



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

DAVID Y. IGE  
GOVERNOR

MIKE MCCARTNEY  
DIRECTOR

CHUNG I. CHANG  
DEPUTY DIRECTOR

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Statement of  
**MIKE MCCARTNEY**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT AND TOURISM**

Monday, March 15, 2021  
3:00 PM  
State Capitol, Conference Room 224  
In consideration of  
**HB 1174 HD1**  
**RELATING TO TAXATION.**

Chair Wakai, Vice Chair Misalucha, and members of the Committee on Energy, Economic Development and Tourism. The Department of Business, Economic Development and Tourism (DBEDT) offers the following comments on HB1174, HD1 that seeks to make numerous changes to the Motion Picture, Digital Media and Film Production Income Tax Credit including a necessary sunset date extension to January 1, 2033.

The refundable production tax credit program under section 235-17, HRS, is an important tool to the state's economic recovery efforts amidst the pandemic. Never has there been such an intense demand for streaming content worldwide, and the need for production to keep up with that demand.

When you couple the push for production with newly adopted and stringent COVID safety protocols required for the film industry to operate during the pandemic, there is tremendous economic benefit to Hawaii at a time when we desperately need it. We are witnessing the effects of this in the first quarter of this calendar year with three, soon to be four, television series—Disney+, CBS and Sony productions—on Oahu, and

other productions in various stages of production on Maui, Kauai and Hawaii Island. We have never seen this amount of production statewide. For this reason, we caution against reducing the \$50M per year cap and the per production credit cap of \$15M, at this juncture, as well as the other proposed amendments to the qualifying criteria of the credit.

The one positive change would be extending the repeal date because it would enable the State to maintain this production momentum, create jobs, and sustain the pipeline of opportunity for local up and coming media makers. Of equal importance to pushing back the sunset date is the ability to attract private investment to advance the Legislature's and Administration's intent to build a new multi-stage facility as we develop a pipeline of production and talent.

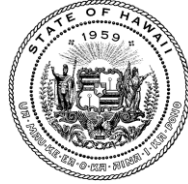
HD1 requires DBEDT to file a public disclosure identifying the names of taxpayers who receive the Motion Picture, Digital Media, and Film Production Income Tax Credit and the total amount of the tax credit received upon certification by DBEDT that the taxpayer has received the tax credit. This new requirement is problematic and inconsistent with section 235-17(i)(4), HRS, which provides that DBEDT's annual report to the Legislature detailing the qualified productions costs which form the basis of the tax credit claims be "in a redacted format to preserve the confidentiality of the taxpayers claiming the tax credit."

Under section 235-17, HRS, DBEDT only provides a letter to the Department of Taxation specifying the amount of tax credit for which a taxpayer qualifies. DBEDT does not certify that a taxpayer has actually received the tax credit, nor does it certify the amount of tax credit actually received. This information remains between the taxpayer and Department of Taxation and is information to which DBEDT is not privy.

Finally, the Department notes that the definition of “qualified vendor” preferring in-state vendors over out-of-state vendors may violate the Commerce Clause of the United States Constitution. Thank you for the opportunity to testify.

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
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To: The Honorable Glenn Wakai, Chair;  
The Honorable Bennette E. Misalucha, Vice Chair;  
and Members of the Senate Committee on Energy, Economic Development, and  
Tourism

From: Isaac W. Choy, Director  
Department of Taxation

Date: March 15, 2021  
Time: 3:00 P.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 1174, H.D. 1, Relating to Taxation**

The Department of Taxation (Department) offers the following comments regarding H.B. 1174, H.D. 1, for your consideration. This measure has a defective effective date of July 1, 2050; provided that Section 1 otherwise applies to taxable years beginning after December 31, 2020.

H.B. 1174, H.D. 1, amends the motion picture, digital media, and film production income tax credit provided under section 235-17, Hawaii Revised Statute (HRS) (the film credit), by:

- Lowering the minimum qualified production costs for a production to qualify for the film credit from \$200,000 to \$50,000;
- Requiring productions claiming a film credit greater than \$5 million or more in any taxable year to provide evidence that at least 75% of the qualified production was filmed in the State;
- Lowering per qualified production cap from \$15 million to \$12 million;
- Limiting “above-the-line costs” for a qualified production to \$2 million per taxable year;
- Defining “above-the-line costs” as:
  1. Development expenditures;
  2. Salaries and other compensation of the writers, directors, producers, and lead cast;  
and
  3. Travel costs of the writers, directors, producers, and lead cast;
- Lowering the aggregate film credit cap from \$50 million to \$45 million per year;
- Extending the sunset date of the film credit from January 1, 2026 to January 1, 2033;

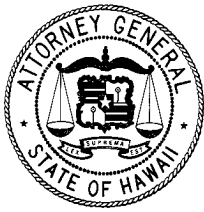
- Modifying the definition of “qualified production costs” as the costs incurred by a qualified production within the State, through transactions with a “qualified vendor”, that are subject to the general excise tax or income tax;
- Defining “qualified vendor” as an entity doing business in the State that provides goods and services to a qualified production; provided that:
  1. The entity has been incorporated or organized in the State for no less than 5 years; and
  2. All principals of the entity are State income taxpayers; and
- Requiring the Department of Business, Economic Development, and Tourism (DBEDT) to publish on its website the names of the qualified productions and the amount of tax credits claimed per qualified production per filing year.

The Department notes that the new section 237-17(i)(4), HRS, requires DBEDT to publish on its website the names of qualified productions and the amount of tax credits claimed per qualified production per filing year. DBEDT certifies the film credit, however, it does not have actual knowledge of whether the credit was claimed. In addition, DBEDT is already required to provide a similar information in its report to the Legislature. As such Department believes that the most efficient way to achieve the proposed amendment’s goal of disclosure is to simply amend the existing section 237-17(i)(4), HRS, to read as follows:

(4) Submit a non-redacted report to the legislature no later than twenty days prior to the convening of each regular session detailing the amount of credits certified, non-aggregated qualified production costs that form the basis of the tax credit claims and expenditures, itemized by taxpayer[~~, in a redacted format to preserve the confidentiality of the taxpayers claiming the credit~~].

Finally, the Department notes that the definition of “qualified vendor” preferring in-state vendors over out-of-state vendors may violate the Commerce Clause of the United States Constitution.

Thank you for the opportunity to provide testimony on this measure.



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2021**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1174, H.D. 1, RELATING TO TAXATION.

**BEFORE THE:**

SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

**DATE:** Monday, March 15, 2021 **TIME:** 3:00 p.m.

**LOCATION:** State Capitol, Room 224, Via Videoconference

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Cynthia M. Johiro,  
Deputy Attorney General, at 586-1472)

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Chair Wakai and Members of the Committee:

The Department of the Attorney General has concerns about this bill and provides the following comments.

Among other things, H.B. No. 1174, H.D. 1 amends the motion picture, digital media, and film production income tax credit so that only costs incurred to local suppliers of goods and services are eligible to be counted towards the film credit. More specifically, the measure amends “qualified production costs” to mean the “costs incurred by a qualified production within the State, through transactions with a qualified vendor.” Page 12, lines 6-8. A “qualified vendor” is defined as “an entity doing business in the State that provides goods and services to a qualified production; provided that: (1) The entity has been incorporated or organized in the State for no less than five years; and (2) All principals of the entity are state income taxpayers.” Page 14, lines 1-7.

This bill may be subject to constitutional challenge under the Commerce Clause of the United States Constitution.

The Commerce Clause provides that Congress shall have the power to “regulate Commerce . . . among the several States.” U.S. Const. art I, § 8, ct. 3. “Though phrased as a grant of regulatory power to Congress, the clause has long been understood to have a ‘negative’ aspect that denies the States the power unjustifiably to

discriminate against or burden the interstate flow of articles in commerce.” *Oregon Waste Systems, Inc. v. Dep’t of Env’tl. Quality*, 511 U.S. 93, 98, 114 S. Ct. 1345, 1349 (1994). This implicit constitutional restriction upon the States has become known as the “negative” or “dormant” Commerce Clause doctrine. See *Rocky Mountain Farmers Union v. Corey*, 730 F.3d 1070, 1087 (9th Cir. 2013). The doctrine prohibits States from “advancing their own commercial interests by curtailing the movement of articles of commerce, either into or out of the state,” *Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dep’t of Natural Resources*, 504 U.S. 353, 112 S. Ct. 2019 (1992) (internal brackets omitted), upon concern about “economic protectionism,” *i.e.*, “regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors.” *Department of Revenue of Ky. v. Davis*, 553 U.S. 328, 337, 128 S. Ct. 1801, 1808 (2008). In *Bacchus Imports, Ltd. V. Dias*, 468 U.S. 263, 271 (1984), the United States Supreme Court recognized that “[n]o one disputes that a State may enact laws pursuant to its police powers that have the purpose and effect of encouraging domestic industry[,]” but that “the Commerce Clause stands as a limitation on the means by which a State can constitutionally seek to achieve that goal.” “One of the fundamental purposes of the Clause ‘was to ensure ... against discriminating State legislation.’” *Id.* (quoting *Welton v. Missouri*, 91 U.S. 275, 280, 12 L. Ed. 347 (1876)).

With this bill, the producer of a qualified film production would be eligible for the film credit, but only with respect to its production costs incurred to a qualified vendor. As noted, a “qualified vendor” means an entity that has been established in the State for at least five years and whose principals are all state income taxpayers. These requirements will preclude businesses located outside the State from being qualified vendors. Because the film credit will only apply to production costs incurred to local suppliers of goods and services, it has the effect of encouraging and incentivizing the use of local suppliers over non-local suppliers. As such, the film credit may be challenged as unconstitutional because it bestows a commercial advantage on local suppliers to the detriment of the suppliers of the same competing goods and services located outside of the State.

Based on the foregoing, we respectfully ask that this concern be addressed. One way to do this is to remove the residency requirement to be a qualified vendor. This would address the possible Commerce Clause challenge by allowing the film credit equally to all film producers regardless of whether they source their goods and services locally or from out-of-state.

Thank you for the opportunity to express our concerns.





MOTION PICTURE ASSOCIATION - AMERICA

**Written Testimony of  
Vans Stevenson  
Senior Vice President, State Government Affairs  
Senate Committee  
on Energy, Economic Development and Tourism  
HB1174 HD1 Relating to Taxation – COMMENTS  
March 15, 2021  
Hawaii State Capitol**

The Motion Picture Association, Inc. (MPA), on behalf of its member companies, respectfully opposes HB1174 HD1 in its current form, as such we have offered comments for your consideration. MPA's members<sup>1</sup> are the leading producers and distributors of entertainment content across all platforms, including theatrical motion pictures, broadcast, cable and satellite television, and streaming via the Internet.

MPA appreciates the introducer's provision that extends the credit program from 2025 to 2032, which further enhances the stability of the program and sustains a predictable, competitive incentive for motion picture, television and streaming productions.

However, MPA respectfully submits that HB1174 HD1, unless amended, would change the successful motion picture, digital media, and motion picture production income tax credit by making it less attractive, unpredictable, and not competitive with other states as well as countries worldwide.

This legislation would significantly reduce the amount of qualified production expenditures that could be claimed on a production project, and the change to the qualified vendor definition would severely restrict the growth of production-related businesses. The proposed maximum credit reduction from \$15 million to \$12 million per production project would not cover the qualified production expenditures for one season of virtually any television series.

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<sup>1</sup>MPA member companies include: The Walt Disney Studios Motion Pictures; Netflix Studios, LLC; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Universal City Studios LLC; and Warner Bros. Entertainment Inc

Hawaii has enjoyed record years of spending and job creation since the cap per project was raised. By reversing course in this bill deprives the state of those very projects that spend the most (and pay above scale) and are positioned to promote the state to the broadest global markets. Proposing to reduce the aggregate cap serves to limit the amount of investment coming into to the state at a time when governments around the world facing dire fiscal crises. From New Jersey and Utah, to Spain, Greece, Italy and Colombia, many are substantially increasing funding for the production industry because this sector is viewed as a catalyst for recovery and a safe, responsible avenue to create jobs while protecting residents from the current health crisis.

HB1174 HD1 in its current form also proposes a reduction in the cap on total tax credits allowed in any one year from \$50,000,000 to \$45,000,000. This would reduce the number of major productions that could locate in Hawaii, causing a sizeable reduction in potential job creation and spending on Hawaii businesses who provide goods and services to productions.

In addition, this bill also requires that to qualify vendor payments for the credit, the production company must purchase goods and services from Hawaii-based businesses that has been established in the state for five years. This would prevent production companies from contracting with new local businesses that have developed to serve the production community, particularly new soundstages or studio complexes that may open over the next few years. The bill also eliminates a provision to use best efforts to do business with Hawaii based vendors. Every production company's goal is to spend locally. However, there are times when script requirements require purchases outside of the state. The industry under current law must prove the expenditure is necessary and unavailable. Any preclusion of opportunities for new businesses to enter the Hawaii marketplace ensures the program's economic development objectives will no longer be achieved.

This legislation also establishes a maximum amount of above-the-line costs that may be used to claim the credit. MPA respectfully submits this provision would eviscerate the tax credit program and remove it from its competitive standing with other locations that Hawaii competes with that do not have such limiting caps, such as Australia, New Zealand, Puerto Rico and the Dominican Republic. Hawaii's production tax incentive program has been successful in continuing to attract major television series and feature films because it is stable and predictable for producers and production finance executives at the major studios.

HB 1174 HD1 also requires that at least 75% of a qualified production to be filmed in the State if the taxpayer claims a credit in excess of \$5 million in a single taxable year. For global productions that produce in multiple locations this condition ensures epic, international production franchises such as those that have frequented

Hawaii will likely no longer consider Hawaii for their projects. A production can spend \$50 million in Hawaii and that could represent less than 50% of the project. These project profiles are the very opportunity such a requirement will preclude Hawaii from attracting in the future.

This bill also caps “above-the-line costs.” MPA submits an above the line cap drastically reduce the effectiveness of the Hawaii production credit program. Given the devastating impact on the program such a limit would cause, we respectfully note there should be no requirement to define “above-the-line-costs.”

Thanks to the State Legislature and the Governor, Hawaii has created a viable and competitive production credit program that has produced thousands of good-paying union jobs, significant annual investment in the state’s economy by the spending on goods and services with local businesses and a positive return on investment to the state. According to the latest data analysis from DBEDT, Hawaii’s Creative Industry Update Report 2020 (also attached), in 2019 the state’s film and television industry produced \$405 million in estimated production expenditures, generated estimated \$707 million of economic impact, \$43.7 million in estimated tax revenues and created 3,303 jobs.

Thank you for allowing us to comment on HB1174 HD1.



Michael Morgenthal  
Senior Vice President & Controller  
Worldwide Production Finance

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michael\_morgenthal@spe.sony.com

**Sony Pictures Entertainment  
Written Testimony  
of  
Michael Morgenthal  
Senior Vice President and Controller  
Worldwide Production Finance  
Motion Picture Group  
Sony Pictures Entertainment**

**Testimony Submitted  
to  
State of Hawaii - State Senate  
Committee on Energy, Economic Development and Tourism  
HB1174 HD1 Relating to Taxation – COMMENTS  
March 15, 2021  
Hawaii State Capitol**

Honorable members of the committee, my name is Michael Morgenthal, and I serve as Senior Vice President and Controller, Worldwide Production Finance, Motion Picture Group, Sony Pictures Entertainment. I am submitting this testimony on behalf of Sony Pictures Entertainment.

Sony Pictures Entertainment has greatly enjoyed filming major feature films and television series in the State of Hawaii, including, in recent years, *Jumanji: Welcome to the Jungle*, *Jumanji: The Next Level*, and *Aloha*. Sony Pictures Entertainment's motion picture productions have created over 1,000 production jobs in Hawaii and generated tens of millions of dollars for Hawaii businesses.

As a production finance executive at a major motion picture studio with production operations around the world, I can assure you, this legislation will have a negative impact on motion picture production in Hawaii. This bill, as currently drafted, will make the state less competitive, relative to other production locales, in attracting production activity that creates local jobs and supports local businesses.

We have enjoyed working in Hawaii, and we hope to continue to bring feature and television projects to this great state. However, if this legislation were to be enacted into law, it could jeopardize bringing future production projects to the state.

Accordingly, we must respectfully oppose this legislation, as drafted.

Thank you again for providing Sony Pictures Entertainment with the opportunity to share our comments and perspective on HB1174 HD1.

**END---**



**Written Testimony of  
Michael Walbrecht  
Vice President, Public Affairs  
Warner Bros. Entertainment  
Senate Committee  
on Energy, Economic Development and Tourism  
HB1174 HD1 Relating to Taxation.  
March 15, 2021  
Hawaii State Capitol**

I am testifying today regarding HB1174 HD1, which we respectfully oppose in its current form.

We very much appreciate the bill's provision that extends the credit program from 2025 to 2032, which further enhances the stability of the program and sustains a predictable, competitive incentive for motion picture, television and streaming productions. However, without amendment, the resulting statute will ultimately make Hawaii less competitive as a destination for film and television production.

This legislation would significantly reduce the amount of qualified production expenditures that could be claimed on a production project, and the change to the qualified vendor definition would severely restrict the growth of production-related businesses. The proposed maximum credit reduction from \$15 million to \$12 million per production project would hurt Hawaii's chances to attract television series to the state. Additionally, the reduction in the overall annual allocation amount and the "above-the-line" cap will only serve to reduce production on the islands, along with the accompanying jobs and vendor spend.

In addition, this bill also requires that to qualify vendor payments for the credit, the production company must purchase goods and services from Hawaii-based businesses that have been established in the state for five years. This would prevent production companies from contracting with new local businesses that have developed to serve the production community, particularly new production facilities, that many open in the next few years.

The bill also requires that at least 75% of a qualified production to be filmed in the State if the taxpayer claims a credit in excess of \$5 million in a single taxable year. For global productions that produce in multiple locations this condition ensures large tentpole productions such as those that have frequented Hawaii may likely no longer consider Hawaii for their projects.

Thanks to the State Legislature and the Governor, Hawaii has created a viable and competitive production credit program that has produced thousands of good-paying union jobs, significant annual investment in the state's economy by the spending on goods and services with local businesses, a positive return on investment to the state, and drawn thousands of visitors to the islands based on the images they have seen on screen. We hope you will amend HB1174 HD1 in a manner that maintains Hawaii's competitiveness in the global production marketplace.

Thank you for allowing my comments.

**March 12, 2021**

**TESTIMONY OF KEVIN BERG, SR EVP OF PRODUCTION, CBS  
HAWAII SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT & TOURISM 3.15.21**

Dear Chair Wakai and members of the Committee:

First, I want to thank the State of Hawaii for the film and television production tax credit program. As head of Production at CBS Network Television Entertainment, I can tell you our productions have enjoyed working in Hawaii with the reboot of *Hawaii 5-0* and *Magnum P.I.* The iconic landscapes and unique culture make this a very desirable location and they provide the backdrop for our shows to create great stories and entertain audiences around the world. The tax credits make our filming here possible.

We're proud of the significant economic investment we bring to this state. Our television series *Magnum P.I.* just recently wrapped its third season and the *Hawaii 5-0* reboot went to ten years. Each of these shows has provided over 2300 local jobs and over \$80 million in the state on a yearly basis. We hire local residents as part of our cast and crew. We buy products and use services from nearby restaurants, building supply stores, dry cleaners, hotels and many other local small businesses. We want to continue filming in Hawaii and contributing to the local economy. In fact, we are currently budgeting a new series, *NCIS Hawaii*, to film in your state. Unfortunately, those plans would change with any significant modifications to the tax credit program.

We appreciate the provision in HB1174 which extends the time frame of the production tax credit program. However, HB1174 would add significant costs to our productions. Those added costs would make Hawaii much less competitive with other states and countries, and could have the result of making production in Hawaii financially unfeasible. As much as we love filming in Hawaii, just like any other business, the economics must work.

I ask you to keep the tax credit program as it is. It's working. Please don't add any more costs that could discourage productions and their economic stimulus from choosing Hawaii.

Thank you for your consideration.



The Senate  
The Thirty-First Legislature  
Regular Session of 2021

COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT AND TOURISM  
Sen. Glenn Wakai, Chair  
Sen. Bennette E. Misalucha, Vice Chair

RE: HB 1174, HD1 RELATING TO TAXATION

Date: Monday, March 15, 2021  
Time: 3:00 p.m.  
Conference Room 224 & Videoconference  
State Capitol  
415 South Beretania Street

March 14, 2021

From: Roy Tjioe and Ricardo Galindez  
Island Film Group  
99-1245 Halawa Valley St.  
Aiea, HI 96701  
808-536-7955

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

### **Our Background**

We are a locally owned and operated production company. We began working in Hawaii's film and television industry in 2001 as attorneys at Goodsill Anderson Quinn & Stifel, where we represented filmmakers and other production companies. Since our formation of Island Film Group in 2007, we have been working full-time as producers of feature films such as "Princess Ka'iulani" and "Soul Surfer", network and cable television movies and series, as well as a variety of commercial productions.

We support the intent of HB1174 with the following amendments to HB1174:

1. **Return to the Department of Taxation's 2008-2019 position (TIR 2008-02) that film and television production is "manufacturing" and that gross revenue (i.e. total production budgets) are taxed at .5% for GET purposes.** The Department's new position (TIR 21-01)

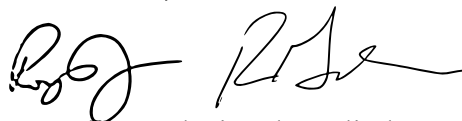


increases GET to 4.5% (a 900% increase) and disproportionately harms local production companies. The change will effectively reduce the Production Tax Credit (PTC) by more than 25% for those projects that qualify for the PTC (since the total budget will be taxed at 4.5% even though not all budget items are eligible for the PTC), and will put a substantial burden on local production companies for projects that do not meet the \$200,000 spending threshold to qualify for the PTC. To the extent that clients are unwilling to pay the additional amount, local production companies will be required to absorb the tax increase from their typical production fee of 10%, effectively reducing their fee to 6% (a 40% decrease).

The Department has signaled its openness to legislative action on this matter in TIR 21-01 (perhaps due to the realization that its position has resulted in unintended consequences) by stating that “It is subject to change at the Department’s discretion or because of a future change in law. The Department notes that it was not able to find any measures addressing the issues discussed in this TIR introduced during the 2020 or 2021 Regular Session of the Hawaii State Legislature.”

2. **Clarify that “Qualified Production Costs” are costs that are subject to general excise tax at the appropriate rate**, instead of at the highest rate as currently required under the Department’s rules.
3. **Allow the disproportionate allocation of tax credits to assist local productions in the financing of their projects.** The Department of Taxation’s current rules require that tax credits be allocated in proportion to a taxpayers’ investment in a production. Due to federal SALT (State and Local Tax) deduction limits, the tax credit is more beneficial to taxpayers when it is used to pay Hawaii taxes than if they were to receive a tax refund, since the tax credit is not subject to federal income tax when used for the former. For this reason, a local taxpayer may be willing to invest \$1.20 in a local film project to receive \$1 in tax credit since the \$1 is essentially tax free for federal tax purposes. The cost to the state is only \$1 but the production would be able to raise 20% more to meet its financing needs. Allowing the tax credit to be disproportionately allocated will therefore enhance the benefit to local investors who are financing the credit while also helping local production companies raise production funding, all at no additional cost to the State.
4. **Allow the tax credit to be carried over and applied to a taxpayer’s future state tax liability.** This will save the State money by incentivizing taxpayers not to take excess tax credit in cash and will benefit local taxpayers since the use of the tax credit in future years will not be subject to federal income tax.

Me ke aloha,



Roy Tjioe and Ricardo Galindez  
Co-Founders  
Island Film Group  
Honolulu, Hawaii

# IATSE LOCAL 665

FILM, TELEVISION, STAGE, PROJECTION AND TRADESHOWS

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INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS  
OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

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The Thirty-First Legislature, State of Hawai'i  
Hawai'i State Senate  
Committee on Ways and Means

Testimony by  
IATSE Local 665  
March 14th, 2021

## **H.B. 1174 H.D. 1 - RELATING TO TAXATION**

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the Senate Committee,

My name is Tuia'ana Scanlan, President of IATSE Local 665. Local 665 represents Entertainment Technicians in Stagecraft, Tradeshow & Conventions, and Film/TV industries across the State of Hawaii. **We strongly oppose H.B. 1174 H.D. 1.**

While there are portions of this bill that we are in support of, many of the amendments to the Hawaii State Film Tax incentive would negatively impact our industry and the local technicians that we represent. Lowering the overall cap and the per-production credit that can be applied will make it adversely affect Hawaii's ability to garner new work from employers. Requiring that a vendor be established in the State for at least 5 years will inhibit a production company's ability to engage with new local businesses. Furthermore, requiring a production to film 75% of their project in Hawaii to qualify for more than \$5 million will make our State less competitive in the feature length film market and the Film and Television industry as a whole.

It is for these reasons that we **oppose H.B. 1174 H.D. 1**. Thank you for the opportunity to testify.

Respectfully,



Tuia'ana Scanlan  
President, IATSE Local 665  
he/him/his

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Motion Picture Credit Modification and Extension

BILL NUMBER: HB 1174, HD1 (comments revised)

INTRODUCED BY: House Committee on Economic Development

EXECUTIVE SUMMARY: Amends the motion picture, digital media, and film production income tax credit by: (1) Reducing the cap amount and aggregate cap amount of the credit; (2) Establishing a maximum amount of above-the-line costs that may be used to claim the credit; (3) Reducing the minimum amount of qualified productions costs needed to claim the credit; (4) Requiring qualified production costs to be incurred through a qualified vendor; and (5) Requiring at least seventy-five per cent of a qualified production to be filmed in the State if the taxpayer claims a credit in excess of \$5,000,000 in a single taxable year. Defines "above-the-line costs" and "qualified vendor". Extends the repeal date of the tax credit from 1/1/2026 to 1/1/2033.

SYNOPSIS: Amends section 235-17, HRS.

Lowers the minimum production costs needed to qualify for the credit to \$50,000.

Eliminates the requirement that the taxpayer using products or services from outside Hawaii show that reasonable efforts were unsuccessful to secure and use comparable products or services from within Hawaii.

To claim a credit more than \$5 million in a taxable year, requires the taxpayer to show that at least 75% of the qualified production was filmed in the State.

Requires DBEDT to publish on its website the names of the qualified productions and the amount of tax credits claimed per qualified production per filing year.

Lowers the ceiling on the amount of tax credits to \$12 million per qualified production.

Extends the sunset date of the credit to December 31, 2032.

Requires qualified production costs to have been incurred through a qualified vendor.

Defines "above-the-line costs" as: (1) Development expenditures; (2) Salaries and other compensation of the writers, directors, producers, and lead cast; and (3) Travel costs of the writers, directors, producers, and lead cast,

of a qualified production, and in each case not determined by how any particular expenditure is categorized within a production's budget.

Defines a "qualified vendor" means an entity doing business in the State that provides goods and services to a qualified production; provided that: (1) The entity has been incorporated or

organized in the State for no less than five years; and (2) All principals of the entity are state income taxpayers.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS: This credit was enacted as Act 107, SLH 1997, as a of the costs incurred in the State in the production of motion picture or television films. As enacted, the credit was 4% of regular production costs plus 6% of transient accommodations, mirroring the GET and TAT rates at the time. Act 156, SLH 1988, raised the TAT credit to 7.25% while also raising the TAT rate to 7.25%.

After a period where this credit took a back seat to the qualified high tech business program enacted by Act 221, SLH 2001, this credit was next amended by Act 88, SLH 2006, which added credits for digital media and replaced the GET and TAT bifurcation with a unified credit of 15% of qualified production costs incurred in the C&C of Honolulu and 20% in any other county. The act added a per-production cap of \$8 million and sunset the credit on Jan. 1, 2016.

Act 89, SLH 2013, changed the credit percentages to 20% in Honolulu and 25% in any other county; raised the per-production limit to \$15 million; and extended the sunset date to Jan. 1, 2019.

Act 143, SLH 2017, extended the sunset date for the credit to Jan. 1, 2026, and first imposed an aggregate cap of \$35 million. Act 275, SLH 2019, raised the aggregate cap to \$50 million.

We in Hawaii have had our production credit since 1997, so it's been more than 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.

Certainly, the film industry promises increased opportunities. Some of them certainly have materialized. But chasing these opportunities needs to be balanced against the cold hard reality of solving the problems at hand. Lawmakers need to ask whether production tax credits create sustainable economic development. It's well known that most productions shoot for a while and then wrap; the crew that supports the production then jumps to the next one. A case may be made for the production credits if they keep the productions rolling in and contributing to the economy. But the people need to see that case to justify continued redirection of resources to these credits while those resources could instead lower the overall tax burden not only for families but for the businesses that provide long-term employment for Hawaii's people.

We also have the following technical comments:

- The requirement that DBEDT publish taxpayer credit information on its website is not consistent with the return information confidentiality law, HRS section 235-116.

DBEDT's compliance with the provision would be punishable as a Class C felony unless appropriate modifications are made to section 235-116.

- The requirements that a qualified vendor be incorporated in the State for no less than five years and not be owned by persons who do not pay tax in Hawaii may violate the Commerce Clause of the U.S. Constitution, which requires that tax provisions not discriminate against interstate commerce. *Bacchus Imports, Ltd. v. Dias*, 468 U.S. 263 (1984); *In re Hawaiian Flour Mills, Inc.*, 76 Hawai'i 1, 13, 868 P.2d 419 (1994).

We also note that the American Rescue Plan Act of 2021, signed into law by President Biden on March 11, 2021, contains provisions disqualifying or restricting federal aid that otherwise could be available to the State if new or extended tax incentives are enacted after March 3, 2021.

Section 9901 of the Act enacts a new section 602(c)(2)(A) in Title VI of the Social Security Act which states:

A State or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.

Section 602(g)(1) defines the "covered period" as beginning on March 3, 2021 and ending on the last day of the State's fiscal year in which all federal aid dollars are either spent, returned, or recovered against the State by the Treasury.

We are concerned that the extension of the credit as proposed by the bill, if enacted, may be considered to be a credit within the covered period, and thus subject to federal recovery against the State.

Digested 3/11/2021

**TESTIMONY OF AMY HILL  
ACTRESS, MAGNUM PI  
BEFORE THE HAWAII SENATE COMMITTEE ON ENERGY, ECONOMIC  
DEVELOPMENT & TOURISM  
3.15.21**

Good afternoon Chair Wakai and members of the Committee:

My name is Amy Hill. I've had the great pleasure to play roles on many television series over the years – Kung Fu Panda, Mom, Seinfeld, King of the Hill, Lilo & Stitch, All American Girl, Hawaii Five-0, to name a few.

For the past 3 years, I've been part of the Magnum PI cast. In fact, we just wrapped Season 3.

I'm an actress. I'm not a politician. I'm not a government official. So I can only speak to what I know as an actress and having been part of the entertainment industry for nearly 25 years.

First, thank you for creating the Hawaii production tax credit program. It's working and bringing great productions to Hawaii.

As an actress on shows that film here, I can tell you we love being able to live and work in Hawaii. The beauty of Hawaii and its people make this a very desirable location for production – that's critical to the creative side of our industry.

But there's also the economics of a production. This is a business, and the economics have to work. When we film here, we're hiring local residents and using local businesses. The tax credit program was designed to lower the cost of producing in Hawaii, and it's a key factor in making the economics of a production work.

House Bill 1174 proposes changes to the existing tax credit program that could have a very negative impact on our productions. This bill would add costs to a production, not reduce our costs. Those added costs would make Hawaii a much less desirable filming location.

I ask you to keep the tax credit program as it's currently designed. Please don't add any more costs that could discourage filming from coming here.

Thank you again for supporting our industry. And, if you haven't ever visited our set, I invite you to come visit any time and we'd love to share more about our industry.

Mahalo.

My name is Logan Laveti and I am a freelance cinematographer working in Honolulu. I make a living thanks to the film and TV productions that come to Hawaii. Without those productions, my work and my financial situation is greatly affected. That's why the film tax credit program is so important.

Hawaii's film tax credit program has created thousands of good-paying jobs and furthered investment into our state's economy by working with local businesses like mine. A cap on the tax credit like the one proposed in HB1174 HD1 would cause a reduction in the number of productions that could film in Hawaii, reducing opportunities for local businesses like mine who provide goods and services to these productions.

Thank you for allowing me to comment on HB1174 HD1.

My name is Scott Kamiya, and I am the General Manager of Platinum Limousine, a locally owned limousine service in Honolulu that has been in operation since 1995. We pride ourselves on providing quality service for our guests, including those who come to Hawaii for TV and film productions such as Hawaii Five-0, Magnum P.I., and King Kong.

Hawaii's film tax credit program has created thousands of good-paying jobs and furthered investment into our state's economy by working with local businesses like mine. A cap on the tax credit like the one proposed in HB1174 HD1 would cause a reduction in the number of productions that could film in Hawaii, reducing opportunities for local businesses like mine who provide goods and services to these productions.

Thank you for allowing me to comment on HB1174 HD1.



My name is Robert Suka, and I am the owner of S&S Pumping and Complete Tent Rental here in Honolulu. As a part of my work, I provide tent and bathroom rentals to movie and TV productions all over Oahu.

Hawaii's film tax credit program has created thousands of good-paying jobs and furthered investment into our state's economy by working with local businesses like mine. A cap on the tax credit like the one proposed in HB1174 HD1 would cause a reduction in the number of productions that could film in Hawaii, reducing opportunities for local businesses like mine who provide goods and services to these productions.

Thank you for allowing me to comment on HB1174 HD1.

My name is Kevin Sawicki, and I am a producer with Sight & Sound Productions here in Honolulu. With Sight & Sound, I am frequently in the field as a producer, production manager, drone operator and gaffer, and have worked on productions including Magnum P.I., Hawaii Five-O, feature films and countless commercials.

Hawaii's film tax credit program has created thousands of good-paying jobs and furthered investment into our state's economy by working with local businesses like mine. A cap on the tax credit like the one proposed in HB1174 HD1 would cause a reduction in the number of productions that could film in Hawaii, reducing opportunities for local businesses like mine who provide goods and services to these productions.

Thank you for allowing me to comment on HB1174 HD1.

My name is Victor Lozano and I am a marine coordinator and COVID consultant for the movie and TV industry in Hawaii. This is a job I enjoy, a job that allows me to pay my bills and a job that is possible, in part, because of the film tax credit.

Hawaii's film tax credit program has created thousands of good-paying jobs and furthered investment into our state's economy by working with local businesses like mine. A cap on the tax credit like the one proposed in HB1174 HD1 would cause a reduction in the number of productions that could film in Hawaii, reducing opportunities for local businesses like mine who provide goods and services to these productions.

Thank you for allowing me to comment on HB1174 HD1.

**HB-1174-HD-1**

Submitted on: 3/14/2021 2:55:58 PM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sandie Wong	Individual	Comments	No

Comments:

I support and join the testimony of Ric Galindez of Island Film Group. Thank you.

**LATE**

**HB-1174-HD-1**

Submitted on: 3/14/2021 7:15:56 PM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
William Self	Testifying for IATSE Local 665	Oppose	No

Comments:

The Honorable Glenn Wakai, Chair

The Honorable Bennette E. Misalucha, Vice Chair and

Members of the Senate Committee on Energy, Economic Development and Tourism

Re: HB 1174 HD1: Relating to Taxation

HEARING: Monday, March 15, 2021, at 3:00PM

Conference Room 224, Hawaii State Capitol and Videoconference

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a member of IATSE Local 665 and respectfully **OPPOSE** parts of HB1174, HD1, unless amended, for the following reasons:

Large projects such as television shows and feature films endure large costs just to get here. Everything must be shipped or flown to Hawai'i. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets. Having a strong film tax incentive helps to

bring much-needed jobs here, especially after the devastation of the pandemic in 2020, and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawaii's growing film industry and leave the rest of the credit untouched.

Respectfully,

William A. Self

**LATE**

**HB-1174-HD-1**

Submitted on: 3/15/2021 4:53:49 AM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Aileen Lily	Testifying for Aloha Castin LLC	Oppose	No

Comments:

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a member of IATSE Local 665 and respectfully OPPOSE parts of HB1174, HD1, unless amended, for the following reasons:

Large projects such as television shows and feature films endure large costs just to get here. Everything must be shipped or flown to Hawai'i. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets. Having a strong film tax incentive helps to bring much-needed jobs here, especially after the devastation of the pandemic in 2020, and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawai'i's growing film industry and leave the rest of the credit untouched.

Respectfully,

Lily Acain, Owner of Aloha Casting, LLC

**LATE**

**HB-1174-HD-1**

Submitted on: 3/14/2021 3:03:24 PM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patrick Jeppeson	Individual	Oppose	No

Comments:

Please don't pass HB1174, it will only chase business away from islands





**HB-1174-HD-1**

Submitted on: 3/14/2021 3:41:23 PM  
Testimony for EET on 3/15/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Preiser	Individual	Oppose	No

Comments:

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a member of IATSE Local 665 and respectfully **OPPOSE** parts of HB1174, HD1, unless amended, for the following reasons:

Having a strong film tax incentive helps to bring much-needed jobs here and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19. Film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets that are going directly into the pockets of our local people and back into the community.

These companies are offering well paying high level jobs to local people that promotes Hawaii in a positive way and encourages a healthy lifestyle. To lose these opportunities for our local people, myself included would be devastating.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawaii's growing film industry and leave the rest of the credit untouched.

Respectfully,

Karen Preiser

Makeup Department Head

Doogie Kamealoha, MD, Disney Plus

(808)398-9817

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**LATE**

**HB-1174-HD-1**

Submitted on: 3/14/2021 3:46:58 PM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Carreno	Individual	Oppose	No

Comments:

The Honorable Glenn Wakai, Chair

The Honorable Bennette E. Misalucha, Vice Chair and

Members of the Senate Committee on Energy, Economic Development and Tourism

Re: HB 1174 HD1: Relating to Taxation

HEARING: Monday, March 15, 2021, at 3:00PM

Conference Room 224, Hawaii State Capitol and Videoconference

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a member of IATSE Local 665 and respectfully **OPPOSE** parts of HB1174, HD1, unless amended, for the following reasons:

Large projects such as television shows and feature films endure large costs just to get here. Everything must be shipped or flown to Hawai'i. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets. Having a strong film tax incentive helps to bring much-needed jobs here, especially after the devastation of the pandemic in 2020,

and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawaii's growing film industry and leave the rest of the credit untouched.

Respectfully,

Michael Carreno

**LATE**

**HB-1174-HD-1**

Submitted on: 3/14/2021 3:49:31 PM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jim Murphy	Individual	Oppose	No

Comments:

Aloha Chair Wakai, Vice Chair Misalucha & Committee Members,

I want to oppose parts of HB11174, HD1 due to its effect on the film industry and the Hawaii families who depend on this industry for their survival. In 2020 our industry was decimated by the effects of COVID-19. We have just now begun to recover and producers are slowly beginning to commit to the large costs involved in coming to Hawaii. A strong tax incentive will encourage that investment and bring much needed jobs to our islands. Producers need to plan long term and an extension of the sunset date for the tax credit will make that possible.

Thank you for the opportunity to make my voice heard on this important matter,

James L. Murphy

**LATE**

Vanesa Furnari  
Set Decoration Buyer, Mesquite Productions  
IATSE 665  
3356 Pakui St. Honolulu, HI 96816

March 14, 2021

The Honorable Glenn Wakai, Chair  
The Honorable Bennette E. Misalucha, Vice Chair and  
Members of the Senate Committee on Energy, Economic Development and Tourism

Re: **HB 1174 HD1: Relating to Taxation**

HEARING: Monday, March 15, 2021, at 3:00PM  
Conference Room 224, Hawaii State Capitol and Videoconference

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Please accept my testimony on this bill as it directly affects my livelihood. I work in the film industry as a set decoration buyer and respectfully OPPOSE parts of HB1174, HD1, unless amended, for the following reasons:

Large projects such as television shows and feature films endure large costs to host actors and producers, rent properties for staging and filming, and pay significant fees to use various locations on the islands. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding hundreds of thousands of dollars to their budgets. Having a strong film tax incentive helps to bring much-needed jobs to Hawaii, especially after the devastation of the pandemic in 2020, and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

As a buyer for a current television series on Oahu produced by Sony and Amazon, I personally see the impact we have on our small business here. We have a working budget of \$250,000 to spend on our set furnishings and I personally use all of my resources and power to keep that money on the islands as I am a permanent resident here for over 20 years. My vendors have suffered loss of sales and income this year; the quantity and expanse of goods we purchase to

decorate our film sets has given them great relief and a thread of hope to stay open and endure the hardships.

We keep stringent records of our purchases to validate the terms of the tax incentive. I am specifically concerned about the clause that would require tax incentive money to be spent on "Qualified Vendors", which are defined as "The entity has been incorporated or organized in the State for no less than five years" - this will restrict a production from spending money on new and developing vendors in the State.

Since returning to work in late July on Magnum PI, I have seen many business close, but I have also seen many people try to find their way in the pandemic and begin new businesses, A purchase made by a film company to a new business should have the same weight as a business that has been on the books for five years or more. In fact, we really try to help these new businesses by supporting them despite that we can buy stuff cheaper on Amazon. We respect the impact the film business has here and chose to buy locally even if it costs more.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawai'i's growing film industry and leave the rest of the credit untouched.

Respectfully,  
Vanessa Furnari  
Set Decoration Buyer  
Mesquite Productions  
IATSE 665

**LATE**

**HB-1174-HD-1**

Submitted on: 3/14/2021 5:54:36 PM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mariann Tesauro	Individual	Support	No

Comments:

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a member of IATSE Local 665 and respectfully **OPPOSE** parts of HB1174, HD1, unless amended, for the following reasons:

Large projects such as television shows and feature films endure large costs just to get here. Everything must be shipped or flown to Hawai'i. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets. Having a strong film tax incentive helps to bring much-needed jobs here, especially after the devastation of the pandemic in 2020, and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawai'i's growing film industry and leave the rest of the credit untouched.

Respectfully,

**Mariann Tesauro**



**LATE**

**HB-1174-HD-1**

Submitted on: 3/14/2021 8:42:59 PM

Testimony for EET on 3/15/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Griffith	Individual	Oppose	No

Comments:

The Honorable Glenn Wakai, Chair

The Honorable Bennette E. Misalucha, Vice Chair and

Members of the Senate Committee on Energy, Economic Development and Tourism

Re: HB 1174 HD1: Relating to Taxation

HEARING: [Monday, March 15, 2021, at 3:00PM](#)

Conference Room 224, Hawaii State Capitol and Videoconference

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a member of IATSE Local 665 and respectfully **OPPOSE** parts of HB1174, HD1, unless amended, for the following reasons:

Large projects such as television shows and feature films endure large costs just to get here. Everything must be shipped or flown to Hawai'i. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets. Having a strong film tax incentive helps to bring much-needed jobs here, especially after the devastation of the pandemic in 2020, and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawai'i's growing film industry and leave the rest of the credit untouched.

Respectfully,

David A Griffith



**LATE**

**HB-1174-HD-1**

Submitted on: 3/14/2021 8:49:54 PM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark Moquin	Individual	Oppose	No

Comments:

Aloha from Maui-

I work in the film industry as a member of IATSE Local 665 and respectfully **OPPOSE** parts of HB1174, HD1, unless amended.

Having a strong film tax incentive helps to bring much-needed film & television jobs here, especially after the devastation of the pandemic in 2020, and provides a stable, predictable climate for employers to plan long-term. Businesses have been closing all across the country, but our film industry here in Hawaii is back at work. The proposed changes to the current film tax credit could adversely affect the entire industry here in Hawaii, and I strongly oppose these changes.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawai'i's growing film industry and leave the rest of the credit untouched.

Mahalo,

Mark Moquin

**LATE**

**HB-1174-HD-1**

Submitted on: 3/15/2021 6:12:48 AM

Testimony for EET on 3/15/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Raimar Bylaardt II	Individual	Oppose	No

Comments:

The Honorable Glenn Wakai, Chair

The Honorable Bennette E. Misalucha, Vice Chair and

Members of the Senate Committee on Energy, Economic Development and Tourism

Re: HB 1174 HD1: Relating to Taxation

HEARING: Monday, March 15, 2021, at 3:00PM

Conference Room 224, Hawaii State Capitol and Videoconference

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a member of IATSE Local 665 and respectfully **OPPOSE** parts of HB1174, HD1, unless amended, for the following reasons:

Large projects such as television shows and feature films endure large costs just to get here. Everything must be shipped or flown to Hawai'i. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets. Having a strong film tax incentive helps to bring much-needed jobs here, especially after the devastation of the pandemic in 2020,

and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawaii's growing film industry and leave the rest of the credit untouched.

Respectfully,

Raimar van den Bylaardt II

+++++

And here we are again, fighting irresponsible measures that would KILL our industry, my job , many friends jobs and millions of dollars that gets poured into our State. Getting productions to come to Hawaii is hard as is already and less incentives would drive them away, completely!

You may think "wed are giving them too much" or "we could me making more tax money" but in reality they won't show up and we will be making ZERO. Simply put, they will go where is cheaper to shoot. Where are the Japanese productions that used to come here and spend a lot of money between the 90's all the way to the early 2000s?? Because of restrictions (mostly work visa) they are somewhere else. I haven't had a single Japanese work in over a decade!

We not only need tax incentives, we need facilities where the industry can thrive: studios, sound stages, infinity pools, etc... we need trained professionals... we need more to give them more reasons to come to Hawaii to shoot and spend money here.

When they come, they hire a lot of local people, they spend a ton of money on car rentals, hotels, restaurants, building materials (for the sets), rental equipment and the list goes on... the people hired (or brought here) will also spend their money in local businesses as well.

The tax incentives might give them a break but at least they are here. Without it, they will go somewhere else. Please give more so we can have more. It is better to have a small piece of pie than no pie at all.

Thank you for your time

"RayRay"



March 14, 2021

Committee on Energy, Economic Development and  
Tourism  
Sen. Wakai, Chair  
Sen. Misalucha, Vice Chair

The Senate  
The Thirtieth-First Legislature  
Regular Session of 2021

RE: HB 1174 HD1- RELATING TO TAXATION  
DATE: Monday, March 15, 2021  
TIME: 3:00 pm  
PLACE: Conference Room 224  
State Capitol 415 South Beretania Street, Honolulu HI  
Via: VIDEOCONFERENCE

**LATE**

Aloha Chair Wakai, Vice Chair Misalucha, and the Members of the Committee,

We **oppose** this measure. [SAG-AFTRA](#) represents over 1160 actors, recording artists, and media professionals in our state. We are the professional performers working in front of the camera and behind the microphone.

The Film and Digital Media industry currently employs hundreds of Hawaii Local members, which account for thousands of jobs and millions of dollars in economic impact for the State. According to the Hawaii Department of Economic Development, Business and Tourism, in the 2019 calendar year, the industry spent \$405 million in estimated production expenditures, generated an estimated \$707 million of economic impact, \$43.7 million in estimated tax revenues and total job impacts of 3,303 jobs.<sup>1</sup>

We strongly support the extension of the incentive until 2033, however we feel that lowering the overall and per production cap would discourage production in our state.

SAG-AFTRA supports a robust, and fair incentive program. We support the development of a studio, and the development of programs that support local filmmakers and the creative industries. To make these goals a reality, the industry needs a stable and unencumbered incentive program first.

Thank you for your time and consideration.

Respectfully,

Mericia Palma Elmore, Executive Director SAG-AFTRA Hawaii Local

<sup>1</sup> [https://files.hawaii.gov/dbedt/economic/data\\_reports/hawaii-creative-report/HI\\_Creative\\_Ind\\_2019.pdf](https://files.hawaii.gov/dbedt/economic/data_reports/hawaii-creative-report/HI_Creative_Ind_2019.pdf)

**LATE**

**HB-1174-HD-1**

Submitted on: 3/15/2021 8:02:15 AM  
Testimony for EET on 3/15/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
bruce VOLLERT	Individual	Oppose	No

Comments:

Aloha and Good Morning,

I oppose bill HB1174 HDI. This bill will cause great harm to the film and television industry in the state of Hawaii. The industry has made a strong recovery from the effects during the COVID Pandemic. Movie and television production in Hawaii will help our economy for years to come lowering the tax incentives will cause many productions to go to other locations.

The state of Hawaii needs a vibrant and fully supported film industry. It will possibly take many years to recover our tourism industry. Dont Hamstring a growing industry that as the potential to revitalize our economy State wide.

Mahalo for your time

Bruce Vollert

44-683 Iris place

Kaneohe, Hawaii

Owner Event group inc



**LATE**

The Honorable Glenn Wakai, Chair

The Honorable Bennette E. Misalucha, Vice Chair and

Members of the Senate Committee on Energy, Economic Development and Tourism

Re: HB 1174 HD1: Relating to Taxation

HEARING: Monday, March 15, 2021, at 3:00PM

Conference Room 224, Hawaii State Capitol and Videoconference

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members,

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a Sound Engineer and am a member of IATSE Local 665. I respectfully OPPOSE parts of HB1174, HD1, unless amended, for the following reasons:

- Important projects, such as serialized television shows and feature films, endure large costs just to get to Hawaii. Even before any filming begins, a significant amount of equipment and personnel must be expensively shipped or flown to Hawai'i. Additionally, as a result of negotiations with the IATSE, film production companies have agreed to provide stringent COVID-19 safety protocols for all production personnel, which add millions of dollars to their budget overhead.
- Having had a strong film tax incentive has provided critical motivation to bring much-needed production jobs here, especially after the devastation of the pandemic in 2020, and it continues to provide a stable, predictable climate for film producers to confidently make long-term plans. Local businesses are tragically closing all around us, but fortunately our industry is largely back at work, in spite of the added costs to combat COVID-19.

Please extend the sunset date for the film tax credit to demonstrate our joint commitment to Hawaii's growing film industry and leave the rest of the credit untouched.

Respectfully,  
Steve DeFeo

**LATE**

**HB-1174-HD-1**

Submitted on: 3/15/2021 10:23:59 AM

Testimony for EET on 3/15/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Perry	Individual	Oppose	No

Comments:

To: Honorable Glenn Wakai, Chair; Honorable Bennette E. Misalucha, Vice Chair; and Members of the Senate Committee on Energy, Economic Development and Tourism

In Re: HB 1174 HD1: Relating to Taxation

Aloha, Chair and EET Committee Members –

Thank you for allowing me to submit testimony on this bill, as it directly affects the livelihood of my children, family members and close friends. My daughter is in the film industry as a member of SAG-AFTRA and she and I both respectfully OPPOSE parts of HB1174, HD1, unless amended, for the following reasons:

The amount of work provided to our community by the booming film industry right now is paramount to Hawai'i's economic recovery and diversification. Because of the plethora of projects filming here right now, my daughter has been able to become a full member of SAG-AFTRA and has been working full-time since the end of January. Most people her age are struggling right now to find jobs, yet alone jobs where they can make enough to support themselves. Jobs in the film industry offer so many opportunities for both experienced industry professionals, as well as younger people looking for a new and exciting career. I have many other friends and family members that have taken these new opportunities with these film projects to supplement the incomes they have lost due to jobs lost in the tourism industry.

Large projects such as television shows and feature films endure large costs just to get here. Everything must be shipped or flown to Hawai'i. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets. Having a strong film tax incentive helps to bring much-needed jobs here, especially after the devastation of the pandemic in 2020, and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

I implore you to look at the film industry as a way to diversify our economy and offer job opportunities to our kama`aina that are struggling to find good paying jobs right now. Please extend the sunset date for the film tax credit and demonstrate your

commitment to Hawai`i's growing film industry and leave the rest of the credit untouched.

Thank you for your time and consideration,

Jessica Perry

**LATE**

**HB-1174-HD-1**

Submitted on: 3/15/2021 10:26:32 AM

Testimony for EET on 3/15/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
D.Koanui	Testifying for IATSE 665	Oppose	No

Comments:

The Honorable Glenn Wakai, Chair

The Honorable Bennette E. Misalucha, Vice Chair and

Members of the Senate Committee on Energy, Economic Development and Tourism

Re: HB 1174 HD1: Relating to Taxation

HEARING: Monday, March 15, 2021, at 3:00PM

Conference Room 224, Hawaii State Capitol and Videoconference

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing me to testify on this bill as it directly affects my livelihood. I work in the film industry as a member of IATSE Local 665 and respectfully **OPPOSE** parts of HB1174, HD1, unless amended, for the following reasons:

Large projects such as television shows and feature films endure large costs just to get here. Everything must be shipped or flown to Hawai'i. Additionally, film companies have agreed to provide stringent COVID-19 protocols for their workers to keep everyone safe, adding millions of dollars to their budgets. Having a strong film tax incentive helps to bring much-needed jobs here, especially after the devastation of the pandemic in 2020,

and provides a stable, predictable climate for employers to plan long-term. Businesses are closing all around us, but we are back at work, even with the added costs to combat COVID-19.

Please extend the sunset date for the film tax credit to demonstrate your commitment to Hawaii's growing film industry and leave the rest of the credit untouched.

Mahalo,

Desiree JK Koanui



# IATSE Mixed Local 665 HAWAII'S TECHNICIANS

for  
**FILM, TELEVISION, STAGE AND PROJECTION**  
Since 1937

**LATE**

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE  
TECHNICIANS, ARTISTS AND ALLIED CRAFTS  
OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

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Date: March 14, 2021

To: The Honorable Glenn Wakai, Chair  
The Honorable Bennette E. Misalucha, Vice Chair and  
Members of the Senate Committee on Energy, Economic Development and Tourism

Re: HB 1174 HD1: Relating to Taxation

HEARING: Monday, March 15, 2021, at 3:00PM  
Conference Room 224, Hawaii State Capitol and Videoconference

Aloha, Chair Wakai, Vice Chair Misalucha and EET Committee Members –

Mahalo for allowing us to testify on this bill as it directly affects the livelihood of our workers. IATSE Local 665 represents stage, convention, film and television technicians throughout the State of Hawai'i. As such, we respectfully **OPPOSE** parts of HB1174, HD1, unless amended for the following reasons:

### **EMPLOYERS' ADDED EXPENSE DUE TO COVID-19:**

During the pandemic, the leaders of the IATSE, Screen Actors Guild (SAG-AFTRA), Directors Guild of America (DGA) and Teamsters 399 negotiated for months with studio employers to return to work safely. The Motion Picture Association (MPA) and Association of Independent Commercial Producers (AICP) agreed to pay for pre-employment and weekly COVID-19 testing, quarantine pay, paid sick leave for an infected employee and their team, contact tracing, masks, gowns, disinfectant, daily temperature checks, daily health assessments, COVID-19 monitoring and/or medical personnel and all of the supplies to keep our workers as safe as possible from contracting the virus. This came at great expense to the production companies, adding millions of dollars to large-project budgets and thousands of dollars to the smaller ones. A small show on Hawai'i Island had to find extra funds just to comply with the COVID-19 protocol which came at a huge financial burden to them, but they paid it to keep everyone safe.

The first shows to go back to work were productions on Maui. Those shows - "Temptation Island" and "White Lotus" – bought out the hotels to create a safe, controllable environment for our workers. "Temptation Island" had ZERO confirmed cases and administered over 3,000 COVID-19 tests to their crew. The tests alone cost over \$300,000, and our workers' noses were raw from the required PCR nasopharyngeal tests, but returned to their families safely.

### **WE ARE STILL RECOVERING FROM THE 2019 FILM CAP AND 2020 PANDEMIC**

In 2019, after the implementation of the film tax credit cap, many projects went elsewhere. We were grateful that "Hawai'i Five-O" and "Magnum P.I." continued to film here, but "Five-O" was cancelled in March 2020, and then the pandemic shut down everything. Not deemed essential, our workforce was almost entirely unemployed. Our union did what we could by assisting with unemployment (some still have not been paid!), distributing food, informing them of financial

assistance opportunities and covering our workers' health care to make it through 2020. We finally returned to work when "Temptation Island" started up last August. Other industries do not come close to the level of safety provided by our employers, and we are grateful to be able to return to work, but we are still recovering! We implore you to allow the Hawai'i Film Tax credit to remain unencumbered so shows can recoup the large costs of keeping their crew safe.

**TAX CREDITS ARE NECESSARY TO REMAIN COMPETITIVE AND OFFSET COSTS**

If you go to <https://www.productionincentives.com/>, you can compare Hawai'i against other film locales. Just comparing us to California and Georgia, CA has a \$330M cap, and GA has NO CAP. Our global competitors Australia, New Zealand, and Dominican Republic have comparable tax incentives and NO CAP. They are drawing in billions of dollars in revenue for their industries, and an attractive tax incentive is the Number One reason films go there. CBS's "Magnum P.I." just wrapped its third season, two pilots are filming until May, and a few more shows are lined up this summer, so our tax credit is working! Please don't reduce our competitive edge.

**THE STATE'S COMMITMENT TO ITS FILM INDUSTRY**

We appreciate your long-term commitment to the film industry by providing the film tax credit, creating the Academy for Creative Media (ACM) Bachelor of Arts program, building the new UH-West O'ahu film academy, and making plans for a new studio. These are strong indicators to grow our industry. **Extending the tax credit sunset date** would provide **stability to long-term projects** which employ thousands of workers and generates hundreds of millions of dollars for Hawai'i residents and businesses. Reducing incentives for employment opportunities would be a step in the wrong direction and force film academy graduates to go elsewhere. We would essentially be educating someone else's workforce.

**WE ARE IMPORTANT**

We urge the committee to see the film industry as a necessary and diverse part of the economy. We are one of the few, if not only, industries that has implemented strong COVID-19 protocols and rigorous testing of the cast and crew. This allowed us to go back to work safely and was the template for the Governor's pre-flight COVID-19 testing to open the State to tourists. We are helping to keep the confirmed case rate low, making Hawai'i an attractive location for both tourists and films.

The film tax credit is doing its job in its current form, attracting shows to our remote islands. We humbly ask that the committee extend the sunset date and leave the rest of the bill untouched.

Respectfully,

Irish Barber  
Business Representative

**LATE**

My name is Mike Ogasawara and I work as a freelancer in the film and TV industry. I am born and bred here in Hawaii and rely on these productions for my livelihood. If there were to be fewer productions in Hawaii, it would truly affect my career, and that's why the film tax credit program is so important.

Hawaii's film tax credit program has created thousands of good-paying jobs and furthered investment into our state's economy by working with local businesses like mine. A cap on the tax credit like the one proposed in HB1174 HD1 would cause a reduction in the number of productions that could film in Hawaii, reducing opportunities for local businesses like mine who provide goods and services to these productions. Thank you for allowing me to comment on HB1174 HD1.



**LATE**

My name is JC Fiero, and I am a boom truck operator in Hawaii since 1991 and have been the owner and operator of my own company, Haku Crane & Rigging, since 1996. My company has grown a lot since 1996, and I have expanded my services and expertise to include production crane work for movies and TV shows.

Hawaii's film tax credit program has created thousands of good-paying jobs and furthered investment into our state's economy by working with local businesses like mine. A cap on the tax credit like the one proposed in HB1174 HD1 would cause a reduction in the number of productions that could film in Hawaii, reducing opportunities for local businesses like mine who provide goods and services to these productions.

Thank you for allowing me to comment on HB1174 HD1.