

## Taxpayer subsidies for smoking films — what YOU can do

State-level subsidies make taxpayers important participants in the film industry. Revisions to existing state film subsidy programs can restructure these tax incentives to protect young audiences.

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**To learn more:** Polansky JR and Glantz SA (2009). [Taxpayer subsidies for US films with tobacco imagery](http://escholarship.org/uc/item/8nc8422j). University of California, San Francisco, Center for Tobacco Control Education and Research. Download: <http://escholarship.org/uc/item/8nc8422j>

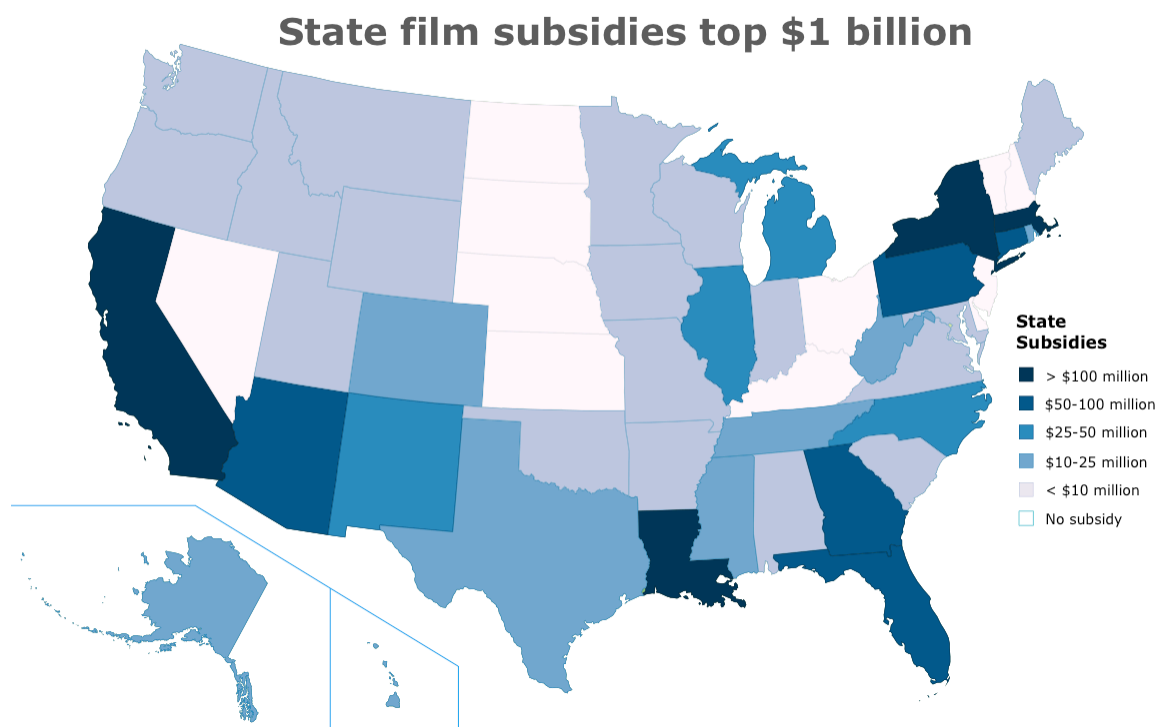
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### *International and national organizations*

- Given the scientific evidence of dose-related harm and the importance of film subsidies in studio decision-making, it would be hard to find a more cost-effective anti-tobacco policy than simply to end public subsidies for youth-rated films with tobacco.

**To-do list** | Publicize the issue to your members and make reforming film subsidies a public policy priority. This issue also highlights inadequate funding of anti-tobacco programs.

Explore ways to raise this issue in multi-lateral contexts, such as international health meetings and conferences of state governors and legislators. Link this issue to health costs, tobacco promotion, youth smoking, and public health best practice. Keep policymakers aware of the size of public film subsidies and their collateral damage. While decrying “runaway jobs,” US film studios take advantage of subsidies across every border.



## *State and local organizations*

- Seek to have regulations or legislation amended to make any media production depicting or referencing tobacco use ineligible for public benefits (including tax credits, spending rebates and sales tax exemptions), and (2) increase subsidy programs' transparency and accountability.

**To do list** | Print out your state's program regulations and statutory language (see Polansky and Glantz, Appendix A). Obtain program annual reports and any third-party analyses of program performance. (Note that independent economic appraisals of these programs are often at odds with reports commissioned by the programs or their beneficiaries.) A web search on "[Name of state] film incentives" will serve up most information made public and links to program web sites. Other inquiries may be needed to turn up legislative or budgetary analysts' reports.

- Understand the legislative history of the program in your state and identify the program's sponsors, opponents and stakeholders. Become familiar with the on-going controversy over these programs' net revenue benefits and job creation value in individual states. Some states use these subsidies defensively to keep existing jobs; others use subsidies to actively poach jobs from other states.
- Consult with state experts on the precise wording and placement of desired amendments or revisions to regulations
- From the incentive program's administrators, request a list of the production companies and film projects awarded benefits or pre-qualified for benefits. If these offices prove unresponsive, groups in states with the most active subsidy programs should consider seeking this information under the Freedom of Information Act. (The opacity of these programs can be made an issue in itself with the media and general public.)
- Advocacy can reference the [US Centers for Disease Control and Prevention](#), [US National Cancer Institute](#), [Institute of Medicine](#), American Academy of Pediatrics' [Tobacco, A Pediatric Disease](#), and other sources listed on the [Smoke Free Movies](#) web site.
- You may also wish to quote public health officials who have already communicated with state film commissions and petitioned for new rules. These public records are available at [smokefreemovies.ucsf.edu/actnow/subsidies](http://smokefreemovies.ucsf.edu/actnow/subsidies).
- Identify low-cost opportunities to put this issue on the policy agenda: letters to the editor, op-ed articles in major papers, comments on web news.

## *What arguments will be made against amending these programs?*

- Stakeholders in these programs may include politicians who like the visibility of film productions; owners of local film production facilities; local film production workers; some

trade unions; out-of-state film production companies, studio distributors and the media conglomerates that own the studios, all of whom benefit from state subsidies and the competition among locations; and large in-state (corporate) taxpayers who benefit from the transferrable tax credits they can buy from film producers.

- The Motion Picture Association of America (MPAA) often lobbies for film production interests at the state level. It maintains relationships with local lobbyists and law firms. Many states maintain online lists of lobbyists and their clients. (In New York State, for example, MPAA has been represented by Bogdan, Lasky & Kopley and by Kasirer Consulting.)
- The premise of state film subsidies is that they attract or create jobs. The first line of defense against amending these programs is that these amendments will place a state at a competitive disadvantage to other states that do not amend their programs. However, public health critiques of film subsidies are spreading across the US and Canada, to the UK and throughout Europe. The campaign to harmonize film subsidies with state and national health priorities aims to create a level field of play.
- Opponents may also try to dismiss the scientific evidence of harm from smoking movies; claim that movies are already rated for smoking (not so; see this [report](#)); employ the “slippery slope” fallacy (“Ban cheeseburgers next?”); or claim there is a conflict with the First Amendment (see box).

### ***The First Amendment is not an issue***

Amended film subsidy programs would not prohibit film producers from featuring tobacco in film projects, not even in kid-rated films. These projects will merely be made ineligible for taxpayer-funded subsidies.\* Subsidies are granted to individuals and private companies at the discretion of government, in the public interest. Various state film subsidy programs already expressly make a variety of other media production ineligible, such as political advertising, gambling-related media, pornographic material, and films reflecting badly on the character of state citizens — presumably because subsidizing this content (which is legal and protected) is not advantageous to the state. Neither is promoting youth smoking.

- The best strategy is to stay on offense, not defense. Capitalize on your public health expertise. Do not argue the economic value of the programs: “Even if this program were an exemplary job creator, the collateral damage to our kids is indefensible and makes these subsidies unsustainable.” Most state programs make political commercials ineligible for subsidy: “Well, smoking is even more toxic. Why aren’t films with smoking ineligible?” Would the state subsidize tobacco commercials? Would the state subsidize toxic waste dumps to create jobs? Why is one unproven state program undermining another proven

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\* A legislature’s decision not to subsidize the exercise of a First Amendment right does not infringe the right *Regan v. Taxation With Representation of Wash.*, 461 U.S. 540, 546-549, 103 S.Ct. 1997, 76 L.Ed.2d 129 (1983), and one who wishes to exercise a First Amendment right is not entitled to a subsidy from the state to make that right fully realized *Cammarano v. U.S.*, 358 U.S. 498, 79 S.Ct. 524, 3 L.Ed.2d 462 (1959). Also see this discussion: [www.csulb.edu/~jvancamp/freedom3.html](http://www.csulb.edu/~jvancamp/freedom3.html)

program: tobacco control? What efficiency is there in spending millions to fight youth smoking while also spending millions to promote youth smoking?

- Acknowledge filmmakers' freedom to feature tobacco in any movie — just “not at taxpayer expense.” Avoid linking the tobacco-in-film issue to other content issues, such as sex and violence. The evidence of that exposure to on-screen smoking affects real-world adolescent behavior on a massive scale is irrefutable. Talk about youth smoking in your state and the deaths expected. And never forget to mention that many of the same Hollywood studios that rake in taxpayer subsidies have a long history of commercial collaboration with the tobacco industry to promote smoking.

### **Proposed revisions to film subsidy programs:**

#### *1) Make all films with smoking ineligible for subsidies*

Films with smoking should be ineligible for public subsidies. Almost all states already exclude certain content from their subsidy programs, ranging from wedding videos to reality shows to pornography. Many allow program administrators final say over whether a production qualifies or if it offers a genuine economic benefit to the state. Research involving thousands of young people on three continents show that they receive their exposure from a wide range of films, youth- and R-rated, and that subjective judgments about whether certain types of on-screen smoking “glamorize” or “promote” smoking are immaterial: the greater the cumulative dose of exposure to any kind of on-screen smoking, the greater the chance a teen will start smoking.

#### *2) Make film subsidy programs more transparent and accountable*

Subsidies are privileges, not rights. They are justified only if the private interest that receives the taxpayer's money delivers a public good. To ensure that the commercial media products being subsidized by the state are, in fact, smokefree, the applicants' names, the title of the film or program, the declaration that it is smokefree, and the amount pre-qualified before shooting begins and ultimately awarded when production is completed should be open public records in every state.

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For more information about the issue of smoking on screen, including the history of the problem, research evidence, and policy solutions, visit <http://smokefreemovies.ucsf.edu>.

