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To: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Economic Development & Business

Date: Wednesday, February 6, 2019
Time: 10:10 A.M.
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 540, 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 H.B. 540, and offers the following comments for the Committee's consideration.

H.B. 540 increases the motion picture, digital media, and film production income tax credit (film credit) annual cap of $35 million to $45 million, and adds alternative marketing opportunities to meet the requirement of the film credit. The bill is effective July 1, 2019.

First, the Department notes that Act 143, Session Laws of Hawaii 2017 (Act 143), enacted the annual film credit cap of $35 million effective for taxable years beginning after December 31, 2018. The Department continues to work with DBEDT to develop procedures and rules that are consistent with Act 143. DBEDT certifies the film credit by pre-qualifying productions, certifies qualified production costs, and certifies the amount of film credit allocated to each qualified production for the taxable year.

Finally, the Department suggests clarifying the effective date of this measure. The current effective date is July 1, 2019, but the aggregate cap of $35 million applies to taxable years beginning after December 31, 2018. If the intent of this measure is to increase the aggregate cap established by Act 143 to $45 million for tax year 2019, the Department suggests changing the effective date of this measure to apply to taxable years beginning after December 31, 2018.

Thank you for the opportunity to provide comments.

UNIVERSITY OF HAWAIʻI SYSTEM
Legislative Testimony

Testimony Presented Before the
House Committee on Economic Development & Business
Wednesday, February 6, 2019 at 10:10 a.m.
By
Christopher P. Lee, Director, Academy for Creative Media System
on behalf of
Vassilis L. Syrmos, Vice President for Research and Innovation
University of Hawaiʻi System

HB 540 – RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT

Chair McKelvey, Vice Chair Kitagawa and members of the committee:

The University of Hawaiʻi (UH) greatly appreciates the strong support this legislature has given to the Academy for Creative Media System (ACM System), which now helps fund and coordinate collaboration among 17 different programs at all ten UH campuses throughout the islands. Most recently, ACM System lead the effort of students, faculty and staff from five different campuses in re-recording Disney's *Moana* into the Hawaiian language for distribution to all schools in the state to encourage the learning of ōlelo Hawaiʻi.

The Legislature's support for the film, television and digital content industry, which hires ACM graduates and makes it possible for them to stay in the islands with living wage jobs, is also greatly appreciated. In 2018, Hawaiʻi set a new record of almost $477 million in direct production spending with an economic impact heading towards a billion dollars for the local economy.

The University of Hawaiʻi believes that the new, $35 million cap on the state's film, television and digital media tax credit, which took effect in 2019, could have a damaging effect on this robust industry and supports any efforts to increase or even roll back this cap completely. Additionally, UH believes that lowering the current total tax credits per production from $15 million to $12,500,000 per project would also be a disincentive to motion picture and television projects deciding to shoot in the islands.

Thank you for the opportunity to testify on this measure.

SUBJECT: INCOME, Increase Cap on Motion Picture Production Credit

BILL NUMBER: HB 540

INTRODUCED BY: SAY, WARD

EXECUTIVE SUMMARY: Tweaks the motion picture, digital media, and film production income tax credit. Changes the aggregate cap from $35 million to $45 million. It may be possible to make the case that the benefits have outweighed the costs.

SYNOPSIS: Amends HRS section 235-17(d) to require that a production shall provide the State, as an alternative to a shared-card end title screen credit, alternative marketing opportunities approved by DBEDT.

Amends HRS section 235-17(j) to change the credit cap per qualified production from $15 million to $12.5 million.

Amends HRS section 235-17(l) to change the aggregate credit cap from $35 million to $45 million.

Makes other technical changes.

EFFECTIVE DATE: July 1, 2019.

STAFF COMMENTS: This bill is from the House Small Business Caucus.

On the policy question of whether the credit is justified, we call attention to the findings of California's Legislative Analyst's Office (LAO) regarding California's production credit.

Perhaps the most startling is the LAO's conclusion that $1 out of every $3 in credits went to productions that would have shot in California anyway. It turns out that California's credit was limited, the production companies applied for more credits than were available, and the state had to conduct a lottery to determine which of the productions would be awarded credit. But several productions began shooting even before lottery results were announced.

This result supports what Hawaii credit opponents have been saying over the years, namely, "They'll come anyway, so why do we need to pay them to come? We have great weather, blue sky, pristine beaches, and more."

The hard reality, however, is that productions are businesses and most do take a hard look at the bottom line, evidenced by the companies accounting for the other two-thirds of credits. Indeed, although the LAO lamented that industry-specific tax credits were "inappropriate public policy because they (1) give some businesses an unequal advantage at the expense of others and (2) promote unhealthy competition among states in a way that does not benefit the nation as a whole," LAO concluded that California shouldn't be giving up its production credit program while other states (including Hawaii) are actively competing with it for the production dollars. LAO recommended that California should consider scaling its program back when other states do.

At the same time, we in Hawaii need to remember that this interstate competition does affect us. We don't have a monopoly on beaches, sand, sunshine, forested hills, overgrown jungle, or other natural wonders. Productions can and do find comparable locations in Puerto Rico, New Zealand, and elsewhere.

Next, the LAO concluded that the tax credit program boosted California's economy only minimally, if at all. Because of the way California credits work, that state saw revenue benefits in the early years of the credit but found that the program cost more as time went on. We in Hawaii have had our production credit since 1997, so it's been almost twenty years. Have there been any studies about what the program has done for Hawaii's economy or Hawaii's tax revenue? None were cited to the Legislature when the Hawaii production tax credit was increased in 2013. Maybe we don't care as much about the hard dollars as we do about other intangible effects like local jobs, the development of a skilled workforce, or robust media education programs that simply weren't around at the turn of the century. Even if so, lawmakers should have data on these intangibles, and other cost-benefit information, so they can make intelligent decisions on this matter.

Digested 2/1/2019

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
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DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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LATE

Statement of
Mike McCartney
Director
Department of Business, Economic Development, and Tourism
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
Wednesday, February 06, 2019
10:10 AM
State Capitol, Conference Room 309

In consideration of
HB 540
RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT.

Chair McKelvey, Vice Chair Kitagawa, and Members of the House Committee on Economic Development & Business.

The Department of Business, Economic Development and Tourism (DBEDT) would like to offer **comments** for HB 540, which would offer greater flexibility in conditions placed on eligibility requirements for the Motion Picture, Digital Media, and Film Production Income Tax Credit.

This measure offers an option to the current requirements which require productions to include an end-title screen credit and use of the FilmHawaiʻi logo. This important element is an industry standard, required by **all** jurisdictions that offer tax credits for production.

This is a critical marketing tool that the department recommends be required in addition to the screen credit and logo. With this however, is the need for additional staffing to manage this new aspect of the law.

Regarding raising the $35 million funding ceiling, we would prefer the language in SB33 SD1 which eliminates the funding ceiling. The implementation of this first-ever spending ceiling is proving to be a severe administrative challenge as the state film office does not have the sufficient staffing to handle the accounting needed to administer the cap.

The department has serious concerns about the impacts of reducing the per production cap to $12.5 million and recommends this be maintained at the current level of $15 million.

Thank you for the opportunity to testify on this measure.