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Movie Production Incentives in the Last Frontier

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Introduction

State film tax incentives have exploded in popularity in the last decade.[1] In 2000, only three states offered the subsidies. By 2010, the number of states offering incentives had peaked at 40. As in many states, film subsidies in Alaska have been credited with bringing to the state the economic activity spurred by several productions.[2] However, the commonly cited benefits of film subsidies are often overstated and fail to take into account offsetting economic effects. This paper will examine the common arguments for film incentives, focusing both on general arguments and arguments specific to Alaska. We will address the following questions:

- Can the program make the industry able to sustain itself in the long-term, even when subsidies are cut?
- Do the subsidies distort the economy?
- Does the program reduce unemployment, contribute to economic output, and add revenues to the Treasury?
- Is the program consistent with free speech and an unhampered marketplace of ideas?

Film incentives

The program

Film incentives can be in the form of tax credits, tax rebates, grants, or exemptions. Alaska's subsidy is structured as a tax credit, a type of tax benefit which reduces a company's tax liability dollar for dollar. Production companies typically must spend at least a certain amount in the state to qualify. In many states, the tax credits are refundable, meaning that if the credit exceeds the liability the state

Key Findings

- *Film tax credits cost states revenue and require either higher taxes or lower government spending elsewhere.*
- *At best, film tax incentives largely shift production from one sector to another without producing a net increase in economic activity or employment.*
- *However, the program is unlikely to produce a self-sustaining state film industry.*
- *Content restrictions raise concerns about censorship.*

1 Will Luther, *Movie Production Incentives: Blockbuster Support for Lackluster Policy*, Tax Foundation Special Report No. 173, Jan. 2010.

2 For a succinct statement of the perceived benefits and accomplishments of the program, see Susan Bell, *Lights and Cameras of Hollywood Bring Opportunity for Alaskans*, Alaska Dispatch, Jan. 6, 2011.

pays companies the difference between the amount of their credit and their tax liability. In some states, including Alaska, the credits are transferable, meaning that credits earned by film production companies can be sold to another company, which can then claim the credit against its tax liability.

Although the program was originally established and expired in the 1990s, Alaskan lawmakers reinstated the program in 2008. Of the 35 states that offer incentives to movie producers,[3] Alaska's are among the most generous, with a credit rate ranging from 30% to 44% of expenses.[4] Production companies can receive tax credits only for films with qualified expenditures of at least $100,000. They receive a base rate of 30% of expenditures, and additional credits for spending on wages to Alaskan residents (10%), filming in rural locations (2%), and for filming in the off-season (2%). The credits are transferable, as long as the purchasing company has a tax liability of least $100,000. Credits are not refundable. The state's Film Office considers tax credit applications, serves as an information clearinghouse for individuals in the film industry, and certifies internship programs.[5] The Film Office is currently authorized to disburse up to $100 million between 2008 and 2013. As of Jan. 13, 2012, over $14 million in credits had been issued. The film industry has indeed boomed in recent years, with spending rising from about $745,000 in 2010 to more than $54 million in 2012, the number of movies and TV shows rising from 1 and 3, respectively, in 2008 to 4 and 10, respectively, in FY2010 and 2011.[6]

New Proposals

Alaska lawmakers recently passed a bill, waiting for the governor's approval, to renew the program to run through June 2023. The bill makes several changes to the program: (1) It caps the budget at $200 million; (2) institutes a third-party audit and requires the Film Office to disclose information about its criteria in considering applications; (3) increases credits for spending in rural areas to 6%. (4) provides a one-time credit for the first episodic script of a television production; (5) transfers the Film Office to the Department of Revenue; and (6) establishes the Alaska Film Review Commission. For "above the line" positions (directors, writers, and other select categories), the production company gets a standard credit of 5 percent, plus a 50 percent credit on all wages paid to Alaskan workers and to all expenditures on Alaskan businesses. For "below the line" positions, the production company gets a standard credit of 30 percent, plus a 20 percent credit on all wages paid to Alaskan workers (no mention of businesses).[7]

The Debate

The bill's supporters make several claims. They argue that the program creates positive publicity and boosts tourism. Further, supporters assert that renewal would prevent the industry from collapsing and making the film infrastructure and workers' skills worthless. Some argue that since several other states are scaling back their programs, Alaska can defend its industry at low cost. Others argue the program must be renewed for the long-term to reassure investors. Many claim the program increases total tax revenue for the state, stimulates economic activity, and creates jobs.[8]

Skeptics of the program's merits claim that it doesn't increase revenues and does little to stimulate local economic activity and employment.[9] State Rep. Mike Hawker notes that while "[i]t's great for people that want to look at superstars walking down the street in the state of Alaska[,] what is it doing for in-state jobs?" Some claim that it has subsidized films that give the state negative publicity; others, that it picks winners and losers.[10] Still others point to the disadvantage of hiding incentives in the tax code rather than showing them in the budget. Hawker says, "If we're going to offer basically just free access to the treasury, we should just have the courage to stand up and write the check."

Developing a self-sustaining film industry and a diversified economy?

3 As of June 2, 2011. Joseph Henchman, *More States Abandon Film Tax Incentives as Programs' Ineffectiveness Becomes More Apparent*, Tax Foundation, June 2, 2011.

4 *State Film Production Incentives and Programs*, National Conference of State Legislatures, Jan. 2011.

5 Alaska Stat. § 44.33.231 (2011).

6 As of February 24, 2012. Bill Popp, *Film industry pours money into the state*, Anchorage Daily News, Feb. 24, 2012.

7 Russell Stigall, *Film, oil and gas taxes mashed into single bill*, Juneau Empire, April 17, 2012. See also Alaska Senate Bill 23.

8 Kyle Hopkins, *Wooing Hollywood*, Anchorage Daily News, Feb. 28, 2011.

9 Pat Forgey, *State film incentive program gets plaudits, but also has critics*, Juneau Empire, June 15, 2011.

10 Rachel D'Oro, *Film Industry: Extend Alaska Production*, Anchorage Daily News, Jan. 1, 2012.

Alaska's economic activity is highly concentrated in resource extraction. The state also taxes these industries heavily, with nearly 77% of state tax revenues coming from severance taxes on resource extraction.[11] As a result, some have argued that the state is sensitive to uncertain world market conditions. Robin Kornfeld, the head of a production services company, expressed the widespread concern that Alaska's economy is unsustainable: "We have fishing. We have tourism. We have oil. We had timber. [W]e can't count on those industries being here for us forever."[12] It is tempting to argue, then, that the state can and should try to create economic diversity by developing and supporting the nascent film industry until it can sustain itself without subsidies, and that extending the incentives program's life for an additional ten years will accomplish this.

Unfortunately for Alaskans, this strategy is unlikely to work. To understand why, a few principles of economic analysis must be understood. First, states with film tax credits invariably end up paying for some productions that would have occurred anyway. Second, states are currently locked in a race to the bottom with each other (not to mention other nations) that virtually ensures that Alaska will never be able to guarantee that no other state can lure away their productions. Third, lawmakers have neither the specialized knowledge nor the power to dictate what the market will demand, which would be required to be able to pick the right industries.

The "But-For" Problem

For some productions, Alaska is the most attractive filming location, with or without the subsidies. Any subsidy for these productions, which would locate in Alaska anyway, is wasted. This problem is sometimes called the "but-for" problem: it is not possible to know what each production would have done but for the incentive. Anecdotal evidence suggests that some producers choose to film in Alaska not because of the subsidies but rather because Alaska's landscape and local industries make it an ideal location.[13] For example, because much of the genre of reality television focuses on local industries, some, such as the popular Deadliest Catch, which predates the incentives program, would likely continue to film in Alaska even without the incentives.[14] Indeed, the incentives are often not considered in deciding whether to launch a series, as an executive at The History Channel notes of his own company: "The show has to stand on its merits."[15] When producers receive tax credits for films that they would produce even without subsidies, the credits do little but transfer wealth from taxpayer to production companies.

Runaway Productions and the Race to the Bottom

However, it is possible that Alaska would be the preferred filming location if not for other states luring films away with subsidies.[16] Proponents refer to the phenomenon as 'runaway production'[17] and argue that Alaska should offer subsidies at least as generous as other states until those states kill their subsidies.

One problem with this argument is that it holds Alaska's policy hostage to other states' policies by explicitly engaging in an arms race of subsidies. Other states may keep their subsidies indefinitely. Further, every state that accepts this argument will increase its subsidies to outdo Alaska and other states. In a spiraling "race to the bottom," states have already increased their subsidies from a modest $4 million in 1999 to a hefty $1.4 billion in 2010.[18] Lawmakers should not be fooled into thinking that other states will not continue to try to outbid them.

The Infant Industry Argument

Film tax credits are also sometimes defended as a means of temporarily protecting an infant industry

11 Tax Foundation calculations based on United State Census Bureau, State Government Tax Collections 2011, available at http://www.census.gov/govs/statetax/. Alaska's Department of Revenue's Tax Division projects that 88 percent of General Purpose Unrestricted Revenue through FY2021 will come from oil revenue. See Revenue Sources Book: Fall 2011 (Dec. 2011).

12 Nick Goundry, *Alaska filming incentives cover third of costs on whale drama Big Miracle*, The Location Guide, Feb. 15, 2012.

13 A. H. McDonald, *Through the Looking Glass: Runaway Productions and Hollywood Economics*, Journal of Labor and Employment Law, 919-922 (2006).

14 *Film tax credit ramps up productions in Alaska*, NECN.com, Feb. 19, 2011.

15 Hopkins, *Wooing Hollywood*.

16 A. H. McDonald perhaps helpfully distinguishes between three types of advantages one location has over another: It may suit the subject matter of the production better ('artistic'); it may offer greater protection ('artificial'); and it may have lower costs ('natural'). A. H. McDonald, *Down the Rabbit Hole: The Madness of State Film Incentives as a Solution to Runaway Production*, University of Pennsylvania Journal of Business Law (2011).

17 A. H. McDonald, *Through the Looking Glass: Runaway Productions and Hollywood Economics*, Journal of Labor and Employment Law, 919-922 (2006).

18 Henchman, *More States*.

until it becomes competitive on its own. A film producer of a major film, for one, claims that producers are reluctant to produce in Alaska because its film infrastructure is less developed than elsewhere.[19] This argument supposes that production costs are high and that they would fall if the industry reached a large enough scale.[20] In this argument, the Alaskan industry needs temporary protection until it reaches a point where it becomes a self-sustaining industry that no longer requires subsidization.

However, in practice, lawmakers do not have the knowledge by which to anticipate which industries will thrive. Economists generally agree that lawmakers have had little to no success at creating a business cluster where one doesn't already exist.[21] As Joseph Cortright writes, "it is virtually impossible to say what it takes to successfully create a new industry cluster in a particular place."[22] A study by B.L. Weinstein and T.L. Clower finds limited potential for growth outside of Canada and New York.[23]

The infant industry argument is further weakened by the fact that even Hollywood is having trouble maintaining its status as the center of the film industry.[24] Greg Elmer and Mike Gasher note that film production has transformed "from an exclusive and centralized base to a global network of production sites."[25] If production is no longer concentrated in Hollywood, it is unlikely that it would concentrate in Alaska. Not only is production dispersed, production companies are highly mobile, with some economists comparing production companies to floating factories.[26] Clearly the film industry has undergone significant changes, and Alaska would have a long way to go to become a center of film production. After discussing all the government action she believed would be needed to help support the film industry in Alaska, Susan Bell, commissioner of the Department of Commerce, Community, and Economic Development notes that "These are not 'just add water' accomplishments."[27]

Obviously there is substantial reason to doubt that the film industry can be permanently anchored even with permanent, ever-expanding tax credits, let alone temporary ones.

Counting the Cost of Film Tax Credits

Supposing, though, that the industry would be viable at a larger scale, it still doesn't follow that subsidies can be justified as a means of attempting to reach that scale. In order to justify the subsidies, proponents would have to show that the price of subsidies in term of lost revenue is lower than the benefit received, and that the opportunity costs of the subsidies do not outweigh the benefits. Yet neither of these assertions is supported by the evidence.

One common misconception must be addressed at the start. Although some studies purport to show that film tax credits increase government revenue, more thorough and comprehensive studies indicate otherwise. It is often claimed that film tax credits do not cost states revenue because the induced economic activity ripples through the economy and increases revenues from taxes such as income and sales taxes. However, it cannot be credibly claimed that the film tax credit does not cost Alaska revenue. For one, some productions would likely be subsidized that would have located in Alaska anyway. Additionally, because Alaska's credit is a function of production costs (as opposed to tax liability) and is transferable, the value of the credit is not limited to a production's actual tax liability. The Alaska Film Office even notes on their website that "most film and TV productions will owe little or no taxes to the State of Alaska, so producers need to sell their tax credit to a business that has an Alaska tax liability."[28] This means that it cannot be claimed that the program only forgives tax liability that would not have existed anyway.

19 Sean Cockerham, *Alaska movie premieres in Washington*, McClatchey Newspapers, Jan. 27, 2012.

20 Carolyn Robinson, owner of a film production services company, expressed the idea: "This is a very young industry that is just starting to walk. […] The more movies we get here, the more locals we'll get trained and move up the food chain of production." Hopkins, *Wooing Hollywood*.

21 See sources cited in in P. T. Calcagno and F. Hefner, "South Carolina's Tax Incentives: Costly, Inefficient and Distortionary," in *Unleashing Capitalism: A Prescription for Economic Prosperity in South Carolina*, Peter Calcagno et al., eds. (Columbia, SC: 2009, 124).

22 Joseph Cortright, *Making Sense of Clusters: Regional Competitiveness and Economic Development*, A Discussion Paper Prepared for the Brookings Institution Metropolitan Policy Program, p. 48 (2006).

23 B. L. Weinstein & T. L. Clower, *Filmed Entertainment and Local Economic Development: Texas as a Case Study*, Economic Development Quarterly (2000).

24 Richard Verrier, *Iowa film tax credit program racked by scandal*, Los Angeles Times, Jan. 29, 2011.

25 Greg Elmer & Mike Gasher, "Introduction: Catching Up to Runaway Productions," in *Contracting Out Hollywood*, Greg Elmer & Mike Gasher, eds., 2005.

26 Isaiah A Litvak, *Hollywood Movie Production Industry: Floating Factories*, AIB-SE (USA) 2006 Annual Meeting: Clearwater Beach, FL, Feb. 25, 2009.

27 Bell, *Lights and Cameras*.

28 Alaska Film Office, Information and Resources, http://www.film.alaska.gov/business/index.html.

Realistic, comprehensive studies show that film production incentives cost the treasury much more than they bring in for a number of reasons. Some of the most important reasons are that states invariably subsidize activity that would have occurred anyway; much of the spending on film productions ultimately flows to out-of-state residents; many analyses neglect long-run economic adjustments, and misunderstand the structure of production; and policy makers overlook the opportunity cost of spending and taxes.

The best evidence shows that film incentives cost the treasury more than they recoup from taxes on induced economic activity. A study in South Carolina found that film incentives returned 19 cents for each dollar paid out in tax rebates.[29] Surveying the literature, we found that aside from studies paid for by economic development authorities and the Motion Picture Association of America, an industry trade association, almost every other study has found film tax credits generate less than 30 cents for every $1 of spending:

• Arizona's Department of Commerce calculated 28 cents on the dollar.

• Connecticut's Department of Economic Development found a 7 cent return on every $1 spent.

• Two studies in Louisiana found between 13 and 18 cents on the dollar.

• Massachusetts' Department of Revenue found it got 16 cents on the dollar.

• Michigan's Senate Fiscal Agency found 11 cents on the dollar.

• New Mexico's Legislative Finance Office found 14 cents on the dollar.

• Pennsylvania's Legislative Budget & Finance Committee found 24 cents on the dollar.

As Joseph Henchman noted in his Tax Foundation commentary in 2011, "of the above studies, only Massachusetts's study did not assume that all film and television production occurred because of the credit. So all the other numbers should be considered on the high end."[30]

Put another way, the Massachusetts study, for example, found that the treasury lost $88,000 for each new job for residents.[31]

One reason why the programs lose revenue is that states often do not have ancillary taxes to recoup revenues from induced economic activity.[32] Alaska in particular has no state sales tax or personal income tax. Most state revenues come from a tax on production of oil and gas,[33] which doesn't increase with spending on film production. A second, and more important, reason that programs lose revenues is that the resources employed in the industries that support film production, such as restaurants and trailers, would have been employed, and taxed, even without the subsidy.

In addition, not all of the economic impact of the spending from a given film will stay in state. This is true in Alaska because many of the highly specialized workers needed for film production will not be Alaska residents. Information released by Alaska's Film Office suggests that the bulk of the outlays of subsidized productions do not go to wages for residents: out of $74.7 million in total qualified expenditures from 2010 through 2012, $44.1 million was spent on wages to non-residents and $7.7 million on wages for residents.[34] As a representative example, one film, *Beyond*, paid just 5% of qualified expenses as wages to Alaskans, while paying much of the rest to cast and crew from out of state. To be sure, Alaskans transfer resources to out-of-state residents every time they purchase goods from outside the state, and this benefits them through mutually advantageous trades. But transfers to out-of-state film producers differ from other transactions in that they provide Alaskans with neither goods and services nor a return on investments. One improvement in the recent film tax credit legislation is to reduce the credit available for wages paid to some out of state workers. While this might be an improvement, it still holds that not all the economic benefit of film productions can be counted as a benefit to the state.

29 Frank Hefner, *Impact Analysis for Film Production in South Carolina*, S.C. Coordinating Council for Economic Development, April 29, 2008.

30 Joseph Henchman, *Motion Picture Association Attacks Tax Foundation Critique of Film Tax Subsidies*, June 29, 2011. For the studies cited, see this commentary, available at http://www.taxfoundation.org/news/show/27410.html.

31 Robert Tannenwald, *State Film Subsidies: Not Too Much Bang for Too Many Bucks*, Center on Budget and Policy Priorities, Dec. 9, 2010.

32 Will Luther, *Movie Production Incentives: Blockbuster Support for Lackluster Policy*, Tax Foundation Special Report No. 173, Jan. 2010.

33 Alaska's Department of Revenue's Tax Division projects that 88 percent of General Purpose Unrestricted Revenue through FY2021 will come from oil revenue. See Revenue Sources Book: Fall 2011 (Dec. 2011).

34 FY2010 – FY2012, as of Feb. 6, 2012. Alaska Film Office, 2012 Report to the 27th Legislature, http://www.film.alaska.gov/reports/index.html.

There is also a cost to the state and its taxpayers when a film company locates in a state and consumes state government services but pays no taxes. Police and fire protection, road systems, and other critical services consumed by film productions are not free. Other taxpayers are left to pay the tab, either through increased strain on those services or increased taxes to make sure the services keep up with demand.

Opportunity Costs

Because film tax credits cost the state revenue, lawmakers must account for the opportunity costs of that foregone revenue. This lost revenue must be made up somewhere, either by higher taxes elsewhere or fewer government services. Production companies that receive the credits gain, as might businesses closely associated with those projects. But all other taxpayers that pay higher tax or face reduced services lose, as do the businesses that lose the patronage of those taxpayers. Both of these results would have offsetting economic effects that would ripple through the economy, offsetting to some degree the economic effects of film productions.

Similarly, instead of subsidizing film production, the state could use the same revenue to subsidize a different industry, potentially one with more economic impact and room for growth than film production. Just like film productions, each of these subsidized industries would have economic effects that would ripple through the economy. If Alaska lawmakers believe that subsidizing industry is an effective economic development strategy, they would need to determine which industry is the best to subsidize. Without accounting for these opportunity costs, studies that look at the film industry's economic impact are really only looking at one half of the picture, namely the benefits and not the costs.

Economic Distortions

Film incentive programs result in distortions to the economy. For example, they distort the overall pattern of production and shift risk from production companies and investors to taxpayers.

Film subsidies distort the overall pattern of production by causing the film industry to expand beyond what consumers of films would support in an unhampered market. Alaska's resources go toward developing know-how and capital equipment that government officials, rather than consumers, value. Expansion of the film industry consumes resources and leaves less room for expansion of other industries: instead of more fishing trawlers and oil rigs, Alaska gets sound stages. Instead of training to be oil workers and fishermen, workers train to be stagehands or key grips.[35] Studies show that distortions caused by special incentives such as film incentives harm growth and reduce production of private and public goods.[36]

Beyond distortion to the overall Alaskan economy, the film subsidy program protects investors against losses. Generally, risk plays an important role in the market, making sure that resources are put to the best use and ensuring that resources are not overly invested in excessively risky activities. Film tax credits reduce this risk for film producers. Taxpayers must effectively absorb the risk of a film's losses by guaranteeing investors a better return on their investment, as film industry professionals recognize.[37] New Integrity Films informs investors about how film incentives can reduce their risk and boost return: "Tax rebates and incentives […] allow an investor to greatly minimize his or her risk on what would ordinarily be considered a risky investment. […] In today's economy this type of investment assurance is hard to come by." One case of this can be found in the film *The Curious Case of Benjamin Button*. Despite initially finding the film to be "too risky," the production companies eventually produced the film partly because tax incentives in Louisiana reduced some of the risk.[38]

Issues with Estimating Economic Impact

Beyond the failure to fully count the costs, economic impact estimates may overestimate the benefits of the incentivized film industry. Some economists have argued that input-output models in general, including the IMPLAN model used by the McDowell Group in its impact analysis of *Big Miracle*, overstate or inaccurately estimate the

35 Markusen 2007 argues that policymakers rarely consider the opportunity cost of incentives programs. Ann Markusen, ed. (2007), *Reining in the Competition for Capital*. (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research), cited in Calcagno and Hefner 2009: 143.

36 See references cited in Calcagno and Hefner 2009: 133, fn. 4 and 7.

37 New Integrity Films, http://besttaxbreak.net.

38 Gary Perilloux, *State film industry growing*, The Advocate, Mar. 7, 2007, cited in Luther (2010).

regional multiplier in the film industry for several reasons.[39] First, the models assume that jobs and businesses created in response to spending in the film industry are permanent. But as studies in Louisiana and Michigan show, many of these jobs are temporary. Failure to account for the temporary nature of many film jobs leads to vastly overstated job creation estimates.[40] The models also implicitly assume that spending will increase output by drawing unemployed workers into the film industry. But production may go to areas with low unemployment and production companies need specialized skills and equipment that may need to be imported from outside the state, thus leading the models to overestimate the effect on output and employment.[41] The models further implicitly assume that businesses and workers employed in the film industry do not abandon other productive activity by entering the industry. But while subsidized productions and their suppliers produce more as a result of the incentives, they draw resources away from all other businesses, which thereby have to produce less than before the credit was spent. Thus, the multiplier overestimates the economic impact. Finally, input-output models make arbitrary assumptions about how businesses respond to increases in spending that may not hold, especially when an industry is in the development stages within a state.

Subjectivity and Censorship

The marketplace of ideas—the exchange of ideas in society—is free when all individuals promote their ideas on equal terms, without government hindrance or subsidy. The Supreme Court in 1952 recognized the importance of films in the marketplace of ideas: "It cannot be doubted that motion pictures are a significant medium for the communication of ideas. They may affect public attitudes and behavior in a variety of ways [including] the subtle shaping of thought which characterizes all artistic expression."[42]

The statute governing the film program in Alaska specifies guidelines and restrictions on content. The film office must "determine that the production is not contrary to the best interests of the state." These guidelines require officials to consider:

(1) the effect of the production on both the immediate and long-term prospects for the film industry in Alaska;

(2) the effect of the production on the employment of Alaska residents; and

(3) the effect of the production on the economy of the state.[43]

In addition, legislation currently before the governor further instructs the Film Office to consider "the public perception of state policy on the utilization and development of the natural resources of the state."[44]

These guidelines are fairly subjective and give officials leeway to interpret them to deny funding for films that they believe are unfavorable to the state in one way or another. For example, one lawmaker, Rep. Anna Fairclough, would have the program deny credits to films that are unfavorable to the state's resource development industries. She has noted that she is "very concerned about film credits being used by people to shut down Alaska and resource development."[45] But where one official may interpret a film as an unfavorable depiction of legitimate Alaskan industry, another may interpret the same film as accurate and necessary. Although film-goers may sympathize with one perspective or the other, the content will be skewed when officials influence what films get made.

Officials also tend to deny funding for films that portray political officials, the government, or its policies unfavorably. When a film in Texas seemed to portray the state's anti-illegal immigration law in a negative light, for instance, conservatives pressured the commission to deny the production's application for funding.[46]

39 Frank Hefner, *Using input-output models to measure local economic impacts*, International Journal of Public Administration (1997); Cletus C. Coughlin & Thomas B. Mandelbaum, *A Consumer's Guide to Regional Economic Multipliers*, Federal Reserve Bank of St. Louis Review (1991).

40 Michigan's study, for example, found that each job in its state lasted 23 days. David Zin, *Film Incentives in Michigan*, Michigan Senate Fiscal Agency, p. 19, Sept. 2010.

41 Kurt Schuler, *Missing from the debate on multipliers*, FreeBanking.org, Jan. 19, 2012.

42 Joseph Burstyn, Inc. v. Wilson , 343 U.S. 495 (1952).

43 Alaska Stat. § 44.33.231 (2011).

44 Susan Harrington, *Changes needed for Alaska business*, Alaska Business Monthly, Jan. 2012. *See also* Alaska Senate Bill 23.

45 Forgey, *State film*.

46 Michael Cieply, *State Backing Films Says Cannibal Is Deal-Breaker*, New York Times. June 14, 2010.

The idea that Alaska's film commission can distort the marketplace of ideas is not mere speculation, as experience in other states confirms. In Texas, the film commissioner told the makers of a film about the Waco raid that they need not apply for funding, as he saw it as inaccurate.[47] Utah openly states that it has rejected films for their content. As the director of the Utah Film Commission said, "all the states will be looking at this [limiting funds based on content] as they begin to tighten their belts."[48]

The state's choice whether to subsidize such a film will always favor one group's view over another's. When the state taxes all film productions, and then returns that tax in the form of subsidies only to certain productions, those subsidized messages are made cheaper to produce and disperse, and all others are made relatively more expensive. In this way, a subsidy for some film content is an implicit penalty on the content of all other films. This is essentially a form of censorship: the power to approve or deny applications for film productions carries with it the power to distort the marketplace of ideas. Taxpayers and lawmakers should be wary of this type of government control of public discourse.

By using the film program for this and other purposes, the film program protects the content of films favored by the administrators against the judgments of film-goers. The alternative is to let films fail or thrive on their merits as judged by film-goers. If producers see value in portraying Alaska unfavorably, let them see whether film-goers agree. The more Alaska actually has to be proud of, the more successful the films that demonstrate those attributes will be. Fred S. Siebert expressed the merits of leaving the source of revenue to the consumer of media such as film: "Let all with something to say be free to express themselves. The true and sound will survive. The false and unsound will be vanquished. Government should keep out of the battle and not weigh the odds in favor of one side or the other."[49]

Conclusion

There are certainly many reasons to be wary of the value of film incentives in general and in Alaska specifically. Film incentives generally serve to only shift economic activity and jobs from one area to another. They result in a net revenue loss for states (i.e. a film tax credit does not "pay for itself") and require higher taxes or lower government spending elsewhere. The incentive is unlikely to create a self-sustaining film industry in Alaska. And film incentives interfere with the free market of ideas.

What can be done to fix these problems? Some argue, with some merit, that the federal government should step in to stop destructive competition between states to attract businesses with tax incentives.[50] Others suggest that states might be able to commit to pacts barring them from using selective incentives to attract businesses.[51] Aside from these pacts, though, Alaska would establish the conditions for long-term sustainable growth if it unilaterally adopts a principle of neutrality, letting industries grow or shrink without the use of subsidies and selective taxes.

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47 Ibid.

48 As of June 15, 2010, Michigan's commission had denied 160 out of 320 applications, to a great extent because of content. Cieply, *State Backing*.

49 Fred S. Siebert, et al., *Four Theories of the Press* (University of Illinois Press, Oct. 1, 1963).

50 Burstein & Rolnick, *Congress*.

51 Lawrence Reed, *Time to End the Economic War Between the States*, Mackinac Center, April 4, 1986.