

2023 Report and Recommendations of the Governor's Council on Film and Media Industries

December 1, 2023

Honorable Michelle Lujan Grisham
Honorable Javier Martinez, House Speaker
Honorable Mimi Stewart, President Pro Tempore of the Senate

Madams and Sirs:

Pursuant to Section 9-15-4.1 NMSA 1978, per statute, the Governor's Council on Film and Media Industries (the "Film Council") was created to advise the Economic Development Department and the Governor on ways to promote film production in New Mexico, assist in the design and implementation of the department's strategic plan for building a media infrastructure in the state, assist in designing a workforce training program for film production and to make recommendations for incentives and funding for these efforts.

Introduction

The Film and Media Industries are thriving in New Mexico, overcoming challenges from pandemic to strikes. With a continuing competitive and comprehensive regulatory and incentive environment, the industry should continue to grow rapidly. A significant challenge will be to manage this growth in a manner such that maximal benefits accrue to a diverse group of New Mexicans, from those working in production to post production and corollary industries, so that they may build sustainable careers. Both film industry boosters and film industry skeptics should agree that any future changes to film incentives and related expenditures should be focused on maximizing the benefits of those expenditures to the New Mexican economy and people. Every dollar of film-related spending from public coffers does not have an equal effect on the lives of New Mexicans.

On the Role of the Council in 2023

In early 2023, the New Mexico Legislature debated SB12, a bill that proposed numerous changes to the film incentive program. Much of what was proposed in that bill was not recommended by the Film Council, and most of the formal recommendations of the Film Council were not included in the draft bill. Despite repeated attempts to schedule a Council meeting early in the process whereby members of the Council might be briefed on what was to be included in the draft bill

and to opine on what was included and what was left out, the first public meeting of the year was not held until March 8th, almost at the end of the 60 day session, by which time SB12 had already been effectively tabled. The ability of the Film Council to provide advice during the 2023 legislative process was regrettably sub-optimal. A similar pattern has occurred with other matters upon which the Council might have provided input, such as a re-structuring and re-naming of what was previously referred to as the Film Academy.

The Council suggests that it could be more effective if brought in into deliberative processes earlier and its recommendations more seriously considered. The Council recognizes that it is not a decision-making entity, but an advisory body, and simply seeks appropriate opportunities for its advice to be incorporated into decision-making.

Ultimately, many elements proposed in SB12 were included in the final budget during the last days of the legislative session, as part of HB547, including some elements not favored by the Council but also many important elements that were supported by the Council. These included increasing the cap on non-partner payouts and redefining the geographical area for the rural uplift while increasing its scale. Thus, the mixed outcome of the 2023 legislative session was overall positive, but marred by a sense that more could have been done to boost opportunities for more New Mexicans to share in the industry's growth.

Incentive Optimization

We continue to recommend more paths to achieve a total of 35% (or in certain cases 40%) to better incentivize a film industry that will benefit a more diverse pool of New Mexicans, adding additional potential 5% uplifts for:

- Productions that hire and train a diverse New Mexican work force, including women, Native American, Hispanic, and Black New Mexicans.
- Productions based on the creativity of homegrown New Mexican “above the line” talent and that do not excessively rely on out of state talent.
- Productions that also do their post-production locally and train and mentor NM post-production talent.
- Productions that comply with stringent safety protocols, including limiting most shooting days to 10 hours or less.
- Productions that achieve sustainability performance goals.

In addition, we recommend that:

- Accounting should be simplified for the rural and qualified facility uplifts, as production equipment, props, and talent may shift venue many times in the course of a single day. We suggest basing the uplifts on the overall percentage of hours spent at qualifying stages/locations and/or qualifying rural areas, with the incentive payment based on that percentage of the overall qualifying spend.
- Script development should qualify for incentives, contingent on a distribution deal, allowing for the creation of NM based Writers Rooms. We recommend allowing non-resident writers to qualify as long as a NM Resident is hired for every non-resident that qualifies.
- “Pass through” companies that bring in products or services not readily available in New Mexico should be subject to greater oversight, ideally by the New Mexico Film Office, which will need additional staffing for this oversight. The NMFO should share data on what goods and services are regularly imported in order to facilitate the development of local vendors.
- All appropriate expenses at tribal facilities and on tribal lands should qualify for incentives, even when they do not accrue GRT. In addition, grants and other support for Native film making would help develop an industry unique to New Mexico, one that could not easily be uprooted and move to other locations.
- Increased outreach, coordination, communication, and education is needed with tribes and pueblos, potentially through a Tribal Liaison position at NMFO.

From Development to Distribution

In order to develop a more robust in-state film industry, we recommend:

- Creating a Qualified Post Vendor qualification, wherein facilities would agree to hire/mentor a percentage of NM residents and receive an equivalent uplift to qualified production facilities.
- Creating incentives to Post Production outside of the existing incentive ecosystem, such as a Post Production Advancement Program modeled on FCAP, with job definitions

redefined to include post-production job titles, ideally with flexible language that will not need to be reworked every few years as the industry transforms.

- Clarifying Post Production tax credits with a separate web page summary and a separate application form. We recommend allowing the tax credit to apply to non-residents only with the condition that residents are also hired and trained.
- Development and distribution deals for NM residents should also be supported.

Education and Training

A shortage of skilled film industry workers threatens to bottleneck growth and thus limit industry benefit to New Mexicans. To match NM workforce skillsets with industry needs, there is a critical need to ramp up education and training programs.

- We fully supported the creation of what was once called the Next Generation Media Academy, then the New Mexico Film Academy and now the Media Arts Collective or MAC. We are concerned that the current name, which does not include words such as “film”, “training” or “academy” does not clearly explain or identify the core function of the entity to an uninformed observer. If the name is not clearer, then significant outreach will be needed to communicate the functioning of the “MAC”.
- Rollout of training has been slow, with a focus on the redevelopment of the Albuquerque railyard site rather than jumpstarting training in existing facilities. There has also been a re-imagining of the training process from more boot-camp and/or master class style training to more on-the-job training in conjunction with shooting actual independent films.
- To assure that all possible pathways into this industry are open, diverse stakeholders should be included to work collaboratively in the rollout of this training program, from higher education to unions, guilds, employers, tribes and pueblos.
- The Collective will need meaningful annual funding of its activities.
- Bootcamps may well still be needed to train New Mexicans who already possess transferable skills that are applicable to the film and media industries, including for example graphic designers, accountants, and construction workers who do not need to be taught a craft but need only a rapid introduction to prepare them to enter the film/media industry workforce.

- Enhanced marketing and outreach can help communicate the diverse opportunities across the film and media industries to New Mexicans in every region of the state, perhaps with student-produced PSAs about opportunities for education and employment in the field.
- A central hub/database/clearinghouse sorted into categories by experience level, skill type, education, and training would help industry locate and hire appropriately skilled New Mexicans.
- Getting students involved at an early age, ideally 7th grade, would prepare them for more sophisticated training later on.
- Mandatory trainings around safety, harassment, bullying, discrimination, etc. should be considered.
- Increased funding is also needed to support worthy independent film making along the model of the John Pinto Memorial Fund, perhaps including awards modeled on the Duke City Shootout and the Governor’s Cup, with an emphasis on diversity and inclusion.

Sustainability

The natural beauty of New Mexico entices many productions to film here. The industry can thus be part of a beneficial economic and ecological cycle, creating rural employment predicated on the preservation of habitat, outdoor recreation areas, and the livelihoods of our farmers and ranchers. Climate change threatens this by impairing the film industry’s ability to find filmable locations (unburned forests; grasslands with grass) while increasing the frequency of weather impediments such as flooding, dust storms or excessive heat. As the national industry is seeking to embrace principles of sustainability, we believe that greening the NM industry would in fact attract more film projects to the state.

The simplest incentive structure would be to add another 5% pathway for climate friendly practices. We also suggest more direct financial incentives for efforts that directly reduce film carbon emissions. Such activities could include renting solar panels, volt stacks, portable wind turbines or other alternatives to fossil-fuel generators, using zero emission vehicles, installing EV chargers and solar panels at studio locations, and purchasing carbon offsets from qualified New Mexicans who might generate credits by capping abandoned oil & gas wells, replanting forest burn scars, etc.

These reimbursements should begin aggressively and then taper off as “non-carbon”

technologies become normal and economical. This reimbursement would occur outside of (and therefore in addition to) the established film incentives, possibly using funds from the Inflation Reduction Act or other one-time grants/funds.

Film Safety

A state certification process for armorers should be created. All NM productions, union & non-union, should be required to follow all Contract Services Industry Wide Labor-Management Safety Committee Safety Bulletins. All productions should provide employees either courtesy housing or round trip transportation to their homes when work and travel time exceeds 14 hours.

Financing

State-sponsored low-interest or zero-interest loans could help with the expansion of film and corollary industries, from post-production to craft, from wardrobe to specialized technologies such as drones and sustainable energy sources. Specifically, while two decades ago the State established a pool of 2.5% of the Severance Tax Permanent Fund for investment in film projects, unrealistic requirements effectively nullified the program. We recommend substituting a new low-interest loan financing mechanism to become available not only for investments in films themselves, but in New Mexican owned and New Mexico based corollary businesses, perhaps housed at the New Mexico Finance Authority. Lending to credit-worthy, diverse, locally-based, film-related businesses will allow NM vendors to grow, limiting the need for “pass through” imports of goods and services.

Additional Information

Council members stand ready to answer questions, provide rationale and detail, and help source expert witnesses for any upcoming rule-making processes and legislative sessions.

Respectfully submitted,
James Gollin, Chair

cc: Amber Dodson, Director, New Mexico State Film Office