The Film and TV Tax Credit Race Is Getting Even More Competitive

California's legislature is poised to pass an extension to its incentives program through 2030, but other states are sweetening their deals to lure more production away from the Golden State.

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American Horror Story arrived. Then came *Veep*. *Legion* and *Ballers* followed soon after, with *The Flight Attendant* close behind. Those TV shows all originally filmed outside of California but relocated after being granted tax breaks. Since 2015, 28 TV shows have moved to California from other locales at least in part because of financial incentives aimed at halting the steady march of productions fleeing Hollywood in favor of areas with more cost-effective tax credits.

The incentives attracted *Breaking Bad* and *Better Call Saul* to New Mexico, *Jurassic World* and *Now You See Me* to Louisiana, and *The Hunger Games: Catching Fire* and *Avengers: Endgame* to Georgia. These states, among others, have grown to be film hubs in their own right as cast, crew and sometimes even studios followed the productions in moving.

But California is now looking to bolster its competitive edge. In July, Gov. Gavin Newsom signed a bill (SB144) that gives the film and TV industry an additional $330 million in tax credits on top of the $330 million the state already doles out to Hollywood as part of its current incentives program. Another bill expected to be signed by Newsom (SB485) would extend the credits through 2030. It unanimously passed the Senate in January and is being considered in the Assembly.

But whether the expansion of the tax incentives, courtesy of the state's $75 billion surplus, will be enough to curb the flight of productions from California remains to be seen. "It's extremely competitive out there," says Colleen Bell, director of the California Film Commission, which oversees film and TV production throughout the state. "We can't always compete directly with other incentive programs, but we have to make sure that the gap isn't too wide."

Bell adds that California's legislation is "already delivering quickly on one of our core goals by incentivizing TV series to relocate from other states."

While California's position as the premier film hub appears to be eroding, it remains the top shooting location in the nation for TV shows. California kept its position in 2021 as the leader in shooting locations with 97 series shot there — more than New York and Georgia, the second- and third-place states, combined — even though the number of shows that filmed in the state dropped 39 percent. Feature film production, however, saw a significant drop-off, at least in Los Angeles.

Last year ended with a total of 3,406 shoot days for features, which is 19 percent below the pre-COVID average.

FilmLA rep Philip Sokoloski pinned the shoot day decline on features being more vulnerable to runaway production because they need to "take advantage of financial incentives offered by other jurisdictions" and "utilize exotic locations for story reasons to drive international interest."

Elsa Ramo, an attorney who handles production and distribution for companies including Fox, Balboa Productions and Skydance, says the addition and extension of the tax perks are "the least that should be done to give this state a fighting chance of being a potential location to shoot."

Ramo cites the departures of studios, cast and crew from California even before the pandemic as a troubling sign the state's status as the entertainment capital of the nation is slipping. "The trend I've seen in my client base is that it doesn't make sense for them to stay in California when they're shooting outside of California," she says, adding, "the reality is that the tax credits in California are significantly less than other states and counties."

Several states provide more attractive tax perks than California. Georgia, for example, has no annual cap on film and TV tax credits. In the fiscal year ending in September 2021, the state doled out $1.2 billion in such tax breaks, which resulted in productions setting a record $4 billion in direct spending. Louisiana offers a tax credit of up to 40 percent, compared with the 25 percent ceiling on most credits offered by California.

"When I first started at the office in 2004, we had five or six productions that were here," says Chris Stelly, director of Louisiana Entertainment, the state's film office. "Now, we're at 23 productions that are at various stages of development."

Amber Dodson, director of the New Mexico Film Office, notes that her state's success in attracting productions has come at the expense of California. She attributed the flight of productions to New Mexico to its generous tax incentive program, which allows for a maximum credit of 35 percent. "In the past, New Mexico has just been a location. You bring your movie here if you're going to shoot a spaghetti Western," Dodson says. "New Mexico started changing from film location to production hub."

"It's nearly impossible to finance a film without taking into account tax credits," says Vanessa Roman, a partner at Akin Gump who regularly represents distributors and studios. "Productions are willing to travel to fill in that spot in their budgets."

But critics of financial incentives for the film and TV industry argue that the current landscape of states vying to host productions through increasingly generous tax breaks encourages a race to the bottom with little return on investment. Schuyler Moore, a partner at Greenberg Glusker who works in film financing, says California is "just giving away money to studios" that would have filmed in the state anyway. In an evaluation of an earlier version of California's film and TV tax credit program, the Legislative Analyst's Office estimated that one-third of projects granted subsidies would likely have been shot in California regardless. "We found that the costs exceeded the benefits," read the 2019 report. "While the credit probably caused some film and television projects to be made here, many other similar projects also were made here without receiving any financial incentive."

Still, a boost to the tax incentive program is considered by those in the industry as the best way to stem runaway production — $150 million of the new funds are earmarked for new soundstage construction intended to allow more projects to be filmed in California. "There are many states and nations that are trying to lure productions to their destinations," Bell says. "The expansion of the program was necessary."

California's Biggest Production Rivals in U.S
While the Golden State caps its tax credit at $660 million and offers an incentive of 20 to 25 percent of expenses, a few other states offer generous terms as well.

GEORGIA
Annual cap: None
Incentive: 20% to 30%
Minimum: $500,000
In 2021, the state handed out $1.2 billion in film and TV tax credits, far more than any other state. It's become a premier filming destination with a lucrative 30 percent tax credit, hosting several big-budget movies like *Creed III* and *Black Panther: Wakanda Forever*.

NEW YORK
Annual cap: $420 million
Incentive: 25% to 35%
Minimum: $1 million
The state's film and TV tax incentive program offers a 25 percent credit for qualified production (for shows like *Gossip Girl* and movies like *John Wick 4*) and postproduction costs incurred in-state, with additional credits of up to 10 percent on labor costs in dozens of counties. Like in California, the program is more stringent than some other states because it excludes pay for actors.

LOUISIANA
Annual cap: $180 million
Incentive: 25% to 40%
Minimum: $300,000
The state has experienced film crews, plentiful soundstages and diverse filming locations, but its main attraction as a shooting destination — including for the upcoming *Jurassic World: Dominion* — is its tax credit of up to 40 percent, which is partially refundable and also covers lucrative salaries for actors.

NEW MEXICO
Annual cap: $130 million
Incentive: 25% to 35%
Minimum: None
New Mexico in 2021 saw a record $624 million in direct spending by film and TV productions, like *Better Call Saul*. With a maximum refundable tax credit of 35 percent, it offers one of the most generous tax breaks in the nation. Netflix and NBCUniversal have both recently built production studios in New Mexico, committing $2 billion and $500 million, respectively, to produce content in the state.