NEIL ABERCROMBIE
GOVERNOR OF HAWAII

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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FIRST DEPUTY

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AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
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Testimony of
WILLIAM J. AILA, JR
Chairperson

Before the House Committees on
WATER, LAND, AND OCEAN RESOURCES
and
ECONOMIC REVITALIZATION AND BUSINESS

Thursday, February 9, 2012
11:00 AM
State Capitol, Conference Room 312

In consideration of
HOUSE BILL 2338
RELATING TO THE CREATIVE MEDIA INDUSTRY

House Bill 2338 would authorize the Department of Land and Natural Resources (Department) to lease public lands by direct negotiation and without recourse to public auction, public lands for the purposes of developing creative media facilities. If the Department elects to do so, the bill requires the Department receive lease rents that are <u>less</u> than appraisal value. The Department supports the intent of making public lands available for lease to develop creative media facilities, but opposes the mandate that public lands be leased for less than fair market rent.

The Department is responsible for managing approximately 1.3 million acres of public lands comprised of sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the Board of Land and Natural Resources determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs. This is especially critical at this time due to the current condition of the State's economy. The bill's requirement that the Department lease public lands for less than fair market rent, as determined by appraisal, would adversely impact the Department's ability to perform its fiduciary duties.

Finally, the Department is already authorized to issue leases for certain purposes by direct negotiation pursuant to Section 171-59(b), Hawaii Revised Statutes (HRS). If the Legislature determines that leases for creative media facilities warrant exclusion from the public auction requirement, the Department suggests incorporating this class of lessee into Section 171-59(b), HRS, rather that creating a new and separate section of Chapter 171, HRS.

The Department appreciates this opportunity to provide testimony.

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON WATER LAND & OCEAN RESOURCES AND HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
Thursday, February 9, 2012
11 a.m.
State Capitol, Conference Room 312
in consideration of
HB2338
RELATING TO CREATIVE MEDIA INDUSTRY

Chairs Chang and McKelvey, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) offers these comments on HB 2338 which authorizes the Department of Land & Natural Resources (DLNR) to lease public lands for purposes of developing creative media facilities by negotiation, without public auction. We defer to the Department of Land & Natural Resources on the technical aspects and impacts of this measure.

Hawaii's computer and digital media production industries are a strong emerging industry sector, with an 18% growth rate from 2001-2011, based on the department's 2011 Creative Industries report. Coupled with Hawaii's film industry, these sectors collectively need increased infrastructure capacity in order to grow exponentially.

Public-private partnerships are important to the state to help leverage assets to support creative sector industry growth, particularly in these lean economic times. HB 2338 offers an opportunity to further develop the film, digital and creative media industries, by providing infrastructure that can deliver high-paying jobs, generates tax revenue, and strengthens Hawaii's creative economy. Thank you for the opportunity to testify on this measure.

Office of the Chancellor

UNIVERSITY of HAWAI'I
WEST O'AHU

TESTIMONY OF GENE AWAKUNI
CHANCELLOR, UH WEST OAHU
REGARDING HB 2338
February 8, 2012

UH West Oahu supports the intent of HB 2338, Relating to the Creative Media Industry, to foster the growth of the creative media industry in Hawaii by allowing the Department of Land and Natural Resources to "lease public land for purposes of developing creative media facilities."

As a soon to open new four year academic campus in Kapolei, we are also pursuing creative media programs that support the academic interests of our students, many who reside in the leeward, central and north shore communities of Hawaii.

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OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony

HB2338

RELATING TO CREATIVE MEDIA INDUSTRY

House Committee on Water, Land & Ocean Resources
House Committee on Economic Revitalization & Business

February 9, 2012 11:00 a.m. Room 312

The Office of Hawaiian Affairs (OHA) offers the following comments on HB2338, which would create special rules for creative media industry leases, including allowing for 50 year leases by direct negotiation without public auction at lease rent less than appraised value.

The state has a fiduciary duty that it must uphold when leasing our public lands. Chapter 171, Hawaii Revised Statutes, provides a framework to ensure that the state carries out its duties while allowing for thoughtful use of public lands. While circumventing these laws may be the quickest and easiest means to lease land, it is not the prudent inquiry demanded by the state's fiduciary position.

Chapter 171, Hawaii Revised Statutes, currently allows agencies to consider lease rent at less than appraised value, giving agencies flexibility in negotiating rent while carrying out their fiduciary duties. Chapter 171 also allows for appropriate lease terms without encumbering public land with long-term leases that exceed the length of a generation. Long-term leases tie the hands of communities and future generations of land and resource managers and unduly restrict their ability to make sound decisions.

Mahalo for the opportunity to testify on this important measure.

ALAN M. ARAKAWA
MAYOR

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OFFICE OF THE MAYOR

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

TO: The Honorable Jerry Chang, Chair
Honorable Sharon Har, Vice Chair
Honorable Members of the Committee on Water Land & Ocean Resources

The Honorable Angus McKelvey, Chair
Honorable Isaac Choy, Vice Chair
Honorable Members of the Committee on Economic Revitalization & Business

FROM: Alan Arakawa, Mayor
County of Maui

HEARING: Water Land & Ocean Resources/Economic Revitalization & Business
Thursday, February 9, 2012
11:00 a.m.
Room 312

SUBJECT: POSITION STATEMENT & TESTIMONY OF MAUI COUNTY MAYOR ALAN ARAKAWA ON HB 2338 RELATING TO THE CREATIVE MEDIA INDUSTRY

Thank you for this opportunity to offer our "Position Statement" and testimony on HB2338. The County of Maui **supports** the intent and spirit of this bill. However, may we offer the following:

1. Speaking in general to all bills relating to film, television, digital media, and the creative media industry, it is the continued and consistent position of Maui County that any such bill include the following:

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

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

   c. The establishment of a qualified Hawaii crew training program.

   We believe that ***HB1308 (HD 2, SD 2, CD 1, Proposal),*** which remains in conference from last session, encompasses the issues referenced herein-above in 1 (a) – (c). Accordingly, taking into consideration all of the time, effort, and expertise of House Leadership and its Members during the 2011 session, we urge you to stand by your work and position on ***HB1308 (HD 2, SD 2, CD 1, Proposal)*** as currently written.

2) As to the specific provisions of HB2338, with its stated purpose of authorizing "the department of land and natural resources to lease public land for purposes of developing creative media facilities," the County of Maui can support this if, and so long as, any provisions relating to a "qualified media infrastructure project tax credit", "production income tax credit," and "qualified Hawaii crew training program" NOT be limited or restricted to facilities on public lands as currently set-forth in HB2338.

Justification:

1) The County of Maui supports HB2338, but respectfully urges this committee to: (a) insert a "qualified media infrastructure project tax credit" into the bill; and, (b) not limit or restrict any infrastructure and production tax credits to facilities on public lands.

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

      i. During the 2011 session, presentations made to the legislature high-lighted the need for an infrastructure tax credit as each stage built in the State of Hawaii would inject nearly $140 million into our economy via the hiring of local labor and purchasing materials locally over a two year period; and, each movie filmed in Hawaii (i.e. $90 million budget) would immediately create about 193 local jobs.

      ii. An infrastructure tax credit is especially important to Maui County (and, the neighbor islands) for the following reasons:

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

- A primary reason for the disparity of film and television production business between the outer-islands and Oahu is that the outer-islands lack infrastructure. In fact, outside of Oahu there isn't a single soundstage, post-production facility, nor camera equipment rental houses, etc.

b. The County of Maui urges that you **not limit or restrict the "infrastructure project tax credit" to facilities on public lands** should your committees decide to insert a "qualified media infrastructure project tax credit" into this bill.

   i. At least in Maui County, we believe that there should be equitable opportunity as to where film studio and production facilities will be developed.

   ii. Currently, the Maui County Council's General Plan Committee is in the middle of reviewing and revising our county's General Plan. As reported in The Maui News (Feb. 3), "The committee met Thursday to kick off its review of the Maui Island Plan's critical 'directed growth' chapter. The section includes specific policies for how development should proceed, and maps outlining where it should and shouldn't be allowed." Accordingly, restricting or mandating where film studio and production facilities can be developed (only on public land as authorized by DLNR) would hinder, if not obstruct, our Council's on-going review of the County's key planning tool; and, take away public's opportunity to participate in determining where development should or should not go.

Testimony to

House Committee on Water, Land & Ocean Resources

And

House Committee on Economic Revitalization & Business

Thursday, February 9, 2012

By: Stephan D. Smith

President, SHM Partners/Film Studio Group

HB 2338—Relating to the Creative Media Industry

Rep. Jerry L. Chang, Chair; Rep. Sharon E. Har, Vice Chair; Committee on Water, Land & Ocean Resources

Rep. Angus L.K. McKelvey, Chair; Rep. Isaac W. Choy, Vice Chair; Committee on Economic Revitalization & Business

I am writing in support of this bill.

It's clear that production is increasingly gravitating to places with studios, so jurisdictions which have supported studio infrastructure have set themselves apart from those offering only location opportunities by dramatically increasing local expenditures (location spending typically amounts to less than 50% of total production cost) and building an industry comprised of skilled, high paying jobs.

The lure of Hawaii for producers of visual content is incontrovertible—over 50 years of television production and nearly 100 years of filmmaking, not to mention hundreds of commercials. Hawaii offers lush tropical locations as well as more urban settings, optimal natural lighting, safety and talented crew. Lately, the hit television show, *Hawaii Five-0*, and the Oscar nominated film, *Descendants*, have brought much attention, and an attendant boost in tourism, to the State similar to what *Lord of the Rings* did for New Zealand.

Thanks to Hawaii's natural attributes, and accentuated by its film incentives, production spending climbed from $135 million in 2009 to over $390 million in 2010 when *Lost* was wrapping and *Hawaii Five-0* was getting started and *Pirates of the Caribbean*, *Descendants*, *Battleship* and *Just Go With It* were all in production. While 2010 was a banner year for production expenditures in Hawaii, the numbers for 2011 would have declined far less as studio facilities would have helped retain existing and attract new productions.

Interestingly, in addition to its other attractions, the State also boasts an abnormally high incidence of creative, media-savvy young people. However, unless there is infrastructure, Hawaii will progressively lose productions to alternative tropical locations which offer studio facilities. This will inevitably lead to an ever greater exodus of students graduating in media disciplines seeking job opportunities elsewhere.

The bottom line is that the film production business is evolving, and modern stage facilities, along with a predictable film incentive regime, are needed in order for Hawaii to meet rising competition and to build a stable industry with a consistent, well compensated employment base rather than endure the boom-and-bust of the location-based business.