COMMITTEE ASSISTANT
TALIA D'AMATO

CHIEF CONSULTANT
COLIN GRINNELL

CONSULTANTS
HALEY SUMMERS

STATE CAPITOL, ROOM 410
SACRAMENTO, CA 95814
TEL (916) 651-4117

California Legislature
Senate Committee on Revenue and Taxation

JERRY McNERNEY
CHAIR

MEMBERS
SUZETTE MARTINEZ VALLADARES
VICE CHAIR

ANGELIQUE V. ASHBY
TIMOTHY S. GRAYSON
THOMAS J. UMBERG

In his Proposed 2025-26 Budget, Governor Newsom proposes to increase the total annual California Film and Television Tax Credit 4.0 award cap from $330 million to $750 million for the fiscal years 2025-26 through 2029-30. This background paper prepares the members of the Committee on Revenue and Taxation and Senate Budget and Fiscal Review Subcommittee #4 on State Administration and General Government for the March 26, 2025, joint oversight hearing: "Assessing the Governor's Proposal to Further Expand the Motion Picture and Television Production Tax Credit."

This paper:

- Details the history of the Motion Picture and Television Production Tax Credit from the formation of the California Film Commission (CFC) up to the Governor's proposal.
- Lays out the specific tax credit mechanics.
- Reports concerns regarding diversity in the motion picture production industry, and details the specific modifications the Legislature has made over time that seek to address those concerns.
- Discusses the fiscal impact of the Governor's proposal, and the credit generally.
- Identifies recent research regarding the economic effects of California's existing motion picture and television production tax credit program.

Key Questions:

- What is the current state of California's motion picture and television production industry, given interruptions from the COVID-19 pandemic and recent strikes?
- What are the overall goals of the motion picture and television production credit?
- What has been the return on investment of California's motion picture and television production credit? Has it changed over time? Why?
- To the extent the credit is an effective tool to induce additional motion picture and television production in California at the margin, what aspects work well? What does not?

- To the extent the Legislature wants to modify the credit, is expanding the credit authorization amount the best way to increase production? Are there other options to modify the credit to enhance effectiveness?
- Will increasing the credit authorization amount today lead to more difficult fiscal tradeoffs for the Legislature in the future?
- Does the credit generate economic benefits that offset foregone revenue to the state General Fund resulting from the credit?
- The motion picture and television production industry is concentrated in Los Angeles and surrounding areas. How does the credit benefit other parts of the state?

Tax Credit History:

1984: The Legislature enacts the Motion Picture, Television, and Commercial Industries Act of 1984, creating the California Film Commission (CFC) to coordinate state and local governments' efforts to cultivate a successful environment for the film industry. Today, the Governor, the Senate Pro Tempore, and the Speaker of the Assembly appoint CFC's 26 members from the film industry, private sector, and state and local governments.

2009: The Legislature first enacts a tax credit for qualified motion picture production in California, commonly known as "Film and TV Tax Credit 1.0," directing CFC to annually allocate $100 million in credits until the 2012-13 fiscal year, (SBx3 15, Calderon and ABx3 15, Krekorian, 2009). In 2011, the Legislature extended the program until 2014-15 (AB 1069, Fuentes), and again until 2016-17 (AB 2026, Fuentes, 2012; and SB 1197, Calderon, 2012).

2014: The Legislature enacts "Film and TV Tax Credit 2.0," increasing the amount of credit CFC allocates to $330 million in credits each fiscal year through 2019-20 (AB 1839, Gatto); the Legislature designed Film and TV Tax Credit 1.0 and 2.0 in very similar ways, but 2.0 contained several key differences in credit mechanics, the application process, and the allocation process, including higher credit percentages – known as "uplifts" – for certain categories of expenditures, among other changes.

2018: The Legislature enacts "Film and TV Credit 3.0" authorizing the CFC to allocate $330 million in tax credits each fiscal year from 2020-21 to 2024-25 (SB 878, Committee on Budget and Fiscal Review). 3.0 modified the jobs ratio, and altered allocation percentages for each production category, among other changes.

2021: The Legislature enacts SB 144 (Portantino, 2021), allocating an additional $150 million in film tax credits for productions that are filmed at new or renovated soundstages. When a taxpayer constructs or renovates a soundstage, they automatically qualify for credits for productions, notwithstanding the allocation process for the general credit. Taxpayers can claim credits beginning in the 2022 taxable year and until the 2031 taxable year. SB 144 directs CFC to identify and certify qualified soundstage construction projects, which then makes taxpayers eligible for the credit. According to its 2023 progress report, CFC has certified thirteen soundstages – eight newly constructed and five renovated – with a combined size of over 200,000 sq. ft.

2023: The Legislature enacts "Film and TV Credit 4.0, which authorizes CFC to allocate $330 million annually for an additional five years, starting in 2025-26 and ending in 2029-30 (SB 132, Committee on Budget & Fiscal Review). SB 132 also makes the credit California's first refundable business entity tax credit, which allows firms with no income or sales tax liability to receive a cash refund from the state. The 2023-24 Budget Act included $4.5 million General Fund and two, two-year limited term positions and five permanent positions in 2023-24; $1.0 million General Fund in 2024-25; $753,000 General Fund in 2025-26 and ongoing for FTB to expand the tax systems necessary to support refundable credits for business entities.

2025: Governor Newsom proposes to increase the total annual California Film and Television Tax Credit 4.0 award cap from $330 million to $750 million for fiscal years 2025-26 through 2029-30.

Tax Credit Mechanics:

What productions are eligible? CFC can allocate credits to "qualified motion pictures," which must:

- Have 75% of shooting days take place wholly within California, or have 75% of the motion production budget is incurred for services or the purchase and rental of property within the state;
- Commence principal photography within 180 days of CFC's approval of a credit, and finish within 30 months from, the date on which the application is approved by the CFC (unless the production has a production budget of more than $100 million, in which case it must commence within 240 days), with exceptions for specified circumstances;
- Obtain a copyright from the United States Copyright Office; and
- Provides a diversity work plan checklist (new for 4.0).

CFC can allocate credits to any of the following productions:

- A feature with a minimum production budget of $1 million with a running time of at least 75 minutes, distributed in theatres or via streaming.
- A miniseries with a minimum production budget of $1 million per episode, consisting of two or more episodes each longer than 40 minutes of running time, exclusive of commercials.
- A new television series produced in California with a minimum production budget of $1 million, and at least 40 minutes of running time, excluding commercials.
- An independent film, with a minimum budget of $1 million that is produced by a company that is not publicly traded and that publicly-traded companies do not own, directly or indirectly, more than 25 percent of its production company.
- A television series that relocated to California, defined as one that had 75% of the principal photography of the most recent season conducted outside the state.
- A pilot for a new television series produced in California with a minimum production budget of $1 million, and a running time of at least 40 minutes, excluding commercials.

Animated productions, award shows, commercial advertising, current events or public events programs, daytime dramas, documentaries, educational programming, music videos, motion pictures for non-commercial use, news programs, talk shows, game shows, reality programming, or sexually explicit films are not eligible.

What is the amount of credit? The tax credit amount is equal to an "applicable percentage," of "qualified expenditures," up to a maximum of $100 million of qualified expenditures, which are either:

- 20% of the qualified expenditures for a feature, or for a television series that relocated to California in its second or subsequent season; or
- 25% of the qualified expenditures of an independent film, or for the first year in which a television series relocates to California.

Qualified expenditures are amounts paid or incurred to purchase or lease tangible personal property, pay wages and fringe benefits, or contract for services performed in the state during the motion picture production in California. Costs for safety, construction, wardrobe, food, lodging, and lab processing are also qualified expenditures. Qualified wages also include payments to "qualified entities," such as loan-out corporations.

Qualified expenditures do not include amounts paid to "above the line" workers, such as writers, directors, music directors, music composers, music supervisors, producers, or performers, other than background actors. Costs incurred for project acquisition and development are also excluded, as are financing, overhead, marketing, publicity, promotion, or distribution of a qualified motion picture. Any costs incurred outside the state likewise do not count.

Film and TV Credit 2.0 first enacted credit "uplifts" for productions, where specific costs incurred resulted in higher percentages of credit, which have continued on to 3.0 and 4.0. Uplifts include:

- Filming outside the Los Angeles zone, as defined (5%).
- Visual effects expenditures, where at least 75 percent or a minimum of $10 million is paid or incurred in California (5%).
- Local-hire labor for feature films, new TV series, recurring TV series, pilots, and miniseries (10%), or independent films, or relocating TV (5%).

In 4.0, CFC can only certify 96% of the credit amount determined above unless the qualified taxpayer chooses to submit a diversity work plan, and the California Film Commission determines that the applicant has met or made a good-faith effort to meet the diversity goals in its diversity work plan, as specified.

How do applicants apply? Applicants submit to the CFC an application, along with the project's shooting schedule, qualified expenditure budget information, and a financing plan for the production, among other information. CFC holds five application windows per year.

How does CFC score applicants? Under Film and TV Tax Credit 1.0, CFC allocated credits on a first-come, first-served basis, generally using a lottery system. Additionally, the statute did not require CFC to allocate specified percentages of the overall authorization for specific production types. 2.0 established the allocation percentages by production type used below, and created the "jobs ratio." 3.0 altered both the allocation percentages, as well as the method for calculating the "jobs ratio" into its current form, known as the "modified jobs ratio."

- Applicants first enter the amount of qualified wages, and qualified non-wage expenditures. To determine the jobs ratio of each project, the qualified wage amount is added to 35% of the non-wage expenditures, then divided by the estimated tax credit amount requested. This results in the "base jobs ratio."
- The base jobs ratio may be increased based on "bonus points" for photography days outside the Los Angeles zone, visual effects performed in-state, and qualified spending on "music scoring and track recording" labor, including wages paid to scoring musicians. Independent films with qualified expenditures of $10 million or less only score bonus points for photography outside the Los Angeles zone.

After applying bonus points, CFC ranks applicants based on the "adjusted jobs ratio." CFC then notifies projects that rank in the top 200% in their respective category that they have moved on to the next phase of the application process. Applicants must then submit additional information, such as a detailed qualified expenditure budget, production schedule, financing source, pick-up order, screenplay, unlawful harassment policy, and the company's initiatives and programs to increase the representation of women and minorities, among other information. Recurring television must submit a letter on letterhead stating that the tax credit provided is the primary reason for relocating. All other production types must supply a written statement on letterhead establishing that the tax credit is a significant factor in the applicant's choice of location for the project, and include information about whether the project is at risk of not being filmed and specify the jurisdiction where the project may be located in the absence of the credit.

CFC revises any jobs ratio based on the information submitted, and revises rankings according to its Revised Jobs Ratio. CFC then issues applicants a credit allocation letter indicating the amount of credit reserved, pending continuing eligibility and final documentation. If there are more qualified applicants than funds available, CFC places applicants within the top 200% ranked projects, which did not receive tax credits on the waitlist within their project category.

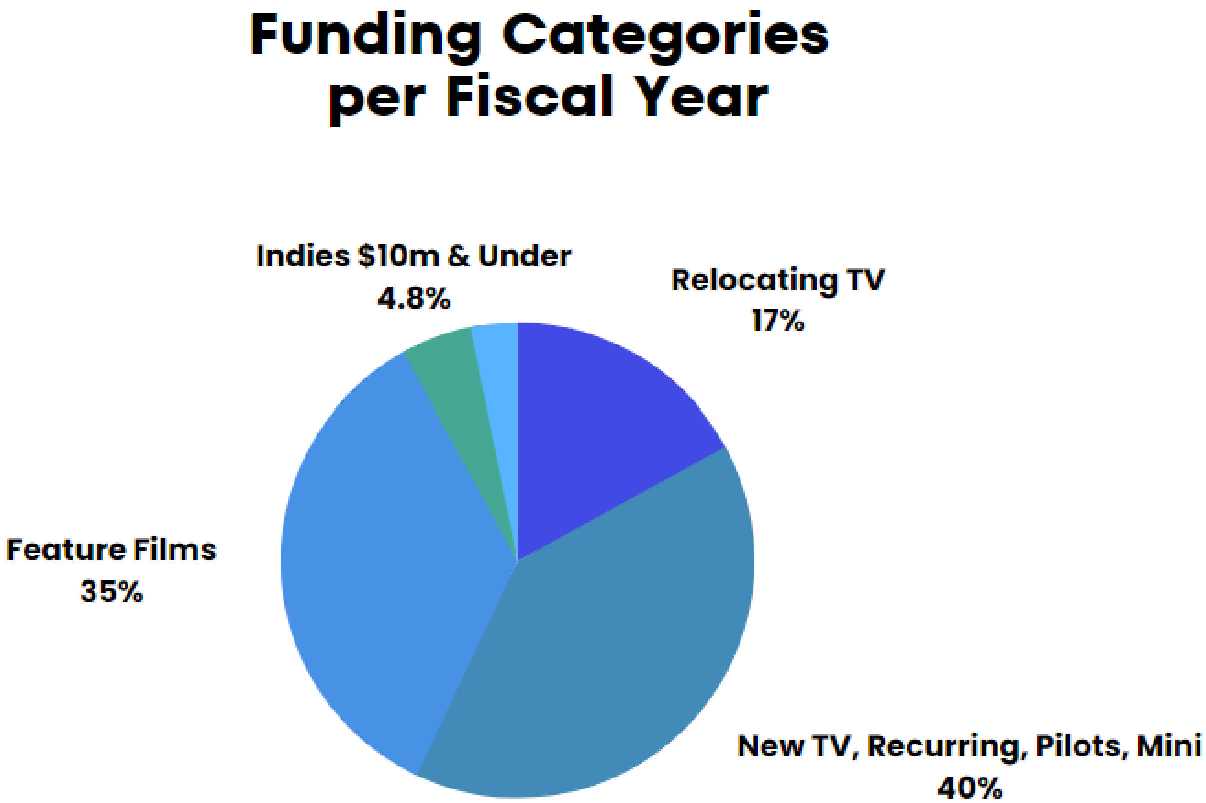
What happens after CFC approves a reservation? The applicant must commence principal photography within 6 months, and finish within 30 months; however, a production can take a hiatus of up to 120 calendar days, so long as they have at least one principal photography day. When the project is complete, the applicant must provide the final documentation to CFC that is necessary to verify the qualified expenditures eligible for the credit and the applicable percentage, plus a copyright certificate. CFC then determines whether the project is still eligible for the credit, and if so, the amount of qualified expenditures, and the applicable credit percentage. State law provides that this amount can be less, but not more, than the one in the credit allocation letter.

Upon completion of its determination, CFC issues the taxpayer a credit certificate, which can be applied beginning that taxable year. Generally, 12 and 24 months pass between receiving a credit allocation letter and obtaining a credit certificate, with more time passing before the taxpayer claims a credit, sells or assigns it, or carries it forward to a future taxable year, when the state incurs its fiscal impact.

How does the tax credit work? In tax years 2017 through 2019, 10 to 15 taxpayers annually used film tax credits to reduce their taxes, according to the FTB**.** Taxpayers can apply credits to reduce their tax liability, and carry over any remainder for up to eight subsequent taxable years. In addition to a credit carry forward, the credit has always included two other ways for taxpayers to use credits. Specifically, taxpayers can also elect to assign the credit to one or more affiliated corporations, and taxpayers with credits for independent films can sell the credit to not more than one unrelated party, who cannot subsequently resell it, so long as the taxpayer reports the sale along with specified information to the FTB. Uniquely among the state's current tax credits, taxpayers can also elect to apply credits to offset any sales and use tax liability, and obtain either a refund of a portion of previously paid sales and use taxes or an offset of future ones. Lastly, the credit will become California's first refundable business entity tax credit in the 2025 taxable year, which allows firms with no income or sales tax liability to receive a cash refund from the state, although at a reduced amount and with a requirement that refunds be paid over a five-year schedule.

However, last year the Legislature limited the total of all business credits, including the carryover of any credit for the taxable year, to $5,000,000, in the 2024, 2025, and 2026 taxable years, unless the Director of Finance determines that General Fund money over the multiyear forecast is sufficient without the revenue impact of the net operating loss suspension and credit limitation (SB 167 and SB 175, Committee on Budget & Fiscal Review). Taxpayers can make an irrevocable election to receive an annual refundable credit amount in future tax years for business credits disallowed due to the limitation.

What kinds of productions receive credits? According to CFC's 2023 Film and Television Production Tax Credit Progress Report, CFC allocates the 3.0 credit as follows:



Diversity:

What diversity requirements apply to credit projects? On Jan. 15, 2015, the Academy of Motion Picture Arts and Sciences awarded all 20 of its "Oscar" acting nominations to white actors for the first of two consecutive years, inspiring April Reign to create the hashtag #OscarsSoWhite.[1] In September 2016, the Media, Diversity, and Social Change Initiative examined the 100 top-grossing movies from 2015 and reported that inequality is an industry norm in the film world.[2] Among other findings, the report stated that Hollywood's depictions of females, people of color, the LGBTQIA+ community, and characters with disabilities remains out of step with population norms.

In response, the Academy made an effort to diversify its pool of who gets to vote on Oscars awards. In the eight years since the hashtag, the number of nominees of color has grown to 17%. However, a subsequent report from the Annenberg Inclusion Initiative stated that the COVID-19 pandemic did not result in greater inclusion for marginalized groups, while identifying some areas of progress.[3]

---

[1] Ugwu, Reggie. "The Hashtag that Changed Hollywood: an Oral History," *New York Times*, September 9, 2020.
[2] Smith, Stacy; Choueiti, Marc; and Pieper, Kathleen. "Inequality in 800 Popular Films: Examining Portrayals of Gender, Race/Ethnicity, LGBT, and Disability from 2007-2015." Media, Diversity, & Social Change Initiative, September, 2016.
[3] Smith, Stacy; Pieper, Katherine; and Wheeler, Sam. Inequality in 1600 Popular Films: Examining Portrayals of Gender, Race/Ethnicity, LGBTQ+, and Disability from 2007-2022." USC Annenberg Inclusion Initiative, August, 2023.

The Legislature has incrementally added requirements and procedures to the Motion Picture and Television Production Tax Credit to increase diversity in the industry. Under 1.0, the Legislature required CFC to include on its tax credit application the diversity of the workforce employed by the applicant, including the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible. Program 2.0 incorporated this requirement and directed CFC to implement a Career Readiness requirement.

Program 3.0 precluded CFC from allocating credits unless applicants supplied aggregate data for individuals whose wages cannot generate credits (such as actors, writers, and directors), including their gender, ethnic, and racial makeup. 3.0 similarly required CFC to include information necessary to collect this data on the tax credit application, and directed CFC to establish a verification procedure for that information. Like 2.0, 3.0 precluded CFC from allocating a credit to an applicant that did not report this information. 3.0 also required CFC to report aggregate diversity information for the productions allocated tax credits and the diversity of California's motion picture production industry more generally. Program 3.0 also added voluntary programs designed to increase the representation of minorities and women in certain job classifications and directed the Commission to establish the Career Pathways Training program, funded by a fee equal to 0.5% of the amount of credit allocated.

SB 144's soundstage credit introduced requirements for diversity work plans with the goal that productions broadly reflect California's population, in terms of race and gender. Under SB 144, productions are eligible to receive an additional 4 percent tax credit if they meet, or make a good faith effort to meet, their diversity goals.

The Legislature carried these requirements to 4.0, but added that a project that opts to fulfill diversity requirements must also submit an interim assessment, and a final assessment, of whether it is meeting its work plan. 4.0 also required the Legislative Analyst's Office (LAO) to provide a report by May 1, 2025, summarizing the workforce diversity information collected by CFC and evaluating the effectiveness of the diversity bonus credit on increasing the diversity of the film production workforce. Lastly, applicants receiving a credit allocation letter under 4.0 must make a financial contribution to fund the Career Pathways Training Program for individuals from underserved communities to receive training for careers in the industry of 0.5% of the credit amount, which CFC can increase in 0.25% increments up to 1% after January 1, 2028.

What does the diversity data show? According to the LAO's 2023-24 assessment of the credit, "demographic data voluntarily submitted to the CFC by film tax credit recipients suggests that some demographic groups are underrepresented among the workforce on tax credit productions. In particular, the voluntarily reported statistics show that men outnumbered women three to one on productions. Similarly, Latinx and Asian American crew members make up a considerably smaller share of the production workforce than their share of California's population overall."

Fiscal Impacts:

What are the fiscal impacts of the Governor's proposal? The Governor's Budget states, "this proposal is expected to reduce revenues by $15 million in 2025-26. Costs are projected to increase in subsequent years, reaching $209 million by the end of the 2028-29, and peaking outside of the multiyear period. While this expansion applies to fiscal years beginning in 2025-26, credits are claimed four years after allocation on average because film productions typically take multiple years and credits are only claimed once a verified tax return is filed."

The Department of Finance provided the following chart regarding past credit utilization:

Film Tax Credits Claimed ($ in millions)

	FTB Usage	Sales Tax	
2011	$ 32.5		2011-12
2012	$ 70.1		2012-13
2013	$ 80.3	$ 27.5	2013-14
2014	$ 55.6	$ 10.7	2014-15
2015	$ 52.6	$ 0.0	2015-16
2016	$ 65.7	$ 14.8	2016-17
2017	$ 92.8	$ 0.0	2017-18
2018	$ 148.9	$ 19.0	2018-19
2019	$ 208.3	$ 70.5	2019-20
2020	$ 35.2	$ 114.6	2020-21
2021	$ 21.2	$ 99.2	2021-22
2022	$ 66.9	$ 168.5	2022-23
		$ 111.1	2023-24
		$ 74.2	2024-25
Totals	$ 930.2	$ 710.1	

Economic impacts:

Do the positive economic effects of the credit offset its lost revenue? Experts disagree on this question. At the hearing, the LAO, the California Budget and Policy Center, and the Los Angeles County Economic Development Commission (LAEDC) will speak to the economic and fiscal effects of the Governor's proposal to increase the credit authorization amount.

LAEDC estimates the total economic impact from the 169 productions that were allocated 2.0 tax credits is $7.4 billion in production in exchange for a total of $915 million in tax credits.[4] LAEDC states that at least $24.40 in output, $16.14 in gross domestic product, $8.60 in wages, and $1.07 in initial state and local tax revenue resulted from every dollar of tax credit allocated.

Among other findings, LAO states that there is good evidence that the credit increases production activity and the size of the industry, but the credit does not pay for itself:

> "Film tax credits generally have a negative overall effect on state revenues. Evidence from academic research and state evaluations in places such as Georgia and New York find that every $1 of credit allocated returns significantly less than $1 in state revenue. One notable outlier to this pattern is a report from the Los Angeles County Economic Development Corporation, who claim to find a small fiscal benefit associated with the film tax credit. The Los Angeles County Economic Development Corporation estimates, however, very likely are overstated. These estimates ignore some of the important offsetting factors discussed above, specifically that some productions receiving the credit would have filmed here anyway and revenues lost to the film tax credit could have been used to fund other economically beneficial programs."

[4] Sedgwick, Shannon; LaFerriere, Tyler; Specht, Alexander; and Dunsker, Max. "California Film and Television Tax Credit Program 2.0 An Economic Impact Study." Los Angeles County Economic Development Commission. March, 2022.