THE FOLLY OF FILM SUBSIDIES IN ARKANSAS

By Marc Kilmer *9/3/15*

Of all the business enterprises in Arkansas, filmmaking seems to deserve a government handout the least. It is hardly a core function of state government to fund Hollywood's latest blockbusters or to subsidize stars who make millions of dollars for showing up on set. Of course, over two-thirds of states offer film subsidies: Arkansas is one of them. One of the chief arguments in favor of film subsidies is that, essentially, everyone else is doing it. As my mother once had occasion to remind me, this argument is not strong.

Supporters of film subsidies contend that these subsidies are necessary to lure film production from other states. They claim that the subsidies stimulate a state's economy and return money to state coffers through increased tax collection. However, when independent studies are done to look at the actual effects of these subsidies, they rarely (if ever) live up to such grand expectations.

In states around the nation, film subsidy programs have failed to "pay for themselves" in terms of increased tax revenue. Their track record for job creation and economic growth is weak. They divert money away from necessary government functions, such as prisons and highways. In short, these subsidies by and large enrich Hollywood producers at the expense of state taxpayers.

In light of the many problems with film subsidies around the nation, policymakers should take a close look at the film subsidies Arkansas provides, so as to ensure that such subsidies are truly worth the expenditure of the millions of taxpayer dollars they require.

Film Subsidies in Arkansas

Arkansas has a long history of subsidizing motion picture production. In the early 1980s, it offered the "Nickel Rebate" to lure moviemakers into the state. This rebate refunded 5% of every production dollar spent in Arkansas. The "Nickel Rebate" was one of the first film incentive programs offered by a state.[1]

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The "Nickel Rebate" expired in 2007. The current system dates to 2009 legislation that was championed by former Rep. Rick Saunders. In 2013, legislators made changes to the program, such as increasing the rebate percentage.

The state offers a 20% rebate on the following expenses:

- All costs incurred in the state for development, pre-production, production, and post-production;
- The first $500,000 in wages for anyone (resident or non-resident) whose income is subject to Arkansas income tax;
- Health and welfare benefits and contributions to pension funds; and
- Stipends and allowances paid to cover living expenses.[2]

To qualify for this subsidy, a production company must:

- Register with the state's film office prior to starting production in the state;
- Spend $50,000 in the state within a six-month period for a post-production project or spend $200,000 in the state within a six-month period on the production of one project; and
- Apply for a rebate within 180 days of completing the project.[3]

This subsidy program is not a tax deduction or credit. It is simply the state writing a check to film producers. It is not a tax reduction on film production, nor is it general tax relief that applies to a large group of taxpayers (in contrast to the large-scale income tax rate reduction signed by Gov. Hutchinson earlier this year).

Although the state suspended the program for a few years due to tight budgets, Arkansas has paid film production companies over $3 million since 2010.[4] Regrettably, the desire to proclaim this program a success has been stronger than the desire to find out whether that proclamation is correct. The evidence for the success of film subsidies is absent. Arkansas does not collect information on employment figures from those entities that have received subsidies. Indeed, Arkansas does not examine the effects of these subsidies on employment, the economy, or increased tax revenue. The state's Bureau of Legislative Research is currently working on a report that will explore subsidies and their effects, which may be published by the end of 2015, but the difficulty in collecting data from previous years may make drawing well-grounded conclusions difficult. It is troubling that the film subsidy program has been moving full speed ahead for over five years without any real measurement of its effects. Assuming that policymakers think this program will help the state's economy, they seem remarkably unconcerned about whether it is actually fulfilling their intentions.

The lack of information specific to Arkansas makes determining how successful this program has been quite difficult. However, we can draw some conclusions about the program from other states' experiences.

Film Credits in Other States

Arkansas is far from the only state offering incentives to film production companies. In 2014, 37 states and the District of Columbia had some form of incentive program.[5] Some of these states have done rigorous evaluations of the costs and benefits of these programs. These evaluations typically find that state film incentive programs do not produce as much economic activity as backers claim; furthermore, they do not "pay for themselves" by increasing state tax revenue. The outcomes in Maryland, Michigan, and Louisiana should be instructive to Arkansas lawmakers.

Maryland

Maryland has offered film production incentives since 2001. The state's current incentive program dates from 2008, when legislation enacted a refundable tax credit for film productions that spent over $500,000 in the state.

In a 2012 bill, legislators passed a bill to evaluate the effectiveness of tax credits. In 2014, the state's Department of Legislative Services released its report. Among its conclusions was that the film tax credit does not provide sustainable economic development; the credit sometimes benefits entities that owe no tax liability (thus, essentially, becoming a handout); the credit has mainly benefited two large production companies; and only a few jurisdictions in the state benefit from production activities.

The main companies that benefit from this state's program are the producers of Netflix's "House of Cards" and HBO's "Veep." In 2014, legislators considered eliminating or reducing the incentive program. The producers of "House of Cards" lobbied intensely against any cuts, flying in Kevin Spacey to meet and greet legislators at a local bar. That lobbying was successful, and the program remained intact.

Michigan

In 2008, Michigan lawmakers adopted a variety of tax credits and incentives to lure film production to the state. These included a refundable media production credit, a tax credit for media infrastructure projects, job training, low-interest loans, and free use of some government property. The refundable media production credit is, in essence, a direct subsidy to film production companies. A 2010 report by the Michigan Senate Fiscal Agency explained how the refundable nature of the tax credit works: "the State not only foregoes the revenue it would have otherwise received but also pays additional money to offset the costs of the production."[6]

The program's success in creating jobs was underwhelming. According to the 2013 report by the Michigan Economic Development Corporation, the state certified over $558,000 in credits but did not create even a single permanent job.[7]

The state also obtained a negative return on investment in terms of economic activity, as a 2010 report by the Michigan Senate Fiscal Agency concluded:

> Current information suggests that $37.5 million in credits during FY 2008-09 reflected approximately $97.7 million in private spending, of which an estimated 47.4% ($46.3 million) effectively left Michigan and did not contribute to the State's economic activity. … [T]he State spent $37.5 million in FY 2008-09 to generate $21.1 million in private sector activity and will have spent $100.0 million in FY 2009-10 to generate $59.5 million in private sector activity. It is estimated that the additional economic activity from the credits will have generated an additional $3.7 million in tax revenue during FY 2008-09 and $10.3 million in FY 2009-10.[8]

Spending $100 million in credits to generate, at most, $69.8 million in economic activity is, to state the obvious, a very poor return on investment for the state's taxpayers.

Analysts from the state's Mackinac Center for Public Policy note how this program funneled money from state taxpayers to wealthy Hollywood studios and actors:

> The Michigan film incentive program paid $40 million for the Disney production "Oz: The Great and Powerful" - that's $9 per taxpayer to a

> company that made $4.8 billion in profits in 2013 (we should have at least gotten a free ticket). It paid $17 million for Detroit to be made to look like Hong Kong in "Transformers 4." "Batman v. Superman" received $35 million from the state – some of that money went to pay for Ben Affleck's living expenses.[9]

In July 2016, Governor Rick Snyder signed a bill into law that repealed Michigan's film tax subsidy program.[10]

Louisiana

Like many states, Louisiana's program is a refundable tax credit. That means, in the words of the chief economist for the state's Legislative Fiscal Office, "We're just using the tax-filing process and the Department of Revenue as the paying agent for a spending program."[11]

Film production companies generally do not owe taxes. As limited liability companies, they pay actors and others associated with the films. Any profits the film makes, however, goes to investors who generally do not live in Louisiana. The *Baton Rouge Advocate* describes how this situation leads to a good deal for out-of-state investors – but not for Louisiana taxpayers:

> As a result, most productions sell their tax credits to someone who owes taxes, which is legal under state law, usually getting about 90 cents for each $1 worth of tax credit. Buyers, many of them wealthy movers and shakers, get 100 cents on the dollar from the state, creating a group of influential middlemen who benefit from the program.[12]

According to a recent economic impact study, the state's taxpayers only receive a return of 23 cents for every dollar spent. A previous study found an even lower return – 17 cents for every dollar in subsidies.[13]

As in Michigan, much of the subsidy money in Louisiana benefits corporations and individuals who hardly need taxpayer dollars. Louisiana, with its especially generous subsidies, covers expenses that other states do not. Here are some of the expenses that the *Advocate* discovered that Louisiana taxpayers were underwriting for one Hollywood star:

> When Matt Dillon was coming to town to film "Bad Country," to take one example, Louisiana taxpayers helped cover the costs of his massages, his first-class flights to and from New York, and his local gym membership. Likewise for the stars of "Twilight Saga: Breaking Dawn," whose drivers, bodyguards, hairdressers and first-class travel were all subsidized.[14]

Not only do these subsidies prove a bad deal for taxpayers, they also distort the economy. The Maryland report notes that the Louisiana program has likely led to filmmakers drawing out production in order to game the system:

> The large amount of subsidies have likely fostered inefficiencies in the market as production companies have less incentive to reduce costs as governments pay for a significant portion of the total costs. For example, one producer recently commented that if the film was produced in Los Angeles rather than Louisiana, it would have to be filmed much more quickly.[15]

The difficulties with Louisiana's film incentive program are not confined to the wasteful use of taxpayer dollars. Since 2007, there have been at least 8 people charged with criminal activity surrounding the tax credit program. Louisiana has hardly been free of political corruption in the past, but it should be no surprise that when the state is offering millions of dollars to private industry, there may be shady individuals involved in the transactions. This is especially true in Louisiana, where, as the *Advocate* points out, "Since the state pays for 30 percent of a film's 'Louisiana spend,' filmmakers have an incentive both to overstate their spending and to say it all happened in Louisiana."[16]

The Case for Ending Film Subsidies

Politicians are people, too. They get star-struck just like the rest of us. Out-of-state film production companies that benefit from these subsidies know this. That is why they often fly in big-name celebrities to lobby for them. In Arkansas, Billy Bob Thornton and Joey Lauren Adams testified in favor of establishing the current incentive system.[17] In Maryland, Kevin Spacey schmoozed with politicians at a bar in the state capital when it appeared the state might cut back its film tax credit program. As these stars flatter politicians by paying attention to them, often the question of measuring costs against benefits is pushed into the background.

Arkansas taxpayers cannot afford for legislators to overlook the tradeoffs that come with these film subsidies. While an independent study of Arkansas's film subsidy program has yet to be completed, state policymakers can and should look at the experience of other states when considering this program's future. As the above examples show, there is ample evidence that film subsidies are a flawed way to grow the state's economy. There is also clear proof that no matter how they are designed, subsidy programs are a net drain on a state's treasury. Ending this program would free up money for legislators and the governor to use on core government functions, such as education or public safety, or better-proven methods of creating economic growth.

Little or No Real Job Creation

While then-Governor Mike Beebe claimed in 2012 that film subsidies are "an economic engine,"[18] it's difficult to take this claim seriously when we look at the data from other states.

It is easy to see the jobs created by a film production. You can point to the extras hired locally, to the sandwich shop which is catering the production, and the hotels which room production company employees for a night or two. But what is unseen are the jobs destroyed by diverting tax money to these purposes. As the great economist Frederic Bastiat famously noted, "There is only one difference between a bad economist and a good one: the bad economist confines himself to the *visible* effect; the good economist takes into account both the effect that can be seen and those effects that must be *foreseen.*"[19]

If Arkansas were not giving tax money to production companies, that money could stay in the pockets of taxpayers. These taxpayers would then spend that money at local businesses, creating and supporting jobs around the state. These foregone jobs, however, cannot be seen as easily as the jobs connected to film production. But that does not mean that legislators should ignore them in determining the costs and benefits of film subsidies.

It is also a mistake to look at the supposed success of other states' film subsidy programs. As the examples above show, many states have significant problems with film subsidies. However, backers of these subsidies often point to Louisiana as being a success. Even in the face of the problems described above, Louisiana does indeed have a thriving film industry. However, as the Tax Foundation points out, there are many problems when other states try to emulate

Louisiana. Louisiana is a unique state with certain attractions that other states do not have. New Orleans is located there, but not in Arkansas. Furthermore, as an early adopter of film incentives, Louisiana was able to lure companies to that state without facing competition from other states. And even though there are some studies which suggest Louisiana's incentives create a net economic gain, there are other studies that dispute that.[20]

The idea that Louisiana has a "successful" film incentive program is certainly a debatable proposition. And even if it has been successful, it is unlikely that Arkansas or any other state could copy it and have the same results. Michigan, for example, was a late entry to the film subsidy game, so it enacted very generous incentives to lure film production there from other states. As we have seen, the evidence is clear that this decision did not produce either the economic activity or the tax revenue that the state anticipated.

Production companies are quite clear that one factor they use to determine where they will film is what state will offer them the best incentives. If Arkansas continues offering film subsidies, it will need to outdo other states' programs to attract top-level films or television shows. That means increasing the amount of taxpayer dollars being given to these out-of-state companies.

Maryland's example should show the folly of this approach. As mentioned above, after lobbying from Kevin Spacey in 2014, lawmakers kept that state's film subsidy program. However, in 2015, the HBO comedy "Veep" relocated from Maryland to California because that state offered them even more incentives. "House of Cards" is reportedly considering doing the same.

This could, of course, be viewed in two ways. One perspective is that it is necessary to offer very generous subsidies to filmmakers in order to ensure that Arkansas can attract top-level films. The other perspective, one that is more grounded in empirical research, is that subsidies at any level are generally a net loss for a state, so increasing subsidies to attract films only increases the damage done to the state's economy and taxpayers.

Independent studies repeatedly show that if these subsidies do create jobs, they come at a very high price. For example, a 2012 study on the Massachusetts incentive program concluded that it cost the state $128,575 for every job created. A study the same year for Alaska found that its program cost $56,000 for every job created.[21]

Not only do subsidies create jobs at a high price to taxpayers, but they also generally create low-quality jobs. The highest-paid occupations on a film project, such as writers or directors, are generally from out-of-state. There is a limited pool of top-level film talent, and those people generally reside in states like California or New York. Production companies do hire local workers, but for much lower-paid occupations. A study of the Massachusetts film subsidy program "clearly shows that the Commonwealth's film tax subsidies have disproportionately benefited non-residents. It estimates that between calendar years 2006 and 2008, residents enjoyed only 16 percent of the compensation paid to employees working on Massachusetts-based major film productions."[22] Even when factoring in indirect jobs supported by film production, this study concluded that Massachusetts "residents earned only 40 percent of the total payroll generated both directly and indirectly by the Commonwealth's film tax subsidies."[23]

Not only are the local jobs supported by subsidies among the lower-paying jobs in a film production, they are also temporary. Once the production ends, the jobs end, too. As mentioned above, Michigan had a large subsidy program that diverted millions of taxpayer dollars to filmmakers. In the end, not a single permanent job was created by that program. Even if film subsidies do produce short-term jobs, they are not the basis for a long-term film industry. As the report on Maryland's subsidy program puts it:

> … the economic development activity generated by film productions is of a short duration. As soon as a film production ends, all positive economic impacts cease too. As such, the film production activity tax credit does not provide long-term employment.[24]

They Are a Drain on Taxpayers

According to former state Representative Duncan Baird, an opponent of subsidies, "If a movie is made in Arkansas, it feels really good, but there's never been any evidence that the long-term benefits from these credits actually outweigh the cost to the taxpayers."[25] Baird's statement implies that the advocates of film subsidies bear the burden of proof – they must demonstrate that the subsidies are cost-effective. That demonstration is absent.

Arkansas lawmakers should not be misled by arguments that film subsidies "pay for themselves" by generating enough economic activity to generate enough new tax dollars to offset the subsidies. Whether it is Michigan or Maryland or Louisiana, experience in other states shows that these subsidies are a drain on the state treasury.

Independent studies routinely demonstrate that for every taxpayer dollar spent on subsidies, states see very little tax money in return. A 2011 study concluded that New Jersey's program produced a return of 55 cents for every dollar spent. That is the highest rate among the state's where studies have been conducted. Other states, such as Connecticut, see 7 cents in tax revenue for every dollar spent on its subsidy program.[26]

Better to Use This Money Elsewhere

It is a simple proposition, but it is nonetheless true: every dollar spent on film incentives is a dollar that cannot be spent on education, road repair, law enforcement, or other core government functions. For policymakers looking to be efficient with taxpayer dollars, it makes little sense to continue funding a program that does so little for the state when it could be spent on other things.

Instead of using taxpayer dollars to subsidize one industry, Arkansas legislators could use these resources as part of an overall effort to reform the state's business tax climate. Outside of the glitz and glamor of Hollywood, there is little reason to prefer film production as a business over logging or farming or car manufacturing. Legislators should not be trying to attract only one industry to the state; instead, they should be making the state attractive to any industry that is seeking to locate here. Ending film subsidies and using this revenue to provide across-the-board tax relief or regulatory reform is a superior method of economic development.

If the state is going to offer incentives for business (something this report does not recommend), then there may be better industries to lure than the film industry. The report on Maryland subsidies notes research from California that indicates this industry is a shrinking part of the national economy:

> The California Legislative Analyst's Office recently analyzed that state's film tax credit and included an assessment of changes in the U.S. film industry over time. While the report cautioned against drawing strong conclusions from the data, it noted that several trends indicate that growth in the motion picture industry may have slowed

> over the last decade. The output of the U.S. motion picture industry has not kept pace with the increase in United States gross domestic product, growing by a total of about 25% since 1997 compared with a 40% increase in the U.S. economy.[27]

Policymakers who support film subsidies are picking winners and losers in the free market. They favor one form of business (film production) and penalize other businesses through higher taxes that are necessary to fund these film incentives.

Beware of Unrealistic Assumptions

In this paper's analysis, we have relied on independent studies that discuss the economic effects of film subsidies. As noted throughout this paper, these independent studies almost uniformly find that subsidies fail to live up to their promise in terms of tax revenue or economic development. It should be noted that there are other film subsidy studies, often funded or promoted by the motion picture lobby, that find greater gains in these areas. A closer look at these studies, however, generally finds that they use questionable or unrealistic economic assumptions.

For instance, when it comes to the economic impact of subsidies, the Tax Foundation notes that "Aside from Ernst & Young's studies paid for by economic development authorities or the MPAA, every independent study has found film tax credits generate less than 30 cents for every $1 of spending."[28]

The Department of Legislative Services analysis of the Maryland film subsidy program noted the problems with industry-funded reports:

> Findings from studies commissioned by the film industry typically vary from those performed by independent entities because of different assumptions made in their analyses. Studies commissioned by the film industry do not always account for a state's balanced budget requirement and nonresident activity such as employment of out-of-state actors and filmmakers. Some studies account for local revenues while others do not. Additionally, some studies make questionable assumptions when calculating the economic impacts of film tourism in a state. A common theme of studies commissioned by the film industry is a lack of detail surrounding the methodology used to determine estimates.[29]

Film subsidy proponents routinely release papers with unrealistically optimistic conclusions about their impact. In North Carolina, for instance, one paper concluded that the state's film credits produced over $9 in economic activity for every dollar spent (compared to an independent study that concluded the real figure was nineteen cents on the dollar).[30] A 2009 study commissioned by the Michigan Economic Development Corporation concluded that the state's refundable tax credit created the equivalent of over 1,000 full-time jobs. An analyst from the Mackinac Center for Public Policy pointed out that the study used a model that did not count the cost to taxpayers of providing the credit. He pointed out, "Ignoring these costs in the model is roughly equivalent to a certified public accountant omitting a balance sheet's liabilities and then touting the success of the company."[31] As mentioned above, when an independent analysis was conducted of the Michigan program, it found that it created no full-time jobs.

Using economic models to arrive at groundless conclusions about job creation and economic growth is a malady that can infect those whose appetite for financial gain overshadows their moral and intellectual standards. One economist explained, "Most economic impact studies are commissioned to legitimize a political position rather than to search for economic truth. Often the result is mischievous procedures that produce large numbers that study sponsors seek to support a predetermined position."[32] This is especially true when an industry releases a study touting large public benefits from a policy that will, not incidentally, create large private benefits.

Conclusion

Film production in Arkansas has undoubtedly increased due to its film subsidy program. After all, it is a basic economic truism that if you subsidize something, you get more of it. However, policymakers make a large mistake if they only examine the benefits of this program. Using taxpayer dollars for film subsidies imposes a cost not only on taxpayers, but on the economy. As experience in other states has shown, these programs return very little to the state treasury and they generally cost tens or hundreds of thousands of dollars for each job created. What is the effect of such programs in Arkansas? It's possible that our experience with film subsidies has been much better than in other states – although quite unlikely – but all we know at this point is that those who support this program, based on the measurement of its effects, are essentially wandering around in the dark.

Film subsidies are a costly way to grow a state's economy. They give money to production companies, diverting it away from funding core functions of government. Experts in many other states have realized the folly of film subsidies. Arkansas policymakers should consider both the costs and benefits of its film subsidies, and ask themselves what evidence there is that this is a program that is worth retaining. More generally, policymakers who want to encourage economic development should discard wasteful taxpayer-funded subsidies – and they should use the extra money in the state treasury that junking such subsidies would create to establish lower tax rates, which would attract jobs and capital investment to Arkansas.[33]

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