

STAND. COM. REP. NO. 2281

Honolulu, Hawaii

FEB 13 2024

RE: S.B. No. 3265
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Energy, Economic Development, and Tourism,
to which was referred S.B. No. 3265 entitled:

"A BILL FOR AN ACT RELATING TO FILM INDUSTRY DEVELOPMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the Hawaii Film Advisory Council;
- (2) Amend the Motion Picture, Digital Media, and Film Production Income Tax Credit to:
 - (A) Increase the annual cap to \$60,000,000;
 - (B) Extend the sunset date of the tax credit to January 1, 2039;
 - (C) Clarify the requirements for an independent third-party certification; and
 - (D) Expand the definition of "qualified production" to include streaming platforms;
- (3) Provide a tax exemption for certified development of film studio facilities; and



- (4) Make an appropriation for the establishment of one full-time equivalent (1.0 FTE) film industry development liaison within the Creative Industries Division of the Department of Business, Economic Development, and Tourism.

Your Committee received testimony in support of this measure from the University of Hawai'i System, Honolulu Film Office, County of Hawai'i Department of Research and Development, SAG-AFTRA Hawaii Local, IATSE Local 665, 'Ohina NMG Network, Hawaii Media Inc., Hawaii State AFL-CIO, Hawai'i Lodging & Tourism Association, Hawaii Teamsters Local 996, Kapolei Chamber of Commerce, and forty-three individuals.

Your Committee received comments on this measure from the Department of Business, Economic Development, and Tourism; Department of Taxation; Department of the Attorney General; Tax Foundation of Hawaii; and one individual.

Your Committee finds that the film industry in Hawaii is an important component of a diversified economy and that its financial impact can be strengthened significantly if existing incentives for the industry are improved. Your Committee further finds that the Motion Picture, Digital Media, and Film Production Income Tax Credit has had great success in increasing state revenues and gross domestic product since its enactment. This measure increases the total industry cap, updates antiquated language to better address the film industry's current practices, extends the sunset date to give business certainty to project developers for long-term planning, and gives confidence to investors by addressing the critical barrier of infrastructure development.

Your Committee notes the numerous testifiers in support of the Native Hawaiian content provisions of this measure. Your Committee further notes, however, the concerns raised in the testimony from the Department of the Attorney General concerning the constitutionality of these provisions as they relate to racial classifications and potential violations of the United States Constitution's Equal Protection Clause. Your Committee encourages testifiers in support of this measure to explore options with the Department of the Attorney General's office in developing consensus language that would incorporate the desired Native



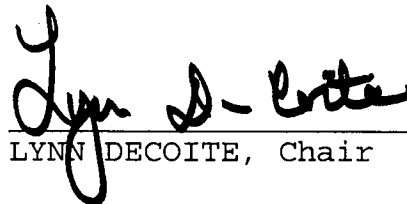
Hawaiian content provisions within state and federal constitutional bounds that could be incorporated into future legislation.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have established a sub-committee of Native Hawaiian members within the Hawaii Film Advisory Council;
- (2) Deleting language that would have exempted qualified and certified productions meeting the requirements of Native Hawaiian content and staffing from the \$17,000,000 per project cap;
- (3) Deleting the definition of "Native Hawaiian content";
- (4) Clarifying that the provisions establishing the general excise tax exemption for certified development of film studio facilities shall take effect on January 1, 2025; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Energy, Economic Development, and Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3265, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3265, S.D. 1, and be referred to your Committee on Ways and Means.

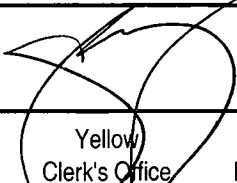
Respectfully submitted on
behalf of the members of the
Committee on Energy, Economic
Development, and Tourism,


LYNN DECOITE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Energy, Economic Development, and Tourism
EET

Bill / Resolution No.:*	Committee Referral:	Date:
SB 3265	EET, WAM	2-6-24
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
DECOITE, Lynn (C)	✓	
WAKAI, Glenn (VC)	✓	
FUKUNAGA, Carol	✓	
KIM, Donna Mercado	✓	
FEVELLA, Kurt	✓	
TOTAL	5	∅
∅	∅	∅
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
		
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy		

*Only one measure per Record of Votes