

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 2869, H.D. 2, S.D. 1

March 29, 2012

RELATING TO THE ECONOMY

House Bill No. 2869, H.D. 2, S.D. 1, amends the Motion Picture, Television and Digital Media tax credit; broadens the types of qualified production costs which may be counted toward the tax credit; amends the cap per qualified production; creates a new infrastructure tax credit; and creates a new Hawaii Film and Digital Media Special Fund.

While the Department of Budget and Finance appreciates the intent of the bill to support and grow the film and digital media industries in the State, we defer to the Departments of Taxation and Business, Economic Development and Tourism regarding the technical issues and merits of the bill. The Department of Taxation would also have to opine as to the financial cost and impact exposure for the tax credits offered in this bill.

However, as a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should:

- 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program;
- 2) provide an appropriate means of financing for the program or activity; and
- 3) demonstrate the capacity to be financially self-sustaining.

In regards to House Bill No. 2869, H.D. 2, S.D. 1, it is difficult to

determine whether there is a nexus for the proposed source of revenues and whether the fund will be self-sustaining.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS

Thursday, March 29, 2012
9:00 a.m.
State Capitol, Conference Room 211

In consideration of
HB2869, HD2, SD1
RELATING TO ECONOMY

Chair Ige, Vice Chair Kidani and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) offers comments on HB2869, HD1, SD1 which establishes the film and digital media special fund; proposes an increase to the Motion Picture, Television and Digital Media refundable tax credit (HRS 235-17) from the existing base of 15% and 20%, offering an undetermined percentage bonus for resident hires; requires reporting on the total aggregate for resident labor quarterly and 2% of this total to be deposited into the film and digital media special fund. This proposal also raises the cap on total tax claims to an unspecified amount per project, and changes the repeal date to January 1, 2027. The proposed draft also combines an infrastructure tax credit and other amendments relating to new media development.

We support this measure's intent to extend the sunset date for the tax credit and to allow greater access for applicable digital media projects. We believe this will go a long way towards expanding Hawaii's capability in this emerging sector. We also strongly support the inclusion of internet, mobile platform, and wireless distribution since this is the wave of the future for our industry.

The State's film program has very limited staff. Should there be any increase to our existing tax credit for film and digital media it will significantly increase the volume of production, thereby increasing the need for additional funding to efficiently staff and manage the workload.

Thank you for the opportunity to testify on this measure.



March 27, 2012

TO: Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Members of the Committee on Ways and Means

DATE: Thursday, March 29, 2012
TIME: 9:00 A.M.
PLACE: Conference Room 211

Re: SUPPORT of HB2869 HD2 SD1 RELATING TO THE ECONOMY

FROM: Charisse Lindsey, VP/Chief Operating Officer, Hyperspective Studios, Inc.

I am in support of SB 2111 relating to film and digital media industry development because I believe that such a bill will foster expanded growth of the film industry as well as development of a new and emerging digital media industry in Hawaii.

Hyperspective Studios is a small Hawaii-based production company. As Chief Operating Officer for 6 years, I have experienced some challenges operating a digital media company here in Hawaii. One of our biggest challenges has been finding and maintaining qualified local talent that can afford to live and work in Hawaii.

Digital media workers are those who are highly skilled and talented individuals. Our staff consists of animators, web and game programmers, camera operators, editors, writers, visual effects artists, and graphic designers. Because we are a small company and must maintain a smaller crew, most of our staff wear multiple hats and have many different skill sets. Bill SB2111 will provide our company with the assistance required to keep more of our staff employed and it will also increase our capability for hiring more local talent.

Hawaii residents who are interested in the digital media industry will have a greater opportunity to thrive in their desired profession by working for companies like ours or creating digital media companies of their own. This bill will provide our company as well as other small companies with the opportunity for significant growth here in Hawaii.

The benefits that SB2111 will bring to Hawaii-based companies will help develop a new industry with a massive potential for growth and sustainability.



March 28, 2012

TO: Committee on Ways and Means
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

FROM: Ricardo S. Galindez, Co-Owner, Island Film Group
Roy J. Tjioe, Co-Owner, Island Film Group

RE: Testimony In Support of HB 2869 HD2, SD1 with Recommendations

Aloha Chair, Vice Chair, and Members of the Committee:

Thank you for the opportunity to testify in support of HB 2869 HD2, SD1

FILM AND TELEVISION PRODUCTION TAX CREDITS

While we believe a comprehensive wage-based production credit (as outlined below) would be a more effective means of promoting BOTH the hiring of Hawaii residents AND Hawaii vendors, the proposed 5% increase for the hiring of Hawaii residents will result increase the hiring of locals for film and television production as well as continue to develop Hawaii's professional crew base.

The following amendments will 1) **increase the incentive** for film and television projects in Hawaii, 2) **increase the number of resident hires** both on Oahu and the neighbor islands, 3) **increase the amount of overall production spending in Hawaii**, and 4) **increase collected tax revenue** for Hawaii

We support a **wage-based production incentive** that layers the incentive in the following order:

1. W-2 wage credit (residents and non-residents)
2. W-2 bonus wage credit (Hawaii residents only)
3. W-2 neighbor island bonus wage credit (Hawaii residents only)

Recommendations:

Replace the current tax credit with a wage-based production incentive

1. 30% W-2 wage credit (residents and non-residents)
2. 20% W-2 bonus wage credit (Hawaii residents only)
3. 10% W-2 neighbor island bonus wage credit (Hawaii residents only)
4. No cap on the combined wage credits BUT total wage base upon which the credit is claimed cannot exceed total production expenditures paid to Hawaii GET licensed vendors (in other words, for every dollar of W-2 wages for which a credit is claimed there will need to be a dollar of GE spend, resulting in 50%/50% ratio in all cases).

In other words, **the credit will never be more than 30% of total Hawaii taxable spend**, assuming 100% resident hire on neighbor islands, since the wage credit can only be claimed on a maximum of 50% of total Hawaii spend (60% wage credit on 50% of total spend equals 30% of total spend) **and can not exceed 25% of total Hawaii taxable spend assuming 100% resident hire on Oahu** (50% wage credit on 50% of total spend equals 25% of total spend).

The benefits of this approach are as follows:

1. **A clear incentive to hire residents**, both here and on the neighbor islands (instead of bringing crew from LA to the neighbor islands which would only give a 30% credits, if they hire residents they will get a 60% credit)
2. **Encourages the purchasing and development of other goods and services** in Hawaii that are now sourced or performed outside Hawaii (e.g. post production) in an effort to match the Hawaii GE spend with the Hawaii W-2 spend.
3. **Only applies to W-2 wages** (and not loan-outs) so Department of Labor as well as payroll company wage reports can be used for an easy audit.
4. Provides Vendor GE information to allow easy audit of vendors

End Credit Requirement

We would suggest that productions be required to place the current color logo used by the HTA in the end credits

Tax Settlement Agreements

Require DoTax to allow for **non-resident employee tax settlement agreements** where they agree to pay Hawaii income tax on 100% of their income at the highest taxable rate in lieu of filing a Hawaii tax return.

Registration Requirement

There is currently too much emphasis (and time spent) on the pre-registration process. A simple web-based registration should suffice. The pre-registration process should only be used to notify the Hawaii Film Office of impending production, not as a trap for the unwary.

Residency Requirement

While we support an incentive to hire resident crew members, setting hiring percentages that require the hiring of a specific percentage of local cast members could be problematic since our talent pool, while including many acting professionals, is not big enough to support many productions. If, however, resident cast members are included together with resident crew members to meet specific hiring percentages then we believe the provision is workable.

INFRASTRUCTRE TAX CREDITS

We believe that the proposed infrastructure credit is fiscally responsible and will provide multiple economic benefits to Hawaii:

- The tax credit would be used to construct **permanent film and television production facilities**.
- The \$10m threshold targets the tax credit to **substantial construction projects**.
- The tax credit **will be repaid** from the taxable income of the production facility.
- The tax credit is subject to a **100% recapture (secured by a tax lien)** should a facility cease to be used for film and television production.
- Purpose-built film and television production facilities would accommodate **multiple, large-budget film and television productions** resulting in the hiring of **local cast and crew** as well as the purchase of production services and materials from **local vendors**.
- The construction of film and television production facilities would result in the hiring of **local construction workers** and the purchase of construction services and materials from **local vendors**.

Recommendations:

Given the difficulty of financing film and television production facilities and the fact that the tax credit will be repaid, **it is imperative that the tax credit percentage be 50%** of the total infrastructure costs.

Island Film Group (IFG) is one of the largest local film and television production companies in Hawaii. Since its formation in 2007, IFG has produced a television series (“Beyond the Break”), three television movies for Lifetime Television Network, countless national and international television commercials, and three independent feature films (“Soul Surfer”, “Princess Ka`iulani”,

and “Knots”). Our projects have employed hundreds of Hawaii residents and spent millions of dollars on local goods and services. In addition, IFG, in partnership with Hawaii Media Inc., owns and operates Halawa Valley Studios, the largest private film and television production facility in Hawaii.

Thank you for the opportunity to testify on this important bill.

Testimony to
Senate Committee on Ways and Means
Thursday, March 29, 2012
By: Stephan D. Smith
President, SHM Partners/Film Studio Group

HB 2869, HD 2, SD 1—Relating to the Economy

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

I am writing in support of this State infrastructure credit for purpose-built studio facilities because without it the type of studio infrastructure necessary to attract continuous production and establish a sustainable film and television industry in Hawaii will not happen. Inasmuch as the credit is fully repayable to the State or can be recaptured if the facility ceases to be a qualified infrastructure credit, we strongly recommend that the credit be set at 50% of qualified infrastructure costs.

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 well under 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. 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.

Interestingly, the State also boasts an abnormally high incidence of creative, media-savvy young people. However, unless there is public investment in infrastructure, Hawaii, which is already relatively expensive, 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 film business is evolving, and modern stage facilities, along with a predictable film incentive regime, are needed in order for the State 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.



March 27th, 2012

TO: Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Members of the Committee on Ways and Means

DATE: Thursday March 29th, 2012

TIME: 9:00a.m.

PLACE: Conference Room 211

Re: SUPPORT of HB2869 HD2 SD1 RELATING TO THE ECONOMY.

FROM: Todd J. Robertson, President/CEO
Hyperspective Studios, Inc.

Hyperspective Studios, Inc. is in support of SB 2111 relating to film and digital media industry development because we believe that such a bill will foster expanded growth of the film industry as well as development of a new and emerging digital media industry in Hawaii.

Hyperspective Studios, founded in April 1996, has been headquartered in Hawaii since 1999 and produces digital media projects including animation, visual effects, interactive media and film. The company has produced award winning media for several Hawaii companies as well as large domestic and international projects, with a large portion of it's revenue coming from the export of digital media.

Hyperspective currently employs 8 to 11 specialists and technicians, and is currently hiring three additional positions. The company regularly hires 10 to 30 or more subcontractors annually within the state of Hawaii. The company expects to increase it's workforce by 40% in 2012, with a steady increase of job openings over the next four years. SB2111 will greatly support and assist that growth and development.

The digital media production workforce largely overlaps and supports the film industry through visual effects, animation, post-production and stereography. I believe that digital media sector shows great potential for growth within the film and digital media industry in Hawaii. Digital media workers are those who are highly skilled and talented individuals. The digital media industry not only requires creative development teams to write scripts, create digital artwork and music, but employes technicians who are skilled in 3D technologies, information technology, computer science, engineering and programming.

The benefits that SB2111 will bring to Hawaii-based companies will help develop a new industry with a massive potential for growth and sustainability. The interactive media/game industry was measured at USD \$10.3 Billion domestically in 2004. The industry has shown rapid growth since then to UDS \$65 Billion in 2011 and is expected to continue this pattern of growth for years. Fostering growth of this industry in Hawaii has the prospective to create a large volume of high quality jobs within an industry that can become a pillar of Hawaii's economy.



Adding definitions for digital media and independent and emerging media in conjunction with a lower qualification threshold of \$50,000 provides expanded opportunity for Hawaii-based companies to develop intellectual property that create potential for successful sales of digital products. Companies that produce digital media and independent media projects typically spend less in initial development than film and television, but have a huge potential for profit. (please see Exhibit A for examples)

Digital media projects are not variable-location-based. They require computer hardware and software infrastructure development and once built, do not quickly move. Therefore, digital media projects provide a long-term, sustainable opportunity for jobs and development of products, while maintaining a work-force of Hawaii residents.

I believe that the added definitions for digital media, digital media projects, independent and emerging media projects in conjunction with a lower qualification threshold for these projects will foster growth of a strong, sustaining digital media industry that will provide opportunities to create high quality jobs within the state of Hawaii.

Thank you very much for the opportunity to testify.

Exhibit A:

The following digital media game projects are a few examples of how small teams with relatively low budgets can create large success, illustrating the need to lower the qualification threshold:

Title: *Minecraft*

Two-developer team, under one year of development.
1,717,096 sales as of march 28th 2011, USD\$32 million.
Current valuation of property is USD\$84.2 million.

Title: *Amnesia: Dark Descent*

Two-developer team.
391,102 units sold, USD\$7.8 million.

Title: *Terraria*

Two-developer team.
Over 1,000,000 copies sold, USD\$10-15 million.

Title: *Limbo*

Two-developer team.
Over 1 million copies sold, USD\$15 million.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: shidekigonomo@gmail.com
Subject: Testimony for HB2869 on 3/29/2012 9:00:00 AM
Date: Tuesday, March 27, 2012 4:37:33 PM

Testimony for WAM 3/29/2012 9:00:00 AM HB2869

Conference room: 211
Testifier position: Support
Testifier will be present: No
Submitted by: Mychal Okuhara
Organization: Individual
E-mail: shidekigonomo@gmail.com
Submitted on: 3/27/2012

Comments:

I am writing to the committee to again reiterate my support for House Bill 2869. As written, this bill will encourage investment in the state, build our economy and keep creative, educated individuals working in Hawaii.

HB2869 helps ensure that local businesses (that will hire and spend locally) can survive and thrive. Of particular importance to small businesses (such as I work for) is the language allowing qualified digital media projects, \$50,000 and up, to benefit from this bill. This lower threshold will allow local ventures to pursue a multitude of projects that, when totaled up, will build a solid infrastructure for digital media in Hawaii. This infrastructure is crucial to attract and maintain not only local business, but in getting large scale productions from abroad to come to the state as well.

It is my sincerest hope to support this bill and see it pass into law.

TESTIMONY IN SUPPORT OF HB 2869, HD 2 SD1 (SSCR3003)

Relating to the Economy

COMMITTEE ON WAYS AND MEANS

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

NOTICE OF DECISION MAKING

DATE: Thursday, March 29, 2012
TIME: 9:00 a.m.
PLACE: Conference Room 211

State Capitol

415 South Beretania Street

Chair Ige, Vice Chair Kidani, Members of the Committee,

I write today in strong support of HB 2869, HD 2, SD 1 (SSCR3003) Relating to the Economy.

My name is Chris Lee and as a private citizen, motion picture producer, and the Founder and Director of the Academy for Creative Media at UH, I thank you for your past efforts to build this vital industry through our existing incentives and workforce development such as the ACM.

You will be pleased to know that ACM Manoa has over 235 majors, that numerous digital media companies have been started by our graduates and many have joined the local production unions keeping our students here in the islands.

This bill, and a number of others similar to it introduced this session, has the opportunity to exponentially expand Hawaii's film, television, and digital media industries providing far more living wage jobs for our talented, local workforce and IP creators.

In 2010, Hollywood spent over \$400 million dollars in Hawaii producing an unprecedented number of films, including the Oscar-nominated *The Descendants*, *Pirates of the Caribbean 4*, *Journey to the Center of the Earth 2*, *Battleship*, *Just Go With It*, *Soul Surfer*, *Hereafter*, and *The Tempest* as well as the television series *Hawaii Five-O* and *Off the Map*.

As impressive as that number is, we left a lot of money and jobs on the table.

Why? Because we did not have the studio space, post production or visual effects facilities to provide the full services this industry demands. Why are we willing to settle for half of the pie?

Big-budget pictures like *Pirates 4*, *Battleship*, and *Journey 2* shot their exteriors here, but then went to places like North Carolina, Los Angeles and Louisiana to build their sets, shoot their interiors, and execute post production, including one of the biggest parts of any blockbuster's budget, special effects. Worse, television shows like Steven Spielberg's *Terra Nova* had to shoot in Australia because we did not have the capacity to accommodate them here.

This \$400 million dollar year was not an anomaly.

This was a clear indication that Hawaii could have a billion dollar industry – generated both from Hollywood and locally – through the right combination of responsible incentives, dedicated infrastructure, broader development of our own IP workforce, and a global perspective.

This industry is not a fad but also not something that will just happen without the active management of our state. It's already a winner for us. The right incentives are an investment that ripple through our economy and provide an international marketing advantage for our number one industry, tourism. We enjoy a natural competitive advantage with our talented local students and a lifestyle that few locations can offer the discerning creative classes.

But to put the question a different way, what else is there? What else can we manufacture that doesn't require the importation of raw materials and the shipping of hard goods? What other industry is both protective of our environment and helps to drive tourism? What else both captivates the imagination of our students and has the ability to keep them in Hawaii?

What other alternative industry that this state has invested in over the last ten years has ever had a \$400 million year?

While everyone's been wondering how Hawai'i builds a sustainable alternative to our government/construction/service-employee economy, it's time to recognize that Hawai'i is already generating and keeping an indigenous creative class.

But we need to grow the pie.

SB 2111 and others like it have the chance to transform our production capacity and move us beyond the "feast or famine" mentality that has characterized our traditional location driven film and television industry.

Hawaii has been blessed with long running shows filmed entirely in our state, starting with Five-0, Magnum, Five-0 2.0 and soon, hopefully, The River. Our blue skies, beaches and jungles along with a great crew base make us the premiere tropical location in the world, and give us a base line of production activity.

But the absence of dedicated studio space save for the single stage at Diamond Head which can only accommodate one show at a time leaves producers scrambling for landlords willing to repurpose existing structures – as with the old Advertiser building being the home of Five-0, the old Comp USA being where they built Queens Hospital for The Descendants, and most recently the new ABC/Sony series setting up shop inside Olelo in Mapunapuna.

But building studio stages doesn't just mean pictures can shoot here longer. It means the whole other side of the industry – carpenters for set building, post production, sound recording, visual effects, all businesses that could be supplied by local vendors to service these studio shoots.

Why are digital companies so important? Because their computer animated output is not based on our tropical locations – indeed, they can be applied to movies not even made in Hawaii.

And it doesn't stop with movies and tv. Video games as an industry are 6 times larger than the movie business. Vancouver, which has previously been known for physical production, now has more business providing visual effects services for films not shot there. Vancouver has specific incentives for post production, over 30 companies providing those services, and probably the best digital cinema and video game school in the world.

We will never grow the pie if our business plan is just to hope that Hollywood green lights a tv show or movie that needs our beaches and jungles. We will never provide the opportunities our students are eminently qualified to execute unless we build the studio infrastructure and the digital companies that drive the growth side of this business.

This legislature had the foresight to fund educational programs like the Academy for Creative Media to give our students the skills to connect to the global entertainment economy and stay in Hawaii.

Our kids have responded with award winning films, starting new businesses, and the foundation of a creative class of workers that is the very basis of America's best hope for the future: an economy based on innovation and intellectual property.

HB 2869, HD2, SD1, (SSCR 3003) will help them to fully realize that dream. Thank you for the opportunity to testify today.