenneth Halsband
President, Physical Production, Relativity Media, LLC

ph: (310) 859-1250 / f: (310) 859-1254 / 8899 Beverly Blvd Suite 510 / West Hollywood, CA 90048

RELATIVITY

Ramon Wilson, Executive Vice President, Business Development

Testimony presented before the Committee on Economic Development and Technology and the Committee on Tourism

Monday, February 14, 2011, 1:30 PM

SB 1550—Relating to Tax Credits

Members of the Committees:

My name is Ramon Wilson. I am Executive Vice President of Business Development at Relativity Media, LLC and have over 10 years experience in film and finance. I am here to testify in support of S.B. 1550, specifically as it relates to the benefits that it will bring to Hawaii.

I thank the Committees for the opportunity to present testimony on this matter.

Ramon Wilson
Executive Vice President, Relativity Media, LLC

ph: (310) 859-1250 / f: (310) 859-1254 / 8899 Beverly Blvd Suite 510 / West Hollywood, CA 90048

RELATIVITY REAL

Tom Forman, Chief Executive Officer, RelativityREAL

Testimony presented before the Committee on Economic Development and Technology and the Committee on Tourism

Monday, February 14, 2011, 1:30 PM

SB 1550—Relating to Tax Credits

Members of the Committees:

My name is Tom Forman. I am Chief Executive Officer of RelativityREAL and have over 20 years experience as a television producer. I am here to testify in support of S.B. 1550, specifically as it relates to television production activity RelativityREAL can bring to Hawaii.

I thank the Committees for the opportunity to present testimony on this matter.

Tom Forman

Chief Executive Officer, RelativityREAL

1040 N Las Palmas Ave • Bldg 40 • Hollywood CA 90038 • T | 323.860.8600 • F | 323.860.8601

Andy Meyers, CEO, Shangri-La Industries; President, Shangri-La Entertainment

Testimony presented before the Committee on Economic Development and Technology and the Committee on Tourism

Monday, February 14, 2011 at 1:30PM

SB 1550—Relating to Tax Credits

Members of the Committees:

My name is Andy Meyers, CEO, Shangri-La Industries; President, Shangri-La Entertainment. I am here to testify in support of S.B. 1550, and the opportunity it could afford us to partner with Relativity Media and JP Morgan to develop, design and construct the world's first LEED Platinum Certified film/television production facility. This facility will serve as the infrastructure the state needs to make Hawaii competitive as a major film production hub.

I thank this Committee for the opportunity to present testimony on this matter.

Andy Meyers
CEO, Shangri-La Industries; President, Shangri-La Entertainment

1801 Avenue of the Stars • Suite 921 • Los Angeles, CA 90067 • **O:** 310.553.7700 / **F:** 310.553.7707

William Jefferson Clinton

February 10, 2011

To Members of the House of Representatives and Senate of the State of Hawaii:

I have been asked to provide my personal support on behalf of HB 1551 (duplicate for SB 1550).

After reviewing the bill and working closely with Shangri-La, this is exactly the kind of credit, training program, commitment to build, and company affiliation (with Relativity) that the state of Hawaii needs to turn its economy around.

Currently, you have the lowest number of people employed by the film business of any state that has a credit/rebate program, and you have no structure to service this program. Each year, the number of people employed by your program decreases, and yet, more and more films are shot worldwide.

The proposed bill will lead to the employment of many people both in the construction of stages and in the entertainment industry as a whole, and it will create long-term sustainable jobs as the film industry dramatically expands. According to the comparative analysis used by every other state, the passage of this bill should increase the value of Hawaii's film-based economy from $20 million to over $800 million in the first year alone.

The Shangri-La/Relativity commitment to build the most environmentally friendly stages in existence, coupled with the economic benefits of this bill and Hawaii's timeless appeal, will make Hawaii the most attractive place in the world to shoot a film.

I hope that you will pass this bill and give your beautiful state the growth and employment it needs and deserves.

Sincerely,

Bill Clinton

William Jefferson Clinton

UTICA FILMS

J.P. Pettinato, Film Tax Incentive Consultant, Utica Films

Testimony presented before the Committee on Economic Development and Technology and the Committee on Tourism

Monday, February 14, 2011, 1:30 PM

SB 1550—Relating to Tax Credits

Members of the Committees:

My name is J.P. Pettinato, I have over twelve years of experience consulting in film production tax incentives. I am here to testify in support of S.B. 1550, specifically as it relates to the lasting, positive economic impact that film production tax incentives will have in Hawaii.

I thank the Committees for the opportunity to present testimony on this matter.

J.P. Pettinato
UTICA FILMS

TEL (310) 663-6866 FAX (310) 452-0110
116 ROSE AVENUE, SUITE #11 VENICE, CALIFORNIA 90291
17251 SUMMER MAPLE WAY SANTA CLARITA, CALIFORNIA 90291
JPPETTINATO@GMAIL.COM

Production Finance Executive

Dawn Kealoha Darfus   307 Percy Street   Natchitoches   Louisiana   71457

Testimony presented before the Committees on Economic Development and Technology and the Committee on Tourism

Monday, February 14, 2011, 1:30 PM

SB 1550—Relating to Tax Credits

Members of the Committees:

My name is Dawn Kealoha Darfus. I have over 25 years of experience in Film Production Finance, and am a member of Film Production Accountants IATSE Local 161. I am here to testify in support of S.B. 1550, specifically as it relates to the establishment of a film career advancement training program in Hawaii.

I thank the Committees for the opportunity to present testimony on this matter.

Dawn Kealoha Darfus
Production Finance Executive
Member, IATSE Local 161

Akamai Movies
Tim Wolfe
22 Laupapa Place
Haiku, Hawaii 96708
808.575.7474
wolfeman@hawaii.rr.com

akamai

Testimony in Support of SB 1550

12 Febraury, 2011

Aloha to the Honorable Members of the Hawaii State Senate. My name is Tim Wolfe. I own and operate Akamai Movies on Maui, and I am a member of IATSE Local #665, the film and television production union which is based in Honolulu.

I write in support of the bill called SB 1550. As I read it, the important elements have to do with tax incentives of various kinds to promote the growth of the film and television industries in Hawaii. I believe that the incentives described will improve Hawaii's chances of attracting investors to produce shows here rather than in other states or countries that also offer incentives to producers. The local economies on all the islands can benefit from increased production activity. But better than that, the economy of the entire state is boosted when the Hawaiian Islands are seen by travelers and business people on theater, television and computer screens all over the world.

Naturally, I am especially supportive of efforts that will improve Maui's economy. The proposed construction by Relativity Media of a production studio here would provide us with a much needed insert stage to complement the spectacular exterior locations that are available all over Maui County. Our ability to support all aspects of a production right here will increase both the number and also the variety of shows that will choose to shoot on Maui.

But most important of all is building the workforce from resources right here at home. I have lived here for 22 years, and my daughter grew up here. She went to college on the mainland, and now lives and works in New York City. I would love to be involved in a business on Maui that would train our young people with professional skills that can be applied to work that is right down the street, not off island in some other production center.

Over the years, I have worked with many producers from around the world. Please support the efforts of Relativity Media and Mr. Ryan Kavanaugh by choosing to support the proposed amendments that will help Maui build a build a better life for our citizens. Mahalo nui loa for your kokua.

Respectfully,

Timothy Wolfe

Timothy Wolfe
President and Owner, Akamai Movies
Member in good standing of IA Local #665

Testimony of Clyde T. Hayashi
Director
Hawaii LECET
1617 Palama Street
Honolulu, HI 96817

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
and SENATE COMMITTEE ON COMMITTEE ON TOURISM
Monday, February 14, 2011
1:30 p.m., Conference Room 016

SB 1550 – RELATING TO TAX CREDITS

Aloha Chair Fukunaga and Chair Kim, Vice-Chair Wakai and Vice-Chair Kouchi, and Members of both Committees:

My name is Clyde Hayashi and I am the director of Hawaii LECET (Laborers-Employers Cooperation and Education Trust). Hawaii LECET is a partnership between the Hawaii Laborers' Union, Local 368 and our union contractors.

I am submitting this testimony in **strong support** of the intent and purpose of SB 1550.

SB 1550 will provide needed incentives that will allow for an expansion and development of our important film industry, an industry with tremendous potential.

SB 1550 will allow for expansion of the film industry to a point that it will be have the infrastructure and facilities which will provide a much more attractive package to producers and film companies. This package added to the lure of our beautiful state will attract many more to film here.

As the film industry is built & expanded, construction opportunities and jobs will be created. This comes at a time when our industry is struggling. Our benches are filled with unemployed construction workers and our contractors are struggling to survive the awful construction downturn. We also expect a stable and growing film industry to continue to provide construction opportunities and jobs over the coming years.

SB 1550 will to help establish training programs so that Hawaii can provide the film industry with the trained, skilled workforce that it needs.

SB 1550 will help to provide a needed boost to our economy and create a stable film industry to which will benefit Hawaii over the coming years.

Thank you for the opportunity to submit this testimony.

TESTIMONY OF REGINALD V. CASTANARES, JR.,
President
Hawaii Building and Construction Trades Council, AFL-CIO

IN SUPPORT OF SB 1550

BEFORE THE SENATE:
COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY, and
COMMITTEE ON TOURISM

February 14, 2011; 1:30 p.m.
Conference Rm. 016

Aloha Chair Fukunaga' and Chair Mercado Kim, Vice-Chair Wakai and Vice-Chair Kouchi and Members of the Committees.

My name is Reggie Castanares, I have the privilege to serve the Hawaii Building and Construction Trades Council of the AFL-CIO as its President. Our organization and affiliates' represent the largest association of the constructions trades workers in Hawaii with 16 specialty crafts and trades labor organizations.

Hawaii's legacy of organized Labor has always been about earning a decent wage in a safe working environment, which provides us the opportunity to share in a piece of the American dream. Food, shelter, clothing and educational opportunities.

Governor Abercrombie's promise to Hawaii is to put our citizens back to work. That vision is something near and dear to our affiliates and their members. Reducing our unemployment and putting our citizens back to work should be incentive enough to support SB 1550.

We appreciate the potential which it represents in helping Hawaii recapture it's leading role in the very lucrative movie making industry. The success of the new Hawaii 5-0, Off the Map and the latest sequel of Pirates of the Caribbean with more projects in the wind, is a solid indicator of how the industry sees our potential.

SB 1550, will add a new dimension to that role by expanding the economic incentives for new projects which feature computer aided special or visual effects and animation.

Although much of the activity of the industry is outdoors amidst our unique environment, with computer aided visual effects and animation high tech work, we foresee the need for development and construction of permanent facilities, which brings the Building and Construction Trades industry and their members into the scheme of things.

If revitalization of our economy is a priority, which we believe it should be, then every effort towards that purpose should be given an opportunity to succeed.

Please support the passage of SB 1550.

Mahalo,

Reginald Castanares

SUBJECT: INCOME, TRANSIENT ACCOMMODATIONS, Expand motion picture, digital media and film production credit; exempt transient accommodations

BILL NUMBER: SB 1550; HB 1551 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Brower, Keith-Agaran, McKelvey

BRIEF SUMMARY: Amends HRS section 235-17 to increase the motion picture, digital media, and film production tax credit from 15% to 35% 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 40% for costs incurred in a county with a population of 700,000 or less.

Allow taxpayers to claim a credit of 5% of the qualified special or visual effect 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, 2011 and December 31, 2015, to claim a credit of 25% of the qualified costs incurred for qualified media infrastructure projects in any county with a population over 700,000; or 40% 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 $300,000; (2) the qualified media infrastructure project tax credit shall be non-refundable with any tax credit that exceeds the tax liability of the taxpayer for the tax year carried forward to offset net income tax liability in subsequent tax years for up to 10 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 $25,000,000; (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 that certification; (c) no tax credit shall be allowed for expenditures made for any infrastructure project after July 1, 2011 unless 30% of the total base investment provided for in the initial certification of the project has been expended prior to that date; provided that the expenditures may be finally certified at a later date; and (d) 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 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 audited and 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 50% of the hourly wages of each resident participant in a qualified local crew training program up to the first nine hundred hours physically worked by the qualifying crew member in a specialized craft position.

A qualified production shall be exempt from the transient accommodations tax after 30 days of actual expenditures for transient accommodations incurred in the state.

Deletes the $8 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 $25,000,000 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) rentals of any transient accommodations for cast and crew; (2) 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; (3) 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 per cent tax rate under HRS section 237-18(c); and (4) other direct production costs specified by the department in consultation with the department of business, economic development, and tourism.

Amends HRS section 237D-3 to provide that accommodations furnished beyond 30days to the cast and crew of a qualified production shall be exempt from the transient accommodations tax.

EFFECTIVE DATE: Upon approval

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."

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.

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 35% in a county with a population of 700,000 or over and from 20% to 40% in a county with a population of under 700,000. While the initial 4% credit for production costs and 7.25% for transient accommodations 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 to 35% or 40% 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) 5% 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, 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 and an exemption from the transient accommodation tax for accommodations furnished beyond 30 days for the cast and crew of a qualified production.

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 and yet they are willing to throw additional public resources at a subsidy of film production 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 credit be increased to 35% and 40% and 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.

This, along with proposals from film producers, seems to have caught the eye and excitement of lawmakers. Certainly the promise of the land of milk and honey seems all too good to be true especially amidst the doom and gloom of an $850 million budget shortfall. However, the harsh reality is that on the other end taxpayers are looking at proposals to raise taxes, tax pensions, raise alcohol taxes, slap new taxes on sugary drinks and yet another round of fee and user charge increases. With the loss of millions of dollars in tax breaks and tax credits, how can local taxpayers buy into proposals like these, especially in light of the fact that lawmakers are unwilling to make cuts in other programs? Before lawmakers go off on the deep end entranced by all of these wonderful offers to bring the state to the land of milk and honey, they need to address the fiscal realities on the road before them. On top of this all, lawmakers have yet to address the unfunded liability of the state's retirement and health system.

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 2/11/11

From: Peter Ehrhorn
To: EDTTestimony
Subject: I support SB1550 relating to tax credits
Date: Saturday, February 12, 2011 7:26:33 AM

To: COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair

COMMITTEE ON TOURISM
Senator Donna Mercado Kim, Chair
Senator Ronald D. Kouchi, Vice Chair

From: Peter Ehrhorn
254 Kaha St.
Kailua, Hawaii

Re: SB1550 RELATING TO TAX CREDITS.
Report Title: Film Production Tax Credits; Exemption
Description: Amends the motion picture, digital media, and film production tax credit to provide a designated income tax credit for certain qualifying counties. Removes tax credit caps. Provides an additional bonus for qualifying spending related to computer aided special or visual effects and animation. Establishes a non-refundable tax credit with a carry forward period of up to ten years to encourage film production development in certain qualified counties. Allows for a certain exemption from the transient accommodation tax for stays exceeding thirty days. Permits certain production tax credits to be assigned.

DATE:
Monday, February 14, 2011
TIME:
1:30 p.m.
PLACE:
Conference Room 016
State Capitol
415 South Beretania Street

Dear Senators,

The film industry is a relatively clean and safe industry that makes television/movies just a bit more interesting when one attempts to figure out just exactly where a scene is filmed in Hawaii. It provides good paying jobs on all islands, not just in acting but in the actual production of films. Hawaii needs to broaden its economic base and having a strong a strong motion picture presence will help do this. Also it can't help but stimulate Hawaii's main industry which is tourism.

Again, I urge you to favorably consider this bill and vote yes. Taxes can be made up by reducing the prison industrial complex and the elimination of the war on drugs. The war on drugs has been nothing but a failure and has caused more problems than it has solved.

Best Regards,

Erick Peter Ehrhorn
254 Kaha St.
Kailua, Hawaii 96734

From:	mailinglist@capitol.hawaii.gov
To:	EDTTestimony
Cc:	jadamsesq@aol.com
Subject:	Testimony for SB1550 on 2/14/2011 1:30:00 PM
Date:	Saturday, February 12, 2011 12:06:45 AM

Testimony for EDT/TSM 2/14/2011 1:30:00 PM SB1550

Conference room: 016
Testifier position: support
Testifier will be present: Yes
Submitted by: Jo-Ann M. Adams, Esq.
Organization: Individual
Address:
Phone:
E-mail: jadamsesq@aol.com
Submitted on: 2/12/2011

Comments:
There are many reasons why Hawaii should aggressively pursue expanding the film industry in Hawaii:

1) It's a clean and safe industry. This industry is compatible with our goals of being "green" and more self-sufficient. We will be importing jobs, not exporting dollars and/or people.

2) Film is one of the few industries that can provide work on all the islands, not just O'ahu. In fact, it may provide more work on the Neighbor Islands than on O'ahu. Over time this may allow for the population of Hawaii to be more geographically dispersed.

3) There are so many jobs "behind the lens" that could be filled by Hawaii residents: camera, lighting, sound, music, wardrobe, make-up, food service, security, set design, set construction, etc. We already have schools that are specializing in digital media. These students can continue to live here in Hawaii and earn a decent living!

4) Many Hawaii residents can find work as talent, particularly extras, because we have so many "looks" here, especially the multi-ethnic look, which currently is so popular in films.

5) We have a budding actor community that is now linked through the Hawai'i Actors Network to provide an array of talent.

6) Film has a wonderful ripple effect on the economy. Many additional jobs are created in support of the film industry; many tourists visit Hawai'i after they are reminded through film of the beauty of the islands.