

### A REPORT IN FOUR ACTS

Ву

The Film Production Advisory Committee

And

The Tennessee Film, Entertainment & Music Commission

### **CHAPTER NO. 261**

### **HOUSE BILL NO. 1684**

### By Representative Briley

Substituted for: Senate Bill No. 1296

### By Senator Cooper

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3, Part 50, relative to the Tennessee Film, Entertainment and Music Commission.

### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, Part 50, is amended by adding the following language as a new, appropriately designated section:

Section 4-3-5008.

- (a) The executive director, in conjunction with the commissioner of economic and community development, shall establish a film production advisory committee to study film production in Tennessee
- (b) The advisory committee shall be composed of seven (7) members, to include the executive director, the commissioner of economic and community development, the commissioner of tourism, two (2) members representing the motion picture industry, one (1) member representing the television movie and series production industry and one (1) member representing short film makers. Such industry members shall be appointed by the governor. The executive director of the Tennessee film, entertainment and music commission shall serve as chair and shall convene the first meeting of the advisory committee prior to September 1, 2005.
- (c) The advisory committee shall study film production in Tennessee, with a general focus on the following issues:
  - (1) Overall film production opportunities currently available in Tennessee to the motion picture industry, short film makers and television movie and series producers, including a survey of existing resources available to such industries;
  - (2) The use of tax and other incentives to enhance film production opportunities available in Tennessee to the motion picture industry, short film makers and television movie and series producers, including an examination of the types of incentives offered in neighboring states and throughout the country;
  - (3) The current, and potential, economic impact of the film production industry in Tennessee.
- (d) Upon request, the advisory committee shall be assisted by appropriate agencies of state government. From funds available to the advisory committee, the advisory committee may seek such outside council as necessary to assist in the duties of the advisory committee.
- (e) The advisory committee shall present its findings, recommendations and any proposed legislative changes to the governor, speaker of the senate, speaker of the house of representatives and the chairs of the senate and house finance, ways and means committee by February 1, 2006.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

### **REPORT SUMMARY**

### THE STATE OF THE FILM & TELEVISION INDUSTRY

The Tennessee film and television industry has had to recover from two critical factors that created economic hardship for the industry over the last decade.

Following the attacks of 9/11, the arts and entertainment industries as a whole suffered serious financial setbacks that have taken years to overcome.

In the 1990s, the country music industry in Middle Tennessee which was a vibrant market for music videos, implemented marketing plans for artists that no longer relied heavily on music videos. Budgets for music videos were drastically cut or eliminated altogether. In 1996, over 300 music videos were produced in Nashville. By the end of 2005, the number had dropped to 100. The effect from this production shrinkage seemed to ripple across the State. Additionally, Tennessee suffered the sale and subsequent relocation of The Nashville Network (TNN).

Today the film and television industry in Tennessee stands at a precipice. The State will support the continued growth of the industry through film and television incentives, or continued production shrinkage is inevitable.

### WHY NEW INCENTIVES NOW?

Tennessee's current incentive package allows out-of-state production companies to receive a sales & use tax rebate on items purchased once the in-state spend has reached a \$500,000 threshold. Although the State and some regions in Tennessee also offer soft incentives to production companies like no-fee sites for shooting and free use of motor pool vehicles, Tennessee's entire incentive package has become **obsolete** in today's production market. As competing states pass new incentive packages, Tennessee is losing projects that were a natural fit for the State to other locations based entirely on incentives.

How do you attract major films and television projects?

The answer is financial incentives that compete with domestic and international production markets. Although states and countries once competed for film and television projects based on their unique locations and geography, that consideration is no longer a priority.

Faced with film production costs spiraling, star's salaries escalating, and traditional theatrical delivery windows collapsing, studios and independents alike are increasingly tapping outside money and tax incentives to help finance their films. Financial incentives are no longer optional, they're mandatory.

A look at the chart below shows that Tennessee lacks the incentives provided by neighboring states.

Incentives offered in neighboring states vs TN	AL	GA	KY	LA	MS	NC	SC	TN
Transferable tax credits		Х		Х	Х			
a. In-state spend credit		X		X				
b. Labor tax credit		X		X	X			
c. Infrastructure credit				X				
d. Multiple TV projects		X						
Refundable tax credits					X	X	X	
a. In-state spend credit					X	X	Х	
b. Labor tax credit						X	X	
Sales and use tax rebate	Х	Х	Х	Х	Х	Х	Х	Х
Hotel tax rebate	Χ			Х			Х	Х
Music credits				Х				

As more states enact attractive incentive packages for film and television projects, Tennessee is missing the opportunity to capitalize on the positive effects of film and television production in the communities across the State. It must be recognized that since the use of financial incentives escalated in the US over the last three years, Tennessee has lost eight projects for which we were scouted to other states solely on the basis of incentives. We have no way of determining number of projects that MIGHT have scouted the State if competitive incentives were in place.

# 8 PROJECTS = \$69 MILLION ACTUAL DOLLARS LOST THE LOST ECONOMIC IMPACT FOR TENNESSEE? \$138 MILLION

As Tennessee continues to lack the ability to compete, highly paid technical crew personnel are relocating to states that are attracting this business. Not only does the loss of these projects affect immediate revenues for the State, but creates a downward spiral for Tennessee's film and television industries as a whole.

### RECOMMENDATIONS FOR NEW LEGISLATION

The recommendations for a new incentive package are as follows:

- A. Incentives for out-of-state companies creating films or television projects in Tennessee: These incentives will become instrumental in the continued health and growth of the film and television industry in the State. Without this element of the package, Tennessee will be unable to compete for the major features and television series' that are now flocking to our neighboring states. These incentives include a 17% transferable tax credit, An additional 3% credit for use of Tennessee music and an additional 5% credit for use of Tennessee crew.
- B. **Studio Mechanics Training Programs:** Most states or countries that have successfully & continually recruited top feature films have belatedly sought to create training programs to increase the size and scope of their crew base. A training program implemented in conjunction with new incentives will provide new high-paying jobs for Tennessee's displaced workers while making the State that much more attractive to companies seeking to hire Tennessee crew.
- C. Improving the infrastructure of Tennessee's production and post production industry: The film and television industry is driven by high-tech equipment and machinery. With the growing and significant changes in technology for delivery of content, competition demands that these companies upgrade their technology as well. Tennessee's film and television companies would benefit greatly from just two of the tax credits already being offered to other industries for the purchase of machinery and equipment.
- D. Study of Incentives for Recruitment and Relocation of Video Game companies: As the video game industry faces the consuming appetite and fickle nature of the gamer, the demand for content will grow in the next decade to phenomenal proportions. Tennessee should be prepared to recruit and relocate video game production companies as part of the effort to sustain a strong film and television production industry in the State.



# Featuring: -Technology Chart

- -State of the Industry Report
- -Jobs Creation and Retraining



Produced by Universal Pictures ≥ 1985

### TENNESSEE'S FILM & TELEVISION INDUSTRIES MEET THE FUTURE

The film and television industries in Tennessee are at a crossroads in their development.

Although the State's history in the creation of music and entertainment is known throughout the world, the creation of content and delivery for all visual products is changing dramatically and rapidly.

Will Tennessee meet the continuing challenge of growing these industries?

These are the industries that create the much sought-after high-paying, high-skilled jobs Tennessee wants to attract. These are the industries that create the content we so enjoy on our televisions, in the theater, on our computers, via our cell phones and in our video games.

To meet the challenge of the growing need for content throughout the world and to claim a favorable portion of the film and television business for our State, we must be prepared to meet the future head-on.

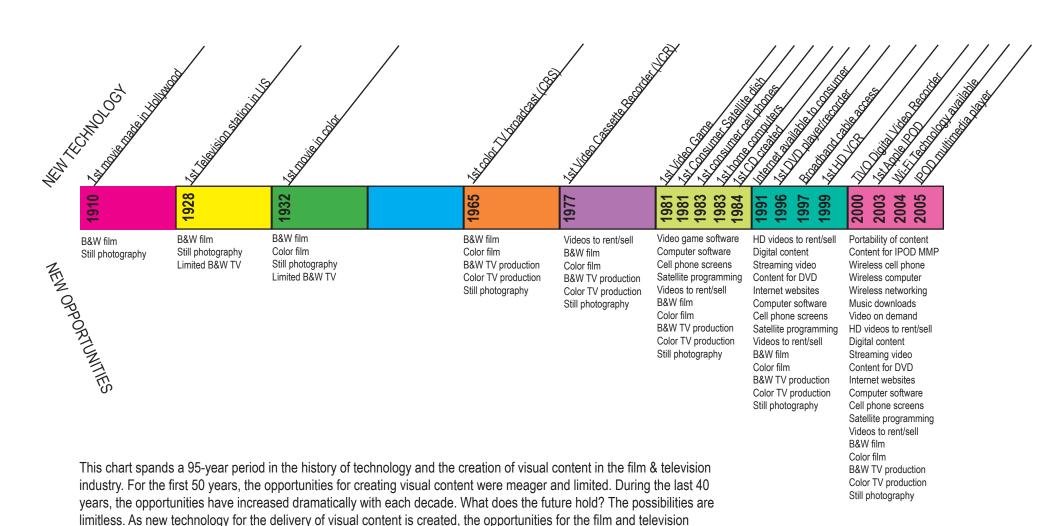
### SOME FACTS TO CONSIDER:

- Revenues from film and television on a national scale rose from \$38.1 billion in 1997 to \$52 billion in 2002. (See Appendix VII)
- The revenues continue to increase as the opportunities to create visual content increase.
- The increase in film and television production in Tennessee will increase the size of the workforce in the State.
- A Tennessee crew member will realize an average income of \$11,000 per film. (based on 30-day shoot)

<sup>\*</sup> The voice of Shoeless Joe, "Field of Dreams," 1989

### OPPORTUNITIES ABOUND FOR VISUAL CONTENT





community to fill the new gap expand again and again.

### THE STATE OF THE INDUSTRY IN TENNESSEE

The film and television industry in Tennessee has grown and developed steadily since the early 1960's. Each of the Grand Divisions in Tennessee has worked diligently to grow the industries in their areas. Each division has both strengths and weaknesses as highlighted below.

The Tennessee Film, Entertainment and Music Commission was formed in 1980 and was charged with the improvement of the economies of the film/television and music industries in the State.

Since that time, two Regional Commissions were formed in both East Tennessee (East Tennessee Television and Film Commission) and West Tennessee (Memphis & Shelby County Film and Television Commission). Additionally, Metro Nashville is served by the Mayor's Office of Film in Nashville and the City of Chattanooga recently expanded its Department of Education, Art and Culture to include a Film Commission.

The Tennessee film and television industry has had to recover from two critical factors that created economic hardship for the industry over the last decade.

Following the attacks of 9/11, the arts and entertainment industries as a whole suffered serious financial setbacks that have taken years to overcome.

In the 1990s, the country music industry in Middle Tennessee which was a vibrant market for music videos, implemented marketing plans for artists that no longer relied heavily on music videos. Budgets for music videos were drastically cut or eliminated altogether. In 1996, over 300 music videos were produced in Nashville. By the end of 2005, the number had dropped to 100. The effect from this production shrinkage seemed to ripple across the State. Additionally, Tennessee suffered the sale and subsequent relocation of The Nashville Network (TNN).

Today the film and television industry in Tennessee stands at a precipice. The State will support the continued growth of the industry through film and television incentives, or continued production shrinkage is inevitable.

As other states compete for recruitment of entertainment businesses, Tennessee must remain concerned and vigilant in the retention of companies like CMT and Scripps Networks. Their loss would deliver a crushing economic blow to Tennessee's entertainment industry.

A look at the three Grand Divisions of the State offers a broad picture of the economic health of the industry today.\*\*

<sup>\*</sup>Humphrey Bogart, "Casablanca," 1942

<sup>\*\*</sup>All figures provided by surveys from Tennessee Regional Commissions

### A LOOK AT MIDDLE TENNESSEE

Middle Tennessee is home to three national cable networks: Country Music Television (CMT), Great American Country (GAC) and Shop at Home. It also hosts smaller networks like RFD television. The Middle Tennessee production community has grown through its focus on the production of: (in order of economic impact)

- Music videos
- TV commercials
- Corporate video
- Religious programming
- TV series and long form television programs
- Independent films
- Feature films

### Middle Tennessee's production capabilities are:

- Crew to staff one major feature and 2 TV series simultaneously
- Primary needs covered for grip & lighting for commercials or music videos
- Limited grip & lighting equipment and crew for full-up feature film production
- Sufficient camera rental facilities, including High Def
- Sufficient post production facilities for television
- Sufficient film process and transfer facilities
- Adequate ADR facilities

### Middle Tennessee production community <u>lacks</u>:

- A Hollywood-style sound stage\*
- Adequate Foley facilities\*\*
- Adequate grip & lighting crew and equipment to service feature films
- Adequate post production facilities for film

Middle Tennessee still depends on the creation of music videos as a mainstay, but has aggressively expanded its reach into the business of television commercials on a local, regional and national scale.

Middle Tennessee provided employment for approximately 1400 Tennesseans (both full time and freelance) earning \$80 million and generated Gross production Dollars of \$167 million.

Middle Tennessee hosted seven independent films from mid-2004 to mid-2005 with an in-state spend of \$7.7 million and an economic impact of \$15.4 million.

<sup>\*</sup>Hollywood Sound Stage: Building with interior minimum of 100' x 100' with a grid height minimum of 40'; sound insulated, minimum of a 2000 amp, 3-phase electrical system & appropriate air conditioning.

<sup>\*\*</sup>Foley Facility: A post-production stage that includes recording devices for sound effects & dubbing of spoken audio.

### A LOOK AT EAST TENNESSEE

East Tennessee is home to the Scripps Networks which provides programming for five of the State's cable networks: DIY Network, Home & Garden Television, Fine Living, Food Network and Jewelry Television. Scripps' properties, Shop-at-Home and Great American Country (GAC) are corporately located in Middle Tennessee. East Tennessee is also headquarters to Regal Entertainment Group, the largest motion picture exhibitor in the world. The East Tennessee production community's relationship with Scripps has resulted in their focus on: (in order of economic impact)

- TV series and long form television programs
- TV commercials
- Corporate videos
- Religious programming
- Independent films
- Feature films

### East Tennessee's production capabilities are:

- Sufficient crew to staff ongoing television programming plus one television series
- Limited television production facilities for hire
- Limited grip & lighting crew and equipment
- Limited camera rental facilities-including High Def
- Limited audio post including ADR
- Sufficient post production facilities for television

### East Tennessee's production community <u>lacks</u>:

- Hollywood-style sound stage
- Sufficient crew to staff ongoing television projects and a feature film simultaneously
- Adequate Foley facilities
- Adequate grip & lighting crew and equipment to service feature films
- Adequate post production facilities for film
- Adequate facilities for film processing and transfer

East Tennessee had a very strong year with an independent film trilogy being shot in their area and the continued growth of the television industry in Knoxville.

East Tennessee television and film industry generated gross production dollars of \$286 million and created approximately 2,808 jobs earning \$150 million for Tennesseans in 2004(both full time and freelance).

East Tennessee hosted an independent film trilogy from mid-2004 to mid-2005 with an in-state spend of \$30 million and an economic impact of \$60 million.

### A LOOK AT WEST TENNESSEE

Memphis/Shelby County has been host to the majority of feature films shot in Tennessee. (See Appendix I, Filmography) The production community, therefore, focuses on the production of: (in order of economic impact)

- Feature films
- Independent Films
- TV commercials & sports programming
- Music videos
- Corporate videos

West Tennessee's production capabilities are:

- Crew to support one major feature film or TV project
- Limited grip and lighting service & equipment
- Limited camera rental facilities- including High Def
- Adequate post production for television
- Adequate audio post including ADR

West Tennessee's production community <u>lacks</u>:

- Hollywood-style sound stage
- Sufficient crew to service multiple projects simultaneously
- Adequate Foley facilities
- Adequate film processing and transfer facilities

West Tennessee experienced a strong year in feature and independent films while also focusing on sports programming and music videos.

West Tennessee television and film industry generated gross production dollars of \$31 million and created approximately 500 jobs earning \$4.5 million for Tennesseans in 2004(both full time and freelance).

West Tennessee (Memphis) hosted one feature film and two independent films from mid-2004 to mid-2005 with an in-state spend of \$19.5 million and an economic impact of \$39 million.

The Tennessee television and film industry in total generated gross production dollars of \$484 million and created approximately 4,700 jobs earning \$235 million for Tennesseans in 2004(both full time and freelance).

### **NEW JOBS FOR TENNESSEANS**

The Tennessee production industry has the unique opportunity to offer re-training to Tennessee's displaced manufacturing workers.

If a program were in place to train for a 6-month certificate or an Associates Degree at Tennessee's community colleges, former factory workers can quickly become instrumental in Tennessee's crew base as grips or gaffers. These are skilled professions that deliver and hourly average of \$25.00.

### **POINTS TO PONDER**

Tennessee has lost 88,000 manufacturing jobs since 1998.

New film incentives = more features/TV projects shot in Tennessee.

More features/TV projects shot in Tennessee = need for larger crew base

Larger crew base in Tennessee = fewer unemployed workers

More working crew members = increased revenues for Tennessee

New "Studio Mechanics" course of study = more students for Tennessee community colleges.



Quote from "Jerry McGuire" Produced by Columbia/Tri-Star ⊗ 1996



# Featuring:

- -Why Incentives Now?
- -Compare TN to its Neighbors
- -A Look at Louisiana and North Carolina
- -Use of "Soft Incentives"

### TOO MUCH TO LOSE

Tennessee's current incentive package allows out-of-state production companies to receive a sales & use tax rebate on items purchased once the in-state spend has reached a \$500,000 threshold. Although the State and some regions in Tennessee also offer soft incentives to production companies like no-fee sites for shooting and free use of motor pool vehicles, Tennessee's entire incentive package has become **obsolete** in today's production market. As competing states pass new incentive packages, Tennessee is losing projects that were a natural fit for the State to other locations based entirely on incentives.

### FILMS & DOLLARS LOST

Over the last three years, Tennessee has competed for and lost the following projects to other locations:

PROJECT  1. "Elvis" - TV mini-series to Louisiana	\$9 million
2. "Walking Tall"- Buford Pusser biopic to Vancouver, BC	\$12 million
3. "Nashville PI"- story based on a Nashville PI to Luxemborg	\$3 million
4. "Get Low"- story based in Roane County to NC.	\$5 million
5. "My Friend Flicka"- film remake to CA	\$15 million
6. "Johnny Cash"- made for TV movie to Toronto	\$3 million
7. "The Longest Yard" - film remake to NM	\$17 million
8. "Something The Lord Made" – story of Vanderbilt doctor to MD	\$5 million

8 PROJECTS = \$69 MILLION LOST DOLLARS

### FILM & TELEVISION INCENTIVES = NEW JOBS

Why Film Incentives are Must Haves

Why does Tennessee need strong film & television incentives? The answer is **JOBS**.

A 2005 study conducted by the Los Angeles Economic Development Commission, revealed that a single \$70M film created the equivalent of 141 full-time year round jobs and 425 full-time indirect jobs.

How do you attract major films and television projects?

The answer is financial incentives that compete with domestic and international production markets. Although states and countries once competed for film and television projects based on their unique locations and geography, that consideration is no longer a priority.

Faced with film production costs spiraling, star's salaries escalating, and traditional theatrical delivery windows collapsing, studios and independents alike are increasingly tapping outside money and tax incentives to help finance their films. Financial incentives are no longer optional, they're mandatory.

Current above-the line costs for actors and other key talent range from \$15M to \$20M for stars such as Tom Cruise, Will Smith, Brad Pitt and Cameron Diaz. Added to the budget equation are increasing below-the-line costs for labor, facilities, technology and state of the art special effects. Effects intensive films such as "LORD OF THE RINGS" trilogy, "KING KONG," "HARRY POTTER" and "MISSION IMPOSSIBLE" are made almost exclusively outside the United States (US) due to the lower costs of labor, favorable exchange rates and financial incentives offered by Canada and the United Kingdom (UK).

A typical studio film now costs nearly \$100M; \$65M to make and \$35M to market. Theater exhibitors such as Regal, AMC, and Cinemark generally keep 50% of the box office sales, which means a film needs to gross nearly \$200M to break even. Since very few films earn that much at the box office, studios have increasingly relied on breaking even in the home video or DVD market, and these sales must be shared with retailers like Wal-Mart and Blockbuster. Thus, the pressure is on to reduce the cost of producing a film or television series as early as possible.

The UK started to lure in production by offering an attractive tax environment for filming in the mid-1990's with the availability of accelerated capital cost allowances (amortization) commonly referred to as Sec. 42 and 48 of the 1992 UK Finance Act. The net benefit to producers using the sale and leaseback mechanisms ranged from 10-15% of qualified UK films. Quickly, films such as Walt Disney's "101 DALMATIONS," "PIRATES OF THE CARIBBEAN," MGM's "BASIC INSTINCT 2," Warner Bros. "BATMAN BEGINS" and all of the "HARRY POTTERS" were made in the UK Recent legislation threatened to reduce these tax benefits, but with public outcry that thousands of talent and technician's jobs would be lost, major UK studios like Pinewood lobbied to prevent losing a business that brought in US equivalent of \$5.2 billion last year. New tax incentives were introduced in December, 2005 which will support both the larger budget (\$34M+) and smaller budget films and are expected to range from 16-20% of budget.

Canada has consistently been a popular location for shooting because of the favorable exchange

rate, flexible guild requirements, deep labor pool and proximity to the US. The Fox series "21 JUMP ST" jump-started the television series industry in Vancouver, which quickly became a production hub and drove the US to coin the term "runaway production." TV provides high-paying jobs and the Canadian government introduced a series of tax incentives in the 1990's which provided a labor rebate directly to studios. These incentives encourage hiring locals and provided on-the-job training. Infrastructure followed with stages built in Vancouver, Toronto and Montreal. By 2003, production in Vancouver alone totaled \$950M. This saw a slide when the US started to compete, so the federal government raised rebates to 16%, Vancouver and Toronto added another 18%, and provinces like Manitoba rebate up to 55%. The TV series "X FILES," "STAR GATE ATLANTIS," all the "X MEN" films and "CAPOTE" filmed in Canada.

With each major Hollywood production likely to bring tens of millions of dollars into a local economy as well as adding hundreds of jobs, the stakes are high to draw in films. States are now fighting back with their own incentive packages. New Mexico passed an incentive rebate of 15-20% of the in-state spend and quickly landed "THE LONGEST YARD." Louisiana passed the most generous transferable tax incentive and watched their film business grow from \$20M to \$350M in just two years. New York, Georgia, North Carolina and South Carolina all passed incentives this year and are reporting positive results.

### 2005 COMPARISON OF STATE INCENTIVES

Incentives offered in neighboring states vs TN	AL	GA	KY	LA	MS	NC	SC	TN
Transferable tax credits		Х		Х	Х			
a. In-state spend credit		X		X				
b. Labor tax credit		X		X	X			
c. Infrastructure credit				X				
d. Multiple TV projects		X						
Refundable tax credits					X	X	X	
a. In-state spend credit					X	X	X	
b. Labor tax credit						X	X	
Sales and use tax rebate	Х	Х	Х	Х	Х	Х	Х	Х
Hotel tax rebate	Х			Х			Х	Х
Music credits				Х*				

### Glossary:

**In-state spend:** Total dollars spent for film or television production and post production within the State of Tennessee including labor and all necessary production supplies.

**Transferable Tax Credit:** This refers to a tax credit which is earned by a production company and which may be transferred, sold or assigned to another entity, LLC or individual to be utilized against that taxpayer's state income, franchise or excise tax liability. These credits can be carried forward for a period of years as set forth by state law.

**Refundable Tax Credit:** This refers to a tax credit which is earned and unused by a production company and which is refunded to the production company after filing the appropriate tax forms, etc. as required by the issuing state. The refund check is processed by the state and mailed to the production company within a prescribed period of time. This follows the Canadian model.

**Labor Tax Credit:** This refers to a tax credit which is earned by a production company which employs resident labor, or in some instances, non-resident labor which works in-state for a defined period of time. These credits may be transferred or refunded by the state depending upon statute.

**Sales and Use Tax Rebate:** This refers to a rebate of local sales and use taxes based upon a threshold of in-state spend for specific goods or services which triggers the rebate. Each state defines the percentage of the rebate and the rebate is sent directly to the production company after receipts, invoices, etc. have been accounted for.

**Hotel Tax Rebate:** This refers to a rebate of lodging and occupancy taxes based upon a threshold of staying typically 30 days or more as defined by statute. The production company applies for this rebate based upon submission of hotel invoices, etc. and receives a rebate directly from the state.

**Music Credit:** This refers to music composed or performed by a Louisiana musician, or released or published by a Louisiana-domiciled and headquartered company being used in a film score or soundtrack and is part of the in-state spend calculation for their 2006 transferable tax credit statute.

\*Pending Incentives for 2006. (See Appendix II)

### LOUISIANA FILM INCENTIVE PROGRAM: CASE STUDY

In 2002, the Louisiana motion picture and television business represented a total of \$20 million. Major studios and independent film makers were not scouting Louisiana with any regularity despite the lure of New Orleans. This was due in part to increasing costs of production, and in part to other locations like Canada and the UK offering generous rebates. There was no financial incentive package in Louisiana for filming except for a modest hotel and sales tax rebate program.

That all changed with the passage of the Louisiana Motion Picture Incentive Act ("the Act") in the fall of 2002. The Act provided for three elements:

- (1) A sales and use tax exemption for motion picture production companies who spend at least \$250K in connection with filming in any consecutive 12 month period
- (2) The Investor tax credit program provides an investor tax credit equal to 10% of the base investment made if the base investment is between \$300K and \$8M, a tax credit equal to 15% of the base investment if the base investment is in excess of \$8M
- (3) an Employment tax credit equal to 10% of the aggregate payroll if in-state expenditures are at least \$300K, but less than \$1M during the taxable year, and a tax credit of 20% of the aggregate in-state payroll if in-state expenditures are equal to or exceed \$1M. These credits can be sold or transferred to a Louisiana taxpayer, and unused credits can be carried forward for up to 10 years.

Suddenly, studio films like Fox's "RUNAWAY JURY," Disney's "MR. 3000" and Universal's "RAY" showed up in Louisiana to take advantage of lower cost filmmaking and to combat the flight of "runaway production." "RAY," a \$40M plus film, had been budgeted and boarded to film in Georgia where Ray Charles spent much of his life. However, the opportunity to use the transferable tax credits which could be sold to reduce the production cost quickly convinced the film's producers that Louisiana could easily "double" for Georgia. Ditto for the Fox film "BECAUSE OF WINN DIXIE." This project had been set up to film in Florida where the story took place, but an opportunity to keep the budget down proved hard to resist and the film moved to Napoleonville.

As word spread that the incentive program worked, and that a market existed for the tax credits, more and more jobs were created and independent film, television projects and studio films flourished. By the end of 2003, the entertainment business in Louisiana represented a total of \$200 million. This leap was repeated the following year when total production expenditures in Louisiana rose to over \$350 million.

2004 saw giants like Warner Bros. "DUKES OF HAZARD" and Sony's "ALL THE KING'S MEN" flock to Baton Rouge since the New Orleans area had already filled up with production and more crew and services were needed. Disney set up a television studio (G-Wave) to handle their TV movies, FX set up their first pilot and network series, "THIEF," Universal filmed "SKELETON KEY" and Paramount filmed the Queen Latifah remake of "LAST HOLIDAY."

In early 2005, more production was attracted to Louisiana. Regency Pictures filmed "JUST MY LUCK," Fox filmed "BIG MOMMA'S HOUSE 2" and Disney committed to the \$100M film "THE GUARDIAN."

Far from resting, Louisiana continues to modify its incentive package. Starting in January 1, 2006, the sales and use tax exemption will be deleted, leaving in its place:

- (1) a transferable Investor credit of 25% of base investment provided that more than \$300K is spent in Louisiana. In 2010 this percentage will decrease to 20%, and in 2012 it will decrease to 15%
- (2) an additional tax credit of 10% (above and beyond the 25% Investor Tax credit) on amounts paid as salary, wages or other compensation including related benefits to Louisiana residents with a ceiling of \$1M for any one person
- (3) a 15% credit for qualified infrastructure has been added effective July 1, 2005. This credit will expie on January 1, 2008 and applies to infrastructure projects greater than \$300K which have been certified by the State.

Production growth was halted temporarily when Hurricane Katrina struck in August, 2005. Filming of most new projects such as Sony's "PREMONITION" and "FACTORY GIRL" has moved northwest to Shreveport. The outlook for New Orleans as a film location remains cautiously optimistic, as rebuilding continues.

### NORTH CAROLINA INCENTIVE PROGRAM: CASE STUDY

Since the 1990's, North Carolina has been a competitive location for U.S. motion picture and television production, which at its height in 1993, represented total of \$504 million. North Carolina's experienced deep crew base, temperate weather, 30 sound stages and 8 studios; including Blue Ridge Motion Pictures in Asheville, Carolina Atlantic Studios in High Point, Carolina Pinnacle Studios in Yanceville, Creative Network Studios in Charlotte, Silver Hammer Studios in Charlotte, Trailblazer Studios in Raleigh, Earl Owensby Studios in Shelby, and EUE/Screen Gems Studios in Wilmington were a haven for major studios and independent filmmakers alike.

Despite the pull of "runaway production" from locations like Canada and the United Kingdom (UK) offering generous financial incentives, North Carolina continued to be a prolific production center. Films such as "FORREST GUMP," "NELL," "THE PATRIOT," "HANNIBAL" and network series such as "DAWSON'S CREEK" continued to feed the state's production pipeline.

This trend changed in 2002 when locations with strong financial packages and low-cost labor (especially nearby states like Louisiana) adopted financial incentives to lure projects elsewhere.

In 2002, North Carolina had 78 productions representing \$230M of business. This figure dropped precipitously to 24 productions in 2003. That year saw Miramax make their big budget Civil War film "COLD MOUNTAIN" (a novel based in the Blue Ridge Mountains of North Carolina) to Romania primarily due to the lower cost of labor. Suddenly, North Carolina was battling to get a major film made in the state. But this was not to happen without a correction to their incentive package.

Prior to 2005, North Carolina incentives consisted of only a reduced point-of-purchase sales and use tax of 1%. The state's film commissioner bemoaned the fact to the Hollywood Reporter that North Carolina hadn't had a major film come there in 3 years, and that it was obvious that the studios were going to go where they could receive an incentive.

Thus, on August 13, 2005 the State got in the game and passed their new legislation ("the Act") which provides that:

- (1) a production company spending at least \$250K in North Carolina is eligible for a refundable tax credit of up to 15% on in-state spend for goods, services and labor
  - (2) The maximum tax credit on a feature film is \$7.5M
- (3) Spending for goods purchased or leased from a North Carolina company is eligible for the tax credit. This includes fuel, food, and airline tickets and other goods purchased in North Carolina. On goods with a purchase price of \$25K or more, the amount included as a qualifying expense is the purchase price less the fair market value of the goods at the time the production is completed.
- (4) Spending for services is eligible for the credit regardless of whether amounts are paid to residents or non-residents provided the services are performed in North Carolina.

(5) Compensation and wages paid to employees for services performed in North Carolina on which withholding payments are remitted by the production company are eligible for the tax credit regardless of whether paid to residents or non-residents. However, amounts paid to an individual in excess of \$1M are excluded and not eligible. Payments for per diem, living allowances, and fringe benefits are eligible to the extent they are included in the recipient's taxable wages subject to withholding.

After passage of the Act, North Carolina quickly attracted Sony's "Will Ferrell NASCAR" project, "THE ULTIMATE GIFT" and NBC-Universal's network series "SURFACE" which has been picked up for a full season, as well as retaining WB's third season of "ONE TREE HILL" which was planning to leave the state.

Pre-production has been announced for "MAINSTREET USA," "A DANCE FOR BETHANY," and "NIGHTMARE AT THE MILL." The NC film office has identified \$112M in new production since passage of the Act and anticipates that the refund process for the tax credits will take approximately two months after the production company has filed their tax returns.



# GREEN

## Featuring:

- -Economic Impact of In-State Prod. (2004)
- -Economic Impact of Films in TN (2004)
- -Potential Economic Impact of additional films on the State Economy



### THE ECONOMIC IMPACT OF FILM

From mid-2004 to mid 2005, Tennessee hosted one feature film and 12 independent films at a total in-state spend of **\$57.2 million**.

The economic impact on the State was **\$114.4 million**.

The economic impact of a film or television project made in Tennessee is determined by using a multiplier of two (2) on the in-state spend of the production company. The State recognizes that for each new dollar of income brought into the State, another dollar is generated.

As a feature film production company establishes itself in one of Tennessee's communities for 30 to 45 days, hotels and apartments are rented, crews and actors are fed, sets are built, local businesses are frequented and tourist attractions are visited.

A major feature sets up business in a community, spends millions of dollars in a short period of time, needs no infrastructure improvements from the State, County or City, and very often, leaves physical improvements in the area paid for by the production company itself.

In many cases, long after filmmakers have left the State and the project has been aired, tourists continue to visit the site where the movie was shot. For example, the television series "Christy" was shot in Townsend, Tennessee in 1994-1995. Even though the series was short lived (only 21 episodes), fans of the program continue to find and visit Townsend, leaving their tourist dollars in Tennessee.

### THE EFFECTS OF PROJECTS LOST

As more states enact attractive incentive packages for film and television projects, Tennessee is missing the opportunity to capitalize on the positive effects of film and television production in the communities across the State. It must be recognized that since the use of financial incentives escalated in the US over the last three years, Tennessee has lost eight projects for which we were scouted to other states solely on the basis of incentives. We have no way of determining number of projects that MIGHT have scouted the State if competitive incentives were in place.

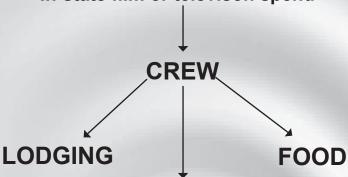
### 8 PROJECTS = \$69 MILLION ACTUAL DOLLARS LOST

### THE LOST ECONOMIC IMPACT FOR TENNESSEE? \$138 MILLION

As Tennessee continues to lack the ability to compete, highly paid technical crew personnel are relocating to states that are attracting this business. Not only does the loss of these projects affect immediate revenues for the State, but creates a downward spiral for Tennessee's film and television industries as a whole

# WHERE DOES THE MONEY GO??? THE RIPPLE EFFECT

In-state film or televison spend



**Archiving service** Art supplies/items Audio equipment rental **Backdrops-rental** Camera rental Camera trucks Carpentry supplies **Casting directors** Costumes/Wardrobe **Craft services Dolly & crane rental Expendables** Film stock **Food stylists** Generators **Location scouts** Make-up supplies Make-up trailers **Medical Personnel Mobile production trucks Motor Homes** 

Office Equipment

Office space Office supplies On-site catering **Photographers-still** Picture cars **Picture Vehicles** Police/fire services **Production Equipment Production supplies Props Scenic Painters** Security Set building materials Special effects equipment Studio teachers **Stunts** Talent agencies **Telephone service Teleprompters** Vehicle rental Walkie-talkies Wig makers

### Other Expenditures by Crew

Local tourist attractions
Local shopping malls
Local pharmacies
Local laundry services

"Tomorrow, tomorrow, I love you, tomorrow!"\*

### TOMORROW'S ECONOMIC IMPACT

### JOBS, JOBS, JOBS Breaking it Down

An evaluation of a small film production with an in-state spend of only \$5 million easily shows the impact of crew labor alone on the State. (See Appendix III)

Based on a 30 day production, the following would be representative of

economic impact on the State.

NUMBER OF INDIRECT JOBS	30
NUMBER OF NEW AND INDIRECT JOBS	159
TOTAL ANNUAL STATE TAX	\$190,716.08
NEW ANNUAL STATES SALES TAX	\$123,247.83
NEW ANNUAL LOCAL TAX	\$30,811.98

PER DAY AVERAGE REALIZED TAX \$11,492.53

\$344,775.89

Calculations based on UT College of Business Ad Volarum tax form multipliers

**TOTAL 30 DAY TAX REALIZATION** 

### THE POSSIBILITIES

A glance at the significant leaps made in Louisiana since the passage of their aggressive film incentive package tells the story of the potential for Tennessee's future.

### Total film and television production in Louisiana

<u>2002</u>	<u>2003</u>	<u>2004</u>
\$20 million	\$200 million	\$350 million
	900% increase	75% increase

Tennessee, with a more established industry and crew base than Louisiana in 2002 should, with competitive incentives, imagine a bright and prosperous future. Assuming that Tennessee passes a competitive film incentive package, estimates can be made for the 2006 and 2007 impacts of film production on the State.

Assumption for 2006: Tennessee recruits 2 feature films, each with an in-state spend of \$15 million.

Assumption for 2007: Tennessee recruits 3 feature films and one television series at an in-state spend of \$20 million each

### Total potential film production impact in Tennessee

<u>2005</u>	<u>2006</u>	<u>2007</u>
\$114 million	\$174 million	\$254 million
	53% increase	46% increase

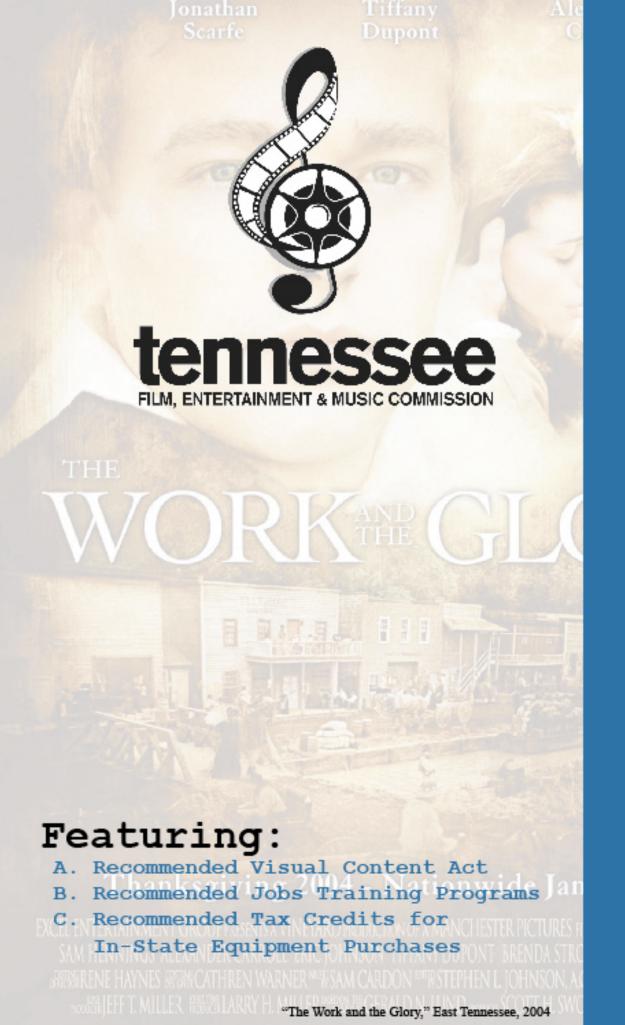
Tennessee's future film production impact may not rival the spectacular increases seen in Louisiana because of more and more competition for films among Tennessee's neighbors and across the country.

With increases in film production in Tennessee, it is inevitable that the State production industry will experience growth as ancillary businesses such as post production companies and animation companies flock to the State to work within the film making industry.

Just one premiere post production company for film will employ 10-12 people at an average salary of \$70,000 per year and can generate as much as \$10 million in revenue per year.

The question has been asked: "What happens to Tennessee when the ante of film incentives in other states continues to be "upped?" The best answer:

"At the very least, we have to call."



"Tell 'em to go out there with all they got and win just one for the Gipper!"\*

### **TOOLS FOR THE TOOLBOX**

The following pages will detail the incentives that the members of the Film Production Advisory Committee and TFEMC have concluded through their research will be the most beneficial to the film and television industry in the State while not creating a negative effect on State revenues.

The incentive package will be divided into four, but equally important sections:

A. Incentives for out-of-state companies creating films or television projects in Tennessee: These incentives will become instrumental in the continued health and growth of the film and television industry in the State. Without this element of the package, Tennessee will be unable to compete for the major features and television series' that are now flocking to our neighboring states. With the passage of Visual Content Act 2006, local production companies will flourish as Tennessee becomes a production destination. (See pg. 22 for details)

- B. **Studio Mechanics Training Programs:** Most states or countries that have successfully & continually recruited top feature films have belatedly sought to create training programs to increase the size and scope of their crew base. A training program implemented in conjunction with new incentives will provide new high-paying jobs for Tennessee's displaced workers while making the State that much more attractive to companies seeking to hire Tennessee crew.
- C. Improving the infrastructure of Tennessee's production and post production industry: The film and television industry is driven by high-tech equipment and machinery. With the growing and significant changes in technology for delivery of content, competition demands that these companies upgrade their technology as well. Tennessee's film and television companies would benefit greatly from just two of the tax credits already being offered to other industries for the purchase of machinery and equipment.
- D. **Study of Incentives for Recruitment and Relocation of Video Game companies:** As the video game industry faces the consuming appetite and fickle nature of the gamer, the demand for content will grow in the next decade to phenomenal proportions. Tennessee should be prepared to recruit and relocate video game production companies as part of the effort to sustain a strong film and television production industry in the State.

### Proposed Changes from TN 67-6-530 (See Appendix VI) to the VISUAL CONTENT ACT 2006

Proposed Change

**Effect** 

- Starting March 31 2006, permit the earning of 17% investor tax credits of amounts spent in Tennessee (i.e., base investment), for qualified individual film and television product, eliminate the sales tax statute (TN 67-6-530) except for resident production companies and incorporate the concept of transferable tax credits (See Appendix VII) for the employment of Tennessee residents and musicians into an investor tax credit statute as follows:
  - o If base investment is greater than \$500,000 per project is spent in a 12-month period then allow a tax credit equal to 17% of base investment;
  - o If \$20,000 of base investment is expended in Tennessee for the use of music created by Tennessee residents or recorded in Tennessee, then allow an additional tax credit of 3% of the total base investment:
  - o If a portion of base investment is expended in Tennessee for the employment of residents of Tennessee hiring a minimum of 25% of the crew and/or cast and attributable to training apprentices (as determined by TFEMC), then allow an additional tax credit of 5% of the amount of the base investment spent on these services.

- Draft the definition of "state-certified production" so that in order to qualify a production must:
  - Perform at least 50% of principal photography (based on days) in Tennessee; or
  - Expend at least 50% of total production costs in Tennessee.
- Revise the Sales and Use Tax Exemption (TN 67-6-530).

This measure incorporates the concept of tax credits for the investment in the state and the employment of residents and trainees. It provides for earning tax credits which are transferable and establishes a percentage that encourages the employment of Tennessee residents, musicians, and the creation of jobs.

This measure will allow Tennessee to remain competitive within the industry and encourage investment within the state and will aid local producers and well as attract producers that will spend significant amounts in Tennessee. This measure also incorporates the concept of a tax credit for the employment of Tennessee residents and will maintain it at a level that is meaningful to the industry.

Currently producers receive no employment tax credit for hiring locals. Under the proposal, a producer can chose between hiring a local and earning a 22% tax credit, or hiring a non-resident and earning a 17% tax credit. Given the current shortcomings of the crew base, some producers will opt to forego the additional 5% benefit of hiring a local and bring in out-of-state workers with more experience and with whom they may have worked with previously, but eventually this will help establish a larger Tennessee crew base.

This measure will also incorporate the concept of an additional tax credit for the hiring of trainees, which is critical to the development of our work force. The TFEMC, in collaboration with the unions, will need to establish the guidelines for what constitutes a qualified apprentice.

### Estimated Fiscal Impact: + annually

This measure will define the requirements for qualification by only allowing projects that spend the most in the state to be certified and will yield the most in economic impact.

### Estimated Fiscal Impact: + annually

This measure will put direct dollars back into the state's economy, which in the aggregate could total millions of dollars, without significantly reducing the state's competitiveness. The exemption statute is a vestige of the time when Tennessee had no tax credit incentives. Under current circumstances, it is counterproductive to lure productions to the State with tax credit incentives and then exempt them from the payment of state sales tax. The loss of this incentive will not be significant, because it is not a determining factor in making a decision to film in a particular jurisdiction.

 All productions shot in Tennessee must request a permit to shoot from TFEMC. No fees to be charged for permitting. This measure will allow the Tennessee Film, Entertainment & Music Commission to accurately determine economic impact of film & television in the State of Tennessee.

<u>Sam the Lion</u>: You see? This is what I get for bettin' on my own home town ballteam. I ought'a have better sense.

Abilene: Wouldn't hurt to have a better home town.\*

### THE STRATEGY

"Walk the Line," the biopic about Johnny Cash was shot by 20<sup>th</sup> Century Fox in Memphis in 2004. Tennessee has not been seriously scouted as a location for a major feature film since then. With the current incentive package in place that no longer competes with our neighboring states or on an international scale, the real likelihood is that Tennessee will not be given another opportunity to host a major studio feature.

With that in mind, the Film Production Advisory Committee recommends that a bill be written and passed using the following guidelines and that it be titled:

### "VISUAL CONTENT ACT OF 2006."

After passage of the bill mandating new film and television incentives for the State of Tennessee, the Tennessee Film, Entertainment & Music Commission will actively recruit and certify for the incentive package a minimum of two feature films from major studios within the 12-month period following passage.

Each film may be budgeted at \$20-30 million and could generate an in-state spend of \$10-15 million each. Major studios will "test the waters" in Tennessee by shooting films in this budget range before bringing higher budget films to the State.

Tennessee Film, Entertainment & Music Commission (TFEMC) will develop the certification instrument and will closely monitor all in-state expenditures made by the production. TFEMC will be able to review in detail the cost vs. benefit to the State of Tennessee at the completion of the 12-month period.

### JOBS TRAINING PROGRAM FOR NEW WORKERS & DISPLACED WORKERS

Having lost 88,000 manufacturing jobs since 1998,\*\* Tennessee needs to create opportunities for its displaced workers. An effort to train new workers in Tennessee must also take place. The Film Production Advisory Committee (FPAC) proposes the implementation of a "Studio Mechanics" course of study to be offered at Community Colleges in each of the Grand Divisions of the State. Through colleges like Watkins School of Film, the creative aspects of film making are being taught. The State, however, lacks training for the "mechanical/technical" aspects of the business.

FPAC recommends that a pilot program be implemented at Columbia State Community College and quickly expanded to community colleges in East Tennessee (Pellissippi State) and West Tennessee (Jackson State).

### WHY?

- Columbia State Community College(CSCC) is already pursuing the development of a curriculum that will complement their Commercial Entertainment program. With a "Studio Mechanics" curriculum in place, CSCC will be able to offer the students a 6-week certificate or an Associates Degree.
- An articulation agreement between Pellissippi State and the University of Tennessee already exists in an effort to share courses in Journalism and Video Production.
- Tennessee Film, Entertainment & Music Commission (TFEMC) is acting as a liaison between CSCC and the film/television community personnel who will help develop curriculum.
- TFEMC has requested that funds from ECD's Jobs Training program be used to help fund the development of the curriculum and to hire instructors at the community colleges offering the classes.

<sup>\*</sup> Clint Eastwood in "Dirty Harry," 1971

<sup>\*\*</sup> Where Did Tennessee Jobs Relocate?", Murat Arik, Business & Economic Research Center, MTSU, 2004

FPAC further recommends that within a 3-year period, the same courses of study be implemented at community colleges in East and West Tennessee. Each community college involved in the training program should expect to build a Hollywood-style sound stage to be used for on-the-job training.

### WHY?

- All students in these classes will require "hands-on" training
- Sound stages (a critical necessity to the State's industry) will be leased by local, state and national companies for production which will improve the economies of the community colleges.
- 100 graduates per year from any of the community colleges will fill the gaps in the Tennessee crew base

### **HOW DOES THIS HELP DISPLACED WORKERS?**

- The ideal candidate for the position of grip or gaffer is the former manufacturing worker. These Tennessee workers have a proven track record of excellent work ethic, familiarity with "building" a product, ability to learn new equipment and processes.
- The average per hour wage of a grip or gaffer is \$25.00 which is an increase in income for most workers coming from the manufacturing industry in the State.
- Middle age workers who have lost their manufacturing jobs will be appreciated in the film production industry.

"Carpe diem. Seize the day, boys. Make your lives extraordinary."

### **BUILDING THE INDUSTRY INFRASTRUCTURE**

Tennessee production and post production companies are continually facing the challenge of remaining competitive in a sophisticated industry constantly affected by changes in technology. Decisions must be made to upgrade to the newest equipment, remain the same thus falling behind competitively, or leave the business.

Additional pressure is being felt by this industry as broadcasters must meet the 2009 deadline set by the United States Congress to transition to digital broadcast instead of analog. As content must be produced that complies with this law, so must appropriate equipment be purchased.

To respond to these demands, FPAC recommends that new language be added to two areas of Tennessee Code Annotated that will encourage the growth of the industry.

I. Tennessee Code 67-6-102 Chapter Definitions – Definitions applicable for taxation of charges for mobile telecommunications services. (See Appendix IV)

### Add the following language to (19) "Industrial machinery" means:

K. Machinery and equipment used primarily in the production and post production of theatrical and non-theatrical motion pictures for exhibit or sale. (The term "motion picture" as used in this definition includes similar productions for television or other media using film, video tape or other means.) Machinery and equipment includes, but is not limited to:

- (i) HDTV compliant cameras and associated equipment
- (ii) HDTV compliant motion picture editing equipment
- (iii)Audio equipment to be compliant with HD/digital television
- (iv) All new or upgraded equipment and machinery for grip and lighting
- (v) All new or upgraded equipment for motion picture editing
- (vi) All new or upgraded equipment for motion picture audio post or music editing

II. Tennessee Code/Title 67 Taxes and Licenses/Chapter 4 Privilege and Excise Taxes/ Part 20 Excise Tax Law/67-4-2009. Credits. (See Appendix V)

### Add the following language to (4)(A):

- iii) Machinery and equipment used primarily in the production and post production of theatrical and non-theatrical motion pictures for exhibit or sale. (The term "motion picture" as used in this definition includes similar productions for television or other media using film, video tape or other means.) Machinery and equipment includes, but is not limited to:
- (a) HDTV compliant cameras and associated equipment
- (b) HDTV compliant motion picture editing equipment
- (c) Audio equipment to be compliant with HD/digital television
- (d) All new or upgraded equipment and machinery for grip and lighting
- (e) All new or upgraded equipment for motion picture editing
- (f) All new or upgraded equipment for motion picture audio post or music editing

Due to the fact that many companies have already made purchases associated with Federal HDTV compliance laws, FPAC recommends that the credits above be made retroactive to January, 2005 for HD equipment purchases only.

# GROWING THE INFRASTRUCTURE: RECRUITING THE VIDEO GAME INDUSTRY

Over the past 30 years, video games have become an integral part of our culture, and the video game industry has become a multi-billion dollar behemoth.

The video game industry is already a mass market comprising more than 108 million gamers 13 years and older in the United States who spent \$7.4 billion on video games in 2003. By 2008, this market will grow to more than 126 million gamers 13 years or older, generating in excess of \$8.3 billion in revenue. It's the fastest-growing technology business **and** the fastest-growing entertainment business today.

Most video game companies are located in California, Washington, Texas, or Massachusetts. But more than 15 States have at least one small game studio. According to job search agency surveys, experienced game programmers usually earn a base salary of between \$60,000 and \$80,000 annually.

The future of the video game industry will not be all that different than the future of any other form of entertainment. As the masses of players determine what they want to get out of games, large corporations will throw their money and workforce into providing it.

The Film Production Advisory Committee recommends that a Video Game Recruiting and Relocation study including an economic evaluation and market research be underwritten by the State.

### **CREDITS**

The Tennessee Film, Entertainment & Music Commission extends its sincere gratitude to the following people and agencies who enthusiastically helped with the research and compilation of this report. Without their help, it could not have been completed.

The Film Production Advisory Committee Members
David J. Bennett, Chair
Matthew H. Kisber
Susan Whitaker
Martin Clayton
Mitchell Galin
Ted Hatfield
Isaac Singleton

The Tennessee Film, Entertainment & Music Commission Staff

&

Tessa Atkins, Mayor's Office of Film, Nashville

Michael Barnes, East TN Television & Film Commission

Tim Butler, State of TN Printing Services Division

Dama Chasle, Consultant

Debbie Dietz, Dept. of Revenue

Mark Drury, ECD Creative Services

Motion Picture Association of America

Stacy Gibson, Dept. of Revenue

Rick Meredith, ECD Jobs Training

Linn Sitler, Memphis & Shelby County Film and Television Commission

Lisa Webb-Robbins, ECD Research