Rebate Can Be Winner for All

By Sherri Burr
UNM Law Professor

There is concern among various New Mexico communities about state film incentives.

Industry proponents — such as producers, talent, crew and vendors — want to keep the film economy thriving and producing jobs for New Mexicans. Others — including the new governor, several legislators and the Rio Grande Foundation — expressed distress about the cost of the rebate program.

My research on the industry reveals that there are options that can satisfy both sides.

Gov. Susana Martinez has proposed reducing the rebate from 25 percent to 15 percent to save the state treasury $25 million. Advocates fear this 40 percent reduction will make New Mexico even less competitive with states like Georgia, Louisiana and Michigan, which bait the industry with rebates and credits ranging from 30 percent to 42 percent.

Films are portable multimillion dollar businesses that can be moved quickly. While the Alabama legislature was debating incentives, the state lost "Sweet Home Alabama" to Georgia, which in turn lost "Ray," a biopic about its favorite son, to Louisiana, which lured producers with higher incentives.

The question for our state is how to save the $25 million the governor seeks while keeping the rebate at 25 percent. Legislators can bridge the gap by finding a defined pot of money to finance the film rebates.

The Alabama legislature delayed passing a film incentives program until it had located a tax on out-of-state corporations that had not been previously enforced and decided to collect it. In South Carolina, revenue comes from a micro percent of the lodging tax. New Mexico could collect a film tourism fee of $1 to $2.50 on car rentals and hotel stays. This could generate enough money to remove not just $25 million but perhaps $68 million from the state budget.

Part of the revenue from this film tourism fee could pay for signs that mark where films have been shot in New Mexico over the last 110 years. South Dakota does this. On a road trip there, I came across a sign that noted a memorable "Gunsmoke" episode. I had seen the episode where U.S. Marshall Matt Dillon dealt with bad guys on a train and was thrilled to witness the actual location.

With "True Grit" and "Book of Eli" among a huge number of films shot in New Mexico, the state could experience a tourism boom by simply notating film locations. Other states and countries are using the film industry to encourage tourism.
Georgia's 30 percent rebate includes a 10 percent bump if a film or television show agrees to run the Georgia Peach symbol for five seconds in the credits.

Switzerland encourages film tourism by providing incentives directed at India's Bollywood. After realizing it had become the number one honeymoon location for Indian citizens because thousands of Bollywood dream sequences were shot in the Alps, Switzerland began to target Indian filmmakers to encourage even more to film in Switzerland.

Further, New Mexico could impose CPA audits to ensure producers are paying their bills before rebates are issued. Alabama, California and South Carolina require CPA audits.

In summary, New Mexico could keep the rebate at 25 percent and alleviate the drain on the general budget by adopting a film tourism fee. Part of the generated revenue could be set aside to pay for signs to mark locations and encourage film tourism.

Along with adopting CPA audits, New Mexico can keep film industry flourishing while becoming more fiscally accountable.

Sherri Burr is the author of 13 books, including five related to the film industry. Her new book "Entertainment Law: Cases & Materials in Established and Emerging Media" will be published in March.