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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/24/2010	.	
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	.	
	.	

The Committee on Commerce (Oelrich) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

288.1254 Entertainment industry financial incentive
program.—

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

(a) "Certified production" means a qualified production
that has tax credits allocated to it by the Office of Tourism,



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14 Trade, and Economic Development based on the production's
15 estimated qualified expenditures, up to the production's maximum
16 certified amount of tax credits, by the Office of Tourism,
17 Trade, and Economic Development. The term does not include a
18 production if the first date that it incurs production
19 expenditures in this state occurs before the production is
20 certified by the Office of Tourism, Trade, and Economic
21 Development.

22 (b) "Digital media project" means a production of
23 interactive entertainment that is produced for distribution in
24 commercial or educational markets. The term includes a video
25 game or production intended for Internet or wireless
26 distribution. The term does not include a production deemed by
27 the Office of Film and Entertainment to contain obscene content
28 as defined in s. 847.001(10).

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

33 (d) "Off-season certified production" means a production,
34 other than a digital media project or an animated production,
35 commercial, music video, or documentary, which films 75 percent
36 or more of its principal photography days from June 1 through
37 November 30.

38 (e) "Principal photography" means the filming of major or
39 significant components of the qualified production which involve
40 lead actors.

41 (f) "Production" means a theatrical or direct-to-video
42 motion picture; a made-for-television motion picture; visual



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43 effects or digital animation sequences produced in conjunction
44 with a motion picture; a commercial; a music video; an
45 industrial or educational film; an infomercial; a documentary
46 film; a television pilot program; a presentation for a
47 television pilot program; a television series, including, but
48 not limited to, a drama, a reality show, a comedy, a soap opera,
49 a telenovela, a game show, or a miniseries production; or a
50 digital media project by the entertainment industry. One season
51 of a television series is considered one production. The term
52 does not include a weather or market program; a sporting event;
53 a sports show; a gala; a production that solicits funds; a home
54 shopping program; a political program; a political documentary;
55 political advertising; a gambling-related project or production;
56 a concert production; or a local, regional, or Internet-
57 distributed-only news show, current-events show, pornographic
58 production, or current-affairs show. A production may be
59 produced on or by film, tape, or otherwise by means of a motion
60 picture camera; electronic camera or device; tape device;
61 computer; any combination of the foregoing; or any other means,
62 method, or device now used or later adopted.

63 (g) "Production expenditures" means the costs of tangible
64 and intangible property used for, and services performed
65 primarily and customarily in, production, including
66 preproduction and postproduction, but excluding costs for
67 development, marketing, and distribution. The term includes, but
68 is not limited to:

69 1. Wages, salaries, or other compensation paid to legal
70 residents of this state, including amounts paid through payroll
71 service companies, for technical and production crews,



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72 directors, producers, and performers.

73 2. Expenditures for sound stages, backlots, production
74 editing, digital effects, sound recordings, sets, and set
75 construction.

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

78 4. Up to \$300,000 of the costs of newly purchased computer
79 software and hardware unique to the project, including servers,
80 data processing, and visualization technologies, which are
81 located in and used exclusively in the state for the production
82 of digital media.

83 5. Expenditures for meals, travel, and accommodations.

84 (h) "Qualified expenditures" means production expenditures
85 incurred in this state by a qualified production for:

86 1. Goods purchased or leased from, or services, including,
87 but not limited to, insurance costs and bonding, payroll
88 services, and legal fees, which are provided by a vendor or
89 supplier in this state which is registered with the Department
90 of State or the Department of Revenue, is doing business in the
91 state, and whose primary employees involved in facilitating the
92 transaction are legal residents of and doing business in this
93 state.

94 2. Payments to legal residents of this state in the form of
95 salary, wages, or other compensation up to a maximum of \$650,000
96 per resident unless otherwise specified in subsection (4).

97
98 For a qualified production involving an event, such as an awards
99 show, the term does not include expenditures solely associated
100 with the event itself and not directly required by the



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101 production. The term does not include expenditures incurred
102 before certification, with the exception of those incurred for a
103 commercial, a music video, or the pickup of additional episodes
104 of a high-impact television series within a single season.

105 (i) "Qualified production" means a production in this state
106 meeting the requirements of this section. The term does not
107 include a production:

108 1. In which, for the first 2 years of the incentive
109 program, less than 50 percent, and, thereafter, less than 60
110 percent, of the positions that make up its production cast and
111 below-the-line production crew, or, in the case of digital media
112 projects, less than 75 percent of such positions, are filled by
113 legal residents of this state, whose residency is demonstrated
114 by a valid Florida driver's license or other state-issued
115 identification confirming residency, or students enrolled full-
116 time in a film-and-entertainment-related course of study at an
117 institution of higher education in this state; or

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

120 (j) "Qualified production company" means a corporation,
121 limited liability company, partnership, or other legal entity
122 engaged in one or more productions in this state.

123 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
124 industry financial incentive program is created within the
125 Office of Film and Entertainment. The purpose of this program is
126 to encourage the use of this state as a site for filming, for
127 the digital production of films, and to develop and sustain the
128 workforce and infrastructure for film, digital media, and
129 entertainment production.



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130 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

131 (a) Program application.—A qualified production company
132 producing a qualified production in this state may submit a
133 program application to the Office of Film and Entertainment for
134 the purpose of determining qualification for an award of tax
135 credits authorized by this section no earlier than 6 months
136 before the first date that production expenditures are incurred
137 in this state. The applicant shall provide the Office of Film
138 and Entertainment with information required to determine whether
139 the production is a qualified production and to determine the
140 qualified expenditures and other information necessary for the
141 office to determine eligibility for the tax credit.

142 (b) Required documentation.—The Office of Film and
143 Entertainment shall develop an application form for qualifying
144 an applicant as a qualified production. The form must include,
145 but need not be limited to, production-related information
146 concerning employment of residents in this state, a detailed
147 budget of planned qualified expenditures, and the applicant's
148 signed affirmation that the information on the form has been
149 verified and is correct. The Office of Film and Entertainment
150 and local film commissions shall distribute the form.

151 (c) Application process.—The Office of Film and
152 Entertainment shall establish a process by which an application
153 is accepted and reviewed and by which tax credit eligibility and
154 the award amount are determined. The Office of Film and
155 Entertainment may request assistance from a duly appointed local
156 film commission in determining compliance with this section.

157 (d) Certification.—The Office of Film and Entertainment
158 shall review the application within 15 business days after



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159 receipt. Upon its determination that the application contains
160 all the information required by this subsection and meets the
161 criteria set out in this section, the Office of Film and
162 Entertainment shall qualify the applicant and recommend to the
163 Office of Tourism, Trade, and Economic Development that the
164 applicant be certified for the maximum tax credit award amount.
165 Within 5 business days after receipt of the recommendation, the
166 Office of Tourism, Trade, and Economic Development shall reject
167 the recommendation or certify the maximum recommended tax credit
168 award, if any, to the applicant and to the executive director of
169 the Department of Revenue.

170 (e) *Grounds for denial.*—The Office of Film and
171 Entertainment shall deny an application if it determines that
172 the application is incomplete or the production or application
173 does not meet the requirements of this section.

174 (f) *Verification of actual qualified expenditures.*—

175 1. The Office of Film and Entertainment shall develop a
176 process to verify the actual qualified expenditures of a
177 certified production. The process must require:

178 a. A certified production to submit, in a timely manner
179 after principal photography, digital production, or the digital
180 media project ends and after making all of its qualified
181 expenditures, data substantiating each qualified expenditure to
182 an independent certified public accountant licensed in this
183 state;

184 b. Such accountant to conduct a compliance audit, at the
185 certified production's expense, to substantiate each qualified
186 expenditure and submit the results as a report, along with the
187 required substantiating data, to the Office of Film and



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188 Entertainment; and

189 c. The Office of Film and Entertainment to review the
190 accountant's submittal and report to the Office of Tourism,
191 Trade, and Economic Development the final verified amount of
192 actual qualified expenditures made by the certified production.

193 2. The Office of Tourism, Trade, and Economic Development
194 shall determine and approve the final tax credit award amount to
195 each certified applicant based on the final verified amount of
196 actual qualified expenditures and shall notify the executive
197 director of the Department of Revenue in writing that the
198 certified production has met the requirements of the incentive
199 program and of the final amount of the tax credit award. The
200 final tax credit award amount may not exceed the maximum tax
201 credit award amount certified under paragraph (d).

202 (g) Promoting Florida.—The Office of Film and Entertainment
203 shall ensure that, as a condition of receiving a tax credit
204 under this section, marketing materials promoting this state as
205 a tourist destination or film and entertainment production
206 destination are included, when appropriate, at no cost to the
207 state, which must, at a minimum, include placement of a "Filmed
208 in Florida" or "Produced in Florida" logo in the opening credits
209 and end credits and on all packaging material and hard media,
210 unless prohibited by licensing or other contractual obligations.
211 The size and placement of such logo shall be commensurate to
212 other logos used. If no logos are used, the statement "Filmed in
213 Florida using Florida's Entertainment Industry Financial
214 Incentive," or a similar statement approved by the Office of
215 Film and Entertainment, shall be used. The Office of Film and
216 Entertainment shall provide a logo and supply it for the



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217 purposes specified in this paragraph.

218 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
219 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
220 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
221 ACQUISITIONS.-

222 (a) Priority for tax credit award.-The priority of a
223 qualified production for tax credit awards must be determined on
224 a first-come, first-served basis within its appropriate queue.
225 Each qualified production must be placed into the appropriate
226 queue and is subject to the requirements of that queue.

227 (b) Tax credit eligibility.-

228 1. General production queue.-Ninety-four percent of tax
229 credits authorized in any state fiscal year must be dedicated to
230 the general production queue. The general production queue
231 consists of all qualified productions other than those eligible
232 for the commercial and music video queue or the independent
233 production queue. A qualified production that demonstrates a
234 minimum of \$625,000 in qualified expenditures is eligible for
235 tax credits equal to 20 percent of its actual qualified
236 expenditures, up to a maximum of \$8 million. A qualified
237 production that incurs qualified expenditures during multiple
238 state fiscal years may combine those expenditures to satisfy the
239 \$625,000 minimum threshold.

240 a. An off-season certified production that is a feature
241 film, independent film, or television series or pilot is
242 eligible for an additional 5-percent tax credit on actual
243 qualified expenditures. An off-season certified production that
244 does not complete 75 percent of principal photography due to a
245 disruption caused by a hurricane or tropical storm may not be



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246 disqualified from eligibility for the additional 5-percent
247 credit as a result of the disruption.

248 b. A qualified high-impact television series shall be
249 allowed first position in this queue for tax credit awards not
250 yet certified.

251 2. Commercial and music video queue.—Three percent of tax
252 credits authorized in any state fiscal year must be dedicated to
253 the commercial and music video queue. A qualified production
254 company that produces national or regional commercials or music
255 videos may be eligible for a tax credit award if it demonstrates
256 a minimum of \$100,000 in qualified expenditures per national or
257 regional commercial or music video and exceeds a combined
258 threshold of \$500,000 after combining actual qualified
259 expenditures from qualified commercials and music videos during
260 a single state fiscal year. After a qualified production company
261 that produces commercials, music videos, or both reaches the
262 threshold of \$500,000, it is eligible to apply for certification
263 for a tax credit award. The maximum credit award shall be equal
264 to 20 percent of its actual qualified expenditures up to a
265 maximum of \$500,000. If there is a surplus at the end of a
266 fiscal year after the Office of Film and Entertainment certifies
267 and determines the tax credits for all qualified commercial and
268 video projects, such surplus tax credits shall be carried
269 forward to the following fiscal year and be available to any
270 eligible qualified productions under the general production
271 queue.

272 3. Independent production queue.—Three percent of tax
273 credits authorized in any state fiscal year must be dedicated to
274 the independent production queue. An independent Florida film or



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275 digital media project that meets the criteria of this
276 subparagraph and demonstrates a minimum of \$100,000, but not
277 more than \$625,000, in total qualified expenditures is eligible
278 for tax credits equal to 20 percent of its actual qualified
279 expenditures. To qualify for this tax credit, a qualified
280 production must:

281 a. Be planned as a feature film or documentary of at least
282 70 minutes in length or be a digital media project.

283 b. Employ legal residents of this state in at least two of
284 the following key positions: writer, director, producer, star,
285 or composer; or, in the case of a digital media project, employ
286 legal residents of this state in at least two positions
287 functionally equivalent to the positions of writer, director,
288 producer, star, or composer.

289 4. Family-friendly productions.—A certified production
290 determined by the Commissioner of Film and Entertainment, with
291 the advice of the Florida Film and Entertainment Advisory
292 Council, to be family-friendly, based on the review of the
293 script and the review of the final release version, is eligible
294 for an additional tax credit equal to 5 percent of its actual
295 qualified expenditures. Family-friendly productions are those
296 that have cross-generational appeal; would be considered
297 suitable for viewing by children age 5 or older; are appropriate
298 in theme, content, and language for a broad family audience;
299 embody a responsible resolution of issues; and do not exhibit or
300 imply any act of smoking, sex, nudity, gratuitous violence, or
301 vulgar or profane language.

302 (c) *Withdrawal of tax credit eligibility.*—A qualified or
303 certified production must continue on a reasonable schedule,



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304 which means beginning principal photography, or, in the case of
305 a digital media project, the start date of the production, in
306 this state no more than 45 calendar days before or after the
307 date provided in the production's program application. The
308 Office of Tourism, Trade, and Economic Development shall
309 withdraw the eligibility of a qualified or certified production
310 that does not continue on a reasonable schedule.

311 (d) Election and distribution of tax credits.-

312 1. A certified production company receiving a tax credit
313 award under this section shall, at the time the credit is
314 awarded by the Office of Tourism, Trade, and Economic
315 Development after production is completed and all requirements
316 to receive a credit award have been met, make an irrevocable
317 election to apply the credit against taxes due under chapter
318 220, against taxes collected or accrued under chapter 212,
319 except that the credit authorized under this section may not be
320 applied against discretionary sales surtaxes authorized under s.
321 212.055, or against a stated combination of the two taxes. The
322 election is binding upon any distributee, successor, transferee,
323 or purchaser. The Office of Tourism, Trade, and Economic
324 Development shall notify the Department of Revenue of any
325 election made pursuant to this paragraph.

326 2. For the fiscal years beginning July 1, 2010, and ending
327 June 30, 2015, a qualified production company is eligible for
328 tax credits against its sales and use tax liabilities and
329 corporate income tax liabilities as provided in this section.
330 However, tax credits awarded under this section may not be
331 claimed against sales and use tax liabilities or corporate
332 income tax liabilities for any tax period beginning before July



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333 1, 2011, regardless of when the credits are applied for or
334 awarded.

335 (e) Tax credit carryforward.—If the certified production
336 company cannot use the entire tax credit in the taxable year or
337 reporting period in which the credit is awarded, any excess
338 amount may be carried forward to a succeeding taxable year or
339 reporting period. A tax credit applied against taxes imposed
340 under chapter 212 may be carried forward for a maximum of 5
341 years after the date the credit is awarded. A tax credit applied
342 against taxes imposed under chapter 220 may be carried forward
343 for a maximum of 5 years after the date the credit is awarded,
344 after which the credit expires and may not be used.

345 (f) Consolidated returns.—A certified production company
346 that files a Florida consolidated return as a member of an
347 affiliated group under s. 220.131(1) may be allowed the credit
348 on a consolidated return basis up to the amount of the tax
349 imposed upon the consolidated group under chapter 220.

350 (g) Partnership and noncorporate distributions.—A qualified
351 production company that is not a corporation as defined in s.
352 220.03 may elect to distribute tax credits awarded under this
353 section to its partners or members in proportion to their
354 respective distributive income or loss in the taxable fiscal
355 year in which the tax credits were awarded.

356 (h) Mergers or acquisitions.—Tax credits available under
357 this section to a certified production company may succeed to a
358 surviving or acquiring entity subject to the same conditions and
359 limitations as described in this section; however, they may not
360 be transferred again by the surviving or acquiring entity.

361 (5) TRANSFER OF TAX CREDITS.—



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362 (a) Authorization.—Upon application to the Office of Film
363 and Entertainment and approval by the Office of Tourism, Trade,
364 and Economic Development, a certified production company, or a
365 partner or member that has received a distribution under
366 paragraph (4) (g), may elect to transfer, in whole or in part,
367 any unused credit amount granted under this section. An election
368 to transfer any unused tax credit amount under chapter 212 or
369 chapter 220 must be made no later than 5 years after the date
370 the credit is awarded, after which period the credit expires and
371 may not be used. The Office of Tourism, Trade, and Economic
372 Development shall notify the Department of Revenue of the
373 election and transfer.

374 (b) Number of transfers permitted.—A certified production
375 company that elects to apply a credit amount against taxes
376 remitted under chapter 212 is permitted a one-time transfer of
377 unused credits to one transferee. The credit against sales tax
378 is available to the transferee only through a refund of
379 previously paid taxes pursuant to s. 212.08(5) (g). A certified
380 production company that elects to apply a credit amount against
381 taxes due under chapter 220 is permitted a one-time transfer of
382 unused credits to no more than four transferees, and such
383 transfers must occur in the same taxable year.

384 (c) Transferee rights and limitations.—The transferee is
385 subject to the same rights and limitations as the certified
386 production company awarded the tax credit, except that the
387 transferee may not sell or otherwise transfer the tax credit.

388 (d) Rulemaking.—The Department of Revenue may adopt rules
389 to administer this subsection, as provided in subsection (7).

390 (6) ANNUAL ALLOCATION OF TAX CREDITS.—



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391 (a) The aggregate amount of the tax credits that may be
392 certified pursuant to paragraph (3) (d) may not exceed \$75
393 million per fiscal year.

394 (b) Any portion of the maximum amount of tax credits
395 established per fiscal year in paragraph (a) that is not
396 certified as of the end of a fiscal year shall be carried
397 forward and made available for certification during the
398 following two fiscal years in addition to the amounts available
399 for certification under paragraph (a) for those fiscal years.

400 (c) Upon approval of the final tax credit award amount
401 pursuant to subparagraph (3) (f)2., an amount equal to the
402 difference between the maximum tax credit award amount
403 previously certified under paragraph (3) (d) and the approved
404 final tax credit award amount shall immediately be available for
405 recertification during the current and following fiscal years in
406 addition to the amounts available for certification under
407 paragraph (a) for those fiscal years. Credit amounts are
408 available for recertification only once under this paragraph.

409 (d) If, during a fiscal year, the total amount of credits
410 applied for, pursuant to paragraph (3) (a), exceeds the amount of
411 credits available for certification in that fiscal year, such
412 excess shall be treated as having been applied for on the first
413 day of the next fiscal year in which credits remain available
414 for certification.

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

416 (a) The Office of Tourism, Trade, and Economic Development
417 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
418 develop policies and procedures to implement and administer this
419 section, including, but not limited to, rules specifying



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420 requirements for the application and approval process, records
421 required for substantiation for tax credits, procedures for
422 making the election in paragraph (4) (d), the manner and form of
423 documentation required to claim tax credits awarded or
424 transferred under this section, and marketing requirements for
425 tax credit recipients.

426 (b) The Department of Revenue may adopt rules pursuant to
427 ss. 120.536(1) and 120.54 to administer this section, including
428 rules governing the examination and audit procedures required to
429 administer this section and the manner and form of documentation
430 required to claim tax credits awarded or transferred under this
431 section.

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

434 (a) Audit authority.—The Department of Revenue may conduct
435 examinations and audits as provided in s. 213.34 to verify that
436 tax credits under this section are received, transferred, and
437 applied according to the requirements of this section. If the
438 Department of Revenue determines that tax credits are not
439 received, transferred, or applied as required by this section,
440 it may, in addition to the remedies provided in this subsection,
441 pursue recovery of such funds pursuant to the laws and rules
442 governing the assessment of taxes.

443 (b) Revocation of tax credits.—The Office of Tourism,
444 Trade, and Economic Development may revoke or modify any written
445 decision qualifying, certifying, or otherwise granting
446 eligibility for tax credits under this section if it is
447 discovered that the tax credit applicant submitted any false
448 statement, representation, or certification in any application,



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449 record, report, plan, or other document filed in an attempt to
450 receive tax credits under this section. The Office of Tourism,
451 Trade, and Economic Development shall immediately notify the
452 Department of Revenue of any revoked or modified orders
453 affecting previously granted tax credits. Additionally, the
454 applicant must notify the Department of Revenue of any change in
455 its tax credit claimed.

456 (c) Forfeiture of tax credits.—A determination by the
457 Department of Revenue, as a result of an audit or examination by
458 the Department of Revenue or from information received from the
459 Office of Film and Entertainment, that an applicant received tax
460 credits pursuant to this section to which the applicant was not
461 entitled is grounds for forfeiture of previously claimed and
462 received tax credits. The applicant is responsible for returning
463 forfeited tax credits to the Department of Revenue, and such
464 funds shall be paid into the General Revenue Fund of the state.
465 Tax credits purchased in good faith are not subject to
466 forfeiture unless the transferee submitted fraudulent
467 information in the purchase or failed to meet the requirements
468 in subsection (5).

469 (d) Fraudulent claims.—Any applicant that submits
470 fraudulent information under this section is liable for
471 reimbursement of the reasonable costs and fees associated with
472 the review, processing, investigation, and prosecution of the
473 fraudulent claim. An applicant that obtains a credit payment
474 under this section through a claim that is fraudulent is liable
475 for reimbursement of the credit amount plus a penalty in an
476 amount double the credit amount. The penalty is in addition to
477 any criminal penalty to which the applicant is liable for the



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478 same acts. The applicant is also liable for costs and fees
479 incurred by the state in investigating and prosecuting the
480 fraudulent claim.

481 (9) ANNUAL REPORT.—Each October 1, the Office of Film and
482 Entertainment shall provide an annual report for the previous
483 fiscal year to the Governor, the President of the Senate, and
484 the Speaker of the House of Representatives which outlines the
485 return on investment and economic benefits to the state.

486 (10) REPEAL.—This section is repealed July 1, 2015, except
487 that the tax credit carryforward provided in this section shall
488 continue to be valid for the period specified.

489 Section 2. Subsection (8) of section 220.02, Florida
490 Statutes, is amended to read:

491 220.02 Legislative intent.—

492 (8) It is the intent of the Legislature that credits
493 against either the corporate income tax or the franchise tax be
494 applied in the following order: those enumerated in s. 631.828,
495 those enumerated in s. 220.191, those enumerated in s. 220.181,
496 those enumerated in s. 220.183, those enumerated in s. 220.182,
497 those enumerated in s. 220.1895, those enumerated in s. 221.02,
498 those enumerated in s. 220.184, those enumerated in s. 220.186,
499 those enumerated in s. 220.1845, those enumerated in s. 220.19,
500 those enumerated in s. 220.185, those enumerated in s. 220.187,
501 those enumerated in s. 220.192, those enumerated in s. 220.193,
502 ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.
503 288.1254.

504 Section 3. Paragraph (z) is added to subsection (8) of
505 section 213.053, Florida Statutes, to read:

506 213.053 Confidentiality and information sharing.—



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

509 (z) Information relative to tax credits taken under s.
510 288.1254 to the Office of Film and Entertainment and the Office
511 of Tourism, Trade, and Economic Development.

512
513 Disclosure of information under this subsection shall be
514 pursuant to a written agreement between the executive director
515 and the agency. Such agencies, governmental or nongovernmental,
516 shall be bound by the same requirements of confidentiality as
517 the Department of Revenue. Breach of confidentiality is a
518 misdemeanor of the first degree, punishable as provided by s.
519 775.082 or s. 775.083.

520 Section 4. Paragraph (q) of subsection (5) of section
521 212.08, Florida Statutes, is added to that subsection, to read:

522 212.08 Sales, rental, use, consumption, distribution, and
523 storage tax; specified exemptions.—The sale at retail, the
524 rental, the use, the consumption, the distribution, and the
525 storage to be used or consumed in this state of the following
526 are hereby specifically exempt from the tax imposed by this
527 chapter.

528 (5) EXEMPTIONS; ACCOUNT OF USE.—

529 (q) Entertainment industry tax credit; authorization;
530 eligibility for credits.—The credit against sales tax authorized
531 pursuant to s. 288.1254 is available to the holder of a
532 certificate only through a refund of previously paid taxes. To
533 receive a refund, a transferee must submit an application for
534 refund to the Department of Revenue within 12 months after
535 receipt of the transferred credit. Refunds shall be paid from



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536 the General Revenue Fund. If the credit for the qualified
537 expenditures is larger than the amount owed on the sales and use
538 tax return on which the credit may be claimed, the unused amount
539 of the credit may be carried forward to a succeeding reporting
540 period as provided in s. 288.1254(4) (e).

541 Section 5. If any provision of this act or the application
542 thereof to any person or circumstance is held invalid, the
543 invalidity shall not affect other provisions or applications of
544 the act which can be given effect without the invalid provision
545 or application, and to this end the provisions of this act are
546 declared severable.

547 Section 6. This act shall take effect July 1, 2010.

548
549
550 ===== T I T L E A M E N D M E N T =====

551 And the title is amended as follows:

552 Delete everything before the enacting clause
553 and insert:

554 A bill to be entitled
555 An act relating to entertainment industry economic
556 development; amending s. 288.1254, F.S.; revising the
557 entertainment industry financial incentive program to provide
558 corporate income tax and sales and use tax credits to qualified
559 entertainment entities rather than reimbursements from
560 appropriations; revising provisions relating to definitions,
561 creation and scope, application procedures, approval process,
562 eligibility, required documents, qualified and certified
563 productions, and annual reports; providing duties and
564 responsibilities of the Office of Film and Entertainment, the



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565 Office of Tourism, Trade, and Economic Development, and the
566 Department of Revenue relating to the tax credits; providing
567 criteria and limitations for awards of tax credits; providing
568 for uses, allocations, election, distributions, and carryforward
569 of the tax credits; providing for withdrawal of tax credit
570 eligibility; providing for use of consolidated returns;
571 providing for partnership and noncorporate distributions of tax
572 credits; providing for succession of tax credits; providing
573 requirements for transfer of tax credits; authorizing the Office
574 of Tourism, Trade, and Economic Development to adopt rules,
575 policies, and procedures; authorizing the Department of Revenue
576 to adopt rules and conduct audits; providing for revocation and
577 forfeiture of tax credits; providing liability for reimbursement
578 of certain costs and fees associated with a fraudulent claim;
579 requiring an annual report to the Governor and the Legislature;
580 providing for future repeal; amending s. 220.02, F.S.; including
581 tax credits enumerated in s. 288.1254, F.S., in the order of
582 application of credits against certain taxes; amending s.
583 213.053, F.S.; authorizing the Department of Revenue to provide
584 tax credit information to the Office of Film and Entertainment
585 and the Office of Tourism, Trade, and Economic Development;
586 amending s. 212.08, F.S.; limiting application of the
587 entertainment industry tax credits; providing procedures;
588 providing severability; providing an effective date.
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