



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

**NEIL ABERCROMBIE**  
GOVERNOR

**RICHARD C. LIM**  
DIRECTOR

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DEPUTY DIRECTOR

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Statement of  
**RICHARD C. LIM**  
**Director**  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**  
Monday, February 6, 2012  
1:30 p.m.  
State Capitol, Conference Room 016  
  
in consideration of  
**SB2111**  
RELATING TO FILM AND DIGITAL MEDIA DEVELOPMENT

Chair Fukunaga, Vice Chair Wakai, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) offers the following comments on SB2111, which proposes an increase the Motion Picture, Television and Digital Media refundable tax credit (HRS 235-17) by 10% on the existing base of 15% and 20%, effectively raising the credit to 25% on Oahu and 30% for qualified productions on all neighbor islands. This proposal also raises the cap on total tax claim from \$8M to \$16M per project, and changes the repeal date to January 1, 2027.

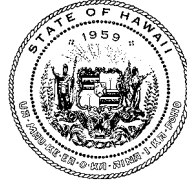
We support the intent of this bill, however, we are concerned about the cost implications of this proposal. We defer to the Department of Taxation on the fiscal impacts of these amendments.

We believe it is prudent to maintain the current level of tax credits and prefer SB 2741, the Administration's bill which broadens the criteria for qualifying productions, eliminates the restriction on internet-only distribution and extends the current sunset date of 2015 to 2020.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
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FREDERICK D. PABLO  
INTERIM DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR  
DEPUTY DIRECTOR

To: The Honorable Carol Fukunaga, Chair,  
and Members of the Senate Committee on Economic Development & Technology

Date: Monday, February 6, 2012  
Time: 1:15 P.M.  
Place: Conference Room 016, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. 2111 Relating to Film and Digital Media Industry Development

The Department of Taxation (Department) defers to the Department of Business, Economic Development and Tourism (DBEDT) on the merits of S.B. 2111.

S.B. 2111 proposes to modify Section 235-17, Hawaii Revised Statutes (HRS), motion picture, digital media, and film production tax credit as follows:

- Increases the tax credit amount from 15% of the qualified production costs incurred on Oahu to 25%, and from from 20% of the qualified production costs incurred on neighbor islands to 30%;
- Increases the cap per qualified production from \$8 million to \$16 million;
- Adds a provision that in case of a partnership, S corporation, estate, or trust, the tax credit may be recovered directly by the entity that incurred the qualified production costs;
- Changes the definition of “digital media” to delete the exclusion of “Internet only distribution”;
- Changes the definition of “qualified production” to include the creation of related content intended for distribution over the Internet, wireless network, or similar methods of distribution; and
- Extends the sunset date of January 1, 2016 to January 1, 2027.

The bill would take effect on July 1, 2012. The Department notes that due to the provision that allows a partnership to claim the tax credit at the entity level, modification to the tax form and computer system is required. Due to the lack of resources and staffing, the Department will not be able to implement this proposed change by July 1, 2012.

Thank you for the opportunity to provide comments.



**Tetris Online, Inc.**  
55 Merchant Street, Suite 2100  
Honolulu, Hawaii 96813

February 3<sup>rd</sup>, 2012

TO: Senator Carol Fukunaga, Chair  
Senator Glenn Wakai, Vice Chair  
Members of the Committee on Economic Development and Technology

DATE: Monday, February 6<sup>th</sup>, 2012  
TIME: 1:30pm  
PLACE: Conference Room 016, State Capitol

Re: S.B. No. 2111 – Taxation; Motion Picture, Digital Media, and Film Production Credit.

FROM: Dean Hirata, CFO  
Tetris Online, Inc.

Tetris Online, Inc. supports the intent of S.B. No. 2111 – Taxation; Motion Picture, Digital Media, and Film Production Credit.

Founded in January 2006 by Minoru Arakawa, Henk Rogers and Alexey Pajitnov, Tetris Online, Inc. is a developer and publisher of social games and other electronic entertainment properties. Tetris Online is privately held and headquartered in downtown Honolulu.

As of January 2012, Tetris Online has grown to become a top 5 social games developer on Facebook, trailing only such large, publicly traded companies as Zynga and Electronic Arts. Tetris Online's biggest game, Tetris Battle, is currently ranked in the top 10 of highest performing games on Facebook, and users of Tetris Battle play more than 50 million games each day.

Social games are experiencing exponential growth in the lucrative online games segment, which has grown from \$1.84 billion in 2009 and is estimated to reach \$8.64 billion in 2014 (Casual Games Association – Social Gaming Report).

Today, Tetris Online employs 57 people in Hawaii. Nationwide, competition for digital media employees is fierce, which makes it increasingly difficult to attract and retain employees, even the ones who have strong family ties to the islands. SB 2111 will help create and retain jobs in Hawaii, while increasing the state's revenues. This bill will support Hawaii's small local companies in the digital media industry so they can continue to flourish and provide jobs for Hawaii's talented workforce.

Tetris Online supports the intent of SB 2111 – Taxation; Motion Picture, Digital Media, and Film Production Credit, and would like to suggest the following changes:

**Page 4, Lines 3 – 4**

**CURRENT:** "Production" means a series of activities that are directly related to the creation of visual and cinematic imagery.....

**PROPOSED:** "Production" means a series of activities that are directly related to the creation of visual and /or cinematic imagery.....

**Page 6, Line 10**

**CURRENT:** Wages or salaries of cast, crew, and musicians;

**PROPOSED:** Costs of wages or salaries for editing, visual effect, music, art, graphics, programming, development, engineering, telecommunications, software, computer equipments, other post-production, and related services, and supplies.

Thank you very much for the opportunity to testify.

TESTIMONY IN SUPPORT OF SB 2111  
Relating to Film and Digital Media Industry Development

Senate Committee on Economic Development and Technology

February 6, 2011  
Conference Room 016

Senator Carol Fukunaga, Chair  
Senator Glenn Wakai, Vice Chair

Chair Fukunaga, Vice Chair Wakai, Members of the Committee,

Thank you for the opportunity to testify today in support of SB 2111, relating to Film and Digital Media Industry Development.

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.

SB 2111 will help them to fully realize that dream. Thank you for the opportunity to testify today.

**TESTIMONY OF NBC UNIVERSAL MEDIA, LLC**

HEARING DATE/TIME: Monday, February 6, 2012  
1:30 p.m. in Conference Room 016

TO: Senate Committee on Economic Development and Technology

RE: • **Testimony in Strong Support of SB2111 and SB2741.**

• **Testimony in Support of the Spirit and Intent of SB2043 and SB2462.**

Dear Chair, Vice-Chair and Committee Members:

**I. INTRODUCTION**

NBC Universal Media, LLC (“NBC/U”) develops, produces, broadcasts and distributes motion pictures, television programs and related content around the world. Over the last several years, local industry stakeholders, the Hawaii Legislature and the people of Hawaii have developed a clear consensus that the motion picture, television and related digital media industries (the “Film Industry”) in Hawaii has become an important component of a diversified economy and has had a positive financial impact on the State of Hawaii which can be strengthened significantly if Hawaii’s existing incentives for the Film Industry are enhanced.

As a result of the enormous infusion of cash that Film Industry productions bring to production locales, there has been a dramatic increase in the number of state and local governments attempting to attract film productions. Recent studies have confirmed that these jurisdictions have experienced dramatic increases in in-state spending and significant growth in workforce and infrastructure development due to film productions in those state and local jurisdictions and that such productions stimulate more direct and indirect tax revenue and that a properly designed tax incentive program can actually increase (on a net basis) local tax revenues. (See, Ernst & Young - Economic and Fiscal Impacts of the New Mexico Film Product Tax Credit; Meyers Norris Penny - Economic Contributions of the Georgia Film and Television Industry; Cloudberry Communications – The Millennium Report (Economic impact and exposure value for the Stockholm region in the Swedish Millennium feature films)).

It is also clear that the State of Hawaii should encourage similar dramatic growth in Hawaii because the Film Industry:

- (1) Infuses significant amounts of new money into the economy, which is dispersed across many communities and businesses and which benefits a wide array of residents; and
- (2) Creates skilled, high-paying jobs; and



(3) Has a natural dynamic synergy with Hawaii's top industry, tourism, and is used as a destination marketing tool for the visitor industry; and

(4) Acts synergistically to bolster the local music industry and thereby assists in preserving and disseminating Hawaii's host culture by introducing millions of people around the world to Hawaii's recording artists, music and dance. A compelling example of these benefits can be seen in connection with the critically acclaimed and popular motion picture "The Descendents" produced and directed by Alexander Payne and based upon a novel by local author Kaui Hart Hemmings. The Descendents garnered a Best Picture award at the prestigious Golden Globe Awards and landed George Clooney a Golden Globe for Best Actor. In addition, The Descendents has been nominated for the following Oscars in 2012: Best Picture, Best Actor, Best Director, Best Adapted Screenplay, and Best Editing. The Descendents boasts a fabulous sound track consisting entirely of preexisting musical compositions and sound recordings written and performed by up and coming and iconic local musicians from Makana and Jeff Peterson to Sonny Chillingworth and Gabby Pahinui (see attached hereto as Exhibit "A" for a complete list of the music used in The Descendents); and

(5) Is a clean, nonpolluting industry that values the natural beauty of Hawaii and its diverse multicultural population and wide array of architecture.

The Film Industry also has a strong desire to hire locally and invest in the training and workforce development of island-based personnel and intends to continue the practice of hiring a significant number of residents and to support training and opportunities for those residents.

However, it is respectfully submitted that in order to stimulate such dramatic growth it is necessary to enhance Hawaii's existing tax incentive program (that uses the front-end budgeting methods normally used by the Film Industry and that lower production costs) in order to allow Hawaii to effectively compete with other film production centers in attracting a greater number of significant projects to the islands and to continue to build our local film industry infrastructure.

In the Spring of 2011, the State of Hawaii, through the Creative Industries Division of DBEDT, reached out to NBC/U to inquire as to what NBC/U would consider to be essential modifications to Hawaii film tax incentive program in order to build and sustain a robust Film Industry in Hawaii. After careful consideration, NBC/U recommended a few reasonable and measured modifications to Act 88 designed to make Hawaii's incentive program more stable, competitive and technologically friendly given the emerging significance of internet delivered content as an adjunct to traditional content delivery. Specifically, the following modifications to Act 88 (the "Proposed Act 88 Modifications") were respectfully recommended:

PROPOSED MODIFICATIONS TO ACT 88 THAT ARE LIKELY TO  
SIGNIFICANTLY INCREASE PRODUCTION ACTIVITY IN HAWAII

(1) Increase the refundable production credit ("RPC") by 10% **with the increase tied to local hires/vendors.**

- (2) Eliminate the prohibition against internet only projects from qualifying for the RPC.
- (3) Allow pass-through entities to recover the RPC directly.
- (4) Increase the per production RPC cap from \$8,000,000 to \$16,000,000.
- (5) Allow webisodes to be included in the RPC application for the related series (avoids failing to meet the \$200K minimum spend).
- (6) Extend sunset date of Act 88 to 2025 to assure certainty and predictability for long term production planning.

## II. THE BILLS

Several bills are before this Committee which, in various ways, seek to encourage business development in Hawaii through the growth of the film industry by providing enhanced incentives that attract more film and television productions to Hawaii, thereby generating increased tax revenues.

A) SB2111. SB2111 embodies the Proposed Act 88 Modifications and is therefore strongly supported by NBC/U. NBC/U also supports the notion that the proposed increase in the RPC be tied to “local” hires thereby creating more jobs for Hawaii residents. In this regard, other jurisdictions have successfully tied some portion of their tax credit program to “local” hires. These other programs may provide guidance regarding the appropriate language/mechanism to be used to implement a “local” hire tie-in.

B) SB2741. SB2741 eliminates the Act 88 sunset date. The elimination of a sunset date or the extension of the sunset date for a significant period of time is important to the Film Industry because it provides some degree of assurance that the program will be around for years to come thereby allowing major projects, which require long term planning, to consider Hawaii as a production locale. Accordingly, NBC/U strongly supports the spirit and intent of SB2741.

C) SB2043. SB2043 seeks to increase the production credit available under Act 88 but does not provide a specified percentage increase. It is respectfully submitted that the tipping point at which an incentive program will have a meaningful pull on production activity exists at around 25%. This is especially true in the case of Hawaii because the cost of doing business here is considerably higher than on the mainland.


SB2043 also seeks to develop Hawaii’s Film Industry infrastructure by providing nonrefundable tax credits for qualified media infrastructure projects in the State of Hawaii. NBC/U, as a general proposition, supports the development of infrastructure as an integral part of a robust Film Industry but not at the expense of a competitive production credit. In other words, given limited resources, if the State of Hawaii had to choose between allocating tax dollars to infrastructure development or production credits, it is respectfully submitted that an increase in the production credit would have a more significant and profound ability to bring

production work to the State of Hawaii than the addition of an infrastructure credit. If both infrastructure development and an increase in the RPC can be carried out simultaneously, that would be the best of both worlds. However, given a choice between one or the other, it is submitted that the increase in the production credit would result in increased demand and that the local marketplace would respond to that demand by utilizing and/or repurposing existing assets for production use.

D) SB2462. SB2462, like SB2043, is intended to help develop Film Industry infrastructure in the State of Hawaii. For the same reasons stated hereinabove with respect to SB2043, it is respectfully submitted that the priority should be to increase the production credit to fill the “pipeline” with production projects. As the “pipeline” fills, the local marketplace will respond to this demand as noted above.

### **III. CONCLUSION**

While Hawaii may be perceived as a highly desirable destination that would instinctively attract the Film Industry, the State needs to take affirmative steps to ensure Hawaii is at the top of the list and not left behind in the wake of other domestic and international locales. SB2111 will help to ensure Hawaii is competitive with film destinations around the globe and does so in a manner that is sustainable and rational for the long term. NBC/U stands ready to work with the Legislature, the Administration and local Film Industry stakeholders to improve and enhance Hawaii’s film incentive program to help build a robust, stable and sustainable Film Industry in the State of Hawaii.

  
\_\_\_\_\_  
William G. Meyer, III  
On behalf of  
NBC Universal Media, LLC

**THE DESCENDANTS  
MUSIC CREDITS**

1. KA MAKANI KA'ILI ALOHA  
Written by Matthew Kane  
Arranged and Performed by Gabby Pahinui
2. KALENA KAI  
Written by John Kalapana  
Performed by Keola Beamer and George Winston
3. PAKA UA  
Written by Ozzie Kotani  
Performed by Ozzie Kotani and Daniel Ho
4. JEAN'S THEME  
Written by Andrew Lein  
Performed by Steve Di Laudo and Andrew Lein
5. HI'ILAWAWE  
Traditional  
Arranged and Performed  
by Sonny Chillingworth
6. AN ARTIST'S VISION  
Written and Performed  
by Anthony Natividad
7. KA MELE OKU'U PU'UWAI  
Traditional  
Arranged by Solomon Ho'opi'i  
Performed by Sol Hoopii's Novelty Trio
8. KALENA KAI  
Written by John Kalapana  
Performed by Keola Beamer
9. KAUA'I BEAUTY  
Written by Henry Wai'au  
Arranged and Performed by Gabby Pahinui
10. PAPA SIA  
Written by Johnny Noble  
Performed by 'Elua Kane

# THE DESCENDANTS

## Music Credits

11. LEAHI  
Written by Mary Robins and Johnny Noble  
Performed by Gabby Pahinui
12. AUWE  
Written and Performed by Ray Kane
13. POLI'AHU  
Written and Performed by Keola Beamer
14. HI'ILAWA  
Traditional  
Arranged and Performed by Gabby Pahinui
15. INTERLUDE WITH UKELELE  
Written and Performed  
by George Kahumoku, Jr. and Richard Ford
16. 'IMI AU IA 'OE  
Written by Charles E. King & Queen Lydia Lili'uokalani  
Arranged and Performed by Keola Beamer
17. HOLOHOLO KA'A  
Written and Performed by Jeff Peterson
18. IN YA SYSTEM  
Written by Don Kawaauhau, Shane Veincent and Caleb Richards  
Performed by Sudden Rush  
By arrangement with Robert Sterling Music New York
19. PUA LANI  
Written and Performed by Jeff Peterson
20. NIGHT BLOOMING CEREUS  
Written and Performed by Jeff Peterson and Riley Lee
21. HAWAIIAN SKIES  
Written and Performed  
by Jeff Peterson

22. DEEP IN AN ANCIENT HAWAIIAN FOREST  
Written and Performed by Makana
23. MISS BEA  
Written and Performed by McCoy Tyner  
By arrangement with Manhattan Production Music
24. WAI O KE ANIANI  
Traditional  
Arranged and Performed by Gabby Pahinui
25. KA LOKE  
Written by Mary Heanu and Johnny Noble  
Performed by Makaha Sons with Dennis Pavao
26. `ULILI E  
Written by Johnny Noble, Harry Naope and George Koahi  
Performed by Rev. Dennis Kamakahi
27. `ULILI E  
Written by Johnny Noble, Harry Naope and George Koahi  
Performed by Jeff Peterson
28. PUA HONE  
Written and Performed by Rev. Dennis Kamakahi
29. PINE TREE SLACK KEY  
Written and Performed by Pancho Graham
30. WONDERLAND  
Written and Performed by  
Eugene Kulikov
31. SANOE  
Written by Queen Lydia Lili`uokalani  
Arranged and Performed by Danny Carvalho
32. NANI WAI`ALE`ALE  
Written by Dan Pokipala, Sr.  
Performed by Kanak Attack
33. THE YODEL SONG  
Written by Gary Haleamau  
Performed by Kanak Attack

# THE DESCENDANTS

## Music Credits

34. FAITH IN RAIN  
Written by Maureen Davis and Adam Daniel  
Performed by The Flutterbies featuring Maureen Davis
35. HUMMINGBIRD HEART  
Written by Maureen Davis and Adam Daniel  
Performed by The Flutterbies featuring Maureen Davis
36. HE`EIA  
Written by David Bray, Linda Bray and Johnny Noble  
Performed by Gabby Pahinui and Sons Of Hawaii
37. HAPUNA SUNSET  
Written and Performed by  
Charles Michael Brotman
38. THE HARSHTEST PLACE ON EARTH  
(from the motion picture March Of The Penguins)  
Composed by Alex Wurman
39. HI`ILAWAWE  
Traditional  
Arranged by Bernie Ka`ai  
Performed by Ernest Tavares
40. MOM  
Written and Performed by Lena Machado

## fukunaga2 - Ashley-Jane

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 05, 2012 1:16 PM  
**To:** EDTTestimony  
**Cc:** rgalindez@islandfilmgroup.com  
**Subject:** Testimony for SB2111 on 2/6/2012 1:30:00 PM

Testimony for EDT 2/6/2012 1:30:00 PM SB2111

Conference room: 016  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Ricardo Galindez  
Organization: Individual  
E-mail: [rgalindez@islandfilmgroup.com](mailto:rgalindez@islandfilmgroup.com)  
Submitted on: 2/5/2012

Comments:



# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** INCOME, Increase motion picture, digital media and film production credit

**BILL NUMBER:** SB 2111

**INTRODUCED BY:** Fukunaga, Baker, Espero, Galuteria, Ige, Ihara, Nishihara, Ryan, Tokuda, Tsutsui, 4 Democrats and 1 Republican

**BRIEF SUMMARY:** Amends HRS section 235-17 to increase the motion picture, digital media, and film production tax credit from 15% to 25% 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 30% for costs incurred in a county with a population of 700,000 or less.

Increases the total tax credits that may be claimed per qualified production from \$8 million to \$16 million.

Amends the definition of “digital media” to include distribution over the Internet, wireless network or similar methods of distribution.

This measure shall be applicable to qualified production costs incurred on or after January 1, 2012 and before January 1, 2027. Repeals this act on January 1, 2027 and provides that HRS section 235-17 shall be reenacted in the form in which it read on the day before the effective date of Act 88, SLH 2006.

**EFFECTIVE DATE:** July 1, 2012

**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.

This measure proposes to increase the credit from 15% to 25% in a county with a population over 700,000 and from 20% to 30% in a county with a population of 700,000 or less. The measure also increases the limit of tax credits that may be claimed per qualified production from \$8 million to \$16

million and amends the definition of “digital media” to include distribution over the Internet, wireless network or other similar methods of distribution. The measure also extends the motion picture, digital media and film production credits from December 31, 2015 to December 31, 2026.

These credits have been morphing and expanding into full-blown tax credits since they “got their foot in the door” in 1997. It should be remembered that the perpetuation and expansion of 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 increasing and continuing these tax credits 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. Sponsors try to make an argument that Hawaii needs to enact such incentives 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, a scenario akin to the bread and circus of ancient Rome.

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 have had to bear increasing tax burdens.

Instead of creating sustainable economic development incentives, the film tax credits waste moneys that could otherwise create an environment that is nurturing for all business activity, activity that lasts more than the six or eight months of a production. The overall tax burden could be lowered not only for families but for the businesses that provide long-term employment for Hawaii’s people.