

Bill No. SB 96

Barcode 695982

CHAMBER ACTION

Senate

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The Committee on Commerce (Saunders) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (q) is added to subsection (5) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(q) Entertainment industry tax credit; requirement for electronic funds transfer.--

1. For the fiscal years beginning July 1, 2007, and ending June 30, 2010, a qualified production, as defined in s. 288.1254(1), is eligible for tax credits against its state

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1 sales and use tax liabilities as provided in s. 288.1254.

2       2. The credit shall be deducted from any sales and use  
3 tax remitted by the dealer to the department by electronic  
4 funds transfer and may be deducted only on a tax return  
5 initiated through electronic data interchange. The dealer must  
6 separately state the credit on the electronic return. The net  
7 amount of tax due and payable must be remitted by electronic  
8 funds transfer. If the credit for the qualified expenditure is  
9 larger than the amount owed on the sales and use tax return,  
10 the amount of the credit may be carried forward to a  
11 succeeding reporting period. A dealer may obtain a credit only  
12 using the method described in this subparagraph. A dealer may  
13 not obtain a credit by applying for a refund.

14       Section 2. Section 288.1254, Florida Statutes, is  
15 amended to read:

16       (Substantial rewording of section. See  
17 s. 288.1254, F.S., for present text.)

18       288.1254 Entertainment industry financial incentive  
19 program.--

20       (1) DEFINITIONS.--As used in this section, the term:

21       (a) "Certified production" means a qualified  
22 production that has tax credits allocated to it based on its  
23 estimated qualified expenditures, up to its maximum certified  
24 amount of tax credits, by the Office of Tourism, Trade, and  
25 Economic Development. The term excludes a production if its  
26 first day of principal photography in this state occurred  
27 before the production is certified by the Office of Tourism,  
28 Trade, and Economic Development, unless the production spans  
29 more than 1 fiscal year, was a certified production on the  
30 first day of such photography, and is required to submit an  
31 application for continuing the same production in the

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1 subsequent year.

2       (b) "Digital media project" means a production of  
3 interactive entertainment which is produced for distribution  
4 in commercial or educational markets, including a video game,  
5 simulation, or animation, or a production intended for  
6 Internet or wireless distribution. The term excludes a  
7 production deemed by the Office of Film and Entertainment to  
8 contain obscene content as defined in s. 847.001(10).

9       (c) "High-impact television series" means a production  
10 created to run multiple production seasons having an estimated  
11 order of at least seven episodes per season and qualified  
12 expenditures of at least \$625,000 per episode.

13       (d) "Off-season certified production" means a  
14 production, other than a digital media project or an animated  
15 production, which films 75 percent or more of its principal  
16 photography days from June 1 through November 30.

17       (e) "Production" means a theatrical or direct-to-video  
18 motion picture, a made-for-television motion picture, a  
19 commercial, a music video, an industrial or educational film,  
20 an infomercial, a documentary film, a television pilot  
21 program, a presentation for a television pilot program, a  
22 television series, including, but not limited to, a drama, a  
23 reality show, a comedy, a soap opera, a telenovela, a game  
24 show, a miniseries production, or a digital media project by  
25 the entertainment industry. One season of a television series  
26 is considered one production. The term excludes a weather or  
27 market program, a sporting event, a sports show, a gala, a  
28 production that solicits funds, a home shopping program, a  
29 political program, a political documentary, political  
30 advertising, a gambling-related project or production, a  
31 concert production, a news show, a current-events show, or a

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1 current-affairs show that is local, regional, or distributed  
 2 only on the Internet. A production may be produced on or by  
 3 film, tape, or otherwise by means of a motion picture camera,  
 4 electronic camera or device, tape device, computer, any  
 5 combination of the foregoing, or any other means, method, or  
 6 device now used or later adopted.

7       (f) "Production expenditures" means the costs of  
 8 tangible and intangible property used and services performed  
 9 primarily and customarily in the production, including  
 10 preproduction and postproduction, excluding costs for  
 11 development, marketing, and distribution. Production  
 12 expenditures include, but are not limited to:

13           1. Wages, salaries, or other compensation, including  
 14 amounts paid through payroll service companies, for technical  
 15 and production crews, directors, producers, and performers.

16           2. Expenditures for sound stages, backlots, production  
 17 editing, digital effects, sound recordings, sets, and set  
 18 construction.

19           3. Expenditures for rental equipment, including, but  
 20 not limited to, cameras and grip or electrical equipment.

21           4. Expenditures for meals, travel, and accommodations.

22       (g) "Qualified expenditures" means production  
 23 expenditures incurred in this state by a qualified production  
 24 for:

25           1. Goods purchased or leased from, or services  
 26 provided by, a vendor or supplier in this state which is  
 27 registered with the Department of State or the Department of  
 28 Revenue and doing business in this state.

29           2. Payments to residents of this state in the form of  
 30 salary, wages, or other compensation up to a maximum of  
 31 \$400,000 per resident for the general production queue and the

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1 independent Florida filmmaker queue and up to a maximum of  
2 \$200,000 for the digital media queue.

3  
4 For a qualified production involving an event, such as an  
5 awards show, the term excludes expenditures solely associated  
6 with the event itself and not directly required by the  
7 production. The term excludes expenditures prior to  
8 certification, with the exception of those incurred for a  
9 commercial, a music video, or the pickup of additional  
10 episodes of a television series within a single season.

11 (h) "Qualified production" means a production in this  
12 state meeting the requirements of this section and the minimum  
13 qualified expenditures and requirements of its appropriate  
14 queue. The term excludes a production:

15 1. In which less than 50 percent of the positions that  
16 make up its production cast and below-the-line production crew  
17 are filled by residents of this state, whose residency is  
18 demonstrated by a valid Florida driver's license or other  
19 state-issued identification confirming residency, or students  
20 enrolled full-time in a film-and-entertainment-related course  
21 of study at an institution of higher education in this state;  
22 or

23 2. That is deemed by the Office of Film and  
24 Entertainment to contain obscene content as defined in s.  
25 847.001(10).

26 (i) "Qualified production company" means a  
27 corporation, limited liability company, partnership, or other  
28 legal entity engaged in producing a qualified production.

29 (2) CREATION AND PURPOSE OF PROGRAM.--The  
30 entertainment industry financial incentive program is created  
31 within the Office of Film and Entertainment. The purpose of

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1 this program is to encourage the use of this state as a site  
2 for filming and to develop and sustain the workforce and  
3 infrastructure for film and entertainment production.

4 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.--

5 (a) A qualified production company in this state  
6 producing a qualified production may submit a program  
7 application to the Office of Film and Entertainment for the  
8 purpose of determining qualification for an award of the tax  
9 credit. The application must be submitted no earlier than 1  
10 year before the date the production is anticipated to start.  
11 The applicant shall provide the office with information  
12 required to determine whether the production is a qualified  
13 production and to determine the qualified expenditures and  
14 other information necessary for the office to determine  
15 eligibility for the tax credit.

16 (b) The Office of Film and Entertainment shall develop  
17 a application form for use in qualifying an applicant as a  
18 qualified production. The form must include, but need not be  
19 limited to, production-related information concerning  
20 employment of residents in this state, a detailed budget of  
21 planned qualified expenditures, and the applicant's signed  
22 affirmation that the information on the form has been verified  
23 and is correct. The Office of Film and Entertainment and local  
24 film commissions shall distribute the form.

25 (c) The Office of Film and Entertainment shall  
26 establish a process by which an application is accepted and  
27 reviewed and by which tax credit eligibility and amount are  
28 determined. The office may request assistance from a duly  
29 appointed local film commission in determining qualification  
30 for the tax credit and compliance with this section.

31 (d) The Office of Film and Entertainment shall review

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1 the application within 10 business days after receipt. Upon  
 2 its determination that the application contains all the  
 3 information required by this subsection and meets the criteria  
 4 set out in this section, the office shall qualify the  
 5 applicant and recommend to the Office of Tourism, Trade, and  
 6 Economic Development that the applicant be certified for the  
 7 tax credit and suggest a maximum tax credit award amount.  
 8 Within 5 business days after receipt of the recommendation,  
 9 the Office of Tourism, Trade, and Economic Development shall  
 10 reject the recommendation or certify the maximum recommended  
 11 tax credit award, if any, to the applicant and to the  
 12 executive director of the Department of Revenue.

13 (e) The Office of Film and Entertainment shall deny an  
 14 application if it determines that the application is not  
 15 complete, the production does not meet the requirements of  
 16 this section, or the tax credit sought does not meet the  
 17 requirements of this section.

18 (f) The Office of Film and Entertainment shall develop  
 19 a process to verify the actual qualified expenditures of a  
 20 certified production. The process must require:

21 1. A certified production to submit, in a timely  
 22 manner after production ends and after making all of its  
 23 qualified expenditures, data substantiating each qualified  
 24 expenditure to an independent certified public accountant  
 25 licensed in this state;

26 2. Such accountant to conduct an audit, at the  
 27 certified production's expense, to substantiate each qualified  
 28 expenditure and submit the results as a report, along with all  
 29 substantiating data, to the Office of Film and Entertainment;

30 3. The Office of Film and Entertainment to review the  
 31 accountant's submittal and report to the Office of Tourism,

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1 Trade, and Economic Development the final verified amount of  
2 actual qualified expenditures made by the certified  
3 production;

4 4. The Office of Tourism, Trade, and Economic  
5 Development to thereafter notify the executive director of the  
6 Department of Revenue that the certified production has met  
7 the requirements of the incentive program;

8 5. The Department of Revenue to approve the final  
9 amount of the tax credit award; and

10 6. The Office of Tourism, Trade, and Economic  
11 Development to award all tax credits for the previous fiscal  
12 year by September 30.

13 (g) The Office of Film and Entertainment shall ensure  
14 that, as a condition of receiving a tax credit under this  
15 section, marketing materials promoting this state as a tourist  
16 destination or film and entertainment production destination  
17 are included, when appropriate, at no cost to the state, which  
18 must, at a minimum, include placement in the end credits of a  
19 "Filmed in Florida" logo with size and placement commensurate  
20 to other logos included in the end credits or, if no logos are  
21 used, the statement "Filmed in Florida using Florida's  
22 Entertainment Industry Financial Incentive," or a similar  
23 statement approved by the Office of Film and Entertainment  
24 before such placement. The Office of Film and Entertainment  
25 shall develop a "Filmed in Florida" logo and supply it for the  
26 purposes specified in this paragraph.

27 (4) TAX CREDIT ELIGIBILITY; ELECTION AND DISTRIBUTION;  
28 CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND  
29 NONCORPORATE DISTRIBUTIONS; MERGERS OR ACQUISITIONS.--

30 (a) For fiscal years beginning on or after July 1,  
31 2007, and ending June 30, 2010, a qualified production is

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1 eligible for a tax credit against taxes due under chapter 220  
2 or taxes collected or accrued under chapter 212.

3 (b) The total aggregate amount of the tax credits  
4 allowed under this section in any state fiscal year is a  
5 minimum of \$75 million.

6 (c) A certified production company receiving a tax  
7 credit award under this section shall, at the time the credit  
8 is awarded by the Office of Tourism, Trade, and Economic  
9 Development after production is completed and all requirements  
10 to receive a credit award have been met, make an irrevocable  
11 election to apply the credit against taxes due under chapter  
12 220, against taxes collected or accrued under chapter 212, or  
13 against a stated combination of the two taxes. The election is  
14 binding upon any distributee, successor, transferee, or  
15 purchaser.

16 (d) If the certified production company cannot use the  
17 entire tax credit in the taxable year or reporting period in  
18 which the credit is awarded because of insufficient tax  
19 liability on the part of the certified production, any excess  
20 amount may be carried forward to a succeeding taxable year or  
21 reporting period. A tax credit awarded under this section and  
22 applied against taxes imposed under chapter 212 or chapter 220  
23 may be carried forward for a maximum of 5 taxable years after  
24 the taxable year in which the credit was awarded, after which  
25 period the credit expires and may not be used.

26 (e) A certified production company that files a  
27 Florida consolidated return as a member of an affiliated group  
28 under s. 220.131(1) may be allowed the credit on a  
29 consolidated return basis up to the amount of the tax imposed  
30 upon the consolidated group under chapter 220.

31 (f) A qualified production company that is not a

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1 corporation as defined in s. 220.03 may elect to distribute  
 2 tax credits awarded under this section to its partners or  
 3 members in proportion to their respective distributive income  
 4 or loss in the taxable fiscal year in which the tax credits  
 5 were awarded.

6 (g) Tax credits available under this section to a  
 7 certified production company may succeed to a surviving or  
 8 acquiring entity subject to the same conditions and  
 9 limitations as this section would apply to the transferring  
 10 company; however, the surviving or acquiring entity may not  
 11 transfer the credits again.

12 (5) TRANSFER OF TAX CREDITS.--

13 (a) After application to the Office of Film and  
 14 Entertainment and approval by the Office of Tourism, Trade,  
 15 and Economic Development, a certified production company may  
 16 elect to transfer, in whole or in part, any unused credit  
 17 amount granted under this section. An election to transfer any  
 18 unused tax credit amount under chapter 212 must be made at the  
 19 time the tax credit is awarded. An election to transfer any  
 20 unused tax credit amount under chapter 220 must be made no  
 21 later than 5 years after the date the credit was awarded,  
 22 after which period the credit expires and may not be used. The  
 23 Office of Tourism, Trade, and Economic Development shall  
 24 notify the Department of Revenue of the election and transfer.

25 (b) A certified production company that has elected to  
 26 apply a credit amount against taxes:

27 1. Remitted under chapter 212 may make a one-time  
 28 transfer of a tax credit in that amount to one transferee.

29 2. Due under chapter 220 is permitted a one-time  
 30 transfer of that amount to no more than four transferees, and  
 31 such transfers must occur in the same taxable year.

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1       (c) The transfer or purchase of any amount of the tax  
2 credit may not be exchanged for any less than 75 percent of  
3 the credit's value.

4       (d) The transferee is subject to the same rights and  
5 limitations as the certified production company awarded the  
6 tax credit, except that the transferee may not sell or  
7 otherwise transfer the tax credit.

8       (e) A company that has entered into a contract to  
9 transfer a credit under this section shall provide the Office  
10 of Film and Entertainment with written notice of the transfer  
11 on a form approved by the Office of Tourism, Trade, and  
12 Economic Development and signed by the certified production  
13 and the transferee. The notice must be received by the office  
14 no more than 5 business days before the company transfers the  
15 credit and must describe the terms of the transfer and the  
16 intention of any purchaser to allocate payment for the film  
17 education program under paragraph (f) at the time the transfer  
18 is made.

19       (f) Fees collected under this paragraph are subject to  
20 specific appropriation by the Legislature. Each purchaser of a  
21 tax credit transferred under this subsection, except when the  
22 purchaser is an investor, investment company, or a company  
23 that is affiliated with the certified production, shall pay a  
24 fee equal to 5 percent of the total amount paid for the tax  
25 credit into the Grants and Donations Trust Fund administered  
26 by the Office of Tourism, Trade, and Economic Development for  
27 film education programs. Fifty percent of the fees collected  
28 under this paragraph must be made available to the Office of  
29 Film and Entertainment for the purpose described in s.  
30 288.1256. The remaining 50 percent of the fees collected under  
31 this paragraph must be provided to film and digital media

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1 programs at institutes of higher education in this state which  
 2 programs are approved by the Office of Film and Entertainment.  
 3 A purchaser who pays fees under this paragraph may choose the  
 4 approved film or digital media program to receive the funds. A  
 5 program receiving funds under this paragraph shall use the  
 6 funds to provide a grant toward production costs for a  
 7 student-made production that does not contain obscene content  
 8 as defined in s. 847.001(10).

9 (6) PRIORITY FOR ALLOCATION OF TAX CREDITS; WITHDRAWAL  
 10 OF ELIGIBILITY; QUEUES.--

11 (a) The priority of a qualified production for a tax  
 12 credit award must be determined on a first-come, first-served  
 13 basis within its appropriate queue. Each qualified production  
 14 must be placed into the appropriate queue and is subject to  
 15 the requirements of that queue.

16 (b) Each qualified production or certified production  
 17 shall continue on a reasonable schedule, which means beginning  
 18 principal photography in this state no more than 45 calendar  
 19 days before or after the date for such commencement which was  
 20 provided in the program's application under subsection (3).  
 21 The Office of Tourism, Trade, and Economic Development shall  
 22 withdraw the eligibility of a qualified production or a  
 23 certified production for a tax credit under this section if  
 24 any such production does not continue on a reasonable  
 25 schedule. The office shall recertify the tax credits within  
 26 the queue of any production from which eligibility is  
 27 withdrawn under this paragraph.

28 (c) At least 85 percent of all tax credits available  
 29 under this section in any state fiscal year must be dedicated  
 30 to the general production queue. Within this queue:

- 31 1. A qualified production, excluding commercials,

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1 music videos, and digital media projects, which demonstrates a  
 2 minimum of \$625,000 in qualified expenditures is eligible for  
 3 tax credits equal to 15 percent of its actual qualified  
 4 expenditures up to a maximum of \$8 million. A qualified  
 5 production spanning multiple state fiscal years may combine  
 6 qualified expenditures from such fiscal years to satisfy the  
 7 threshold.

8       2. A qualified production company that produces  
 9 national, international, or regional commercials, or music  
 10 videos may be eligible for a tax credit award if it  
 11 demonstrates a minimum of \$100,000 in qualified expenditures  
 12 per national, international, or regional commercial or music  
 13 video and exceeds a combined threshold of \$500,000 after  
 14 combining actual qualified expenditures from qualified  
 15 commercials and music videos during a single state fiscal  
 16 year. After a qualified production company that produces  
 17 commercials, music videos, or both reaches the threshold of  
 18 \$500,000, it is eligible to apply for certification for a tax  
 19 credit award. The maximum tax credit award is an amount that  
 20 is equal to the greater of 15 percent of its actual qualified  
 21 expenditures or \$500,000.

22       3. An off-season certified production is eligible for  
 23 an additional 5-percent tax credit on actual qualified  
 24 expenditures. An off-season certified production that does not  
 25 complete 75 percent of principal photography due to disruption  
 26 caused by a hurricane or tropical storm may not be  
 27 disqualified from eligibility for the additional 5-percent  
 28 credit as a result of the disruption.

29       4. All qualified expenditures of a certified  
 30 production that spans multiple state fiscal years must be  
 31 certified for the fiscal year in which the making of the last

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1 actual qualified expenditure is anticipated.

2       5. Each qualified production shall make a good faith  
3 effort to the existing providers of infrastructure or  
4 equipment in this state, including providers of camera gear,  
5 grip and lighting equipment, vehicle providers, and  
6 postproduction services when available in-state.

7       6. A qualified high-impact television series must be  
8 given first position in this queue for tax credits not yet  
9 certified.

10       (d) Five percent of all tax credits available under  
11 this section in any state fiscal year, but not more than \$2  
12 million in any state fiscal year, must be dedicated to the  
13 independent Florida filmmaker queue. An independent Florida  
14 film that meets the criteria of this queue and demonstrates a  
15 minimum of \$100,000, but not more than \$625,000, in total  
16 qualified expenditures is eligible for tax credits equal to 15  
17 percent of its actual qualified expenditures. Within this  
18 queue, all qualified expenditures of a certified production  
19 that spans multiple state fiscal years must be certified for  
20 the fiscal year in which the making of the last actual  
21 qualified expenditure is anticipated. To qualify for this  
22 queue, a qualified production must:

23       1. Be planned as a feature film or documentary of no  
24 less than 70 minutes in length.

25       2. Provide evidence of 50 percent of the financing for  
26 its total budget in an escrow account or other form dedicated  
27 to the production.

28       3. Do all major postproduction in this state.

29       4. Employ Florida workers in at least six of the  
30 following key positions: writer, director, producer, director  
31 of photography, star or one of the lead actors, unit

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1 production manager, editor, or production designer. As used in  
 2 this subparagraph, the term "Florida worker" means a person  
 3 who has been a resident of this state for at least 1 year  
 4 before a production's application under subsection (3) was  
 5 submitted or a person who graduated from a film school,  
 6 college, university, or community college in this state no  
 7 more than 5 years before such submittal or who is enrolled  
 8 full-time in such a school, college, or university.

9       (e) Ten percent of all tax credits available under  
 10 this section in any state fiscal year shall be dedicated to  
 11 the digital media projects queue. A qualified production that  
 12 is a digital media project that demonstrates a minimum of  
 13 \$300,000 in total qualified expenditures is eligible for a tax  
 14 credit equal to 10 percent of its actual qualified  
 15 expenditures up to a maximum of \$1 million. As used in this  
 16 paragraph, the term "qualified expenditures" means the wages  
 17 or salaries paid to a resident of this state for working on a  
 18 single qualified digital media project, up to a maximum of  
 19 \$200,000 in wages or salaries paid per resident. A qualified  
 20 production company producing digital media projects may not  
 21 qualify for more than three projects in any 1 fiscal year.  
 22 Projects that extend beyond a fiscal year must reapply each  
 23 fiscal year in order to be eligible for a tax credit award for  
 24 that year.

25       (7) RULES, POLICIES, AND PROCEDURES.--

26       (a) The Office of Tourism, Trade, and Economic  
 27 Development may adopt rules under ss. 120.536(1) and 120.54  
 28 and develop policies and procedures to administer this  
 29 section, including, but not limited to, rules specifying  
 30 requirements for the application and approval process, records  
 31 required for substantiation for tax credits, procedures for

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1 making the election in paragraph (4)(c), the manner and form  
 2 of documentation required to claim tax credits awarded or  
 3 transferred under this section, determination of,  
 4 qualification for, and certification for tax credits,  
 5 implementation of the Florida Graduate Film Investment Fund in  
 6 s. 288.1256, and marketing requirements for tax credit  
 7 recipients.

8 (b) The Department of Revenue may adopt rules under  
 9 ss. 120.536(1) and 120.54 to administer this section,  
 10 including rules governing the examination and audit procedures  
 11 required to administer this section and the manner and form of  
 12 documentation required to claim tax credits awarded or  
 13 transferred under this section.

14 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX  
 15 CREDITS; FRAUDULENT CLAIMS.--

16 (a) The Department of Revenue may conduct examinations  
 17 and audits as provided in s. 213.34 to verify that tax credits  
 18 under this section have been received, transferred, and  
 19 applied according to the requirements of this section. This  
 20 information is subject to the confidentiality requirements of  
 21 chapter 213. If the Department of Revenue determines that tax  
 22 credits have not been received, transferred, or applied as  
 23 required by this section, it may, in addition to the remedies  
 24 provided in this subsection, pursue recovery of such funds  
 25 under laws and rules governing the assessment of taxes.

26 (b) The Office of Tourism, Trade, and Economic  
 27 Development may revoke or modify any written decision  
 28 qualifying, certifying, or otherwise granting eligibility for  
 29 tax credits under this section if it is discovered that the  
 30 applicant submitted any false statement, representation, or  
 31 certification in any application, record, report, plan, or

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1 other document filed in an attempt to receive tax credits  
2 under this section. The Office of Film and Entertainment shall  
3 immediately notify the Department of Revenue of any revoked or  
4 modified orders affecting previously granted tax credits.  
5 Additionally, the applicant shall notify the Department of  
6 Revenue of any change in a claim it has filed for a tax credit  
7 under this section.

8 (c) A determination by the Department of Revenue, as a  
9 result of an audit or examination by the Department of Revenue  
10 or from information received from the Office of Film and  
11 Entertainment, that an applicant received tax credits under  
12 this section to which the applicant was not entitled is  
13 grounds for forfeiture of previously claimed and received tax  
14 credits. The applicant shall return any forfeited tax credits  
15 to the Department of Revenue, and such funds shall be  
16 deposited into the General Revenue Fund. Tax credits purchased  
17 in good faith are not subject to forfeiture, unless the  
18 transferee submitted fraudulent information in the purchase or  
19 if the transferee failed to meet the requirements in  
20 subsection (5).

21 (d) Any applicant who submits information under this  
22 section which includes fraudulent information is liable for  
23 reimbursement of the reasonable costs and fees associated with  
24 the review, processing, investigation, and prosecution of the  
25 fraudulent claim. An applicant that obtains a credit payment  
26 under this section through a claim that is fraudulent is  
27 liable for reimbursement of the credit amount claimed plus a  
28 penalty in an amount double the credit amount claimed and  
29 reimbursement of reasonable costs, which penalty is in  
30 addition to any criminal penalty to which the applicant is  
31 liable for the same acts. The applicant is also liable for

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1 costs and fees incurred by the state in investigating and  
2 prosecuting the fraudulent claim.

3 (9) ANNUAL REPORT.--Each October 1, the Office of Film  
4 and Entertainment shall provide an annual report for the  
5 previous fiscal year to the Governor, the President of the  
6 Senate, and the Speaker of the House of Representatives which  
7 outlines the return on investment to the state on funds  
8 expended under this section.

9 (10) REPEAL.--This section is repealed July 1, 2010,  
10 except that the tax credit carryforward provided in this  
11 section shall continue to be valid for the period specified.

12 Section 3. Section 288.1256, Florida Statutes, is  
13 created to read:

14 288.1256 Florida Graduate Film Investment Fund.--The  
15 Office of Film and Entertainment shall create and administer a  
16 program, using moneys deposited into the Grants and Donations  
17 Trust Fund under s. 288.1254(5)(f), to award a grant or a loan  
18 guarantee for films that are:

19 (1) Written, produced, and directed by residents of  
20 this state who are graduates of a film program at an  
21 institution of higher education in this state which is  
22 approved by the Office of Film and Entertainment;

23 (2) Determined by the Commissioner of Film and  
24 Entertainment, with the advice of the Florida Film and  
25 Entertainment Advisory Council, to be family friendly based on  
26 the review of the script and a personal interview with the  
27 director. A family friendly production has cross-generational  
28 appeal; is suitable for viewing by children age 5 and older;  
29 is appropriate in theme, content, and language for a broad  
30 family audience; embody a responsible resolution of issues;  
31 and does not exhibit any act of smoking, sex, nudity, or

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1 vulgar or profane language; and

2 (3) Determined by the Office of Film and Entertainment  
3 as not containing obscene content as defined by s.  
4 847.001(10).

5 Section 4. Paragraph (z) is added to subsection (8) of  
6 section 213.053, Florida Statutes, to read:

7 213.053 Confidentiality and information sharing.--

8 (8) Notwithstanding any other provision of this  
9 section, the department may provide:

10 (z) Information relative to tax credits taken under s.  
11 288.1254 to the Office of Film and Entertainment and the  
12 Office of Tourism, Trade, and Economic Development.

13  
14 Disclosure of information under this subsection shall be  
15 pursuant to a written agreement between the executive director  
16 and the agency. Such agencies, governmental or  
17 nongovernmental, shall be bound by the same requirements of  
18 confidentiality as the Department of Revenue. Breach of  
19 confidentiality is a misdemeanor of the first degree,  
20 punishable as provided by s. 775.082 or s. 775.083.

21 Section 5. Subsection (8) of section 220.02, Florida  
22 Statutes, is amended to read:

23 220.02 Legislative intent.--

24 (8) It is the intent of the Legislature that credits  
25 against either the corporate income tax or the franchise tax  
26 be applied in the following order: those enumerated in s.  
27 631.828, those enumerated in s. 220.191, those enumerated in  
28 s. 220.181, those enumerated in s. 220.183, those enumerated  
29 in s. 220.182, those enumerated in s. 220.1895, those  
30 enumerated in s. 221.02, those enumerated in s. 220.184, those  
31 enumerated in s. 220.186, those enumerated in s. 220.1845,

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1 those enumerated in s. 220.19, those enumerated in s. 220.185,  
 2 those enumerated in s. 220.187, those enumerated in s.  
 3 220.192, ~~and~~ those enumerated in s. 220.193, and those  
 4 enumerated in s. 288.1254.

5 Section 6. Paragraph (j) is added to subsection (5) of  
 6 section 288.1252, Florida Statutes, to read:

7 288.1252 Florida Film and Entertainment Advisory  
 8 Council; creation; purpose; membership; powers and duties.--

9 (5) POWERS AND DUTIES.--The Florida Film and  
 10 Entertainment Advisory Council shall have all the powers  
 11 necessary or convenient to carry out and effectuate the  
 12 purposes and provisions of this act, including, but not  
 13 limited to, the power to:

14 (j) Advise whether a film produced under s. 288.1256  
 15 meets the criteria delineated in that section.

16 Section 7. Section 288.1255, Florida Statutes, is  
 17 repealed.

18 Section 8. This act shall take effect July 1, 2007.

19  
 20

21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Delete everything before the enacting clause

24

25 and insert:

26 A bill to be entitled  
 27 An act relating to the entertainment industry;  
 28 amending s. 212.08, F.S., providing for  
 29 inclusion of the tax credits granted to certain  
 30 productions under s. 288.1254, F.S., in  
 31 exemptions to the sales tax; providing

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1 requirements and procedures concerning  
2 electronic funds transfer and deduction of the  
3 credit; amending s. 288.1254, F.S.; revising  
4 the entertainment industry financial incentive  
5 program to allow a credit against corporate  
6 income taxes and sales and use taxes to  
7 qualified entertainment entities rather than  
8 reimbursements from appropriations; providing  
9 definitions; creating the program within the  
10 Office of Film and Entertainment; providing  
11 purpose of the program; providing for submittal  
12 and approval of an application under the  
13 program; providing for review by the Office of  
14 Film and Entertainment, the Office of Tourism,  
15 Trade, and Economic Development, and the  
16 Department of Revenue; providing standards for  
17 review; providing for verification of which  
18 expenditures concerning an entertainment  
19 production qualify for a tax credit under the  
20 program; requiring various determinations by  
21 the Office of Film and Entertainment, the  
22 Office of Tourism, Trade, and Economic  
23 Development, and the Department of Revenue  
24 concerning the verification or award of the tax  
25 credit; requiring inclusion of marketing  
26 materials promoting this state as a condition  
27 of receiving a tax credit; providing criteria  
28 concerning eligibility for the tax credit;  
29 providing for the total aggregate amount  
30 available for tax credits; providing for use or  
31 transfer of the tax credit; providing for

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1 carryover of the tax credit in certain  
2 circumstances; providing for use of the tax  
3 credit in a consolidated return; providing for  
4 distribution of the tax credit to partners in  
5 certain circumstances; providing for succession  
6 of tax credits; providing requirements  
7 concerning transfer of tax credits; requiring  
8 certain recipients of transferred tax credits  
9 to pay a fee; providing for deposit of such  
10 fees to the Grants and Donations Trust Fund;  
11 providing for use of funds so deposited for  
12 grants concerning film education; providing  
13 priorities for allocation of tax credits;  
14 providing for withdrawal of tax credit  
15 eligibility; establishing queues; specifying  
16 requirements concerning each queue; authorizing  
17 the Office of Tourism, Trade, and Economic  
18 Development to adopt rules, policies, and  
19 procedures; authorizing the Department of  
20 Revenue to adopt rules and conduct audits;  
21 providing for revocation and forfeiture of tax  
22 credits; providing liability for reimbursement  
23 of certain costs and fees associated with a  
24 fraudulent claim concerning a tax credit;  
25 requiring an annual report to the Governor and  
26 the Legislature; providing for future repeal;  
27 creating s. 288.1256, F.S.; requiring the  
28 Office of Film and Entertainment to use  
29 specified funds to award a grant or loan  
30 guarantee for films meeting specified criteria;  
31 amending s. 213.053, F.S.; providing for

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1 disclosure by the Department of Revenue of  
2 certain information concerning the tax credits  
3 granted under s. 288.1254, F.S., under certain  
4 conditions; amending s. 220.02, F.S.; including  
5 the corporate income tax credits enumerated in  
6 s. 288.1254, F.S., in the order of application  
7 of credits against certain taxes; amending s.  
8 288.1252, F.S.; providing additional duties of  
9 the Florida Film and Entertainment Advisory  
10 Council; repealing s. 288.1255, F.S., relating  
11 to funding for the entertainment industry  
12 financial incentive program; providing an  
13 effective date.

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