

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

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

56 authority; providing for severability; providing an
 57 effective date.

58

59 Be It Enacted by the Legislature of the State of Florida:

60

61 Section 1. Section 288.1254, Florida Statutes, is amended
 62 to read:

63 288.1254 Entertainment industry financial incentive and
 64 tax credit program.--

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

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

77 (b) "Certified production company" means a qualified
 78 production company that has received a financial incentive
 79 allocation or a tax credit award for a certified production.

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

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

87 (d) "Financial incentive," "financial incentive payment,"
 88 or "incentive funding" means a monetary reimbursement for
 89 qualified expenditures based upon legislative appropriation.

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

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

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

112 | pornographic production; or a local, regional, or Internet-
 113 | distributed-only news show, current-events show, pornographic
 114 | production, or current-affairs show. A production may be
 115 | produced on or by film, tape, or otherwise by means of a motion
 116 | picture camera; electronic camera or device; tape device;
 117 | computer; any combination of the foregoing; or any other means,
 118 | method, or device now used or later adopted.

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

125 | 1. Wages, salaries, or other compensation, including
 126 | amounts paid through payroll service companies, for technical
 127 | and production crews, directors, producers, and performers.

128 | 2. Expenditures for sound stages, backlots, production
 129 | editing, digital effects, sound recordings, sets, and set
 130 | construction.

131 | 3. Expenditures for rental equipment, including, but not
 132 | limited to, cameras and grip or electrical equipment.

133 | 4. Expenditures for meals, travel, and accommodations.

134 | (i)~~(g)~~ "Qualified expenditures" means production
 135 | expenditures incurred in this state by a qualified production
 136 | for:

137 | 1. Goods purchased or leased from, or services provided
 138 | by, a vendor or supplier in this state which is registered with

139 the Department of State or the Department of Revenue and doing
 140 business in this state.

141 2. Payments to residents of this state in the form of
 142 salary, wages, or other compensation up to a maximum of \$400,000
 143 per resident for the general production queue and the
 144 independent Florida filmmaker queue and up to a maximum of
 145 \$200,000 for the digital media queue.

146
 147 For a qualified production involving an event, such as an awards
 148 show, the term excludes expenditures solely associated with the
 149 event itself and not directly required by the production. The
 150 term excludes expenditures prior to certification, with the
 151 exception of those incurred for a commercial, a music video, or
 152 the pickup of additional episodes of a television series within
 153 a single season.

154 (j)~~(h)~~ "Qualified production" means a production in this
 155 state meeting the requirements of this section and the minimum
 156 qualified expenditures and requirements of its appropriate
 157 queue. The term excludes a production:

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

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

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

170 (2) CREATION AND PURPOSE OF PROGRAM.--The entertainment
 171 industry financial incentive and tax credit program is created
 172 within the Office of Film and Entertainment. The purpose of this
 173 program is to encourage the use of this state as a site for
 174 filming and to develop and sustain the workforce and
 175 infrastructure for film and entertainment production.

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

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

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

195 (c) The Office of Film and Entertainment shall establish a
 196 process by which an application is accepted and reviewed for
 197 certification for a financial incentive or for tax credit
 198 eligibility and by which the amount of the financial incentive
 199 or tax credit award is determined. The office may request
 200 assistance from a duly appointed local film commission in
 201 determining qualification for the financial incentive allocation
 202 or tax credit award and compliance with this section.

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

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

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

225 1. A certified production to submit, in a timely manner
 226 after production ends and after making all of its qualified
 227 expenditures, data substantiating each qualified expenditure to
 228 an independent certified public accountant licensed in this
 229 state;

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

235 3. The Office of Film and Entertainment to review the
 236 accountant's submittal and report to the Office of Tourism,
 237 Trade, and Economic Development the final verified amount of
 238 actual qualified expenditures made by the certified production.

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

246 2. The Office of Tourism, Trade, and Economic Development
 247 shall award all tax credits for the previous year by September
 248 30.

249 (h) ~~(g)~~ The Office of Film and Entertainment shall ensure
 250 that, as a condition of receiving incentive funding or a tax
 251 credit under this section, marketing materials promoting this
 252 state as a tourist destination or film and entertainment
 253 production destination are included, when appropriate, at no
 254 cost to the state, which must, at a minimum, include placement
 255 in the end credits of a "Filmed in Florida" logo with size and
 256 placement commensurate to other logos included in the end
 257 credits or, if no logos are used, the statement "Filmed in
 258 Florida using Florida's Entertainment Industry Financial
 259 Incentive," or a similar statement approved by the Office of
 260 Film and Entertainment before such placement. The Office of Film
 261 and Entertainment shall develop a "Filmed in Florida" logo and
 262 supply it for the purposes specified in this paragraph.

263 (4) TAX CREDIT ELIGIBILITY; ELECTION AND DISTRIBUTION;
 264 CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE
 265 DISTRIBUTIONS; MERGERS OR ACQUISITIONS.--

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

270 (b) Total tax credit.--The total amount of tax credits
 271 that may be awarded under this section is \$75 million, allocated
 272 \$25 million each fiscal year the incentive remains in effect. If
 273 the total amount of allocated credits applied for in any fiscal
 274 year exceeds the aggregate amount of tax credits allowed for
 275 such year under this section, such excess shall be treated as
 276 having been applied for on the first day of the next fiscal year

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277 in which credits are available. In any fiscal year, tax credits
278 that are not awarded or that are forfeited due to the withdrawal
279 of a certified production or to a production's actual qualified
280 expenditures being less than the certified amount shall be
281 available for award in subsequent fiscal years.

282 (c) Election and distribution of tax credits.--A certified
283 production company receiving a tax credit award under this
284 section shall, at the time the credit is awarded by the Office
285 of Tourism, Trade, and Economic Development after production is
286 completed and all requirements to receive a credit award have
287 been met, make an irrevocable election to apply the credit
288 against taxes due under chapter 220, against taxes collected or
289 accrued under chapter 212, or against a stated combination of
290 the two taxes. The election shall be binding upon any
291 distributee, successor, transferee, or purchaser. The Office of
292 Tourism, Trade, and Economic Development shall notify the
293 Department of Revenue of any election made pursuant to this
294 paragraph within 5 business days of such election.

295 (d) Tax credit carryforward.--If the certified production
296 company cannot use the entire tax credit in the taxable year or
297 reporting period in which the credit is awarded because of
298 insufficient tax liability on the part of the certified
299 production company, any excess amount may be carried forward to
300 a succeeding taxable year or reporting period. A tax credit
301 applied against taxes imposed under chapter 212 may be carried
302 forward for a maximum of 5 years following the date of award,
303 after which period the credit expires and may not be used. A tax
304 credit applied against taxes imposed under chapter 220 may be

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305 carried forward for a maximum of 5 taxable years following the
306 qualified production company's taxable year in which the credit
307 was awarded, after which period the credit expires and may not
308 be used.

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

314 (f) Partnership and noncorporate distributions.--A
315 qualified production company that is not a corporation as
316 defined in s. 220.03 may elect to distribute tax credits awarded
317 under this section to its partners or members in proportion to
318 their respective distributive income or loss in the taxable year
319 in which the tax credits were awarded.

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

325 (5) TRANSFER OF TAX CREDITS.--

326 (a) Authorization.--Upon application to the Office of Film
327 and Entertainment and approval by the Office of Tourism, Trade,
328 and Economic Development, a certified production company, or a
329 partner or member that has received a distribution under
330 paragraph (4) (f), may elect to transfer, in whole or in part,
331 any unused tax credit amount granted under this section. An
332 election to transfer any unused tax credit amount under chapter

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333 212 or chapter 220 must be made no later than 5 years from the
334 date the credit was awarded, after which period the credit
335 expires and may not be used. The Office of Tourism, Trade, and
336 Economic Development shall notify the Department of Revenue of
337 the election and transfer within 5 business days of such
338 election and transfer.

339 (b) Number of transfers permitted.--A certified production
340 company that has elected to apply a credit amount against taxes
341 remitted under chapter 212 is permitted a one-time transfer of
342 unused credits to one transferee. A certified production company
343 that has elected to apply a credit amount against taxes due
344 under chapter 220 is permitted a one-time transfer of unused
345 credits to no more than four transferees, and such transfers
346 shall occur in the same taxable year.

347 (c) Minimum consideration.--The transfer or purchase of
348 any amount of the tax credit shall not be exchanged for less
349 than 75 percent of the credit's value.

350 (d) Transferee rights and limitations.--The transferee is
351 subject to the same rights and limitations as the certified
352 production company awarded the tax credit, except that the
353 transferee may not sell or otherwise transfer the tax credit.

354 (e) Written contractual notice.--No later than 3 business
355 days prior to the certified production company's election to
356 transfer its awarded tax credit, the Office of Film and
357 Entertainment shall receive written contractual notice, on a
358 form approved by the Office of Tourism, Trade, and Economic
359 Development and signed by both the certified production company
360 and the transferee, describing the terms of the transfer and the

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361 intention of any purchaser to allocate payment for the film
 362 education program under paragraph (f) at the time the transfer
 363 is made.

364 (f) Film education fee.--

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

373 a. Fifty percent of the fee collected under this paragraph
 374 shall be made available to the Office of Film and Entertainment
 375 for the purpose described in s. 288.1256.

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

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

387 (6) (4) PRIORITY FOR INCENTIVE FUNDING AND ALLOCATION OF
 388 TAX CREDITS; WITHDRAWAL OF ELIGIBILITY; QUEUES.--

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

395 ~~(b)(e)~~ Withdrawal of eligibility Schedule.--Each qualified
 396 production or certified production shall continue on a
 397 reasonable schedule, which means beginning principal photography
 398 in this state no more than 45 calendar days before or after the
 399 date provided in the production's program ~~program's~~ application
 400 under subsection (3). The Office of Tourism, Trade, and Economic
 401 Development shall withdraw the eligibility of a qualified
 402 production or a certified production for incentive funding or a
 403 tax credit award if any such production does not continue on a
 404 reasonable schedule. The office shall recertify the tax credits
 405 to the next qualified or certified production or productions in
 406 the respective queue that have not been certified for their full
 407 maximum award and have not started principal photography before
 408 the tax credits become available.

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

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

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

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

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

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

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

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

464 2. Provide evidence of 50 percent of the financing for its
 465 total budget in an escrow account or other form dedicated to the
 466 production.

467 3. Do all major postproduction in this state.

468 4. Employ Florida workers in at least six of the following
 469 key positions: writer, director, producer, director of
 470 photography, star or one of the lead actors, unit production

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

479 (e) ~~(d)~~ Digital media projects queue.--Ten percent of
480 incentive funding appropriated or tax credits available under
481 this section in any state fiscal year shall be dedicated to the
482 digital media projects queue. A production certified under this
483 queue is eligible for a financial incentive or tax credit award
484 ~~reimbursement~~ equal to 10 percent of its actual qualified
485 expenditures. A qualified production that is a digital media
486 project that demonstrates a minimum of \$300,000 in total
487 qualified expenditures is eligible for a maximum of \$1 million
488 in incentive funding or a tax credit award. As used in this
489 paragraph, the term "qualified expenditures" means the wages or
490 salaries paid to a resident of this state for working on a
491 single qualified digital media project, up to a maximum of
492 \$200,000 in wages or salaries paid per resident. A qualified
493 production company producing digital media projects may not
494 qualify for more than three projects in any 1 fiscal year.
495 Projects that extend beyond a fiscal year must reapply each
496 fiscal year in order to be eligible for incentive funding or a
497 tax credit award for that year.

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

511 (g) Productions in partnership with postsecondary
 512 education programs.--A certified production determined by the
 513 Commissioner of Film and Entertainment to have partnered with a
 514 state public postsecondary film-and-entertainment-related
 515 educational program in the production is eligible for an
 516 additional financial incentive or tax credit of 10 percent of
 517 its actual qualified expenditures. Productions in partnership
 518 with such postsecondary educational programs are those that
 519 provide opportunities for students through internships or in
 520 other capacities that will assist students in their educational
 521 responsibilities and in preparation for their future positions
 522 in the film and entertainment industry upon graduation.

523 ~~(7)-(5)~~ RULES, POLICIES, AND PROCEDURES.--

524 (a) The Office of Tourism, Trade, and Economic Development
 525 may adopt rules under ss. 120.536(1) and 120.54 and develop

526 policies and procedures to administer this section, including,
 527 but not limited to, rules specifying requirements for the
 528 application and approval process; records required for
 529 substantiation for incentive funding and tax credit awards;
 530 procedures for making the election in paragraph (4) (c); the
 531 manner and form of documentation required to claim tax credits
 532 awarded or transferred under this section; the determination of,
 533 qualification for, and certification for tax credits; the
 534 implementation of the Florida Graduate Film Investment Program
 535 in s. 288.1256; and marketing requirements for tax credit
 536 recipients.

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

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

544 (a) Audit authority.--The Department of Revenue may
 545 conduct examinations and audits as provided in s. 213.34 to
 546 verify that tax credits under this section have been received,
 547 transferred, and applied according to the requirements of this
 548 section. If the Department of Revenue determines that tax
 549 credits have not been received, transferred, or applied as
 550 required by this section, it may, in addition to the remedies
 551 provided in this subsection, pursue recovery of such funds
 552 pursuant to the laws and rules governing the assessment of
 553 taxes.

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

565 (c) Forfeiture of tax credits.--A determination by the
 566 Department of Revenue, as a result of an audit or examination by
 567 the Department of Revenue or from information received from the
 568 Office of Film and Entertainment, that an applicant received tax
 569 credits pursuant to this section to which the applicant was not
 570 entitled is grounds for forfeiture of previously claimed and
 571 awarded tax credits. The applicant is responsible for
 572 immediately returning forfeited tax credits to the Department of
 573 Revenue, together with the appropriate interest and penalty,
 574 computed from the date of receipt of such credits, and such
 575 funds shall be paid into the General Revenue Fund of the state.
 576 Tax credits purchased in good faith are not subject to
 577 forfeiture unless the transferee submitted fraudulent
 578 information in the purchase or failed to meet the requirements
 579 in subsection (5). The Department of Revenue shall immediately
 580 notify the Office of Tourism, Trade, and Economic Development of
 581 the forfeiture of previously claimed and awarded tax credits.

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

597 (9) ~~(6)~~ ANNUAL REPORT.--Each October 1, the Office of Film
 598 and Entertainment shall provide an annual report for the
 599 previous fiscal year to the Governor, the President of the
 600 Senate, and the Speaker of the House of Representatives which
 601 outlines the return on investment and economic benefits to the
 602 state on funds expended pursuant to this section.

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

607 Section 2. Section 288.1256, Florida Statutes, is created
 608 to read:

609 288.1256 Florida Graduate Film Investment Program.--

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

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

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

629 (2) Films that are deemed by the Office of Film and
 630 Entertainment to contain obscene content as defined in s.
 631 847.001(10) are not eligible for this program.

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

634 288.1252 Florida Film and Entertainment Advisory Council;
 635 creation; purpose; membership; powers and duties.--

636 (5) POWERS AND DUTIES.--The Florida Film and Entertainment
 637 Advisory Council shall have all the powers necessary or

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638 convenient to carry out and effectuate the purposes and
639 provisions of this act, including, but not limited to, the power
640 to:

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

643 Section 4. Paragraph (a) of subsection (1) of section
644 220.13, Florida Statutes, is amended to read:

645 220.13 "Adjusted federal income" defined.--

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

651 (a) Additions.--There shall be added to such taxable
652 income:

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

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

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

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

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

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

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

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

692 9. The amount taken as a credit for the taxable year under
 693 s. 220.1895.

694 10. Up to nine percent of the eligible basis of any
 695 designated project which is equal to the credit allowable for
 696 the taxable year under s. 220.185.

697 11. The amount taken as a credit for the taxable year
 698 under s. 220.187.

699 12. The amount taken as a credit for the taxable year
 700 under s. 220.192.

701 13. The amount taken as a credit for the taxable year
 702 under s. 220.193.

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

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

711 16. The amount taken as a credit for the taxable year
 712 under s. 288.1254.

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

715 220.02 Legislative intent.--

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

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722 those enumerated in s. 220.184, those enumerated in s. 220.186,
 723 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 724 those enumerated in s. 220.185, those enumerated in s. 220.187,
 725 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
 726 220.193, and those enumerated in s. 288.1254. The Department of
 727 Revenue may adopt rules pursuant to ss. 120.536(1) and 120.54
 728 prescribing the forms and documentation needed to substantiate a
 729 claim for the tax credit and the specific procedures and
 730 guidelines for claiming the credit awarded or transferred under
 731 s. 288.1254.

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

734 213.053 Confidentiality and information sharing.--

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

737 (z) Information relative to tax credits taken under s.
 738 288.1254 to the Office of Film and Entertainment and the Office
 739 of Tourism, Trade, and Economic Development.

740
 741 Disclosure of information under this subsection shall be
 742 pursuant to a written agreement between the executive director
 743 and the agency. Such agencies, governmental or nongovernmental,
 744 shall be bound by the same requirements of confidentiality as
 745 the Department of Revenue. Breach of confidentiality is a
 746 misdemeanor of the first degree, punishable as provided by s.
 747 775.082 or s. 775.083.

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

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750 212.08 Sales, rental, use, consumption, distribution, and
751 storage tax; specified exemptions.--The sale at retail, the
752 rental, the use, the consumption, the distribution, and the
753 storage to be used or consumed in this state of the following
754 are hereby specifically exempt from the tax imposed by this
755 chapter.

756 (5) EXEMPTIONS; ACCOUNT OF USE.--

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

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

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

775 3. The department may adopt rules pursuant to ss.
776 120.536(1) and 120.54 to implement and administer this
777 paragraph, including rules prescribing the forms and

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778 documentation needed to substantiate a claim for the tax credit
779 and the specific procedures and guidelines for claiming the
780 credit awarded or transferred under this paragraph.

781 Section 8. If any provision of this act or the application
782 thereof to any person or circumstance is held invalid, the
783 invalidity shall not affect other provisions or applications of
784 the act which can be given effect without the invalid provision
785 or application, and to this end the provisions of this act are
786 declared severable.

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