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"Cut - and That's a Wrap" - The Film Industry's Fleecing of State Tax Incentive Programs

Randle B. Pollard

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**“CUT—AND THAT’S A WRAP”—THE FILM INDUSTRY’S
FLEECING OF STATE TAX INCENTIVE PROGRAMS**

*Randle B. Pollard**

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I. INTRODUCTION

When film production costs in California skyrocketed in the 1990s, states began creating tax-incentive programs to attract film industry production. Currently, thirty-seven states have some type of movie-production incentives for production of television, video, and film, and twenty-two states or U.S. territories offer film tax credits.¹ As of August 2015, more than seventy percent of motion picture production is outside of California in states such as Georgia, Louisiana, and New York.²

The recently released movie *Divergent*, based on a science fiction book trilogy that takes place in a future post-apocalypse Chicago, cost \$85 million to create, \$30 million of which was spent in Illinois.³ The film's producers promised to produce 1,000 jobs, and in return received over \$5 million in Illinois film tax credits. Did the reduction of tax revenue collected by the state of Illinois result in net economic growth?⁴

States have limited resources and cannot afford costly multi-million-dollar tax-incentive programs for the film industry that do not produce the promised results. Though several academic articles have examined international incentives that encourage the filming of U.S. movies and television shows outside of the U.S., relatively few articles discuss the problems caused by states competing among each other for domestic film production.⁵

1. NAT'L CONF. ST. LEGISLATURES, STATE FILM PRODUCTION INCENTIVES & PROGRAMS (2016); *See also infra* Appendix A (providing a table listing each state's current incentive program with state statute reference) (the term "film" refers to the activity associated with the production of motion pictures, television programs, commercials, and other related activities).

2. *See Infra* Section I.D.

3. *See* Press Release, Office of Governor Pat Quinn, Governor Quinn Announces Summit Entertainment's "Divergent" Set to Film in Illinois (Jan. 14, 2013), https://www.illinois.gov/dceo/whyillinois/Film/Media/PressReleases/01.14.13_pressrelease.pdf; Ruth L. Ratny, *\$40mm sci-fi "Divergent" starts filming here in April*, REEL CHICAGO (Jan 08, 2013), <http://www.reelchicago.com/article/40mm-sci-fi-divergent-starts-filming-here-april130108>.

4. *Infra* Section II.B(1) (The answer is discussed.).

5. *See* Adrian McDonald, *Down the Rabbit Hole: The Madness of State Film Incentives as a "Solution" to Runaway Production*, 14 U. PA. J. BUS. L. 85 (Fall 2011) (advocating a national film incentive modeled after existing California and New York incentive programs to end the competition among states and to prevent American film production from going to foreign countries, based on economic rationale); Eric Homsí, *Financing Films One State At A Time: A Survey of Successful Film Incentive Programs*, 21 SETON HALL J. SPORTS & ENT. L. 49 (reviewing film incentive programs in California, New York, and New Mexico); Claire Wright, *Hollywood's Disappearing Act: International Trade Remedies to Bring Hollywood Home*, 39 AKRON L. REV. 739 (2006) (discussing whether subsidies provided by foreign countries for their domestic film industry could be challenged under the World Trade Organization Agreement on Subsidies and Countervailing Measures); Paul Battista, *"Runaway" Film and Television Production: Carrots, Sticks, & International Tax Reform*, 36 HASTINGS COMM. & ENT. L.J. 243 (suggesting changes to the U.S. tax system to make foreign government tax incentives that entice U.S. taxpayer investment

This Article examines the effectiveness of state tax incentives for the film industry and proposes solutions for more effective and efficient use of state tax revenue to promote economic development. It argues that many states are wasting tax revenue on tax incentives to the film industry that do not result in net economic growth. Part II of the Article describes the current types of state tax incentives; California’s initial dominance of U.S. film production; a brief overview of foreign and U.S. film-production incentives; and the expansion of the use of tax incentives outside of California. Part III examines the issues by measuring the effectiveness of the state tax incentives for the film industry; describes examples of programs that failed to produce net economic growth; and discusses current trends in state programs. Part IV proposes a framework for economically effective state tax-incentive programs for the film industry: (1) require states to reexamine the need for film industry incentive programs; (2) institute limits on incentives awarded with annual caps or funding tied directly to state budget appropriation; and (3) create more accountability of performance of film industry production companies.

II. OVERVIEW OF FILM INDUSTRY STATE TAX INCENTIVES

This section will provide an overview of state tax incentives provided to the film industry. First, it will describe the different types of state tax incentives. It will then analyze California’s initial dominance in using incentive programs. After discussing the movement of U.S. film production outside of the U.S., this section will then conclude by exploring the development of state tax incentives in states other than California.

A. *Types of State Incentives*

State film incentives vary and include income tax credits, cash rebates, grants, sales and use tax credits or exemptions, and other incentives that reduce the cost of doing business. In a January 2010 special report by Tax Foundation, an independent nonprofit, nonpartisan tax-research group, each type of state film industry incentive was reviewed.⁶ The table below summarizes the state film industry incentives typically used by states, as reviewed in the Tax Foundation

of film production in foreign countries more equitable).

6. William Luther, *Movie Production Incentives: Blockbuster Support for Lackluster Policy*, TAX FOUND. (January 2010), <https://files.taxfoundation.org/legacy/docs/sr173.pdf>.

report.⁷

Table 1

Income Tax Credit	Dollar for dollar reduction of income tax liability for expenditures for qualified film production expense, hiring of labor, or investment in local infrastructure
Cash Rebate	State reimbursed for portion of qualified expense
State Grant	State funds offered for qualified expense
Sales & Use Tax Exemption	Exemption from state sales tax of qualified expenditures
Lodging Exemption	Lodging reimbursement for film production cast and crew for hotel stays of at least 30 days
Other tax incentives	Exemption, credit or deferral (abatement) of excise taxes, inventory taxes, and other state or local taxes or fees

Tax credits are the most prevalent state film incentive, with twenty-two of the thirty-seven states that provide some type of film-production incentives offering tax credits.⁸ These credits are generally based on a statutorily created percentage of qualified film and television expenses.⁹ The definition of “qualified expenses” differs by state.¹⁰ However, most states include in their definition expenses identified as “above-the-line” expenses, which are wages paid and fees associated with the director, writers, and leading actors.¹¹ Some states include the so-called “below-the-line” expenses, which include other film production costs including wages for crew, production staff, and non-leading cast members.¹² Most state tax credits are transferable or refundable, which allows film production companies to sell their credits to third parties. States realize that many film production companies would not have enough state tax liability to be offset by that tax credit, thus making much of the tax credit worthless. This Article will collectively refer to all state film industry incentives as state tax incentives for the film industry.

7. *See generally id.*

8. *See infra* Section II.D.

9. *See* MAC TAYLOR, FILM AND TELEVISION PRODUCTION: OVERVIEW OF MOTION PICTURE INDUSTRY AND STATE TAX CREDITS 19 (2014).

10. *Id.* at 18.

11. *Id.* at 15.

12. N.Y. TAX LAW § 24(b)(2) (McKinney 2016) (the state of New York includes “below the line” expenses in its definition of qualified production costs).

B. *Earlier California Dominance*

California became a key state in the development of the U.S. film industry in the early twentieth century.¹³ California’s dominance in film production in the U.S. was primarily due to the availability of inexpensive educated labor, low-cost studio and production sites, and, of course, its moderate weather.¹⁴ Beginning in 1910, and through present day, the primary area of California for film production has been the Los Angeles area—”Hollywood.”¹⁵ During its zenith of film production in the mid-1990s, specifically 1997, California was responsible for 637 of 823 film production starts—over seventy-seven percent of film production starts in the U.S.¹⁶ Also in 1997, sixteen of the top twenty-five films were made in California.¹⁷ For the years 1995 through 1999, the U.S. Bureau of Economic Analysis measured California’s percentage of the U.S. film industry as ranging from 51% to 55% and its gross economic activity between \$12 billion and \$16 billion.¹⁸

Table 2
Size of California Share of U.S. Film Industry
(Billions of Dollars)

	1995	1996	1997	1998	1999
CA Films	\$12	\$13	\$15	\$16	\$16
U.S. Films	\$22	\$25	\$26	\$29	\$30
CA % of US Films	52%	53%	55%	54%	54%

The Motion Picture Association of America (MPAA), a trade

13. See Gerben Bakker, *The Economic History of the International Film Industry*, EH.NET ENCYCLOPEDIA (Feb. 10, 2008), <http://eh.net/encyclopedia/the-economic-history-of-the-international-film-industry/> (discussing the origins of the U.S. film industry).

14. *Id.* at 8 (California offered lower cost of distribution of films compared to other locations in North America and Europe); See Alexandra Gil, *Breaking the Studios: Antitrust and the Motion Picture Industry*, 3 N.Y.U. J.L. & LIBERTY 83, 88-89 (2008) (California also provided geographical distance from the antitrust and patent claims of northeastern film production companies); GENE FERNETT, *AMERICAN FILM STUDIOS: AN HISTORICAL ENCYCLOPEDIA* (2001) (providing detail on the history of U.S. film production and the development of film studios and film production companies).

15. TAYLOR, *supra* note 9, at 10.

16. MARTHA JONES, *MOTION PICTURE PRODUCTION IN CALIFORNIA 2* (2002), available at <http://www.library.ca.gov/crb/02/01/02-001.pdf> (Table 9 provides the comparison of feature film production starts from 1994-1997).

17. TAYLOR, *supra* note 9, at 13-14 (Figure 6, the top 25 films produced is based on the estimated worldwide box office revenues).

18. *Id.* at 10 (Table 1).

association representing six major Hollywood film production companies, also provides statistics for that period in its 1998 report called the “State of the Industry” (the “1998 Report”).¹⁹ The 1998 Report measured California’s share of the U.S. film industry at over eighty percent and a gross economic activity over \$27.5 billion, significantly higher than the U.S. Bureau of Economic Analysis calculations.²⁰

C. U.S. Film Production Outside of the U.S.

1. Growth of Runaway Production

Regardless of which statistics more accurately represented California’s dominance of the U.S. film industry in the 1990s, the U.S. film industry became an attractive industry to foreign countries.²¹ The concept of developing ideas for film production in the U.S. but filming outside of the U.S., known as “runaway production,” was not a new phenomenon in 1990.²² However, runaway production increased substantially in the 1990s primarily for economic reasons.²³ In the 1990s, lower production costs and government incentives made countries such as Canada, Australia, and the United Kingdom more attractive for film production.²⁴ Production costs were lower in Australia, Canada, and the United Kingdom due to the decline of their currency exchange rate from fifteen percent to twenty-three percent compared to the U.S. dollar.²⁵ Most notably, Australia and Canada provided tax credits that helped reduce production cost savings by ten percent.²⁶ Canada’s tax-credit program, the more comprehensive of the two countries, was the Film or Video Production Services Tax Credit of 1997 (CPTC).²⁷ CPTC offered a twenty-five percent refundable tax

19. *Id.* at 8.

20. *Id.*

21. Although this Article does not focus on issues created by the production of film and television outside of the U.S., it makes sense to provide a cursory overview of foreign incentive programs.

22. See Jones, *supra* note 16, at 35; see also MONITOR COMPANY, U.S. RUNAWAY FILM AND TELEVISION STUDY REPORT 2 (Director’s Guild of America/Screen Actors Guild 1999).

23. MONITOR, *supra* note 22, at 4; Adrian McDonald, *Through the Looking Glass: Runaway Productions and “Hollywood Economics,”* 9 U. PA. J. LAB. & EMP. L. 879 (Summer 2007) (besides economic rationale, runaway production may also be based artistic rationale such as the location).

24. *Id.*

25. *Id.*

26. *Id.*

27. Income Tax Act, R.S.C. c. 1 (5th Supp.) (1985) (Can.).

credit on qualified production costs. In addition to the CPTC, Canadian provincial tax credits were available, collectively providing tax credits of nearly fifty percent.²⁸ From 1990 to 1998, Canada’s share of the total U.S. runaway productions (based on economics) grew from sixty-three percent in 1990 to eighty-one percent in 1998.²⁹

Facing increasing runaway production internationally, the U.S. film industry, represented primarily by the MPAA, lobbied Congress for federal tax incentives to combat this issue.³⁰ Congress responded with the passage of the American Jobs Creation Act of 2004 (the “Act”).³¹ The Act provided the U.S. film industry with the following federal tax treatment: qualifying domestic film production for the manufacturing deduction pursuant to 26 U.S.C. § 199; immediate write-off of domestic film production expenditures pursuant to 26 U.S.C. § 181; and favorable depreciation treatment of certain film production expenditures pursuant to 26 U.S.C. § 167.³²

2. Current Runaway Trends

The passage of the Act in 2004 appears to have curbed runaway production. A 2013 study conducted by the research division of FilmL.A., Inc., a not-for-profit California regional film organization, found that forty-five percent of 108 major-studio productions released into theaters that year were primarily filmed in foreign countries.³³ FilmL.A.’s unique study tracks movies released within a year and determines where they were primarily filmed.³⁴ Their study used a methodology that focused on live-action and animated movies released

28. *Id.*; see KPMG, FILM FINANCING AND TELEVISION PROGRAMING: A TAXATION GUIDE 80 (6th Ed. 2012) (providing a comprehensive description of the current CPTC and provincial tax credit programs); see also Marsha Henry, Canada’s Federal and Provincial Film and Television Tax Incentives: Are They Worthwhile, and Can They be Improved (unpublished paper, Master of Taxation program, University of Waterloo) (marshahenry.blogs.com) (providing a detailed review of Canada’s tax credit system for film production). The current administration and procedures of the tax credit are available at the Canada Revenue Agency website, <http://www.cra-arc.gc.ca/tx/nrsdnts/film/ftc-cip/menu-eng.html>.

29. See MONITOR, *supra* note 22, at 9 (information from Exhibit 6 graph and chart).

30. Homs, *supra* note 5, at 151.

31. American Jobs Creation Act of 2004, Pub. L. No. 108-357 (2004).

32. Homs, *supra* note 5, at 151-156 (providing a detail analysis of the changes in federal tax treat for the film industry due to the American Job Creation Act of 2004 and amendments).

33. ADRIAN McDONALD, 2013 FEATURE FILM PRODUCTION REPORT 4-5 (2013).

34. *Id.* at 1 (The study is unique due to the methodology of focusing on global filming locations of movies produced by U.S. Major and Mini-Major film production companies; studies conducted by individual states such as Florida, Michigan, and Massachusetts, Michigan, Pennsylvania, and South Carolina are focused on state specific economic statistics for film production.).

by six major film production studios and five independent film production studios located in Southern California.³⁵ In the 2013 study, notably, Canada had fifteen movie productions representing fourteen percent of the films, equaling the number of those filmed in California.³⁶ The United Kingdom had twelve films representing fourteen percent of all the films.³⁷ FilmL.A. has completed subsequent film studies for 2014³⁸ and 2015³⁹ using the same methodology. For those years, the U.S. has remained the primary film production location with sixty-four percent of films surveyed in 2014 and sixty-five percent of films surveyed in 2015.⁴⁰ The table below summarizes the percentage shares of the U.S. film industry held by Canada, the U.K., and Australia:⁴¹

Table 3
Partial List by Country of Percentage Share of U.S. Film Industry

Production Location	2013 (108 Films)	2014 (106 Films)	2015 (109 Films)
Canada	15%	12	11
U.K.	12%	15	15
Australia	2%	3	1

D. Rise of State Tax Incentives Outside of California

In addition to foreign countries like Canada and the United Kingdom competing with California, the 1990s saw a rising number of states creating film-incentive programs to compete with California. In 1992, Louisiana was the first state outside of California to offer tax

35. *Id.* at 4 (“Majors” include Disney, Warner Brothers, NBCUniversal, Paramount, Sony and 20th Century Fox; Independent studios known as “Mini Majors” include Dreamworks, Lionsgate, Weinstein Co., FilmDistrict, and Relativity.).

36. *Id.* at 5.

37. *Id.*

38. ADRIAN MCDONALD, 2014 FEATURE FILM STUDY (2014) (The study methodology used films produced by Major studios Disney, Warner Brothers, NBCUniversal, Paramount, Sony and 20th Century Fox and Independent studios Dreamworks, Lionsgate, Weinstein Co., Summit Entertainment, and Relativity.).

39. ADRIAN MCDONALD, 2015 FEATURE FILM STUDY 5 (2015) (The study methodology used films produced by Major studios Disney, Warner Brothers, NBCUniversal, Paramount, Sony and 20th Century Fox and Independent studios Dreamworks, Lionsgate/Summit Entertainment, Weinstein Co., CBS, and Blumhouse.) (The 2016 Feature Film Production Report is scheduled to be finalized and published by May 2017.).

40. MCDONALD, *supra* note 38, at 2.

41. *Id.* at 3.

incentives for film production.⁴² Other states soon followed—Minnesota in 1997, Missouri in 1999, and New Mexico in 2002.⁴³ North Carolina, New York, South Carolina, and Florida would later develop incentive programs that rivaled California’s.⁴⁴ The attached Appendix A lists the current state film production incentive programs.⁴⁵ By 2013, New York, Louisiana, Georgia, and Florida had larger film tax-credit programs than California.⁴⁶ Louisiana, Georgia, and Florida did not “cap” or limit the film tax-credit programs annually. New York’s film tax credit was capped at \$420 million.

Table 4
2013 State Film Tax Credit Programs
(Dollars in Millions)

State	Incentive Percent	Annual Cost
New York	30-35	\$420
Louisiana	30-35	\$236
Georgia	20-30	\$140
Florida	20-30	\$131
California	20-25	\$100

In a FilmL.A., Inc. 2013 film study, Louisiana had overtaken California as the leading state in the U.S. for film location production. Of the 108 films surveyed, eighteen movies were primarily filmed in Louisiana and fifteen were filmed in California. In addition, California’s share of the top twenty-five highest grossing films decreased to twenty-four percent, down from sixty-eight percent fifteen years earlier.⁴⁷ By 2014, California had regained the position as the top state location from Louisiana. Last year’s survey has California as the leading state location for the second year in a row. The survey for 2013, 2014, and 2015 is represented in the table below.

42. Luther, *supra* note 6, at 2.

43. *Id.*

44. *Id.*

45. *See infra* Appendix A.

46. TAYLOR, *supra* note 9, at 15, 18 (table adapted from figure).

47. *Id.* at 14.

Table 5
 Partial List Surveyed Films Produced by U.S. Film Industry by
 State Location

Production Location	2013 (108 Films)	2014 (106 Films)	2015 (109 Films)
California	158	22	19
Louisiana	18	5	12
Georgia	9	10	12
New York	4	13	7
Pennsylvania	2	1	6
Massachusetts	5	3	3
North Carolina	4	2	3
New Mexico	3	2	2
Michigan	1	2	0

III. MEASUREMENT OF EFFECTIVENESS OF INCENTIVE PROGRAM

This section will analyze the effectiveness of tax-incentive programs for the film industry. It will begin by explaining the economic impact analysis, which is the primary method of measuring the effectiveness of incentive programs. The section will then analyze the pitfalls of measuring the effectiveness of these incentive programs, such as the failure of the states to collect accurate data and the inability to consistently measure job creation. Next the section will explore the issues resulting from states' "bidding" against one another with tax incentives to win production contracts. Finally, the current trends in the state tax-incentive film programs will be examined.

A. *Economic Impact Analysis*

The primary methodology to measure the effectiveness of incentive programs is the economic impact analysis.⁴⁸ The analysis is a quantitative technique that examines the change in economic activity as

48. THE COUNCIL FOR COMMUNITY AND ECONOMIC RESEARCH, 2012 STATE ECONOMIC DEVELOPMENT INCENTIVES SURVEY REPORT (May 2013) at 27, http://members.c2er.org/download/2012_Economic_Development_Program_Survey_Report.pdf (The survey includes state tax and non-tax incentive for economic development.).

the sum of direct effects, indirect effects, and induced effects.⁴⁹ Direct effects are initial changes in employment, income, and output of a company.⁵⁰ The hiring of film production employees such as camera and sound technicians is the direct effect of the film production company’s expenditures. Indirect effects are changes in employment, income, and output due to a company’s expenditures and purchases.⁵¹ An example of indirect effects is job creation of a business that supports the film production, such as the hiring of restaurant workers serving film production crews. Lastly, induced effects on the economy are the increased wages of individuals in unrelated industries.⁵² To measure the total effect of the incentives on the economy of the state, economists use a “multiplier” ratio to gauge the ripple effect of the initial company’s increase to economic activity.⁵³ One of the most common software programs used to model the “ripple effect” is the Regional Economic Models Inc. (REMI).⁵⁴ In September 2014, the Massachusetts Department of Revenue issued a report on the state’s film industry incentives.⁵⁵ To illustrate the use of the REMI, the following diagram was used by the Massachusetts Department of Revenue:⁵⁶

<p>Wage and Non-Wage Spending Generated by the Tax Incentives And Economic Activity Generated by Spending (Positive “Multiplier” Impact)</p>
--

Minus

<p>State Spending Cuts or Tax/Fee Increases Required to Maintain a Balanced Budget (Negative Economic Impact) And Additional State Economic Impact of Those State Spending Cuts or Tax/Fee Increases (Negative “Multiplier” Impact)</p>
--

49. See Jonathan Q. Morgan, *Analyzing the Benefits and Costs of Economic Development Projects*, U. N.C. SCH. GOV’T, Apr. 2010, at 2.

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.* at 3.

54. *Id.* at 4-5.

55. COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF REVENUE, A REPORT ON THE MASSACHUSETTS FILM INDUSTRY TAX INCENTIVES (2013).

56. *Id.* (adapted visual from page 5).

The table below describes the types of statistical information needed to do the economic impact analysis:⁵⁷

Table 6

The total amount of tax credits claimed and paid during the fiscal year
Estimate of film production activity that would have occurred in the state without tax incentives
Amount spent on wage and non-wage spending for film productions that claimed the tax incentives
Amount spent on wages and salaries that were paid to state residents and non-residents
Amount spent on non-wages paid to state based and out-of-state businesses;
Net number of new jobs generated by film productions that claimed the tax incentives, for both residents and non-residents
Net increase in spending that occurred in state as a result of the film tax credits.
Types of productions claiming the tax credits

B. Problems with Measuring Economic Impact of Programs

1. Failure of States to Collect Accurate Data

In the beginning of this Article, I asked if filming the movie *Divergent* in Chicago produced the economic results promised by the Illinois Department of Commerce and Economic Opportunity's Illinois Film Office (IFO) of 1,000 jobs and a net economic result of \$30 million. Without accurate data, there is no definitive answer—a problem like the ones encountered in similar tax-incentive programs. According to the IFO, the goal of the tax credit is “[t]o attract local vendors, union leaders, and filmmakers to the Illinois film industry in order to promote growth and job opportunities.”⁵⁸ The IFO program grants film

57. Adapted from COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF REVENUE, A REPORT ON THE MASSACHUSETTS FILM INDUSTRY TAX INCENTIVES 5 (2013).

58. See ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY, <https://www.illinois.gov/dceo/whyillinois/Film/FilmTaxCredit/Pages/default.aspx>; see also 35 ILL.

production companies a tax credit of thirty percent of qualified film production spending incurred within a twelve-month period, and a thirty percent credit on Illinois salaries of up to \$100,000 per worker.⁵⁹ Only salaries of workers who are residents of Illinois qualify for the credit.⁶⁰ The IFO requires that the applicant receiving the tax credit “use its best efforts to supply information disclosing the number of production type jobs created and/or retained and whether the production type jobs were entry, management or skilled labor.”⁶¹ This “best efforts” standard creates the problem of inaccurate data because the quality of the data is subjective. The IFO does require applicants to use IFO-approved Illinois CPA firms in verifying the production costs being claimed for the receipt of the tax credit.⁶² The use of the approved-CPA-firm requirement is for the granting of the credit, not for verifying the results of the film production—namely the number of jobs produced and general economic benefit received by the state. The IFO is required to report at the end of each fiscal quarter to the Illinois General Assembly the economic impact of the tax-credit program, specifically including the number of jobs created and retained.⁶³ Since the initiation of the Illinois film tax-credit program in 2008, the IFO has only submitted one quarterly report to the General Assembly, which is for the fourth quarter of fiscal year 2016.⁶⁴ Based on the “best efforts” standard for verification of the economic benefits and the failure of the IFO to submit quarterly reports on the economic benefits of the tax credits, the claim of 1,000 jobs created and a net \$30 million benefit cannot be substantiated. The Illinois Policy Institute, an independent advocacy organization on government efficiency, also disputes the economic benefits created by the filming of the movie *Divergent*.⁶⁵ They point out that the 1,000 jobs created were temporary and did not constitute full-time positions.⁶⁶

COMP. STAT. 16/5 (2008).

59. 35 ILL. COMP. STAT. 16/10 (2008) (film production commencement on or after January 1, 2009).

60. *Id.*

61. ILL. ADMIN. CODE tit. 14, § 528.62 (2013).

62. See ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY, <https://www.illinois.gov/dceo/whyillinois/Film/FilmTaxCredit/Pages/FAQs.aspx> (Frequently Asked Questions).

63. 35 ILL. COMP. STAT. 16/45 (2008); ILL. ADMIN. CODE tit. 14, § 528.40 (2007).

64. ILLINOIS FILM PRODUCTION SERVICES TAX CREDIT QUARTERLY REPORT: FY2016 Q4 APRIL 1, 2016–JUNE 30, 2016 (2016).

65. Chris Andriesen, *Spotlight on Spending #13: Illinois Film Tax Credit Program*, ILLINOIS POLICY INSTITUTE (September 22, 2010), <https://www.illinoispolicy.org/reports/spotlight-on-spending-13-%e2%80%aailinois-film-tax-credit-program%e2%80%ac/>.

66. *Id.*; see also Michael Lucci, *Illinois’ record film revenue: What’s the cost?*, ILLINOIS

Illinois is not the only state with data accuracy issues. Marc Taylor's reports on tax credits, requested by the California Legislature, suggest that collection of accurate data from film production is difficult.⁶⁷ There is also the issue of whether economic growth is directly due to film incentives. A recent Massachusetts report on film incentives said a state must determine if economic development was due to the film tax incentives or other unknown economic factors.⁶⁸

2. Measuring Job Creation

As stated in Table 5, employment and wage statistics are vital to conducting the economic impact analysis. States receive this data from employers that file quarterly employment and wage statistics. However, the employment and wage information from film production may include data from business generated, but not related to film production, and thus be overstated.⁶⁹ For instance, the employment and wage data from another industry such as television broadcasting might be included in the information.⁷⁰ The data might be understated if the employer of film production employees is considered the payroll company that contracts with the film production company or if actors, screenwriters, directors, and others work on a freelance basis and are not considered employees of the film production companies.⁷¹ Another problem with the accuracy of the employment and wage information is the definition of an "employee" as determined by the state. Some states treat employees that work fewer than forty hours as a full-time equivalent employee.⁷² Other states include part-time employees in their statistics.⁷³ For instance, North Carolina allows counting of all people who work on film projects, regardless of how long they are employed or the number of hours they worked.⁷⁴ New Mexico uses the number of "worker days" on a film by employees.⁷⁵ Pennsylvania uses a full-time equivalent methodology.⁷⁶ The differences in counting methodologies make it

POLICY INSTITUTE (January 22, 2014), <https://www.illinoispolicy.org/illinois-record-film-revenue-whats-the-cost/>.

67. TAYLOR, *supra* note 9.

68. COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF REVENUE, *supra* note 57, at 2.

69. TAYLOR, *supra* note 9, at 7.

70. *Id.*

71. *Id.*

72. *Id.*

73. MCDONALD, *supra* note 39, at 5.

74. *Id.*

75. *Id.*

76. *Id.*

nearly impossible to compare job growth state by state. Thus, some states with more liberal definitions of the hours required in order to be considered full-time, or states that include part-time employees, may overstate employment created by the film production incentive.

C. *Other Problems Created by State Film Production Incentives*

Competition among states to attract film production companies can result in several states “bidding” for the same film production. What is wrong with economic competition among states for film production? Robert Tannenwald, Senior Fellow at the Center on Budget and Policy Priorities, posits that no state wins in a subsidy war to attract film production because they end up “paying” more in incentives than is necessary to attract film production.⁷⁷ Some critics claim the competition among states results in an economic war among competing states where no state is a “winner” and there is a “zero-sum game.”⁷⁸ The Tax Foundation Report calls the competition for film production an “arms race of incentives.”⁷⁹ On a national level, this competition does not produce a net economic gain because capital is simply relocating from one state to another.⁸⁰

It is also argued that the jobs created by film production are typically temporary.⁸¹ Once the film production has concluded the “jobs” end. In addition, many of the jobs created are not high paying.⁸² The average camera operators earn between \$23,000 and \$57,000 a year, and film editors typically earn below \$50,000 a year.⁸³ Moreover, most of the skilled jobs go to out-of-state residents.⁸⁴ Thus, much of the employment impact on the state benefits non-residents.

D. *Failed Programs*

Several states have conducted impact studies to determine if their film-industry tax incentives resulted in net economic gain.⁸⁵ The state of

77. ROBERT TANNENWALD, *STATE FILM SUBSIDIES: NOT MUCH BANG FOR TOO MANY BUCKS* (2010) at 8.

78. *Id.*; see also Jonathan Q. Morgan, *Using Economic Development Incentives: For Better or for Worse*, 74 *POPULAR GOV'T* 16, 16 (2009).

79. Luther, *supra* note 6, at 14.

80. *Id.* at 15.

81. TANNENWALD, *supra* note 77, at 7.

82. *Id.* at 1.

83. *Id.* at 6.

84. *Id.*

85. See examples of Florida, Massachusetts, Michigan, Pennsylvania and South Carolina

Massachusetts conducted studies from 2006 through 2012. Massachusetts is estimating a net loss of tax revenue due to its film-production tax credits of \$54.6 million in 2013 and over \$75 million in 2014.⁸⁶ The Los Angeles County Economic Development Corporation (LAEDC) conducted studies to estimate the economic benefits of California's tax-credit program and determined the net economic benefits in 2013 have been consistently overstated.⁸⁷

In addition to problems of net losses, some state film tax-incentive programs have been marred by fraud and scandals. A film director was found guilty of filing a false tax credit filing with the Massachusetts Department of Revenue.⁸⁸ Fraud committed by Iowa's film office chief and six filmmakers led the Iowa state legislature to suspend the state's film tax-incentive program.⁸⁹

E. *Current Trends in State Film Incentive Programs*

Uncertainty in state budgets and increasing pressure by taxpayer advocacy groups have caused some states to reduce or eliminate their film incentive programs.⁹⁰ Since 2009, ten states have effectively ended their film incentive programs by repealing statutes or allowing sunset provisions within statutes to effectuate.⁹¹ In fiscal year 2016, Alaska, Michigan, and New Jersey reduced their programs.⁹² The Alaska legislature moved up the sunset of its film tax-credit program from 2018 to 2016.⁹³ Michigan ended its film incentives beginning in fiscal year 2016.⁹⁴ In January 2016, New Jersey Governor Chris Christie vetoed the state legislature's bill that would have revived the state's film tax-credit

studies.

86. COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF REVENUE, A REPORT ON THE MASSACHUSETTS FILM INDUSTRY TAX INCENTIVES (2014).

87. TAYLOR, *supra* note 9, at 23.

88. Robert W. Wood, *Beware Film and Other Tax Shelter Deals*, FORBES (June 5, 2012), <http://www.forbes.com/sites/robertwood/2012/06/05/beware-film-and-other-tax-shelter-deals-that-go-criminal/#3f45dc7c533e>.

89. Richard Verrier, *Iowa film tax credit program racked by scandal*, L.A. TIMES (Jan. 19, 2011), <http://articles.latimes.com/2011/jan/19/business/la-fi-ct-onlocation-20110119>.

90. NAT'L CONF. ST. LEGISLATURES, *supra* note 1.

91. *Id.*

92. *Id.*; see also Elaine S. Povich, *Some States Yell "Cut!" on Film Tax Credits*, PEW CHARITABLE TRUSTS (May 18, 2015), <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/5/18/some-states-yell-cut-on-film-tax-credits>.

93. Press Release, Governor Bill Walker, The State of Alaska, Governor Signs Bill Ending Film Tax Credits (Jun. 16, 2015).

94. 2015 Mich. Pub. Acts 117.

program, which had expired in July 2015.⁹⁵ North Carolina was another state that allowed its film tax credit to expire on January 1, 2015.⁹⁶

Some states have placed limits on grants of film tax incentives. The Louisiana legislature established a cap on film tax credits of \$180 million for the next three years.⁹⁷ Other states, like Maryland, maintained their programs. Maryland’s film production tax-credit program was set to sunset on June 30, 2016.⁹⁸ However, Maryland maintained the film tax credit and the cap of \$7.5 million for fiscal year 2017 and for the foreseeable future.⁹⁹ Ironically, a September 2015 report of the Maryland Department of Legislative Services (DLS) did not recommend extending the film production tax credit because it determined that the credit did not create sustainable economic development.¹⁰⁰ The DLS report found the state provided \$62.5 million in tax credits between fiscal years 2012 and 2016 while only receiving approximately \$3.8 million in net revenue.¹⁰¹ Notwithstanding these findings, the Maryland legislature agreed to extend the film tax credit at its current level, but the amount of credit granted may not exceed the amount of money appropriated to the reserve fund in the state budget.¹⁰² The intent of extending the credit was to maintain the current level of film production in the state, and to attract new film production activity to the state.¹⁰³

Contrary to the trend to reduce or eliminate state film incentive programs, at least three states have expanded their programs. Kentucky lowered spending thresholds for qualified film production expenses from \$500,000 to \$250,000 and increased its film tax credit from twenty percent to thirty percent.¹⁰⁴ The increases to Kentucky’s film incentive program were proposed by state representative Rick Rand in House Bill 340, and were supported by the Kentucky Tourism Development Finance Committee, Governor Steve Beshear, and first lady Jane Beshear.¹⁰⁵ In testimony supporting the bill, first Lady Jane Beshear

95. N.J.S.A. 54:10A-5.39; P.L. 2005, c. 345; P.L. 2007, c. 257; P.L. 2010, c. 20.

96. See N.C. FILM OFF., <https://www.filmnc.com/refundable-tax-credit.html>.

97. L.A. R.S. 47:6007 C. (1)(d)(ii)(aa).

98. MD. CODE ANN., TAX-GEN. §10-730 (West 2015).

99. S. B. 905 (Md. 2015).

100. MD. DEP’T OF LEGISLATIVE SERVICES, EVALUATION OF THE MARYLAND FILM PRODUCTION ACTIVITY CREDIT (2015) at vii-viii.

101. *Id.* at ix-x.

102. *Id.* at iv.

103. *Id.* (Two film productions mentioned in the DLS report were for the filming of the Home Box Office series “Veep” and Netflix’s production of “House of Cards.”).

104. H. B. 340 (Ky. 2015).

105. Fiona Young-Brown, *Kentucky Improves Film and TV Incentives - Newly Improved*

testified that Kentucky's film incentive program had become less desirable than those of thirty other states in attracting film production.¹⁰⁶ Governor Beshear signed House Bill 340 into law May 7, 2015.¹⁰⁷ The Commonwealth of Pennsylvania will increase the maximum available tax credits from \$60 million to \$65 million, beginning in fiscal year 2017.¹⁰⁸ The increase does not meet the one-time maximum of the program of \$75 million, but demonstrates the state's commitment to compete for film production.¹⁰⁹ California made the most significant increase. California increased its \$100 million annual cap on film tax credits to \$230 million for fiscal year 2015-2016 and \$330 million through fiscal year 2019-2020.¹¹⁰ California's rationale for increasing its incentives is not surprising. Since 2013, when Louisiana surpassed California in film production, California legislators have consistently sought legislative efforts to regain California's dominance in film production. By spring 2016, California had nine approved film production projects estimated at \$313 million in direct qualified in-state spending.¹¹¹

Production Business Incentives Hold Promise to Boost State's Film and TV Sector, THE LANE REP. (June 10, 2015), <http://www.lanereport.com/49980/2015/06/kentucky-improves-film-and-tv-incentives/>.

106. *Id.*; see *Gov. Beshear signs Kentucky film incentives bill*, WKYT (May 7, 2015), <http://www.wkyt.com/home/headlines/Gov-Beshear-signs-Kentucky-film-incentives-bill-303014091.html> (First Lady Beshear states "This legislation gives Kentucky-based filmmakers and production companies a leg-up by offering incentives that help curb their film production costs These incentives will help create a heightened interest for both local and outside filmmakers to seek out Kentucky as a premier filming destination, and I look forward to the many new exciting projects that will come about as a result of HB340.").

107. KY. REV. STAT. ANN. § 141.0205 (West 2014). See Young-Brown, *supra* note 105 (Governor Beshear states "House Bill 340 gives Kentucky a strong advantage when competing with other states for outside film projects Increased film production in Kentucky means a boost to local economies and an opportunity to highlight the Bluegrass state on both big and small screens across the world.").

108. H. B. 1198, 2015 Gen. Assemb., Reg. Sess. (Pa. 2015); see also Tim Schooley, *Pennsylvania film tax credit to increase*, PITTSBURGH BUSINESS TIMES (2016), <http://www.bizjournals.com/pittsburgh/news/2016/07/14/pennsylvania-film-tax-credit-to-increase.html>.

109. Schooley, *supra* note 108.

110. Assemb. B. No. 1839 (Ca. 2014); see also Dominic Patten, *Hooray For Hollywood! Gov. Brown Signs Film & TV Tax Credit Bill Extension*, DEADLINE HOLLYWOOD (September 18, 2014), <http://deadline.com/2014/09/california-film-tv-tax-credit-bill-signed-jerry-brown-hollywood-836075/>.

111. Elyse Glickman, *Tax Credits Inspire a Hollywood Homecoming*, L.A. BUS. J. (March 9, 2016), <http://labusinessjournal.com/news/2016/mar/09/tax-credits-inspire-hollywood-homecoming/>.

IV. PROPOSALS TO ASSIST STATES IN ACCOUNTING FOR PROGRAMS

States should consider their history of attracting film production in determining whether film industry tax incentives are truly effective. How realistic is it that the program will attract the film industry? Should there be a limit on the amount of tax incentives granted, and what should the limit be based on? Absent a particular geographic location within a state, which would be hard to duplicate in a studio, some states should not participate in a competition for film production. As previously mentioned, some states have eliminated, reduced, or limited the granting of film tax incentives. But, these proposals are meant to address issues with current programs. This section makes three proposals. It first emphasizes the importance of states' collecting reliable data on the economic impact of tax incentives, as well as the standardization between states in their evaluation criteria. Second, it then proposes how limits should be established and applied to the funding of film tax incentives. Third, this section discusses the significance of the states in requiring film production companies to provide accurate performance data.

A. *Reliable Data on Film Tax Incentives and Standardization*

States are using different standards regarding the type of data that should be used to calculate the economic impact of state film tax incentives.¹¹² These differences in standards distort the calculation of effectiveness and allow states with lower standards to mask inefficiencies of their programs. States must adopt standardized methods to measure the expenditures of film production companies and jobs created by their activities. An agreement among states for standardization of definitions and measurement will also address the current “bidding war” problem among states for film production. Adrian McDonald proposed a national, rather than state-based, incentive program to combat the bidding war and “race to the bottom” among states offering film incentive programs, which would require federal action and legislation.¹¹³ His national film incentive would convert the IRC § 181 deduction for film expenditures to a national tax credit and would model existing state incentive programs such as California and

112. MCDONALD, *supra* note 39, at 19.

113. McDonald, *supra* note 5, at 158-162 (McDonald suggests a national incentive model to combat the competition among the states based on California and New York's existing incentive programs).

New York.¹¹⁴ My proposal focuses on cooperation among the states offering film incentives to accept standard definitions and measurements to assist state economic development offices in evaluating data and measuring the economic impact of their incentives. My standardization proposal would be analogous to the Streamlined Sales and Use Tax Agreement (SSUTA).¹¹⁵ The SSUTA was created as a result of a meeting of the National Governors' Association, the National Conference of State Legislatures, the Federation of Tax Administrators, and the Multistate Tax Commission and was adopted by the original nine member states on November 12, 2002.¹¹⁶ The purpose of SSUTA is to simplify the administration of sales use tax among states through standardization.¹¹⁷ As with the SSUTA, my proposal will standardize key terms and definitions typically used by states in their film tax-incentive programs such as qualified film production expenditures and what constitutes a full-time equivalent job for purposes of measuring job creation.

B. *Limits on Funding of Film Tax Incentives*

To control potential net losses, states should fund film tax incentives through state budget appropriations. Tax incentives would be limited by the legislatively-approved state budget. State legislators setting annual caps to the costs of funding film tax incentives would limit their cost and help prevent net losses in tax revenue. Some states have been forced to account for the amount of film tax incentives. For example, Louisiana recently instituted an annual cap on its film tax credits due to mounting pressure to account for economic benefits.¹¹⁸ In addition, Maryland extended its film tax credit for fiscal year 2017 and beyond, but restricted the granting of the credit to money available in the reserve fund of the state budget.¹¹⁹ The key to successfully limiting film

114. *Id.* at 164-165.

115. See STREAMLINE SALES TAX, <http://www.streamlinedsalestax.org/> (The Streamlined Sales and Use Tax Agreement is an agreement among twenty-four member states to simplify the administration of sales and use tax collection.).

116. John A. Swain, *State Sales and Use Tax Jurisdiction: An Economic Nexus Stand for the Twenty-First Century*, 38 GA. L. REV. 343, 345-46 (2003) (The meeting was prompted among these associations and entities to formulate solutions to the complex state sales tax systems that had resulted from U.S. Supreme Court decisions, *Nat'l Bellas Hess, Inc. v. Dep't of Revenue*, 386 U.S. 753 (1967), and *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), which held that a state cannot require a retail seller that does not have physical presence in the state to collect sales and use tax.).

117. THE STREAMLINED SALES AND USE TAX AGREEMENT, § 102 (2016).

118. See Povich, *supra* note 92.

119. See MD. DEP'T OF LEGISLATIVE SERVICES, *supra* note 100.

tax incentives to the amount appropriated in a balanced budget is to encourage state legislators to regularly evaluate the fiscal impact of tax incentives.¹²⁰ It is not enough to simply require state film incentive offices to report economic benefits to the state legislature. State legislatures must have enforcement powers to force regular reporting of the economic impact of tax credit programs.

C. *Accountability of Businesses for Performance*

To assist states in enforcing covenants, contractual conditions, and promises of expenditure and job creation made by film production companies, states should rigorously require specific performance. Specific performance provisions should be incorporated in contractual agreements with film production companies in the form of “claw-back” or recapture provisions. States should also consider requiring film production companies to post bonds to ensure that states may readily recover for failure to meet covenants. Film production companies must be accountable for their promise of economic activity or be forced to repay the monetary value of tax incentives received. This issue, being addressed by more states, is beginning to require oversight and evaluation of existing film tax-incentive programs.¹²¹ The number of states requiring audit verification or substantiation from production companies has risen from thirty-eight percent in 2014 to fifty-five percent in 2016.¹²² The trend of more states requiring accountability from film production companies is a positive step to resolving this problem, but also indicates the woeful percentage of states that do not have accountability within their programs.

V. CONCLUSION

State tax incentives for the film industry will remain part of the economic development program of many states despite recent troubled programs and calls by public advocacy groups to reign in or eliminate such programs. Some states have reduced or eliminated their film industry incentive programs, but accountability remains an issue for the forty-five percent of states with film incentive programs that do not require audit verification or substantiation of the benefits gained from the programs. The U.S. film industry continues to grow and there is

120. PEW CHARITABLE TRUSTS, TAX INCENTIVE PROGRAMS-EVALUATE TODAY IMPROVE TOMORROW 8 (2015).

121. NAT’L CONF. ST. LEGISLATURES, *supra* note 1.

122. *Id.*

opportunity for states with well-developed programs and rigorous compliance standards to be successful—providing net economic growth from the granting of tax incentives to retain or attract film production. To truly account for economic growth from these programs, states must adopt standardized methods to measure the expenditures of film production companies and jobs created by their activities. If all states with these programs adopt these standards, state legislatures and the public will be able to more easily determine the success of such programs. These standards will also help create more reliable and accurate data to measure the success of a program. Linking the funding of these programs to a state’s budget process and limiting the appropriation of the funds for the programs to an annual basis will also help in managing the amount of incentives granted. Finally, states must be proactive in enforcing the covenants and promises made by film production companies and be willing to institute legal action to retrieve lost funds due to the failure to meet such covenants. For these proposals to be truly effective, all states granting tax incentives for the film industry must be willing to accept the standardized definitions and measurements. If only a few states agree to such provisions, they will be at a disadvantage as compared to other states who continue the “race to the bottom” to attract film production to their state. Adoption of these proposals will help prevent future “fleecing” of state economies.

Appendix A

State	Tax Credit and Incentive Program	Statute
Alabama	25% rebate on qualified expenditures; on state sales, use, and lodgings taxes.	Code of Ala. § 41-7A-43
Alaska	Repealed Effective July 1, 2015	
Arizona	No film incentive program. Program discontinued in 2015	A.R.S. § 41-1517 (repealed) 2012 Ariz. ALS 170
Arkansas	Tax credit of 30% qualified costs	A.C.A. § 15-4-2703 A.C.A. § 15-4-2705 A.C.A. § 15-4-2706
California	20% to 25% tax credit at maximum of \$100 million	Cal. Rev. & Tax. Code § 17053.85 Cal. Rev. & Tax. Code § 23685 2011 Bill Tracking CA A.B. 2026
Colorado	Tax credit of 20% qualified costs	C.R.S. 24-48.5-311 (repealed) 2012 Colo. ALS 186
Connecticut	10%, 15%, and 30% tax credit based on level of qualified spending	Conn. Gen. Stat. § 12-217jj
Delaware	No film incentive program	
District of Columbia	No film incentive program	
Florida	Entertainment industry financial incentive tax credit program; tax credits and cash rebate	73A-3.001, F.A.C. Fla. Stat. § 288.1254
Georgia	20% tax credit on qualified investment in state; 10% tax credit qualified production activities on	O.C.G.A. § 48-7-40.26 Ga. Comp. R. & Regs. r. 560-7-8-.45 2011 Bill Text GA H.B. 386
Hawaii	20% to 25% refundable tax credit	HRS § 235-17
Idaho	No film incentive program	

Illinois	30% of the qualified Illinois Production Spending and 30% on Illinois salaries up to \$100,000 per worker	2007 ILL. ALS 720 2007 Bill Text IL H.B. 2482 35 ILCS 5/213 35 ILCS 16/1 et seq.
Indiana	No film incentive program.	Burns Ind. Code Ann. § 6-3.1-32-9
Iowa	Repealed effective May 25, 2012	
Kansas	No film incentive program	K.S.A. § 79-32,258
Kentucky	20% refundable tax credit for qualifying production and post-production related expenditures, payroll with a minimum in-state spend of \$500,000.	KRS § 141.383 KRS § 148.544
Louisiana	Repealed in 2016.	
Maine	5% non-refundable tax credit on non-wage expenses; rebate and reimbursement on certain qualified expenditures	5 M.R.S. § 13090-L 36 M.R.S. § 5219-Y
Maryland	Up to 25% refundable credit	Md. TAX-GENERAL Code Ann. § 10-730 2013 Bill Text MD S.B. 183
Massachusetts	25% production credit, payroll credit and sales tax exemption	ALM GL ch. 62, § 6 2007 Mass. ALS 63
Michigan	Partial reimbursement of qualifying expenses	MCLS § 206.680 MCLS § 208.1107 (repealed) MCLS § 208.1455 (repealed) MCLS § 208.1457 (repealed) MCLS § 208.1459 (repealed)
Minnesota	20-25% reimbursement of qualified expenses	
Mississippi	25% rebate on investment; 30% on resident payroll; 25% on non-resident payroll	Miss. Code Ann. § 57-89-7 Rule 35.X.09
Missouri	No film incentive program	
Montana	Repealed effective January 1, 2015	
Nebraska	No film incentive program	

Nevada	Beginning Jan. 1, 2014 transferable tax credit of 15-19%	
New Hampshire	No film incentive program	
New Jersey	20% refundable tax credit on qualified expenditures - See if Program is suspended	N.J. Stat. § 54:10A-5.39
New Mexico	25% tax rebate (credit) on qualifying expenses	N.M. Stat. Ann. § 7-2F-1
New York	30% refundable tax credit	NY CLS Tax § 24 NY CLS Tax § 28 NY CLS Tax § 33 NY CLS Tax § 34 NY CLS Tax § 210
North Carolina	25% refundable tax credit	N.C. Gen. Stat. § 105-129.56 N.C. Gen. Stat. § 105-130.47
North Dakota	No film incentive program	
Ohio	Refundable tax credit that equals 25% off in-state and non-resident wages, and 35% in Ohio resident wages on eligible productions	ORC Ann. 122.85
Oklahoma	Repealed effective January 1, 2014	
Oregon	20% cash rebate on qualifying expenses; sales and use and lodging tax exemption	ORS § 315.514
Pennsylvania	25% tax credit on qualified expenditures	72 P.S. § 8702-D 72 P.S. § 8712-D – 8719-D
Rhode Island	25% transferable tax credit	R.I. Gen. Laws § 44-31.2-1
South Carolina	25% cash rebate on wages; sales tax exemption up to \$250,000	S.C. Code Ann. § 12-6-3570
South Dakota	No film incentive program	
Tennessee	25% cash rebate; refund of hotel occupancy and sales tax	Tenn. Code Ann. § 67-4-2109 H.B. 3839, Laws 2012
Texas	5-20% cash payment for qualified expenses	
Utah	Cash rebate of 20-25%	Utah Code Ann. § 59-7-614.5

Vermont	Hotel tax exemption, sales and use tax exemption	
Virginia	15% tax credit for qualifying expenses including wages	Va. Code Ann. § 58.1-439.12:03
Washington	Funding assistance up to 30% qualified expenditures	
West Virginia	Up to 31 % transferable tax credit	W. Va. Code § 11-13X-3
Wisconsin	No film incentive program	
Wyoming	15% cash rebate	

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123. Adapted from *Lexis Multistate Tax Charts with Analysis; Corporate Income Tax Credits*; and chart from National Conference of State Legislatures, *State Film Production Incentives & Programs* (March 28, 2014).