FOLLOW-UP REVIEW • REPORT NUMBER 22-05B • October 2022

Impact of the Georgia Film Tax Credit

Information reported has improved, but credit has not been capped

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Why we did this review

This follow-up review was conducted to determine the extent to which the Department of Economic Development (GDEcD) and the General Assembly addressed the findings presented in our January 2020 performance audit (Report #18-03B).

The 2020 audit evaluated the effectiveness of the credit as a tax incentive and economic development program, including the economic and fiscal impact of the credit.

A companion report on the credit's administration was also released in January 2020. A separate follow-up report on the administration of the credit was released in July.

About the Film Tax Credit

First passed in 2005, Georgia's film tax credit provides an income tax credit to production companies that spend at least $500,000 on qualified productions. The base credit rate was raised to 20% in 2008, with an additional 10% for a qualified promotion of the state (e.g., Georgia logo). The credit is transferable, and most credits are sold by production companies to other taxpayers.

The value of the annual credit amount generated grew from $669.4 million in 2016 to approximately $961.0 million in 2019, a 44% increase.

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What we found

Steps have been taken to improve the accuracy of reporting on the film tax credit's economic impact and evaluate the impact of state tax benefits more broadly. However, the credit has not been capped to control its growth, as recommended.

Economic Impact of the Credit

Since our audit, the Department of Economic Development (GDEcD) has focused on direct spending by production companies, rather than reporting on the credit's total economic impact. Our original audit noted that GDEcD's economic impact calculations used an inflated multiplier, which nearly doubled the credit's impact. (The multiplier estimates the film vendors' and employees' additional spending in the state, which increases economic impact above the production companies' direct spending. The additional spending is known as indirect and induced.)

GDEcD has improved its reporting on film jobs but has still misrepresented distribution jobs as resulting from production-related spending. While the credit supports film production in the state, GDEcD had previously included film distribution jobs (e.g., movie theater workers) when publicizing credit-related spending, tying the credit to inflated job numbers. Since our original audit, GDEcD no longer includes industry-wide job totals in its annual press releases on film production spending. However, it has still attributed wages that are unrelated to credit spending. For example, GDEcD claimed that Georgia-filmed productions "delivered" $9.2 billion in wages,[1] but this amount included wages from distribution-related jobs (which are outside these productions), which GDEcD did not disclose.

Additionally, the General Assembly has passed legislation to

[1] *This figure was provided by the Motion Picture Association.*

initiate evaluations of tax provisions like the film tax credit. Our original report noted that decision makers and the general public needed additional information to properly assess the costs and benefits of the film tax credit. In 2021, the General Assembly passed Senate Bill 6, which provides for economic analyses of tax benefits, such as credits, deductions, and exemptions. Benefits are evaluated upon a request from the chairperson of the House Ways and Means Committee or the Senate Finance Committee.

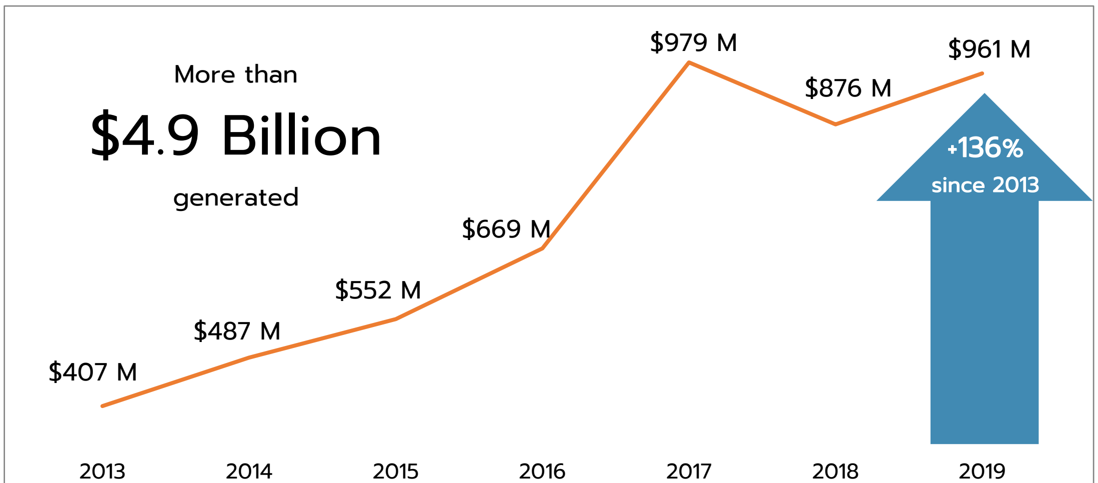
Due to the resources necessary to accurately evaluate the economic and fiscal impacts of the credit, we did not update the analysis performed for our original report. We did, however, review federal employment figures[2] and found approximately 16,500 jobs in film production in Georgia in 2019, an increase of 51% over the 10,900 reported in 2016, likely due to increased production activity.

Credit Cap

Despite the growth in the film tax credit, there has been no legislation passed to cap the credit. The Senate Finance Committee included a cap in 2022 legislation, but the cap was removed prior to final passage of the bill. As shown in **Exhibit 1**, the credit has more than doubled since 2013, reaching $961 million in tax year 2019. It remains the state's largest income tax credit and the largest film incentive in the country. Additionally, due to the carryforward period, the state has a large amount of outstanding film tax credits. As of June 2022, the Department of Revenue (DOR) reported $1.4 billion in credits that had been earned by production companies but had not yet been claimed (for credits earned through tax year 2019).

Exhibit 1

Film Tax Credits[1] Increased Significantly, Tax Years 2013-2019



[1] Amounts for recent years could change because companies can submit amended returns for three years after the due date, and credits may be adjusted due to DOR audit.

Source: Due to data limitations, the source varied by year: GDEcD application data, 2013-2014; DOR reporting, 2015; DOR Business Credit Manager data, 2016-2019

Production companies typically sell their film tax credits to other taxpayers because they have little to no Georgia income tax liability.[3] Our original report presented preliminary statistics for credits generated in tax year 2016. Updated figures indicate that approximately 97% of credits generated in tax

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[2] *These figures are published by the U.S. Bureau of Labor Statistics in the Quarterly Census of Employment and Wages. The jobs include temporary and part-time jobs but do not include self-employed workers.*

[3] *The increased production activity in Georgia does not increase income taxes owed by companies because income taxes owed are based on sales (or other receipts), not production costs.*

year 2016 were transferred to another taxpayer (e.g., sold), while less than 1% of credits were used by the production companies against their own income tax liability or their employee income tax withholding.[4]

Benefits Accruing to Other States

Film tax credit provisions have not been changed to reduce economic benefits flowing to other states. Our original audit noted that most states incentivized hiring residents over nonresidents, but Georgia did not. As such, nonresidents and out-of-state vendors can provide services within the state, and the expenditures qualify for the credit. Our original audit also found that while most jobs (80%) were held by Georgia residents, most wages (53%) went to nonresidents, who typically hold the higher paying jobs (e.g., principal actors).

However, newly required audits may reduce ineligible out-of-state expenditures. House Bill 1037, passed in 2020, mandates audits for all film projects receiving the credit, and DOR has improved its audit procedures. While expenditures for nonresident wages and out-of-state vendors are still eligible for the credit, these changes should reduce ineligible expenditures for work performed outside the state, which were unlikely to be identified prior to our original audit.

GDEcD's Response*: GDEcD generally agreed with or had no comment on the current status as presented in the following table. Where applicable, additional GDEcD comments are included in the table.*

The following table summarizes the findings and recommendations in our 2020 report and actions taken to address them. A copy of the 2020 performance audit report 18-03B may be accessed at Impact of the Georgia Film Tax Credit.

[4] *While DOR data does not differentiate between sales, affiliate transfers, and pass-throughs to company owners, the consensus is that most credits are sold because the companies have little Georgia income tax liability. Additionally, the remaining credits from 2016 could still be transferred or used by the companies due to late or amended returns.*

Impact of the Georgia Film Tax Credit Follow-Up Review, October 2022	
Original Findings/Recommendations	**Current Status**
Finding 1: Projects receiving the film tax credit in 2016 had a net impact of $2.8 billion on the state's economy. No recommendation	No action required
Finding 2: Tax revenue generated as a result of the economic activity inspired by the film tax credit offsets only a small portion of the credit. No recommendation	No action required

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Finding 3: The impact of the film tax credit on the state's economy has been significantly overstated, leaving decision makers without accurate information necessary to assess the credit.

Our review found that GDEcD had overstated the economic impact of the film tax credit. For more than 30 years, GDEcD had used a 3.57 multiplier to estimate total impact. This multiplier was higher than any known industry multiplier in Georgia and nearly twice the 1.84 multiplier found in our study. Additionally, GDEcD reported misleading jobs data by including jobs unrelated to production (e.g., movie theater workers) when discussing credit-related spending. GDEcD also included jobs held by nonresidents in project press releases and agency performance measures.

We recommended that GDEcD use a reasonable multiplier to estimate economic impact, avoid including jobs unrelated to production when discussing the credit, and collect information on the number of jobs held by Georgia residents, while discussing resident and nonresident jobs separately.

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Partially Addressed – After our review, GDEcD changed how it publicizes the credit's impact on the state's economy. However, GDEcD's reporting on film production jobs is still misleading at times.

GDEcD no longer publicizes overall economic impact and as such does not rely on a multiplier to estimate additional spending by film vendors and employees (i.e., indirect and induced spending). Instead, GDEcD has begun reporting production companies' direct spending, which is the amount the companies report they plan to spend in Georgia. For example, GDEcD reported in its annual press release that production companies spent $4 billion in fiscal year 2021.

GDEcD reporting on job figures has been more mixed. It has stopped publicizing the overall number of film industry jobs in its annual press release, which had included jobs unrelated to production. However, other reported numbers have still tied credit-related production spending to nonproduction jobs. For example, GDEcD reported that productions filmed in Georgia in 2019 "delivered" $9.2 billion in total wages, but it did not disclose that those wages also included distribution jobs (e.g., movie theater workers) unrelated to production, as well as the indirect and induced jobs supported by them. Additionally, federal data showed approximately 10,700 Georgia jobs[5] in film production in 2020, while GDEcD reported "tens of thousands of Georgians" were employed in film production. For job numbers, GDEcD typically relies on the Motion Picture Association, which represents film studios that benefit from the credit.

Regarding jobs held by residents, GDEcD edited its project expenditure form to request the number of Georgia residents hired (in addition to all hires). This can be used to more accurately present information on "Georgians hired" in press releases for individual projects. However, GDEcD has not changed its agency performance measure to exclude nonresident workers from "work days created by film and television production."

GDEcD's Response*: While GDEcD agrees with the status, it "stands by its reporting of the direct spend and job figures related to the film industry in Georgia, as this information comes directly from its expenditure form collected from all applicants, as well as other reputable sources."*

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[5] *The number of workers in film production is typically lower than the number of jobs. Workers can hold multiple jobs when they move to a new job once a production (e.g., movie or commercial) is completed. Jobs may also be held by nonresidents.*

Impact of the Georgia Film Tax Credit Follow-Up Review, October 2022	
Original Findings/Recommendations	**Current Status**
Finding 4: A significant portion of the credit's benefits accrue to other states. Our report noted that 88% of the 2016 credit went to production companies with no permanent locations in Georgia, and 53% of wages used toward the credit were paid to nonresidents. Nonresidents typically hold higher paying jobs such as principal actors, directors, and department heads. Most other states (65%) with a film incentive had provisions that required or incentivized hiring residents over nonresidents, but Georgia's credit did not. Additionally, production companies could use out-of-state vendors for on-site services. We also noted that most projects were not audited, and for those that were, auditors did not always identify and disallow out-of-state expenditures. We recommended that the General Assembly consider changing the credit's provisions to reduce credits allowed for out-of-state workers and service providers.	**Partially Addressed –**While the General Assembly did not change statutory provisions that allow expenditures for out-of-state vendors and workers, it did pass a new audit requirement to identify ineligible expenditures. This provision from House Bill 1037 should reduce credit amounts earned for expenditures incurred outside the state. No changes have been made to incentivize hiring Georgia residents over out-of-state workers and service providers. As a result, productions receive the same incentive (up to 30%) for hiring nonresidents, allowing significant economic benefits from the credit to flow to other states. However, changes were made in response to our report on the credit's administration, which recommended mandatory audits and stronger controls to prevent ineligible out-of-state expenditures. (The follow-up report is available at: Administration of the Georgia Film Tax Credit.) In 2020, the General Assembly passed House Bill 1037, which clarified that expenditures are only eligible for the credit if they occur in Georgia. For example, nonresident wages are still eligible for the credit, but only if the work is performed in-state. The legislation also required audits for any film project[6] receiving the credit, which should help to detect and disallow ineligible out-of-state expenditures. Additionally, DOR (which oversees the audits) implemented new standards for expenditure eligibility that better consider economic impact, such as requiring auditors to assess where services were performed and disallowing most goods shipped from out-of-state by an in-state vendor. ***GDEcD's Response***: *"GDEcD contends that the legislature addressed this finding in HB 1037, by requiring mandatory audits on all productions. Further, GDOR has addressed this finding through its related audit procedures. It is within the legislature's purview to decide whether to take additional action related to this finding."*

[6] *Projects from qualified interactive entertainment production companies are exempt from the audit requirement.*

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Original Findings/Recommendations	Current Status
Finding 5: Most states with a film incentive have program caps to limit the fiscal risk to the state. Most other states (87%) with a film incentive have a cap to limit the total incentive amount (a program cap) and/or a cap for individual projects. However, Georgia did not cap its credit (with the exception of qualified interactive entertainment companies). As a result, film tax credits had grown to $915 million in 2017 (as of March 2019) and represented an increasing percentage of state income tax receipts each year. During our review, Georgia had the largest film incentive of any state. We recommended that the General Assembly consider options for capping the film tax credit to reduce the fiscal risk to the state. Alternatively, the General Assembly could consider other provisions to reduce the cost of the credit, such as excluding above-the-line (e.g., principal actors, directors) or nonresident wages.	**Partially Addressed –** Though considered during the 2022 legislative session, no cap on the film tax incentive has been implemented. In 2022, the Senate Finance Committee passed a version of House Bill 1437 that would have capped the film tax credit at $900 million per year. However, this provision was removed prior to final passage of the bill. The annual credit amount has grown since our audit. As shown in **Exhibit 1**, the credit reached approximately $961 million in 2019. Though actual credit amounts cannot yet be determined for more recent years, GDEcD estimates for fiscal years 2021 and 2022 exceed $1 billion, making Georgia's the largest film incentive of any state. New York and California[7] have the next largest incentive amounts, which are capped at $420 million per year. As a percentage of state income tax receipts, the credit has grown in a pattern similar to **Exhibit 1**. The credit reached 8.2% of income tax collections in 2017, before falling to 6.9% in 2018 and rising again to 7.1% in 2019. In addition, our original report noted that outstanding film tax credits had reached $1.7 billion as of March 2019. These were credits already earned by production companies (through tax year 2017) but not yet claimed against taxes. DOR indicated this amount had fallen to $1.4 billion in outstanding credits (through tax year 2019), as of June 2022. The decrease is likely due to production shutdowns during the COVID-19 pandemic (resulting in fewer credits earned) and delays in earning the credit due to the new audit requirement from House Bill 1037.

[7] *California's credit is typically capped at $330 million. However, the cap was increased to $420 million in 2021 for a period of two years.*

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<tr><td>Finding 6: Limited information has been available to decision makers and the general public regarding the film tax credit.

Our report noted that Georgia had no process in place for evaluating the film tax credit or other incentives. We also found that Georgia did not permit disclosure of individual companies or projects receiving the credit, unlike most other states (74%) with a film incentive.

We recommended that the General Assembly consider requiring periodic, objective evaluations of the film tax credit program and amending state law to require DOR to disclose the production company, production name, and credit amount for each project receiving the credit.</td><td>Partially Addressed – The General Assembly passed legislation to provide for economic evaluations of tax benefits. However, no changes were made to require or allow the disclosure of projects receiving the film tax credit.

In 2021, the General Assembly passed Senate Bill 6, known as the "Tax Credit Return on Investment Act of 2021." Effective July 2021, the legislation allows the General Assembly to request economic analyses of tax benefits, such as credits, deductions, and exemptions. The chairpersons of the House Ways and Means Committee and the Senate Finance Committee may each request analyses of up to five specific provisions per year. The Department of Audits and Accounts contracts with economists to conduct the analyses, which must include net change in state revenue, net change in state expenditures, net change in economic activity, and net change in public benefit (if applicable). Under Senate Bill 6, analyses on two tax credits, Georgia Agribusiness and Rural Jobs Act and low-income housing, have already been published.

The General Assembly has not passed legislation requiring the disclosure of projects or companies receiving the film tax credit.</td></tr>
<tr><td>6 Findings</td><td>0 Fully Addressed

4 Partially Addressed

0 Not Addressed

2 No Recommendations</td></tr>
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