State of Washington
Joint Legislative Audit & Review Committee (JLARC)

Review of Motion Picture Competitiveness Program

Report 10-11

December 1, 2010

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Audit Authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.

JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in Chapter 44.28 RCW, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the enclosed findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

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Committee Approval

On December 1, 2010, this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Acknowledgements

We appreciate the assistance provided by Washington Filmworks staff and the Department of Commerce staff in conducting this study.

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STATE OF WASHINGTON

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REPORT SUMMARY

In 2006, the Legislature Enacted the Motion Picture Competitiveness Program

This legislation was in reaction to increased filming outside the United States as well as to other states' enactment of incentive programs. The Legislature enacted the program to maintain Washington's position as a competitive location for filming. Contributors to a fund administered by Washington Filmworks, a non-profit corporation formed pursuant to the legislation, receive a tax credit against their business and occupation tax. The contributions fund payments to production companies that film in Washington. The tax credit is set to expire July 1, 2011. The Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to review the effectiveness of the program (2SSB 6558).

Results: Washington Is Maintaining its Position in the Film Industry

Information from the U.S. Bureau of Labor Statistics demonstrates that Washington's share of film industry employment has remained relatively consistent even as more states are competing for film work. Since Washington enacted its program in 2006, the number of states with tax incentives has grown from 18 to 44.

Additional Results: Tax Revenue, Jobs, Economic Impacts, and Reporting Requirements

Due to weaknesses in reporting requirements, data reported by the production companies regarding the tax revenue and job impacts of the incentive were unreliable. Using other sources, JLARC determined the following impacts:

Sales Tax Revenue

- For the calendar years 2007 through 2009, JLARC estimated $837,000 in sales tax revenues from expenditures by production companies receiving incentives.

Jobs

- Data obtained from the Employment Security Department shows an increase in film industry jobs in Washington from 2002 through 2008, with a decline in 2009. Between 2002-2009, the average Washington film industry salary was $3,000 to $10,000 lower than the average salary for all Washington industries.

- Trade unions paid worker health and retirement benefits in 83 percent of the productions receiving incentive money. Washington Filmworks required production companies in the remaining projects to provide evidence that the company provided benefits.

Economic Impacts

- JLARC estimated that each dollar spent in Washington by the film industry yields $1.99 of economic activity in the state and local economies. Production companies receiving incentive payments spent $36 million in Washington since the beginning of the program through 2009, which results in a calculated economic impact of $72 million. This impact does not include any potential effects from tourism nor does it include the lost economic activity that could result from the loss of state revenues through the tax credit.

Current Reporting Requirements Have Deficiencies

JLARC discovered deficiencies in the reporting requirements for information relating to taxes paid and employment by the production companies. These deficiencies may impair the Legislature's ability to examine the program in the future.

Washington's Program Compared to Other States and British Columbia

Washington's program is unique. Washington and Oregon provide tax credits to taxpayers other than production companies. Only in Washington is the incentive fund administered by a non-profit corporation rather than through the state. Washington's approach may relate to its tax structure and constitutional restrictions.

Incentive payment amounts are based on a number of factors including the production companies' qualifying expenditures, a percentage applied to that amount, and any limits on the total amount of funding available for the incentive program. Because incentive programs use different definitions of qualifying expenditures and percentages, the incentive amount for a specific project could vary among states. In regard to total funding available, Washington's annual limit of $3.5 million is the fourth smallest in the country. Production companies also may consider factors other than incentives in making filming decisions.

Recommendation 1

Because Washington has maintained its position as a competitive location for filming, the Legislature should continue this preference and reexamine the preference at a later date to determine its ongoing effectiveness in encouraging filming in Washington.

Recommendation 2

If the Legislature desires information on the revenue and economic impacts of the tax credit, it should require more stringent reporting and clarify what entity is responsible for maintaining the information.

CHAPTER ONE – WASHINGTON'S EFFORT TO PROTECT ITS SHARE OF THE FILM INDUSTRY

Legislature Enacted the Motion Picture Competitiveness Program to Protect Washington's Share of the Film Industry

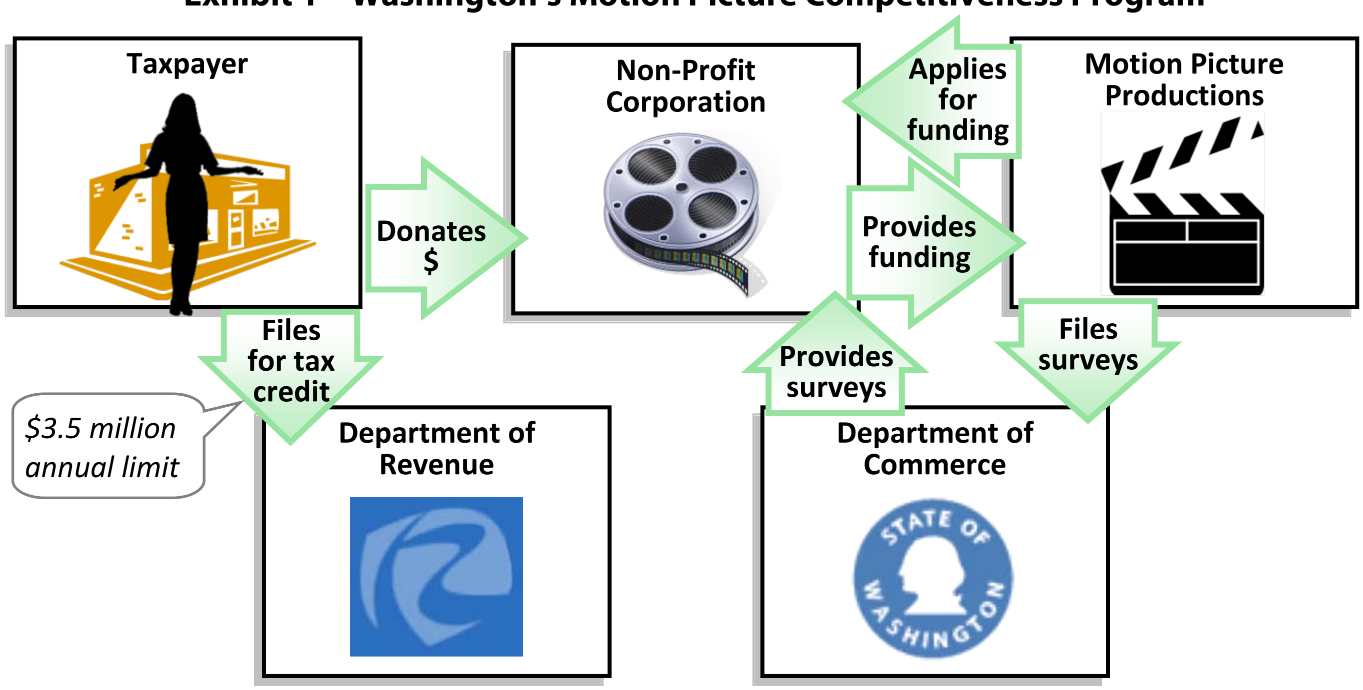
In the early 2000s, many motion picture producers began filming their projects in Canada due to favorable exchange rates and Canadian federal and provincial tax incentives. Within a few years, states began enacting tax incentives to attract business back from Canada.

- As of 2005: 18 states had adopted motion picture tax incentive programs;
- In 2006: 9 states, including Washington, enacted programs;
- Since 2006: 17 states enacted incentives; and
- Currently: 44 states now provide film incentives.

Washington's Motion Picture Competitiveness Program

In 2006, the Washington Legislature created the Motion Picture Competitiveness Program with the intent of maintaining Washington's position as a competitive location for filming motion pictures, television, and television commercials. As illustrated in Exhibit 1, the program allows taxpayers that contribute to an incentive fund to receive a credit against their business and occupation tax for the full amount contributed. Qualifying production companies that film in Washington can apply for payment from the incentive fund. The statute directed two state agencies and a newly formed non-profit corporation to implement and administer the program.

Exhibit 1 – Washington's Motion Picture Competitiveness Program

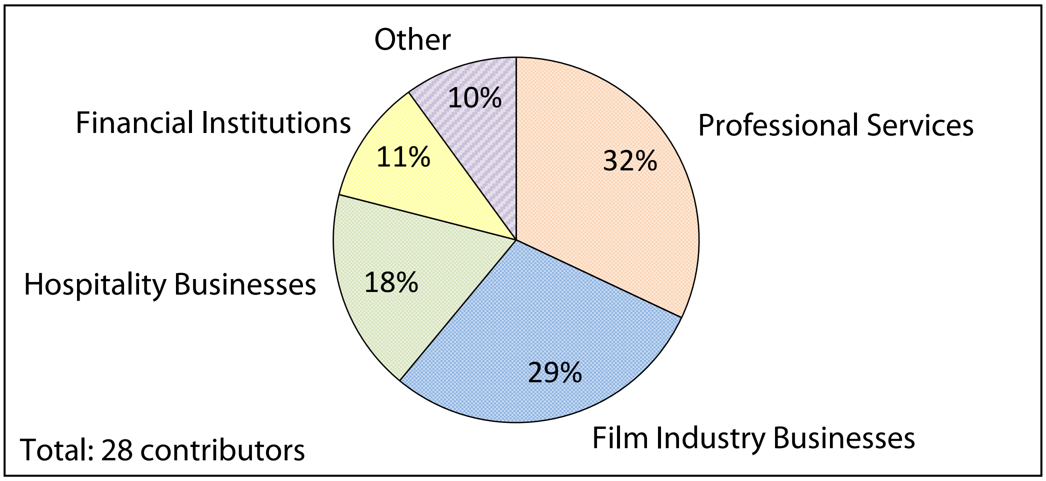


Source: JLARC analysis.

Department of Revenue Administers Business and Occupation Tax Credit

The legislation directs the Department of Revenue to administer the business and occupation tax credit for contributors to the incentive fund. Those credits are limited to $3.5 million each year, and the tax credits must be used within three years of making the contribution. The tax credit availability is set to expire on July 1, 2011. The direct beneficiary of the tax credit is the contributor to the incentive fund rather than a qualifying production company receiving an incentive payment. The contributors fall into a variety of categories as shown in Exhibit 2.

Exhibit 2 – Distribution of Types of Contributors Based on Total Number of Contributors



Source: JLARC analysis of Department of Revenue data.

Department of Commerce Establishes Criteria and Collects Survey Data

The Legislature directed the Department of Community, Trade and Economic Development (now the Department of Commerce) to adopt rules establishing the criteria for awarding incentive payment to production companies. The Department is also responsible for creating and collecting production surveys from the production companies receiving the incentives upon their completion of principal photography. The Department also is responsible for creating and collecting post-production surveys from the production companies receiving the incentives. The Department must provide statistical reports to the Legislature based on the information in the surveys. Originally, reports were to be filed annually, and the Department provided such reports in 2007 and 2008. In 2009, the Legislature changed to a biennial cycle, with the next report due September 2010.

Non-profit Corporation Administers the Incentive Payments

The 2006 legislation called for the creation of a non-profit corporation to administer the incentive payments to production companies. Washington Filmworks, the non-profit corporation, processes the production companies' applications for incentive payments pursuant to Department of Commerce rules. Production companies applying for an incentive payment must submit a "completion packet" containing receipts, invoices, and other detailed information as defined by the Washington Filmworks Board of Directors' issued Guidelines and Criteria. Washington Filmworks reviews this information to confirm the amount of "qualified expenditures" which determines the incentive payment due to the production company.

Taxpayer Contributions and Incentive Payments to Productions Companies

Contributions and tax credits began in 2006. Due to the need to market the program, produce the films, and process the payment requests, the first incentive payments were not made until 2007. During the calendar years 2006-2009, the production companies spent $36 million in Washington.

Some projects that filmed during 2009 are still under review and have not yet received their incentive payment. Washington Filmworks reports an additional $1.2 million held in reserve for 2009 productions that are still in the review process. Washington Filmworks' administrative expenses also are paid out of the incentive fund.

Exhibit 3 – Motion Picture Competitiveness Program Contributions and Payments (2006-2009)

Total Contributions	Total Tax Credits	Total Incentive Payments to Production Companies (began in 2007)	Washington Filmworks Administrative Expenses
$13.0 M	$13.0 M	$8.4 M	$1.3 M

Source: Department of Revenue and Washington Filmworks.

Results: Washington Is Maintaining its Position in the Film Industry

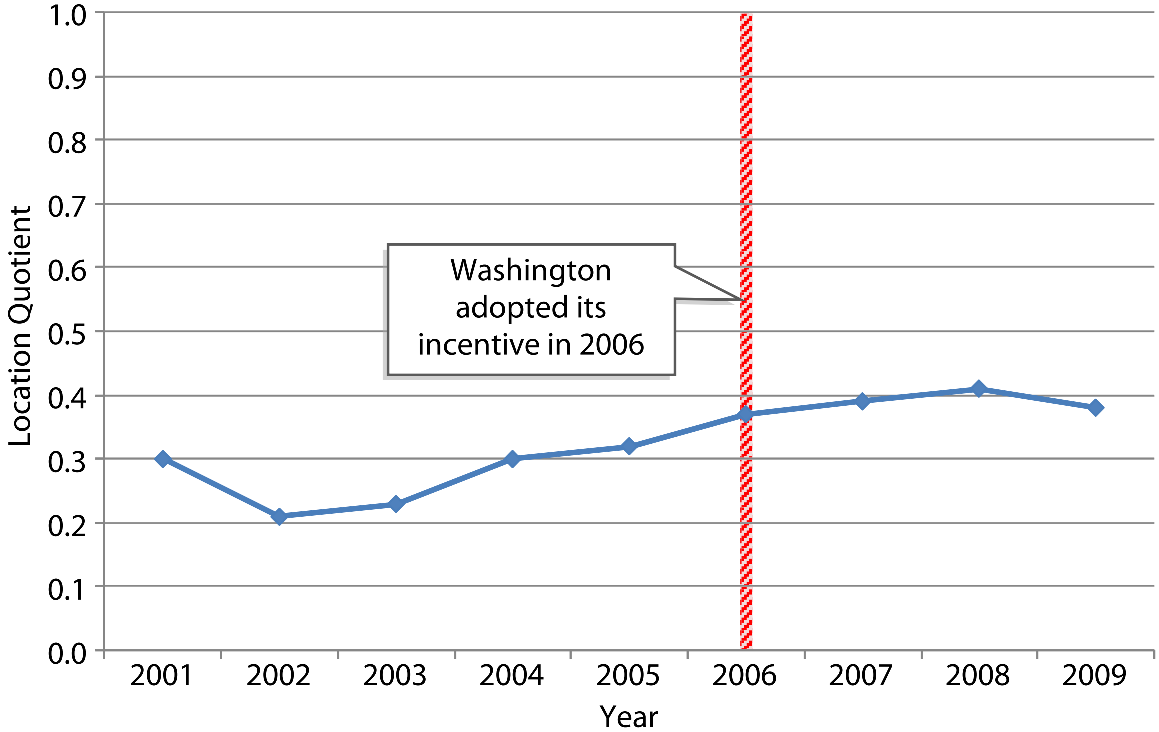
In establishing the Motion Picture Tax Incentive Program, the Legislature sought to maintain Washington's position in the film industry marketplace in light of increasing competition from other states and countries. Other studies of incentive programs have used the U.S. Bureau of Labor Statistics "Location Quotient" ("LQ") to compare the relative strength of the film industry in a particular state to the national average or to other states.

The Location Quotient (LQ) is a measure used to compare a state's distribution of employment in an industry to the total national employment in that industry. This measure demonstrates the concentration of an industry within a state and allows comparison of the industry employment levels between states.

LQ greater than1.0 means an industry is more concentrated in the state than in the nation.
LQ equal to 1.0 means an industry is equally concentrated in the state as in the nation.
LQ less than 1.0 means an industry is less concentrated in the state than in the nation.

Many states have a film industry LQ of less than one because certain states, such as California and New York, dominate the film industry. A state's film LQ can be followed over time to see whether its concentration of film employment has changed. Most state film incentives were enacted between 2004 and 2008. As shown in Exhibit 4 on the following page, Washington's LQ has remained relatively steady within the national film industry employment market from 2002 through 2009.

Exhibit 4 – Washington Maintained its Share of the Film Employment Market



Source: U.S. Bureau of Labor Statistics Location Quotient Calculator.

Recommendation 1:

Because Washington has maintained its position as a competitive location for filming, the Legislature should continue this preference and reexamine the preference at a later date to determine its ongoing effectiveness in encouraging filming in Washington.

Additional Results: Tax Revenue, Jobs, Economic Impacts, and Reporting Requirements

In addition to the objective of maintaining its share of the film industry, the Legislature also expressed interest in the tax revenue, jobs, and economic impacts associated with the incentive program and film industry expenditures in Washington.

Statute requires each production company receiving incentive payments under the program to file an annual survey with the Department of Commerce identifying the amount of payments received and specific details of jobs created by the production, similar to what is required reporting for some other tax incentives. However, there are two key differences between reporting for this program as opposed to reporting for some other tax incentives. First, it is usually the beneficiary of a tax preference that does the reporting. In this case, however, it is the film production company rather than the B&O tax credit beneficiaries that file the annual surveys. Second, reports for other tax preferences are submitted to the Department of Revenue, which may audit the reported information. For the motion picture program, the production companies submit their surveys to the Department of Commerce, and the agency does not review the accuracy of the information submitted.

JLARC also found other concerns about the information collected in the annual surveys. To analyze tax revenues, jobs, and economic impacts, JLARC looked to other sources beyond what was reported in the production company annual surveys.

Tax Revenues

The Legislature requested that JLARC review the amount of state revenue generated by the program. Although not required by statute, the Department of Commerce survey includes a line for the production companies to report taxes paid. The survey, however, does not provide guidance regarding what taxes are to be included in the self-reported number. Moreover, in approximately 30 percent of the projects, the production company did not complete the section of the survey relating to taxes paid.

The major source of tax revenue received from the production companies is sales tax. In anticipation of this study, JLARC asked Washington Filmworks to maintain information regarding taxable expenditures by the production companies receiving incentive payments. This information allowed JLARC to estimate the sales tax revenues from those production company expenditures. JLARC's estimate for this sales tax revenue for calendar years 2007-2009 is $837,000.

Number and Quality of Jobs

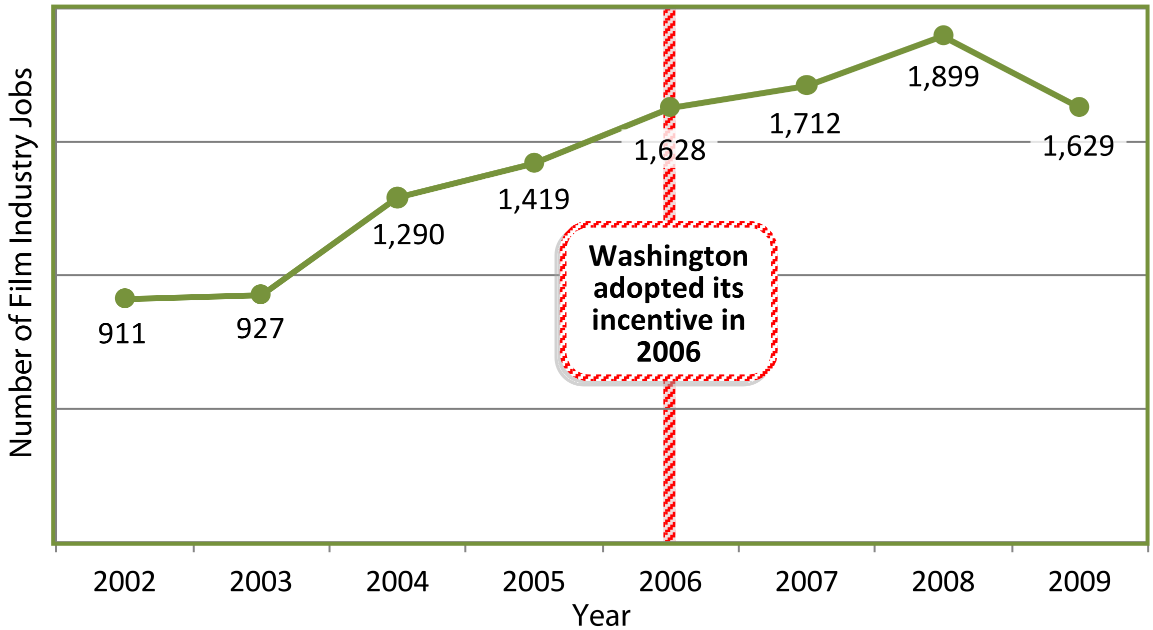
The legislation establishing the program stated that the Legislature was committed to ensuring workers in the motion picture and television industry are covered under health insurance and retirement income plans. The Legislature also specifically directed JLARC to look at the number of family wage jobs with benefits created.

JLARC looked at the number of jobs in two ways, first by looking at trends in jobs in the film industry as a whole, including those with employers not receiving incentive payments, and then looking at the job information reported by the production companies in their annual surveys. With regard to the quality of these jobs, JLARC looked at wage levels and whether workers for the production companies received benefits.

There is one caveat to looking at reported job numbers in the film industry in Washington or any other state. Film production jobs are project-based. It is the nature of these jobs to be temporary, ending when the production work ends.

Looking first at the film industry as a whole, both film industry-specific jobs and total jobs in the state were on the rise from 2002 to 2008. In 2009, both the film industry-specific jobs and total jobs in the state declined. Exhibit 5, on the following page, shows the trend in Washington film industry jobs.

Exhibit 5 – Washington Maintained Jobs in Film Industry



Source: Washington State Employment Security Department.

The data represents a snapshot in time, which may not reflect the long-term employment situation in light of the project nature of film work. Also, the Department only collects data on jobs subject to employment tax. This does not include jobs such as independent contractors working in the film industry.

Additional information comes from the production companies that receive the incentive payments. As part of the Department of Commerce survey, the production companies receiving incentive payments are required to report the number of in-state employees hired. The production companies are also required to identify the number of full-time and part-time jobs, respectively. JLARC determined that the full-time and part-time numbers were unreliable. While Exhibit 5 provides numbers for the film industry in general, Exhibit 6 is limited to the self-reported employment numbers from companies actually receiving incentive payments.

Exhibit 6 – Number of In-State Employees Reported by Production Companies Receiving Incentives (Excluding Extras)

2007 (partial year)	2008	2009
470	740	786

Source: Production surveys.

Turning now to the quality of jobs, the Legislature expressed a desire that the jobs be "family wage" and provide benefits. The term "family wage" is not defined in the bill, so JLARC compared the average annualized wages for the film industry to wages for all workers in the state.

Exhibit 7 – Average Annual Wages in Washington

	2002	2003	2004	2005	2006	2007	2008	2009
Film Industry	$31,720	$35,953	$33,192	$34,826	$35,068	$36,100	$36,568	$39,493
All Industries	$38,243	$39,020	$39,351	$40,704	$42,888	$45,016	$46,562	$47,458

Source: Washington State Employment Security Department.

The Legislature intended that jobs created through incentive payments would include coverage under health insurance and retirement benefit plans. In their guidelines for production companies, Washington Filmworks notes that this requirement will be met if the production enters into an agreement with a trade union that provides health and retirement benefits for workers. Of the projects that have received funding in 2007–2009, 83 percent involved such union contracts. If the production company does not use union labor, Washington Filmworks requires evidence that benefits are being provided through some other method.

Economic Impacts

Economic impacts consist of three components: direct, indirect, and induced. The *direct* impact in this situation is the amount of spending by the production companies on wages and goods and services in the state. An example of an *indirect* impact is the wages earned by a catering company employee who provided food to the production company. When the catering employee spends money on other local goods it creates an *induced* impact. The total economic effect of these impacts is calculated by use of a multiplier.

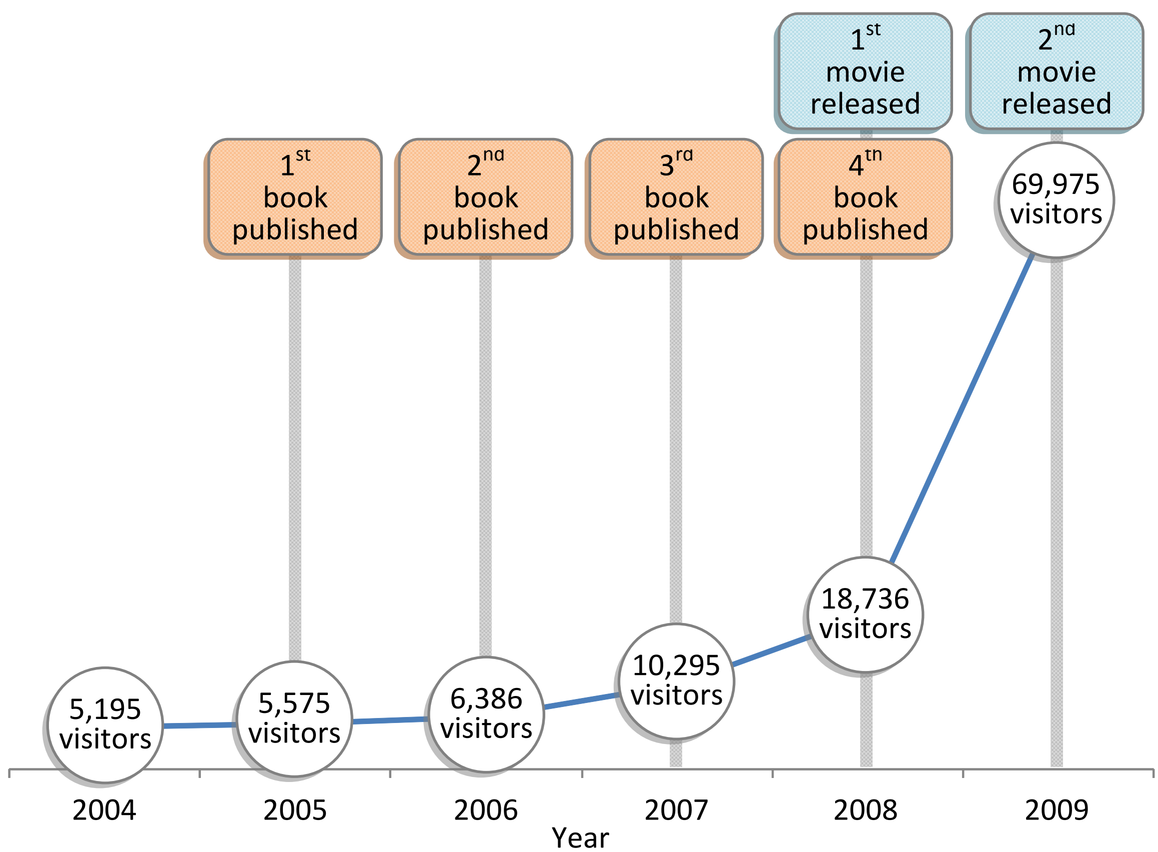
JLARC used IMPLAN (Impact Analysis for Planning), a nationally recognized economic model, to determine the Washington multiplier of 1.99 for the film industry. This multiplier means that for every dollar spent by a production company in Washington, the local economy realizes $1.99 in activity. A multiplier of 1.99 falls in the mid-range of multipliers calculated with IMPLAN for other industries in Washington. These range from a low of 1.22 (natural gas production) to a high of 2.48 (creamery butter manufacturing).

In calculating incentive payments, Washington Filmworks relies on actual expenditure documents such as payroll records and invoices to determine the amount of in-state spending. Based on that documentation, Washington Filmworks substantiated $36 million in Washington expenditures between 2007 and 2009. Using the multiplier described above, this $36 million in direct impact would result in $72 million of combined direct, indirect, and induced state and local economic impact.

This calculation of economic impacts associated with the expenditures by the production companies excludes consideration of two factors. First, the estimate does not take into account the negative multiplier effect resulting from the business and occupation tax revenue loss attributable to the tax credits for contributions to the incentive fund. Thus, the estimate of $72 million in economic impact may be an overstatement.

Second, another form of economic impact that is not included in the above determination is that resulting from tourist activity related to filming. This type of impact is difficult to quantify as tourists may come to a location for a variety of reasons, and often the main motivation is unknown. An exception is when a specific event is held relating to a motion picture such as the recent celebration in Astoria, Oregon, of the 25th anniversary of the movie "Goonies" which was filmed there. Additionally, tourism may be based on the location of the story line in the film, rather than where it was filmed. Washington has benefited from this type of tourism as a result of the "Twilight" series of books and movies. While the first movie was filmed mainly in Oregon, and the next two in British Columbia, the story on which the movies are based is set in the Forks, Washington area. As shown in Exhibit 8, tourism in Forks has increased dramatically as the movies were released.

Exhibit 8 – Forks and Twilight Tourism Timeline



Source: Forks Chamber of Commerce.

Current Reporting Requirements Have Deficiencies

Due to deficiencies in the reporting required by state law and the Department of Commerce, JLARC had to turn to alternate data sources in order to evaluate the tax revenue and employment impacts of the incentive payments to production companies. In order to accurately evaluate these impacts in the future, the Legislature needs more reliable information.

The Department of Commerce's current survey form contains only a single line for reporting taxes paid. This requirement does not distinguish between general taxes, such as sales and use or business and occupation, and dedicated resources such as unemployment taxes. There are no instructions accompanying the survey form. Thus, it is unclear what taxes are being reported or if the reporting is consistent among production companies. Because the majority of revenue is sales tax which cannot be attributed to a particular taxpayer by the Department of Revenue, information regarding taxable expenditures is not available for that source. Consequently, for purposes of this study and at the request of JLARC, Washington Filmworks maintained some expenditure detail which allowed JLARC to estimate sales taxes paid, but that level of reporting is not required by law.

In terms of information on jobs, production companies receiving incentive payments are required to report the number of in-state workers they employed. This reporting is to include a breakdown of full-time and part-time employment. However, the survey form provides no instructions or guidance regarding what constitutes full vs. part time, so it is unknown whether these designations were treated consistently by production companies. One production company indicated that it determined fulltime vs. part-time by what length of the production schedule an employee works, as opposed to the number of hours worked. For example, an employee who worked three hours a day for the entire shooting schedule was reported as full-time while someone who worked eight hours a day for half the shooting schedule was reported as part-time. Moreover, the sum of the reported number of part- and full-time employees did not always match the total number of employees reported.

Additionally, because film industry jobs are project-based, job numbers may not reflect year-round employment. The crew may work full-time on a project during a several month filming schedule but then need to find a new project and/or a new employer to sustain employment.

Under the present structure, no entity is responsible for monitoring the completeness or accuracy of the survey information submitted by the production companies. The original legislation passed in 2006 required that the surveys be submitted to the Department of Community, Trade and Economic Development (CTED). At that time, the State Film Office existed within CTED. Funding for the State Film Office was eliminated as of June 30, 2009. In February 2009, the CTED Film Office and Washington Filmworks entered into a five-month long agreement in which Washington Filmworks agreed to assume some Film Office responsibilities in exchange for the $60,000 remaining in the Film Office budget at that time. Among other responsibilities, these duties included location scouting, facilitating permitting, and promoting filming in Washington. The agreement did not make any mention of the Motion Picture Competitiveness Program.

Currently, the Department of Commerce, (formerly CTED), acts only to maintain the required survey on its website, provide submitted surveys to Washington Filmworks, and prepare the biennial statistical report to the Legislature required by statute. While the statute requires that the production companies submit "complete" surveys, Commerce does not review the surveys to ensure all sections are filled in or to review for inconsistencies. Washington Filmworks does not rely on the surveys to administer the incentive payments, but rather uses the information from the completion packets the production companies submit when applying for funding. Because it is not a factor in determining the incentive payment amount, Washington Filmworks is not required to collect information regarding taxes paid by the production companies. While some of that information was tracked at JLARC's request, Washington Filmworks does not have a continuing obligation to do so. Similarly, while Washington Filmworks requires the production companies to provide payroll and residency information on workers on specific projects, this information is not readily available in a form which would provide meaningful information on job creation.

Recommendation 2:

If the Legislature desires information on the revenue and economic impacts of the tax credit, it should require more stringent reporting and clarify what entity is responsible for maintaining the information.

CHAPTER TWO – WASHINGTON'S PROGRAM COMPARED TO OTHER STATES AND BRITISH COLUMBIA

Motion Picture Incentive Programs Come in Three Basic Forms

Most states are using financial incentives to attract filming, with 44 states now offering some type of program. State programs vary in terms of the nature of the incentive and the types of productions (feature films, TV episodes, commercials or video games) they fund. The film industry has grouped the incentives into three basic types depending on how the funding is provided to the production company. Some states use multiple approaches.

Cash Rebate or Grant

This type of incentive provides a cash payment to a production company based on state requirements of a certain level of spending or of job creation. These payments normally are made pursuant to a written agreement between the production company and the funding entity and do not involve a tax return. Seventeen states including Washington and Oregon provide rebates or grants.

Transferable Tax Credit

In this type of incentive, the state provides the production company with a "credit" against state taxes that may be owed (usually corporate or personal income). The credit normally exceeds the tax owed. The production company can sell or "transfer" the credits to other taxpayers. The production company thus receives cash, and other taxpayers may use the credits to offset their tax liability. This approach is used by 15 states and British Columbia.

Refundable Tax Credit

Refundable credits have elements of both of the above approaches. Similar to transferable tax credits, the production company receives a credit against any tax liability. In this approach, however, rather than the credits being sold to another taxpayer, the state pays the production company for the credits. Like a rebate, the result is a cash payment from the state without the need for a third party buyer. Sixteen states use this approach.

A table containing more detailed information regarding the states' and British Columbia's programs is included in Appendix 3.

Washington's Motion Picture Competitiveness Program Is Unique

The general approach in the film incentive programs is to provide funding to the production companies either directly from the state through a rebate or refund, or through the production company's sale of its tax credits to a third party. In Washington, however, the funding for the production company is derived from a unique approach. Unlike most other grant or rebate programs which have no connection to tax credits, Washington uses such credits in order to provide the funds which are then paid to production companies. The tax credits in Washington are provided to taxpayers that make a donation to the incentive fund administered by the non-profit Washington Filmworks. The funding for grant and rebate programs in other states comes directly from state revenues and is administered through a state entity rather than from contributions administered by a non-profit corporation. While Oregon has a similar approach of funding incentives through contributions to a fund in exchange for tax credits, its fund is administered through the Governor's Office of Film and Television instead of a non-profit corporation.

Two factors may explain Washington's unique approach. First, because of the absence of corporate or personal income tax in Washington, the main tax liability of production companies filming in Washington is sales taxes. Because the filming activity itself does not produce proceeds in Washington, the state's business and occupation tax does not apply to out-of-state production companies filming in Washington. Accordingly, out-of-state production companies do not need to register with the Department of Revenue, so there is no current mechanism to directly provide them a tax credit. Second, the Washington State Constitution prohibits gifts of public funds. Because the funds provided through the program result from contributions and are administered by a non-profit corporation, they are not public funds subject to this restriction.

Washington Has a Smaller Annual Funding Limit But Other Factors May Influence Film Locating Decisions

Production companies are influenced by a variety of factors, both financial and other, in making their decisions regarding where to film. One factor is the type of incentive, transferable, refundable, or rebate. Additional factors include the size of the incentive available on a particular project as well as non-financial considerations such as crew availability and location.

Incentive Payment Amounts involve factors in addition to the annual funding limit

Most states base the amount of the incentive payments on a combination of three factors:

- What constitutes a *"**qualified expenditure**:"* Washington requires that expenditures be made on goods or services purchased in-state or wages paid to state residents in order to qualify. Some other states include out-of-state purchases and/or wages thus providing a larger base for determining the incentive payment.
- What ***percentage*** of the qualified expenditures is allowed: Washington uses 30 percent. The range offered by other states is from 10 percent to around 40 percent.

- What is the ***annual funding limit*** for total incentive payments: Washington's limit is $3.5 million per year. Other states limit ranges from a low of $500,000 (Wyoming) to 13 states with no upper limit. Four states have a limit smaller than Washington.

Washington's most direct competitors are Oregon and British Columbia. The basic features of their programs are set forth in Exhibit 9.

Exhibit 9 – Competitor's Incentive Programs Differ on Each Factor

State/ Province	Type of Incentive	Percentage and Qualified Expenses	Annual Funding Limit
Washington	Cash rebate	30% of in-state expenditures, wages, goods and services	$3.5M
Oregon	Cash rebate	20% of in-state goods and services; 10% on out-of-state or in-state wages plus additional 6.2% on in-state wages	$7.5M
British Columbia	Transferable Tax Credit	Combined provincial and federal incentives provide 44% of in-province labor	No limit

Source: Washington, Oregon and BC Film Incentive websites and interviews with film offices.

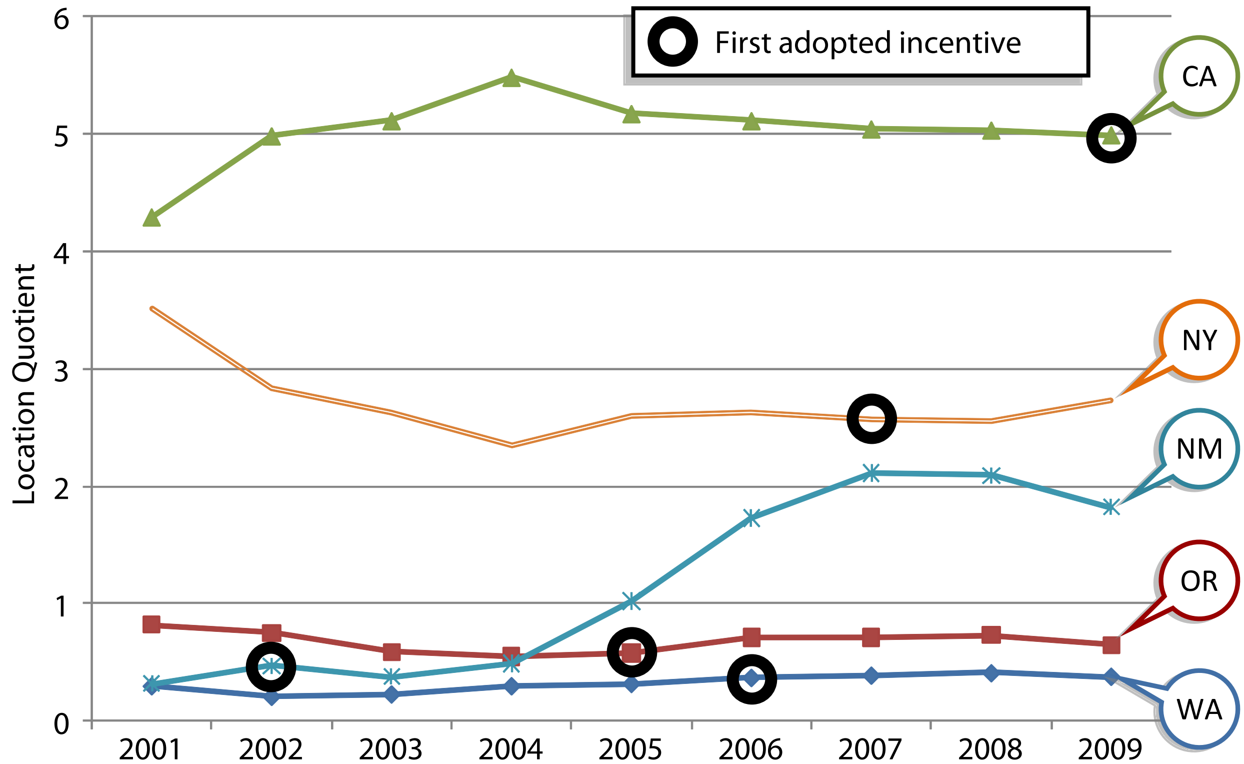
Initially, it may appear that Oregon has a smaller incentive due to the smaller percentages used. However, Oregon allows both in- and out-of-state wages to be counted in determining the base qualifying expenses. Even with the smaller percentage, the Oregon incentive payment on a particular project might exceed that available in Washington because Washington limits wage expenditures to those paid to in-state residents. Additionally, Oregon's annual limit is more than double the amount provided in Washington.

Production companies filming in British Columbia may receive both a provincial and federal credit which results in an incentive payment of 44 percent of local labor, as opposed to Washington's 30 percent of local labor. Additionally, British Columbia has established an extensive base of qualified crew due to the high level of filming that occurs there. Productions can be made using nearly exclusive British Columbia crew thus increasing the amount of incentive for which a production company could qualify. Moreover, British Columbia does not limit the amount of funding available for incentives each year.

Production companies may consider factors in addition to the size of the incentive

In addition to incentives, other factors influencing filming location decisions include artistic concerns (the need for specific land marks), the availability of skilled crews, and access to infrastructure such as sound stages. Locations such as New Mexico, Louisiana, New York, and California may be able to provide all of these resources in addition to large incentives. Based on the Location Quotient analysis discussed earlier, these states all had film employment levels in excess of the national average in 2007 and 2008 as shown in Exhibit 10. In 2009, Louisiana fell below this level.

Exhibit 10 – States That Dominate the Filming Industry



Source: U.S. Bureau of Labor Statistics Location Quotient Calculator.

Production companies also need to monitor the status of states' programs. The Arizona program sunsets on December 31, 2010. Iowa suspended its program until July 1, 2013. Kansas suspended its funding for 2009 and 2010, and New Jersey suspended funding until July 1, 2011. Idaho has not funded its program since it was enacted in 2008.

CHAPTER THREE – RECOMMENDATIONS

Recommendation 1

The Legislature stated that the purpose of the Motion Picture Competiveness Program was to maintain the state's position as a competitive location for filming. Information from the U.S. Bureau of Labor Statistics demonstrates that Washington's share of film industry employment has remained relatively consistent even as more states are competing for film work. The motion picture tax credit expires July 1, 2011.

Because Washington has maintained its position as a competitive location for filming, the Legislature should continue this preference and reexamine the preference at a later date to determine its ongoing effectiveness in encouraging filming in Washington.

Legislation Required:	Yes; currently the tax incentive expires on July 1, 2011.
Fiscal Impact:	Since this program will expire on July 1, 2011, modifying the expiration date would have an annual fiscal impact of $3.5 million in subsequent years.

Recommendation 2

JLARC discovered deficiencies in the reporting requirements for information relating to taxes paid and types of employment by the production companies. Due to these weaknesses, data reported by the production companies regarding the tax revenue and job impacts of the incentive were unreliable. Sufficient and appropriate information will be necessary if this preference is to be re-examined in the future.

If the Legislature desires information on the revenue and economic impacts of the tax credit, it should require more stringent reporting and clarify what entity is responsible for maintaining the information.

Legislation Required:	Yes.
Fiscal Impact:	JLARC assumes that this can be completed within existing resources.

APPENDIX 1 – SCOPE AND OBJECTIVES

REVIEW OF MOTION PICTURE COMPETITIVENESS PROGRAM

SCOPE AND OBJECTIVES

REVISED MARCH 29, 2010

STATE OF WASHINGTON

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

STUDY TEAM
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PROJECT SUPERVISOR
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Joint Legislative Audit & Review Committee
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Background

Second Substitute Senate Bill 6558 (2006) established a motion picture competitiveness program to provide incentives for motion picture production in the state. Specifically, the bill provides taxpayers with a business and occupation tax credit after they donate to an approved non-profit corporation that would operate the program. The nonprofit corporation will use the donations from taxpayers to provide funding assistance to motion picture production companies.

As directed by the bill, the state's Department of Commerce has adopted rules under which the non-profit corporation operates and awards funding. The Department is also responsible for:

- Collecting survey information from the production companies;
- Providing the surveys to JLARC; and
- Reporting to the Legislature each September.

JLARC is responsible for evaluating the effectiveness of the program and reporting to the Legislature in December of 2010.

Study Scope

As directed by the Legislature, the overall scope of this project will be to determine the effectiveness of the motion picture competitiveness program, including:

- The amount of state revenue generated;
- The number of family wage jobs with benefits created; and
- Adherence to criteria used for providing funding assistance to motion picture productions.

Study Objectives

The study will include answers to the following questions:

1) Has the Department of Commerce implemented its responsibilities for the motion picture competitiveness program?
2) Has the program impacted motion picture production in the state of Washington?
3) Has the program directly impacted state revenue and employment (e.g., spending by motion picture production companies in the state)?
4) To the extent that data are available, has the program indirectly impacted state revenue and employment (e.g., increased tourism or market competitiveness)?
5) How does the program compare to motion picture production incentives in other states and regions?

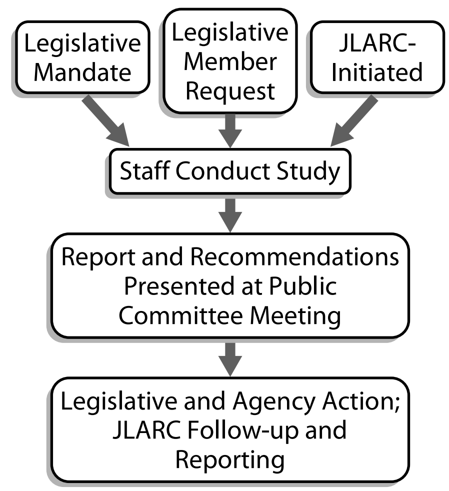
Timeframe for the Study

Staff will present the preliminary and final reports at the JLARC meetings in October and December of 2010.

JLARC Staff Contact for the Study

Stacia Hollar (360) 786-5191 hollar.stacia@leg.wa.gov

JLARC Study Process



Criteria for Establishing JLARC Work Program Priorities

- Is study consistent with JLARC mission? Is it mandated?
- Is this an area of significant fiscal or program impact, a major policy issue facing the state, or otherwise of compelling public interest?
- Will there likely be substantive findings and recommendations?
- Is this the best use of JLARC resources? For example:
  - Is JLARC the most appropriate agency to perform the work?
  - Would the study be nonduplicating?
  - Would this study be cost-effective compared to other projects (e.g., larger, more substantive studies take longer and cost more, but might also yield more useful results)?
- Is funding available to carry out the project?

APPENDIX 2 – AGENCY RESPONSES

- Washington Filmworks
- Department of Commerce
- Office of Financial Management and Department of Revenue

Washington Filmworks

Washington Filmworks
1218 3rd Avenue, Suite 1709
Seattle, WA 98101

phone 206 264 0667
fax 206 382 4343

JLARC Report
Washington Filmworks Response

AGENCY POSITION:
Concur

COMMENTS:
Reporting Practices
Washington Filmworks recognizes the difficulty in defining appropriate reporting requirements, and would like to work with the Joint Legislative Audit and Review Committee to better define reporting practices in order to further develop quantifiers and metrics that better define the quality and quantity of the jobs this program creates and maintains.

We appreciate that the report caveats the metrics on quality (wage levels and benefits provided) with the important point that film production jobs are project based (explored further on page 11 of the preliminary report). Rather than focusing on wages paid by employers, which in effect is wages paid per project, state policy-makers should understand total earning per film production worker, which better reflect the economic gains experienced by film production professionals. The vast majority of film production workers are employed on multiple projects per year.

As the JLARC report suggests, there needs to be better reporting practices that can more accurately capture the economic impact (including wages) and tax revenue generated from film production. The production surveys filed with the Department of Commerce at the end of each production were designed to capture this data, but were often inconsistent and incomplete. In the absence of reliable survey data, JLARC used the NAICS codes and information from the Employment Securities Department. The legislature may wish to consider the limitations in using the state provided data as it only reflects economic impact information from film productions that register to do business in the state of Washington. It should be noted that not all film production projects register to do business in the state because film production by definition is not a revenue generating activity. Typically film production does not generate revenue until the marketing and sale of a project, which is business that does not always occur within the state of Washington. The state recoups some tax liability via sales and use tax as well as from a number of Washington based production companies that pay Business and Occupation tax.

Data obtained from NAICS codes and the Employment Securities Department describes the film industry as a whole, not just the quantity and quality of jobs provided by productions participating in the competitiveness program. Because of the limitations of the NAICS and Employment Securities Department already stated, we are unable to know how many of the Washington Filmworks projects are reflected in that data. Additionally, Washington Filmworks cannot speak to the "quality of jobs" outside of this program. Because over 80% of the projects participating in the program paid union wages and provided health and retirement benefits, we suspect Washington Filmworks projects provide a higher quality of job as compared to other film jobs statewide.

washingtonfilmworks.org

Films shot in Washington add considerably to the state's image for out-of-state businesses and people considering relocating to Washington. This is in addition to the tourism impacts acknowledged but not quantified on page 10.

Washington State is one of the nation's largest importers of talent. The nation-wide exposure from films that show the state's natural beauty and the Seattle region's urban amenities are constant and critical reminders to the rest of the world that Washington is a great place to do business and find opportunity.

STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

November 1, 2010

TO: Ruta Fanning, Legislative Auditor
Joint Legislative Audit and Review Committee

FROM: Rogers Weed, Director
Washington State Department of Commerce

SUBJECT: Response to the Preliminary Review of Motion Picture Competitiveness Program

Thank you for the opportunity to respond to the Preliminary Review of Motion Picture Competitiveness Program Report. The department was involved in the creation of the program and was the home of the Washington State Film office until its closure in 2009.

Our responses to the recommendations in the report are included below:

RECOMMENDATION	AGENCY POSITION	COMMENTS
1: Because the tax credit for contributions to the Motion Picture Competitiveness Program is achieving the objective of maintaining Washington's position as a competitive location for filming, the Legislature should continue this preference and reexamine the preference at a later date to determine its ongoing effectiveness in encouraging filming in Washington.	Concur	The department agrees that given the role incentives play in this industry it is important that the state have a financial incentive if it is to retain its competitive position.
2. If the Legislature desires information on the revenue and economic impacts of the tax credit, it should require more stringent reporting and clarify what entity is responsible for maintaining the information.	Concur	The department agrees that information collected within the production surveys is insufficient to evaluate the impacts of the incentive. With the closure of the Washington Film Office the department lacks the staff and expertise to collect and maintain this information.

STATE OF WASHINGTON

October 25, 2010

TO: Ruta Fanning, Legislative Auditor
Joint Legislative Audit and Review Committee

FROM: Marty Brown, Director MB
Office of Financial Management (OFM)

Cindi Holmstrom, Director Cindi Holmstrom
Department of Revenue (DOR)

SUBJECT: JLARC PRELIMINARY REPORT ON THE REVIEW OF MOTION PICTURE COMPETITIVENESS PROGRAM

Thank you for the opportunity to review and comment on the Joint Legislative Audit and Review Committee's (JLARC's) preliminary report, "Review of Motion Picture Competitiveness Program."

We appreciate JLARC's efforts, and those of the Citizen Commission for Performance Measurement of Tax Preferences, to continuously review and analyze the state's numerous tax preferences. We believe it is important to systematically identify current tax preference legislation for further review by the Legislature. Informed discussion about the original intent and assumptions underlying current tax preferences, and legislative debate about their continuing effectiveness and relevance can help state government maintain a fair and equitable tax system.

We have no comments regarding the recommendation to extend the program. We believe JLARC's analysis will be very helpful in the Legislature's consideration of this recommendation and will assist them in their policy and economic deliberations.

Regarding the recommendation to require more stringent reporting and clarifying responsibilities, we agree that it is critical to have sufficient reliable information upon which to evaluate the effectiveness of the program.

Thank you again for the opportunity to review the JLARC report.

cc: Mark Craig, DOR
Jim Schmidt, OFM
Peter Antolin, OFM

Appendix 3 – Comparison of States' and British Columbia's Motion Picture Incentive Programs

Chapter Two of the report discusses the basic components of motion picture incentive programs and provides some detail regarding Washington, Oregon and British Columbia programs. The chart on the pages that follow provides information regarding all existing state programs as well as the incentives provided by British Columbia. The film industry has grouped the incentives into three basic types: cash rebate or grant, transferable tax credit, or refundable tax credit, depending on how the funding is provided to the production company.

Most states base the amount of the incentive payments on a combination of three factors:

- What constitutes a "***qualified expenditure*:"** Washington requires that expenditures be made on goods or services purchased in-state or wages paid to state residents in order to qualify. Some other states include out-of-state purchases and/or wages thus providing a larger base for determining the incentive payment.
- What ***percentage*** of the qualified expenditures is allowed: Washington uses 30 percent. The range offered by other states is from 10 percent to around 40 percent.
- What is the ***annual funding limit*** for total incentive payments: Washington's limit is $3.5 million per year. Other states limit ranges from a low of $500,000 (Wyoming) to 13 states with no upper limit. Four states have a limit smaller than Washington.

Percentages	Cash Rebate or Grant	Transfer-able	Refund-able	Annual Funding	First Adopted	Sunset/ Review Date
Alabama						
25% of out-of-state wages or of in-state goods and services ; 35% of in-state wages			✓	\$7.5 million for 2010; \$10 million beginning in 2011	2009	
Alaska						
30% of in-state goods and service and all wages; additional 10% for wages paid to Alaska residents, plus 2% for expenditures in a rural area plus additional 2% for out-of-season shooting for possible 44% total credit		✓		\$100 million	2008	The earlier of exhaustion of the cap or July 1, 2013
Arizona						
20% of in-state wages, goods and services between \$250,000 and \$1 million; 30% of in-state wages, goods and services greater than \$1 million		✓		\$70 million	2006	December 31, 2010
Arkansas						
15% of in-state goods and services and in- or out-of-state wages; 10% additional in-state wages	✓			\$5 million	2009	June 30, 2019
California						
20% of in-state expenditures for features, movies of the week, miniseries, and new television series for basic cable; 25% of in-state expenditures for "relocating" television series and "independent films"(this portion of the credit is non-refundable or transferable)		✓		\$100 million	2009	2014
Colorado						
10% of in-state wages, goods and services	✓			\$600,000.00	2006	2017

Percentages	Cash Rebate or Grant	Transfer-able	Refund-able	Annual Funding	First Adopted	Sunset/ Review Date
Connecticut						
10% of qualifying in-state goods and services or in-or out-of-state wages between $100,000-500,000; 15% of qualified in-state goods and services or in- or out-of-state wages between$500,000-$1 million; 30%of qualified in-state goods and services or in-or out-of-state wages greater than$1 million		✓		No annual cap	2006	
Delaware						
None						
Florida						
20% of in-state wages, goods and services; additional 5% for off-season filming; additional 5% for family-friendly product		✓		$53.5 million for 2010-11; $74.5 million for 2011-12; $38 million per fiscal year for 2012-2015	2004	
Georgia						
20% for in-state wages, goods and services; additional 10% if logo used		✓		No annual cap	2005	
Hawaii						
15% of in-state and out-of-state wages and in-state goods and services incurred in Honolulu county; 20% in other counties			✓	No annual cap	1997	December 31, 2015
Idaho						
20% rebate on specific Idaho expenditures with requirement of 20% of crew hired in-state increasing to 35% of crew over 5 years	✓			Not funded for 2010	2008	June 30, 2014

Percentages	Cash Rebate or Grant	Transfer-able	Refund-able	Annual Funding	First Adopted	Sunset/ Review Date
Illinois						
30% of in-state wages, goods and services		✓		No annual cap	2004	
Indiana						
15% of in-state wages, goods and services			✓	$2.5 million	2008	December 31, 2011
Iowa						
Suspended until July 1, 2013					2007	
Kansas						
Suspended for 2010					2007	
Kentucky						
20% of in-state and out-of-state wages and in-state goods and services			✓	$5 million for fiscal 2010-11 and $7.5 million for 2011-12	2008	December 31, 2014
Louisiana						
30% for qualifying in-state goods and services or in- or out-of-state wages additional 5% employment credit on first $1 million of each resident payroll for total of 35% of all in-state labor		✓	✓	No annual cap	1992	
Maine						
Rebate of 12% of in-state wages and 10% of out-of-state wages; 5% non-transferable credit on all qualified production expenditures	✓			No annual cap	2006	
Maryland						
25% of in-state goods and services or in- or out-of-state wages	✓			$1 million	2008	

Percentages	Cash Rebate or Grant	Transfer-able	Refund-able	Annual Funding	First Adopted	Sunset/ Review Date
Massachusetts						
25% of total in-state spend if at least 50% of the movie shot in-state or more than 50% of production budget is spent in-state	✓	✓	✓	No annual cap	2006	December 31, 2022
Michigan						
40% of in-state goods and services or in- or out-of-state wages; 30% of qualified out-of-state wages		✓	✓	No annual cap	2008	
Minnesota						
15% of in-state production costs for projects that spend less than $5 million; 20% of in-state production costs for projects that spend more than $5 million	✓			$1.225 million for 2010-11	1997	
Mississippi						
20% of in-state goods and services; 20% of out-of-state wages; 25% of in-state wages	✓			$20 million	2004	Non-resident payroll rebate expires June 30, 2012
Missouri						
35% of in-state qualifying goods, services and wages; 30% of out-of-state wages;		✓		$4.5 million	1999	2013
Montana						
14% of first $50,000 in in-state wages; 9% on all in-state goods and services			✓	No annual cap	2005	December 31, 2014
Nebraska						
None						
Nevada						
None						

Percentages	Cash Rebate or Grant	Transfer-able	Refund-able	Annual Funding	First Adopted	Sunset/ Review Date
New Hampshire						
None						
New Jersey						
Suspended until July 1, 2011		✓		$10 million	2005	2015
New Mexico						
1) 25% of in-state goods, services and wages; 2) Film Investment Loan; 3) Film Crew Advancement Program/Incentive of 50% wage reimbursement for on-job training of local residents in certain crew positions			✓	No annual cap	2002	
New York						
30% of in-state wages, goods and services; investment tax credit for qualified film production facilities			✓	$420 million	2007	2014
North Carolina						
25% of in-state wages, goods and services			✓	No annual cap	2006	2013
North Dakota						
None						
Ohio						
25% of qualified in- or out-of-state wages or in-state goods and services; additional 10% of in-state wages			✓	$10 million with additional $20 million on July 1, 2010	2009	
Oklahoma						
35% of in-state wages, goods and services	✓			$5 million for fiscal 2010-11 and $7.5 million for 2011-12	2005	2014

Percentages	Cash Rebate or Grant	Transfer-able	Refund-able	Annual Funding	First Adopted	Sunset/ Review Date
Oregon						
20% on all in-state expenditures for goods and services; additional 16.2% on in-state and out-of-state wages	✓			$7.5 million	2005	2011
Pennsylvania						
25% of in-state wages, goods and services; Out-of-state wages may be included if they are subject to Pennsylvania tax		✓		For 2010-11: $60 million; For 2011-12: $75 million	2004	
Rhode Island						
25% of in- or out-of-state wages or in-state goods and services		✓		$15 million	2005	
South Carolina						
20% wage rebate for all cast and for local crew; 10% for out-of-state crew which may be negotiated up to 20%; 30% rebate for in-state goods and services	✓			Amount varies but $15 million available for fiscal 2010-11	2004	
South Dakota						
Refund of state sales/use taxes and contractor's excise taxes in excess of $250,000 for filming	✓			No annual cap	2006	June 30, 2011
Tennessee						
17% rebate of total qualified expenditures from Film Commission; additional 15% refund from Dept. of Revenue of total qualified production expenditures if in-state company spends $1 million	✓		✓	$8.1 million available as of January 4, 2010	2006	

Percentages	Cash Rebate or Grant	Transfer-able	Refund-able	Annual Funding	First Adopted	Sunset/ Review Date
Texas						
Up to 15% of in-state goods and services or up to 25% of in-state wages depending on amount of expenditures	✓			No annual cap	2009	
Utah						
20% tax credit of in-state spend with no per-project cap or 20% cash rebate of in-state spend with $500,000 per project cap	✓		✓	$7.7 million for tax credit; $2.2 million for cash rebate	2005	
Vermont						
None						
Virginia						
15 to 20% tax credit takes effect 1/1/11: Governor's discretionary rebate	✓		✓	$2.5 million for tax credit; $2 million for rebate	2001 for rebate; 2011 for tax credit	
Washington						
30% of in-state goods and services	✓			$3.5 million	2006	June 30, 2011
West Virginia						
27% of in-state or out-of-state wages (if subject to West Virginia tax) and in-state goods and services; additional 4% (to total of 31%) for hiring 10 or more in-state labor and talent		✓		$10 million	2007	

Percentages	Cash Rebate or Grant	Transfer-able	Refund-able	Annual Funding	First Adopted	Sunset/ Review Date
Wisconsin						
25% of salaries and wages paid to residents making $250,000 or less; 25% of in-state goods and services; 15% of amounts to establish or operate a film production company in the state			✓	$500,000 (reduced this year from $1.5 million per year)	2006	
Wyoming						
12 to 15% of in-state wages, goods and services	✓			$500,000.00	2007	
British Columbia						
33% of British Columbia wages; additional 6% of British Columbia "regional" wages when more than 50% of British Columbia principal photography is done outside Vancouver area; additional 6% of BC "distant" labor: also Canadian federal incentive bringing effective incentive rate to 44% of British Columbia labor			✓	No annual cap	1998	

Sources: http://www.entertainmentpartners.com/Content/ProductionIncentives/Jurisdictions/US.aspx; Movie Production Incentives: Blockbuster Support for Lackluster Policy, http://www.taxfoundation.org/files/sr173.pdf; The Fall 2010 Guide to U.S. Production Incentives, http://www.theincentivesoffice.com; and State and British Columbia film incentive websites.