

By Senator Ring

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1 A bill to be entitled
2 An act relating to the entertainment industry;
3 amending s. 288.1254, F.S.; renaming the entertainment
4 industry financial incentive program as the
5 entertainment industry financial incentive and tax
6 credit program; revising the program to provide
7 qualified entertainment entities with a choice of
8 corporate income tax and sales and use tax credits or
9 reimbursement from appropriations; revising provisions
10 relating to definitions, creation and scope,
11 application procedures, approval process, eligibility,
12 required documents, qualified and certified
13 productions, queues, fraud, and annual reports;
14 providing duties and responsibilities of the Office of
15 Film and Entertainment, the Office of Tourism, Trade,
16 and Economic Development, and the Department of
17 Revenue relating to the tax credits; providing
18 criteria and limitations for awards of tax credits;
19 providing a total amount available for tax credits;
20 providing for uses, allocations, election,
21 distributions, and carryforward of the tax credits;
22 providing for use of consolidated returns; providing
23 for partnerships and noncorporate distributions of tax
24 credits; providing for succession of tax credits;
25 providing requirements for transfer of tax credits;
26 requiring a purchaser of transferred tax credits to
27 pay a percentage of the amount paid to fund specified
28 film education grants; providing priority allocation
29 of financial incentive and tax credits; providing for

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30 withdrawal of tax credit eligibility; authorizing the
31 Office of Tourism, Trade, and Economic Development to
32 adopt rules, policies, and procedures; authorizing the
33 Department of Revenue to adopt rules and conduct
34 audits; providing for revocation and forfeiture of tax
35 credits; providing liability for reimbursement of
36 certain costs and fees associated with a fraudulent
37 claim; providing for future expiration of tax credit
38 authorization except for carryforward of tax credits
39 authorized prior to that date; creating s. 288.1256,
40 F.S.; establishing the Florida Graduate Film
41 Investment Program; requiring administration by the
42 Office of Film and Entertainment; providing for
43 deposit of funds; requiring that funds be used for
44 certain family friendly films; amending s. 288.1252,
45 F.S.; requiring the Florida Film and Entertainment
46 Advisory Council to advise on films produced under the
47 Florida Graduate Film Investment Program; amending s.
48 220.13, F.S.; including a portion of the entertainment
49 industry tax credit, as provided in s. 288.1254, F.S.,
50 for the purpose of calculating a taxpayer's net
51 income; amending s. 220.02, F.S.; including tax
52 credits enumerated in s. 288.1254, F.S., in the order
53 of application of credits against certain taxes;
54 amending s. 213.053, F.S.; authorizing the Department
55 of Revenue to provide tax credit information to the
56 Office of Film and Entertainment and the Office of
57 Tourism, Trade, and Economic Development; amending s.
58 212.08, F.S.; requiring electronic funds transfer for

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59 the entertainment industry tax credit; providing
60 procedures; providing rulemaking authority; providing
61 for severability; providing an effective date.

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. Section 288.1254, Florida Statutes, is amended
66 to read:

67 288.1254 Entertainment industry financial incentive and tax
68 credit program.—

69 (1) DEFINITIONS.—As used in this section, the term:

70 (a) "Certified production" means a qualified production
71 that has financial incentive funds allocated or tax credits
72 awarded to it by the Office of Tourism, Trade, and Economic
73 Development based on its estimated qualified expenditures. The
74 term excludes a production if its first day of principal
75 photography in this state occurred before the production is
76 certified by the Office of Tourism, Trade, and Economic
77 Development, unless the production spans more than 1 fiscal
78 year, was a certified production on the first day of such
79 photography, and is required to submit an application for
80 continuing the same production in the subsequent year.

81 (b) "Certified production company" means a qualified
82 production company that has received a financial incentive
83 allocation or a tax credit award for a certified production.

84 (c) ~~(b)~~ "Digital media project" means a production of
85 interactive entertainment which is produced for distribution in
86 commercial or educational markets, including a video game,
87 simulation, or animation, or a production intended for Internet

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88 or wireless distribution. The term excludes a production deemed
89 by the Office of Film and Entertainment to contain obscene
90 content as defined in s. 847.001(10).

91 (d) "Financial incentive," "financial incentive payment,"
92 or "incentive funding" means a monetary reimbursement for
93 qualified expenditures based upon legislative appropriation.

94 (e)-(d) "High-impact television series" means a production
95 created to run multiple production seasons having an estimated
96 order of at least seven episodes per season and qualified
97 expenditures of at least \$625,000 per episode.

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

102 (g)-(e) "Production" means a theatrical, or direct-to-video,
103 or motion picture; a made-for-television motion picture; a
104 commercial; a music video; an industrial or educational film; an
105 infomercial; a documentary film; a television pilot program,
106 including; a presentation for a television pilot program; a
107 television series, including, but not limited to, a drama, a
108 reality show, a comedy, a soap opera, a telenovela, a game show,
109 or a miniseries production; or a digital media project by the
110 entertainment industry. One season of a television series is
111 considered one production. The term excludes a weather or market
112 program; a sporting event; a sports show; a gala; a production
113 that solicits funds; a home shopping program; a political
114 program; a political documentary; political advertising; a
115 gambling-related project or production; a concert production; a
116 pornographic production; or a local, regional, or Internet-

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117 distributed-only news show, current-events show, pornographic
118 production, or current-affairs show. A production may be
119 produced on or by film, tape, or otherwise by means of a motion
120 picture camera; electronic camera or device; tape device;
121 computer; any combination of the foregoing; or any other means,
122 method, or device now used or later adopted.

123 (h)~~(f)~~ "Production expenditures" means the costs of
124 tangible and intangible property used and services performed
125 primarily and customarily in the production, including
126 preproduction and postproduction, excluding costs for
127 development, marketing, and distribution. Production
128 expenditures include, but are not limited to:

129 1. Wages, salaries, or other compensation, including
130 amounts paid through payroll service companies, for technical
131 and production crews, directors, producers, and performers.

132 2. Expenditures for sound stages, backlots, production
133 editing, digital effects, sound recordings, sets, and set
134 construction.

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

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

138 (i)~~(g)~~ "Qualified expenditures" means production
139 expenditures incurred in this state by a qualified production
140 for:

141 1. Goods purchased or leased from, or services provided by,
142 a vendor or supplier in this state which is registered with the
143 Department of State or the Department of Revenue and doing
144 business in this state.

145 2. Payments to residents of this state in the form of

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146 salary, wages, or other compensation up to a maximum of \$400,000
147 per resident for the general production queue and the
148 independent Florida filmmaker queue and up to a maximum of
149 \$200,000 for the digital media queue.

150

151 For a qualified production involving an event, such as an awards
152 show, the term excludes expenditures solely associated with the
153 event itself and not directly required by the production. The
154 term excludes expenditures prior to certification, with the
155 exception of those incurred for a commercial, a music video, or
156 the pickup of additional episodes of a television series within
157 a single season.

158 (j)~~(h)~~ "Qualified production" means a production in this
159 state meeting the requirements of this section and the minimum
160 qualified expenditures and requirements of its appropriate
161 queue. The term excludes a production:

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

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

171 (k)~~(i)~~ "Qualified production company" means a corporation,
172 limited liability company, partnership, or other legal entity
173 engaged in producing a qualified production.

174 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment

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175 industry financial incentive and tax credit program is created
176 within the Office of Film and Entertainment. The purpose of this
177 program is to encourage the use of this state as a site for
178 filming and to develop and sustain the workforce and
179 infrastructure for film and entertainment production.

180 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

181 (a) A qualified production company in this state producing
182 a qualified production may submit a program application to the
183 Office of Film and Entertainment for the purpose of determining
184 certification for a financial incentive or for an award of tax
185 credits authorized by this section. The applicant shall provide
186 the office with information required to determine whether the
187 production is a qualified production and to determine the
188 qualified expenditures and other information necessary for the
189 office to determine certification.

190 (b) The Office of Film and Entertainment shall develop an
191 application form for use in qualifying an applicant as a
192 qualified production. The form must include, but need not be
193 limited to, production-related information concerning employment
194 of residents in this state, a detailed budget of planned
195 qualified expenditures, and the applicant's signed affirmation
196 that the information on the form has been verified and is
197 correct. The Office of Film and Entertainment and local film
198 commissions shall distribute the form.

199 (c) The Office of Film and Entertainment shall establish a
200 process by which an application is accepted and reviewed for
201 certification for a financial incentive or for tax credit
202 eligibility and by which the amount of the financial incentive
203 or tax credit award is determined. The office may request

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204 assistance from a duly appointed local film commission in
205 determining qualification for the financial incentive allocation
206 or tax credit award and compliance with this section.

207 (d) The Office of Film and Entertainment shall review the
208 application within 10 business days after receipt. Upon its
209 determination that the application contains all the information
210 required by this subsection and meets the criteria set out in
211 this section, the office shall qualify the applicant and
212 recommend to the Office of Tourism, Trade, and Economic
213 Development that the applicant for a financial incentive be
214 certified for a maximum amount of available funds and that the
215 applicant for a tax credit be certified for the tax credit and
216 for a maximum tax credit award amount. Within 5 business days
217 after receipt of the recommendation, the Office of Tourism,
218 Trade, and Economic Development shall reject the recommendation
219 or certify the applicant and shall certify the maximum
220 recommended tax credit award, if any, to the applicant and to
221 the executive director of the Department of Revenue.

222 (e) The Office of Film and Entertainment shall deny an
223 application if it determines that the application is not
224 complete or the production or the tax credit sought does not
225 meet the requirements of this section.

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

229 1. A certified production to submit, in a timely manner
230 after production ends and after making all of its qualified
231 expenditures, data substantiating each qualified expenditure to
232 an independent certified public accountant licensed in this

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233 state;

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

239 3. The Office of Film and Entertainment to review the
240 accountant's submittal and report to the Office of Tourism,
241 Trade, and Economic Development the final verified amount of
242 actual qualified expenditures made by the certified production.

243 (g)1.4. The Office of Tourism, Trade, and Economic
244 Development shall determine and approve the incentive amount or
245 the final amount of the tax credit award for ~~to~~ each certified
246 applicant. The Office of Tourism, Trade, and Economic
247 Development shall then notify the executive director of the
248 Department of Revenue that the certified production has met the
249 requirements of the financial incentive and tax credit program.

250 2. The Office of Tourism, Trade, and Economic Development
251 shall award all tax credits for the previous year by September
252 30.

253 (h) ~~(g)~~ The Office of Film and Entertainment shall ensure
254 that, as a condition of receiving incentive funding or a tax
255 credit under this section, marketing materials promoting this
256 state as a tourist destination or film and entertainment
257 production destination are included, when appropriate, at no
258 cost to the state, which must, at a minimum, include placement
259 in the end credits of a "Filmed in Florida" logo with size and
260 placement commensurate to other logos included in the end
261 credits or, if no logos are used, the statement "Filmed in

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262 Florida using Florida's Entertainment Industry Financial
263 Incentive," or a similar statement approved by the Office of
264 Film and Entertainment before such placement. The Office of Film
265 and Entertainment shall develop a "Filmed in Florida" logo and
266 supply it for the purposes specified in this paragraph.

267 (4) TAX CREDIT ELIGIBILITY; ELECTION AND DISTRIBUTION;
268 CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE
269 DISTRIBUTIONS; MERGERS OR ACQUISITIONS.-

270 (a) Tax credit authorization.-For fiscal years beginning on
271 or after July 1, 2009, and ending June 30, 2012, a qualified
272 production is eligible for a tax credit against taxes due under
273 chapter 220 or taxes collected or accrued under chapter 212.

274 (b) Total tax credit.-The total amount of tax credits that
275 may be awarded under this section is \$75 million, allocated \$25
276 million each fiscal year the incentive remains in effect. If the
277 total amount of allocated credits applied for in any fiscal year
278 exceeds the aggregate amount of tax credits allowed for such
279 year under this section, such excess shall be treated as having
280 been applied for on the first day of the next fiscal year in
281 which credits are available. In any fiscal year, tax credits
282 that are not awarded or that are forfeited due to the withdrawal
283 of a certified production or to a production's actual qualified
284 expenditures being less than the certified amount shall be
285 available for award in subsequent fiscal years.

286 (c) Election and distribution of tax credits.-A certified
287 production company receiving a tax credit award under this
288 section shall, at the time the credit is awarded by the Office
289 of Tourism, Trade, and Economic Development after production is
290 completed and all requirements to receive a credit award have

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291 been met, make an irrevocable election to apply the credit
292 against taxes due under chapter 220, against taxes collected or
293 accrued under chapter 212, or against a stated combination of
294 the two taxes. The election shall be binding upon any
295 distributee, successor, transferee, or purchaser. The Office of
296 Tourism, Trade, and Economic Development shall notify the
297 Department of Revenue of any election made pursuant to this
298 paragraph within 5 business days of such election.

299 (d) Tax credit carryforward.—If the certified production
300 company cannot use the entire tax credit in the taxable year or
301 reporting period in which the credit is awarded because of
302 insufficient tax liability on the part of the certified
303 production company, any excess amount may be carried forward to
304 a succeeding taxable year or reporting period. A tax credit
305 applied against taxes imposed under chapter 212 may be carried
306 forward for a maximum of 5 years following the date of award,
307 after which period the credit expires and may not be used. A tax
308 credit applied against taxes imposed under chapter 220 may be
309 carried forward for a maximum of 5 taxable years following the
310 qualified production company's taxable year in which the credit
311 was awarded, after which period the credit expires and may not
312 be used.

313 (e) Consolidated returns.—A certified production company
314 that files a Florida consolidated return as a member of an
315 affiliated group under s. 220.131(1) may be allowed the tax
316 credit on a consolidated return basis up to the amount of the
317 tax imposed upon the consolidated group under chapter 220.

318 (f) Partnership and noncorporate distributions.—A qualified
319 production company that is not a corporation as defined in s.

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320 220.03 may elect to distribute tax credits awarded under this
321 section to its partners or members in proportion to their
322 respective distributive income or loss in the taxable year in
323 which the tax credits were awarded.

324 (g) Mergers or acquisitions.—Tax credits available under
325 this section to a certified production company may succeed to a
326 surviving or acquiring entity subject to the same conditions and
327 limitations as described in this section; however, they may not
328 be transferred again by the surviving or acquiring entity.

329 (5) TRANSFER OF TAX CREDITS.—

330 (a) Authorization.—Upon application to the Office of Film
331 and Entertainment and approval by the Office of Tourism, Trade,
332 and Economic Development, a certified production company, or a
333 partner or member that has received a distribution under
334 paragraph (4) (f), may elect to transfer, in whole or in part,
335 any unused tax credit amount granted under this section. An
336 election to transfer any unused tax credit amount under chapter
337 212 or chapter 220 must be made no later than 5 years from the
338 date the credit was awarded, after which period the credit
339 expires and may not be used. The Office of Tourism, Trade, and
340 Economic Development shall notify the Department of Revenue of
341 the election and transfer within 5 business days of such
342 election and transfer.

343 (b) Number of transfers permitted.—A certified production
344 company that has elected to apply a credit amount against taxes
345 remitted under chapter 212 is permitted a one-time transfer of
346 unused credits to one transferee. A certified production company
347 that has elected to apply a credit amount against taxes due
348 under chapter 220 is permitted a one-time transfer of unused

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349 credits to no more than four transferees, and such transfers
350 shall occur in the same taxable year.

351 (c) Minimum consideration.—The transfer or purchase of any
352 amount of the tax credit shall not be exchanged for less than 75
353 percent of the credit's value.

354 (d) Transferee rights and limitations.—The transferee is
355 subject to the same rights and limitations as the certified
356 production company awarded the tax credit, except that the
357 transferee may not sell or otherwise transfer the tax credit.

358 (e) Written contractual notice.—No later than 3 business
359 days prior to the certified production company's election to
360 transfer its awarded tax credit, the Office of Film and
361 Entertainment shall receive written contractual notice, on a
362 form approved by the Office of Tourism, Trade, and Economic
363 Development and signed by both the certified production company
364 and the transferee, describing the terms of the transfer and the
365 intention of any purchaser to allocate payment for the film
366 education program under paragraph (f) at the time the transfer
367 is made.

368 (f) Film education fee.—

369 1. A purchaser of any transferred tax credit under this
370 subsection shall pay an amount equal to 5 percent of the total
371 amount paid for the tax credit into the Grants and Donations
372 Trust Fund within the Executive Office of the Governor for use
373 by the Office of Film and Entertainment within the Office of
374 Tourism, Trade, and Economic Development for film education
375 programs. The fees collected under this paragraph shall be
376 subject to specific appropriation by the Legislature.

377 a. Fifty percent of the fee collected under this paragraph

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378 shall be made available to the Office of Film and Entertainment
379 for the purpose described in s. 288.1256.

380 b. Fifty percent of the fee collected under this paragraph
381 shall be transferred and provided to film and digital media
382 programs at Florida institutions of higher education approved by
383 the Office of Film and Entertainment to be applied as a grant
384 toward production costs for a student-made production. To be
385 eligible for this grant, a student-made production may not
386 contain obscene content as defined in s. 847.001(10). The
387 recipient of the transfer may choose the approved film or
388 digital media program to receive these funds.

389 2. This paragraph shall not apply to the transfer of tax
390 credits to an affiliated company of the certified production.

391 (6)-(4) PRIORITY FOR INCENTIVE FUNDING AND ALLOCATION OF TAX
392 CREDITS; WITHDRAWAL OF ELIGIBILITY; QUEUES.-

393 (a) Priority for incentive funding and tax credit awards.-
394 The priority of a qualified production for incentive funding or
395 a tax credit award must be determined on a first-come, first-
396 served basis within its appropriate queue. Each qualified
397 production must be placed into the appropriate queue and is
398 subject to the requirements of that queue.

399 (b)-(e) Withdrawal of eligibility Schedule.-Each qualified
400 production or certified production shall continue on a
401 reasonable schedule, which means beginning principal photography
402 in this state no more than 45 calendar days before or after the
403 date provided in the production's program ~~program's~~ application
404 under subsection (3). The Office of Tourism, Trade, and Economic
405 Development shall withdraw the eligibility of a qualified
406 production or a certified production for incentive funding or a

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407 tax credit award if any such production does not continue on a
408 reasonable schedule. The office shall recertify the tax credits
409 to the next qualified or certified production or productions in
410 the respective queue that have not been certified for their full
411 maximum award and have not started principal photography before
412 the tax credits become available.

413 (c)-(b) General production queue.—Eighty-five percent of
414 incentive funding appropriated or of all tax credits awarded
415 under this section in any state fiscal year must be dedicated to
416 the general production queue. A production certified under this
417 queue is eligible for a reimbursement or a tax credit award
418 equal to 15 percent of its actual qualified expenditures. Within
419 this queue:

420 1. A qualified production, excluding commercials, music
421 videos, and digital media projects, which demonstrates a minimum
422 of \$625,000 in qualified expenditures is eligible for up to a
423 maximum of \$8 million in incentive funding or a tax credit
424 award. A qualified production spanning multiple state fiscal
425 years may combine qualified expenditures from such fiscal years
426 to satisfy the threshold.

427 2. A qualified production company that produces national,
428 international, or regional commercials, or music videos may be
429 eligible for a maximum of \$500,000 in incentive funding or a tax
430 credit award if it demonstrates a minimum of \$100,000 in
431 qualified expenditures per national, international, or regional
432 commercial or music video and exceeds a combined threshold of
433 \$500,000 after combining actual qualified expenditures from
434 qualified commercials and music videos during a single state
435 fiscal year. After a qualified production company that produces

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436 commercials, music videos, or both reaches the threshold of
437 \$500,000, it is eligible to apply for certification for
438 incentive funding or a tax credit award.

439 3. An off-season certified production is eligible for an
440 additional 5-percent incentive funding or tax credit award on
441 actual qualified expenditures. An off-season certified
442 production that does not complete 75 percent of principal
443 photography due to disruption caused by a hurricane or tropical
444 storm may not be disqualified from eligibility for the
445 additional 5-percent incentive or tax credit award as a result
446 of the disruption.

447 4. Each qualified production shall make a good faith effort
448 to use existing providers of infrastructure or equipment in this
449 state, including providers of camera gear, grip and lighting
450 equipment, vehicle providers, and postproduction services when
451 available in-state.

452 5. A qualified high-impact television series shall be
453 allowed first position in this queue for incentive funding or
454 tax credits not yet certified.

455 (d) ~~(e)~~ *Independent Florida filmmaker queue.*—Five percent of
456 incentive funding appropriated or tax credits available under
457 this section in any state fiscal year must be dedicated to the
458 independent Florida filmmaker queue. A production certified
459 under this queue is eligible for a financial incentive or tax
460 credit award ~~reimbursement~~ equal to 15 percent of its actual
461 qualified expenditures. An independent Florida film that meets
462 the criteria of this queue and demonstrates a minimum of
463 \$100,000, but not more than \$625,000, in total qualified
464 expenditures is eligible for incentive funding or a tax credit

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465 award. To qualify for this queue, a qualified production must:

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

468 2. Provide evidence of 50 percent of the financing for its
469 total budget in an escrow account or other form dedicated to the
470 production.

471 3. Do all major postproduction in this state.

472 4. Employ Florida workers in at least six of the following
473 key positions: writer, director, producer, director of
474 photography, star or one of the lead actors, unit production
475 manager, editor, or production designer. As used in this
476 subparagraph, the term "Florida worker" means a person who has
477 been a resident of this state for at least 1 year before a
478 production's application under subsection (3) was submitted or a
479 person who graduated from a film school, college, university, or
480 community college in this state no more than 5 years before such
481 submittal or who is enrolled full-time in such a school,
482 college, or university.

483 (e)~~(d)~~ *Digital media projects queue.*—Ten percent of
484 incentive funding appropriated or tax credits available under
485 this section in any state fiscal year shall be dedicated to the
486 digital media projects queue. A production certified under this
487 queue is eligible for a financial incentive or tax credit award
488 ~~reimbursement~~ equal to 10 percent of its actual qualified
489 expenditures. A qualified production that is a digital media
490 project that demonstrates a minimum of \$300,000 in total
491 qualified expenditures is eligible for a maximum of \$1 million
492 in incentive funding or a tax credit award. As used in this
493 paragraph, the term "qualified expenditures" means the wages or

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494 salaries paid to a resident of this state for working on a
495 single qualified digital media project, up to a maximum of
496 \$200,000 in wages or salaries paid per resident. A qualified
497 production company producing digital media projects may not
498 qualify for more than three projects in any 1 fiscal year.
499 Projects that extend beyond a fiscal year must reapply each
500 fiscal year in order to be eligible for incentive funding or a
501 tax credit award for that year.

502 (f) *Family-friendly productions.*—A certified production
503 determined by the Commissioner of Film and Entertainment, with
504 the advice of the Florida Film and Entertainment Advisory
505 Council, to be family friendly based on the review of the script
506 and an interview with the director is eligible for an additional
507 financial incentive or tax credit award ~~reimbursement~~ equal to 2
508 percent of its actual qualified expenditures. Family-friendly
509 productions are those that have cross-generational appeal; would
510 be considered suitable for viewing by children age 5 and older;
511 are appropriate in theme, content, and language for a broad
512 family audience; embody a responsible resolution of issues; and
513 do not exhibit any act of smoking, sex, nudity, or vulgar or
514 profane language.

515 (g) *Productions in partnership with postsecondary education*
516 programs.—A certified production determined by the Commissioner
517 of Film and Entertainment to have partnered with a state public
518 postsecondary film-and-entertainment-related educational program
519 in the production is eligible for an additional financial
520 incentive or tax credit of 10 percent of its actual qualified
521 expenditures. Productions in partnership with such postsecondary
522 educational programs are those that provide opportunities for

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523 students through internships or in other capacities that will
524 assist students in their educational responsibilities and in
525 preparation for their future positions in the film and
526 entertainment industry upon graduation.

527 (7)~~(5)~~ RULES, POLICIES, AND PROCEDURES.—

528 (a) The Office of Tourism, Trade, and Economic Development
529 may adopt rules under ss. 120.536(1) and 120.54 and develop
530 policies and procedures to administer this section, including,
531 but not limited to, rules specifying requirements for the
532 application and approval process; records required for
533 substantiation for incentive funding and tax credit awards;
534 procedures for making the election in paragraph (4)(c); the
535 manner and form of documentation required to claim tax credits
536 awarded or transferred under this section; the determination of,
537 qualification for, and certification for tax credits; the
538 implementation of the Florida Graduate Film Investment Program
539 in s. 288.1256; and marketing requirements for tax credit
540 recipients.

541 (b) The Department of Revenue may adopt rules pursuant to
542 ss. 120.536(1) and 120.54 prescribing the forms and
543 documentation needed to substantiate a claim for the tax credit
544 and the specific procedures and guidelines for claiming the tax
545 credit awarded or transferred under this section.

546 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
547 CREDITS; FRAUDULENT CLAIMS.—

548 (a) *Audit authority.*—The Department of Revenue may conduct
549 examinations and audits as provided in s. 213.34 to verify that
550 tax credits under this section have been received, transferred,
551 and applied according to the requirements of this section. If

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552 the Department of Revenue determines that tax credits have not
553 been received, transferred, or applied as required by this
554 section, it may, in addition to the remedies provided in this
555 subsection, pursue recovery of such funds pursuant to the laws
556 and rules governing the assessment of taxes.

557 (b) Revocation of tax credits.—The Office of Tourism,
558 Trade, and Economic Development may revoke or modify any written
559 decision qualifying, certifying, or otherwise granting
560 eligibility for tax credits under this section if it is
561 discovered that the tax credit applicant submitted any false
562 statement, representation, or certification in any application,
563 record, report, plan, or other document filed in an attempt to
564 receive tax credits under this section. The Office of Tourism,
565 Trade, and Economic Development shall immediately notify the
566 Department of Revenue of any revoked or modified orders
567 affecting previously certified tax credits.

568 (c) Forfeiture of tax credits.—A determination by the
569 Department of Revenue, as a result of an audit or examination by
570 the Department of Revenue or from information received from the
571 Office of Film and Entertainment, that an applicant received tax
572 credits pursuant to this section to which the applicant was not
573 entitled is grounds for forfeiture of previously claimed and
574 awarded tax credits. The applicant is responsible for
575 immediately returning forfeited tax credits to the Department of
576 Revenue, together with the appropriate interest and penalty,
577 computed from the date of receipt of such credits, and such
578 funds shall be paid into the General Revenue Fund of the state.
579 Tax credits purchased in good faith are not subject to
580 forfeiture unless the transferee submitted fraudulent

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581 information in the purchase or failed to meet the requirements
582 in subsection (5). The Department of Revenue shall immediately
583 notify the Office of Tourism, Trade, and Economic Development of
584 the forfeiture of previously claimed and awarded tax credits.

585 (d) ~~(7)~~ *Fraudulent claims* FRAUD.—Any applicant that submits
586 information under this section that includes fraudulent
587 information is liable for reimbursement of the reasonable costs
588 and fees associated with the review, processing, investigation,
589 and prosecution of the fraudulent claim. An applicant that
590 obtains a financial an incentive payment or a tax credit amount
591 under this section through a claim that is fraudulent is liable
592 for reimbursement of the financial incentive payment or tax
593 credit amount plus a penalty in an amount double the financial
594 incentive payment or the tax credit amount claimed and
595 reimbursement of reasonable costs. The penalty is in addition to
596 any criminal penalty to which the applicant is liable for the
597 same acts. The applicant is also liable for costs and fees
598 incurred by the state in investigating and prosecuting the
599 fraudulent claim.

600 (9) ~~(6)~~ ANNUAL REPORT.—Each October 1, the Office of Film
601 and Entertainment shall provide an annual report for the
602 previous fiscal year to the Governor, the President of the
603 Senate, and the Speaker of the House of Representatives which
604 outlines the return on investment and economic benefits to the
605 state on funds expended pursuant to this section.

606 (10) TAX CREDIT EXPIRATION.—On July 1, 2012, tax credits
607 under this section may no longer be authorized, except that the
608 tax credit carryforward provided for in this section shall
609 continue to be valid for the period specified.

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610 Section 2. Section 288.1256, Florida Statutes, is created
611 to read:

612 288.1256 Florida Graduate Film Investment Program.—

613 (1) The Office of Film and Entertainment shall create and
614 administer a program, using moneys deposited into the Grants and
615 Donations Trust Fund of the Executive Office of the Governor
616 pursuant to s. 288.1254(5) (f), to award either a grant or a loan
617 guarantee for films that are:

618 (a) Written, produced, and directed by Florida residents
619 who are graduates of an Office of Film and Entertainment
620 approved film program at a Florida institution of higher
621 education; and

622 (b) Determined by the Commissioner of Film and
623 Entertainment, with the advice of the Florida Film and
624 Entertainment Advisory Council, to be family friendly based on
625 the review of the script and a personal interview with the
626 director. Family friendly productions are those that have cross-
627 generational appeal; would be considered suitable for viewing by
628 children age 5 and older; are appropriate in theme, content, and
629 language for a broad family audience; embody a responsible
630 resolution of issues; and do not exhibit any act of smoking,
631 sex, nudity, or vulgar or profane language.

632 (2) Films that are deemed by the Office of Film and
633 Entertainment to contain obscene content as defined in s.
634 847.001(10) are not eligible for this program.

635 Section 3. Paragraph (j) is added to subsection (5) of
636 section 288.1252, Florida Statutes, to read:

637 288.1252 Florida Film and Entertainment Advisory Council;
638 creation; purpose; membership; powers and duties.—

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639 (5) POWERS AND DUTIES.—The Florida Film and Entertainment
640 Advisory Council shall have all the powers necessary or
641 convenient to carry out and effectuate the purposes and
642 provisions of this act, including, but not limited to, the power
643 to:

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

646 Section 4. Paragraph (a) of subsection (1) of section
647 220.13, Florida Statutes, is amended to read:

648 220.13 "Adjusted federal income" defined.—

649 (1) The term "adjusted federal income" means an amount
650 equal to the taxpayer's taxable income as defined in subsection
651 (2), or such taxable income of more than one taxpayer as
652 provided in s. 220.131, for the taxable year, adjusted as
653 follows:

654 (a) *Additions*.—There shall be added to such taxable income:

655 1. The amount of any tax upon or measured by income,
656 excluding taxes based on gross receipts or revenues, paid or
657 accrued as a liability to the District of Columbia or any state
658 of the United States which is deductible from gross income in
659 the computation of taxable income for the taxable year.

660 2. The amount of interest which is excluded from taxable
661 income under s. 103(a) of the Internal Revenue Code or any other
662 federal law, less the associated expenses disallowed in the
663 computation of taxable income under s. 265 of the Internal
664 Revenue Code or any other law, excluding 60 percent of any
665 amounts included in alternative minimum taxable income, as
666 defined in s. 55(b)(2) of the Internal Revenue Code, if the
667 taxpayer pays tax under s. 220.11(3).

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668 3. In the case of a regulated investment company or real
669 estate investment trust, an amount equal to the excess of the
670 net long-term capital gain for the taxable year over the amount
671 of the capital gain dividends attributable to the taxable year.

672 4. That portion of the wages or salaries paid or incurred
673 for the taxable year which is equal to the amount of the credit
674 allowable for the taxable year under s. 220.181. This
675 subparagraph shall expire on the date specified in s. 290.016
676 for the expiration of the Florida Enterprise Zone Act.

677 5. That portion of the ad valorem school taxes paid or
678 incurred for the taxable year which is equal to the amount of
679 the credit allowable for the taxable year under s. 220.182. This
680 subparagraph shall expire on the date specified in s. 290.016
681 for the expiration of the Florida Enterprise Zone Act.

682 6. The amount of emergency excise tax paid or accrued as a
683 liability to this state under chapter 221 which tax is
684 deductible from gross income in the computation of taxable
685 income for the taxable year.

686 7. That portion of assessments to fund a guaranty
687 association incurred for the taxable year which is equal to the
688 amount of the credit allowable for the taxable year.

689 8. In the case of a nonprofit corporation which holds a
690 pari-mutuel permit and which is exempt from federal income tax
691 as a farmers' cooperative, an amount equal to the excess of the
692 gross income attributable to the pari-mutuel operations over the
693 attributable expenses for the taxable year.

694 9. The amount taken as a credit for the taxable year under
695 s. 220.1895.

696 10. Up to nine percent of the eligible basis of any

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697 designated project which is equal to the credit allowable for
698 the taxable year under s. 220.185.

699 11. The amount taken as a credit for the taxable year under
700 s. 220.187.

701 12. The amount taken as a credit for the taxable year under
702 s. 220.192.

703 13. The amount taken as a credit for the taxable year under
704 s. 220.193.

705 14. Any amount in excess of \$25,000 allowable as a
706 deduction for federal income tax purposes under s. 179 of the
707 Internal Revenue Code of 1986, as amended, for the taxable year.

708 15. Any amount allowable as a deduction for federal income
709 tax purposes under s. 167 or s. 168 of the Internal Revenue Code
710 of 1986, as amended, for the taxable year to the extent that
711 such amount includes bonus depreciation allowable as deduction
712 under s. 168(k).

713 16. The amount taken as a credit for the taxable year under
714 s. 288.1254.

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

717 220.02 Legislative intent.—

718 (8) It is the intent of the Legislature that credits
719 against either the corporate income tax or the franchise tax be
720 applied in the following order: those enumerated in s. 631.828,
721 those enumerated in s. 220.191, those enumerated in s. 220.181,
722 those enumerated in s. 220.183, those enumerated in s. 220.182,
723 those enumerated in s. 220.1895, those enumerated in s. 221.02,
724 those enumerated in s. 220.184, those enumerated in s. 220.186,
725 those enumerated in s. 220.1845, those enumerated in s. 220.19,

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726 those enumerated in s. 220.185, those enumerated in s. 220.187,
727 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
728 220.193, and those enumerated in s. 288.1254. The Department of
729 Revenue may adopt rules pursuant to ss. 120.536(1) and 120.54
730 prescribing the forms and documentation needed to substantiate a
731 claim for the tax credit and the specific procedures and
732 guidelines for claiming the credit awarded or transferred under
733 s. 288.1254.

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

736 213.053 Confidentiality and information sharing.—

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

739 (z) Information relative to tax credits taken under s.
740 288.1254 to the Office of Film and Entertainment and the Office
741 of Tourism, Trade, and Economic Development.

742
743 Disclosure of information under this subsection shall be
744 pursuant to a written agreement between the executive director
745 and the agency. Such agencies, governmental or nongovernmental,
746 shall be bound by the same requirements of confidentiality as
747 the Department of Revenue. Breach of confidentiality is a
748 misdemeanor of the first degree, punishable as provided by s.
749 775.082 or s. 775.083.

750 Section 7. Paragraph (q) is added to subsection (5) of
751 section 212.08, Florida Statutes, to read:

752 212.08 Sales, rental, use, consumption, distribution, and
753 storage tax; specified exemptions.—The sale at retail, the
754 rental, the use, the consumption, the distribution, and the

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755 storage to be used or consumed in this state of the following
756 are hereby specifically exempt from the tax imposed by this
757 chapter.

758 (5) EXEMPTIONS; ACCOUNT OF USE.—

759 (q) Entertainment industry tax credit; requirement for
760 electronic funds transfer.—

761 1. For the fiscal years beginning July 1, 2009, and ending
762 June 30, 2012, a qualified production, as defined in s.
763 288.1254(1)(j), is eligible for tax credits against its state
764 sales and use tax liabilities as provided in s. 288.1254.

765 2. The credit shall be deducted from any sales and use tax
766 remitted by the dealer to the department by electronic funds
767 transfer and can only be deducted on a sales and use tax return
768 initiated through electronic data interchange. The dealer shall
769 separately state the credit on the electronic return. The net
770 amount of tax due and payable must be remitted by electronic
771 funds transfer. If the credit for the qualified expenditures is
772 larger than the amount owed on the sales and use tax return, the
773 amount of the credit may be carried forward to a succeeding
774 reporting period. A dealer may only obtain a credit using the
775 method described in this subparagraph. A dealer is not
776 authorized to obtain a credit by applying for a refund.

777 3. The department may adopt rules pursuant to ss.
778 120.536(1) and 120.54 to implement and administer this
779 paragraph, including rules prescribing the forms and
780 documentation needed to substantiate a claim for the tax credit
781 and the specific procedures and guidelines for claiming the
782 credit awarded or transferred under this paragraph.

783 Section 8. If any provision of this act or the application

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784 thereof to any person or circumstance is held invalid, the
785 invalidity shall not affect other provisions or applications of
786 the act which can be given effect without the invalid provision
787 or application, and to this end the provisions of this act are
788 declared severable.

789 Section 9. This act shall take effect July 1, 2009.