

BUILDING TENNESSEE'S FEATURE FILM
PRODUCTION INDUSTRY

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“I wish people knew that these films don’t just appear. Movies are so much more important to an economy than the average person is aware of.”

-Craig Brewer, Filmmaker

“Although studios and other production companies are responsible for financing, producing, publicizing, and distributing a film or program, the actual making of the film often is done by hundreds of small businesses and independent contractors hired by the studios on an as-needed basis. These companies provide a wide range of services, such as equipment rental, lighting, special effects, set construction, and costume design, as well as much of the creative and technical talent that go into producing a film. The industry also contracts with a large number of workers in other industries that supply support services to the crews while they are filming, such as truck drivers, caterers, electricians, and makeup artists.”

-Federal Bureau of Labor Statistics

“There’s no set rule on how city and county incentives are set. Basically we feel that our state incentives are not as competitive as they could be-and they just aren’t.”

-Sharon Fox O’Guin, Deputy Film Commissioner, Memphis and Shelby County

“We’re an entertainment state from tip to tip, and it’s taken for granted that this will continue. It’s our fault. We haven’t educated them. We need to go to our lawmakers and our public and let them know what it is we do and how we do it.”

-Jan Austin, Founder, Association for the Future of Film and Television Tennessee

“When seventeen features are shooting in Shreveport, those people aren’t all going to be A-list crew. They’re all getting B- and C-list crew. A producer can say to me, ‘If we go to Shreveport there are more people available’. But what kind of people? Here [Tennessee] you get the best people, you get world-class technicians. You go to Shreveport? You get who’s left.”

-Peter Kurland, President, IATSE of Tennessee and Northern Mississippi - Local 492

“I will never forget the day I was sitting at Paramount Vantage-then called Classics, and they put two sheets of paper with the numbers run...with filming in Georgia versus filming in Tennessee. It was close to a million and a half dollar difference. Local citizens and state politicians can look at what they’ve done and say ‘My God, look what we’re offering, we’ve done enough. But I’ve been in the belly of the beast and its down to that simple sheet of paper-one has a red number and one has a black number on it.”

-Craig Brewer, Filmmaker

ABSTRACT

This study will address the necessary steps needed to build a southern Mecca for the film industry in the state of Tennessee. The aim is to work arm-in-arm with the state's rich music industry heritage, and make Tennessee an attractive and viable place for big budget film and television production. To this end, an overview of the history and necessity of film incentives will be presented, followed by an examination of the country's current most successful state film incentive packages. Tennessee's film incentive program and its implementation will then be assessed for effectiveness and competitiveness in light of these film incentive packages. The health of the industry in Tennessee both at the state and regional levels will also be analyzed along with the organization of the major film regions of Tennessee and their individual film communities and commissions. Finally, a strategic plan tailored to Tennessee's specific needs will be discussed, with a focus on revitalizing the industry with training and infrastructure development initiatives and recommendations for modification to the current film incentives administered by both the Tennessee Film Commission and the Tennessee Department of Revenue.

EXECUTIVE SUMMARY

"You have to spend money to make money." -Anonymous

2007 through 2009 have been tumultuous years for the film industry. Critical factors like the writer's strike, AMPAS and union labor disagreements, the protracted SAG renegotiations and threat of strike, runaway production to Canada, Australia, and other foreign countries with favorable exchange rates have all taken their toll on the domestic film production industry, though the record-breaking 9.63 billion dollar domestic box office would suggest otherwise (Nusbaum 2009). Coupled with the current overall global economic crisis riding the line between recession and depression, these factors have affected not only the major US entertainment production hubs of New York and Los Angeles, but also the 40-odd states that have ushered legislation into place in an attempt to build an indigenous film industry in that vast space between the two celluloid coasts.

Hollywood, once considered the home of film and television production, has seen more and more production jobs leave the sunny state of California for either foreign lands like Canada, South Africa and Australia; or other US states like New Mexico, Louisiana, and Michigan. So what is drawing production away from the homes of the studio lots and on-site film and entertainment crews? The answer is a simple one, which is currently incorporated into the tax and economic development structures of over forty US states: the production incentive tax break. Be it in the form of transferable tax credits, investment loan programs, rebates, or refunds, these incentive programs have become a must in today's economy for a state to even be considered as a filming location for any major Hollywood production. Even independent, lower budget features, music videos, and commercial filming needs are starting to be addressed. These tax breaks have become increasingly aggressive and competitive-even within state boundaries-as film commissions and political advocacy groups fight for big budget productions to be filmed in their cities.

Today, a state's film production tax incentive structure is a key component in choosing a production's filming location. The bottom line dollar amount and mix of refunds, loans, transferable tax credits, and rebates are all carefully considered on a state-by-state basis by the studios. These and other 'soft incentives' like free use of public lands, easy permit processes, and online databases of local production and post-production crews are all carefully weighed and measured. Research has proven that high film incentives draw production to an area, having a profound impact on the local and state economy, to the tune of hundreds of millions of dollars per year. The yearly MPAA Report of 2007 stated that-on average-a feature production pumps an estimated \$225,000 a day into the local economy of the area that it is filming in, not surprising for an industry that sees its workers earning more than \$30 billion in wages every year. (N. Finke 2009)

Deciding to shoot on location-while now a much more financially-based decision than a creative one-was originally determined by studios and producers solely on the creative content of the material to be filmed. There is no question that a given locale can add creatively to a film project, from the ambience to the architecture. What would *EASY RIDER* be without the long stretches of New Mexican desert, or *DEERHUNTER* without the grey, bleak skies and leafless trees of a Pennsylvania winter? What would Robert Altman's classic music film *NASHVILLE* be without the local flavor and grit of the actual city of Nashville serving as its backdrop? Would the story of Harvey Milk be as poignant if filmed anywhere other than the Castro district in San Francisco?

Academy-Award winning producer Bruce Cohen, one of the producers of this year's acclaimed Harvey Milk biopic *MILK*, describes shooting on location as one of his favorite things about his career:

You come into these towns and you meet everyone there. You meet the Mayor, you meet all the council people, and everyone is really excited to have you there. You meet all these locals and you get to come into their homes. It's not at all the experience of being a tourist somewhere-you're much more a native. One thing that makes me laugh is you hear a lot of this sort of stereotype-certainly in the political world of Hollywood-of 'you crazy liberals you're out of touch with the real America, you have no idea what's going on out there', and that always made me laugh when I heard it because I've lived in Montana, in Alabama, in North Carolina, in Nevada. So no, I actually know probably a lot more about the real America than you do, whoever 'you' are. That's also one of the things I love about it, you really feel like you've experienced a place and gotten to know the people."(Cohen 2009)

In 2006, the Film Production Advisory Committee of Tennessee had this to say in their report commissioned by Governor Phil Bredeson to study Tennessee's film industry potential: "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." The report went on to say that the industry's impact in Tennessee, for the year 2004, was measurable through \$484 million gross production dollars that were spent within the state's borders, and the approximately 4,700 jobs created by said production. The total earnings for Tennesseans within the industry stood at \$235 million. (The Film Production Advisory Committee 2006) Following the delivery of this report, a bill was put forth to the House and the Senate, backed across party lines by a Democrat in the House and a Republican in the Senate. This bill was overwhelmingly passed and became known as the Visual Content Act of 2006.

Tennessee, in an effort to remain competitive in a lucrative industry, now had their own incentive program, administered through the Film, Entertainment, and Music Commission and the Department of Revenue, with which to draw production to the state. But did it work? What impact did the incentives have? Did Tennessee's incentive program create a boom in the industry like in Wilmington, North Carolina or Shreveport, Louisiana or Albuquerque, New Mexico when their incentive programs were enacted? Sadly, no. Production did not flood into the state and the economic impact is as yet unreported. To understand why, we must first look at the history and validity of production incentives at the state and local level across the country, and how the incentive race first began.

To a producer, everything comes back to story. A producer's goal is to balance the line of what the script of a project needs on both the creative level and the financial level. The more money that is 'saved' by filming in one location over another, the more of the budget can be put where both the producer and director want it: on the screen. Bruce Cohen is an Academy Award-winning producer and half of the creative team behind the Jinks/Cohen Company, responsible for such awe-inspiring and innovative films as MILK, AMERICAN BEAUTY, BIG FISH, DOWN WITH LOVE and the television show *Pushing Daisies*, to name just a few. Having been in the business for over twenty years, Mr. Cohen has plenty of experience in dealing with location scouting and negotiating with film commissions.

The whole incentive thing is relatively new. Ten, fifteen, even twenty years ago you went just purely for the locations. Then all of these states started realizing that it could be a great source of revenue and then once they started competing with each other they realized, well, if we don't have an incentive as good as our neighbor then no one is

going to come here. So now it's always twofold, as you're looking for the best location creatively for the movie and you're also looking to save money because that's the best thing financially for the film. You start with the creative. It's like 'ok, well, we need these types of locations, so what are the states that have incentive programs that have those locations?' That's the easy call, when one place fulfills both criteria. The more Solomon's choice is when you're in a situation where one place works better financially but the other place works better creatively.(Cohen 2009)

US FILM INCENTIVES: A BRIEF HISTORY

Many state legislatures initially passed minor tax incentives for location filming under the auspices of the Economic and Community Development or Tourism Departments of the local and state governments. These incentives were in line with other industry incentives in the 80's aimed at drawing large corporations-for manufacturing or the computer industries, for instance-to enrich the labor force of a region. But somewhere along the way, incentives for the film industry began to increase dramatically, creating an progressively more competitive, increasingly expensive tax rebate, credit, and refund system on a state-by-state basis in order to draw the ever-larger budget productions to their states. This battle of one-upmanship continues today, leaving the industry to wonder where the law of diminishing returns will begin to take effect, stemming the tide of incentive changes that occur on a yearly basis as each state's legislature approves new incentives for the following year's budget. The studios behind most big budget productions, of course, are all for the expansion of tax incentive programs. The studios wouldn't ever tell a filmmaker or producer where specifically to shoot, but they do ultimately control the purse strings.

"The studios approach will be 'we're not going to tell you how to make your movie and we're not going to tell you how or where to shoot it, but we are going to tell you how much money you have to spend', which is 1000% within their purview because its their money, so that's the one area where they have every right to do that", says producer Bruce Cohen. "So now you're in a situation where you have X amount of money and suddenly its *your* problem where you're going to get the most bang for your buck. What's happened in my experience a lot", he continued, " Is that the studio's not going to *make* you go to the state where it costs less but you're just going to get a lot more on the screen in that state because you're not spending as much of your total budget on all of the locations."

Memphis filmmaker Craig Brewer reports a similar experience with the studio that produced his 2006 film BLACK SNAKE MOAN. "I will never forget the day I was sitting at Paramount Vantage-then called Classics-and they put two sheets of paper with the numbers run...with filming in Georgia versus filming in Tennessee. It was close to a million and a half dollar difference. Local citizens and state politicians can look at what they've done and say 'My God, look what we're offering, we've done enough. But I've been in the belly of the beast and its down to that simple sheet of paper-one has a red number and one has a black number on it. It really came down to those two pieces of paper." The only bargaining chip that Brewer had was timing. When physical production for BLACK SNAKE MOAN was slated to begin, Brewer would just be returning from an international tour in support of his film HUSTLE & FLOW, also released by Paramount Classics. He would only have a matter of weeks for pre-production in a state that he was unfamiliar with if they chose to film in Georgia, which would most likely lead to higher costs "I told them, with Tennessee, I know the crew, the locations, all of it. That's the only way I got them away from that red number

on the page. They see no difference in a southern shoot in Georgia, or in Tennessee, or in the Carolinas other than those numbers.”

Peter Kurland is the President of Local 492, the IATSE union that covers Tennessee and the surrounding regions. Kurland explained that the initial film incentive arms race resulted in response to international incentives attempting to draw production work overseas. “It started with the South Africans and then the Canadians. What should have been done, in my view, the United States Trade Organization should have said ‘this is unfair international trade and you can’t do this’. If they had-if production hadn’t started going to Canada and South Africa-then each individual state wouldn’t have felt compelled to open its own incentive. And since California didn’t do it, suddenly the whole industry is spread all over the country.”

Kurland sees the state film incentive as a necessary evil in the industry, but one that puts local crews and the industry as a whole at the mercy of their legislative body. “Bottom line, its completely a losing game”, says Kurland. “It’s a race to the bottom, and then every state gives away more and more of their tax payer money and its now to the point where most of the production entities don’t want to make projects unless there is incentive money. So that is a big part of their financing, particularly in New Mexico, where they actually underwrite the original financing of the whole picture; they don’t just rebate. They’ve got millions of dollars in financing money, which is particularly hard to come by right now, and it’s almost impossible to compete with that.”

Filming in Toronto, Vancouver, and British Columbia became an economically sensible solution for producers in the mid-90s, thanks to the favorable exchange rate on the US dollar and the institution of incentives to sweeten the pot, amounting to 16% net of eligible expenditures within the country. Specific regions of the country added their own incentives, at times bringing the percentage well over 25%, which was an astronomical tax break at the time. While union leaders like Kurland tended to look at international incentives as an unfair business practice, producers and studios saw it as an opportunity. “In the case of MY NAME IS JODY WILLIAMS, first we actually scouted Boston because we needed a combination of some European cities, some Canadian cities, and some northeastern US cities. When we first scouted it was going to be competitive to go to Boston versus Canada because the dollar was so low. There was a minute where Canada wasn’t worthwhile anymore.” Says producer Bruce Cohen, in reference to the Jinks/Cohen Company’s next feature project. “Everyone was happy to come here. People would rather give the money to a state for a location if you can find a state in the United States that’s competitive to Canada incentive-wise.” The fluctuating dollar, however, has made Canada look more attractive as a filming location this year yet again, says Cohen. “There was a while we weren’t sure if we were going to make the movie or not.... when it came time again to get serious, the dollar situation had changed and suddenly it was going to be cheaper to shoot in Montreal, it made the most sense financially.”

In the late ‘80s and early ‘90s, Wilmington, North Carolina slowly built itself into a force in the industry. One day Hollywood turned around and noticed a booming film community with multiple sound stages, studio rentals, and film crew on hand and ready to work. Episodic television series and feature films flocked to the small Atlantic seaside town, taking advantage of both the weather and the newly instituted incentive program to shoot their productions, along with a permanent Screen Gems studio facility. While North Carolina’s first incentive program was not much to look at when compared to today’s massive incentive rebates, it was enough to keep episodic series like *One Tree Hill* and *Dawson’s Creek* from migrating to Canada’s greener exchange rate pastures. Other states were quick to follow, as North Carolina reaped the rewards of the film industry’s impact on their economies.

Louisiana is perhaps the most famously known film incentive case, both for its strategic implementation and structure of the incentive package, as well as the ensuing political and corporate scandal with the film commissioner and transferable tax credit brokerages. Most states eligibility for rebate is limited to the 'in-state spend'; what Louisiana did was make the 15% Motion Picture Investor Tax Credit applicable across the board for the movie's entire budget, not just what was spent in state. So if only 25% of your film was made in Louisiana, you still got 100% of your budget included in the incentive package rebate. This created a huge draw of features and episodic television productions to the state, which of course meant that the mobile crew base of the surrounding states started taking up semi-permanent residence in Louisiana. As the crew base grew and the ancillary vendor market to support the crew base and the equipment needs of the productions grew, more productions were attracted to the state. (Louisiana Film Commission 2007)

After two years, in 2005, the in-state spend clause was ingeniously amended to only include in state spend, but the rebate percentage for that spend was increased from the original 15% to 25%. By this time the infrastructure was built and the state had a reputation as a solid filmmaking community, so the productions continued to come. (Van Couvering 2007). The Louisiana Film and Video Commission did report a decrease in their production revenue the year the incentive package was decreased to in-state spend only, to the tune of a \$20 million loss. The 2006 revenue totaled \$510 million for in-state production. (Louisiana Film Commission 2007)

"The revised incentives are tied directly to state spending only," Louisiana Film Commission Executive Director Alex J. Schott says. "Their out-of-state spending cannot be counted toward their tax incentives. It entices each production to spend as much money inside the state as possible."(Tompkins 2006) The most recent study conducted by third-party consultant Economic Research Associates reported the economic impact in 2007 at \$763 million for the industry within the state, with \$429 million being spent on actual production within the state. Using an economic multiplier, the study showed that for every tax dollar spent on film incentives, \$6.64 poured back in to the Louisiana economy.

Louisiana's incentive system is built on transferable tax credits, a system that some other states have adopted as well, to varying degrees of success. There are both advantages and disadvantages to a transferable tax incentive system. To the producer, any unspent credit left over after production is never worth its face value. The credit is sold to another in-state business, discounted from the face value, through a certified brokerage house. The brokerage house takes an additional percentage of the top of the credit; this is the only way that the credits can be transferred to in-state businesses, which use the credits-for the full value-against their own tax liability. It also allows for the opportunity of corrupt business practices, as evidenced by the scandal involving Louisiana's previous state Film Commissioner Mark Smith and the in-state production company LIFT. (Russell 2007)

Smith was accused of accepting kickbacks and bribes from LIFT's management for steering the sale of tax credits and production to the company. After an FBI investigation, Smith was charged with 'Conspiracy and Bribery in Connection with a Program Receiving Federal Funds'. The FBI report goes on to detail Smith's charges, "Between 2003 and 2005, while serving as Director of the Louisiana Film Commission, Smith approved fraudulently inflated movie budgets submitted by a film production company in order for the film company to receive state tax credits. In return, Smith accepted cash bribes totaling over \$65,000.00. The Bill of Information further alleges that a businessman wrote corporate checks to a third party who cashed the checks and passed the cash to Smith."(Department of Justice 2007) Despite this scandal, Louisiana, particularly Shreveport, is still considered one of the top filming destinations in the country.

The most well-known production incentive success story these days are of course New Mexico's tax credit and loan package, which passed in 2003 right after Louisiana's program went into effect. The package includes a 25% in-state spend tax credit and an ingenious Film Investment Loan Program which offers up to \$15 million in loans for qualifying features and television shows with budgets over \$2 million. The New Mexico Film Office reports an economic impact of a staggering \$1.2 billion dollars since the program's inception in 2003. Prior to 2003, roughly 60 million dollars per year was spent in state via the film industry. By 2006 this had increased tenfold to 600 million dollars. A study released earlier this year in New Mexico by the Arrowhead Center at New Mexico State University refuted this claim, stating that the actual return per tax dollar spent on the film incentive was an alarming 14.4 cents.

The New Mexico Film Office immediately commissioned their own study through Ernst & Young to refute the University's study, which was commissioned by the Legislative Finance Committee. The Ernst & Young study reported that every dollar in state tax credits, generated a \$1.50 ROI in economic return, as well as provided high-quality jobs for the New Mexican labor force: 2,220 film and media jobs in 2007 with an average annual salary of \$49,500, and another 5,989 indirect jobs related to the film and media industry, bringing the total labor force impact to 9,210 jobs created. Additionally, Albuquerque and Santa Fe benefited from the creation of technologically advanced studios due to infrastructure credits, which are in part financed by minimajor Lionsgate and, shortly, major studio Sony Pictures Imageworks, which plans on conducting all of its special effects work in the state starting soon. (Kamerick 2009) "I worked in New Mexico ten years ago, and there were fifty technicians, no studios, and no equipment," says IATSE President Peter Kurland. "And now they've got a thousand [union] members, studios in Albuquerque, studios in Santa Fe, they've got a film program...they've got all of this stuff because of the incentive program."

New York state, and New York City specifically, saw \$1.5 billion in economic benefit in 2005 from the "Made in N.Y." program, an incentive package that in the past few years has become the bane of the Hollywood film and television industry's existence. In late 2008, hit NBC show *Ugly Betty* moved production from Los Angeles to New York to take advantage of the 35% tax rebate. Issued in mid-2008, the New York rebate program tripled from 10% in-state spend to 30% in-state spend tax rebate, with an additional 5% if the production expenditures occurred within New York City bounds. A study by Ernst & Young reported that the incentives have paid out \$690 million in tax dollars to productions, with a return of \$2.7 billion dollars to the New York economy. (Haughney 2009).

The highly successful program was in trouble earlier this year, however, as it had already paid out the sum total of its funds that were meant to last until 2013, with roughly \$100 million being budgeted for production per year. Additionally, talks of not renewing the incentive in the state budget plans resulted in an almost instant end of film production in the state. Last year 19 pilots filmed in New York, this year saw *not a single one*. Additionally, *Ugly Betty* producers are considering returning to California, and the New York Film Commission saw a significant drop in interest from major film producers and studios.(N. Finke, Deadline Hollywood Daily 2009) Governor David A. Paterson submitted his budget proposal to the General Assembly and Senate for approval in March, which unfortunately was too late for this year's pilot season and the over 7,000 crew workers who call New York home and make a living in the industry thanks to the incentive program.(N. Finke, Deadline Hollywood Daily 2009)

On March 31, 2009, the New York State Film Production Credit Program was extended for a period of one year, with \$350 million dollars put in the coffers. "In these challenging times, we must

continue to make smart investments that create jobs, revive our economy and expand opportunities for all New Yorkers. That is why we have worked together with our industry partners and the legislature to ensure that the film and television industry thrive in New York.” Said Governor Paterson. (Weeks 2009) New York Senator Thomas K. Duane expressed similar sentiments on his website, “I supported this credit’s establishment in 2004 and its expansion from 10% to 30% last year. I recognize that film and television production create thousands of solid, middle-class, unionized jobs with benefits; support thousands more workers in ancillary businesses; and generate far more tax revenues than they cost in incentives.” Duane’s district is particularly impacted by the incentives, which houses six major production facilities. (Senator Thomas K. Duane Website 2009)

The newest kids on the incentive train are Michigan and California, though Connecticut and Wisconsin are in the news this very day (March ’09) discussing instituting or revamping incentive programs in their states. Michigan shocked the industry at the end of last year when it came out with a total 42% possible rebate, which included above-the-line costs *as well as* out-of-state crew costs at a 30% rate. The Michigan Film Commissioner saw 201 scripts come across her desk in January of ’09, compared to just six last year, and a 2008 economic impact report showed the creation of 2800 jobs, with \$90 million in tax dollars being spent to receive \$125 million on production expenditures by film companies within the state. (Lockwood 2008) The program is currently the leading incentive package in the country, though whether the newly forming industry will be able to build their infrastructure and maintain the incentive at a sustainable rate in the long term is yet to be seen.

In the case of California, Governor Schwarzenegger signed the incentive into law in late February in an attempt to bring production of television shows back to the state as well as to keep large budget features from filming in other locales. Industry heavies like Director Jon Favreau, Producer Stanley Brooks, and Marvel Studios reps lobbied the Governor back in July to pass incentives to keep California competitive. (N. Finke, Deadline Hollywood Daily 2008) The incentive package has some interesting new deal points, granting a 20% rebate to large budget films and a 25% rebate for smaller, independent films produced by non-publicly traded companies (i.e. non-studio movies). Additionally, 10% of the state’s incentive funding budget will be allocated for independent films every year. (California Film Commission 2009)

THE CASE OF TENNESSEE

“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.”(The Film Production Advisory Committee 2006)

Bringing a larger piece of the production pie to Tennessee, when not based on incentives, doesn’t seem like it should be a hard sell. Major cable and satellite networks are based there; Nashville and its vicinity are home to Country Music Television (CMT), Great American Country (GAC), and the Shop-At-Home Network, as well as Dish Network’s Documentary Channel. Knoxville is a television industry hub for Scripps Networks, which include: the DIY Network, Home & Garden Television, Fine Living Network, Food Network and Jewelry Television, as well as the corporate headquarters of Regal Theaters Entertainment. Nashville and Memphis are both music industry hubs with numerous live concert venues, record labels, music business schools, and recording facilities. Nashville is also home to branches of two of the major talent agencies: CAA and WMA.

But how does Tennessee compare to the incentive leaders? Their incentive program was passed in 2006, but the industry boom that occurred in Louisiana, New Mexico, and Michigan did not occur on nearly the same level in Tennessee in the year’s following. It could be argued that their incentive program was less competitive, but at the time of its inception it fell well within the range of top filmmaking incentive programs, with a combined possible 32% rebate touted on the books. Additionally, Memphis was named one of the top cities to film in as an independent filmmaker four years in a row in *Moviemaker Magazine*, with the past two years ranking among the top ten.(Andrew Gnerre 2009) So why didn’t Tennessee’s film industry take off, draw in permanent studio facilities, and see a significant growth spurt in their crew base? To understand the answer to this question, it is necessary to look at the formation of the incentive package, back to the very seed of an idea.

In 1980, the Tennessee Film, Entertainment and Music Commission formed in order to advocate for the advancement of the film and music industries within the state. On the regional level, there are four major regions that are considered for the division of the film commissions throughout the state. The western region is Memphis, central is Nashville, southern is Chattanooga, and eastern is Knoxville. Also in the early ‘80s, the Memphis & Shelby County Film and Television Commission was formed at the regional level specifically to advance the industry in Western Tennessee. Eastern Tennessee was later served by the East Tennessee Television and Film Commission, while Central Tennessee-Nashville in particular-fell under the jurisdiction of the Mayor’s Office of Film. The Eastern Tennessee Television and Film Commission has recently been downsized to one or two employees, and the Nashville Mayor’s Office of Film no longer exists in any capacity. There is currently no regional film commission for central Tennessee and the Nashville area, though community groups like Film Nashville are trying to fill the void left by the dissolution of the Mayor’s Office of Film.

The city of Chattanooga, bucking the recessionary trend, recently developed its own Film Commission under the auspices of the Department of Education, Art and Culture.(The Film Production Advisory Committee 2006) Both Chattanooga’s Film Commission and the grass-roots community organizations of film professionals that are Knoxville Films and Film Nashville work entirely on a voluntary, unpaid basis to promote the film production industry in their areas.

A number of film commissioners filled the role of heading up the Tennessee Film, Entertainment and Music Commission over the next two decades, appointed every four years by the

Governor, as the Commission falls under the umbrella of the Governor's Office. David Bennett was appointed by Governor Phil Bredeson in 2003; the first Executive Director of the Commission to come from a production background. Bennett's Deputy Director, Jan Austin, also had production experience. During their time at the Commission, they pushed for a study to be conducted to determine the feasibility and necessity of instituting production incentives within the state of Tennessee.

In 2005, House Bill No. 1684 was introduced by Representative Rob Briley, an act that commissioned the study of the state of film production in Tennessee, to be conducted by a Film Production Advisory Committee led by the then Executive director of the Tennessee Film, Entertainment and Music Commission, to determine the following:

1. Film production opportunities currently available in Tennessee to the motion picture industry;
 2. Use of tax and other 'soft' incentives to grow the film production opportunities in Tennessee, to include a thorough assessment of incentives offered throughout the country and in neighboring states; and
 3. The possible impact to the economy of Tennessee of growing the film industry.
- (Representatives 2005)

The ensuing report, once presented to members of the legislature, caused a storm of controversy within the Governor's office. According to Jan Austin, it was perceived that herself and David were leaning towards the need *for* the institution of film incentives, which would constitute being in support of an item that was not on the Governor's agenda at that time. Ultimately the report caused two things to happen: one was the creation of the Tennessee Visual Content Act of 2006, the other was the resignation of the only Tennessee state-level film commissioner in the position's history to have any experience in television and film. More importantly, politically speaking, film incentives were not on the Governor's legislative agenda. Meanwhile, two legislators-a Republican in the Senate and a Democrat in the House-pushed the Visual Content Act through the legislative body while the film community rallied around them, lobbying day and night. The day was won and Tennessee got its film incentives, but upon the reelection of Governor Bredeson, Bennett and Austin were asked to resign. The Governor appointed Perry Gibson to the position, who had no previous experience in film and television. Gibson, the current state Film Commissioner in Tennessee, had to learn the industry and film tax incentive structure from the ground up.

At this time, two different governing bodies administer Tennessee's incentive package: the Tennessee State Film Commission and the Department of Revenue. The film commission's incentive is broken down into a 13%/15%/17% spend model, wherein a 13% rebate is awarded across the board for total qualified production expenditures in the State of Tennessee, if \$500,000 is spent on production in the state within one fiscal year. The minimum is lowered to \$200,000 per production if the investor or production company is headquartered in Tennessee. Plus a 2% bump if at least 25% of the cast and/or crew are Tennessee residents, and another 2% bump if the production company spends at least \$20,000 for music created by Tennessee residents or for recording music in Tennessee. The rebate is calculated on the total qualified Tennessee spend with "caps" on the above-the-line Tennessee expenditures at \$100,000.

The other 'half' of Tennessee's incentive package amounts to a 15% rebate on "qualified" spend for all expenses relating to the production incurred in the state of Tennessee. Administered through the Department of Revenue, this incentive program is much more straightforward in its

requirements: the production company must have a pre-existing headquarters in the state of Tennessee, or a “qualified investor” with a headquarters in Tennessee, that must incur at least \$1,000,000 in expenses within the state over the course of one year.

Other benefits include Tennessee’s lack of state income tax, no tax on all 90+ consecutive day hotel room rentals for crew, and the fact that Tennessee is a right-to-work state. According to producer Bruce Cohen, right-to-work status does indeed affect a producer and filmmaker’s decision to film in a particular location, both positively and negatively. “The pluses are that you can save money because you can have lots of positions that aren’t union positions, but the negative is that often if you’re a big studio you’re a union production anyway and you’re signatory to the IA and to SAG and the DGA so that can cause problems...in some cases you might find that right to work states actually have a larger labor pool to pull from because anyone can say I’m a carpenter...lots of people have construction experience, but in a union state it doesn’t matter if you have construction experience, you can only work on the movie if you’re in the Local. So some right to work states might claim as a selling point-that they’ve got more crew.(Cohen 2009)

Kurland, as noted earlier, is not a fan of the incentive programs in any state. But that didn’t stop him from being in support of Tennessee’s ability to remain competitive. “Tennessee has to be able to compete. The actual percentage rebate that Tennessee offers is competitive, and its particularly competitive when compared to programs like the very successful Louisiana program. In Louisiana you don’t actually get the money back that’s promised you [transferable tax credits]. Where we cease to be competitive is that our incentive does not rebate most above-the-line-expenses. It doesn’t rebate marketing prints and ads which they are now paying for in Michigan....”

Kurland spoke particularly of Louisiana’s willingness to pay a percentage of Brad Pitt’s salary in the multimillion-dollar *Curious Case of Benjamin Button*. Pitt is a part-time Louisiana resident, thus he qualified as part of the in-state spend. The state of Louisiana, according to Kurland, paid 5-10 million dollars of Pitt’s salary. “How do you compete against that when you’re trying to be reasonable and be fair to the taxpayer?” Kurland asks.

TENNESSEE’S BIGGEST CONTENDERS

The events in the story [Mother Trucker] take place in Tennessee, Georgia, and Alabama. I’d like to shoot in Tennessee. It’s going to be a big movie. This is the first time I’m worried that the incentives will take me to a different state. In these economic times...I’m going to try my hardest. –Craig Brewer, on his upcoming production Mother Trucker

Other than the obvious contenders-the current leaders in the film incentive game commonly accepted to be Michigan, New Mexico, Louisiana, and New York-Tennessee tends to lose its production to Georgia, Louisiana, or the Carolinas. So a revised incentive plan that is specifically competitive for the southeastern region is an absolute must at this point. But what do these states have in their incentive plans that Tennessee doesn’t? In the case of Georgia, their 2008 Entertainment Industry Investment Act created a 20% flat tax credit across the board on “qualified in-state expenditures”, covering both residential and out-of-town hires. Tennessee doesn’t have the luxury of income tax, which makes covering out-of-state hires a financially unsound course of action. Minimum qualifying in-state spend is \$500,000, comparable to Tennessee’s incentive regulations. Where Georgia’s incentives trump Tennessee’s are in the salary cap-\$100,000 in Tennessee vs. Georgia’s much more generous \$500,000.

Georgia also has ingeniously worded their incentives to be able to include above-the-line talent as eligible to receive incentive credits greater than the \$500,000 salary cap: if the production

company hires the talent under a 1099 independent contractor form instead of as a salaried worker with a W-2 form. A 1099 falls under a higher taxation bracket as well. 1099 forms are generally used for either incorporated entities or limited liability corporations, which many members of the entertainment industry have retained for tax purposes and to-as the name implies-limit their financial liability.(Georgia Tourism Board 2008) “The above the line on movies now tends to run about 40-50% of the budget, so for the Tennessee incentive not to cover that has a big impact.”, says Tennessee’s IATSE President, Peter Kurland.

Georgia has also extended their tax credits to include multiple projects by in-state companies that spend a sum total of \$500,000 per year on production, be it for music videos, commercials, or corporate videos. Tennessee has no equivalent incentive, thus Tennessee production companies may qualify for Georgia’s state incentives, but not their own state’s, which is a grave mistake in terms of development of infrastructure. Georgia’s incentive program also covers the increasingly expanding and financially relevant gaming and animation industries, both major components in today’s entertainment industry. (Georgia Tourism Board 2008)

As compared to other states, it is obvious that some incentive programs, particularly those implemented in the past twelve months, are more competitive and attractive to large budget productions. A very important note must be made as an addendum for the need for an updated incentive plan to draw production to the state: the 32% incentive rate that may seem competitive at first, actually amounts to much less than 32% of a production’s in-state spend. The key word is ‘qualified’ in-state spend. Sharon Fox O’Guin, Memphis and Shelby County Deputy Film Commissioner, concurred with the need to address this problem. “On paper, most people are only going to be able to take advantage of 17%. However, the state film commissioner is saying that she can vary that...its not a cut and dry incentive, or it doesn’t seem to be.” (O’Guin 2009) This seems to be an advantage at the state level, but doesn’t necessarily help a production on their initial decision on whether to delve further into the possibility of shooting in Tennessee. “We’re going to make the decision on what is best for the movie—what’s the best look for the money”, says producer Bruce Cohen. “You need to be told what the incentives are, how they work, what counts and what doesn’t. In some cases they [the film commission] do have some leeway to throw in additional stuff. Sometimes you literally do want to say ‘unless you can come up with X amount of additional money and services, we need to go to this other state’. But it still always starts with the script.”(Cohen 2009)

Most producers and studios looking at Tennessee for a filming location aren’t actually able to take advantage of the 15% headquarters incentive, for instance, which is almost half of the state’s total incentive package. When the actual bill is broken down, the ‘fine print’ states that if the studio or production company itself does not have a Tennessee-based branch or ‘headquarters’, then a Tennessee resident investor in the project may qualify to receive the incentive covering the production-like a shell company through which the incentive can be siphoned. However, the 15% rebate applies ONLY up to the staked percentage of ‘ownership’ of the project that the resident retains, as qualified on the Tennessee Department of Revenue Film Incentive Requirements webpage:

The qualified investor shall be allowed a refund equal to the amount of refund that the production company would have been entitled to had it established a headquarters facility, multiplied by the qualified investor’s percentage ownership interest in the qualified production company.

So let's say that Bob Q. Producer, born and raised in Nashville, Tennessee, is underwriting 28% of the production budget of a major studio film shooting all of its principal photography within the state this summer. The production budget-the in-state spend-is slated at 100 million dollars. As the bill is currently worded, only Bob's 28 million dollar investment will qualify for the headquarters rebate. Under the headquarters rebate statute, 4.2 million dollars would be refunded to Bob for his production expenses. If the entire 100 million dollar in-state spend were eligible, that rebate would stand at 15 million dollars. This is a difference of \$10.8 million, as Bob's 28% is the highest investment percentage that the 15% rebate can apply towards. According to Memphis and Shelby County Deputy Film Commissioner Sharon Fox O'Guin, few investors can list 100% of a production's cost under the Headquarters Refund. In Memphis, for instance, only Craig Brewer's production company would qualify as a "qualified headquarters", for Southern Cross the Dog Productions, meaning all in-state spend within the production company would be eligible for a full 15% rebate from the Department of Revenue.

The 17% incentive figure that is managed by the Tennessee Film Commission also does not amount to a flat 17% of the production's total in-state expenditure. The base incentive of 13% applies to qualified in-state spend across the entire production budget, but the two additional 2% incentives have caveats attached. It is not hard to qualify for the additional 2% incentive that requires the hiring of 25% Tennessee resident crew, as the crew base in Tennessee could conceivably cover 100% of the employment needs of two feature films at any given time. Additionally, this number does not reflect labor from non-union carpenters, production assistants, or laborers from other industries that have the qualifications to pursue film production work through skill sets gained in their respective fields. It also does not take into account that 50%-75% of the labor may be brought in to the state from New York or California. Thus, technically, four features could simultaneously be filming with 50% Tennessee crew on each, given that the crew needs of the features aligned with the crew left available after each production finished hiring. The surrounding states of Louisiana, Georgia, Alabama, and Mississippi also count as 'resident crew' in a union production in terms of meeting the in state crew requirements for the additional 2% in incentive money.

Productions can qualify for the other 2% of the 17% total incentive managed by the Tennessee Film Commission by utilizing either 1) a Tennessee resident's music-such as a Keith Urban song, 2) the use of a Tennessee composer's services, or 3) if the music is recorded in Tennessee by Tennessee musicians. While the minimum spend required to attain this is a mere \$20,000, the music spend is also capped at a meager \$100,000. Music composition and recording fees can add up to \$100,000 in a single day on some big budget productions. The amount is also misleading, making it appear as if the additional 2% is on top of the entire in-state spend, while really the greatest rebate amount that can be attained is \$100,000 off of five million dollars. While it is easy to spend a hundred grand in a single day on music composition and recording services, most films do not have five million dollars in their budget for their music score.

A recent Paramount Picture's high budget comedy spent upwards of three million dollars on music composition and royalties, mostly due to high royalty and sync license rights for songs by big name groups such as Aerosmith and Queen. These do not represent the average music expenditures for a studio film, however, though the size and scope of the film obviously come into play. A recent mid-budget film for a studio specialty division, for instance, budgeted about \$400,000 for music scoring, the services of a renowned composer (who lowered his normally higher fees as a favor to the director), and the sync and mechanical license rights to a David Bowie song. In reality, including music editing and the above associated costs, the production spent closer to \$500,000 of their 23 million dollar budget on music-affiliated costs (Milberg 2009). The difference in attaining a rebate

on 2% of a \$500,000 expenditure and 2% of a 23 million dollar expenditure is obviously an extremely significant distinction—a \$10,000 return versus a \$460,000 return.

Tennessee’s incentives also call for proof that a movie is green lit before an application can be approved, granting conditional incentive rights contingent on the movie’s completion. While this may make sense in theory, in practice it doesn’t work within the Hollywood workflow and timeframe of getting a film green lit after a budget has been turned in. “The whole film business is always, as you know, one big chicken and the egg thing and a lot of times the studio isn’t going to green light a movie until they see a budget.”, says producer Bruce Cohen. “But you can’t give them a real budget unless you know where you’re shooting, and what the incentives are. So you’ve got to decide somehow where you’re going to shoot your movie before they’ll give you any money to spend.”

IATSE President Peter Kurland is frustrated that Tennessee projects are being lured to other states due to a lack of competitive incentives. “When people don’t come here to shoot, their reasons are not ‘oh, there weren’t’ enough grips, or you know, we didn’t find a good lumber supplier, the reason is ‘Louisiana offered us an extra million dollars’, or ‘if we shoot in New Mexico they’ll underwrite our bridge financing for five years.’ Those are the things that we need to find a way to compete. The issue is getting the work here.” Says Kurland. He used the film HANNAH MONTANA, the Disney Studios production that recently wrapped in Tennessee, as an example. “Perry Gibson worked very hard to get that show to shoot here, but up until the last minute they wanted to shoot in Louisiana...it’s a story *about* people from Tennessee *starring* people from Tennessee, taking place on a farm that’s supposed to be *in* Tennessee. To do that in Louisiana? I mean, that’s frustrating.”

A series of emails between the Tennessee Film Commission, Disney studio representatives, the Tennessee Economic Development Commission, and HANNAH MONTANA Producer Alfred Gough that are now public record due to state laws capture Gibson’s struggle to keep the film from going to Louisiana. With the incentives applied as they were written, Louisiana’s incentive package still beat what Tennessee could offer by roughly a million dollars. To compensate for this gap, it is reported that Gibson and Revenue Commissioner Reagan Farr had to guarantee that Billy Ray and Miley Cyrus—who are technically not Tennessee residents—would be covered under the headquarters incentives administered by the Department of Revenue *and* out-of-state crew had to be covered under the incentives as well, if no equivalent qualified crew member could be found in Tennessee. (Emery 2008) As with any negotiation, a precedent has now been set. What’s to stop other productions from demanding that their non-Tennessee crew be eligible under the incentive law?

BUILDING THE INFRASTRUCTURE

“How many crews deep?”

As state incentives draw more feature and television production, this draws a larger crew base from nearby states, some of which might put down roots in the community. As the indigenous crew base begins to develop and the reputation of said crew base spreads, this draws studio facility bids for sound stages and ancillary support services such as equipment rental, vendors, etc. Within four years of instituting competitive incentive packages, Louisiana and New Mexico both had state-of-the-art sound stages and production facilities in construction phases, spearheaded by private investors. The bottom line is that infrastructure development is tantamount to maintaining a viable industry, and the growth-and professional, on-the-job training-of a state’s crew base is the starting point. Tennessee IATSE President Peter Kurland had this to say about the ability to crew multiple features, “You know, Shreveport is not a big city. And New Orleans didn’t have a huge film industry before their incentives. People have gone there, they’ve created a crew base because there’s *so much* work there.” Without enough crew infrastructures to support multiple productions at once, expenses begin to increase for producers.

This is an issue that producers will often use as a deciding factor on whether or not to shoot in a particular state. “Something that people in Hollywood are sort of familiar with is that you’re promised ‘we’re deep in this area’ and when you’re actually ready to start hiring people you can’t find that many.” Says producer Bruce Cohen. “At that point the state may be saying ‘oh, you have to hire so many people from our state, and then they physically don’t even have that many people from their state available, depending on how busy the city is. That’s always a part of the whole decision making process—who is there and how good are they.” Peter Kurland is familiar with this complaint. “When seventeen features are shooting in Shreveport, those people aren’t all going to be A-list crew. They’re all getting B- and C-list crew. So, a producer can say to me, oh, if we go to Shreveport there are more people available, but what kind of people? Here you get the best people, you get world-class technicians. You go to Shreveport? You get who’s left.”

In the initial Production Advisory Committee report, training qualified production crew members featured prominently in the Committee’s recommendations for the state. The report touched on the fact that many states had implemented their own training programs in conjunction with local colleges and industry professionals only after realizing that they might not have a sufficient crew base for multiple productions to draw from at a given time. Without this crew base, the industry would be stunted. The crew base and infrastructure needed to grow to support an increased number of productions: incentives themselves were not enough. Tennessee IATSE President Peter Kurland is familiar with this issue, “Whenever anybody comes, his or her first question is always, ‘how much money are you going to give me to shoot in Tennessee?’ And their second question is always ‘are there enough crew people, can we hire enough local people?’” Producer Bruce Cohen backed up Kurland’s assessment:

The network of the film business is asking about crew before you go to a state. One of the biggest questions that you have is what else is going to be shooting there when we’re there-so you know how many other productions there are and whether they’re ahead of you or not in the hiring order. When you call someone who’s shot in any state that’s one of the first things you ask. And one of the first things they say is ‘they’ve got two good crews’ or ‘they’ve got three good crews’. So if you’re one of the first two movies you’re fine. If you get to a state and there’s only two good crews and they’re already taken, that doesn’t necessarily mean you can’t shoot in the state or

you can't get the incentive but it means you're going to be bringing a lot more people in from Los Angeles.(Cohen 2009)

BUILDING THE INFRASTRUCTURE

“What about experience?”

The Production Advisory Committee's findings suggested the need for new certificate programs in film production and technical areas, to benefit not just the new worker to the workforce, but also the misplaced worker from floundering industries: “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 an hourly average of \$25.00.”(The Film Production Advisory Committee 2006)

The attractive hourly and weekly rates for film work are not the only factor in training the workforce for film production. The industry itself is expected to continue growing, making the training the beginning of a career in film, not a stop-gap ‘job to pay the bills’ during the recession. According to the Bureau of Labor Statistics, “Wage and salary employment in the motion picture and video industries is projected to grow 11 percent between 2006 and 2016, about as fast as growth projected for wage and salary employment in all industries combined.”(Bureau of Labor Statistics 2009) Additionally, in the 2006 Advisory Report, the Production Advisory Committee found that “A Tennessee crew member will realize an average income of \$11,000 per film, based on a 30-day shoot.”(The Film Production Advisory Committee 2006) And this figure is three years old.

Peter Kurland brought up a valid point in training the work force for film employment in the state; you don't want too few film professionals, but you don't want too many either. “It's a chicken and the egg thing, we don't want to train a bunch of people who are going to be unemployed. But we also want to make sure we have enough qualified people for when there is work. So it's a balancing act of how many people to try to drag into the industry”, says Kurland. “What's happening now is that we're losing people to other states when they can't feed their families on what they can earn here, that would be my first concern.”

Another valid point from the Federal Bureaus of Labor Statistics is the nature of entry into the film industry: a mixture of formal training and experience leading to more advanced positions on every production. “Formal training can be a great asset to workers in filmmaking and television production, but experience, talent, creativity, and professionalism usually are the most important factors in getting a job. Many entry-level workers start out by working on documentary, business, educational, industrial, or government films or in the music video industry.”(Bureau of Labor Statistics 2009) Without training, one of the problems with hiring locals to fulfill incentive requirements is vetting the new hires. Producer Bruce Cohen spoke of Hollywood's familiarity with having to replace crew members on location after production has started. “You might even start with lots of people locally and then it turns out that none of them can do their jobs and you have to replace them. That's a budget hit that you weren't expecting.”

With a combination of on-the-job training, experience, and technical certification, the state of Tennessee would be able to ease producer's fears of taking that budget hit, while also assuaging the local film production work force that they will have a continuous stream of production into the state, and relatively steady employment to rely upon. “Financially, you're always wanting and hoping to hire as many people locally as you possibly can anywhere you go,” says Cohen. “The good side is

that your dreams and the state's requirements are in alignment. Because we'll hire every great person you have and the more people that are willing to work locally in your state, the better for our budget."

The 'top' incentive states that have proven longevity in their film production industries-states like Louisiana and New Mexico-have either a mentorship training incentive in place to entice productions to hire trainees, or professional training programs similar to the newly instituted Chattanooga State Professional Film & Television Training Programs. In Louisiana, the Louisiana Film Crew Training Program is a free training program administered by the Louisiana Workforce Commission and funded by a State of Louisiana Workforce Development grant. The highly competitive program offers hands-on training and job placement assistance in several entry-level areas, with tracks in areas like Script Supervision, Wardrobe Assistance, Camera Assistance, Production Assistance, Grip and Electric, and Set Construction and Scenic Painting. Tim Ryan, who created Louisiana's crew training program in early 2008, was impressed with the program's swift success. "With the help of the Louisiana Workforce Commission, we've created a unique training model that addresses the needs of students and employers and does what it was intended to do: quickly create an indigenous skilled crew base that is linked to employment opportunities."(Writer 2008) New Mexico offers an additional 50% wage reimbursement incentive under the Film Crew Advancement Program, wherein New Mexican crew both with and without experience in below-the-line positions receive on-the-job training by a mentor in a higher position in their department.

The Memphis and Shelby County Film Commission already has apprentice training programs in place that bring in film industry specialists to conduct seminars on entry-level positions within the industry. They conduct free crew training workshops at the Memphis Film Office, funded by the city and county. While this benefits the Memphians who wish to break into the production industry, it also benefits productions coming into the city. A locally-funded incentive program that offers a 50% crew wage refund for all Memphis resident trainees employed by a production is an added incentive to hire locally trained crew, similar to New Mexico's program. In addition to the 50% wage reduction, however, the trainee's supervisor also receives an hourly "trainer's wage" on top of their normal rate for providing the on-the-job training, with the caveat that 20% of the trainee's responsibilities will prepare them for a higher role at their next job (from an Art Department Assistant to an Art Department Coordinator, for instance.)

Perry Gibson, the Executive Director of the Tennessee Entertainment, Music, and Film Commission, appears hesitant to endorse crew-training programs. "Crew base, the only way you build it is to bring in productions...Nobody wants somebody on the set who doesn't know what they're doing." A valid line of thinking, as producers may see these trainees not as part of cost-saving incentives but as green crew members with increased potential for mistakes, resulting in greater costs for the production overall. But with internship experience and college certification, these kinds of training programs can create vetted entry-level candidates for productions and increase crew base dramatically.

Peter Kurland, for instance, is working with the Memphis Commission on their apprentice program, as well as with colleges in an attempt to put certified Associates degree-level programs in place. In Chattanooga, Dave Porfiri, a local film and television producer and veteran film educator, launched just such a program at Chattanooga State Community College in partnership with Missy Crutchfield at the Chattanooga Film Commission. The program focuses on technical training for film and television production in specific crew categories such as grips, electricians and camera assistants - positions of high need locally. The program launched in the Spring of 2009 with 20 students who are trained by classroom lecture, hands-on workshops and 120 hours of required internships. Local production company 821 Entertainment is also looking into film crew training possibilities as part of

their sound stage and production studio proposal for a site in Nashville that is currently accepting applications for development projects.

Craig Brewer recently took advantage of the Memphis training program; using 100% local crews for his MTV-backed *\$5 Cover* web series highlighting independent musicians in Memphis. He spoke very highly of the experience. “On *\$5 Cover* I made the rule that no one comes in from out of town. I wanted to see all of the positions filled with locals, and with *\$5 Cover* we have more locations to go to and more extras to wrangle than on any of my features. We have local cameramen, a local DP, local musicians that are cast members and local music producers making our score. So, can we do *\$5 Cover* from beginning to end, put the locals in positions from beginning to end and see how they do? Yes. And now I can absolutely say that I could do a HUSTLE AND FLOW-size movie with all local crew.” Taking it one step farther, Brewer is doing all of his post-production sound work on the series within Tennessee as well. “We’ve mastered soundtracks here, but when it comes to dialogue, sound mix, score...I’ve always been in a sound house in Los Angeles. Luckily Archer Studio has recently gotten a 5.1 mix here.”

Brewer’s series will qualify for the full 32% of the state’s incentives as well as the Memphis and Shelby County 50% wage reduction incentive. “We had people working above the line, plus training them above the line...half of their salary will be paid by the city. I can honestly say this was a 100% local effort. I didn’t spend a dime out of state...our crew was here, we posted here, it was created here. Only local crew worked on it.” Brewer also expressed a viewpoint that shed some light on Film Commissioner Gibson’s seemingly inflammatory statements. At the end of the day, film productions want the most qualified crew with the least amount of hassle. “Is a Hollywood movie wanting to come in and train your local crew? No. With HUSTLE AND FLOW, John Singleton and Dwight Williams¹ were passionate about having a crew wherein opportunities were being given to the community. I’ve tried to continue that... there can be some elements that are noble. I’d like to see it-myself doing TV here and employing Memphians eight months out of the year. I’d like to see the training and the opportunities for them, but it’ll be on the projects with the smaller budgets with people that are good and capable and qualified, but maybe don’t have experience yet.”

Champions of the local film industry like Brewer and Singleton, along with the Memphis Film Commission, have provided the opportunity for local crew to get these experiences, so that they *will* be qualified when the next big project comes knocking. Most everyone in film production will tell you that they gained a foothold in the industry at the same place-the bottom. Local or state government-funded training programs and seminars focusing on entry-level positions are a much-needed investment in the long-term growth of Tennessee’s crew base. To ignore this fact would be both shortsighted and detrimental to the expansion of the industry’s infrastructure across the state. To reiterate what a number of interviewees have said on both sides of the battle, one of the first things that a producer will ask is “What’s the crew base?”

¹ John Singleton, Producer, *Hustle and Flow*, *Black Snake Moan*; Dwight Williams, Executive Producer, *Hustle and Flow*

POWER PLAYERS AND POLITICS DO NOT A MOVIE INDUSTRY MAKE

One of the first things I learned at the state film office is that there is a keen sense of rivalry across the state; in part because Tennessee is so long... West and East don't often meet.

–Jan Austin, former Deputy Film Commissioner of Tennessee

One of the most surprising findings of this study was just how political both the offices and the appointment of the Film Commissioner really are. When projects come into the state office all of the regions want the business. Part of a state film commissioner's job is to provide all of the regions with the information and the possibility to put together packets to be sent to the producer or production company in question. "The competition and the suspicion is tremendous across the state. For the longest time Chattanooga wasn't even considered as a region. They got left out of the mix." Says Jan Austin. Missy Crutchfield is making great strides towards changing that, building Chattanooga as a distinct region with its own training programs, location scouts, and film commission. Crutchfield, the Director of the Chattanooga Arts and Education Department, works with one paid staff member and a cadre of volunteers. This is more than Knoxville and Nashville have, as both the Mayor's Office of Film and the equivalent office in the Knoxville region have more or less disappeared due to budget cuts across the state. Local film community organizations like Film Nashville and Knoxville Films have tried to step up their efforts by providing a single production database and location filming information for their respective areas to fill the gap. But to producers and studios, this could seem disorganized, as they aren't sure whom to contact for 'official' information.

Austin is trying, with the formation of the political action group AFFT (Association for the Future of Film and Television in Tennessee) to get rid of regionalism and the need to protect the local industry by the various commissions, to work together with representatives from each region to lobby for all of their interests at the state level. The mission is to educate the public and the legislators of the issues in the film, TV, and music industry and to advocate for the crewmembers and workers therein. "Either the state government decides to invest in our entertainment industry or it is soon to be lost. I'm not waving a red flag and creating panic, I'm dead serious. I watch the states around us pull business out of the state. There have been three projects in the last couple of months that have been true Tennessee stories that did not shoot in Tennessee. Two films-*The Blindside* and *Get Low*-went to Georgia, and an east Tennessee story went to North Carolina."

The Tennessee Film Commission, unlike most state-level film commissions, sits as part of the Governor's Office rather than as part of the Tourism Office or Economic and Community Development Offices. Austin had a lot to say about just what this means to the effectiveness of the state film office. "Being part of the Governor's Office is not good. When the Governor is elected, they have a tendency to give the film commissioner seat to someone who supported their campaign. David Bennett was the only one who had some knowledge of film and television because he had worked in both. What you get into with that is the person who sits in that seat is answerable to the Governor. If the Governor wants to support film, great. But if it's not on the Governor's plate, it's not on the film commissioner's plate." Tom Neff, an Oscar-nominated and Emmy-Award winning documentarian and Nashville resident, expressed similar sentiments. He has seen many a Film Commissioner come and go. "The Commissioner, in my opinion, needs to be a full cabinet member, not a PR tool or part of the Governor's office. It's a toothless job."

Neff, the founder and CEO of the Nashville-based Documentary Channel, doesn't qualify for the state tax incentives, despite having numerous productions throughout the year in Tennessee. He spoke of his difficulty in even getting a response from Metro Nashville regarding filming permits

when he filmed some introductions for the Documentary Channel's shows earlier this year. "We had a terrible time even finding anybody to call. Finally, the day of the production, we get a call.... it's like nobody's home. We couldn't get any answer from anybody, nobody seemed to care, and it was completely from a producer's standpoint extremely disorganized. You just wonder if that's the way it is for other productions."

Austin stressed that part of the film commissioner's job is educating the Governor on the film industry and what that industry can bring economically to the state. If the Film Commissioner doesn't understand the complex law, business, workflow process, and mechanics of production, how can they inform and educate the lawmakers? Thus a strong case can be made that the film commissioner seat needs to be held by someone with the appropriate film business or production background to effectively function in the job. "You wouldn't pick someone without a legal or financial background to be the Department of Revenue's Commissioner," says Austin, "so why would you appoint someone with no production experience or knowledge of the industry? It's a very complex and laser-focused industry that churns billions of dollars in this country and overseas...the commission is charged with bringing a chunk of that billion-dollar industry here." Surprisingly, over the Tennessee Film Commission's 20-odd year history, only two film commissioners have had any physical production experience at all.

Linn Sitler's name was continuously mentioned for what she has done to build the Memphis and Shelby County Film Commission and bring part of that billion-dollar industry to her city. Across the board, she was lauded for bringing not only stability to the office over her tenure, but for building relationships with filmmakers and locals and garnering support from both the county and the city governments for the film industry. Sitler has been repeatedly appointed to her post by both the county and the city across party lines. In 2009, Moviemaker Magazine listed Memphis as one of the top 10 cities in the country to film and live in as a filmmaker. Tom Neff has called Nashville home for over twenty years, and shed some light on Linn's success. "She's a perfect example of what can happen with some continuity in the office. People who've been there 20 years establish contacts, and all production people tend to work in teams and with people that they've known before. Memphis has been very successful really in an environment that doesn't have a lot of tax incentives."

Being a Memphis-based filmmaker, Craig Brewer has worked with Sitler for quite some time. "I have a healthy, continuous, longstanding partnership with Linn Sitler. She's a fantastic film commissioner. She's worked on so many films, she knows so many people to go to in this town. Regardless of where you are, there is still this political and community maze you have to navigate through to make a local feature. It's a very difficult job. When I'm on a movie with Linn and I bring up an issue, she brings up five people who don't just know her; they go to dinner with her. Having her when you come to town pretty much makes you the best friend of anyone who could help you on your movie."

So what can be learned from the example of Linn Sitler's office? What is it that makes an effective film commissioner, who is best able to serve the interests of the film industry within the state? From both the internal perspective of the film commissions interviewed and the external perspective of filmmakers and producers looking to come in to an area, these qualities appear to be essential:

- A social networker who is adept at building and maintaining relationships with a wide variety of professionals and personality types
- A solid negotiator with a firm understanding of tax incentive structures and competing state's incentive programs

- A service-minded attitude that can deal with crises and urgent needs from productions on set
- A solid communicator who can explain to both the laymen and the expert why incentives are essential and how they work
- A strong relationship with local and state officials
- A strong relationship with the local film community, union leaders, and crew base
- Extensive experience or understanding of the film and television production industry, its financial structure, and how films are cash flowed
- A solid network of contacts within the film and television industry, both locally and in Hollywood and New York
- The ability to work for the betterment of the industry within the state, without fear of political repercussions.

SUGGESTIONS FOR CHANGE

With interviews with various state and local film commissions, extensive research, and input from Academy-Award winning producers, independent producers, political advocates, union figures, and various members of the Tennessee film community, I have garnered and adapted the following suggestions for the expansion of the Tennessee film industry.

Only with hard financial facts can a strong case be made for an enhanced incentive package to draw production to the state. The legislature, and by proxy, the public, is the Board of Directors and primary investors in this industry. Tennesseans have a responsibility as a film community to act as any other business would when presenting earnings to the Board; they need to produce accurate and detailed reports that reflect the industry's strong economic return on investment throughout the state. Reputable numbers can't be argued with. To that end, Tennessee needs to commission a study, preferably by accounting firm Ernst and Young, which captures the economic impact of film production within the state of Tennessee. Particular emphasis should be placed on the economic impact to Memphis and Shelby County, due to the accessibility of their already collected data and the high number of big budget productions that have shot in the area both before and after tax incentives were instituted at the state level.

Concerning the state incentives themselves, local production houses need to be eligible for the Department of Revenue's 15% Headquarters incentive on a per-year spend basis for qualification, versus the current per-production spend basis for qualification. Currently a Tennessee production house can only qualify for the Headquarters rebate if \$1,000,000 or more is spent on a *specific project*. I am proposing that the qualification be changed to a \$500,000 minimum spend on a per-year basis on production expenditures. Additionally, the 13% rebate for total qualified production expenditures in the State of Tennessee administered by the Tennessee Film Commission should be modified for Tennessee production headquarters as well. The current \$200,000 per production qualification should be changed to a \$200,000 minimum spend per-year. These changes would incentive corporate videos, commercials, video game production, and music videos and greatly benefit the independent film community of Tennessee. These companies are now going out of state to shoot what had been a mainstay of production dollars within Tennessee. First Tennessee Bank, for instance, recently went to Louisiana to shoot a series of spots, because they were incentivized through the Louisiana tax incentive structure. In Tennessee, their productions failed to qualify. (Austin 2009)

The original Film Advisory Committee suggestions presented in the Tennessee Film and Television Production Study are still relevant today. Following their original suggestions made in 2006 will at the very least bring Tennessee up to a competitive level of production rebate; comparable even with Michigan's film incentive package. These suggestions would entail:

1. Changing the current Film Commission administered base incentive from 13% to 17%; "If base investment is greater than \$500,000 per project and is spent in a 12-month period then allow a tax credit equal to 17% of base investment;" (The Film Production Advisory Committee 2006)
2. Removing the \$100,000 cap on the Tennessee music incentive and raise to 3%; "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%;" (The Film Production Advisory Committee 2006)
3. Changing the in-state resident crew incentive from 2% to 5%; "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." (The Film Production Advisory Committee 2006)

I would also like to suggest a graduated percentage increase system for the employment of resident Tennessee film crew. Currently, if a production hires 25% Tennessee crew base, they receive an additional 2% increase in the 13/15/17% incentive. Along with my aforementioned proposal of raising this incentive from 2% to 5% of base investment, I'm also proposing a graduated system that would include an additional 1% of incentive for every additional 25% of Tennessee crew hired for the production. So, in the case of Craig Brewer's *\$5 Cover* with 100% Tennessee crew, the production would be eligible for an 8% incentive rebate (5% rebate for 25% TN crew, plus 1% rebate for 50% TN crew, plus 1% rebate for 75% TN crew, plus 1% rebate for 100% TN crew).

In addition, a sliding scale incentive should also be instituted to bolster independent productions within the state that are made by Tennessee filmmakers who are telling Tennessee stories. California recently instituted a similar lower budget grant incentive for indie filmmakers, with the qualifier being that the company producing the film is not publicly traded, or that publicly traded companies do not own more than a 25% stake in the production. This will help in growing and retaining the indigenous talent pool throughout the state. Ultimately what would be incentivized here is the marketing of both Tennessee's filmmaking talent and it's locations. We need to nurture our native film community. Furthermore, this would meet the original doctrine of Senate Bill No.3513, the Visual Content Act of 2006. In Section 4G, independent productions are addressed as follows: *It is the intent of the general assembly that the commission shall actively encourage independent producers and minority participants to apply for incentive grants.* (Tennessee State Senate 2006) It is hard to see how this is possible with the \$1,000,000 per production minimum for qualification for the Headquarters Refund and the \$200,000 per production minimum for qualification for the 13/15/17% Film Commission Refund for in-state filmmakers.

According to Matt Robison, an independent producer and director who calls Tennessee home, most productions that he heads throughout the year are financed at under \$40,000. "I know that's not impressive," says Robison, "but that's paying industry standard rates. My budgets frequently get eaten up by talent, what else do you have?" Robison recently premiered his latest project, a music

documentary, at the Atlanta Film Festival and also digitally on the taste making music site Pitchfork Media. “You’re lucky to have \$50,000, let alone \$500,000 for in-state spend minimums...” Says Robison. “The only thing keeping me from doing longer narrative work is a lack of money. If there was a way to reach out to the film community as far as new projects are concerned, and some brand of funding-other than private-for new projects, there would be a different community.” (Robison 2009)

It is obvious that the creativity and passion for storytelling is there: this year saw breakout cinematography, acting, and directing performances by other Tennessee locals whose projects screened at the Nashville Film Festival, with such films as the Deagol Brothers’ MAKE OUT WITH VIOLENCE. The film was shot in Nashville and took home the Narrative Feature Award, the Regal Cinemas Dreammaker Award, the Tennessee Independent Spirit Award for a Feature Length Film at the festival. The music in the film also won Best Music In A Feature Film, given to The Non-Commissioned Officers, a Nashville-based band. (NFF Press Release 2009). Valuable experience can be gained on these lower budget productions, providing training and support to the up-and-coming crew base and preparing them to work on big budget productions. These low-budget incentives could also be qualified with higher levels of in-state crew requirements-perhaps as high as 75% both above and below the line-to even begin to qualify. Another caveat could be that trainees from the Chattanooga Film Training program and Memphis programs must be placed within the production as well. As we have seen, Craig Brewer recently proved that high-quality productions could be completed in the state with 100% Tennessee cast and crew.

Earlier this year when the New York legislature threatened to lower the rebate percentage of their city and state incentives, along with lowering the amount of funds available per year, it caused the film industry there to dissipate overnight. When the funds ran out, productions quickly packed up and moved to the next incentivized location, particularly with the lack of assurance that funds would be accessible to them when the new budget passed in late March. That uncertainty caused the loss of millions of dollars of economic benefit to New York City proper and the state of New York, in a matter of weeks. A “no sunset” clause, which many states have instituted in their incentives, protects the incentive package funds for a specific length of time. This would give confidence to producers scouting the state that Tennessee’s incentives aren’t going to ‘dry up’ overnight, making the location less economically viable for their productions that have already been budgeted and green lit with expected incentive rebates in place.

Another necessary change-and one that will meet with a good deal of resistance from the legislature in today’s economy-is the institution of a yearly recurring fund for tax incentives, a line item in every year’s budget that would remain consistent. 10 million dollars was initially available for the Visual Content Act when it was passed in 2006, and in 2007 Governor Bredeson line itemed an additional 10 million for the incentives. Film Commissioner Gibson puts that pot at about 12 million today. In comparison to New York’s 350 million for fiscal year 2009, or the hundreds of millions of dollars available to other states, our Film Commission is operating at a distinct disadvantage in drawing production to the state. A mere 10 million per year to start would be enough to get the industry up and running, and provide funding for the previously mentioned production headquarters within the state of Tennessee. This, again, would create opportunities for crews to gain more experience.

Furthermore, the “Film and Television Fund”, as defined by the Visual Content Act of 2006 was meant to include two forms of financing: 1) *Funds appropriated by the general assembly for the Film/TV Fund; and 2) Gifts, grants, and other donations received by the Department or the Commission for the Film/TV Fund.* (Tennessee State Senate 2006) As far as my interviews and

research have shown, there is no information available to the public as to whether any donations or grants have increased the initial fund over the past two and a half years. There has been no mention of additional monies having been added to the fund since 2007. In lieu of this fact, I highly suggest the need for the formation of a 501(c)(3) non-profit foundation whose purpose is solely focused on fundraising for additional contributions to the Film and Television Fund within Tennessee, including coordinating the fundraising efforts of the local film communities. Additionally, this organization should coordinate efforts to fundraise and raise awareness outside of Tennessee by nurturing relationships with prominent entertainment industry personages who have connections to the state of Tennessee.

Again, to use Memphis as an example, O'Guin and Sitler played a big part in keeping the Johnny Cash biopic *Walk the Line* in Tennessee despite an almost five million dollar difference in what Tennessee could offer. "We pooled together something like 3 million dollars in soft incentives, but we almost lost that film." Said O'Guin. "We've had citizens give office space on Beale Street for three movies, and they're for-profit Memphians who just want to help out." The Memphis Film Commission called on Memphians again in the case of *BLACK SNAKE MOAN*. Soft incentives were a key element in keeping the project in Tennessee. But at some point, soft incentives are not enough. "We just lost a project a couple weeks ago to Georgia, and its based in Memphis and is about a Memphian." Said O'Guin, referring to Alcon Pictures' *The Blind Side*. "So that's a perfect reason to change our incentives. They [Alcon Pictures] went to Georgia, and it was because the cost difference even in a best-case scenario was two or three million dollars."

Both the city of Memphis and Shelby County have worked closely with the regional film commission to establish a local TV and film production fund to supplement the state incentive fund. In the past they have also supplied free city and country services and have waived fees for filming on public property. O'Guin spoke of the local government support that the film office receives in Memphis. "I think one reason why all of our government officials are really behind all of the incentives and see the importance of them is because they've watched our work. We do annual reports every year that we present to them. We send out location expenditure forms for all projects. We don't use a multiplier factor when we report the economic impact. The legislators in this area have always been very supportive. In fact both the city council and county commission passed a wage refund and gave us money for the wage refund program, which was first used on *Nothing But the Truth*. That was part of the reason that they shot here." A dedicated film commission fundraiser could bolster the state's Film/TV Fund as well as improve fundraising efforts at the regional level. This would also serve to raise awareness and educate Tennesseans and lawmakers as to the benefits that film incentives have on the economy of the state.

A FINAL LETTER

We don't go to shoot in a country because they have a beautiful mountain. We go there because it's affordable. –Boaz Davidson, Head of Production, Nu Image and Millennium Films

An open letter to the Tennessee production community, legislative body, and state and regional film commissions:

This study is not meant to inflame, to outrage, or to point fingers. What it *is* meant to do is to facilitate a dialogue, to educate, and to raise awareness of a very topical and important issue that has a deep and far-reaching impact on the maintenance and growth of an industry. The film production industry in Tennessee has the power to create both jobs for Tennesseans and enormous amounts of revenue in an increasingly nebulous economic climate that is seeing ever-increasing unemployment rates. “Tennessee’s film industry is at a precipice.” These words were written in the Tennessee Film and Television Production Study of 2006. Since then, tax incentives have become the norm rather than the exception, an essential element of a successful production industry. Competition for big budget productions has grown ever more fierce, and for very good reason: it has been proven time and time again that bringing film production to a state creates a widening circle of economic impact—through production expenditures, through support expenditures on hotel accommodations and restaurants, through ancillary expenditures on catering and construction, and so on.

Tennessee has a rich heritage as an entertainment state, but that does not mean it will continue to be known as such. States like New York and North Carolina should prove as a warning—when their film incentives went away, so did their entire film industry. Millions of dollars and jobs were lost over a very short period of time. When their incentives were restored or increased, so too was their overall ROI. This statement is true both with and without economic multipliers applied to the data. It takes only a quick look at any one of the Memphis and Shelby County Annual Production Reports to see how much money is left behind simply from one big budget production. Memphis itself was chosen in 2009 as one of the best cities to live and film in by *Moviemaker Magazine*. Why then are producers not banging down our door to get their productions shot in our state?

Without a competitive incentive package in place, a means to train and retain a skilled crew base, state of the art production facilities, and a consistent and stable film office to educate the filmmakers, the public, and the legislature, Tennessee’s film industry will be a lost cause. More and more of our crew base and potential production jobs will hemorrhage to Georgia, to the Carolinas, to Louisiana.

For the very first time, filmmaker Craig Brewer is truly convinced that he won’t be able to keep his next studio production in Tennessee. When even one of the state’s most avid champions—whose own production headquarters is in Tennessee —is helpless in the face of runaway production, *there is a serious problem that must be addressed*. I implore you to take this study and add to it, to make changes as needed, and to use it in whatever way might best benefit the Tennessee film industry and educate the public on this matter. It all comes back to story, and Tennessee has many a story left to tell. We need to be the ones to tell it, or no one else will.

PRIMARY SOURCE INTERVIEWS

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Jan Austin, Former Deputy Director of the Tennessee Entertainment, Music, and Film Commissioner, and Founder, Association for the Future of Film and Television

Andy Van Roon, Founder of Film Nashville, President of 48 Hour Film Festival

Brian Owens, Artistic Director, Nashville Film Festival

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Perry Gibson, Executive Director of the Tennessee Film, Entertainment and Music Commission

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Craig Brewer, Tennessee-based Filmmaker, Founder Southern Cross the Dog Productions

Thomas Neff, Founder and CEO, Documentary Channel

Matthew Robison, Tennessee independent filmmaker/producer

Bruce Cohen, Executive Producer/Filmmaker Jinks/Cohen Co.

Peter Kurland, President, IATSE LOCAL 492

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