



# DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of  
**Luis P. Salaveria**  
Director

Department of Business, Economic Development, and Tourism  
**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM, AND  
TECHNOLOGY**

Monday, March 13, 2017  
1:15 PM

State Capitol, Conference Room 414

In consideration of  
**HB590, HD1**  
**RELATING TO THE CREATIVE MEDIA INDUSTRY.**

Chair Wakai, Vice Chair Taniguchi, and Members of the Senate Committee on Economic Development, Tourism, and Technology.

The Department of Business, Economic Development and Tourism (DBEDT) **supports HB590, HD1** which Seeks to: 1) establish a statewide creative industries advisory group to include neighbor island representation; 2) repeal the Hawaii Television and Film Development Board; 3) rename the Hawaii Television and Film Development Special Fund to Creative Media and Film Infrastructure Special Fund; 4) Broaden the sources of revenue for this special fund; and 5) amend the purposes of the use of the fund, while retaining the Creative Industries Division (CID) and its branches, the Hawaii Film Office (HFO) and the Arts and Culture Development Branch (ACDB).

DBEDT supports establishing a special fund within the department to capture studio rents from the existing Hawaii Film Studio, as well as expanding the revenue sources to support existing and new infrastructure development, industry specific workforce development programs and strategic marketing.

The Department supports the formation of a Creative Industries Advisory Group (CIAG) to provide a formal mechanism to focus ongoing dialogue and strategies for future development of the creative and film industries.

The department requests the committee's consideration of clarifying amendments which expand the representation on the advisory group. Please see attached the recommendations to amend Section 2, pages 2 and 3, which are attached to this testimony.

Coupled with an extension of the sunset date in Act 88/89 Motion Picture, Television, Film and Digital Media Tax Credit, the advisory group and special fund will provide a foundation on which to build a creative continuum for education to workforce opportunities for Hawaii's creative entrepreneurs and businesses.

Thank you for the opportunity to testify on this measure.

DBEDT REQUESTED AMENDMENTS TO HB590 HD1 –UPDATED 3/10/17  
Submitted attached to testimony – ETT - March 13, 2017

In Section 2, pages 2 and 3, the department requests your consideration to amend language as follows:

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

(b) The Hawaii creative industries advisory group shall be composed of thirteen members appointed by the director of business, economic development, and tourism. The members shall include the administrator of the department's creative industries division, the branch chiefs of the Hawaii Film Office and the Arts and Culture Development Branch, the county film commissioners representing Maui, Kauai, Oahu, and Hawaii Island Counties, or their designated representatives, who shall collectively serve as ex officio voting members. One of the appointed members shall be a representative from a labor organization whose members provide services to the film industry, and one of the appointed members shall be a representative from a labor organization whose members provide services to the music industry, and two members from the career and technical education and University of Hawaii ACM program. Two of the appointed members shall be selected from the community on the basis of their knowledge and experience in the creative and media industries, representing a cross section of creative and media sectors, recommended through a process to be developed in collaboration with state and county economic development leadership and county and state film offices.

The creative industries administrator, and its branch chiefs will convene the group, which shall include representatives of two labor organizations whose members provide services to the film and music industries and the director or the director's designee.

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

(1) Recommend programs and initiatives for creative and media industry development;

(2) Recommend programs which expand the skill sets of Hawaii's resident workforce, above and below the line, in the creative and media industries;

(3) Recommend infrastructure development and expansion to support the creative and media industries in Hawaii and;

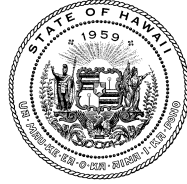
(4) The advisory committee shall be exempt from section 26-34 and chapter 92.

And on page 18, maintain the language as follows:

SECTION 12. Notwithstanding the establishment of the Hawaii creative industries advisory group as provided in this Act, the film industry branch within the department of business, economic development, and tourism and the creative industries division shall continue to be maintained without any reduction in staffing or funding and all officers and employees in the branch shall continue to perform their functions and duties under this Act.

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To: The Honorable Glenn Wakai, Chair  
and Members of the Senate Committee on Economic Development, Tourism, and  
Technology

Date: Monday, March 13, 2017  
Time: 1:15 P.M.  
Place: Conference Room 414, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 590, H.D. 1, Relating to the Creative Media Industry

The Department of Taxation (Department) appreciates the intent of H.B. 590, H.D. 1, and provides the following comments for your consideration.

The prior version of H.B. 590, H.D. 1 created the Hawaii Film Commission within the Department of Business, Economic Development, and Tourism (DBEDT). The H.D. 1 version of this measure instead creates the Hawaii Creative Industries Advisory Group, which has different powers and duties. Section 3 of the measure creates an exemption to the general excise tax (GET) for certain revenue related to the Hawaii film studio, including revenue from improvements made to the studio and revenue from the operation of the film studio. Section 6 of this measure changes the Hawaii television and film development special fund to the Creative Media and Film Infrastructure Special Fund, and deposits revenue from several sources, including any revenue, fees, and charges from the processing of the motion picture, digital media, and film production income tax credit into the fund. Section 7 of the measure creates an exemption to the use tax for certain corresponding items related to the Hawaii film studio. The measure has a defective effective date of July 1, 2038.

The Department notes that there are two GET exemptions proposed by this measure. The first is for “amounts received from...the improvements to the Hawaii film studio under a financing agreement pursuant to chapter 37D.” It is unclear from the wording of this exemption what taxpayers are eligible for and what amounts qualify for the exemption. Specifically, the word “improvements” should be thoroughly defined. In addition, certification by DBEDT will serve to eliminate any type of confusion as to the amounts intended to be exempt.

The second GET exemption is for “amounts received from...the operations of the Hawaii film studio.” This exemption should be certified by DBEDT because it would have the relevant information on hand as the contracting agency. The certification by DBEDT should include the

taxpayer's name, taxpayer's GET license number, and the amounts received for operation of the Film Studio.

Second, the special fund created by Section 6 of this measure receives funds from, among other sources, all revenues, fees, and charges from the processing of the motion picture, digital media, and film production income tax credit. The Department notes that there is currently no provision in section 235-17, Hawaii Revised Statutes (HRS), allowing a fee to be charged for the processing of the motion picture, digital media, and film production tax credit. If the intent is to allow a fee to be charged for processing this tax credit, then an amendment also should be made to section 235-17, HRS, allowing a fee to be assessed.

Third, the use tax exemption in Section 7 of this measure is broadly worded. It applies to "materials, parts, or tools" imported and "used for the Hawaii film studio, including any improvements to the Hawaii film studio under a financing agreement pursuant to chapter 37D." This provision should be amended to be more similar to the corresponding GET exemption, as the use tax is meant to complement the GET. The Department suggests DBEDT certification of this exemption as well.

Finally, the Department requests that GET and use tax exemptions be made applicable for taxable periods beginning January 1, 2018 to allow sufficient time for the necessary form, instruction and computer system modifications necessary for proper implementation.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

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SUBJECT: GENERAL EXCISE, USE, Exemption for Hawaii Film Studio

BILL NUMBER: HB 590, HD-1

INTRODUCED BY: House Committee on Economic Development & Business

EXECUTIVE SUMMARY: Among other things, this measure provides general excise tax and use tax exemptions for operations and improvements of the Hawaii Film Studio. If this is passed, other agencies will be wanting similar exemptions to stretch their budget dollars a little further.

SYNOPSIS: Adds a new section to HRS chapter 237 that would exempt amounts received from: (1) the improvements of the Hawaii film studio under a financing agreement pursuant to chapter 37D; or (2) the operations of the Hawaii film studio.

Amends HRS section 238-1 to provide an exemption from use tax for the use of material, parts, or tools that are imported or purchased by a person licensed under chapter 237 and are used for the Hawaii film studio, including any improvements made to the Hawaii film studio under a financing agreement pursuant to chapter 37D.

EFFECTIVE DATE: July 1, 2038.

STAFF COMMENTS: Because our general excise tax is imposed on the vendor, procurements by state government agencies are not exempt from tax (the buyer is exempt, but the seller isn't). Commonly, the vendor passes on its tax cost to the State, either directly or through a price adjustment.

Use Tax is normally imposed on a customer when a customer imports goods, services, or contracting into Hawaii and the seller of those goods, services, or contracting is beyond Hawaii's taxing jurisdiction. The State and its agencies are exempt from this tax, but the State's suppliers are not. Thus, vendors who import property or services to sell to the State (repair parts for machinery, perhaps) would be exposed to this tax, normally at the wholesale rate of 0.5%. Naturally, that cost would be factored into the price charged by the vendor.

Apparently, the tax burden was enough of a drag on the Film Office's budget that they are now seeking an exemption to help its budgeted taxpayer money reach a little further. If this exemption is passed, we can expect to hear from other agencies large and small wanting the same treatment.

We also observe that the Department of Taxation, in prior testimony, found the GET and Use Tax exemptions proposed in this measure to be vague. We agree with that assessment.

Digested 2/25/2017