O L A
OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

EVALUATION REPORT

Minnesota Film and TV Board

APRIL 2015

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OLA
OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA • James Nobles, Legislative Auditor

April 2015

Members of the Legislative Audit Commission:

The State of Minnesota has provided financial support to the Minnesota Film and TV Board since 1983. The board is a private, nonprofit organization that provides information and other assistance to people interested in making film and TV productions in the state. The board also administers the state's film production jobs program, otherwise known as "Snowbate."

Our report assessed how well the board has administered its state operations grants and the film production jobs program. However, the Legislature's objectives in funding the board and the program are unclear. As a result, it is difficult to hold the board accountable for the public money it receives from the state. We recommend the Legislature clarify its expectations for the operations grants and the film production jobs program.

In addition, the board has created eligibility criteria for the film production jobs program that may be limiting the program's job creation potential. The level and consistency of state funding are likely contributing factors, too.

Our evaluation was conducted by Carrie Meyerhoff (evaluation manager) and Catherine Reed. The Minnesota Film and TV Board cooperated fully with our evaluation.

Sincerely,

Jim Nobles

James Nobles
Legislative Auditor

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Summary

The Legislature needs to clearly articulate its expectations for the state's film production jobs program, fund the program accordingly, and hold the Minnesota Film and TV Board accountable for meeting the Legislature's expectations.

Key Facts and Findings:

- The Minnesota Film and TV Board is a private, nonprofit corporation that receives state funds for its operations and to administer the film production jobs program. The Department of Employment and Economic Development (DEED) oversees state funding to the board. (pp. 5, 8-9)
- The Legislature has not been clear about its expectations of the board or the film production jobs program, making state oversight challenging. (pp. 21-22, 58-59)
- The 2015 appropriation for the film production jobs program—$5 million—was similar to funding in a sample of states, although it was still below funding in most states with film incentives. (pp. 38-39, 70)
- Thirty productions approved for Minnesota incentives in fiscal year 2014 received almost $1.2 million and spent over $5.5 million in the state. (pp. 46, 50)
- These productions provided work for an estimated 496 Minnesotans, most of whom worked ten days or less on assisted projects. (pp. 46-47)
- When Legacy Arts and Cultural Heritage funds supported the film production jobs program, the board stayed within its approved budget but exceeded the administrative expenses allowed by the law that governs the program. (pp. 18-19)
- Most of the productions that the board approved for rebates between July 2013 and December 2014 were television commercials, postproduction-only projects, or low-budget films. (p. 49)
- The Minnesota Film and TV Board staff thoroughly review productions' expenditures before forwarding them to DEED for reimbursement. (pp. 18, 27)
- The board has created eligibility criteria for the film production jobs program that may limit job creation, and two criteria were not clearly permitted by law. (pp. 24, 48)

Key Recommendations:

- In statutes or appropriation laws, the Legislature should write clear expectations for operations grants to the Minnesota Film and TV Board and for the state's film production jobs program. (pp. 57-59)
- The Legislature should fund the film production jobs program at a level consistent with its expectations, and the board should administer the program consistent with those expectations. (pp. 58-59)
- The Minnesota Film and TV Board and DEED should develop grant agreements that include clear board duties and measurable goals. (p. 57)
- The board should report completely and accurately on its activities and achievements related to state grant funds. (p. 60)

Report Summary

The Minnesota Film and TV Board is a private, nonprofit corporation. Acting as the state's film commission, its purpose is to support and facilitate the film and television industry and production in the state. For example, the board helps producers find Minnesota acting talent and crew members who work in the industry. It also helps producers identify filming locations and obtain permits to film in specific locations.

The state began funding board operations in the fall of 1983. For the past several years, the Legislature has granted $325,000 per year for board operations. The board must match $1 from nonstate sources—either in cash or in kind—for every $3 of state funding.

The board also administers the state's film production jobs program. The program is intended to support productions that create new jobs for Minnesotans who work in the film and television industry.

The film production jobs program provides a rebate to film productions that meet eligibility criteria. The rebate equals 20 or 25 percent of production-related expenses. Certain expenses, such as alcohol and tobacco, are not eligible for rebate. Minnesotans' wages and some nonresident wages are eligible.

The Legislature has provided inconsistent funding for the film production jobs program. The Legislature appropriated $10 million for the program for the 2014-2015 biennium. This funding level exceeded all previous funding for the program combined. The fiscal year 2015 appropriation of $5 million was similar to funding for a sample of other states' programs, but was below funding in most other states with film incentive programs.

Currently, the Department of Employment and Economic Development (DEED) provides oversight for state grants to the board. Since fiscal year 2010, Explore Minnesota Tourism and the Department of Administration have provided oversight at different times.

The Legislature and state grant agreements have not been clear about expectations for board operations grants or the film production jobs program.

State grants to the board are legislatively mandated. That is, the Legislature has named the board to receive or administer the grant funds. Ideally, grantee duties in agreements for legislatively mandated grants are based in part on legislation. Appropriation language for the operations grant has stated only that the grant is for the board.

When the Legislature is not clear about its expectations, the state oversight agency may be unable to judge whether the board's proposed activities are consistent with legislative expectations. The fiscal year 2010 through 2013 operations grant agreements between the state and the board specified grantee duties by incorporating the board's annual work plans. The work plans did not identify which items were board duties under the state grant agreement.

The board's current operations grant agreement with DEED includes fewer but more concrete duties. The agreement lists six finite duties. They include, for example, (1) launch Snowbate, (2) increase the listings in

the Minnesota Production Guide, and (3) produce and distribute three to five Minnesota film location and incentive marketing trailers.[1]

Regarding the film production jobs program, the Legislature has left many program details to the Minnesota Film and TV Board. For example, the board approves program eligibility criteria developed by its Snowbate Operations Committee.

The board's eligibility criteria for the film production jobs program may be limiting the program's ability to realize some film-production benefits, but state funding of the program is likely a contributing factor too.

States offer film incentives to obtain a range of benefits attributed to incentives, including (1) job creation, (2) spending "on Main Street," (3) other production-related spending, (4) tourism, and (5) tax revenue. Different types of projects will yield more or less of each benefit.

The board has set low minimum spending requirements for productions. Television commercials, postproduction-only projects, and low-budget films accounted for most projects that the board approved for incentive funds in fiscal year 2014. Several people we spoke to said that low-budget films do not create jobs that pay well. Postproduction-only projects include little spending "on Main Street" beyond the postproduction businesses themselves. And we question the ability of any of these types of projects to induce significant tourism in the state.

The Legislature's funding of the program may also be affecting the ability of the state to attract larger-budget films or television series.

We question whether two eligibility criteria the board developed are consistent with the state law that governs the film production jobs program.

The film production jobs program has a standard reimbursement rate, but state law specifies that productions can receive a higher rate if they meet criteria related to higher spending or filming outside the Twin Cities metropolitan area.

When the Legacy Arts and Cultural Heritage fund supported the film production jobs program in fiscal years 2012 and 2013, the board approved criteria that allowed reimbursement at the higher rate for productions in which three of the top five highest paid positions were held by Minnesotans. All productions that received a rebate during this time qualified for the higher rate based on this criterion.[2]

Currently, board criteria allow the higher reimbursement rate when a postproduction-only project spends at least $200,000 in Minnesota. According to state law, the minimum spending needed to receive the higher reimbursement is $1 million unless the production occurs outside the Twin Cities metropolitan area.

Minnesota Film and TV Board staff appear to submit accurate requests for operating funds to the state and thoroughly review expense reports

[1] "Snowbate" is the name the Minnesota Film and TV Board has given the state's film production jobs program.

[2] At that time, the standard rate was 15 percent and the higher reimbursement rate was 20 percent.

submitted by productions approved for film production jobs rebates.

State oversight of the Minnesota Film and TV Board has focused on financial issues. State agencies have, for example, verified that the board meets the private-match requirement, that the board's expenditures are consistent with grantee duties and the law, and that the board has sufficiently reviewed reimbursement requests submitted by production companies to receive incentive funds.

Agency staff found few problems during their reviews. DEED staff indicated that the board's documents were consistent and accurate and that they have found only minor errors. The staff person from Explore Minnesota Tourism commented that the board's incentives specialist and financial administrators showed attention to detail. The staff person at the Department of Administration who oversaw the grant said he found only minor issues during his oversight of the board's grant.

In our review of productions' files, we saw evidence that the incentives specialist completed detailed reviews of expenditure reports. Files contained correspondence between the board's incentives specialist and production companies questioning and resolving some expenses.

However, we noted a problem with the board's administrative expenses during one grant period.

Board administrative expenses for the film production jobs program under one of the grant agreements exceeded the limit in state law. State law limits the program's administrative expenses to 5 percent of appropriations for the program in any year.

The board's administrative costs for the film production jobs program were between 6 and 13 percent of the Legacy Arts and Cultural Heritage fund appropriation. The Department of Administration retained an additional percentage.[3]

The board stayed within the budget approved by the Department of Administration, but the approved budget exceeded the amount allowed by the law that authorizes the film production jobs program.

The Minnesota Film and TV Board's grant reports have been incomplete, inaccurate, and potentially misleading.

As part of its grantee duties, the board has created annual and sometimes mid-term grant reports. These reports have not fully reflected the scope of the board's work.

In some cases, the board's grant reports have included inaccurate information. These inaccuracies appear to be errors rather than deliberate misreporting. As a case in point, the board's calculations related to full-time-equivalent jobs (FTEs) associated with projects have been imprecise and, at times, inaccurate. For example, the board's reports of FTEs associated with projects assisted by the incentive program include principal performers who do not live in Minnesota. At this time, the impact of including non-Minnesotans in FTE calculations is limited because few projects have employed non-Minnesota principal performers.

[3] The appropriation law permitted the department to retain 1 percent of granted funds for administration. *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 4, subd. 6.

Introduction

Most states have film offices. These offices help producers find filming locations and crew and navigate state and local permitting. State film offices also market their state as an attractive filming location. And dozens of states offer financial incentives to encourage producers to choose their state as the setting for film and television projects.

Since 1983, Minnesota has relied upon the Minnesota Film and TV Board to serve as the state's film office. In addition, the Legislature has chosen the board to administer the state's film production incentive, called the film production jobs program.[1] The program provides a rebate based on production spending to producers who complete eligible projects in whole or in part in the state. The Legislature has funded the board and the incentive program through state grants.

In April 2014, the Legislative Audit Commission directed the Office of the Legislative Auditor to evaluate the work of the Minnesota Film and TV Board. We addressed the following questions:

- **How well has the Minnesota Film and TV Board managed the state grants that fund its operations and the film production jobs program? Do board activities reflect state expectations?**

- **How does Minnesota's film production incentive compare with those in other states? To what extent does the program's design support the benefits states seek by offering incentives?**

- **What is the history of state support for the film industry in Minnesota? To what extent has the support helped or hindered the effectiveness of the board and the film production jobs program?**

To answer these questions, we reviewed grant agreements between the board and the state, focusing on fiscal years 2010 through 2014, and grant reports of board performance. We also spoke with staff from the three agencies that administered the grants during that time period.

We spoke to board staff and members of the Board of Directors, as well as other industry representatives and applicants for film production rebates. These interviews gave us an understanding of the role of state film offices and film incentives. Our interviews included several with film commissioners in other states.

Finally, we reviewed data about productions that the board approved for film production rebates between July 2013 and December 2014. These data, along with a review of studies about incentive programs, allowed us to form some opinions about the effectiveness of Minnesota's program. However, we did not complete a return-on-investment or economic impact analysis of the film production jobs program.

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[1] The board refers to the state's film production jobs program as "Snowbate."

Chapter 1: Background

The Minnesota Film and TV Board is a private, nonprofit corporation that serves as the state's film commission. As a film commission, its purpose is to support and facilitate the film and television industry and production in the state. The board also administers the state's film production jobs program. The program is intended to support productions that create new jobs for Minnesotans who work in the film and television industry.

This chapter provides information about the board's history, structure, activities, and funding. We also provide information about the film offices in a sample of states.

HISTORY

The Minnesota Film and TV Board formed in October 1979 as the Minnesota Motion Picture and Television Development Board. Briefly, before the board's formation, Minnesota had a Governor's Advisory Council on Motion Picture Production. Exhibit 1.1 includes a timeline of key dates in the state's involvement with film and television from the late-1970s to the present.

In February 1983, a Governor's Advisory Commission issued a report on film, video, and graphic arts in the state. The commission's recommendations included state funding for a nonprofit board to facilitate and encourage production in Minnesota. An appendix to the report included letters from two individuals who had been involved with producing films in the state and saw a need for an office that could help filmmakers see how Minnesota could work as a filming location.[1]

The state began funding board operations in the fall of 1983.

The 1983 Legislature appropriated a grant for $60,000 for each of fiscal years 1984 and 1985 to "a nonprofit corporation for the purpose of developing the motion picture and television industries."[2] According to media reports at the time, the grant was awarded to the Minnesota Motion Picture and Television Board, making Minnesota the 49th state to fund a film office. The grant required a dollar-for-dollar match from private sources for the second year of funding.

In the early 1990s, Minnesota was home to the production of several commercially successful films, such as *Grumpy Old Men* and *The Mighty Ducks* trilogy. People with whom we spoke indicated that the state's film industry was strong at the time. However, the exchange rate with Canada made filming there

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[1] Governor's Advisory Commission on Film, Video and Graphic Arts, *Focusing on Minnesota* (Minneapolis, 1983), 7 and Appendix E.

[2] *Laws of Minnesota* 1983, chapter 301, sec. 28.

Exhibit 1.1: Significant Dates in Minnesota's Support of the Film Industry

November 1978	Governor Perpich creates the Governor's Advisory Council on Motion Picture Production within the Department of Economic Development citing the need to coordinate private and public entities that promote Minnesota as a site for film production and the benefits of film production to businesses, tourism, and tax revenue
February 1979	Governor Quie continues the Governor's Council on Motion Picture Production
October 1979	A group of individuals forms the Minnesota Motion Picture and Television Development Board as a private, nonprofit corporation
November 1979	Governor Quie disestablishes the Governor's Council on Motion Picture Production due to efforts in the private sector "designed to carry out the same purposes" as the council
February 1983	The Governor's Advisory Commission on Film, Video and Graphic Arts issues a report that, in part, recommends partial state funding of the Minnesota Motion Picture and Television Board
Fall 1983	The Legislature begins partially funding the Minnesota Motion Picture and Television Board
November 1989	The Minnesota Motion Picture and Television Board changes its name to the Minnesota Film and TV Board
1997	The Legislature creates the film production jobs program, which provides partial reimbursement to film producers for wages paid to Minnesotans working on productions in Minnesota
2006	The Legislature repeals the program it created in 1997 and creates another, expanding the types of projects and production-related costs that are eligible for reimbursement

SOURCES: State of Minnesota Executive Order 184, "Providing for the Establishment of The Governor's Advisory Council on Motion Picture Production," November 22, 1978; State of Minnesota Executive Order 79-5, "Providing for the Establishment of The Governor's Council on Motion Picture Production; Repealing Executive Order No. 184," February 23, 1979; State of Minnesota Executive Order 79-38, "Providing for the Disestablishment of the Governor's Council on Motion Picture Production; Repealing Executive Order No. 79-5," November 29, 1979; Governor's Advisory Commission on Film, Video and Graphic Arts, *Focusing on Minnesota* (Minneapolis, 1983); Minnesota Office of the Secretary of State online business filings, accessed September 2, 2014; and *Laws of Minnesota* 1983, chapter 301, sec. 28; 1997, chapter 200, art. 1, sec. 53; and 2006, chapter 282, art. 11, secs. 9a and 32.

less expensive than filming in the United States. Over time, members of Minnesota's film industry began to see the effects of productions choosing to film in less expensive locations. Thus, the state began offering an incentive for filmmakers to produce films in Minnesota.

In 1997, the state began offering film production incentives that partially reimbursed film producers for wages paid to Minnesotans working on productions in Minnesota.

In 1997, the Legislature created a film production jobs program to be administered by the board.[3] The program provided up to $100,000 per film to film producers whose productions created new film jobs in Minnesota for resident Minnesotans. The Legislature appropriated $500,000 each year of the biennium for the program "to stimulate feature film production in Minnesota."[4] The appropriation law specified that funds could reimburse film producers for 2 to 5 percent of wages paid to Minnesotans. The last appropriations to this

[3] *Laws of Minnesota* 1997, chapter 200, art. 1, sec. 53.

[4] *Laws of Minnesota* 1997, chapter 200, art. 1, sec. 2, subd. 4.

program, for fiscal years 2002 and 2003, allowed for reimbursement of up to 10 percent of wages to Minnesotans working on film or television production.[5]

Minnesota's current film production jobs program reimburses an expanded list of production types and production-related costs, and at a higher rate, than the original program.

The 2006 Legislature repealed the existing film production jobs program and replaced it with a program that more broadly defined "film."[6] Currently, the definition of "film" includes feature films, television shows, documentaries, music videos, and television commercials. Eligible costs include, for example, salaries, set construction, facility and equipment rental, and other costs generally accepted in the industry. The 2013 Legislature added to eligible costs (1) "above-the-line talent" fees for nonresident labor and (2) costs incurred during postproduction.[7] The current film production jobs program reimburses up to 20 or 25 percent of eligible costs.[8]

STRUCTURE

The Minnesota Film and TV Board is a 501(c)(3) organization.[9] It has a volunteer Board of Directors and paid staff. Exhibit 1.2 depicts the board's organization.

The Board of Directors provides leadership, governance, and oversight to the Minnesota Film and TV Board office. Eighteen voting members and one emeritus member comprise the board's fiscal year 2015 membership. Directors include members of media industries as well as other sectors, such as accounting, public relations, and law.

The Board of Directors has five "traditional committees." The Executive Committee is the only committee required by the board's bylaws. It operates with the full authority of the board between board meetings. The committee discusses issues the organization is addressing to help focus discussions and decision-making by the full Board of Directors.

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[5] *Laws of Minnesota* 2001, First Special Session, chapter 4, art. 1, sec. 2, subd. 5. The appropriation provided $500,000 for each of fiscal years 2002 and 2003; the 2002 Legislature reduced the 2003 appropriation by $20,000. *Laws of Minnesota* 2002, chapter 220, art. 12, sec. 2, subd. 5(b).

[6] *Laws of Minnesota* 2006, chapter 282, art. 11, sec. 9a.

[7] *Laws of Minnesota* 2013, chapter 85, art. 3, sec. 16. In Minnesota's program, "above-the-line talent" refers to a production's principal performers. Postproduction is the phase in filmmaking after filming is done. It includes, for example, editing, sound, and special effects.

[8] *Minnesota Statutes* 2014, 116U.26 (c).

[9] The 501(c)(3) classification allows exemption from certain federal income taxes for nonprofit organizations with the following purposes: charitable, religious, educational, scientific, literary, testing for public safety, amateur sports competition, or the prevention of cruelty toward animals or children.

Exhibit 1.2: Minnesota Film and TV Board's Structure, Fiscal Year 2015

Volunteer Board of Directors

5 officers, 13 directors, and 1 emeritus member
Board members represent the film industry (for example, actors, union crew, producers) and other industries such as accounting, law, and public relations.[a]

Traditional Committees[b]

- Executive Committee
- Finance Committee
- Development Committee
- Marketing Committee
- Snowbate Operations Committee

Board Staff

- Executive Director
- Business Manager
- Director of Production
- Incentives Specialist
- Communication Coordinator

[a] The emeritus member does not vote and does not count towards a quorum.

[b] The board also has committees that grew out of a study completed for the board by students seeking a Masters degree from the University of Minnesota's Hubert H. Humphrey School of Public Affairs. For example, the board has an Academic Committee working with the University of Minnesota-Twin Cities on establishing a four-year degree program in film production. The board also has a Legislative Task Force that meets less regularly than committees.

SOURCE: Office of the Legislative Auditor.

The Finance Committee reviews the board's monthly profit and loss reports and apprises the full Board of Directors of the organization's finances. The committee also reviews the board's annual audit, and the committee chair consults with board staff to develop the organization's annual budget. The Development Committee focuses on fundraising for the organization. As we explain below, the state has required the Minnesota Film and TV Board to raise private funds (or in-kind contributions) in order to receive state dollars. The purpose of the Marketing Committee is to increase the board's visibility and financial base and strengthen its political position. Finally, the Snowbate Operations Committee focuses on designing guidelines for the state's film production jobs program to make the program competitive.[10] It also addresses issues or questions that arise in staff's administration of the program.

The Minnesota Film and TV Board has a staff of five, including an executive director, business manager, director of production, incentives specialist, and part-time communications coordinator. Together, they undertake the activities described below.

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[10] "Snowbate" is the name the board uses in reference to the state's film production jobs program.

ACTIVITIES

There are several activities to which the Minnesota Film and TV Board dedicates its time and resources. The organization assists producers in finding, through an online directory, Minnesotans who work in the state's film and television industry. The directory includes talent, crew, and providers of production, postproduction, and ancillary services. For example, the directory contains contacts for hair stylists, animal handlers, and composers, among many others. Board staff are currently working to increase the number of listings for production services and personnel in the guide.

Further, the organization helps producers identify locations in Minnesota that can fulfill a production's needs. The board maintains a database of potential film locations and responds to individual location-related inquiries. The organization's director of production may also conduct scouting visits with producers interested in filming in the state. Board staff are currently working to improve the online location database. Specifically, the organization has been developing short promotional films for locations around the state. For example, board staff recently released films for the city of Duluth and the Mall of America.

The organization may also help productions obtain permits to film in specific locations. For example, board staff may communicate with representatives of the Minneapolis Park and Recreation Board if the production plans to film in a particular city park.

The organization reports that it has also: (1) lobbied the Legislature for increased incentive funds, (2) attended conferences to market Minnesota as a location for productions, (3) hosted events at a local film festival, (4) held town hall meetings for discussions among the local production community, (5) co-sponsored production-related seminars, and (6) conferred with the University of Minnesota-Twin Cities about developing a degree program in filmmaking.

Finally, as indicated above, the board administers the state's film production jobs program. Staff field calls; accept and process applications; instruct production staff in how to properly submit financial paperwork; review receipts and invoices; and request rebates for the productions from the board's oversight agency, the Department of Employment and Economic Development.[11] Between July 2013 and December 9, 2014, the board processed rebate applications for 82 projects. Twelve applications were withdrawn or the projects were ineligible for the program. Productions that did not withdraw comprised 27 television commercials, 19 projects that included only postproduction, and 10 feature films, among others.[12] As of December 2014, 30 of these projects were complete and the board had reviewed the paperwork submitted by the productions to receive

[11] We discuss the board's administration of Minnesota's film incentive program in Chapter 2. We assess the program's design in Chapter 3.

[12] Appendix A includes a list of the 70 projects approved for rebates between July 2013 and December 9, 2014, that did not withdraw.

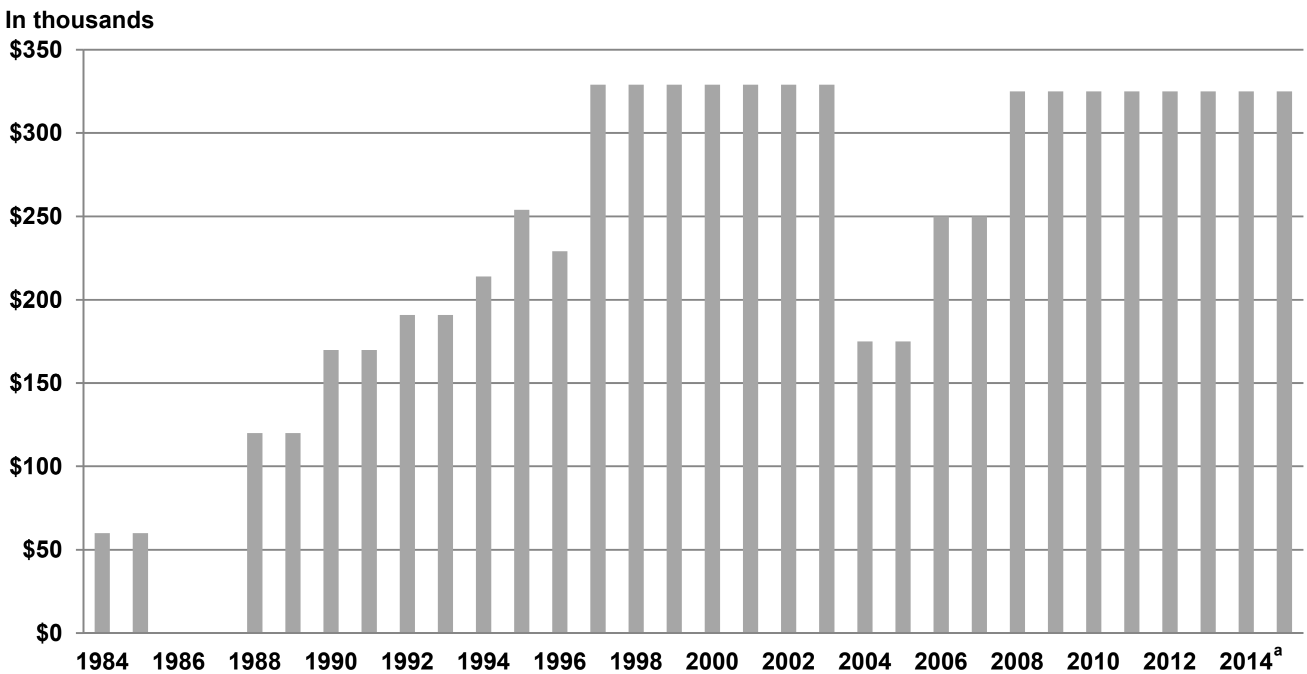
their rebates. The 30 projects received almost $1.2 million in rebates and had spent over $5.5 million for purchases and wages to Minnesotans.

FUNDING

Much of the Minnesota Film and TV Board's funding is provided by the state General Fund. The Legislature typically appropriates two grants that support the board: one for board operations and one for the state's film production jobs program. The Legislature has also appropriated grants to the board from the Legacy Arts and Cultural Heritage fund.[13]

Exhibit 1.3 shows that the Legislature has appropriated grants for board operations for almost every year since 1984. For the past several years, the

Exhibit 1.3: Appropriations for Minnesota Film and TV Board Operations Grants, Fiscal Years 1984-2015



[a] In 2014 and 2015, the Department of Employment and Economic Development retained 5 percent of the appropriation for grant administration.

SOURCE: Office of the Legislative Auditor, review of Minnesota laws and 2010 through 2015 operation grant contracts.

[13] In addition to funding the board, the Legislature has appropriated $12,000 annually to the Upper Minnesota Film Office. This office facilitates filmmaking in the northeast part of the state. The office and the Minnesota Film and TV Board work collaboratively. Currently, the office and the board do not have a formal or financial relationship. At one time, the office was partly funded by the Minnesota Film and TV Board. The office's director has also served on the board's Board of Directors and as the board's interim executive director.

Legislature has provided a grant of $325,000 per year to support board operations. Beginning with fiscal year 1989 funding and continuing to today, the board must match $1 from nonstate sources—either in cash or in kind—for every $3 of state funding. The Department of Employment and Economic Development, the current oversight agency for the state grants, retained 5 percent of the appropriation amount for grant administration, resulting in $308,750 available to the board each year of the 2014-2015 biennium.[14]

The Legislature has provided inconsistent funding for the state's film production jobs program. Exhibit 1.4 shows that the program has not been funded in some years. The 2013 Legislature appropriated $5 million for each year of the 2014-2015 biennium for the program.[15] This funding level exceeded all previous funding for the program combined. The section of statutes that authorizes the film production jobs program allows up to 5 percent of appropriations for the program to be used for administration.[16]

Exhibit 1.4: Minnesota Film Production Jobs Program Funding, Fiscal Years 1997-2015

Biennium	Funding
1998-1999	$500,000 per year
2000-2001	$500,000 per year
2002-2003	$500,000 the first year and $480,000 the second year
2004-2005	None
2006-2007	$1,700,000 the second year
2008-2009	$650,000 the first year and $1,949,000 the second year[a]
2010-2011	$1,225,000 the first year[b]
2012-2013	$500,000 for the biennium[c]
2014-2015	$5 million per year

NOTES: Except as noted, appropriations are from the General Fund. The board may use up to 5 percent of the appropriation each year to administer the program. The state oversight agency began retaining a portion of the 5 percent in 2014 for its costs related to administering the grant.

[a] In addition, the Legislature appropriated $500,000 the second year for a one-time grant for the production of a film.

[b] Governor Pawlenty vetoed the second year appropriation of the same amount.

[c] The Legislature granted $1 million from the Legacy Arts and Cultural Heritage fund for the Minnesota Film and TV Board to operate two film-related programs for the biennium. The board's intention was to use half of the appropriation for the film production jobs program. In the end, the board used $315,013 for this program.

SOURCE: Office of the Legislative Auditor, review of appropriations laws, interviews, and data.

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[14] *Minnesota Statutes* 2014, 116J.035, subd. 7, permits the Department of Employment and Economic Development to retain up to 5 percent of amounts appropriated for the pass-through grants it oversees if the appropriation laws do not provide for administrative costs. These funds are available to the department to cover costs associated with administering the grants.

[15] *Laws of Minnesota* 2013, chapter 85, art. 1, sec. 3, subd. 2(k).

[16] *Minnesota Statutes* 2014, 116U.26 (a).

The state provided most of the board's revenue in fiscal year 2014.

Exhibit 1.5 shows that state funds accounted for almost $475,000 of the board's fiscal year 2014 revenue. That amounted to 78 percent of board revenue that year. The state operations grant, which requires $1 in private contributions (in cash or in-kind) for $3 of state funds, provided approximately $309,000 of the almost $606,000 in total revenue. Funding to administer the film production jobs program provided an additional $108,500. The board also administered a grant funded by the Legacy Arts and Cultural Heritage fund, which provided the rest of the state funding.

Exhibit 1.5: Minnesota Film and TV Board Revenue, Fiscal Year 2014

State Funds	
Operations grant	$308,750[a]
Film production jobs program administration	108,549[b]
Other grant administration	57,562[c]
State total	$474,861
Private Funds	
Financial contributions	$ 20,327
In-kind contributions	49,699
Event income	54,331
Other income	6,553
Private total	$130,911
Total	$605,772

NOTE: Numbers may not sum to totals due to rounding.

[a] This amount reflects the $325,000 appropriated by the Legislature for a grant to fund board operations, less 5 percent retained by the Department of Employment and Economic Development for grant administration.

[b] This figure includes approximately $650 for the board's administration of the program when it was funded by the Legacy Arts and Cultural Heritage fund.

[c] The board administers a filmmakers grant funded by the Legacy Arts and Cultural Heritage fund.

SOURCE: Office of the Legislative Auditor, analysis of Minnesota Film and TV Board profit and loss data.

Exhibit 1.6 shows that most of the board's fiscal year 2014 spending was for personnel costs, including compensation, benefits, and employment taxes. The board's second biggest category of spending in 2014 was contracted services. The board contracted for legal and accounting services, research, and lobbying, among other services.[17]

[17] The board pays for its lobbyist with private, nonmatching funds.

Exhibit 1.6: Minnesota Film and TV Board Expenditures, Fiscal Year 2014

Personnel	$288,502
Contracted services	105,939
Marketing and promotion	34,165
Operating expenses	83,878
Events	56,494
Other	(940)
Total	$568,038

NOTE: Fiscal year 2014 expenditures include expenditures that the board incurred in 2014 that the Department of Employment and Economic Development reimbursed by the end of the fiscal year.

SOURCE: Office of the Legislative Auditor, analysis of Minnesota Film and TV Board profit and loss data.

Other expenditures included just over $34,000 for marketing and promotion in 2014 and almost $84,000 in operating expenses, such as rent, costs related to location scouting, and office supplies. Rent was the board's largest operating expenditure in fiscal year 2014, at $33,975. This rent is lower than the board's rent in fiscal years 2010 through 2012; in fiscal year 2013 the board moved to a less expensive office in the same building to reduce its rent by around $14,000.

OTHER STATES' FILM OFFICES

Forty-nine states have film boards or commissions that fill a role similar to that of the Minnesota Film and TV Board. North Dakota is the only state without a film office.[18] Eleven of the states with film offices do not currently offer a film incentive. In the following sections, we discuss the structure, staffing, and funding of a sample of states' film offices.

Structure

As noted previously, the Minnesota Film and TV Board is a private, nonprofit corporation. We contacted a sample of seven states to learn more about their film offices.[19] Many of the sample states' film offices were part of a government agency. For example, as Exhibit 1.7 shows, the Colorado Office of Film, Television, and Media was part of the state's Office of Economic Development and International Trade, and the North Carolina Film Office was part of the state's Department of Commerce during fiscal year 2014.

[18] Arizona does not have a statewide film office. Rather, several municipalities within the state operate film offices.

[19] Six of the seven sampled states have incentive programs. These sample states are Colorado, Louisiana, Maryland, North Carolina, Tennessee, and Washington. The state without an incentive program is Wisconsin.

Exhibit 1.7: Minnesota's and Sample States' Film Offices, Fiscal Year 2014

	Sector	Government Agency	Full-time-equivalent Staff	Operating Budget
Colorado	Government	Office of Economic Development and International Trade	3	$300,000[a]
Louisiana	Government	Department of Economic Development	8[b]	Unavailable[c]
Maryland	Government	Department of Business and Economic Development	1.5	240,000
Minnesota	Private nonprofit 501(c)(3)	n/a	4.5	308,750[d]
North Carolina	Government	Department of Commerce[e]	3	350,000
Tennessee	Government	Department of Economic and Community Development	3	300,000[f]
Washington	Private nonprofit 501(c)(6)	n/a	6	Undisclosed[g]
Wisconsin	Private nonprofit 501(c)(6)	n/a	Unavailable[c]	Unavailable[c]

[a] This budget amount is an estimate, and does not include any operating funds that rolled over from the prior fiscal year.

[b] The Louisiana Office of Entertainment Industry Development employed eight people, but many of them administered incentives for things other than film production. According to the office's executive director, two people worked primarily on film incentives. In addition, the executive director oversaw the entire division, which included other incentive programs, and the office employed an administrative assistant.

[c] Although we reached out to each of our sample states to obtain the information listed above, operating budgets and staff numbers were unavailable for some states in our sample.

[d] This amount reflects the $325,000 appropriated by the Legislature for a grant to fund board operations, less 5 percent retained by the Department of Employment and Economic Development for grant administration. It does not include private, in-kind contributions, event income, or funds the board retains to administer the film production jobs program.

[e] North Carolina's film office recently became part of a private nonprofit, the Economic Development Partnership of North Carolina.

[f] Like Minnesota, the Tennessee Film, Entertainment, and Music Commission was able to use a percentage of its film incentive funding to administer the program. That amount is not included in the amount listed here.

[g] Washington Filmworks did not publicly disclose its operating budget. The operating budget was made up of an undisclosed percentage of their available incentive fund, as well as revenues from an administrative fee Washington Filmworks charged to each production to offset the cost of processing financial documents for reimbursement.

SOURCE: Office of the Legislative Auditor, analysis of interviews, other states' websites, statutes, and published documents.

One state's film office operated as a private/public partnership. Washington Filmworks operated as a 501(c)(6).[20] However, Washington Filmworks received operating support from a state tax program and chose not to raise additional private funds. Among the offices we contacted, Washington Filmworks had a unique funding structure. The state collects a business and occupation tax; businesses with tax liability under this category may receive a tax credit in exchange for making a cash contribution to Washington Filmworks. The payments support Washington Filmworks' administrative costs and the state's

[20] The 501(c)(6) classification allows exemption from certain federal taxes for the following types of organizations: business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues, which are not organized for profit and no part of the net earnings goes to the benefit of any private shareholder or individual.

film incentive program. The state caps the total amount of tax credits for contributions to Washington Filmworks at $3.5 million per year.

Individuals familiar with the Minnesota Film and TV Board identified advantages and disadvantages of a private sector board, which are listed in Exhibit 1.8. For example, on the one hand, operating in the private sector may provide freedom from regulations and hiring procedures that affect state agencies. On the other hand, a private sector organization might not be as transparent as a public sector organization would be.

Exhibit 1.8: Advantages and Disadvantages of a Private Sector Film Commission

Possible Advantages

Leverage private sector participation, expertise, and contributions
Demonstrate private sector support for the commission and industry
Maintain continuity across government administrations
Operate in an environment free from government regulations and hiring practices

Possible Disadvantages

Less access to the Governor
Less transparency
Less accountability
Fundraising requirements that distract energy from other tasks

NOTE: Minnesota Film and TV Board members and stakeholders identified the advantages and disadvantages listed above.

SOURCE: Office of the Legislative Auditor.

We note that several of the advantages and disadvantages are not necessarily due to the sector in which the film commission operates. For example, a government film commission could have an advisory board with members who have a stake in and understand the film industry. Regarding disadvantages, a private sector film commission such as the board could be required to meet standards of transparency and accountability through appropriation language and grant agreements.

Staff

Exhibit 1.7 shows staffing for the board and a sample of other states' film offices. Of those film offices, the full-time-equivalent staff numbers ranged from 1.5 in Maryland to 8 in Louisiana.[21] However, some government film offices received operational support from another agency, which would allow them to maintain smaller staff numbers. For example, the Tennessee Film, Entertainment, and

[21] Louisiana's Office of Entertainment Industry Development employed eight people, but several of them administered incentives for things other than film production. According to the office's executive director, two people worked primarily on film incentives. In addition, the executive director oversaw the entire division, which included incentive programs focused on industries other than film, and the office employed an administrative assistant.

Music Commission was part of the state's Department of Economic and Community Development. Because of this, the Tennessee commission was able to take advantage of the services of staff from the department's legal, marketing, and finance teams. In contrast, the Minnesota Film and TV Board conducted these functions with its 4.5 in-house staff, contracted for the services, or received the services via in-kind contributions.

Funding

Exhibit 1.7 also shows estimated budgets for a sample of states' film offices, along with Minnesota's. These budgets include different things in each state. For example, a portion of the budget for the Colorado Office of Film, Television and Media went toward the costs of running its parent agency, the Office of Economic Development and International Trade. However, the office was not required to pay rent for its office space, a cost that was included in the budget for the Minnesota Film and TV Board.

Chapter 2: State Grants

Since 1983, the Minnesota Legislature has provided operating funds for the Minnesota Film and TV Board through state grants. The Legislature has also selected the board to administer grants for the state's film production jobs program.

In this chapter, we assess these grants for fiscal years 2010 through 2014. We focused on (1) grant administration, (2) grantee duties outlined in grant agreements, and (3) the board's reporting of its activities. Our evaluation of the state's film production jobs program design is in Chapter 3.

GRANT ADMINISTRATION

State grants for Minnesota Film and TV Board operations and the film production jobs program are "pass through" grants. That is, the Legislature has appropriated the funds to a state agency to grant to the board. The state agency enters into grant agreements with the board and releases the funds to the board (or to a film production entity in the case of the film production jobs program) according to the terms of the grant agreements.

As Exhibit 2.1 shows, three different state agencies had oversight responsibility for grants to the Minnesota Film and TV Board during the period we reviewed.[1] Explore Minnesota Tourism had oversight of both the film production jobs program and operations grants in fiscal years 2010 and 2011. In 2012 and 2013, the Department of Administration oversaw the grant for the film production jobs program; during that period, Legacy Arts and Cultural Heritage funds supported the program.[2] Explore Minnesota Tourism retained oversight of the operations grant during that time.[3] Currently, the Department of Employment and Economic Development (DEED) is the state oversight agency for both the operations and film incentive grants.

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[1] In our review of agreements between the board and the Department of Administration, we reviewed only the agreement related to the film production jobs program. The board also administered grants of Legacy Arts and Cultural Heritage funds for grants to Minnesota filmmakers. As the Office of the Legislative Auditor noted in a 2012 financial audit, the Department of Administration concluded that the board had not complied with state statutes when awarding competitive grants from the first appropriation for the filmmakers program. Office of the Legislative Auditor, Financial Audit Division, *Department of Administration: Internal Controls and Compliance Audit, July 1, 2009, through March 31, 2012* (St. Paul, 2012), 4.

[2] Contract amendments extended availability of the grant funds for the program through fiscal year 2014.

[3] Explore Minnesota Tourism also had some oversight responsibility for film production jobs program grant funds through contract amendments to the fiscal year 2009 through 2011 agreement.

Exhibit 2.1: State Grants to the Minnesota Film and TV Board, Fiscal Years 2010-2015

Oversight Agency and Grant	Amount (in 000s)
Fiscal Years 2010-2011	
Explore Minnesota Tourism: Film production jobs program	$1,225[a]
Explore Minnesota Tourism: Operations	325
Explore Minnesota Tourism: Operations	325
Fiscal Years 2012-2013	
Department of Administration: Film production jobs program	315
Explore Minnesota Tourism: Operations	325
Explore Minnesota Tourism: Operations	325
Fiscal Years 2014-2015	
Department of Employment and Economic Development: Film production jobs program	9,837[b]
Department of Employment and Economic Development: Operations	618[b]

NOTES: The film production jobs program is the program authorized in *Minnesota Statutes*, 116U.26. The exhibit does not include Legacy Arts and Cultural Heritage grants to the board for grants to Minnesota filmmakers.

[a] The Legislature appropriated this amount for fiscal year 2010. Grant amendments modified the original grant term to a term that ended June 30, 2013.

[b] The amount shown reflects the appropriation less funds retained by the Department of Employment and Economic Development for grant administration.

SOURCE: Office of the Legislative Auditor, review of grant agreements between the State of Minnesota and the Minnesota Film and TV Board.

Agreement Contents

Grant agreements between the state and the Minnesota Film and TV Board included the terms of the contract (such as effective date and expiration date), grantee duties, and conditions for payment. Agreements also specified application of the state's Government Data Practices Act and authority for state audits. Conflict-of-interest requirements were specifically listed in the Explore Minnesota Tourism and DEED grants. Although not specifically listed in the grant agreement between the board and the Department of Administration, conflict-of-interest principles apply to all Legacy grants.

Each oversight agency's grant agreements differed to some extent from those used by the others. Grant agreements between Explore Minnesota Tourism and the board outlined inappropriate uses of state grant funds in an attachment to the agreement. For example, the operations grant agreements specified that state funds could not be used for alcohol or leasing vehicles. They also specified that neither state funds nor private matching funds could be used for lobbying.[4] Grant agreements between DEED and the board do not specify expenses that are ineligible for reimbursement, but board staff said they continue to operate under the guidance outlined in its grant agreements with Explore Minnesota Tourism.

[4] The agreements for the operations and film production jobs program grants also limited reimbursements for items such as travel and meals.

The grant agreement between the Department of Administration and the board included language specific to Legacy Arts and Cultural Heritage funds, namely that the board could not "substitute money received from a legacy fund for a traditional source of funding."

We found that state oversight agencies' approaches to administering the board's operations grant have affected the board's cash flow.

DEED has taken a different approach to administering the board's operations grant than did Explore Minnesota Tourism. The differences have affected the board's cash flow and include (1) retaining grant funds for administration and (2) the process for verifying private matching funds required for the operations grant.

DEED has retained a portion of the appropriation for the board grants it oversees. State law permits DEED to retain up to 5 percent of amounts appropriated for the pass-through grants it oversees if the appropriation laws do not provide for administrative costs. These funds are available to the department to cover costs associated with administering the grants.[5] DEED retained $32,500 of the 2014-2015 operations grant to the board (5 percent of the appropriation amount). This had the effect of reducing the funds to the board below what it had anticipated and what it previously had available for board operations; Explore Minnesota Tourism did not retain an amount to oversee the grants.

Additionally, DEED and Explore Minnesota Tourism accounted differently for the three-to-one match requirement that is part of the operations grant. DEED requires the board to spend funds before reimbursing it for a portion of the expenditures. In contrast, Explore Minnesota Tourism required evidence that the board had raised private funds (or in-kind contributions) before it would release $3 from the state for every $1 in private contributions. Explore Minnesota Tourism's approach allowed the board to save private funds to spend as they are needed, rather than requiring the board to spend private funds to access public dollars. We think Explore Minnesota Tourism's approach is more consistent with the appropriation language. The language states that the appropriation "is available only upon receipt by the board of $1 in matching contributions of money or in-kind contributions from nonstate sources."[6]

Financial Oversight

State agency oversight of operations and incentive grants administered by the Minnesota Film and TV Board has focused on the financial aspects of the grants. For example, the oversight agencies have verified that the board meets the private-match requirement, that the board's expenditures are consistent with

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[5] *Minnesota Statutes* 2014, 116J.035, subd. 7. State law that governs the film production jobs program (*Minnesota Statutes* 2014, 116U.26 (a)) allows up to 5 percent of the appropriation for the program to be used for administration. DEED retained just over $162,500 of the film production jobs program grant, almost one-third of the 5 percent allowed by statute for administration of the program.

[6] *Laws of Minnesota* 2013, chapter 85, art 1, sec 3.

grantee duties and the law, and that the board has sufficiently reviewed requests submitted by production companies to receive incentive funds.

The board's oversight agencies completed a monitoring visit most years of the period we reviewed.[7] The staff person from Explore Minnesota Tourism who oversaw the grants reported that she reviewed the board's conflict-of-interest documents, too. These documents include the board's conflict-of-interest policy and forms that board members and staff sign. Agency staff also said they reviewed reports required by the grant agreements.

We found that agency staff were positive in their assessments of the Minnesota Film and TV Board's financial operations.

Agency staff who oversaw grants to the Minnesota Film and TV Board for the period we reviewed found few problems.[8] DEED staff indicated that the board's documents were consistent and accurate and that they have found only minor errors. The staff person from Explore Minnesota Tourism commented that the board's incentives specialist and financial administrators showed attention to detail. This staff person made suggestions to the board for improvements to certain aspects of board operations, but she said the suggestions did not arise from problems she identified during her reviews. Instead, they were suggestions to help the board manage a grant that required a lot of detail. This staff person noted the suggestions would be particularly important in the event of staff turnover. The staff person at the Department of Administration who oversaw the grant said he found only minor issues during his oversight of the board's grant.

The board appears to have responded to issues identified by oversight agencies. For example, Explore Minnesota Tourism staff indicated that the agency and the board worked together to resolve agency concerns about lobbying expenses and the board's calculation of full-time-equivalent staff associated with productions. Staff from Explore Minnesota Tourism and DEED indicated that they contacted board staff to resolve questions that arose during agency reviews of board documents.

We found that the board's administrative expenses for the film production jobs program under one of the grant agreements exceeded the limit in state law, although the board stayed within the approved budget.

State law limited administrative expenses for the film production jobs program to no more than 5 percent of appropriations for the program in any year.[9] However,

[7] State policy on grant monitoring calls for annual monitoring visits for grants over $250,000. Explore Minnesota Tourism did not conduct a monitoring visit in fiscal year 2013. One year, the Department of Administration staff person completed the monitoring from his office and by phone, rather than going on site.

[8] During a 2012 audit of the Department of Administration's grant oversight, the Office of the Legislative Auditor reviewed some board expenses and identified two expenses that the Legislative Auditor characterized as questionable but not clearly unlawful.

[9] *Minnesota Statutes* 2011, 116U.26 (a). This limit on administrative expenses as a percentage of program appropriations remains in current law.

the board spent between 6.8 percent and 12.9 percent of the Legacy Arts and Cultural Heritage fund appropriation for the film production jobs program on administration. The board spent $40,518 on program administration according to its reimbursement requests to the Department of Administration; overspending by the board totaled between $10,600 and $24,800.[10] The Department of Administration retained an additional percentage for administration.[11]

The board stayed within the budget approved by the Department of Administration, but the approved budget exceeded the amount allowed by the section of statutes that authorizes the film production jobs program. Board staff said the Department of Administration told them to follow guidance it provides to recipients of Legacy Arts and Cultural Heritage funds. However, the appropriation law, which refers to the program statute, did not remove the limit imposed by statutes.

GRANTEE DUTIES

Grantee duties are the activities or functions a grant recipient is expected to perform. Each grant agreement we reviewed between the state and the Minnesota Film and TV Board included duties the board was expected to fulfill.

According to staff from the three oversight agencies, the duties in grant agreements between the state and the Minnesota Film and TV Board were suggested by the board. Staff from two of the oversight agencies indicated that they would question duties they felt were inconsistent with the purpose of the grant. This approach is consistent with the state's policy on legislatively mandated grants. That policy indicates that grant agreements for legislatively mandated grants shall be based on the legislation, the budget and work plan submitted by the grantee, and negotiations between the grantee and the state.

It is important for grant agreements to be clear about duties expected of the grantee. Clearly articulated duties allow both parties to the agreement to have a common understanding of expectations. They also provide a basis for measuring the grantee's performance. In the following sections, we describe and assess the board's duties per the grant agreements with the state. We discuss board reporting for both the operations and film production jobs program grants in the final section of this chapter.

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[10] We report a range because the 2011 Legislature did not appropriate a specific amount for the film production jobs program. The Legislature appropriated $500,000 each of fiscal years 2012 and 2013 for "grants to Minnesota residents to create film or television productions that promote Minnesota's cultural heritage and for the film production jobs program under Minnesota Statutes, section 116U.26." The low end of the range represents spending as a percentage of the largest grant amount in the various amendments to the grant agreement, while the high end represents the spending as a percentage of the final grant amount.

[11] The appropriation law permitted the department to retain 1 percent of granted funds for administration. *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 4, subd. 6.

Operations Grants

The fiscal year 2010 through 2013 operations grants between the state and the board specified grantee duties by incorporating the board's annual work plan. These work plans provided background information about the board or the film industry and described the board's initiatives and core services. They also listed goals in areas of (1) production services, (2) marketing and communications, and (3) outreach and professional development.

Exhibit 2.2 lists several initiatives, core services, and goals included in the work plans. For example, core services and goals have related to maintaining and expanding the production guide and locations database. Initiatives have included items such as the 2011 initiative to "grow the 3D segment of the production industry" in the state and a 2013 initiative to "bring together the academic and private investment communities in support of the production industry."

Exhibit 2.2: Board Initiatives, Core Services, and Goals, Fiscal Years 2010-2013

Fiscal Year	**Leading Initiatives or Goals**
2011	• Grow the 3D segment of the production industry in Minnesota
2012	• Establish a task force to explore a long-term strategic direction for growing the industry that is not dependent on a competitive incentive
2012	• Develop a comprehensive marketing campaign for the industry in Minnesota
2012	• Develop a cohesive fundraising campaign for the office
2013	• Strengthen Minnesota's film and television production network
2013	• Shape Minnesota's film and television production policy framework
2013	• Bring together the academic and private investment communities in support of the production industry
	Core Services
2010-2013	• Promote Minnesota to major studios, networks, independent producers, and production companies
2010-2013	• Provide timely location assistance, crew, and production services referrals
2010-2013	• Provide permitting referrals
2010-2013	• Publish the Minnesota Production Guide
2010-2013	• Interface between producers and communities
2010-2013	• Maintain website
	Goals and Enhancements[a]
2010-2013	• Strengthen/expand relationships with communities in Greater Minnesota
2010-2013	• Launch/expand locations database
2010-2013	• Launch/expand listings in the Minnesota Production Guide
2010-2012	• Tightly manage (or limit) involvement in events
2010	• Develop and produce "Made in Minnesota" short film promoting Minnesota as a film location
2011	• Accomplish editorial placement of two to three articles about Minnesota production activity in regional or national industry publications
2012	• Formalize social media strategy
2013	• Redesign hotline section of website

[a] This exhibit does not list all goals and enhancements listed in the 2010 through 2013 agreements between the board and the state.

SOURCE: Office of the Legislative Auditor, review of grant agreements between the State of Minnesota and the Minnesota Film and TV Board.

We found that the fiscal year 2010 through 2013 operations grant agreements between the state and the Minnesota Film and TV Board included unclear grantee duties.

Specifying grantee duties by incorporating the board's annual work plans resulted in unclear duties. The board's annual work plans, which include descriptive information, initiatives, core services, and goals, do not identify which items are considered duties for the purposes of the grant agreement. Unclear duties could result in differing performance expectations and make oversight of grantee performance challenging. The state's Office of Grants Management recommends against relying solely upon a grantee's proposal to articulate grantee duties.

In addition, the items included in the work plan were not always clearly stated and measurable. For example, as shown in Exhibit 2.2, one of the board's 2013 leading initiatives was to "shape Minnesota's film and television production policy framework." Assuming this initiative was among the intended grantee duties, a measurable outcome or a list of specific tasks, products, or achievements tied to this initiative would have clarified expectations and provided a framework for reporting and assessing the board's performance.

The board's current operations grant agreement includes fewer but more concrete duties.

DEED did not specify board duties by incorporating the board's work plan into the operations grant agreement. Instead, the agreement lists six finite duties. They include, for example, (1) launch Snowbate, (2) increase the listings in the Minnesota Production Guide, and (3) produce and distribute three to five Minnesota film location and incentive marketing trailers.[12]

Even so, the board's goal for one of the duties was not clear. Related to launching Snowbate, the board's goal was "securing a 'major film' to locate production in the State of Minnesota by the end of calendar year 2013." There is not a definition of "major film"—it could reflect a film with a large budget, a small film that is well received by critics, or a film of great artistic achievement. This goal would have been improved by a statement that is clear and objective, such as "secure one feature-length film (per Academy of Motion Picture Arts and Sciences definition) with eligible expenditures that exceed $1 million."[13]

We found that the Legislature has not articulated clear expectations for Minnesota Film and TV Board operations grants.

Appropriation language for the operations grant has stated only that the grant is for the board. As noted above, grantee duties in agreements for legislatively mandated grants are based in part on legislation. They are also based on the

[12] "Snowbate" is the name the Minnesota Film and TV Board has given the state's film production jobs program.

[13] The Academy of Motion Picture Arts and Sciences defines a feature-length film as one that runs over 40 minutes.

grantee's work plan and negotiations with the state. When the Legislature is not clear in its expectations for the board's operations grants, the state oversight agency may be unable to judge whether the board's proposed duties are consistent with legislative expectations. Unspecified legislative expectations could also make it difficult for the oversight agency to negotiate with the board to revise or refine the duties for which the board will be held accountable.

Film Production Jobs Program Grants

Board duties specified in the grant agreements for the film production jobs program have focused on administering incentive funds. Duties have included, for example: reviewing and revising eligibility criteria, administering the application process, and processing payment requests.

Eligibility Criteria

Guidelines for the film production jobs program outline the criteria that applicants and productions must meet to be eligible for the program. State statutes provide some guidance for program eligibility, as shown in Exhibit 2.3. For example, state statutes indicate who may receive reimbursement and the types of productions that are eligible.[14] The statutes also establish two maximum reimbursement rates—currently 20 and 25 percent—based on production spending and where in the state production occurs. However, the board establishes details for determining program eligibility.

Exhibit 2.3: Film Production Jobs Program

Persons who may receive rebates	Producers of eligible productions that directly create new film jobs in Minnesota
Eligible productions	A feature film, television or Internet pilot, program, series, documentary, music video, or television commercial, whether on film, video, or digital media
Ineligible productions	• News, current events, public programming, or programs that include weather or market reports • Talk shows • Productions with respect to a questionnaire or contest • Sports events or activities • Gala presentations or awards shows • Finished productions that solicits funds • Pornographic productions
Reimbursement rates	• Up to 25 percent of production costs for films that (1) locate production outside the Twin Cities metropolitan area or (2) incur minimum Minnesota expenditures of $1 million in the Twin Cities metropolitan area within a 12-month period • Up to 20 percent of production costs for films that incur less than $1 million in Minnesota production costs in the Twin Cities metropolitan area within a 12-month period

SOURCES: Office of the Legislative Auditor and *Minnesota Statutes* 2014, 116U.26.

[14] We describe these criteria in more detail as part of the program's design in Chapter 3.

The Minnesota Film and TV Board created an advisory committee to recommend changes to the program eligibility guidelines each year.[15] For example, due to a limited amount of funding in 2012, the committee recommended removing commercials from the categories of eligibility. The committee added commercials back to the list of eligible production types in 2013 when more funding was available. The board's eligibility criteria for fiscal year 2015 are shown in Exhibit 2.4.

Exhibit 2.4: Snowbate Eligibility Requirements, Fiscal Year 2015

Eligible Categories	20 Percent Reimbursement	25 Percent Reimbursement
Feature film **Documentary** **Music video**	• Minimum Minnesota expenses of $100,000 • Minimum Minnesota expenses of $50,000 if applicant is a Minnesota resident • 50 percent of budget available in verified funds	• Minimum Minnesota expenses of $1 million OR 60 percent of shooting days must take place outside the Twin Cities metropolitan area • 50 percent of budget available in verified funds
National television program or series (new or relocating only; production, development, or syndication contract from commissioning network or streaming service required)	• Minimum Minnesota expenses of $100,000	• Minimum Minnesota expenses of $1 million OR 60 percent of shooting days must take place outside the Twin Cities metropolitan area
Television pilot (must be intended for national exhibition and reasonable commercial exploitation)	• Minimum Minnesota expenses of $100,000 • Minimum Minnesota expenses of $50,000 if applicant is a Minnesota resident • 50 percent of budget available in verified funds if not commissioned by a network or streaming service	• Minimum Minnesota expenses of $1 million OR 60 percent of shooting days must take place outside the Twin Cities metropolitan area • 50 percent of budget available in verified funds if not commissioned by a network or streaming service
Television commercials	• Minimum Minnesota expenses of $100,000 not including production fee	• Minimum Minnesota expenses of $1 million OR 60 percent of shooting days must take place outside the Twin Cities metropolitan area
Postproduction only[a]	• Minimum Minnesota expenses of $50,000	• Minimum Minnesota expenses of $200,000

NOTES: "Snowbate" is the Minnesota Film and TV Board's name for the state's film production jobs program. "Minnesota expenses" are those that are eligible for reimbursement under the program. Internet productions must be linear, noninteractive works presented under one creative treatment and fit into one of the above categories.

[a] For postproduction-only projects to be eligible, the production itself must fit into one of the eligible categories listed in the exhibit above.

SOURCE: Minnesota Film and TV Board, *Snowbate Guidelines*, July 21, 2014.

[15] While the committee discusses and makes recommendations on program guidelines and eligibility issues that arise, the Board of Directors is ultimately responsible for reviewing and approving any changes to guidelines. The committee, which includes film industry representatives, is called the Snowbate Operations Committee.

We found that the Minnesota Film and TV Board has designed eligibility criteria for the film production jobs program that may not be permitted by law.

The board has created criteria that are not included in law for productions to receive a rebate at the higher reimbursement rate. As Exhibit 2.3 showed, the criteria in state statutes for higher reimbursement are that productions must spend at least $1 million in Minnesota or occur outside the Twin Cities metropolitan area. The board has also created a category of eligibility that, while not prohibited by law, is inconsistent with other categories.

First, the board created a new criterion by which productions could be eligible for higher reimbursement when the Legacy Arts and Cultural Heritage (LACH) fund supported the film production jobs program. Specifically, in fiscal years 2012 and 2013, the board allowed reimbursement at the higher rate for productions in which three of the top five highest paid positions were held by Minnesotans. According to the board's executive director, the board created the criterion to reflect the priorities of the Legacy Arts and Cultural Heritage fund and the board's interpretation of statutes. All productions that received a rebate funded by the LACH fund received reimbursement at the higher rate based only on this criterion.[16]

Second, currently, the board allows reimbursement at the higher rate when a postproduction-only project spends at least $200,000 in Minnesota. According to the board, it reasoned that postproduction is only part of production (which includes preproduction, production [or principal photography], and postproduction). Thus, according to the board, the spending requirement should appropriately be only part of what is outlined in state law. The board did not approve any fiscal year 2014 projects for higher reimbursement under this criterion, but as of mid-December 2014, it had approved one for fiscal year 2015.

Finally, one of the eligible categories of production is not prohibited by law but is inconsistent with the board's approach to the other categories of eligibility. The Minnesota Film and TV Board has created a category of eligibility called "postproduction only." Unlike all of the other categories of eligibility—which are listed in the law's definition of "film"—this category is not in the program's section of statutes.

In addition, postproduction is not a type of production. Instead, it is a phase of production—and an eligible production cost—for which the board has created unique eligibility requirements. As noted above, production includes preproduction, production (or principal photography), and postproduction. If a non-Minnesota film producer applies to the film production jobs program to complete all phases of production in the state, the minimum spending required is $100,000. If he or she applies to the program and intends to complete only principal photography in the state, the minimum spending required is $100,000. Yet, if a producer intends to complete only postproduction in Minnesota, the minimum spending requirement is $50,000.

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[16] At that time, the higher reimbursement rate was 20 percent and the standard rate was 15 percent.

Application Process

Administering the application process for producers interested in obtaining a rebate is another of the Minnesota Film and TV Board's duties under the film production jobs program grant. Current guidelines require producers to submit applications prior to beginning principal photography in Minnesota. Exhibit 2.5 lists the items that must be submitted with an application. For example, an applicant must submit with his or her application a Certificate of Good Standing from the Minnesota Secretary of State's Office or another state's equivalent.

Exhibit 2.5: Application Process, Film Production Jobs Program, Fiscal Year 2015

1. Production companies submit an application, which must include:
   - Entity certification form (for first time applicants)
   - Certificate of Good Standing
   - IRS W9 Form
   - Project certification form and affidavit
   - Project budget, denoting Minnesota expenses
   - Script, storyboard, or synopsis
2. The Minnesota Film and TV Board's incentives specialist reviews application and determines program eligibility
3. Incentives specialist reviews budgets of approved projects and calculates a reimbursement amount of either 20 or 25 percent of qualified Minnesota expenses
   - The reimbursement amount is set aside for each production until work is complete and all documentation has been reviewed, or until the production withdraws its application for any reason
4. Incentives specialist notifies applicants of project approval, usually within two weeks of the receipt of application
5. Prior to beginning production, approved applicants meet with the incentives specialist to discuss procedures for submitting necessary documents once the production is complete

NOTES: The Minnesota Film and TV Board requires the listed application materials for all production types. Additional items are required for certain production types. For example, television series are required to submit a contract from a commissioning network with their application materials.

SOURCE: Office of the Legislative Auditor, analysis of Minnesota Film and TV Board documents and interviews.

One staff person at the board—the incentives specialist—is responsible for reviewing applications to ensure productions meet the program criteria. The incentives specialist stated that most applicants contact the board before completing the application to inquire whether their project would be eligible for funding. Because of this, most projects that complete the application process are approved for incentive funds if money is available.

The incentives specialist reviews the budget documents of eligible productions and commits funds sufficient to reimburse the productions at the end of the projects. For example, the incentives specialist would set aside $100,000 (20 percent) for a feature film in the Twin Cities metropolitan area with a budget of $500,000 in qualified Minnesota expenses. Once the incentives specialist approves a production for a specific rebate amount, the production can claim no more than that amount, even if eligible expenses exceed the budget upon which the rebate amount was based.

In some cases, productions may spend less than their budgeted Minnesota spending. In these cases, the actual rebate is less than the amount initially set aside for the production. The excess that was set aside becomes available for other productions. Occasionally, approved projects may withdraw from the program. For example, a project may withdraw if actual Minnesota expenses are below the required minimum amount. In these cases, funds earmarked for the projects are returned to the pool of available incentive funding.

Review of Production Expenditures

At the conclusion of production, projects must submit an expenditure report and supporting documents (such as receipts) in order to receive their rebate. Expenditure reports comprise a set of spreadsheets in which productions record their eligible expenditures in great detail. For example, on one spreadsheet, productions record days worked, wages, the pay date, and address for each person who they paid to work on the production. Productions use additional spreadsheets to record transportation-related expenditures (such as gas purchases), lodging, food, and other expenses. Exhibit 2.6 lists expenses that are eligible (and ineligible) for reimbursement under the film production jobs program.

For projects with budgets under $1 million, the board's incentives specialist reviews productions' expenditure reports and supporting documents to ensure expenses are eligible for reimbursement. The incentives specialist may identify purchases or wages submitted for reimbursement that are questionable (for example, the receipt is illegible or a crew member's address is not provided) or ineligible according to program guidelines. In these cases, the incentives specialist follows up with production staff to resolve the items. In the case of a larger-budget project, the review can take several months before all questions have been resolved.

For projects with a Minnesota budget over $1 million, the Minnesota Film and TV Board may require production companies to submit a report from a certified public accountant. The board covers the cost of this independent audit. Since fiscal year 2010, only one completed project had a Minnesota budget over $1 million, and the board required an independent audit.[17] The independent auditor found, among other things, several employees whose wages were submitted for reimbursement although they did not have proof of Minnesota residency.

[17] Between July 1 and December 9, 2014, the board approved three projects with proposed Minnesota budgets over $1 million. These projects may require an independent audit after production is complete and a final budget amount is calculated.

Exhibit 2.6: Expenses Eligible for Film Production Jobs Program Reimbursement, 2014

Eligible

- Sets, props, and wardrobe
- Lodging
- Food and catering expenses
- Minnesota-resident personnel
- Minnesota acting talent
- Airfare for Minnesota-based airlines or purchased through a Minnesota travel agent
- Non-Minnesota-resident principal performing artists (up to $100,000)
- Per diems paid to all personnel while working in Minnesota
- Payroll processing fees paid to a Minnesota company
- Employee benefits paid to a Minnesota company
- Transportation including rental, fuel, mileage, and parking
- Production office rental
- Production office equipment rental
- Production office supplies
- Studio or soundstage rental paid to a Minnesota company
- Equipment rental including cameras and lighting
- Tape, film stock, and digital storage devices
- Talent agency fees and legal fees for talent contracts
- Location and permit fees
- Editing and related postproduction costs
- Any other direct costs of producing an eligible production paid to Minnesota companies

Ineligible

- Alcoholic beverages
- Tobacco
- Capital equipment purchases
- Wrap party expenses
- Gifts
- Expenses related to illegal activities (e.g., parking tickets or moving violations)
- Damages due to accident, loss, or theft
- Pass-through purchases sourced outside of Minnesota
- Fees for development, marketing, or business set up

NOTE: For all eligible expenses, purchases must be made in Minnesota to businesses located in Minnesota, except the first $100,000 of wages paid to non-Minnesota-resident principal performing artists.

SOURCE: Minnesota Film and TV Board, *Snowbate Guidelines*, July 21, 2014.

We found that Minnesota Film and TV Board staff thoroughly review productions' expenditure reports before submitting them to the state for reimbursement.

We based this conclusion on a review of correspondence between board staff and productions for five years of projects and the assessments of state agency staff who have overseen the film production jobs program grant. Project files showed evidence that the incentives specialist completed detailed reviews of expenditure reports. Files contained correspondence between the board's incentives specialist and production companies questioning and resolving some expenses. For example, when a television commercial submitted expenses for yoga training, the incentives specialist wrote production staff to ensure that it was necessary for the production's talent. Production staff clarified that the yoga training was needed for onscreen poses.

Correspondence from the board also alerted production companies to ineligible expenses that would be removed from the reimbursement amount. For example, the incentives specialist identified tobacco purchases on submitted receipts and removed the amount from the reimbursement. In addition, she checked itemized receipts to ensure that no alcohol purchases were reimbursed. The incentives specialist checked expenditure dates to ensure that purchases were made after the project was approved for a rebate. The incentives specialist also required addresses for all crew and talent whose wages were submitted for reimbursement so she could determine if the individuals were Minnesota residents. Only after resolving all questions did the incentives specialist submit a production's expenditures to the state oversight agency for reimbursement.

Staff at the state oversight agencies conduct secondary reviews of expenditure reports. These staff have found minimal problems. For example, DEED staff found no problems during ongoing processing of reimbursements and found that underlying records have matched disbursement requests for projects reviewed during onsite monitoring visits. DEED staff also commented that board staff are diligent about removing ineligible expenses, such as alcohol, from reimbursement requests.

Unlike Minnesota, we found that all sample states with a film incentive program required production companies to fully or partially assume the cost of reviewing project expenses.

As we explained in Chapter 1, we selected seven states to obtain more information about their film commissions and film incentive programs. Of the six states that had a film incentive program, five required production companies to obtain at their own expense an independent audit of project expenditures by a certified public accountant.[18] For example, before Maryland issued tax credit certificates to production companies, the companies were required to submit a report from an independent, third-party auditor. The report had to include a review of expense-related documentation, and verification of whether 50 percent of filming took place in Maryland.

The film office in the sixth sampled state, Washington, did not require productions to retain a certified public accountant to complete an audit. Rather, Washington Filmworks required productions to pay a fee of $2,500 or $5,000 to

[18] The six sampled states with incentive programs are Colorado, Louisiana, Maryland, North Carolina, Tennessee, and Washington. The state without an incentive program is Wisconsin. At least one state's film office, Maryland, considered the cost of the audit an eligible expense under its incentive program, as long as the certified public accountant was licensed in Maryland. Louisiana's film office had the right to request an additional forensic audit at the applicant's expense.

offset the cost incurred by the office when staff conduct a review of a production's financial documents after the production is complete.[19]

GRANT REPORTS

As part of its grantee duties, the board has created annual and sometimes mid-term reports. These reports address the extent to which the board is accomplishing the duties outlined in its grant agreements with the state. For example, reports related to the film production jobs grants provided information such as: incentive dollars awarded, dollars spent in Minnesota by productions that received reimbursements, and descriptions of individual projects that received funding.

We found that the Minnesota Film and TV Board's grant reports have been insufficient to gauge the board's performance.

The board's grant reports have not provided enough information to understand the board's activities and accomplishments. In addition, grant reports have sometimes been inaccurate or potentially misleading. Reports that do not fully reflect activities or that are inaccurate or misleading make it difficult to understand and assess the services the state has purchased with grant funds.

Unreported Activities

Some board grant reports did not fully reflect the scope of the board's work. Lack of reporting on some board activities may reflect duties in the board's work plan that the board did not consider part of its grantee duties. As we found above, some grant agreements we reviewed did not clearly identify which items in the board's work plans were grantee duties for purposes of the grant agreements.

In some cases, the board's grant reports focused on key goals or initiatives highlighted in the work plans, but did not provide enough information on core services. While the board described its core services in its 2010 through 2013 work plans, it typically did not report on how and the extent to which it provided them. For example, it did not report on how and the extent to which it promoted Minnesota to major studios, networks, independent producers, and production companies. It also did not report on referrals to permitting entities or provision of timely location assistance.

In contrast, the board produced quarterly reports in fiscal year 2013 that listed the productions for which board staff provided location, crew, or permitting assistance; project consultation; or scouting services. It also included the numbers of visitors to the online crew guide and phone calls received by the board. These reports did not explicitly address all core services, but they

[19] Washington Filmworks charged an administrative fee of $2,500 for commercials and $5,000 for feature films and television series.

provided a sense of the board's activities in some areas. At the same time, that year the board did not report on any of the three leading initiatives in its work plan.

Inaccurate or Misleading Information

The board's grant reports have included inaccurate information. These inaccuracies appear to be errors rather than deliberate misrepresentation. For example, the board reported in its 2013 report that its numbers of Facebook and Twitter followers doubled. However, based on the numbers of Twitter followers and Facebook "likes" listed, they actually increased by 36 percent and 30 percent, respectively. As another example, the board's calculation of cost per full-time-equivalent (FTE) job associated with the film production jobs program has been consistently incorrect. For example, one report indicated a cost per job of $3,334, while the cost and job data in the report yield a cost per job of $33,344.[20] The board is not required to report this measure, but the board should report it accurately if it chooses to report it.

The board's calculations of FTEs associated with projects have been imprecise and, at times, inaccurate. For example, the board calculates hours worked based on an industry standard (as asserted by the board) rather than actual hours worked. The board calculates hours worked as the number of days worked by a "payee," multiplied by ten hours per day. However, the payee may not be a person. In some cases it is an entity. For example, an invoice from a talent agency might cover a ten-day period for multiple individuals who worked as extras on a film. The board would count this as ten, ten-hour work days. But it is unclear from the invoice how many hours these individuals worked in total.

In addition, the board's reports of FTEs may not include persons employed in postproduction. In some cases, postproduction costs are reported as a single item that does not show the number of persons who did the work. Finally, for one project we reviewed, the production company did not prorate individuals' work days to reflect the proportion of time the company indicated each person worked on the project. As a result, FTEs for the project were reported as 10.52, rather than the more accurate 4.52.

Also, the board's reports of FTEs associated with projects assisted by the incentive program include principal performers who do not live in Minnesota. While these positions may be eligible for reimbursement under the program, they were not filled by Minnesotans. For example, for one project the board calculated 1.41 FTEs of principal performers, when only 0.45 FTEs were resident Minnesotans. For the project overall, this reduced the calculated FTEs by almost 13 percent. At this time, the impact of including non-Minnesotans in FTEs is limited because few projects have employed non-Minnesota principal performers.

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[20] The board calculates an overall cost per FTE by dividing total rebates by productions' reported employment. The board multiplies the number of reported days worked by acting talent and crew members by 10 hours per day, and divides the product by 2,088 to calculate FTEs. A person working 40 hours per week for 52 weeks a year works 2,080 hours a year.

Finally, we question the board's ability to report on the film production jobs program as required in its current grant agreement. In the grant agreement for fiscal years 2014 and 2015, DEED requires the board to report on FTE jobs, Minnesota expenditures (reimbursed and nonreimbursed), and Minnesota sales taxes and income taxes paid. However, the board's FTE data have the problems discussed above, and the board tracks neither nonreimbursed expenditures nor associated sales tax. It is also not clear that accurate information on Minnesota income taxes paid will be available.

Chapter 3: Film Production Incentives

As discussed in Chapter 1, Minnesota created the state's film production jobs program in 1997. Minnesota was among the first states to offer incentives to attract film production.

This chapter provides an overview of the purpose of film production incentives. We discuss the factors that may affect production companies' location decisions for their film productions, and the prevalence of film production incentives throughout the United States and elsewhere. Then, we outline the primary benefits that are expected to result from attracting film production to an area, as well as the features that vary among incentives. Finally, we discuss how some design aspects of Minnesota's film production jobs program may affect the state's ability to realize the expected benefits of film production incentives.

PURPOSE

Film production incentives are financial benefits offered to production companies to entice those companies to undertake their production work in a particular location. Many factors influence production companies' decisions about where to undertake production work. Availability of incentive funds is one of those factors. Other factors, such as a state's climate, existence of unique or nonreplicable locations, or personal connections to a location can also affect the decision of where to film. For example, one producer with whom we spoke stated that, while the financial benefits of filming in Minnesota were preferable, he ultimately produced his film in Utah due to Minnesota's weather.

Nonetheless, state, federal, regional, and municipal governments offer film incentives expecting a variety of benefits to result from increasing or maintaining film production activity. As of fall 2014, 38 states had film incentive programs.[1] The number of states with film incentives had declined somewhat since 2010 when 43 states offered incentives.[2] For example, Wisconsin previously offered a film incentive, but eliminated the program in 2013.

Many countries also offered film incentive packages, including Germany, South Korea, the Dominican Republic, and South Africa, among others. Several people with whom we spoke said that it can be difficult for states to compete with the film incentives offered in Canada. The Canadian federal government offered an incentive in addition to any incentives offered by Canadian provinces.

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[1] The 38 states with incentives include Idaho, which had legislation for an incentive program with a sunset date of 2020. However, the program was not funded. See Appendix B for information about each state's program.

[2] Robert Tennewald, *State Film Subsidies: Not Much Bang for too many Bucks* (Center on Budget and Policy Priorities: Washington, DC, 2010).

Further, many municipal governments offered their own film incentives for companies that undertook production in a particular city. For example, San Francisco, Miami Beach, and San Antonio each offered an incentive that production companies could receive in addition to any incentive offered by their state's government. While we did not conduct a full survey to determine which municipalities in Minnesota may offer film production incentives, we are aware that the city of Maple Lake offers an incentive for eligible production costs made within the city.

In Minnesota, the Iron Range Resources and Rehabilitation Board (IRRRB) offers a regional film incentive. The incentive is separate from the state's film production jobs program and can be used in addition to the rebate offered through the state program. The IRRRB incentive is available to production companies or producers that undertake production work within the IRRRB service area.[3] The IRRRB's incentive program guidelines mirror the incentive guidelines developed for Minnesota's state film production jobs program. For example, eligible and ineligible production types and expenses are similar for both programs.

Potential Benefits

Proponents of film incentives list several benefits. They claim that film incentives attract production to a state or retain productions that would have filmed elsewhere. These productions bring: (1) work for people in the film industry (that is, "job creation"), (2) spending "on Main Street," (3) other production-related spending, (4) tourism, and (5) tax revenue.

Job Creation

One of the potential benefits of film incentive programs is job creation. When a film, commercial, or television program is produced, the project can employ many individuals in a range of professions. For example, even a small feature film might employ several dozen people, such as a production coordinator, production accountant, and several production assistants; an art director, art coordinator, property master, set decorator, makeup artist, and wardrobe supervisor; electricians and grips; drivers and security personnel; and principal actors and extras.

Spending "on Main Street"

Feature films can have a financial impact upon cities where they film, especially small cities. Crew members and actors stay in hotels and eat at local restaurants. They might shop in local hardware stores, antique stores, and other retail shops for materials or props for the production. Area restaurants might provide meals or catering. Productions might also rent office space and equipment.

[3] The IRRRB incentive requires that productions must spend at least 60 percent of their budget or film at least 60 percent of production days within the IRRRB service area to qualify. The IRRRB service area encompasses approximately 13,000 square miles in northeastern Minnesota.

Other Production-Related Spending

Additional production-related benefits result from spending and economic activity by firms that directly serve the film industry. For example, a restaurant that is catering a production may need to buy additional food and supplies and hire additional staff to meet the demand. Economic activity is also generated by production workers as they spend their wages. The economic effects of businesses responding to production activity and spending by actors and crew members are called "multiplier effects" in economic impact analysis.

Tourism

Another claimed benefit of the film industry is increased tourism to locations featured in film or television productions. Some films reportedly have had positive effects on tourism. One cited example of this effect is the number of visitors to an Iowa corn field after the release of the film *Field of Dreams*. As another example, media have reported on the success of the television series *Breaking Bad* as a reason for increased tourism in the city of Albuquerque.

Tax Revenue

Spending by film productions generates income and sales tax revenue for the state. Some proponents of film production incentives include other tax revenues as benefits of film production incentives, such as local property taxes and gas taxes paid by persons who worked on the production.

STATE COMPARISONS

Funding and characteristics of incentive programs, and the specific projects that receive incentives, affect the extent to which benefits result from productions' spending. In the following sections, we discuss the structure and funding of Minnesota's incentive program, as well as programs in other states. In addition, we discuss a variety of incentive program design features and how those features vary among states.

Structure

Film incentives generally take the form of either a rebate/grant or a tax credit. Exhibit 3.1 provides an overview of the primary film incentive structures. Rebates return a cash payment to production companies once they have met program requirements and submitted necessary paperwork. Incentive grants may operate in the same fashion as a rebate. For example, Tennessee calls its incentive a grant, but a production company must spend money in the state and show documentation of that spending before receiving a percentage back. Rebates and grants are not tied to filing an income tax return.

In contrast, tax credits are awarded in conjunction with the production companies' tax filings for the year and reduce the amount of income tax owed to a state by a production company. As Exhibit 3.1 shows, tax credit incentives may be refundable or transferable.

Exhibit 3.1: Film Incentive Structures

Rebates and grants	Rebate and grant programs operate in a similar manner. The film office makes a cash payment to the production company that is typically equal to a certain percentage of qualified expenditures.
Tax credits	Tax credit programs provide production companies with nonrefundable, refundable, or transferable tax credits that are typically equal to a certain percentage of qualified expenditures. • For refundable tax credits, refunds are issued when a production's tax credit exceeds the production company's tax liability. • Transferable tax credits may be sold, assigned, or transferred to a taxpayer that has a tax liability in the state.

SOURCE: Cast and Crew Entertainment Partners, *The Incentives Program*, Fall 2014.

In 2014, Minnesota was among the minority of states that offered incentives in the form of a rebate or grant, rather than a tax credit.

As Exhibit 3.2 shows, Minnesota was 1 of 13 states that provided film incentives in the form of a rebate or grant in 2014. Twenty-two states provided tax credits, and the three remaining states that offered incentives used a combination of rebates/grants and tax credits. For example, Maine offered a rebate for a percentage of wages for both residents and nonresidents employed by a production.[4] In addition, Maine offered a 5 percent tax credit for all nonwage production costs.

Film industry representatives and board members with whom we spoke highlighted several positive and negative aspects of a rebate structure, which are outlined in Exhibit 3.3. An advantage of a rebate is that it provides producers with a more predictable dollar amount. In contrast, production companies filming in states with transferable tax credit programs may need to sell or transfer their excess tax credits to other entities at a discount. For example, recipients of Louisiana's film tax credits may use the credit to offset any tax liability in the state; recipients may elect to sell excess tax credits back to the state at 85 cents on the dollar.

[4] Maine offers a rebate of 10 percent for the first $50,000 in wages paid to nonresidents and 12 percent for the first $50,000 in wages paid to residents.

Exhibit 3.2: State Film Incentives by Structure, 2014

Tax Credit	Rebate/Grant	Combination[a]	None
Alabama	Arkansas	Maine	Arizona
Alaska	Colorado	Montana	Delaware
California	Idaho	Virginia	Indiana
Connecticut	Michigan		Iowa
Florida	**Minnesota**		Kansas
Georgia	Mississippi		Missouri
Hawaii	Oklahoma		Nebraska
Illinois	Oregon		New Hampshire
Kentucky	South Carolina		North Dakota
Louisiana	Tennessee		South Dakota
Maryland	Texas		Vermont
Massachusetts	Washington		Wisconsin
Nevada	Wyoming		
New Jersey			
New Mexico			
New York			
North Carolina[b]			
Ohio			
Pennsylvania			
Rhode Island			
Utah			
West Virginia			

[a] Maine, Montana, and Virginia each offers a combination of incentives to production companies in the form of both tax credits and rebates/grants.

[b] Since the 2014 publication of our source material, North Carolina has made significant changes to its film production incentive program, including a switch from a tax credit to a rebate.

SOURCE: Cast & Crew Entertainment Services, *The Incentives Program*, Fall 2014.

Exhibit 3.3: Advantages and Disadvantages of Rebate Film Incentives

Advantages

- Production companies receive the entire amount of rebate, as opposed to selling or transferring tax credits at a discount to another entity
- Quick disbursement of funds to production companies
- Easy to estimate annual cost of rebates to state government
- Less complicated to administer when compared with tax credit incentives, which often require the services of a broker

Disadvantages

- Direct appropriation of rebates may result in lower funding amounts than tax credits
- Direct appropriation of rebates may lead to less consistent funding than tax credits

NOTE: Minnesota Film and TV Board members, representatives from the film industry, and film commissioners in other states identified the advantages and disadvantages listed above.

SOURCE: Office of the Legislative Auditor.

On the other hand, two people told us that it may be harder to gain political support for rebate funding compared to tax credits. Rebates typically require a line item in a state's budget for a particular year, while tax credits may be less directly reflected in a state's budget.

Funding

States with film incentive programs vary widely in the amount of funding they provide. Funding ranged from $900,000 for the 2015-2016 biennium in Wyoming, to New York, which has an annual incentive funding cap of $420 million per calendar year. Some states, such as Louisiana, do not place a cap on the amount of tax credits they may grant to production companies in a given year. In fiscal year 2012, Louisiana granted $222.8 million in tax credits for qualifying expenses.[5]

We identified seven states for comparison with Minnesota.[6] We selected states with similar population size, overall government spending, and existing employment in the film industry.

For fiscal year 2015, we found that Minnesota funded its film production incentive program within the range of a sample of states with similar population size and overall government spending.

As Exhibit 3.4 shows, of seven sample states, Minnesota's 2015 base incentive funding was equal to the base funding in one of those states. Minnesota's funding was greater than the base funding in three states, although Wisconsin did not fund an incentive program in 2015. Three of the sample states' programs had higher base funding than Minnesota.[7]

In addition to their base funding, film offices may request additional funds for specific productions. For example, while Tennessee's base incentive funding was $2 million for fiscal year 2015, the state's film commissioner indicated that his office recently requested and received supplemental incentive funding for one television series that planned to film in the state. Minnesota has also made additional funding available for specific productions in the past. In addition to appropriations for the film production jobs program, the Legislature appropriated $500,000 in 2008 as an incentive for the production of the feature film, *A Serious Man*.

[5] Appendix B provides information on states' incentive programs and funding.

[6] Six of the seven sampled states have incentive programs. These sample states are Colorado, Louisiana, Maryland, North Carolina, Tennessee, and Washington. The state without an incentive program is Wisconsin.

[7] We categorized Colorado's program funding as equal to Minnesota's because the $5 million appropriation could be awarded in one year. North Carolina's film office received a $10 million appropriation in 2015 for the following three years. Because North Carolina's film office could award the entire $10 million in the first year, we categorized its 2015 base appropriation as higher than Minnesota's, though the per-year breakdown of funding was lower.

Exhibit 3.4: Minnesota's and Sample States' Incentive Programs, Selected Details

	Incentive Structure	Base Funding[a]	Funding Term	Percentage Credit or Rebate
Colorado	Rebate	$5,000,000	7/1/14-6/30/16	20%
Louisiana	Tax credit	No cap	n/a	30 or 35[b]
Maryland	Tax credit	7,500,000	Fiscal year ending 6/30/15	25 or 27[c]
Minnesota	Rebate	5,000,000	Fiscal year ending 6/30/15	20 or 25[d]
North Carolina	Rebate	10,000,000	1/1/2015-12/31/2018	25
Tennessee	Grant	2,000,000	Fiscal year ending 6/30/15	25
Washington	Rebate	3,500,000	Calendar year 2015	15-35[e]
Wisconsin	None	None	n/a	None

[a] In addition to the base funding, film offices may seek additional funding for specific productions. For example, Tennessee's film commissioner indicated that the state's film office recently requested and received supplemental incentive funding for one television series.

[b] Louisiana offers a 30 percent base tax credit and an additional 5 percent tax credit on the first $1 million of each Louisiana resident's wages.

[c] Maryland offers a 27 percent tax credit to television series. All other production types qualify for a 25 percent tax credit.

[d] Minnesota offers a 20 percent rebate of qualified expenses for all productions. Productions may qualify for a 25 percent reimbursement if at least 60 percent of production occurs outside of the Twin Cities metropolitan area or if the production company has at least $1 million in qualified Minnesota expenditures. In addition, Minnesota offers a 25 percent rebate for postproduction projects with at least $200,000 in qualified Minnesota expenditures.

[e] Washington offers a 30 percent rebate for motion pictures and series with fewer than six episodes; 35 percent on qualified in-state expenditures for series with more than six episodes; 15 percent for commercials; 25 percent for commercial applicants who have not previously worked in Washington and who are using a Washington-based production company; and 15 percent for qualifying non-Washington-resident labor that meets specific eligibility requirements.

SOURCE: Office of the Legislative Auditor, analysis of interviews, other states' websites, statutes, and published documents.

Program Design

While many states and other entities offer film incentives to entice production companies, no two programs we reviewed are entirely alike in their design. Below, we discuss the various ways that states tailor their film incentive programs to reflect the unique goals of a region or to maximize available incentive funding. Exhibit 3.5 outlines several design features of Minnesota's program, which we discuss in relation to other states' incentive programs below.

Exhibit 3.5: Minnesota's Film Production Jobs Program Design for 20 Percent Reimbursement, 2014

Eligible production types	• Feature film • Documentary • Music video • National television program, series, or pilot • Television commercial • Internet • Postproduction
Minimum in-state spending	$50,000 or $100,000[a]
Minimum percentage of production in Minnesota	None
Minimum percentage of overall budget spent in Minnesota	None
Eligible production expenses	• Most purchases in Minnesota to Minnesota vendors, with the exception of items such as tobacco or alcohol • Wages paid to Minnesota residents • Wages paid to nonresident performing artists up to $100,000 per person
Project approval process	First-come, first-served

NOTES: Minnesota offers a 25 percent reimbursement if at least 60 percent of production occurs outside of the Twin Cities metropolitan area (with no minimum spending requirement) or if the production company has over $1 million in qualified Minnesota expenditures. Postproduction-only projects qualify for a 25 percent reimbursement with $200,000 in qualified Minnesota expenditures.

[a] Postproduction-only projects and Minnesota productions have the lower in-state spending requirement.

SOURCE: Minnesota Film and TV Board, *Snowbate Guidelines*, July 21, 2014.

Eligible Production Types

Film production incentive programs vary in the production types eligible for incentive payments. Most states allow feature films and television series to receive incentive payments. In addition, many states allow television commercials and documentaries, as well as productions intended for distribution on the Internet, to qualify for incentive funding.[8]

Several different production types are eligible for reimbursement under Minnesota's program. For example, feature films, television commercials, and television series and pilots are among eligible production types in Minnesota. Guidelines for Minnesota's incentive program also indicate specific production types that are not eligible for reimbursement. For example, ineligible production types include: talk shows, sporting events, home shopping programming, and pornography.

[8] Some states, such as Louisiana, have additional incentives for newer types of interactive media and video games.

Minimum Spending Requirements

Film production incentive programs also vary in the minimum spending they require for projects to receive funding. Exhibit 3.6 shows the minimum in-state spending requirements for a sample of states offering production incentives. For example, the Maryland Film Office's incentive program requires minimum spending of $500,000 for all eligible production types applying for tax credits.

Exhibit 3.6: Minimum In-State Spending Requirements, Selected States, Fiscal Year 2015

Colorado	$100,000	Productions originating in Colorado
	$250,000	TV commercials or video games originating outside Colorado
	$1,000,000	Productions, other than television commercials or video games, originating outside Colorado
Louisiana	$300,000	Per production or episode
Maryland	$500,000	Per production or episode
Minnesota	$0	Feature films, TV series, TV pilots and TV commercials filmed at least 60 percent outside the Twin Cities metropolitan area
	$50,000	Postproduction only
	$50,000	Feature films or TV pilots filmed less than 60 percent outside the Twin Cities metropolitan area where applicant is a Minnesota resident
	$100,000	Feature films or TV pilots filmed less than 60 percent outside the Twin Cities metropolitan area where applicant is not a Minnesota resident
	$100,000	TV series or TV commercials filmed less than 60 percent outside the Twin Cities metropolitan area
North Carolina	$250,000	TV or theatrical commercials
	$250,000	TV or video series, per episode
	$5,000,000	Feature films
Tennessee	$200,000	Per production or episode
Washington	$150,000	TV commercial
	$300,000	TV episode
	$500,000	Feature film

SOURCE: Office of the Legislative Auditor, analysis of interviews, other states' websites, statutes, and published documents.

Minnesota's film production jobs program requires a lower minimum amount of spending in the state compared with most of the sample states. Currently, in order to be eligible for a 20 percent reimbursement, feature films must propose to spend at least $100,000 in Minnesota, or $50,000 if the applicant is a Minnesota resident. There is no minimum in-state spending requirement for productions that film at least 60 percent outside of the Twin Cities metropolitan area. One production that took place entirely outside of the metropolitan area had total Minnesota expenses of under $11,000.

In-State Budget and Filming Requirements

Some states' production incentive programs require a specific percentage of the overall production budget to be spent in the state in order to qualify for an incentive. Similarly, some production incentives require a specific percentage of a production to take place in the state in order to qualify for an incentive. For example, Maryland's film incentive program requires that at least 50 percent of filming must occur in the state.

Minnesota's film production jobs program does not have minimum requirements for the percentage of the budget that must be spent in the state or the percentage of production that must occur in the state. The board eliminated these types of requirements and instituted minimum in-state spending requirements in their place, regardless of the percentage of the overall budget that the in-state spending represents.[9]

Reimbursement Rates

Reimbursement rates are a design feature that affects the amount of financial benefit an eligible production may receive from a state's film incentive program. Several states' incentive programs have tiered reimbursement levels for rebates or tax incentives, as shown previously in Exhibit 3.4. Productions may qualify for a higher reimbursement rate if they meet specific criteria. These criteria vary in states offering tiered incentives. For example, Maryland offers a higher tax credit percentage for television series than it does for all other production types.

Minnesota's film production jobs program allows for a higher reimbursement (25 percent) for projects that meet specified criteria. State law indicates that productions may be eligible for a 25 percent rebate if they locate production work in outstate Minnesota or if the total Minnesota expense amount is at least $1 million.[10] Other projects receive a 20 percent rebate.

Eligible Expenses

Film production incentive programs vary in the expenses they consider when determining a production's incentive amount. For example, Colorado reimburses productions for a percentage of resident and nonresident wages. In contrast, Tennessee allows wages only for residents employed by a production to qualify for reimbursement.

Some states (not Minnesota) allow expenses for infrastructure investment to qualify for a reimbursement. For example, South Carolina offers a 20 percent tax credit for investments made in the construction of a film production or

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[9] An exception is that productions have no minimum spending requirement if at least 60 percent of the production days occur in outstate Minnesota.

[10] *Minnesota Statutes* 2014, 116U.26 (c)(1). The Minnesota Film and TV Board's *Snowbate Guidelines* specify that at least 60 percent of production work must take place in greater Minnesota to qualify for a 25 percent reimbursement. As explained in Chapter 2, the board allows postproduction projects to receive the higher reimbursement rate if their Minnesota expenses are at least $200,000.

postproduction facility in the state. As discussed in Chapter 2, guidelines for Minnesota's film production jobs program include a detailed description of expenses that are eligible (or ineligible) for reimbursement.[11]

Project Approval

Each state with an incentive program has a process for approving projects for incentive funding. In general, states' incentive programs either approve projects on a first-come, first-served basis, or they weigh projects against each other based on a predetermined set of criteria.

Minnesota approves productions for funding on a first-come, first-served basis, which is similar to the majority of states with incentive programs. Of the 38 states that had film incentive programs in 2014, 27 operated on a first-come, first-served basis.[12] This means that funds are set aside for applicants who meet the eligibility criteria in the order applications are received, without weighing the projects' potential for creating jobs or other benefits.

For the 11 states that did not operate on a first-come, first-served basis, each used specific criteria for determining which applicants ultimately received incentive funding. Examples of these criteria included: promotional value of the production to the state, number of jobs created by the production, and average salary levels. For example, Tennessee's Office of Film, Music and Entertainment does not award incentives on a first-come, first-served basis. Rather, the state approves projects for funding, in part, based on the content of the film, in addition to several other criteria collected on application forms, such as the number of local Tennessee crew who will be hired for the project.

While having a simple and straightforward project approval process in Minnesota may draw more productions to the state, it may also limit the extent to which the state can maximize the benefits discussed above. However, while operating on a first-come, first-served basis for approving projects may limit the board's ability to be strategic in awarding funds, it may also allow project selection to be more objective and limit accusations of favoritism.

Responsibility for deciding which projects ultimately receive funding also varies among state film offices that do not operate on a first-come, first-served basis. For example, in Tennessee, the decision of which projects receive funding rests with the state's Committee of Grants and Loans, which is based in the Tennessee Department of Economic and Community Development. In contrast, North Carolina's Secretary of Commerce is ultimately responsible for choosing which projects receive funding, in response to recommendations from the film office.

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[11] See Exhibit 2.6 in Chapter 2 for a detailed list of eligible and ineligible expenses.

[12] North Carolina's incentive program recently changed from a first-come, first-served tax credit program to a rebate program with specific criteria for evaluating applicants for incentive funding.

EVALUATIONS OF FILM INCENTIVE PROGRAMS

Many studies have reported the impact of film incentive programs. We reviewed several of these studies and read assessments others have made. There are essentially two types of analyses: return-on-investment analyses and economic impact analyses.

Return-on-Investment Analyses

Some analyses of film incentive programs measure the financial return to the state of the state's financial contribution to the program. These analyses look at whether the state tax revenues generated by film production activity offset the cost of the incentive. Of the several studies we reviewed that included tax impacts, all showed that the state taxes collected from wages and spending do not cover the cost of film incentives.[13] For example, a 2013 analysis of Louisiana's tax credit incentive estimated that the net cost to the state was almost $170 million in 2012; the state received an estimated $0.23 for each $1.00 in tax credits awarded.[14]

Economic Impact Analyses

Economic impact analyses look beyond the state tax revenues generated by productions that receive film incentives and consider production impacts on private businesses and individuals. These analyses report the economic activity generated by $1 of production spending, including activity by (1) other businesses as they respond to the production activity and (2) employees as they spend their wages. For example, the Louisiana study referenced above reported that:

> $717.2 million [in film production spending] created (1) over $1 billion in sales at firms in Louisiana, (2) $717.9 million in household earnings for Louisianans, and (3) 14,011 total jobs … for state residents.[15]

[13] Tennessee Comptroller of the Treasury, *Performance Audit: Tennessee Film, Entertainment and Music Commission* (January 2013), 33; Senate Fiscal Agency, *Film Incentives in Michigan* (September 2010), 22; Massachusetts Department of Revenue, *A Report on the Massachusetts Film Industry Tax Incentives* (March 2013), 17; Loren C. Scott & Associates, Inc., *The Economic Impact of Louisiana's Entertainment Tax Credit Programs* (April 2013), 31; Maryland Department of Legislative Services, *Evaluation of the Maryland Film Production Activity Tax Credit* (October 2014), 40; and Washington Joint Legislative Audit and Review Committee, *Review of Motion Picture Competitiveness Program* (December 2010), 5 and 7.

[14] Loren C. Scott & Associates, Inc., *The Economic Impact of Louisiana's Entertainment Tax Credit Programs* (April 2013), 31.

[15] *Ibid*., 16.

Measurement Issues

Several issues affect return-on-investment and economic impact analyses. These include: (1) the extent to which productions that received incentives would have occurred in the state anyway, (2) opportunity costs, and (3) data quality and availability.

A measurement challenge common to economic development programs is determining whether an incentive is responsible for a business's location decision. According to several industry members we interviewed, some productions that received a reimbursement from Minnesota's film production jobs program might have occurred in Minnesota even without the incentive. One can attribute neither the jobs nor other economic activity associated with those productions to the incentive program. However, it is difficult to measure the extent to which productions that received film incentives would have filmed in the location anyway.

Opportunity costs are those benefits that the state forgoes when it chooses to offer film production incentives. The $10 million appropriated for Minnesota's film production jobs program during the 2013 legislative session potentially could have generated benefits for the state if it were invested in a different economic development program, spent in a different policy area, or returned to taxpayers. The state lost the opportunity to realize those benefits when it chose to fund the film production jobs program. As such, the opportunity costs of the next best alternative use of the funds must be considered to fully account for the program's economic costs.

The availability and quality of data are also issues with evaluating film production incentives. The Minnesota Film and TV Board collects data on employment and spending from productions that receive incentives. However, as we discussed in Chapter 2, some of the data are inaccurate or incomplete.

MINNESOTA PROGRAM DESIGN ASSESSMENT

In lieu of conducting return-on-investment or economic impact analyses, we assessed the extent to which Minnesota's film production jobs program may be realizing the benefits attributed to film incentive programs.

Overall, we concluded that Minnesota's film production jobs program may not be maximizing the benefits generally attributed to film incentive programs.

Below, we discuss how the design of the film production jobs program may be limiting the state's ability to realize the benefits of job creation, direct spending, and tourism.

Job Creation

Productions approved for rebates from Minnesota's film production jobs program in fiscal year 2014 employed an estimated 496 Minnesotans and paid them more than $2.7 million in wages. The independent film *Dear White People*, which filmed in Minnesota, reported over 1,300 work days for personnel (excluding actors).

However, jobs supported by film incentives may be temporary. Individuals who work on productions may be professionals whose work comprises a series of individual projects. Productions that receive a film incentive contribute to those work opportunities. Exhibit 3.7 shows that the 496 Minnesotans who worked on the projects that received rebates worked a combined 7,225 days. In terms of full-time equivalencies, this amounts to 28 to 35 jobs.[16]

Exhibit 3.7: Projects Approved for Minnesota Film Incentives, Job Data, Fiscal Year 2014

Project Information

- 30 projects
- $1.16 million rebates

Job Information

- 496 Minnesotans employed[a]
- 7,225 work days[a]
- 28 to 35 full-time-equivalent positions[b]

NOTES: The exhibit reflects reimbursement requests submitted by projects approved for funding in fiscal year 2014 and reviewed by the board as of December 14, 2014. Two entities had yet to submit data for the postproduction segment of their projects. We excluded the postproduction portion of their rebates from the data.

[a] We estimated employment numbers using employment data that productions reported at the conclusion of their project. When employment data reflected talent agencies or other employers, we counted the agency as a single employee. We did not include agencies that reported multiple employees on a single line. Our approach could (1) undercount people if multiple individuals at a company were employed in a production, (2) accurately count people if the company name is a "doing business as" for a person who is not already listed, (3) over-count people if the company name is a "doing business as" for a person who is already listed, and (4) over-count people if a company listing is for an agency fee only. Productions report employment in days or portions of days. We corrected obvious errors in reported data but did not audit its accuracy. Two entities had yet to submit data for the postproduction segment of their projects. One project reported no employment data.

[b] The low estimate for full-time-equivalent positions is based on a 2,080-hour work year and an 8-hour work day. The high estimate is based on a 2,080-hour work year and a 10-hour work day. According to the board, 10-hour work days are standard in the film industry.

SOURCE: Office of the Legislative Auditor, analysis of unaudited Minnesota Film and TV Board data.

[16] The low estimate for full-time-equivalent positions is based on a 2,080-hour work year and an 8-hour work day. The high estimate is based on a 2,080-hour work year and a 10-hour work day. According to the board, 10-hour work days are standard in the film industry.

We found that the majority of Minnesotans who worked on projects approved for incentive funds in fiscal year 2014 worked ten days or less on those projects.

As Exhibit 3.8 shows, an estimated 56 percent of personnel employed by projects approved for funding in fiscal year 2014 worked ten days or less in total on those projects. In addition, over half of the 139 Minnesotans employed as "talent" and for whom work days were reported worked only one day on incentive-assisted projects.[17]

Exhibit 3.8: Minnesota Personnel Working on Projects Approved for Film Incentives, Fiscal Year 2014

Days of Employment	Personnel	Percentage	Cumulative Percentage
Two days or less	75	21%	21%
More than 2, but no more than 5 days	68	19	40
More than 5, but no more than 10 days	57	16	56
More than 10, but no more than 20 days	45	13	69
More than 20, but no more than 30 days	43	12	81
More than 30, but no more than 40 days	28	8	89
More than 40, but no more than 50 days	12	3	92
More than 50, but no more than 60 days	5	1	93
More than 60, but no more than 90 days	11	3	96
More than 90, but no more than 120 days	7	2	98
More than 120 days	6	2	100
Total	357		

NOTES: Personnel numbers are estimates. Some project types, such as postproduction-only projects, may not report personnel separately. Some "personnel" are entities that may include more than one person working on a project. Numbers do not include on-screen performers.

SOURCE: Office of the Legislative Auditor, analysis of expenditure reports submitted by rebate recipients to the Minnesota Film and TV Board.

It is possible that a steady stream of productions, in part supported by film incentives, will require firms that work in the industry to hire additional staff. For example, one Minnesota firm that has received several rebates has reportedly grown from a staff of 2 to 20 or more. This company's projects accounted for 17 of the 24 personnel reflected in Exhibit 3.8 who worked more than 60 days on

[17] Minnesota "talent" refers to a production's actors. Note that some "personnel" and "talent" reported in the board's data are talent agencies or other employers. In these cases, we counted the agency as a single employee. Talent numbers do not include agencies that reported multiple extras on a single line. Our approach could (1) undercount people if multiple individuals at a company were employed in a production, (2) accurately count people if the company name is a "doing business as" for a person who is not already listed, (3) over-count people if the company name is a "doing business as" for a person who is already listed, and (4) over-count people if a company listing is for an agency fee only. We reviewed employment data submitted by projects approved for funding in fiscal year 2014 that had been reviewed by the Minnesota Film and TV Board by December 31, 2014. Productions report employment in days or portions of days. We corrected obvious errors in reported data but did not audit its accuracy. Two entities had yet to submit data for the postproduction segment of their projects. One project reported no employment data.

incentive-assisted projects, and 46 percent of the total personnel work days reported by productions approved for rebates in fiscal year 2014.[18]

While longer term employment is positive, it is unclear how subsidizing the wages of certain employees supports productions "that directly create new film jobs in Minnesota."[19] The expenditure reports for the company referenced above include wages of office staff and an employee who works in personnel.

We found that the design of Minnesota's film production jobs program may limit the state's ability to achieve significant job creation benefits.

As we stated previously, Minnesota's film production jobs program requires a relatively low minimum spending amount in the state to qualify for a rebate. Several industry representatives said that low-budget films tend to pay low wages compared to films with larger budgets; two commented that these films hire relatively few crew for short duration. The smallest film approved for an incentive in 2014 sought reimbursement for three individuals' wages, all of whom were listed as "talent" and two of whom worked one day each. Furthermore, producers of low-budget films may ask for favors from friends in the industry, rather than hiring additional crew members to do the work.

In addition, television commercials accounted for approximately 30 percent of the rebated dollars for fiscal year 2014 projects. According to two people with whom we spoke, television commercials provide good paying jobs. However, commercials employ crew members for shorter time periods than do films. For example, a television commercial might employ nearly two dozen individuals over a period of time, with most working for fewer than five days. In contrast, some industry representatives noted that films might employ people for a few weeks to a few months.

Exhibit 3.9 shows that the 70 productions approved for rebates between July 2013 and December 9, 2014, included ten low-budget films. The eligible expenditures for these films ranged from under $11,000 to almost $826,000. As a point of reference, the Screen Actors Guild defines a film with a budget less than $2.5 million as low budget. Television commercials were the most common type of production approved for rebates during the time period.

Spending "on Main Street"

As discussed in Chapter 2, the Minnesota Film and TV Board outlines the nonwage expenses that are eligible for reimbursement under the film production jobs program. For nonwage expenses to be eligible, a producer must provide documentation of "production costs incurred in Minnesota that are directly attributable to the production in Minnesota of a film product."[20]

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[18] In computing the percentage of personnel who worked 60 days or more for this company, we counted only persons for whom all reported work days were associated with this one company.

[19] *Minnesota Statutes* 2014, 116U.26 (a).

[20] *Minnesota Statutes* 2014, 116U.26 (a).

Exhibit 3.9: Projects Approved for Rebates from the Film Production Jobs Program, July 2013 through December 9, 2014

		Approved Minnesota Expenditures		
Project Type	Number	Median	Low	High
TV commercial	27	$135,656	$100,140	$ 317,594
Postproduction only	19	85,700	52,630	636,000
Feature film	10	115,213	10,761	825,748
TV series	6	757,169	547,183	3,617,545
TV pilot or program	4	454,695	251,277	1,003,113
Documentary	2	118,110	116,270	119,950
Internet	2	181,379	117,008	245,750

NOTES: "Minnesota expenditures" are production companies' expenditures that qualified for reimbursement through the film production jobs program. Additional expenditures may have occurred, such as expenditures for alcohol or tobacco, or expenditures that exceeded the amount approved. We used approved expenditures for projects that were not final as of December 31, 2014.

SOURCE: Office of the Legislative Auditor, analysis of Minnesota Film and TV Board internal tracking list.

Fiscal year 2014 productions that received incentives reportedly spent almost $2.8 million on eligible expenditures other than wages. Exhibit 3.10 provides details on categories of spending. Some of them are clearly spending that provided economic activity for area businesses. For example, according to expenditure reports, productions spent over $175,000 for almost 1,900 nights of lodging in Minnesota. Airfare is less clearly "Minnesota spending"—the cost is reimbursed by the program as long as the travel was booked through a Minnesota travel agent, but the airline need not be based in Minnesota.[21]

We found that some productions approved for Minnesota film production rebates may not support the expected benefits of direct spending.

As Exhibit 3.9 showed, postproduction-only projects accounted for 19 of the 70 productions approved for rebates during the period we reviewed. The postproduction projects that were completed by mid-December 2014 reported minimal spending at local businesses other than postproduction houses. As a percentage of rebate dollars received, these projects reportedly spent far less than other categories of production on lodging, per diems, food, sets, rentals, and other spending categories that might spread production dollars in the community. The 2014 postproduction-only projects spent less than 2 percent of their total Minnesota expenditures on these categories of spending, while other project types ranged from 21 percent for television programs and pilots to almost 48 percent for feature films.

[21] Exhibit 3.10 understates direct spending in Minnesota because, as explained in Chapter 2, certain types of purchases cannot be reimbursed with incentive funds. For example, reimbursement funds cannot be used for alcohol or tobacco. Productions might not include these items in their expenditure reports, and if they do, the board removes them from the reimbursement request. Expenses that productions incur prior to receiving approval from the board are ineligible for reimbursement as well and would also not be included in these data.

Exhibit 3.10: Minnesota Spending by Recipients of Film Production Incentives, Fiscal Year 2014

Category	Spending
Wages	
Personnel	$2,521,804
Acting talent[a]	224,444
Total wages	$2,746,248
Other Spending	
Postproduction[b]	$1,185,407
Equipment rental	530,292
Sets, wardrobe, and props	208,707
Lodging[c]	176,834
Other[d]	124,379
Transportation	121,534
Food and catering	118,602
Location expenses	110,509
Production office rental	67,343
Per diems[e]	59,632
Airfare[f]	41,460
Studio rental	21,616
Tape and film stock processing	7,348
Total other spending	$2,773,662
Total	$5,519,910

NOTES: This exhibit reflects spending by 30 productions that were approved for rebates in fiscal year 2014 and whose spending the board had reviewed and submitted to the state for reimbursement. Spending reflects reported spending, including spending in excess of the original budget. Such spending is not reimbursed but reflects spending by productions in Minnesota. Figures do not include spending that is not reimbursable, such as tobacco, alcohol, or parking tickets.

[a] Includes only wages paid to talent residing in Minnesota.

[b] Amounts for postproduction may include wages for postproduction professionals.

[c] Productions reported 1,889 nights of lodging.

[d] Other includes spending for items not reflected elsewhere, such as miscellaneous supplies other than props, insurance, waste hauling, and legal, law enforcement, and accounting services.

[e] Per diems are eligible when paid to Minnesota residents and nonresidents while working in Minnesota.

[f] Airfare includes air travel on Minnesota-based airlines or purchased through a Minnesota travel agent.

SOURCE: Office of the Legislative Auditor, analysis of expenditure reports submitted by rebate recipients to the Minnesota Film and TV Board.

Further, the state's low minimum spending requirement may draw more low-budget films to Minnesota, and this may in turn limit direct spending benefits. For example, one person with whom we spoke stated that low-budget films often ask for discounts or donations for things such as location fees or labor.

Tourism

Some productions may generate measurable increases in tourism to a state. Films that prominently feature locations in the state and receive wide distribution may lure visitors to a state.

We found that the majority of productions approved for film production jobs incentives in fiscal year 2014 are unlikely to generate significant tourism for the state.

The majority of productions approved for Minnesota's rebate dollars in fiscal year 2014 were television commercials, postproduction-only projects, and small films. Commercials may be filmed on a sound stage with no indication of uniquely Minnesota locations or features. Postproduction-only work may receive incentive funding, but the production itself may feature an entirely different geographic area. Finally, a film's ability to affect tourism will depend on its distribution. The guidelines for the film production jobs program do not require feature films to have distribution agreements. A small film without a distribution agreement would likely be seen by few people, and as a result would have limited impact on tourism for Minnesota.

Chapter 4: Other Issues and Recommendations

In the previous chapters, we described the Minnesota Film and TV Board and the state's film production jobs program. We explained the board's activities and accomplishments, and we found conditions that could be remedied by the Legislature, the oversight agency, and the board.

Below, we discuss some additional issues that came to our attention during our evaluation. We first highlight an issue related to the board in its role as Minnesota's film commission, namely board leadership. We then turn to two issues related to the film production jobs program. We comment on the impact that the board's focus and the Legislature's funding of the program may be having on the program's effectiveness. We conclude the chapter with recommendations that address issues raised throughout the report.

MINNESOTA FILM AND TV BOARD LEADERSHIP

The Minnesota Film and TV Board identifies itself as the state's film commission. It is a point of contact for producers who are interested in filming in Minnesota.

Some representatives of the film industry and board members told us about strengths and achievements of the organization. During interviews, individuals mentioned: (1) relationships that the board has established and maintained with legislators, (2) the board's success in 2013 securing funding for the state's film production jobs program, and (3) the board's role as a good source of information in the film industry. Some people highlighted the executive director, staff, board members, and/or the current board president as strengths of the organization.

However, some stakeholders have been concerned about the board's ability to fully represent the film industry in the state. Some board critics allege an inability of board staff to establish good relationships with a range of filmmakers. They point to the dearth of moderate-to-large budget film productions in Minnesota as evidence for this claim. And they talk about a board that, at best, is irrelevant to industry crew members and has lost local industry support.

Board supporters say board staff and volunteers give the organization access to and understanding of the local film community. The board includes film industry professionals among its staff, Board of Directors, and committee members. The board also holds periodic town hall meetings to hear industry issues and concerns. However, board supporters acknowledge that the film industry has many parts and some parts have fared better than others. For example, commercial producers and postproduction facilities have benefitted from productions that have received film incentives, but film incentives have not assisted a feature film with a Minnesota budget over $1 million in several years.

Board members are aware of the organization's critics; two members highlighted board detractors as among the board's biggest challenges.

We cannot assign to board leadership the sole responsibility for the fact that larger-budget films have bypassed Minnesota in recent years. Even industry representatives who feel there has been weak or ineffective leadership at the board acknowledged that it is difficult attracting films to a state that does not offer much of a financial incentive. Industry representatives are also encouraged by the appointment of a board president who has film experience and the hiring of a new director of production.[1]

At the same time, the board has seemed unable to engage some industry members. The board—in its role as the state's film commission—needs to show inclusive leadership. Several people who thought board leadership has been ineffective were supportive of the board as an organization. Their experience and connections could be valuable to the board in promoting the state and attracting production. One board member indicated a need to get more crew members involved. And the executive director has indicated that she would welcome the support of a "grassroots film alliance." While we cannot resolve this issue, recommendations we make below—related to state expectations and board accountability—might help address it.

FILM PRODUCTION JOBS PROGRAM FOCUS AND FUNDING

The Legislature has delegated administration of the state's film production jobs program to the Minnesota Film and TV Board. Delegated tasks include establishing program details, such as eligibility criteria. These criteria communicate a program focus that could affect the ability of the program to achieve desired outcomes. Stakeholders had suggestions for changes to the film production jobs program. Many suggestions had to do with program funding. In the following sections, we discuss the focus and funding of the film production jobs program.

Focus

The board's bylaws assert that the state has designated the board to "develop the Minnesota film/video/audio-visual media industry as a force for economic and creative growth." Among industry representatives and board members, some stated that it is part of the board's role in administering the film production jobs program to support "indigenous" production. In this context, indigenous productions are Minnesota productions that originate from and are produced by Minnesotans living in the state. Other stakeholders felt that the board should focus on bringing in productions from outside of Minnesota.

[1] The board elected Eric Stolhanske as board president in 2014. Mr. Stolhanske is a film producer, screenwriter, and actor who lives in Minneapolis and Los Angeles. The board hired a director of production in 2014, as well.

The film production jobs program is a state economic development program. Its purpose is to support productions that "directly create new film jobs in Minnesota."[2] In its administration of the incentive, the board must design a program that will attract applicants whose productions contribute to the goal of creating new jobs or work opportunities for members of Minnesota's film industry.

In our view, whether a production originates in Minnesota or elsewhere is beside the point. What matters is what the production might contribute in terms of work opportunities. We would add that the work opportunities need to have economic value, not just experiential value. In other words, they need to pay well. And ideally, the program would assist productions that would not go forward in Minnesota but for the financial assistance the rebate provides.

As we discussed in Chapter 3, we think the low minimum spending required by feature film producers is hard to justify in terms of job creation. While support for small-budget films may help develop local talent and provide work experiences, it may not be the best tool for job creation.

The board has a role in Minnesota's film industry beyond administering the state's film production jobs program. That role could include an initiative to support indigenous productions regardless of their job creation effects. However, when it comes to administering the film production jobs program, the board's focus needs to be on the state's job creation goal.

Funding

As discussed in Chapter 3, funding is one of the factors that influence film producers' decisions about where to locate production work. Representatives from the film industry remarked that timelines for deciding where to film a production tend to increase with film budgets. Several years before production commences, producers might develop a list of states that have locations and other features that will suit their filming needs. They will budget the cost of the film in each of a few states. States with more predictable incentive funding will stand a greater chance of being considered than a state where funding is uncertain. Film commissioners from five of the six film offices we reviewed highlighted low or inconsistent incentive funding as a primary challenge for their film offices.[3]

We found that the Legislature's level and pattern of funding the film production jobs program may interfere with the board's ability to attract films to the state.

Film industry representatives and members of the Board of Directors of the Minnesota Film and TV Board noted that challenges for the state's film production jobs program include the level of funding and its lack of continuity. Although Minnesota is currently funding its film production jobs program at a

[2] *Minnesota Statutes* 2014, 116U.26 (a).

[3] The six states we reviewed that have incentive programs are Colorado, Louisiana, Maryland, North Carolina, Tennessee, and Washington.

similar level as a sample of states, Minnesota's funding remains below the funding for most other states' incentive programs.[4]

According to industry representatives, the amount of money available through Minnesota's program is not enough to attract large films. Minnesota's entire appropriation for fiscal year 2014 ($5 million) would support a single $19 million film in the Twin Cities metropolitan area. Due to commitment of funds to other projects, the full appropriation has not been available to lure a film in this budget range to the state.

With competition among states to attract films, the inconsistency with which incentive funds have been available in Minnesota is problematic, too. We showed in Chapter 1 that the Legislature's funding of the state's film incentive program has ranged from nothing in some years to $5 million each year of the 2014-2015 biennium. Some industry representatives said that for Minnesota to be considered as a possible location, producers need to know the program will be funded when they make a location decision. Similarly, some representatives said producers of television series need to know that the incentive program will be funded for a period of five or more years, not just one or two years.

Lack of program continuity also has the potential to create inefficiency for program administration. When the Legislature changes funding sources or eliminates and later reinstates funding, the board must re-launch the program. For example, the board created new eligibility criteria for the program when the Legislature funded it with the Legacy Arts and Cultural Heritage fund and then again when the program received the $10 million General Fund appropriation for fiscal years 2014 and 2015. The board also had to remarket the program to let people know that Minnesota had incentive funds available.

RECOMMENDATIONS

As noted above, there is discontent among some members of the film industry as to the board's activities and administration of the film production jobs program. In addition, in Chapter 2 we identified instances of program administration that may not be consistent with the law. We have also highlighted ways in which program funding may not be as effective as it could be. And we found reporting by the board that does not communicate what the board is accomplishing. We make several recommendations to remedy these issues.

State Expectations

The Legislature has taken a laissez faire approach to the Minnesota Film and TV Board's operations and the design of the film production jobs program. Thus, we find a self-directed organization that administers a state program in a manner that seems to reflect the board's goals. The Legislature needs to be clear about its expectations for the board—both for the operations grant and the film production jobs program grant.

[4] Appendix B includes descriptive information about all states' incentive programs, including information about recent incentive funding.

Minnesota Film and TV Board Operations

The Minnesota Film and TV Board is a private entity, but it receives most of its operating funds from the state. Therefore, the state has a responsibility to make sure that the board is meeting state expectations.

RECOMMENDATIONS

The Legislature should articulate its expectations for operations grants to the Minnesota Film and TV Board.

Once the Legislature has articulated its expectations, the Department of Employment and Economic Development should work with the board to write grantee duties that reflect and fulfill the Legislature's expectations.

The Legislature needs to provide the foundation for clearer direction and stronger state oversight by articulating its expectations from the operations grants. In previous reports, the Office of the Legislative Auditor has noted problems that can arise when the Legislature names grant recipients in appropriation laws. These include unclear grant objectives and insufficient state oversight.[5]

More specific appropriation language could help with clarity of grant objectives. For example, the Legislature might specify that:

> The appropriation may be used for the board's operating expenses and costs of (1) providing location, permitting, or crew assistance to filmmakers; (2) marketing the state to non-Minnesota filmmakers; and (3) publicizing the state's film production jobs program.

Of course, the Legislature would enumerate whichever uses best reflect its expectations. The point is to provide direction for the Department of Employment and Economic Development (DEED) and the board.

Clearer legislative expectations should help DEED work with the board to write a grant agreement that is consistent with those expectations. Grantee duties should include clear goals and measurable objectives. It may take several iterations for DEED and the board to arrive at a workable format.

The board may have goals that are independent of the Legislature's expectations and reflect the interests of the board or its private contributors. These should not be confused with the activities the board performs with state funds.

[5] Office of the Legislative Auditor, Program Evaluation Division, *State Grants to Nonprofit Organizations* (St. Paul, 2007), 37-38; Office of the Legislative Auditor, Financial Audit Division, *Special Review: State and City Contracts with the Minnesota Council on Compulsive Gambling* (St. Paul, 2005), 17; and Office of the Legislative Auditor, Financial Audit Division, *Minnesota Grants Administration* (St. Paul, 2002), 35-36.

Film Production Jobs Program

Since the Legislature first created the film production jobs program, the program's focus has been new job creation.[6] However, this language is open to interpretation. All productions generate work of some kind and duration. Nonspecific legislative language and state oversight that has focused on financial issues has allowed a private entity to set the agenda for a state economic development program.

RECOMMENDATIONS

The Legislature should amend *Minnesota Statutes*, 116U.26, to clarify the purpose and focus of the state's film production jobs program.

The Minnesota Film and TV Board should design program eligibility criteria that are consistent with Minnesota law and the purpose of the film production jobs program.

The Legislature should amend *Minnesota Statutes*, 116U.26, to indicate that the Department of Employment and Economic Development must review and approve program eligibility criteria developed by the board.

The Legislature should clarify its expectations for the film production jobs program. If the Legislature intends for the program to focus on bringing productions to Minnesota from outside the state, it should make that expectation clear in the section of statutes that authorizes the program. If the Legislature has a different or more inclusive goal for the program, it should specify that.

The Legislature should also clarify its expectations with regard to the types of projects that can receive rebates. If the Legislature intends the film production jobs program to provide rebates to projects that complete at least some principal photography in the state, the Legislature needs to make that clear. This would speak to whether postproduction-only projects would remain eligible to receive incentive funding.

It is essential that the Minnesota Film and TV Board stay apprised (and advise the Legislature) of trends in the film industry and incentive programs offered in other states. Changes to eligibility criteria that improve the likelihood that the program will fulfill its purpose are important. But ultimately, the Legislature needs to establish the program's purpose and focus. The Minnesota Film and TV Board should continue to create detailed eligibility criteria, while ensuring that the criteria are consistent with the law and program purpose articulated by the Legislature.

The Legislature should amend state law to require DEED to approve program eligibility criteria the board develops. State statutes already indicate that DEED has "administrative oversight and control" of the program. To prevent sole focus

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[6] The law that created the program in 1997 and the current section of statutes both state that the program supports productions "that directly create new film jobs in Minnesota." *Laws of Minnesota* 1997, chapter 200, art. 1, sec. 53; and *Minnesota Statutes* 2014, 116U.26 (a).

on financial oversight, the Legislature should specify that DEED, as the state oversight agency, needs to ensure that criteria for the program are consistent with state law.

Funding

Chapter 2 explained that the state funds the film production jobs program through grants overseen by DEED. Many people we spoke to agreed that a factor affecting the ability of the Minnesota Film and TV Board to attract feature films to the state is the Legislature's record of funding the film production jobs program. The state's funding has been inconsistent and remains below funding in many states. Ultimately, whether to fund the film incentive program is a policy decision for the Legislature. However, if the Legislature chooses to continue funding the program, we make the following recommendations.

RECOMMENDATIONS

The Legislature should fund the film production jobs program at a level that is consistent with the purpose of the program.

If the Legislature increases funding for the film production jobs program, the Legislature should (1) be more directive as to the types of productions that can qualify for program rebates and (2) consider an alternative method of capping the amount that the Minnesota Film and TV Board can use to administer the program.

The Legislature should fund the film production jobs program at a level that will allow the program to attract productions that are consistent with the purpose the Legislature identifies. We recommended above that the Legislature clarify the program's purpose and focus. If the Legislature wants to attract television commercials and small, independent films, the current level of funding may be adequate. As of mid-December 2014, the board had set aside just under half of the funds appropriated for the 2014-2015 biennium. If the Legislature wants the film production jobs program to attract films with larger budgets, the Legislature needs to provide funding that will attract those films.

If the Legislature increases funding to the film production jobs program, we think the Legislature needs to be more prescriptive about the use of the funds. The Legislature could accomplish this by amending the program statute or writing more directive appropriation language.

We do not recommend a particular level of funding. But we use bills introduced during the 2015 legislative session to illustrate how a more directive approach could work. One current proposal to fund the program would provide $1.5 million per fiscal year, while the other proposes funding of $10 million per fiscal year. The Legislature could take an approach such as:

> (i) $1,500,000 each year is from the general fund for a grant to the Minnesota Film and TV Board for the film production jobs

> program under Minnesota Statutes, section 116U.26. This appropriation is available until expended.[7]
>
> (ii) $17,000,000 from the general fund is available the first year for the film production jobs program under Minnesota Statutes, section 116U.26, for feature films or television series with spending in Minnesota of $2.5 million or more (excluding nonresident talent). This appropriation is available until June 30, 2017.[8]

This approach would give the board a larger amount of incentive funds to attract one or more larger productions. The Legislature could include a per-production reimbursement cap if its intention is to support more than one production. If the board exhausts the more generous appropriation in the first year, the board (or all of the people who worked on the productions) could lobby the Legislature for more funds. If the board is unable to use the appropriation, it would cancel to the General Fund. This approach would not address the consistency challenges raised by the state's two-year funding pattern, however.

If the Legislature increases the appropriation for the film production jobs program, it should consider capping the dollar amount that is available for program administration. Currently, the cap is based only on a percentage of the appropriation. We note that if the board is able to attract large-budget productions to the state, the board may need the current level of administrative funding (that is, 5 percent of the appropriations) to pay for audits of the productions' expenditures.

Grant Reporting and Accountability

The Minnesota Film and TV Board has produced annual or semi-annual reports as required by grant agreements with the state. As we reported in Chapter 2, these grant reports have not fully reflected board activities and have included inaccurate data.

RECOMMENDATION

The Minnesota Film and TV Board should report completely and accurately on its activities and achievements related to state grant funds.

Above, we recommended that the Legislature and DEED clearly outline expectations for the board. Once that is accomplished, the state needs to hold the board accountable for performing to those expectations by requiring complete and accurate reports of grant-related board activities. It is important to know if the entity that operates as the state's film commission is serving the state well.

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[7] This is the language, as introduced, of H.F. 843 and S.F. 804, 2015 Leg., 89th Sess. (MN).

[8] This would bring the total funding for the biennium to $20 million, the amount as introduced by S.F. 772, 2015 Leg., 89th Sess. (MN). The $2.5 million amount is the low-budget-production threshold used by the Screen Actors Guild-American Federation of Television and Radio Artists.

List of Recommendations

- The Legislature should articulate its expectations for operations grants to the Minnesota Film and TV Board. (p. 57)
- Once the Legislature has articulated its expectations, the Department of Employment and Economic Development should work with the board to write grantee duties that reflect and fulfill the Legislature's expectations. (p. 57)
- The Legislature should amend *Minnesota Statutes*, 116U.26, to clarify the purpose and focus of the state's film production jobs program. (p. 58)
- The Minnesota Film and TV Board should design program eligibility criteria that are consistent with Minnesota law and the purpose of the film production jobs program. (p. 58)
- The Legislature should amend *Minnesota Statutes*, 116U.26, to indicate that the Department of Employment and Economic Development must review and approve program eligibility criteria developed by the board. (p. 58)
- The Legislature should fund the film production jobs program at a level that is consistent with the purpose of the program. (p. 59)
- If the Legislature increases funding for the film production jobs program, the Legislature should (1) be more directive as to the types of productions that can qualify for program rebates and (2) consider an alternative method of capping the amount that the Minnesota Film and TV Board can use to administer the program. (p. 59)
- The Minnesota Film and TV Board should report completely and accurately on its activities and achievements related to state grant funds. (p. 60)

Appendix A: Projects Approved for Film Production Jobs Rebates

Exhibits A.1 and A.2 list productions that the Minnesota Film and TV Board approved for film production jobs rebates between July 2013 and December 9, 2014. In total, the board set aside approximately $4,565,100 for these projects' rebates. The productions estimated over $20.5 million in expenditures that would be eligible for reimbursement.

The 70 productions listed in the two exhibits include 27 television commercials, 19 postproduction-only projects, and 10 feature films. During this time period, the board approved rebates for six television series, two television programs, and two television pilots. Documentaries and internet productions accounted for the remaining projects.

Exhibit A.1: Projects Approved for Reimbursement from the Minnesota Film Production Jobs Program, Fiscal Year 2014

Entity Name	Project Name	Type	Eligible Expenditures[a]	Rebate	Rebate Percentage
Committee Films, Inc.	It Came Outta Nowhere-1	TV series	$849,662	$169,932	20%
DWP Production, LLC	Dear White People	Feature film	825,748	165,150	20
Committee Films, Inc.	Bigfoot Captured	TV program	539,597	107,919	20
		Postproduction	35,341	7,068	20
Committee Films, Inc.	It's Always Sunny in Minnesota	TV series	547,183	136,796	25
Committee Films, Inc.	World from Above (w/t)	TV pilot	334,451	66,890	20
Drive Thru, Inc.	Winfield: Perfect Farmer	TV commercial	242,946	48,589	20
8th Street Productions	Sears-Back to School	TV commercial	190,901	38,180	20
Northwoods Outfitters, LLC	Heart of Wilderness	Feature film	129,883	32,471	25
		Postproduction	54,847	13,712	25
Cutback Films, Inc.	Big Lots Price Items 2&3	TV commercial	165,723	33,145	20
Twist Productions	United Health-Get the Ball Rolling	TV commercial	162,063	32,413	20
Drive Thru, Inc.	Fingerhut 2014 TV	TV commercial	141,364	28,273	20
Drive Thru, Inc.	Lake City Bank	TV commercial	131,552	26,310	20
Drive Thru, Inc.	Regions: Denise, Jerry	TV commercial	127,805	25,561	20
Cutback Films, Inc.	Big Lots Price Items 1	TV commercial	124,376	24,875	20
Red Ice, LLC	Red Ice	Feature film	122,500	24,500	20
Drive Thru, Inc.	Scheels Youth Sports	TV commercial	120,998	24,200	20
Lovesavage, Inc.	Great Clips Adopt a School	Internet	117,008	23,402	20
Nodak Now and Forever, LLC	Project Nodak	Documentary	116,270	23,254	20
Strange Productions	Strange Nature	Feature film	107,925	26,981	25
Drive Thru, Inc.	Mystic Lake Casino-Mini Giveaway	Postproduction	107,168	21,434	20
Buck Holzemer Productions	Cenex Community Heroes	TV commercial	105,330	26,333	25
Drive Thru, Inc.	FingerHut: Nancy's Budget	TV commercial	102,457	20,491	20
Drive Thru, Inc.	Scheels Back to School	TV commercial	100,140	20,028	20
Group Publishing, Inc.	When God Left the Building	Postproduction	93,933	18,787	20
Messenger Films	Sabina K.	Postproduction	87,200	17,440	20
Neighbor, LLC	Ohio Lottery	Postproduction	87,000	17,400	20
Baking Sota Films	Turn Up	Postproduction	85,700	17,140	20
US of Anderson I	After the Reality	Feature film	79,953	19,988	25
Drive Thru, Inc.	Panda Express	Postproduction	71,600	14,320	20
Crash & Sue's	Carrier Air Cond.	Postproduction	69,950	13,990	20
Drive Thru, Inc.	Honda Indy Car Sweepstakes	Postproduction	64,050	12,810	20
Drive Thru, Inc.	Intuit Package	Postproduction	59,072	11,814	20
Drive Thru, Inc.	Subaru	Postproduction	57,415	11,483	20
Drive Thru, Inc.	H&R Block-Procrastination	Postproduction	52,630	10,526	20
Gear Seven Creative, LLC	Polar Bear Club	Feature film	10,761	2,690	25

NOTES: Exhibit does not include four projects that the Minnesota Film and TV Board approved in fiscal year 2014 but that withdrew from the program. One of the four projects reapplied and was reapproved in fiscal year 2015.

[a] "Eligible expenditures" are expenditures eligible for reimbursement. They include salaries of non-Minnesota talent.

SOURCE: Minnesota Film and TV Board, December 2014.

Exhibit A.2: Projects Approved for Reimbursement from the Minnesota Film Production Jobs Program, July 1, 2014, through December 9, 2014

Entity Name	Project Name	Type	Eligible Expenditures[a]	Rebate	Rebate Percentage
Committee Films, Inc.	In An Instant	TV series	$3,617,545	$904,386	25%
Committee Films, Inc.	Monsters, Myths & Legends	TV series	2,057,906	514,477	25
Committee Films, Inc.	Einstein/Nostradamus	TV program	1,003,113	250,778	25
Tremendous Entertainment	BF Repacks 1:3	TV series	664,675	132,935	20
Tremendous Entertainment	Edible Icons 1:3	Postproduction	636,000	127,200	20
Tremendous Entertainment	Rock the Park1:3	TV series	604,060	120,812	20
Voice from the Stone Prods.	Voice from the Stone	Postproduction	555,175	138,794	25
Blood Stripe Movie, LLC	The Blood Stripe	Feature film	467,366	116,842	25
Drive Thru, Inc.	MaxPoint	TV commercial	317,594	63,519	20
Drive Thru, Inc.	FingerHut TV x3	TV commercial	307,193	61,439	20
Drive Thru, Inc.	Mystic Lake	TV commercial	293,086	58,617	20
Buck Holzemer Productions	Food Brings Us Together	TV commercial	267,000	53,400	20
Buffy Pictures, Inc.	Treasure Island Resort & Casino	TV commercial	266,542	66,636	25
Magnetic Productions	5 Day Flip	TV pilot	251,277	50,255	20
8th Street Productions	Best Buy Holiday Dot Com	Internet	245,750	49,150	20
Drive Thru, Inc.	Hormel: Chili Love	TV commercial	245,426	49,085	20
Drive Thru, Inc.	CHS First World	TV commercial	219,178	43,836	20
Flyover, LLC	Winmark-Platos/OUAC	TV commercial	188,080	37,616	20
Sdanka's War, LLC	Sdanka's War	Feature film	180,837	45,209	25
Drive Thru, Inc.	Rasmussen College	TV commercial	135,656	27,131	20
Morton Jankel Zander, Inc.	MNsure	TV commercial	135,000	27,000	20
Drive Thru, Inc.	Cost Cutters: Perfect	TV commercial	134,721	26,944	20
Partizan Entertainment, LLC	HealthPartners	TV commercial	133,328	26,666	20
Drive Thru, Inc.	RPA Honda/Macy's	Postproduction	132,951	26,590	20
Martin Williams Advertising	MOA Holiday/Spring	TV commercial	122,116	24,423	20
Quiet Island Films	Building the Pink Tower	Documentary	119,950	23,990	20
Drive Thru, Inc.	Union Pacific	Postproduction	110,501	22,100	20
Drive Thru, Inc.	Associated Bank	Postproduction	110,210	22,042	20
Drive Thru, Inc.	USA Bank TV	TV commercial	108,508	21,702	20
Cutback Films	Big Lots Holiday 1412	TV commercial	104,103	20,821	20
355 Productions	Twin Cities	Feature film	96,550	19,310	20
Baking Sota Films	Anit-Chiraq the movie	Postproduction	84,250	16,850	20
Drive Thru, Inc.	Abu Dhabi-Ambition-Visualized	Postproduction	65,975	13,195	20
Drive Thru, Inc.	Best Buy Viral	Postproduction	64,828	12,966	20
Hello Sunshine Films, LLC	Dragonfly	Feature film	60,452	12,090	20

NOTES: Exhibit does not include five projects that the Minnesota Film and TV Board approved but that withdrew from the program. One production withdrew and reapplied later during the period and was approved.

[a] "Eligible expenditures" are expenditures eligible for reimbursement. They include salaries of non-Minnesota talent.

SOURCE: Minnesota Film and TV Board, December 2014.

Appendix B: State Film Production Incentives

The following exhibit provides information about film incentives offered by 38 states. Funding reflected in the exhibit is the amount allocated for the particular time frame shown in the exhibit; it does not include unused incentive money carried forward from prior years. As a result, the total funding available in any state may be higher than the exhibit indicates. For example, Florida's tax credit incentive has been capped at $42 million per fiscal year since 2012. However, if certified tax credits in a given fiscal year are less than $42 million, the remaining amount may be carried forward.

The exhibit reflects only the current appropriation for film incentive funding in each state. States may have allocated funding for film incentives at these levels for a longer period of time. For example, New York's tax credit program is capped at $420 million per calendar year through 2019.

Several states listed in Exhibit B.1 do not limit film production tax credits available each year. The impact to the state budget can come years after the completion of a project if the production company is allowed to carry forward tax credits to future years.

The exhibit shows the percentage of qualified expenditures that are eligible for a rebate or tax credit in each state. Percentages are represented as a range for states that offer different rates for things like resident wages, filming in particular areas of the state, or higher in-state spending, for example.

Finally, some of the information in this exhibit may have changed since the publication of the source material. For example, North Carolina's film incentive program recently changed from an uncapped tax credit to a rebate funded at $10 million through 2018. In addition, legislation may have been enacted that eliminates, increases, or decreases funding in future years. For example, California's tax credit incentive will be capped at $330 million annually beginning in fiscal year 2017.

Appendix B.1: States' Film Production Incentives

	Structure	Funding	Funding Term	Percentage Credit or Rebate[a]
Alabama	Tax credit	$20 million	Fiscal year ending 9/30/15	25 or 35%
Alaska	Tax credit	$200 million	6/30/2013-12/31/18	30-58
Arkansas	Rebate	No cap	n/a	20 or 30
California	Tax credit	$100 million	Fiscal year ending 6/30/15	20 or 25
Colorado	Rebate	$5 million	7/1/14-6/30/16	20
Connecticut	Tax credit	No cap	n/a	10-30
Florida	Tax credit	$42 million	Fiscal year ending 6/30/15	20-30
Georgia	Tax credit	No cap	n/a	20 or 30
Hawaii	Tax credit	No cap	n/a	20 or 25
Idaho	Rebate	None	Not currently funded	20
Illinois	Tax credit	No cap	n/a	30 or 45
Kentucky	Tax credit	No cap	n/a	20
Louisiana	Tax credit	No cap	n/a	30 or 35
Maine	Rebate	No cap	n/a	10 or 12
	Tax credit	No cap	n/a	5
Maryland	Tax credit	$7.5 million	Fiscal year ending 6/30/15	25 or 27
Massachusetts	Tax credit	No cap	n/a	25
Michigan	Rebate	$50 million	Fiscal year ending 9/30/15	15-32
Minnesota	Rebate	$5 million	Fiscal year ending 6/30/15	20 or 25
Mississippi	Rebate	$20 million	Fiscal year ending 6/30/15	25-35
Montana	Tax credit	No cap	n/a	9 or 14
	Grant	$1 million	Fiscal year ending 6/30/15	Up to 20
Nevada	Tax credit	$10 million	1/1/2014-12/31/17	12-19
New Jersey	Tax credit	$10 million	Fiscal year ending 6/30/15	20
New Mexico	Tax credit	$50 million	Fiscal year ending 6/30/15	25 or 30
New York	Tax credit	$420 million	Calendar year 2015	30 or 35
North Carolina	Tax credit[b]	No cap	n/a	25
Ohio	Tax credit	$40 million	Biennium ending 6/30/15	25 or 35
Oklahoma	Rebate	$5 million	Fiscal year ending 6/30/15	35 or 37
Oregon	Rebate	$10 million	Fiscal year ending 6/30/15	10 or 20
	Rebate	No cap	n/a	6.2[c]
Pennsylvania	Tax credit	$60 million	Fiscal year ending 6/30/15	25 or 30
Rhode Island	Tax credit	$15 million	Calendar year 2015	25
South Carolina	Rebate	$5.5 million[d]	Unavailable	20-30
		$10 million[e]	Fiscal year ending 6/30/15	
Tennessee	Grant	$2 million	Fiscal year ending 6/30/15	25
Texas	Grant	$95 million	Biennium ending 8/31/15	5-22.5
Utah	Tax credit	$6.79 million	Fiscal year ending 6/30/15	20 or 25
Virginia	Tax credit	$6.5 million	Fiscal year ending 6/30/15	15-40
	Grant	$4.8 million	Biennium ending 6/30/16	Discretionary
Washington	Rebate	$3.5 million	Calendar year 2015	15-35
West Virginia	Tax Credit	$5 million	Fiscal year ending 6/30/15	27 or 31
Wyoming	Rebate	$900,000	Biennium ending 6/30/16	12-15

[a] We show a range of reimbursement rates because many states have different reimbursement rates based on higher minimum spending amounts, resident wages, or spending that occurs in different regions of the state.

[b] Since the publication of our source documents, North Carolina changed its incentive to a rebate.

[c] Oregon's incentive program offers an additional rebate equal to the Oregon income tax withheld (maximum 6.2 percent).

[d] This incentive is available for a rebate of expenditures purchased from South Carolina suppliers.

[e] This incentive is available for a rebate of wages paid to both residents and nonresidents.

SOURCES: Cast and Crew Entertainment Services, *The Incentives Program*, Fall 2014; *Production Incentive Map* (Cast and Crew Entertainment Services, 2015), http://www.castandcrew.com/production-incentive-map-us, accessed March 25, 2015; and review of film incentive legislation for select states.

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March 31, 2015

James Nobles
Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul Minnesota 55155-1603

Dear Mr. Nobles:

Thank you for conducting a program evaluation of the Minnesota Film and TV Board (the "Board") and providing our office the opportunity to review and comment on the resulting report (the "Report"). We appreciate the professionalism demonstrated by you and your staff through this process. We welcome your review and regard it as part of an ongoing process of improvement for our organization.

The Board does not take issue with the majority of the report's key facts and findings or with any of the key recommendations. There are, however, several findings that the Board believes require comment and context to bring more clarity to the report.

One such finding relates to actions the Board took after receiving a $1M appropriation from the Legacy Arts and Cultural Heritage Fund (ACH Fund) in FY2012. The appropriation was for grants to Minnesota residents to create film or television productions that promote Minnesota's cultural heritage and for the film production jobs program ("Snowbate") under Minnesota Statutes, section 116U.26. The appropriation was $500,000 in each year of the two year grant period, administered by the Office of Grants Management (OGM).

The Board staff consulted extensively with the grant managers at the OGM before the grant agreement was signed. We asked OGM to advise us regarding: 1) the amount of each year's grant that should be available for Snowbate relative to the amount available for competitive Legacy grants to Minnesota filmmakers; 2) what modifications to our Snowbate Guidelines would be required to align them as closely as possible with ACH principles; and, 3) development of a separate budget for administration of the two programs.

At no time during the development of the Legacy Snowbate grant administration budget and the modified Snowbate Legacy Guidelines did the grant managers express concern regarding adherence to MN Statute 116U.26. The Board and the OGM grant managers were very focused on adherence to ACH Legacy rules and guiding principles.

The Laws of Minnesota for 2011, Chapter 6, Article 4, Sec. 2, Subdivision 2 guided development of ACH grantee administrative budgets, including the Board's grant. The Board also modified its Snowbate eligibility guidelines to require that productions fill three of the five highest paid positions with current Minnesota residents in order to receive 20% reimbursement – the highest reimbursement percentage available at the time. However, it was not the ONLY means by which a production company could qualify for 20%. A production company could also qualify for 20% if the Minnesota spend was in excess of $5,000,000 within 12 months of certification, or spent at least sixty percent of the total production budget or shot sixty percent of their production days outside of the metropolitan area. The OGM approved the revised Snowbate Guidelines.

The second finding relates to the assertion that Snowbate eligibility criteria may limit job creation and that one eligibility category was not clearly permitted by law.

This finding appears to stem primarily from the minimum spending requirements that allow low-budget projects to certify for Snowbate reimbursement. The report asserts that the work opportunities created by Snowbate "need to pay well". The fact is that Snowbate Guidelines, including minimum spending requirements, reflect the consensus view of the Snowbate Ops Committee, the Board staff and the board of directors that those levels are appropriate given our level of funding relative to our competition.

The goal is always to try to attract productions that pay well. To do so requires a funding level sufficient to attract those larger budget productions and a deep bench of workers with the experience to inspire confidence among studio and network executives. Workers gain that experience from working on smaller projects that may pay less, but provide invaluable on-the-job training and opportunities to build a resume.

The Report states "we found that the majority of Minnesotans who worked on projects approved for incentive funds in fiscal year 2014 worked 10 days or less on those projects". This point is made several times in the Report and is used as a criticism of the Board's incentive program. The implication is that a duration of 10 days on average is too short to be beneficial to Minnesota workers.

The Report does not address whether those workers who engage in employment for 10 days or fewer per job make a substantial or productive living. Most, in fact do. These workers are like many other well-paid independent contractors, such as plumbers, electricians, lawyers, doctors and accountants, who are commonly engaged for short periods of time by many businesses during the course of a year. They commonly work on jobs for customers and clients for fewer than 10 days. The Report does not make a case for why the duration of the engagement is detrimental to these workers or businesses when in fact it is the nature of occupations in this industry and many other industries.

Regarding the permissibility of adding the post production category of eligibility to the Guidelines, the Board acted in consultation with our Snowbate Ops Committee and the board of directors and found this category to be permissible within the language of MN Statute 116U.26. The reasoning behind setting a $200,000 threshold for a 25% reimbursement reflected the Snowbate Ops Committee's view, after research and discussion, that it represented a reasonable and customary spending level for the post production phase of a $1M production budget.

Many states with successful incentive programs, such as New York, have a post production incentive. Post production is as essential to the production of a film or television program as preproduction or production. The OLA alleges the use of the incentive for post production because it is not “spending on Main Street". The implication is that post production houses are not “Main Street.” The Board questions why the Report considers that spending by post production businesses does not fall into the “main street” categories. Post production houses create high paying, highly skilled jobs – an important goal of economic development. Moreover, post production houses are locally owned businesses unlike many of the hotels and restaurants that the Report categorizes as “Main Street.” After consideration and consultation with concerned parties and review of the Statute, the Snowbate Committee and the Board believed the use of the incentive for post production-only projects is a legitimate use of Snowbate incentive funds.

The third finding that the Board wishes to address is that the Board’s grant reporting has been incomplete, inaccurate and potentially misleading.

During the last ten years the Board has had three grant administrators – Explore Minnesota Tourism, the Office of Grants Management and currently DEED. Each administrating agency has required different grant reporting data and varying reporting formats.

The Board has consistently submitted all required grant reports on deadline and has never had a grant administrator reject a report. The Board has consistently and promptly responded to questions and provided additional data as requested by grant managers.

The Report asserts that the Board’s grant reports are sometimes incomplete because they do not fully reflect the scope of its work. The Board has complied with the requirements under the grants and provided any additional information requested by grant managers. Ad hoc reporting of information not requested in grant agreements should not be characterized as “incomplete, inaccurate or potentially misleading.” Grant reports focus on the Board’s accomplishment of measurable goals and objectives that are set out at the beginning of a fiscal year.

The report acknowledges that the inaccuracies discovered during the evaluation appeared to be errors rather than deliberate misreporting. Specifically, the OLA evaluators discovered weaknesses in the FTE calculations. The Board staff recognizes these weaknesses and is making changes to the talent category of FTE reporting to eliminate the issue identified. Board staff is making changes to the information requested from certified production companies, which should eliminate any imprecision in FTE calculations.

On the positive side, the Report corroborates the validity of two issues the Board has struggled with during the last ten years that impede our efforts to attract studio features and network and cable scripted television series to our state – inconsistent funding of the film production job program and low levels of funding relative to other states.

To attract big budget films on a consistent basis, a state must have a production incentive with a number of characteristics: 1) the incentive must be funded consistently over a long period of time; 2) annual incentive funding must be competitive with other states; 3) the percentage of the rebate or credit must be competitive with other states.

There are a limited number of big studio films produced outside of California each year. Of the 108 studio films made in 2013, 34 were shot in US states other than California, New York and Louisiana (Source: Film LA 2013 Feature Film Production Report). It is logical to question whether Minnesota would serve its goals for film incentive resources by chasing after 34 big budget films and ignoring the thousands of independent films, television productions and commercials that are produced each year.

It's worth noting that since 2013, two television series have been certified for Snowbate reimbursement with an estimated combined Minnesota spend of $5.64M. Each of the two series estimated that a total of 60 Minnesota workers would be involved in production.

Production of the ABC primetime series "In An Instant" reported 325 production and post production days on their application, while the A&E show "Monsters, Myths and Legends" reported 270 work days. The Minnesota-produced television docudrama "In An Instant" is currently part of ABC's Saturday primetime lineup. "Monsters, Myths and Legends" is in production.

The pursuit of big studio films exclusively would put Minnesota in the position of continuously pursuing those projects in direct competition with other states with larger incentives. The Board actively explores the potential for bringing a large budget film to Minnesota and maintains contact with the studios. It also understands that the long-term health of an indigenous production industry is dependent on a variety of work opportunities such as independent films, television productions, commercials and post production projects.

There is one last assertion made in the Report that the Board wishes to address – that the majority of productions certified for Snowbate reimbursement are unlikely to generate significant tourism for the state. This assertion is in part based on the assumption that commercials may be filmed on soundstages and therefore do not feature Minnesota locations. Of the 27 commercials certified for Snowbate since August of 2013, 20 were shot on location, six were shot on a soundstage and one was a combination of studio and location production days.

It is also based on the assumption that small independent films often do not have a distribution agreement before production begins and would likely be seen by few people. The fact is that 95 of the 120 independent films and documentaries screened at the 2014 Sundance Film Festival made distribution deals. One of those 95 films was DEAR WHITE PEOPLE, the first project to be certified into the Snowbate program when the new funds became available in 2013.

Thank you again for conducting the program evaluation and for offering us the opportunity to respond to your findings. We look forward to collaborating with DEED and the Legislature to continuously improve both the effectiveness of our operations and the success of the film jobs production program.

Sincerely,

Lucinda Winter
Executive Director

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