

To: Kansas Senate Commerce Committee, Members
Kansas House Taxation Committee, Members

From: Tyler J. Emerson
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Date: January 30, 2025

Re: Written Testimony In Connection With H.B. 2038 / S.B. 52

Dear members of the committees,

By way of introduction, my name is Tyler J. Emerson. Before my testimony regarding House Bill 2038 / Senate Bill 52, better known as the proposed Kansas Film and Digital Media Industry Production Act of 2025, I believe some background information about me may be in order. To provide you with the basis for my claims and opinions set forth herein, information about my education, training, experience and expertise may help you in evaluating and weighing my testimony.

Background Information

I am a life-long Kansan. I was born and raised in Wichita. I graduated *cum laude* from Wichita State University with my bachelor's in political science, where my studies focused on economics and political economy. In 2013, I graduated from the University of Kansas School of Law, where I earned my *juris doctorate*, as well as my certificate in media, technology and law. Upon graduating from KU Law, I immediately passed both the Kansas Bar Exam and the California Bar Exam, and have been licensed to practice in both states for over a decade. Since then, I went to work at my current firm – Conlee Schmidt & Emerson LLP in Wichita – where I have built and maintained a nationwide practice focusing on the entertainment industries, with a particular focus on the motion picture industries which are the film industry, the television industry, and the streaming industry. My work and clients include Oscar nominees and Emmy winners. On information and belief, I am one of only two attorneys in the entire state who makes entertainment a regular part of their practice; the other being Lawrence attorney Jim Jesse. However, as Mr. Jesse focuses his practice in the music industries, it may be fair to say that I am the only attorney in Kansas for whom work in motion pictures is a regular part of their practice.

In addition to my practice itself, I have had several other professional opportunities in the motion picture industry. For four years now, I have taught as an adjunct instructor at the Wichita State University School of Digital Arts. My course is required for all students in one of the fastest-growing degree programs at the university. I designed my course to use a market-based approach in teaching legal fundamentals to aspiring professional digital media professionals in areas including intellectual property law, contract law, the law of business organizations, media project and small business financing, and employment and labor law. I teach from a textbook I specially prepared. I also regularly guest lecture at other universities' film and digital media schools, including at DePaul University in Chicago, Baylor University in Texas, and at my alma mater – the University of Kansas, where I have recently been invited to join the Film & Media Studies Department's professional advisory board by PAB chair Sav Rodgers. I have published articles relevant to the motion picture industries in peer-reviewed legal journals.

In addition to my education and experience related to the law and business of motion pictures, I also have a background in production. Prior to my law career, I began my career with what is now known as the Tallgrass Film Association, which annually organizes and produces the Tallgrass Film Festival. I am proud that my contributions over the years to that organization have led it to not just being the largest film festival in Kansas, but also one of the most well-respected festivals in the nation. Also prior to my law career, I was an award-winning screenwriter and production manager/assistant director. I am also a motion picture producer. Most recently, I produced the documentary *Chasing Chasing Amy* with native Kansan Sav Rodgers, which premiered in 2023 at the prestigious Tribeca Film Festival. That film recently acquired distribution with Level 33 Entertainment, a large independent film distributor. And this last summer, I produced a scripted coming-of-age comedy by another native Kansan, Chris Lawing, tentatively titled *Greg's Going To Rehab*, starring Cameron Mann (*Mare of Easttown*), Disney Channel ingenue Saylor Bell (*High School Musical: The Musical: The Series*), Jim Beaver (*Supernatural*), and Dot-Marie Jones (*Glee*). It is currently in post-production and recently qualified for a \$100,000 grant from the City of St. Louis. It is scheduled to premiere later this year.

Entertainment and Motion Pictures Represent A Significant Portion of America's Annual Exports

The motion picture industries fall within the entertainment industries, which also include the music industries related to publishing, recording and distribution, and the interactive media industries related to video and computer gaming, software and social media applications. They fall within the class of industries referred to as the intellectual property industries, as the asset class produced includes works and other *res* protected under copyright law, trademark law, pseudo-intellectual property law (involving rights of

privacy, publicity, and protections against defamation; “celebrity assets”), and patents. The intellectual property industries, and *especially* those related to entertainment and media assets, have been and continue to be some of the fastest-growing economic sectors not just in the United States, but also globally. The United States film and television industries alone generate more than \$17 billion in exports, and is one of the few sectors to enjoy a trade surplus. That trade surplus is annually valued at more than \$10 billion, which means that the traditional film and television industries *alone* account for more than four percent (4%) of the United States’ total services trade surplus. Unfortunately, while other states have taken an active role to ensure that their workers and firms can take advantage of this fast-growing and substantial economic sector, Kansas does not. Kansas is in the minority of its sister states, being one of only thirteen (13) that offer zero incentives to major firms and out-of-state producers that would otherwise bring their business and money to the Sunflower State. Even regionally, Kansas falls behind. Texas and Colorado have long had motion picture incentives. In July 2023, Missouri re-established its incentive program, almost immediately experiencing an explosive number of applications from out-of-state firms. Oklahoma has drawn large productions benefitting Oklahoma residents including *Reservation Dogs*, *Tulsa King*, *Stillwater*, and the Martin Scorsese-epic, *Killers Of The Flower Moon*.

The Time To Act Is Now

This bill establishes an economic development program that will increase revenues to Kansas companies, employers and workers from out-of-state sources by making Kansas a competitive state for film and media production. For the last quarter-century, Hollywood has had to contend with what it calls “runaway production.” As motion picture subject matter continues to cater to Middle America and middle class and working class Americans, *infra*, producers continually try to justify the economics of moving away from the industrial infrastructure and workforce historically centered in southern California and New York City. Since 2000, as technological advancements have brought the costs of production down, it has become easier and easier for this industry to untether itself from its historical geographical roots. Making the decision to move productions away from Los Angeles and New York City has been the willingness of states outside of California and New York to respond to these needs. The same way incentives in the oil and gas industry have lured jobs and money to Kansas from Texas, Oklahoma, Louisiana and New Mexico; and in the same way incentives in the aircraft manufacturing industry used to lure jobs and money to Kansas from Georgia and Washington, similar incentives in the motion picture industry will lure jobs and money to Kansas from California and New York.

However, recent events provide Kansas a unique opportunity to enjoy the benefits of this sector if incentives are supported. The California industry, centered in Los Angeles, is reeling. Prior to 2023, it struggled to recover from the aftereffects of the covid

economy. In Summer 2023, the California industry was upended – resulting in a substantial logjam – arising from unprecedented strikes by the Writers Guild of America and the Screen Actors Guild-American Federation of Television and Radio Actors. And in 2025, fires across the Pacific Palisades and Glendale neighborhoods in Los Angeles have impacted communities of workers that will keep the California industry in limbo for a long time. Combined with Kansas’ already low cost of living, the prospect of inexpensive production provided by incentives reasonably presents Kansas an opportunity to become one of the top destinations for “runaway production.” Furthermore, on a national scale, there is optimism to believe that the entertainment industries may be relieved from the effects of retaliatory tariffs. The nature of digital distribution today (as opposed to brick-and-mortar distribution), as well as the cyclical nature of demand for entertainment, may mitigate against the effects seen by other American export industries, including agriculture and manufacturing.

Additionally, incentives like this will ensure that Kansas enters the 21st Century Economy, offering home-grown Kansans the opportunity to participate in it without having to leave home. For multiple decades, Kansas has and continues to lose our best and brightest young people. This “brain drain” is due in no small part to the fact that Kansas continues to look backward – toward agriculture and export manufacturing – instead of recognizing that America’s economy today is a service economy. Young people, and young Kansans, look to the reality of that economy and must be responsive to it if they want careers that will allow them to improve their socio-economic standing. Today’s Kansans are moving to places like Los Angeles, New York, Chicago, San Francisco, because those places are where the 21st Century jobs *are*. We can gripe and complain about it. But “Old Economy” jobs are not coming back. If we want any hope of keeping Kansans in Kansas, we need to be responsive to their economic needs. This incentive bill is responsive to those needs.

Then, of course, there is the place that our national culture is in. Frankly, Middle America is popular again. Culturally, we are now living in a “Taylor Sheridan world,” in which cowboys and Indians, landmen and farmers, fall at the apex of the popular zeitgeist. The recent revitalization of audience interests in so-called “fly-over” content is evident and exemplified by the popularity of scripted series including *Yellowstone*, *1883*, *1923*, *Tulsa King*, *King of the Hill*, *Big Sky*, *Longmire*, *Reservation Dogs*, *Somebody Somewhere*, and *Ozark*. In terms of feature films, one need only consider *Killers Of The Flower Moon*, *Stillwater*, *Concrete Cowboy*, *The Ballad Of Buster Scruggs*, *The Sisters Brothers*, *Wind River* and *Hostiles*. However, Kansas fails to assert itself in this new cultural renaissance. Adding insult to injury is that while Kansas is represented on-screen, it is represented by Oklahoma, Missouri, and even places as far away as Vancouver. The long-running fan-favorite series *Supernatural* – despite featuring Kansan characters and taking place substantially over the course of fifteen years in Kansas – was shot in Vancouver, Canada. The producers of *Kansas City* – the Taylor Sheridan series starring Sylvester Stallone – made the financial decision to relocate to Oklahoma from

Kansas and Missouri because of Oklahoma's incentive program. Tulsa has now played the home of *Tulsa King* instead for three seasons now. Native Kansan Bridget Everett *wanted* to park production of her HBO series, *Somebody Somewhere*, in the town where it is set – Manhattan, Kansas. However, the studio overruled her. Instead, rural Indiana stood in for rural Kansas, depriving Riley County workers from enjoying the financial and cultural benefits of appearing on-screen. Even the Kansas-set parts of *Ted Lasso* were produced elsewhere. Now is the time to act because Kansas should be represented in the popular culture by **KANSANS!**

The Program Will Achieve the Goals of the Legislation

Ultimately, this body's members must accept that the major firms responsible for financing and distributing motion picture works are highly unlikely to move their permanent operations to Kansas. It is folly to believe Disney will suddenly leave Burbank for Olathe, or that CBS will transfer its studio workforce from Los Angeles to Wichita. However, the good news is that this is irrelevant to the success of the program. The purpose of the legislation is to create-by-incentive *production and creative* jobs – not executive positions. And the nature of those positions is that Kansas does not *need* executive divisions to relocate in order to benefit. This is not to say that some actors may not take advantage to establish a permanent infrastructure in the state, as Tyler Perry did with his studio in Atlanta following the establishment of Georgia's incentive. Marvel has parked a large number of its productions in Georgia because forward-thinking individuals established permanent soundstage infrastructure there. However, it is simply immaterial to the success of the program.

The primary driver for motion picture producers deciding where to base their productions (in other words, which communities they will hire from and buy goods and services from) tends to come down to the question of production incentives. This is simply an industrial truism. This bill is responsive to that industrial behavior. Ultimately, what drives production is the ability to generate cash for production. This bill does not reinvent the wheel. Instead, it follows a well-trod path laid by other states: tax credit transferability. The transfer provision is the engine that makes the program run. As out-of-state producers qualify, they sell their pre-qualified credits to people and firms with Kansas tax liability. For the producers, this generates instant cash to offset the need to acquire it from other sources. The program's requirements that a certain amount of money be spent in Kansas, and that a certain number of Kansans be hired, ensures that this money returns to the hands of Kansans; and, in fact, that *other* money comes from out-of-state into the hands of Kansas workers. And, finally, transferability helps Kansas taxpayers. By buying those couponed incentives, the legislation helps decrease Kansans' tax liability.

By ensuring (i) that the program's aggregate annual cap is competitive, (ii) that the percentage on qualified expenditures is competitive, and (iii) that qualified expenditures are competitive and reasonably expansive, Kansas will compete not only with its regional neighbors but also nationally. Additionally, the openness of this body to expand those at later dates, or to offer craft-specific incentives that other states do not, will continue to help grow work in not only the Kansas industry, but also the tax base and other industries. For instance, to consider in the future, it is common for writers of series to work independent from production. It is not unusual for a "writers room" to be based in Los Angeles, while production is based somewhere else, such as Texas (in the case of *Friday Night Lights*) or even out of the country, such as in Vancouver (in the case of *Supernatural*). Because of the nature of writing on a series, future versions of the bill, dependent upon its initial success, could be amended to effectively steal whole craft communities, like writers, away from Los Angeles if it is cheaper to pay them in Kansas than it is in Los Angeles. But secondary and tertiary sectors can be added in later versions, depending on initial success. For instance, as stated above, I currently am the only motion picture attorney in Kansas. However, adding legal services to the list of qualified expenditures could increase attorney resources for working class Kansans in the industry. It is premature to consider future expansion of the program. However, it is not unreasonable to consider the "what ifs" and the possibilities that Kansas could tailor in order to bring more people, and – thus – more investment from out-of-state to our home state on the Great Plains.

Secondary and Tertiary Sectors

Without an incentive program, out-of-state producers and out-of-state investment will not come to Kansas. But with a competitive incentive program, they will. And they will bring jobs and money for Kansans to enjoy. And that is the ultimate goal. But as important as a local *motion picture* economy is, it is as important to consider that motion picture production commonly relies on support from other businesses. There is no such thing as a "motion picture" carpenter. When sets have to be constructed, Kansas construction workers will be more than qualified to do so. It is fair to expect that not *everybody* who works on a Kansas-based motion picture production will be from Kansas. For theatrical films, it is not just reasonable but effectively predictive that accommodations will need to be purchased. In cities like Wichita and Kansas City, this often involves local hotels. In rural areas of Kansas, this would bring business to inns and bed-and-breakfasts. For series, in which actors work over long periods of time, business to long-stay hotels, AirBnB proprietors, and even more permanent lodgings – apartments, condos, and houses – are expected. In fact, it is common for actors on series to purchase homes near their work. On *Yellowstone* and *1883*, several actors purchased houses in and around Bozeman, Montana. On *The Walking Dead*, several actors purchased homes in and around Atlanta, Georgia. On all productions, food is a significant cost. Local grocery stores can expect increased business from the need for craft service. Local restaurants can

expect increased business from the need for hot, catered meals on set. As people and equipment need to be transported, an increase in vehicle rentals and purchases can be expected, as well as hiring drivers to operate them. Obviously, craft-specific expenses will increase. It is fair to expect camera and light equipment shops to see an increase in business. The same is true for theatrical lighting supply shops, like Theatrical Services in Wichita. The demand for costumes increases the need for skilled seamstresses. Simply stated, productions require more than just sector-specific goods, infrastructure and craftspeople.

Furthermore, it is fair to expect tourism to increase. Northern Georgia has seen an explosion in tourism arising from its home to fan favorite series *The Walking Dead*. Montana has seen significant increase in tourism thanks to *Yellowstone*, *1883* and *1923*. Albuquerque enjoyed significant tourism boosts thanks to the public embracing of *Breaking Bad*.

In Conclusion

Based on my experience, I am of the opinion, this program will achieve its goals. Most notably, it will bring jobs to Kansans, and out-of-state investment to Kansas. I have personally spoken to many of my friends and clients about the prospect for this program. Some of them have been to Kansas, and are excited at the prospect of being able to work here. They have projects ready to go. They simply need to be able to justify moving production to Kansas, as opposed to California or any other states that already have incentive programs. These producers include people who have studio distribution deals. I would very much like to be able to represent to them that those passion projects they want to shoot in the Sunflower State have a financially-justified home.

If any member of this body has any further questions for me, please feel free to contact me at my office during normal work hours. If you have questions for me as an attorney with experience dealing with production incentives about how I believe the bill would likely work, or if you have questions for me as a producer with questions about what the program needs to succeed, please feel free to reach out. It is my fervent hope that the industry I love finds a home in my home.

All my best and sincere regards,

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