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Finding "Hollywood": Using State Film Incentive Programs to Select the Right Location for a Production

By Ethan Y. Bordman

Who knew that states like Georgia, Louisiana, New Mexico, and North Carolina, or countries such as Canada, bear any resemblance to Hollywood? These locations, despite being geographically distant from California, are known in the film industry as the "Hollywood of the South,"[1] "Southwest,"[2] "East,"[3] and "North,"[4] respectively. State film and economic development offices have become competitive in their quest to attract productions and the economies they produce. As a result, there are several important considerations for productions in determining which location, and corresponding film incentive program, to utilize.

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Runaway Productions

When choosing a location for a shoot, producers consider factors such as the setting for the screenplay, availability of the crew, access to sound stages, and costs of travel and lodging. However, their first priority is to reduce the cost of production. According to Vans Stevenson, Senior Vice President of State Government Affairs for the Motion Picture Association of America: "Incentives are the number one item that film finance and production companies look at when they are trying to decide where to locate a production."[5] Stevenson also pointed out that labor costs and location are important, although he noted that most places can be made to look like someplace else.[6] One example is "*Battle: Los Angeles.*" This film, about an alien invasion of Los Angeles, was not filmed in that city or even in the state of California; nearly all of it was filmed in Shreveport and Baton Rouge, Louisiana.[7]

The incentives in the United States have changed since Louisiana became the first state to create a program in 1992.[8] The creation and growth of incentives are a response to "runaway productions," those that leave the United States to be produced in other countries. A 2005 report by the Center for Entertainment Industry Data and Research attributed this trend to factors including financial incentives and exchange rates.[9] The Canadian Production Services Tax Credit, enacted in 1998, offered a rebate of 11% on qualified Canadian labor; individual provinces offered additional rebates on labor that ranged from 11% to 47%, along with other incentives.[10] This credit, coupled with a favorable exchange rate (in June 1998, $1.00 U.S. was worth $1.47 Canadian)[11] and the ability of Canadian cities, such as Toronto, to convincingly represent U.S. cities like New York, made Canada a popular draw for films and television.

In 2009, 44 states—in addition to Puerto Rico and Washington D.C.—offered some form of incentive for film and television production.[12] As of January 2018, that number decreased to 31 states, plus Washington D.C., Puerto Rico, and the U.S. Virgin Islands.[13] Moreover, many states have changed the requirements for qualified expenses as well as per-project and annual program caps since their inception. In the fiscal year 2018, Colorado, Maryland, and Texas reduced their annual appropriation, while Oklahoma reduced its annual cap from $5 million to $4 million.[14] However, in June 2018, North Carolina increased the per-project cap to $12 million for television series and $7 million for feature films and made-for-television movies.[15] Other changes to the incentives include changing the format of the credit. In 2015, North Carolina moved from a tax credit to a grant program.[16]

Tax Incentives—Credits, Rebates, and Refunds

Production incentives in different states vary on certain points. These include the type of incentive offered, qualifying expenditures, and whether a financial cap is allocated to the incentive. The typical forms of incentives are tax credits, tax rebates, and refundable tax credits. A state can issue a tax credit to refund a portion of the tax incurred by a production in the state. A tax rebate pays cash, in the form of a check, to a production for certain expenditures made in the state. A refundable tax credit is paid by the state to the production for the balance in excess of taxes owed. The credits are based on qualified expenses, which vary from state to state.

Many states allow tax credits to be "tradable" or "transferrable," meaning that they can be traded for cash, like stock options. For example: a film production spends

$1 million in a state that offers a 30% tax credit. After all the receipts and financials have been processed by a certified public accountant, proving the money was spent in the state and is a qualified expenditure, the production company files a request with the state for a tax credit certificate. Once approved, the state gives the production a tax credit certificate for $300,000 (30% of $1 million). This credit can then be used to lower the taxes accumulated on the production—or the credit can be sold. If it is sold, the dollar value—for example, 90 cents on the dollar—is negotiated with a buyer. This allows the buyer, which could be any business located in the state, to buy a $300,000 tax credit for $270,000 and use it toward taxes owed to the state's government. The production company then has $270,000 in cash to use at its discretion.

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The types of expenditures included in the incentive vary from state to state. "Qualified expenses" generally covers pre-production, production, and post-production expenditures, such as facilities, props, travel, wardrobe, and set construction. "Qualified labor" includes those individuals whose salaries are covered by the incentive, but many states place a cap on an individual's salary. "Qualified production" usually includes feature films, episodic television series, television pilots, television movies, and miniseries. Most incentives exclude documentaries, news programs, interview or talk shows, instructional videos, sports events, daytime soap operas, reality programs, commercials, and music videos.

Cities, too, may offer additional enticements in the forms of tax credits, city services, and marketing credits. New York City's Office of Film, Theatre and Broadcasting's "Made in New York®" Marketing Credit Program offers media packages where at least 75% of the project is produced in New York City.[17] The credit, which varies based on the below-the-line budget of the film, allows promotion and advertising of the film through public transportation—at bus stops, on subway cards, and in 30-second commercials on taxicab video monitors.[18] The New York Police Department (NYPD) offers the services of the NYPD Movie/TV Unit, which assists productions in dealing with any filmed scenes that may impact public safety.[19] New York's Empire State Film Production Tax Credit Program has allocated $420 million per year with a fully refundable credit of 30%.[20] This incentive, along with New York City's program, has made the city a draw for productions. In 2014, for the first time ever, more television drama pilots, 24, were filmed in New York City than in Los Angeles, 19.[21] The number of hour-long broadcast drama pilots filmed in New York City continued to rise, from 38 in 2017 to 43 in 2018.[22] In the 2015-2016 season, a record-breaking 52 episodic television series were filmed in New York.[23] That record was broken again during the 2016-2017 season with 56 episodic television series.[24]

Evaluating the Effectiveness of Entertainment Incentives

To reduce production costs, the first factor to consider is which state's incentive could have the greatest cost-lowering impact. It may not be necessary for a production to do an in-depth quantitative background check on the state's incentive, but understanding how the incentive works—beyond the monetary savings—can be helpful in choosing the right state. The very existence of the incentive program is key; as the incentive is a bill enacted by the legislature, the state can modify or eliminate the program at any time. The availability of state funds is another factor of which to be aware. No production wants to start filming and find that, by the time of completion, the state has spent all of the program's funds for the term or the year. Lastly, it is often useful to research and read reports that evaluate the effectiveness of the state's program.

Ernst & Young's *Evaluating the effectiveness of state film tax credit programs*[25] guide was written to assist in evaluating the effectiveness of state entertainment credit programs. The report states, "[t]he key objective of film credits is to provide state residents with increased employment and higher incomes in the film and related industries and from statewide multiplier activity associated with production in these industries."[26] The report explains that "[t]he multiplier activity accounts for jobs and incomes earned from in-state suppliers to the industry and from the spending and respending of the additional earnings of employees throughout the state economy."[27] This multiplier primarily benefits the private sector accounting for jobs and suppliers to the production, such as sound stage construction, catering, and transportation.[28] From an economic development perspective, the policy question to ask regarding a program's effectiveness is: "[D]o the residents of the state get a good return for their investment?", *not* "[D]oes the investment pay for itself in terms of additional state tax collections?"[29] This is because film credit programs can be effective in regard to economic development, though the public sector is not a net beneficiary.[30] The report noted that many studies evaluating incentives simply ask: "[D]oes the credit pay for itself?," which also may not be the appropriate question to determine its effectiveness.[31] This is because the state (public) return-on-investment (ROI) calculates the state's economic benefits and net credit costs.[32] These evaluations "do not explicitly evaluate the film credit's effectiveness in generating more jobs and income than alternative economic development programs."[33]

The short-term goal of the incentives is to attract specific productions.[34] The long-term goals are in developing an in-state production industry, expanding in-state employment and skill sets of in-state residents to have knowledge to work industry jobs, and expanding in-state suppliers.[35] The success of the state's incentives "may depend on the historical development of the industry, the state's location and topological characteristics, the presence of related industries in the state and the overall regulatory and business tax structure in the state."[36]

The evaluation of the effectiveness of a state's incentives varies due to several factors. As previously stated, each state's program is different. Among the variations are the type of incentive the state offers, the percentage of "qualified expenses" the production receives, the metric of evaluating the program and the definition of what production expenses "qualify" for the credit. For example, Oklahoma's incentive currently offers a 35-37% cash rebate with no per-project cap (though the program has an annual $4 million cap) and a minimum budget of $50,000.[37] That can be compared to Maryland's program, which offers a 25-27% refundable income tax credit with $10 million per project cap and a minimum spend of $250,000.[38]

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The Ernst & Young report also clarified that the author of each state's effectiveness study "must make several choices in estimating the economic impacts of film production activity."[39] One choice is the economic model that is used.[40] The two most common state economic models, the Minnesota IMPLAN Group (IMPLAN) and the Regional Economic Models, Inc. (REMI), have several differences.[41] "The major difference between the two models is that the REMI model incorporates dynamic economic responses to changes in key economic and policy variables, such as price levels, business tax rates and investment."[42] This model is more useful "when evaluating fundamental changes in an economy or broad policy changes, such as tax reform."[43] In addition, "[w]hen the economic change is small relative to the overall size of the economy and the change can be well defined in terms of changes in commodity demand and labor compensation, the IMPLAN model has richer industry detail that permits more accurate impact estimates."[44] Another choice that evaluations help make is whether to adjust the model's structure to use detailed information from incentive credit applications about specific productions or use "default" data that looks at industry averages.[45] The report highlighted that "[e]conomic models used should be adjusted to reflect the detailed economics of the actual productions receiving the credits, whenever it is possible."[46] It also emphasized that "[t]he most common way to incorporate production-specific data is to adjust the economic model to reflect actual industry wages, spending and employment or model these components separately."[47]

Each State Is Unique

The Georgia Entertainment Industry Investment Act has seen tremendous success since it was passed. In fiscal year 2017, according to the Georgia Department of Economic Development, film and television productions spent $2.65 billion in the state.[48] When commercial and music video productions are included, this grows to $2.7 billion spent, having an economic impact of $9.5 billion on the state.[49] This was responsible for 92,000 direct and indirect jobs in 2017,[50] an increase from fiscal year 2016, when 245 film and television productions were shot, spending $2.02 billion, and generating an economic impact of $7.2 billion.[51] The increase is significant when looking to 2011, when industry as a whole spent $689.3 million in the state, with $671.6 million spent on television and filmmaking, generating an economic impact of $2.4 billion.[52] Looking back to 2007, Georgia had 48 productions with $93.1 million spent, generating an economic impact of $241.5 million.[53] As a result of the incentive, Georgia is now third in the nation, behind California and New York, in film and television industry productions.[54]

As with any industry, things take time. Georgia's resemblance to several different states and cities, as well as its climate, helped to support year-round shooting.[55] This made the state a hotspot in the 1970s and 1980s for film productions, including "*Deliverance*," "*Smokey and the Bandit*," and "*Driving Miss Daisy*," and television productions like "*The Dukes of Hazzard*" and "*In the Heat of the Night*."[56] In 1973, then-Governor Jimmy Carter created the state's film commission to ensure that Georgia would continue to attract productions.[57] In the 1990s, changes occurred, as productions were "running away" due to, as stated previously, Canada's aggressive incentives and favorable exchange rates.[58] The "wake-up call"[59] came in 2004 when Georgia lost on the filming of "*Ray*," the story of Georgia native Ray Charles.[60] The film instead chose Louisiana due to the passing of the state's incentive.[61] In 2005, Georgia took action by passing an incentive program, first based on a tiered system, revising it in 2008, and revising it again in 2012.[62]

Georgia's Film, Television and Digital Entertainment Tax Credit offers a 20% tax credit for companies that spend $500,000 or more on production and post-production.[63] An additional 10% credit is granted if the finished product includes a promotional state logo.[64] The credit is just one part of the success. Since 2010, 16 film and television studios have announced plans to locate or expand facilities in the state.[65] Moreover, the creation of the Georgia Film Academy helps train residents to meet the skilled demands of productions.[66] The state has been the location for films such as *The Hunger Games* and *The Blind Side* and television shows such as *The Walking Dead*, *Stranger Things*, *24: Legacy,* and *MacGyver.*[67] Georgia's program also helped to attract hometown productions, such as the television drama *Atlanta* and reality-based shows, such as *The Real Housewives of Atlanta* and *Love & Hip Hop Atlanta*.[68]

Making It Work in the State

Several factors have contributed to the long-term success of Georgia's program, including the state's solid infrastructure.[69] Even before Georgia's incentive program began, the state was considered both savvy and experienced in working with productions and their facilities. Moreover, when studios like Tyler Perry's opened in Atlanta in the mid-2000s, it became a hub for all of Perry's film and television productions.[70]

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While the incentive is a bill passed by the state's legislature, the success of the program, and the infrastructure, starts with support from the state's governor.[71] Georgia's Governor Nathan Deal, who took office in January 2011, continued to support its existing incentive.[72] In contrast, incentives in North Carolina and Michigan were successful until newly elected governors withdrew support.

From 2008 to 2011, Michigan had one of the most lucrative film incentives in the country—a credit of up to 42%.[73] When the bill was signed in April 2008, then-Governor Jennifer Granholm stated, "[w]e're going to grow this industry and in the process grow our economy and create jobs."[74] The year before the incentive became effective, $2 million was spent on productions in the state.[75] The year the incentive passed, spending grew to $125 million, then more than $223 million in the following year.[76] Clint Eastwood, who in 2008 directed and starred in *Gran Torino*—which takes place and was filmed in the state—proclaimed that Michigan "will be the new film capital of the world."[77] *Time Magazine* named Michigan "the Hollywood of the Midwest."[78] However, when the current Governor Rick Snyder took office in January 2011, he soon announced that Michigan's Film and Digital Media Production Assistance Program would incur significant cuts.[79] In the most drastic reduction, the previously no-cap incentive would now be subject to a cap of $25 million.[80] In February 2011, Ernst and Young issued a report showing the economic effect of Michigan's film credit in 2009 and 2010, prior to the cuts.[81] In each of these years, $209.3 million with $73 million in credit costs and $322.6 million with $117.2 million in credits costs, respectively, was spent on total production expenditures in Michigan.[82] As a result of this spending, each dollar of net film tax credit cost generated $5.89 in economic output in 2009 and generated $5.94 in 2010.[83] In assessing the effectiveness of the Michigan credit, Ernst & Young used the IMPLAN model.[84] Though the incentive cap was increased in 2013 to $50 million,[85] Snyder signed legislation on July 10, 2015 that eliminated the house bill. He opined that the state's talent and scenery would continue to draw industry people despite the lack of a program.[86]

North Carolina's incentive took effect in 2005 under the signature of then-Governor Mike Easley, who stated, "this legislation is critical to strengthening the movie and television production business in North Carolina."[87] The next governor, Beverly Perdue, supported the incentive,[88] signing the bill to increase the incentive to 25% in 2009.[89] However, after Pat McCrory become governor in 2013, despite touting the economic impact the film industry had on the state, he supported ending the tax credit.[90] As had Michigan's Governor Snyder, McCrory stated that the state's beauty and creative workforce made it "an ideal place to produce quality projects efficiently."[91] Supporters of North Carolina's program felt that the governor and state officials took the film industry for granted, assuming that productions in the state would continue after the expiration of tax credits.[92] In August 2014, it was announced that the state, which took in $61 million in incentives in 2013, would be replacing the incentive with a $10 million grant program starting January 1, 2015.[93] The cap per production would be $5 million, a quarter of what the state paid to productions, such as 2012's *Iron Man 3*, which employed 2,377 people and generated $81 million for the state on a $20 million credit.[94] The Motion Picture Association of America stated that North Carolina's new program could lose as many as 4,000 jobs in addition to the overall economic boost brought by a production.[95] According to the North Carolina General Assembly, the reduction in the incentive was intended to create an even economic playing field for all businesses and industries in the state.[96] As a result, film production dropped from $377 million in 2012 to $140 million in 2016.[97] The decline for productions continued in 2017, as film and television spending in North Carolina was $49.3 million, though it did create more than 5,300 job opportunities, including 1,000 crew and talent positions.[98]

While campaigning and upon taking office in 2017, Governor Roy Cooper was a supporter of the state's film incentive.[99] In October 2017, Cooper signed a bill that removed the July 2020 sunset, or program expiration date, of the incentive.[100] The bill also increased funding to $31 million for the 2018 fiscal year, to recur each year.[101] In June 2018, North Carolina increased the per-project cap to $12 million for television series and $7 million for feature films and made-for-television movies.[102]

Unfortunately, it will take time to undo what has been done, and there is industry-wide concern about the unsteadiness of incentive programs when states make cuts to funding or change programs. During Oscar week earlier this year, the North Carolina film office aimed to remind the industry of the updates to its incentive by running three consecutive pages of ads in an industry publication, reading "25% rebate, $31 million annually, renowned crews," "And still you haven't called," and "How come Hollywood?"[103]

Incentives Continue to Help Productions

The movie *The Last Shot*[104] takes a humorous look at the movie industry and, in part, state film incentives. In the film, Alec Baldwin plays an FBI agent who poses as a movie producer to take down the mob. Baldwin's character believes organized crime is demanding bribes from local movie crews in exchange for allowing productions to use non-union trucks and drivers. He enlists Matthew Broderick, a hopeful screenwriter who believes the production is real, to make the movie *Arizona.* Baldwin's character informs Broderick's that the film will be shot in Rhode Island, where the mob resides, because he made a "very sweet deal with the state's film commission" who will "roll out the red carpet."[105] This statement implies that a very advantageous proposal was made by the state regarding both financial incentives and cooperation from the municipality for shooting locations. In a humorous scene that shows patches of snow on the ground, Baldwin tries to convince Broderick that Rhode Island can be made to look like Arizona. The movie is loosely based on an FBI sting called Dramex, short for Drama Expose, where FBI agent Garland Schweickhardt went undercover as a movie producer, circulating phony scripts and entertaining clients on his yacht while looking for criminal wrongdoing in the film industry.[106] In the end, two former union officials and three alleged mobsters were accused of accepting $65,000 from Schweickhardt to let the production, filming in New England, use non-union labor without objection from the local union.[107]

The entertainment incentives are a driving force in determining where a film is produced. Moreover, scripts and storylines may be adapted to the location of the state with the most advantageous incentive for the production. The most significant factor that determines where a production will film is the financial program offered. Although saving money is a high priority for a production, other factors should be considered—primarily, the current state of the incentive and stability of the program. Further, researching evaluation reports conducted by the state helps to show how the incentives are being managed. This, along with the support of the state's current governor and legislature, should be investigated. Moreover, examining the current financial status of the program—money left in the program and its sunset dates—is vital in order to avoid exhaustion of funds while filming is underway.

Knowing what you know now, to which state will your production go to find Hollywood?

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