
A BILL FOR AN ACT

RELATING TO THE CREATIVE MEDIA INDUSTRY.

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

- 1 SECTION 1. The purpose of this Act is to:
- 2 (1) Establish a statewide creative industries advisory
- 3 group within the department of business, economic
- 4 development, and tourism to support the development of
- 5 the creative and media industries;
- 6 (2) Repeal the Hawaii television and film development
- 7 board, which has been inactive for about ten years,
- 8 along with the grant and venture capital programs that
- 9 were implemented by the board;
- 10 (3) Rename the Hawaii television and film development
- 11 special fund as the creative media and film
- 12 infrastructure special fund;
- 13 (4) Broaden the sources of revenue for the creative media
- 14 and film infrastructure special fund;
- 15 (5) Amend the purposes for which the creative media and
- 16 film infrastructure special fund may be used, in order
- 17 to enable the department of business, economic



1 development, and tourism to fulfill its statutory and
 2 business development duties regarding the creative
 3 industries, film and media programs; and
 4 (6) Exempt certain amounts received related to
 5 improvements to and operations of the Hawaii film
 6 studio from the general excise tax and the use of
 7 certain items for the Hawaii film studio from the use
 8 tax.

9 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
 10 amended by adding two new sections to part IX to be
 11 appropriately designated and to read as follows:

12 "§201- Hawaii creative industries advisory group;
 13 establishment. (a) There is established the Hawaii creative
 14 industries advisory group, which shall be placed within the
 15 department for administrative purposes only.

16 (b) The Hawaii creative industries advisory group shall be
 17 composed of thirteen members appointed by the director of
 18 business, economic development, and tourism. The members shall
 19 include:

20 (1) The administrator of the department's creative
 21 industries division;



- 1 (2) The branch chiefs of the Hawaii film office and the
2 arts and culture development branch;
- 3 (3) The county film commissioners representing the
4 counties of Maui, Kauai, Honolulu, and Hawaii, or
5 their designated representatives, who shall serve as
6 ex officio voting members;
- 7 (4) A representative from a labor organization whose
8 members provide services to the film industry;
- 9 (5) A representative from a labor organization whose
10 members provide services to the music industry;
- 11 (6) Two members from the University of Hawaii career and
12 technical education center and academy for creative
13 media program; and
- 14 (7) Two members selected from the community on the basis
15 of their knowledge and experience in the creative and
16 media industries.
- 17 (c) The director shall serve as chairperson of the Hawaii
18 creative industries advisory group, and all members shall serve
19 without compensation.

20 §201- Powers and duties. The Hawaii creative industries
21 advisory group shall:



- 1 (1) Recommend programs and initiatives for creative and
- 2 media industry development;
- 3 (2) Recommend programs which expand the skill sets of
- 4 Hawaii's resident workforce, above and below the line,
- 5 in the creative and media industries; and
- 6 (3) Recommend infrastructure development and expansion to
- 7 support the creative and media industries in Hawaii.

8 The advisory group shall be exempt from section 26-34 and
 9 chapter 92."

10 SECTION 3. Chapter 237, Hawaii Revised Statutes, is
 11 amended by adding a new section to be appropriately designated
 12 and to read as follows:

13 "§237- Exemption of certain amounts related to the
 14 Hawaii film studio. (a) This chapter shall not apply to
 15 amounts received for:

- 16 (1) Making improvements to the Hawaii film studio under a
- 17 financing agreement pursuant to chapter 37D; or
- 18 (2) Operations of the Hawaii film studio.

19 Application for the exemption provided by this section shall
 20 first be made to the department of business, economic
 21 development, and tourism. The taxpayer shall provide the



1 taxpayer's name, general excise tax license number, and the
2 amounts received for making improvements to or operations of the
3 Hawaii film studio to the department of business, economic
4 development, and tourism, which shall certify the total amount
5 of the exemption for each taxable year. Upon each
6 determination, the department of business, economic development,
7 and tourism shall issue a certificate to the taxpayer verifying
8 the amount of improvements to or operations of the Hawaii film
9 studio and the exemption amount certified for each taxable year.
10 The taxpayer shall file the certificate with the taxpayer's tax
11 return with the department of taxation."

12 SECTION 4. Chapter 201, Hawaii Revised Statutes, is
13 amended by amending the title of part IX to read as follows:

14 "[+]PART IX. [~~]~~~~HAWAII TELEVISION~~] CREATIVE MEDIA AND FILM
15 DEVELOPMENT"

16 SECTION 5. Section 201-111, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§201-111[+] Definitions. As used in this part:

19 [~~"Applicant" means a person applying for a grant or venture~~
20 ~~capital investment from the board under this part.~~



1 ~~"Board" means the Hawaii television and film development~~
2 ~~board.~~

3 ~~"Eligible Hawaii project" or "project" means an~~
4 ~~entertainment project in which at least seventy five per cent of~~
5 ~~the budget for the production costs, excluding salaries and~~
6 ~~costs for the producer, director, writer, screenplay, and actors~~
7 ~~in the project, is dedicated for the purchase or lease of goods~~
8 ~~or services from a vendor or supplier who is located and doing~~
9 ~~business in the State.~~

10 ~~"Fund" means the Hawaii television and film development~~
11 ~~special fund.~~

12 ~~"Venture capital investment" means any of the following~~
13 ~~investments in a project:~~

- 14 ~~(1) Common or preferred stock and equity securities~~
15 ~~without a repurchase requirement for at least five~~
16 ~~years;~~
- 17 ~~(2) A right to purchase stock or equity securities;~~
- 18 ~~(3) Any debenture, whether or not convertible or having~~
19 ~~stock purchase rights, which is subordinated, together~~
20 ~~with security interests against the assets of the~~
21 ~~borrower, by their terms to all borrowings of the~~



1 ~~borrower from other institutional lenders, and that is~~
2 ~~for a term of not less than three years, and that has~~
3 ~~no part amortized during the first three years; and~~
4 ~~(4) General or limited partnership interests.]~~

5 "Creative media" includes film, motion pictures,
6 television, and digital media as defined in section 235-17.

7 "Department" means the department of business, economic
8 development, and tourism.

9 "Improvements" mean any repair or maintenance related to
10 the Hawaii film studio."

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

13 "[~~§~~201-113~~] Hawaii television] Creative media and film
14 [~~development] infrastructure special fund. (a) There is
15 established in the state treasury the [~~Hawaii television]~~
16 creative media and film [~~development] infrastructure special~~
17 fund into which shall be deposited:~~~~

- 18 (1) Appropriations by the legislature;
19 (2) Donations and contributions made by private
20 individuals or organizations for deposit into the
21 fund;



- 1 (3) Grants provided by governmental agencies or any other
2 source; [and
3 ~~(4) Any profits or other amounts received from venture~~
4 ~~capital investments.]~~
- 5 (4) All revenues, fees, and charges from the rental and
6 operation of the Hawaii film studio;
- 7 (5) All revenues, fees, and charges from the processing of
8 film permits pursuant to section 201-14; and
- 9 (6) All revenues, fees, and charges from the processing of
10 the motion picture, digital media, and film production
11 income tax credit pursuant to section 235-17.
- 12 (b) The fund shall be used by the [~~board to assist in, and~~
13 ~~provide incentives for, the production of eligible Hawaii~~
14 ~~projects that are in compliance with criteria and standards~~
15 ~~established by the board in accordance with rules adopted by the~~
16 ~~board pursuant to chapter 91. In particular, the board shall~~
17 ~~adopt rules to provide for the implementation of the following~~
18 ~~programs:~~
- 19 ~~(1) A grant program. The board shall adopt rules pursuant~~
20 ~~to chapter 91 to provide conditions and qualifications~~
21 ~~for grants. Applications for grants shall be made to~~



1 ~~the board and shall contain such information as the~~
2 ~~board shall require by rules adopted pursuant to~~
3 ~~chapter 91. At a minimum, the applicant shall agree~~
4 ~~to the following conditions:~~

5 ~~(A) The grant shall be used exclusively for eligible~~
6 ~~Hawaii projects;~~

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

9 ~~(C) The applicant shall comply with applicable~~
10 ~~federal and state laws prohibiting discrimination~~
11 ~~against any person on the basis of race, color,~~
12 ~~national origin, religion, creed, sex, age, or~~
13 ~~physical handicap;~~

14 ~~(D) The applicant shall comply with other~~
15 ~~requirements as the board may prescribe;~~

16 ~~(E) All activities undertaken with funds received~~
17 ~~shall comply with all applicable federal, state,~~
18 ~~and county statutes and ordinances;~~

19 ~~(F) The applicant shall indemnify and save harmless~~
20 ~~the State of Hawaii and its officers, agents, and~~
21 ~~employees from and against any and all claims~~



1 ~~arising out of or resulting from activities~~
2 ~~carried out or projects undertaken with funds~~
3 ~~provided hereunder, and procure sufficient~~
4 ~~insurance to provide this indemnification if~~
5 ~~requested to do so by the department;~~

6 ~~(G) The applicant shall make available to the board~~
7 ~~all records the applicant may have relating to~~
8 ~~the project, to allow the board to monitor the~~
9 ~~applicant's compliance with the purpose of this~~
10 ~~chapter; and~~

11 ~~(H) The applicant, to the satisfaction of the board,~~
12 ~~shall establish that sufficient funds are~~
13 ~~available for the completion of the project for~~
14 ~~the purpose for which the grant is awarded; and~~

15 ~~(2) A venture capital program. The board shall adopt~~
16 ~~rules pursuant to chapter 91 to provide conditions and~~
17 ~~qualifications for venture capital investments in~~
18 ~~eligible Hawaii projects. The program may include a~~
19 ~~written agreement between the borrower and the board,~~
20 ~~as the representative of the State, that as~~
21 ~~consideration for the venture capital investment made~~



1 ~~under this part, the borrower shall share any~~
2 ~~royalties, licenses, titles, rights, or any other~~
3 ~~monetary benefits that may accrue to the borrower~~
4 ~~pursuant to terms and conditions established by the~~
5 ~~board by rule pursuant to chapter 91. Venture capital~~
6 ~~investments may be made on such terms and conditions~~
7 ~~as the board shall determine to be reasonable,~~
8 ~~appropriate, and consistent with the purposes and~~
9 ~~objectives of this part.]~~

10 department to provide for:

- 11 (1) Operations, repair, and maintenance of the Hawaii film
12 studio;
13 (2) Support for the operations of the department's film
14 industry branch;
15 (3) Programs and initiatives for creative media industry
16 development; and
17 (4) Programs that expand the skill sets of Hawaii's
18 resident workforce in the creative media and film
19 industries."

20 SECTION 7. Section 235-17, Hawaii Revised Statutes, is
21 amended by amending subsection (f) to read as follows:



1 "(f) To receive the tax credit, the taxpayer shall first
2 prequalify the production for the credit by registering with the
3 department of business, economic development, and tourism and
4 paying a processing fee established by the department during the
5 development or preproduction stage. Failure to comply with this
6 provision may constitute a waiver of the right to claim the
7 credit."

8 SECTION 8. Section 238-1, Hawaii Revised Statutes, is
9 amended by amending the definition of "use" to read as follows:

10 "Use" (and any nounal, verbal, adjectival, adverbial, and
11 other equivalent form of the term) herein used interchangeably
12 means any use, whether the use is of such nature as to cause the
13 property, services, or contracting to be appreciably consumed or
14 not, or the keeping of the property or services for such use or
15 for sale, the exercise of any right or power over tangible or
16 intangible personal property incident to the ownership of that
17 property, and shall include control over tangible or intangible
18 property by a seller who is licensed or who should be licensed
19 under chapter 237, who directs the importation of the property
20 into the State for sale and delivery to a purchaser in the
21 State, liability and free on board (FOB) to the contrary



1 notwithstanding, regardless of where title passes, but the term
2 "use" shall not include:

3 (1) Temporary use of property, not of a perishable or
4 quickly consumable nature, where the property is
5 imported into the State for temporary use (not sale)
6 therein by the person importing the same and is not
7 intended to be, and is not, kept permanently in the
8 State. For example, without limiting the generality
9 of the foregoing language:

10 (A) In the case of a contractor importing permanent
11 equipment for the performance of a construction
12 contract, with intent to remove, and who does
13 remove, the equipment out of the State upon
14 completing the contract;

15 (B) In the case of moving picture films imported for
16 use in theaters in the State with intent or under
17 contract to transport the same out of the State
18 after completion of such use; and

19 (C) In the case of a transient visitor importing an
20 automobile or other belongings into the State to
21 be used by the transient visitor while therein



- 1 but which are to be used and are removed upon the
2 transient visitor's departure from the State;
- 3 (2) Use by the taxpayer of property acquired by the
4 taxpayer solely by way of gift;
- 5 (3) Use which is limited to the receipt of articles and
6 the return thereof, to the person from whom acquired,
7 immediately or within a reasonable time either after
8 temporary trial or without trial;
- 9 (4) Use of goods imported into the State by the owner of a
10 vessel or vessels engaged in interstate or foreign
11 commerce and held for and used only as ship stores for
12 the vessels;
- 13 (5) The use or keeping for use of household goods,
14 personal effects, and private automobiles imported
15 into the State for nonbusiness use by a person who:
- 16 (A) Acquired them in another state, territory,
17 district, or country;
- 18 (B) At the time of the acquisition was a bona fide
19 resident of another state, territory, district,
20 or country;



1 (C) Acquired the property for use outside the State;
2 and

3 (D) Made actual and substantial use thereof outside
4 this State;

5 provided that as to an article acquired less than
6 three months prior to the time of its importation into
7 the State, it shall be presumed, until and unless
8 clearly proved to the contrary, that it was acquired
9 for use in the State and that its use outside the
10 State was not actual and substantial;

11 (6) The leasing or renting of any aircraft or the keeping
12 of any aircraft solely for leasing or renting to
13 lessees or renters using the aircraft for commercial
14 transportation of passengers and goods or the
15 acquisition or importation of any such aircraft or
16 aircraft engines by any lessee or renter engaged in
17 interstate air transportation. For purposes of this
18 paragraph, "leasing" includes all forms of lease,
19 regardless of whether the lease is an operating lease
20 or financing lease. The definition of "interstate air
21 transportation" is the same as in 49 U.S.C. 40102;



- 1 (7) The use of oceangoing vehicles for passenger or
2 passenger and goods transportation, from one point to
3 another within the State, as a public utility as
4 defined in chapter 269;
- 5 (8) The use of material, parts, or tools that are imported
6 or purchased by a person licensed under chapter 237
7 ~~[which]~~ and are used for aircraft service and
8 maintenance~~[7]~~ or the construction of an aircraft
9 service and maintenance facility as those terms are
10 defined in section 237-24.9;
- 11 (9) The use of services or contracting imported for resale
12 where the contracting or services are for resale,
13 consumption, or use outside the State pursuant to
14 section 237-29.53(a); ~~[and]~~
- 15 (10) The use of property, services, or contracting imported
16 by foreign diplomats and consular officials who are
17 holding cards issued or authorized by the United
18 States Department of State granting them an exemption
19 from state taxes~~[-]~~; and
- 20 (11) The use of material, parts, or tools that are imported
21 or purchased by a person licensed under chapter 237



1 and are used for improvements to the Hawaii film
2 studio under a financing agreement pursuant to chapter
3 37D or operations of the Hawaii film studio; provided
4 that application for the exemption provided by this
5 section shall first be made to the department of
6 business, economic development, and tourism. The
7 taxpayer shall provide the taxpayer's name, general
8 excise tax license number, and the amounts of the
9 material, parts, or tools used for improvements to or
10 operations of the Hawaii film studio to the department
11 of business, economic development, and tourism, which
12 shall certify the total amount of the exemption for
13 each taxable year. Upon each determination, the
14 department of business, economic development, and
15 tourism shall issue a certificate to the taxpayer
16 verifying the amount of improvements to or operations
17 of the Hawaii film studio and the exemption amount
18 certified for each taxable year. The taxpayer shall
19 file the certificate with the taxpayer's tax return
20 with the department of taxation.



1 With regard to purchases made and distributed under the
2 authority of chapter 421, a cooperative association shall be
3 deemed the user thereof."

4 SECTION 9. Section 201-112, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§201-112] Hawaii television and film development board.~~

7 ~~(a) There is established the Hawaii television and film~~
8 ~~development board. The board shall be attached to the~~
9 ~~department of business, economic development, and tourism for~~
10 ~~administrative purposes only. The board shall administer the~~
11 ~~grant and venture capital investment programs and the Hawaii~~
12 ~~television and film development special fund established under~~
13 ~~this part. The board shall also assess and consider the overall~~
14 ~~viability and development of the television and film industries~~
15 ~~and make recommendations to appropriate state or county~~
16 ~~agencies.~~

17 ~~(b) The board shall be composed of nine members, four of~~
18 ~~whom shall be appointed by the governor pursuant to section 26-~~
19 ~~34, and all of whom shall serve four year staggered terms. One~~
20 ~~of the governor's appointments shall be made from a list of~~
21 ~~nominees submitted by the president of the senate and another~~



1 ~~appointment shall be made from a list of nominees submitted by~~
2 ~~the speaker of the house of representatives. The four appointed~~
3 ~~members shall possess a current working knowledge of the film,~~
4 ~~television, or entertainment industry. The director of~~
5 ~~business, economic development, and tourism, and the chairs of~~
6 ~~the four county film commissions or its equivalent, shall serve~~
7 ~~as ex officio voting members, who may be represented on the~~
8 ~~board by designees.~~

9 ~~The chairperson and vice chairperson of the board shall be~~
10 ~~selected by the board by majority vote. Five members shall~~
11 ~~constitute a quorum, whose affirmative vote shall be necessary~~
12 ~~for all actions by the board. The members shall serve without~~
13 ~~compensation but shall be reimbursed for expenses, including~~
14 ~~travel expenses, necessary for the performance of their duties.~~

15 ~~(c) The film industry branch development manager shall~~
16 ~~serve as the executive secretary of the board.~~

17 ~~(d) The board may adopt rules pursuant to chapter 91 to~~
18 ~~effectuate the purposes of this part."]~~

19 SECTION 10. Section 201-114, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§201-114] Inspection of premises and records. The~~
2 ~~board shall have the right to inspect, at reasonable hours, the~~
3 ~~plant, physical facilities, equipment, premises, books, and~~
4 ~~records of any applicant in connection with the processing of a~~
5 ~~grant to the applicant."]~~

6 SECTION 11. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2017-2018 and the
9 same sum or so much thereof as may be necessary for fiscal year
10 2018-2019 to be deposited into the creative media and film
11 infrastructure special fund.

12 SECTION 12. There is appropriated out of the Hawaii
13 television and film development special fund, renamed as the
14 creative media and film infrastructure special fund pursuant to
15 this Act, the sum of \$ or so much thereof as may be
16 necessary for fiscal year 2017-2018 and the same sum or so much
17 thereof as may be necessary for fiscal year 2018-2019 for the
18 purposes of the fund.

19 The sums appropriated shall be expended by the department
20 of business, economic development, and tourism for the purposes
21 of this Act.



1 SECTION 13. Notwithstanding the establishment of the
2 Hawaii creative industries advisory group as provided in this
3 Act, the film industry branch within the department of business,
4 economic development, and tourism and the creative industries
5 division shall continue to be maintained without any reduction
6 in staffing or funding, and all officers and employees in the
7 branch shall continue to perform their functions and duties
8 under this Act.

9 SECTION 14. The University of Hawaii and the department of
10 business, economic development, and tourism shall collaborate to
11 provide a report to the legislature, no later than twenty days
12 prior to the convening of each regular session, providing
13 evidence of financial or in-kind contributions to workforce
14 development efforts of the University of Hawaii through its
15 system-wide creative media programs and projects, in furtherance
16 of the local film, television, and digital media industries.
17 The report shall also include:

18 (1) How funds are being spent on workforce development;

19 (2) Statistics on numbers of:



1 (A) Elementary and secondary students participating
2 in creative media programs and projects
3 affiliated with the University of Hawaii;

4 (B) Elementary and secondary students whose projects
5 received state, national, or international
6 creative media awards within the previous year;
7 and

8 (C) Public and private schools and organizations
9 participating in creative media programs and
10 projects affiliated with the University of
11 Hawaii;

12 (3) Numbers of graduates obtaining jobs in the film,
13 television, and digital media industries in Hawaii and
14 outside of Hawaii; and

15 (4) The numbers of new jobs created and dollar value of
16 projects developed in Hawaii and outside of Hawaii as
17 a result of the contributions.

18 SECTION 15. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 16. This Act shall take effect on July 1, 2038;
21 provided that the general excise tax and use tax exemptions



1 established by this Act shall apply to taxable periods beginning
2 after December 31, 2017.

Report Title:

Creative Media Industry; Creative Media and Film Infrastructure Special Fund; General Excise Tax; Use Tax; Appropriation

Description:

Establishes the Hawaii Creative Industries Advisory Group while retaining the Film Industry Branch and Creative Industries Division of DBEDT. Repeals the Hawaii Television and Film Development Board along with the grant and venture capital programs that were implemented by the Board. Renames the Hawaii Television and Film Development Special Fund as the Creative Media and Film Infrastructure Special Fund. Expands funding sources for the Creative Media and Film Infrastructure Special Fund to support creative industries development within DBEDT. Amends the purposes for which the Creative Media and Film Infrastructure Special Fund may be used. Provides general excise and use tax exemptions for operations and improvements of the Hawaii Film Studio. Requires the University of Hawaii and DBEDT to report to the legislature. Makes an appropriation. Effective 7/1/2038. (SD1)

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

