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STATE FILM SUBSIDIES: NOT MUCH BANG FOR TOO MANY BUCKS

by Robert Tannenwald

Like a Hollywood fantasy, claims that tax subsidies for film and TV productions — which nearly every state has adopted in recent years — are cost-effective tools of job and income creation are more fiction than fact. In the harsh light of reality, film subsidies offer little bang for the buck.

- **State film subsidies are costly to states and generous to movie producers.** Today, 43 states offer them, compared to only a handful in 2002. Over the course of state fiscal year 2010 (FY2010), states committed about $1.5 billion to subsidizing film and TV production (see Appendix Table 1) — money that they otherwise could have spent on public services like education, health care, public safety, and infrastructure.

  The median state gives producers a subsidy worth 25 cents for every dollar of subsidized production expense. The most lucrative tax subsidies are Alaska's and Michigan's, 44 cents and 42 cents on the dollar, respectively. Moreover, special rules allow film companies to claim a very large credit even if they lose money— as many do.

- **Subsidies reward companies for production that they might have done anyway.** Some makers of movie and TV shows have close, long-standing relationships with particular states. Had those states not introduced or expanded film subsidies, most such producers would have continued to work in the state anyway. But there is no practical way for a state to limit subsidies only to productions that otherwise would not have happened.

- **The best jobs go to non-residents.** The work force at most sites outside of Los Angeles and New York City lacks the specialized skills producers need to shoot a film. Consequently, producers import scarce, highly paid talent from other states. Jobs for in-state residents tend to be spotty, part-time, and relatively low-paying work — hair dressing, security, carpentry, sanitation, moving, storage, and catering — that is unlikely to build the foundations of strong economic development in the long term.

- **Subsidies don't pay for themselves.** The revenue generated by economic activity induced by film subsidies falls far short of the subsidies' direct costs to the state. To balance its budget, the state must therefore cut spending or raise revenues elsewhere, dampening the subsidies' positive economic impact.

- **No state can "win" the film subsidy war.** Film subsidies are sometimes described as an "investment" that will pay off by creating a long-lasting industry. This strategy is dubious at best. Even Louisiana and New Mexico — the two states most often cited as exemplars of successful industry-building strategies — are finding it hard to hold on to the production that they have lured. The film industry is inherently risky and therefore dependent on subsidies. Consequently, the competition from other states is fierce, which suggests that states might better spend their money in other ways.

- **Supporters of subsidies rely on flawed studies.** The film industry and some state film offices have undertaken or commissioned biased studies concluding that film subsidies are highly cost-effective drivers of economic activity. The most careful, objective studies find just the opposite.

Given these problems, states would be better served by eliminating, or at least shrinking, film subsidies and using the freed-up revenue to maintain vital public services and pursue more cost-effective development strategies, such as investment in education, job training, and infrastructure. Effective public support of economic development may not be glamorous. However, at its best, it creates lasting benefits for residents from all walks of life.

State governments cannot afford to fritter away scarce public funds on film subsidies, or, for that matter, any other wasteful tax break. On the contrary, policymakers should broaden the base of their taxes to create a fairer and more neutral tax system.

Film Subsidies Are Costly and Have Spread Rapidly

Film tax credits have become one of the most widespread ways that states subsidize private industry. Forty-three states offer tax subsidies to producers that shoot films within their borders.[1] Most of these subsidies take the form of credits against business taxes, especially taxes on corporate profits.

In the 2010 state fiscal year, states spent about $1.5 billion on film tax subsidies (Appendix Table 1). In 2009, that money would have paid for the salaries of 23,500 middle school teachers, 26,600 firefighters, and 22,800 police patrol officers.[2] In some states, such as Connecticut, Louisiana,

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[1] These are subsidies that offset corporate or individual income taxes that producers would otherwise have to pay. The seven states without such film subsidies are Delaware, Nebraska, Nevada, New Hampshire, North Dakota, South Dakota, and Vermont. Kansas', Iowa's, and New Jersey's film tax credits have been suspended; they could be reinstated in the future. In August of this year, Iowa permitted taxpayers to claim film tax credits earned before the credit had been suspended. See http://www.njfilm.org/incentives.htm; Rod Boshart, "Film tax credits resume in Iowa," *Lee-Gazette Des Moines Bureau*, August 27, 2010, http://wcfcourier.com/news/local/govt-and-politics/article_f7621b60-b228-11df-b9ea-001cc4c002e0.html; "Entertainment, Media and Communications Tax Newsletter," PricewaterhouseCoopers, March 2010, http://www.publications.pwc.com/DisplayFile.aspx?Attachmentid=3166&Mailinstanceid=15588. Some other states offer film producers less lucrative subsidies, consisting of exemptions from sales taxes and/or taxes on lodging.

[2] Based on salaries reported in the U.S. Bureau of Labor Statistics' *May 2009 National Occupational Employment and Wage Estimates*, http://www.bls.gov/oes/current/oes_nat.htm#33-0000. The mean annual salary for each of these occupations was divided into $1.26 billion, which is 84 percent of $1.5 billion, on the assumption that states offering film

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SPECIAL REPORT

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Movie Production Incentives: Blockbuster Support for Lackluster Policy

By
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Introduction

In the last decade, state governments have "gone Hollywood," or tried to, by enacting dozens of movie production incentives (MPIs), including tax credits for film production. Hollywood might be expected to wield influence in the California state legislature, but it is more surprising to see movie and TV executives throwing their weight around in Louisiana, Massachusetts, Michigan, New Mexico, and South Carolina. All these states and most others have enacted MPIs. Those who were quickest and most generous have landed productions. Other states are left empty-handed despite having offered embarrassingly generous tax abatements to attract filmmakers.

Based on fanciful estimates of economic activity and tax revenue, states are investing in movie production projects with small returns and taking unnecessary risks with taxpayer dollars. In return, they attract mostly temporary jobs that are often transplanted from other states. States claim to boost job training

Key Findings

- *Forty-four states now offer significant movie production incentives (MPIs), up from five states in 2002, and twenty-eight states offer film tax credits.*
- *In the face of state budget pressures and preposterously generous incentives in Louisiana and Michigan, states may curtail or even terminate their MPI programs. Kansas and Iowa have suspended theirs, Kansas for two years to save revenue and Iowa briefly to investigate corruption.*
- *MPIs have often escaped routine oversight about benefits, costs and activities.*
- *Spurious research is common in campaigns for film tax credits, often featuring dramatic job creation claims. A recent study concluded that Pennsylvania's film tax credit produces net benefits of $4.5 million by assuming that any business interacting with the film industry would not exist but for the credit. MPIs create mostly temporary positions with limited options for upward mobility.*
- *The MPI experience demonstrates that a politically connected industry can grow if the state greatly reduces its taxes, but states should have a tax system that operates as a welcome mat to all industries, not just those politicians have picked.*

William Luther wrote this study while a summer researcher at the Tax Foundation. He would like to acknowledge the assistance of Tax Foundation Tax Counsel Joseph Henchman, Frank Hefner for suggested references during the research stage, and the Institute for Humane Studies.

with MPIs, but these tax incentives often encourage individuals to gain skills that are only employable as long as politicians enact ever-larger subsidies for the film industry. Furthermore, the competition among states transfers a large portion of potential gains to the movie industry, not to local businesses or state coffers. It is unlikely that movie production incentives generate wealth in the long run. Most fail even in the short run. Yet they remain popular.

Florida Governor Charlie Crist (R), Michigan Governor Jennifer Granholm (D), New Mexico Governor Bill Richardson (D), Oregon Governor Ted Kulongoski (D), Ohio Governor Ted Strickland (D), and Texas Governor Rick Perry (R) in particular have strongly pushed for MPIs to encourage film production in their states. In California, a state that avoided offering credits until very recently, Governor Arnold Schwarzenegger hopes that they will lure back productions now moving to other states. In the rare case when the executive branch rejects the use of MPIs, as Indiana Governor Mitch Daniels (R) did in 2008, or strongly questions them as Iowa Governor Chet Culver (D) and Rhode Island Governor Don Carcieri (R) have done recently, their concerns are overridden with resounding support from the state legislature and incentive beneficiaries.[1]

Politicians are not alone. While the occasional letter to the editor warns otherwise, most citizens view state-funded film production in a positive light, a win-win for everyone. This report describes the various incentives that states have enacted, explains their undeserved popularity, and makes an argument for their immediate discontinuance.

How State Legislatures Try to Lure the Big Stars

Louisiana was the first state to adopt an MPI. In 1992, it enacted a tax credit for "investment losses in films with substantial Louisiana content."[2] By 2009, 44 states, the District of Columbia, and Puerto Rico offer movie production incentives. (See Maps 1 and 2.) Every state has at least a government film office dedicated to helping productions navigate red tape, many with snazzy websites and elaborate presentations.

Of the six states without movie production incentives, three lack at least one of the major taxes that the credits would be taken against: Nevada does not tax corporate or individual income, Delaware levies no sales tax, and New Hampshire has no tax on wages or general sales. Among the other three states with no MPIs—Nebraska, North Dakota, and Vermont—legislation has been considered to implement credits. Nebraska's LB 282, introduced in January 2009 for instance, would provide tax credits of up to 25 percent of qualifying expenditures. Alabama, Arkansas, California, Ohio, and Texas enacted film tax credit or rebate legislation for the first time in 2009.

Not all the legislative action during the next few years will be in states with no MPIs. States with MPIs are in a heated competition to match other states' increasingly generous incentive packages, and in some states, existing incentives are set to expire. Given that so many states are considering (or reconsidering) movie production incentives, it is important for legislators and taxpayers to know the different types of incentives, their relative strengths and weaknesses, and which states have adopted various versions of this counterproductive tax policy. (See Table 1 for a listing.)

Tax Credits

Twenty-eight states offer movie production incentives in the form of a tax credit that removes a portion of the companies' income tax. To qualify for a tax credit, a production company typically has to spend a certain amount of money in the state, employ a minimum number of local workers, or invest in local infrastructure. The value of the tax credit they get is often a percentage of those local expenditures, local wages or local investments.

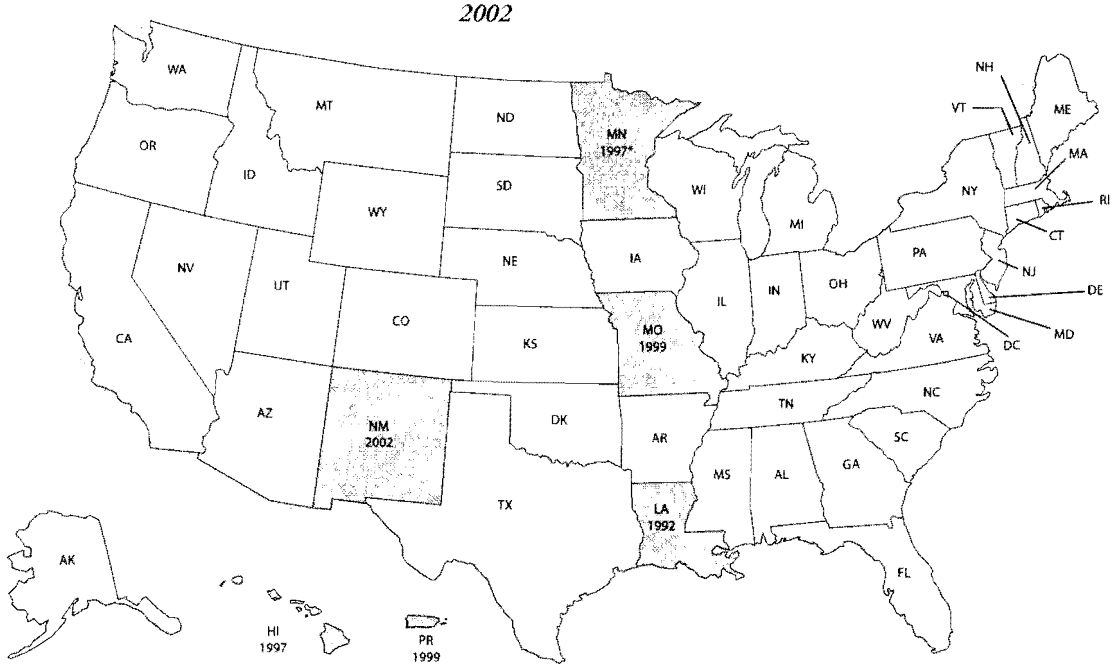
1 Schneider, Mary Beth. "House votes to override veto of tax-incentive bill for films." *Indianapolis Star*, January 9, 2008; Crumb, Michael J. "Iowa AG: State lifting film tax credit suspension." *Associated Press*, November 25, 2009; Gregg, Katherine. "State tax officials want to limit film tax credits." *Providence Journal*, March 11, 2008.

2 Louisiana Act 894 (H.B. 252) (1992).

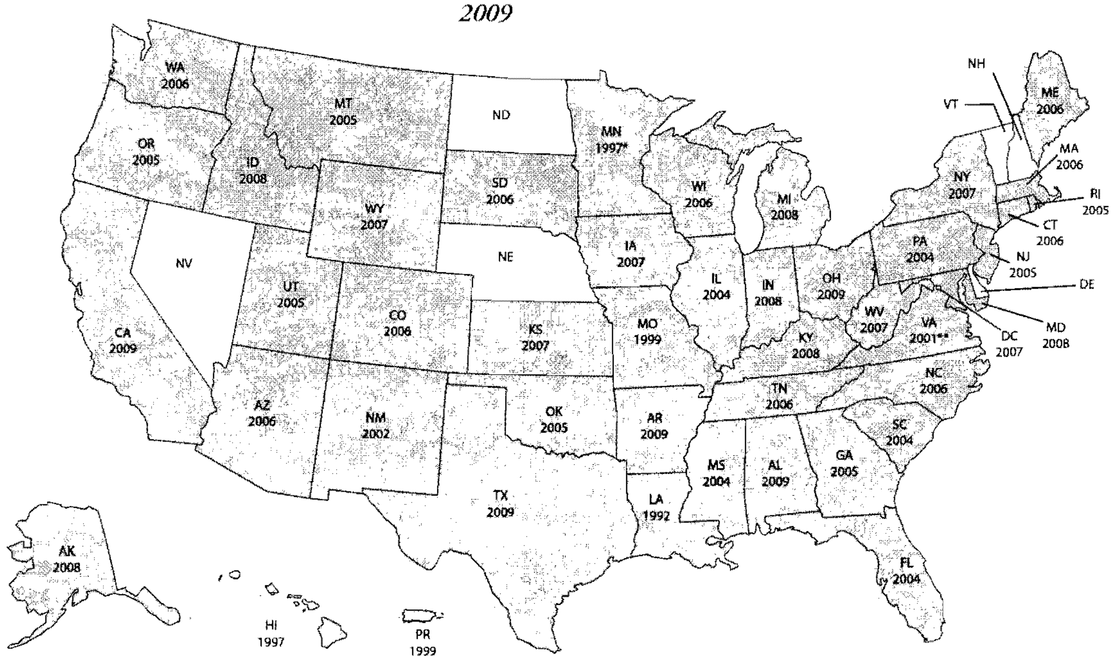
Figure 1

The Spread of State Tax Credits, Cash Rebates or Grants for Movie Production Between 2002 and 2009

2002



2009



* Minnesota's cash rebate program was repealed in 2002 but re-enacted in 2006.

** Virginia's film grant program was established in 2001 but not funded regularly until 2006.

Source: Tax Foundation

Table 1

States Offering Movie Production Incentives by Type as of December 2009

	MPIs	Tax Credit	Cash Rebate	Grant	Sales Tax Exemption	Lodging Exemption	Fee-Free Locations
Alabama	X	X			X	X	
Alaska	X	X			[No Tax]		
Arizona	X	X			X		
Arkansas	X		X				
California	X	X			X	X	X
Colorado	X		X			X	
Connecticut	X	X			X	X	
Delaware					[No Tax]		
Florida	X		X		X		
Georgia	X	X			X		
Hawaii	X	X					
Idaho	X		X		X	X	
Illinois	X	X				X	
Indiana	X	X				X	
Iowa *	X	X				X	X
Kansas	X	X				X	
Kentucky	X	X			X	X	
Louisiana	X	X					
Maine**	X		X		X	X	X
Maryland	X		X		X		
Massachusetts	X	X			X		
Michigan	X	X	X			X	
Minnesota	X		X		X	X	
Mississippi	X		X		X		
Missouri	X	X					
Montana	X	X			[No Tax]	X	
Nebraska						X	
Nevada		[No Tax]				X	
New Hampshire		[No Tax]			[No Tax]		
New Jersey	X	X			X	X	
New Mexico	X	X			X	X	
New York	X	X			X		
North Carolina	X	X			X	X	
North Dakota						X	
Ohio	X	X				X	
Oklahoma	X		X		X		
Oregon	X		X		[No Tax]	X	
Pennsylvania	X	X				X	X
Rhode Island	X	X					
South Carolina	X		X		X	X	X
South Dakota	X	[No Tax]	X		X	X	
Tennessee	X	X		X	X	X	
Texas	X	[No Tax]	X	X	X	X	
Utah	X	X	X		X	X	
Vermont					X	X	
Virginia	X			X	X	X	
Washington	X	[No Tax]	X		X	X	
West Virginia	X	X			X	X	X
Wisconsin	X	X			X		
Wyoming	X	[No Tax]	X			X	
District of Columbia	X			X			
Puerto Rico	X	X				X	X
TOTAL States	44	28	17	3	28	33	6

*As of November 24, 2009, Iowa has suspended new registration for incentives pending a criminal investigation into the handling of past film tax credits.
**Maine's wage rebate is effectively a cash rebate and is considered as such in this table.
Source: Tax Foundation, Entertainment Partners

SB 23-FILM PRODUCTION TAX CREDIT/AUDITS

The Documents; Center on Budget and Policy Priorities and the Tax Foundation Special Report can be found in their entirety posted on BASIS by clicking on the Documents Box under the bill page.

Sunday, January 09, 2011

State Film Subsidy Program Needs Careful Investigation

By Rep. Dennis Kintigh
Republican, Roswell

At this time New Mexico remains stuck in recession and the state is facing extremely hard decisions about the upcoming budget. Everything must be intensely examined, including the film subsidy. In the debate about the film subsidy many claims are thrown around about the supposed economic benefit.

After two years of falling revenue the state of New Mexico is still facing a $400 million shortfall in the budget. We have cut take-home pay for teachers, squandered our reserves, postponed needed repairs to our roads and highways, and we have even raised gross receipt taxes on all purchases.

Meanwhile, the film subsidy remains untouched and has cost New Mexico taxpayers over $135 million in the past two years.

The New Mexico film subsidy pays film makers $25 for every $100 they spend. An independent analysis by New Mexico State University shows the state recovers less than 15 cents for every taxpayer dollar given away. Supporters of the subsidy point to a competing study by the accounting firm Ernst & Young that purportedly shows the subsidy program produces $1.50 in revenue for the public treasury for every $1 paid out by the taxpayers.

Interestingly, on Dec. 20 the Wall Street Journal carried a news report that the New York state attorney general is planning a lawsuit against Ernst & Young for lying about the condition of a Wall Street financial firm that later collapsed.

This is not the first time Ernst & Young has been accused of falsifying data.

In 2008, the New Mexico Film Office and the New Mexico State Investment Council jointly contracted with Ernst & Young for an evaluation of the New

Mexico film program. The SIC is responsible for protecting and growing the state's Permanent Fund.

At the very same time the SIC contracted with Ernst & Young to "study" the film industry, SIC was suing Ernst & Young for lying in a different matter. SIC was part of a class action lawsuit filed in federal court in the Northern District of Alabama. Ernst & Young was accused of falsifying reports to inflate the value of Healthsouth stock to deceive institutional investors.

Ernst & Young denies any wrongdoing, but in June 2009 agreed to pay the plaintiffs $109 million.

In another matter, on Oct. 26 the auditor for the state of Iowa released a 277-page report detailing his examination of that state's film subsidy program. The Iowa program is very similar to what we have here in New Mexico.

The Iowa auditor found that 80 percent of the money paid out was done inappropriately.

Among the items discovered by the auditor was the use of "shell companies" by out-of-state filmmakers. This was done to make payments appear to be going to Iowa companies.

Additionally Iowa discovered many film makers submitting inflated deferred payment invoices. In this scheme two different salaries are set for workers. The higher payment only applies if the film sells for a very high price, which rarely, if ever, happens. However, the higher salary, not the one actually paid, is the one submitted to the state for a 25 percent tax credit.

In New Mexico, these invoices are considered taxpayer records and cannot be examined even by a member of the Legislature.

The previous administration assures us that all was just fine. Somehow I find it difficult to believe an industry so corrupt in Iowa is "pure as the driven snow" here in New Mexico.

These are just a few of the facts about this incredibly expensive program that need to be examined.

More and more states have reviewed these subsidies and have concluded they are not good use of the taxpayers' money.

Kansas has suspended its program. Iowa and New Jersey have also suspended theirs. Rhode Island has imposed a cap, and Arizona has let the program expire.

As legislators we are facing difficult and demanding decisions about how to serve the citizens of this state. There have been suggestions we close some college campuses and raid the Permanent Fund. We need to look at the actual facts and not be controlled by the political posturing of Hollywood special interests.

We cannot ask taxpayers of New Mexico to sacrifice more and more to subsidize one privileged industry no matter how glamorous.

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abc NEWS

Albuquerque Studios Files Bankruptcy Documents

Albuquerque film studio says in bankruptcy documents it owes nearly $105 million

ALBUQUERQUE, N.M. July 22, 2010 (AP)

More than 30 New Mexico businesses and some prominent Hollywood companies are owed tens of thousands of dollars by Albuquerque Studios, according to Chapter 11 bankruptcy documents filed this week by the studios' owners.

According to a copyright story Thursday in the Albuquerque Journal, the company claims debts of nearly $105 million on the studios, which cost about $90 million to build.

The debts range from $16 owed to a sign-design company to $30,000 for a catering company. It owes Bernalillo County more than $300,000 and the state more than $11,000. From Hollywood, DreamWorks SKG is owed $75,000.

Pacifica Mesa, which owns and operates Albuquerque Studios, filed for the business reorganization Tuesday in Los Angeles, days before a scheduled foreclosure auction Friday in Albuquerque.

"This is a combination of the recessionary time that we are in and a construction loan that came due," Pacifica Mesa CEO Hal Katersky said. "It's very difficult to find permanent financing in this economy."

Films have not flocked to Albuquerque Studios recently, as they did a few years ago when "Terminator Salvation," "The Spirit" and "Book of Eli" were shot there. The complex has 168,000 square feet of studios on Albuquerque's southern boundary.

Katersky said business will continue with no interruptions. A remake of the 1980s horror movie "Fright Night" is filming now, and Katersky said the company is hoping to see more films move into the empty studios soon.

Chapter 11 bankruptcy protection allows the company to operate as usual but freezes collection attempts while a firm figures a way out of debt.

The largest debts are Pacifica Mesa's two loans on the property: an $80 million loan by Amalgamated Bank of New York and a second for more than $23 million from Workers Realty Trust.

Albuquerque attorney Louis Puccini Jr., who represents Workers Realty, said with penalties and interest, Pacifica owes nearly $24 million.

Katersky said Pacifica is seeking additional financing from Almagamated Bank.

"We're working very closely with Almagamated," Katersky said. "Workers (Realty) has not collaborated with this process. If they had, we wouldn't have had to do the filings."

Eric Witt, the governor's director of Media Arts and Industries, said it's important that Albuquerque Studios doesn't interrupt its production schedule.

"That's our main concern," he said. "Obviously, we hope they get their finances in order right away."

Information from: Albuquerque Journal, http://www.abqjournal.com

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Jan, 21, 2011

Misconduct probe batters Iowa film-subsidy program

By RICHARD VERRIER / Los Angeles Times

Call it Iowa's field of nightmares.

The state famously depicted in Kevin Costner's 1989 baseball classic "Field of Dreams" has become mired in an ever-widening scandal over alleged abuses of its film tax credit program.

Last week, Iowa prosecutors bolstered their criminal case against Tom Wheeler, the state's former film chief, charging him with various felonies, including official misconduct over his handling of state film tax credits.

The corruption scandal, the largest of its kind in the country, is drawing nationwide attention as a prime example of how some state tax credit programs - especially those that lack financial controls - are vulnerable to abuse.

It comes as several cash-strapped states are scaling back their film incentive programs, which have been instrumental in luring production away from California.

New Mexico's newly elected Republican governor, Susana Martinez, has called for slashing the state's tax credit as much as 40 percent, citing the state's budget priorities. Nick Paleologos, head of the Massachusetts Film Office, resigned last month in a cost-cutting move. Wisconsin stripped most of the funding for its film program in 2009 after a report by a state agency raised questions about money the state paid for "Public Enemies," the Universal Pictures gangster movie starring Johnny Depp.

"If you don't have the checks and balances, film programs can get in trouble, and that's what happened in Iowa," said Peter Dekom, an entertainment industry attorney who helped craft New Mexico's program.

Wheeler was among six officials in Iowa fired or forced to quit over allegations they mismanaged the film tax credit program, which was suspended in 2009. Wheeler was arraigned Tuesday and pleaded not guilty to the charges.

In addition, state prosecutors have charged five independent filmmakers and a tax credit broker with fraudulently obtaining state tax credits.

Two have pleaded guilty to felony theft and are cooperating with authorities in the case against a former partner, producer Wendy Weiner Runge, whose criminal trial is expected to begin next month.

The Iowa debacle goes well beyond that of a bribery scandal in Louisiana in which a former top film office official was given a two-year prison sentence in 2009 for steering tax credits to a local producer.

Iowa rapidly expanded its film credit program in 2007, developing one of the most aggressive tax incentives in the country, one that was touted by the local film office as "half-priced" filmmaking. Producers of more than 150 projects applied for funding.

But former Iowa Gov. Chet Culver suspended the film program in 2009 after an audit found irregularities, including filmmakers using tax credit funds to purchase a Land Rover and other luxury vehicles for themselves.

The criminal charges followed a special audit the state conducted in October of 22 films that were awarded tax credits before the program was suspended. The audit found that $26 million of nearly $32 million in tax credits were awarded improperly, either because the productions did not qualify or producers did not submit required documentation.

Much of the audit focused on Wheeler, who was fired in September 2009, saying he "did not verify expenditures or ensure the expenditures claimed by the production companies met the requirements of the Code of Iowa."

Wheeler, charged with seven counts last week, has denied any wrongdoing. "I haven't seen any evidence to support these charges," said Iowa attorney Angela Campbell, who is representing Wheeler, in an interview.

The audit said the film office allowed filmmakers to rely on estimates of production costs, rather than actual expenses, and to count out-of-state salaries toward the tax credits.

The investigation also said producers set up shell companies with local addresses that actually purchased goods and services from out of state.

Among the examples cited in the report: Cornfield Productions, producers of the mystery movie "Peacock," starring Ellen Page and Susan Sarandon, received $3.2 million in tax credits for a film that had a $9.5 million budget. The audit found that about $4.6 million in expenditures from the 2010 release should not have qualified.

A producer of a Public Broadcasting Service horse training series applied $2.18 million in expenditures that were paid to companies outside of Iowa, the audit said.

In another example, auditors said producers of a science fiction movie called "The Scientist" provided no proof of payment for nearly $500,000 in expenses. The state attorney general has sued the producers for damages, including Runge, who faces various theft and fraud charges over tax credits.

"We're trying to secure assets that we believe were wrongfully obtained," said Iowa Deputy Attorney General Jeffrey Thompson.

Runge's attorney, Matthew Whitaker of Des Moines, said the state is blaming filmmakers for the mismanagement of its film office.

"We maintain she did nothing wrong and was acting according to the guidelines," Whitaker said. "Everything she did was approved by the film commissioner."