

1 A bill to be entitled
2 An act relating to entertainment industry economic
3 development; amending s. 288.1254, F.S.; revising the
4 entertainment industry financial incentive program to
5 provide corporate income tax and sales and use tax credits
6 to qualified entertainment entities rather than
7 reimbursements from appropriations; revising provisions
8 relating to definitions, creation and scope, application
9 procedures, approval process, eligibility, required
10 documents, qualified and certified productions, and annual
11 reports; providing duties and responsibilities of the
12 Office of Film and Entertainment, the Office of Tourism,
13 Trade, and Economic Development, and the Department of
14 Revenue relating to the tax credits; providing criteria
15 and limitations for awards of tax credits; providing for
16 uses, allocations, election, distributions, and
17 carryforward of the tax credits; providing for withdrawal
18 of tax credit eligibility; providing for use of
19 consolidated returns; providing for partnership and
20 noncorporate distributions of tax credits; providing for
21 succession of tax credits; providing requirements for
22 transfer of tax credits; authorizing the Office of
23 Tourism, Trade, and Economic Development to adopt rules,
24 policies, and procedures; authorizing the Department of
25 Revenue to adopt rules and conduct audits; providing for
26 revocation and forfeiture of tax credits; providing
27 liability for reimbursement of certain costs and fees
28 associated with a fraudulent claim; requiring an annual

29 | report to the Governor and the Legislature; providing for
 30 | future repeal; amending s. 220.02, F.S.; including tax
 31 | credits enumerated in s. 288.1254, F.S., in the order of
 32 | application of credits against certain taxes; amending s.
 33 | 213.053, F.S.; authorizing the Department of Revenue to
 34 | provide tax credit information to the Office of Film and
 35 | Entertainment and the Office of Tourism, Trade, and
 36 | Economic Development; amending s. 212.08, F.S.; limiting
 37 | application of the entertainment industry tax credits;
 38 | requiring electronic funds transfer for the tax credits;
 39 | providing procedures; providing severability; providing an
 40 | effective date.

41 |

42 | Be It Enacted by the Legislature of the State of Florida:

43 |

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

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

48 | 288.1254 Entertainment industry financial incentive
 49 | program.—

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

51 | (a) "Certified production" means a qualified production
 52 | that has tax credits allocated to it by the Office of Tourism,
 53 | Trade, and Economic Development based on the production's
 54 | estimated qualified expenditures, up to the production's maximum
 55 | certified amount of tax credits, by the Office of Tourism,
 56 | Trade, and Economic Development. The term does not include a

57 production if the first date that it incurs production
58 expenditures in this state occurs before the production is
59 certified by the Office of Tourism, Trade, and Economic
60 Development.

61 (b) "Digital media project" means a production of
62 interactive entertainment that is produced for distribution in
63 commercial or educational markets. The term includes a video
64 game or production intended for Internet or wireless
65 distribution. The term does not include a production deemed by
66 the Office of Film and Entertainment to contain obscene content
67 as defined in s. 847.001(10).

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

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

77 (e) "Principal photography" means the filming of major or
78 significant components of the qualified production which involve
79 lead actors.

80 (f) "Production" means a theatrical or direct-to-video
81 motion picture; a made-for-television motion picture; visual
82 effects or digital animation sequences produced in conjunction
83 with a motion picture; a commercial; a music video; an
84 industrial or educational film; an infomercial; a documentary

85 film; a television pilot program; a presentation for a
86 television pilot program; a television series, including, but
87 not limited to, a drama, a reality show, a comedy, a soap opera,
88 a telenovela, a game show, or a miniseries production; or a
89 digital media project by the entertainment industry. One season
90 of a television series is considered one production. The term
91 does not include a weather or market program; a sporting event;
92 a sports show; a gala; a production that solicits funds; a home
93 shopping program; a political program; a political documentary;
94 political advertising; a gambling-related project or production;
95 a concert production; or a local, regional, or Internet-
96 distributed-only news show, current-events show, pornographic
97 production, or current-affairs show. A production may be
98 produced on or by film, tape, or otherwise by means of a motion
99 picture camera; electronic camera or device; tape device;
100 computer; any combination of the foregoing; or any other means,
101 method, or device now used or later adopted.

102 (g) "Production expenditures" means the costs of tangible
103 and intangible property used for, and services performed
104 primarily and customarily in, production, including
105 preproduction and postproduction, but excluding costs for
106 development, marketing, and distribution. The term includes, but
107 is not limited to:

108 1. Wages, salaries, or other compensation paid to legal
109 residents of this state, including amounts paid through payroll
110 service companies, for technical and production crews,
111 directors, producers, and performers.

112 2. Expenditures for sound stages, backlots, production

113 editing, digital effects, sound recordings, sets, and set
114 construction.

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

117 4. Up to \$300,000 of the costs of newly purchased computer
118 software and hardware unique to the project, including servers,
119 data processing, and visualization technologies, which are
120 located in and used exclusively in the state for the production
121 of digital media.

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

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

125 1. Goods purchased or leased from, or services, including,
126 but not limited to, insurance costs and bonding, payroll
127 services, and legal fees, which are provided by, a vendor or
128 supplier in this state that is registered with the Department of
129 State or the Department of Revenue and doing business in the
130 state and whose primary employees that facilitated the
131 transaction are legal residents of and doing business in this
132 state.

133 2. Payments to legal residents of this state in the form
134 of salary, wages, or other compensation up to a maximum of
135 \$650,000 per resident unless otherwise specified in subsection
136 (4).

137
138 For a qualified production involving an event, such as an awards
139 show, the term does not include expenditures solely associated
140 with the event itself and not directly required by the

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

145 (i) "Qualified production" means a production in this
146 state meeting the requirements of this section. The term does
147 not include a production:

148 1. In which, for the first 2 years of the incentive
149 program, less than 50 percent, and thereafter, less than 60
150 percent, of the positions that make up its production cast and
151 below-the-line production crew, or, in the case of digital media
152 projects, less than 75 percent of such positions, are filled by
153 legal residents of this state, whose residency is demonstrated
154 by a valid Florida driver's license or other state-issued
155 identification confirming residency, or students enrolled full-
156 time in a film-and-entertainment-related course of study at an
157 institution of higher education in this state; or

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

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

163 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
164 industry financial incentive program is created within the
165 Office of Film and Entertainment. The purpose of this program is
166 to encourage the use of this state as a site for filming, for
167 the digital production of films, and to develop and sustain the
168 workforce and infrastructure for film, digital media, and

169 entertainment production.

170 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

171 (a) Program application.—A qualified production company
 172 producing a qualified production in this state may submit a
 173 program application to the Office of Film and Entertainment for
 174 the purpose of determining qualification for an award of tax
 175 credits authorized by this section no earlier than 6 months
 176 before the first date that production expenditures are incurred
 177 in this state. The applicant shall provide the Office of Film
 178 and Entertainment with information required to determine whether
 179 the production is a qualified production and to determine the
 180 qualified expenditures and other information necessary for the
 181 office to determine eligibility for the tax credit.

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

191 (c) Application process.—The Office of Film and
 192 Entertainment shall establish a process by which an application
 193 is accepted and reviewed and by which tax credit eligibility and
 194 award amount are determined. The Office of Film and
 195 Entertainment may request assistance from a duly appointed local
 196 film commission in determining compliance with this section.

197 (d) Certification.—The Office of Film and Entertainment
 198 shall review the application within 15 business days after
 199 receipt. Upon its determination that the application contains
 200 all the information required by this subsection and meets the
 201 criteria set out in this section, the Office of Film and
 202 Entertainment shall qualify the applicant and recommend to the
 203 Office of Tourism, Trade, and Economic Development that the
 204 applicant be certified for the maximum tax credit award amount.
 205 Within 5 business days after receipt of the recommendation, the
 206 Office of Tourism, Trade, and Economic Development shall reject
 207 the recommendation or certify the maximum recommended tax credit
 208 award, if any, to the applicant and to the executive director of
 209 the Department of Revenue.

210 (e) Grounds for denial.—The Office of Film and
 211 Entertainment shall deny an application if it determines that
 212 the application is not complete or the production or application
 213 does not meet the requirements of this section.

214 (f) Verification of actual qualified expenditures.—

215 1. The Office of Film and Entertainment shall develop a
 216 process to verify the actual qualified expenditures of a
 217 certified production. The process must require:

218 a. A certified production to submit, in a timely manner
 219 after principal photography, digital production, or the digital
 220 media project ends and after making all of its qualified
 221 expenditures, data substantiating each qualified expenditure to
 222 an independent certified public accountant licensed in this
 223 state;

224 b. Such accountant to conduct a compliance audit, at the

225 certified production's expense, to substantiate each qualified
226 expenditure and submit the results as a report, along with the
227 required substantiating data, to the Office of Film and
228 Entertainment; and

229 c. The Office of Film and Entertainment to review the
230 accountant's submittal and report to the Office of Tourism,
231 Trade, and Economic Development the final verified amount of
232 actual qualified expenditures made by the certified production.

233 2. The Office of Tourism, Trade, and Economic Development
234 shall determine and approve the final tax credit award amount to
235 each certified applicant based on the final verified amount of
236 actual qualified expenditures and shall notify the executive
237 director of the Department of Revenue in writing that the
238 certified production has met the requirements of the incentive
239 program and of the final amount of the tax credit award. The
240 final tax credit award amount may not exceed the maximum tax
241 credit award amount certified under paragraph (d).

242 (g) Promoting Florida.—The Office of Film and
243 Entertainment shall ensure that, as a condition of receiving a
244 tax credit under this section, marketing materials promoting
245 this state as a tourist destination or film and entertainment
246 production destination are included, when appropriate, at no
247 cost to the state, which must, at a minimum, include placement
248 of a "Filmed in Florida" or "Produced in Florida" logo in the
249 opening credits and end credits and on all packaging material
250 and hard media, unless prohibited by licensing or other
251 contractual obligations. The size and placement of such logo
252 shall be commensurate to other logos used. If no logos are used,

253 the statement "Filmed in Florida using Florida's Entertainment
 254 Industry Financial Incentive," or a similar statement approved
 255 by the Office of Film and Entertainment, shall be used. The
 256 Office of Film and Entertainment shall provide a logo and supply
 257 it for the purposes specified in this paragraph.

258 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
 259 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
 260 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
 261 ACQUISITIONS.—

262 (a) Priority for tax credit award.—The priority of a
 263 qualified production for tax credit awards must be determined on
 264 a first-come, first-served basis within its appropriate queue.
 265 Each qualified production must be placed into the appropriate
 266 queue and is subject to the requirements of that queue.

267 (b) Tax credit eligibility.—

268 1. General production queue.—Ninety-four percent of tax
 269 credits authorized in any state fiscal year must be dedicated to
 270 the general production queue. The general production queue
 271 consists of all qualified productions other than those eligible
 272 for the commercial and music video queue or the independent
 273 production queue. A qualified production that demonstrates a
 274 minimum of \$625,000 in qualified expenditures is eligible for
 275 tax credits equal to 20 percent of its actual qualified
 276 expenditures, up to a maximum of \$12 million. A qualified
 277 production that incurs qualified expenditures during multiple
 278 state fiscal years may combine those expenditures to satisfy the
 279 \$625,000 minimum threshold.

280 a. An off-season certified production that is a feature

281 film, independent film, or television series or pilot is
282 eligible for an additional 5-percent tax credit on actual
283 qualified expenditures. An off-season certified production that
284 does not complete 75 percent of principal photography due to a
285 disruption caused by a hurricane or tropical storm may not be
286 disqualified from eligibility for the additional 5-percent
287 credit as a result of the disruption.

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

291 2. Commercial and music video queue.—Three percent of tax
292 credits authorized in any state fiscal year must be dedicated to
293 the commercial and music video queue. A qualified production
294 company that produces national or regional commercials or music
295 videos may be eligible for a tax credit award if it demonstrates
296 a minimum of \$100,000 in qualified expenditures per national or
297 regional commercial or music video and exceeds a combined
298 threshold of \$500,000 after combining actual qualified
299 expenditures from qualified commercials and music videos during
300 a single state fiscal year. After a qualified production company
301 that produces commercials, music videos, or both reaches the
302 threshold of \$500,000, it is eligible to apply for certification
303 for a tax credit award. The maximum credit award shall be equal
304 to 20 percent of its actual qualified expenditures up to a
305 maximum of \$500,000. If there is a surplus at the end of a
306 fiscal year after the Office of Film and Entertainment certifies
307 and determines the tax credits for all qualified commercial and
308 video projects, such surplus tax credits shall be carried

309 forward to the following fiscal year and be available to any
310 eligible qualified productions under the general production
311 queue.

312 3. Independent production queue.—Three percent of tax
313 credits authorized in any state fiscal year must be dedicated to
314 the independent production queue. An independent Florida film or
315 digital media project that meets the criteria of this
316 subparagraph and demonstrates a minimum of \$100,000, but not
317 more than \$625,000, in total qualified expenditures is eligible
318 for tax credits equal to 20 percent of its actual qualified
319 expenditures. To qualify for this tax credit, a qualified
320 production must:

321 a. Be planned as a feature film or documentary of at least
322 70 minutes in length or be a digital media project.

323 b. Employ legal residents of this state in at least two of
324 the following key positions: writer, director, producer, star,
325 or composer; or, in the case of a digital media project, employ
326 legal residents of this state in at least two positions
327 functionally equivalent to the positions of writer, director,
328 producer, star, or composer.

329 4. Family-friendly productions.—A certified production
330 determined by the Commissioner of Film and Entertainment, with
331 the advice of the Florida Film and Entertainment Advisory
332 Council, to be family-friendly, based on the review of the
333 script and the review of the final release version, is eligible
334 for an additional tax credit equal to 5 percent of its actual
335 qualified expenditures. Family-friendly productions are those
336 that have cross-generational appeal; would be considered

337 suitable for viewing by children age 5 or older; are appropriate
338 in theme, content, and language for a broad family audience;
339 embody a responsible resolution of issues; and do not exhibit or
340 imply any act of smoking, sex, nudity, nontraditional family
341 values, gratuitous violence, or vulgar or profane language.

342 (c) Withdrawal of tax credit eligibility.—A qualified or
343 certified production must continue on a reasonable schedule,
344 which means beginning principal photography, or, in the case of
345 a digital media project, the start date of the production, in
346 this state no more than 45 calendar days before or after the
347 date provided in the production's program application. The
348 Office of Tourism, Trade, and Economic Development shall
349 withdraw the eligibility of a qualified or certified production
350 that does not continue on a reasonable schedule.

351 (d) Election and distribution of tax credits.—

352 1. A certified production company receiving a tax credit
353 award under this section shall, at the time the credit is
354 awarded by the Office of Tourism, Trade, and Economic
355 Development after production is completed and all requirements
356 to receive a credit award have been met, make an irrevocable
357 election to apply the credit against taxes due under chapter
358 220, against taxes collected or accrued under chapter 212,
359 except that the credit authorized under this section may not be
360 applied against discretionary sales surtaxes authorized under s.
361 212.055, or against a stated combination of the two taxes. The
362 election is binding upon any distributee, successor, transferee,
363 or purchaser. The Office of Tourism, Trade, and Economic
364 Development shall notify the Department of Revenue of any

365 election made pursuant to this paragraph.

366 2. For the fiscal years beginning July 1, 2010, and ending
367 June 30, 2015, a qualified production company is eligible for
368 tax credits against its sales and use tax liabilities and
369 corporate income tax liabilities as provided in this section.
370 However, tax credits awarded under this section may not be
371 claimed against sales and use tax liabilities or corporate
372 income tax liabilities for any tax period beginning before July
373 1, 2011, regardless of when the credits are applied for or
374 awarded.

375 (e) Tax credit carryforward.—If the certified production
376 company cannot use the entire tax credit in the taxable year or
377 reporting period in which the credit is awarded, any excess
378 amount may be carried forward to a succeeding taxable year or
379 reporting period. A tax credit applied against taxes imposed
380 under chapter 212 may be carried forward for a maximum of 5
381 years after the date the credit is awarded. A tax credit applied
382 against taxes imposed under chapter 220 may be carried forward
383 for a maximum of 5 years after the date the credit is awarded,
384 after which the credit expires and may not be used.

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

390 (g) Partnership and noncorporate distributions.—A
391 qualified production company that is not a corporation as
392 defined in s. 220.03 may elect to distribute tax credits awarded

393 under this section to its partners or members in proportion to
 394 their respective distributive income or loss in the taxable
 395 fiscal year in which the tax credits were awarded.

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

401 (5) TRANSFER OF TAX CREDITS.—

402 (a) Authorization.—Upon application to the Office of Film
 403 and Entertainment and approval by the Office of Tourism, Trade,
 404 and Economic Development, a certified production company, or a
 405 partner or member that has received a distribution under
 406 paragraph (4) (g), may elect to transfer, in whole or in part,
 407 any unused credit amount granted under this section. An election
 408 to transfer any unused tax credit amount under chapter 212 or
 409 chapter 220 must be made no later than 5 years after the date
 410 the credit is awarded, after which period the credit expires and
 411 may not be used. The Office of Tourism, Trade, and Economic
 412 Development shall notify the Department of Revenue of the
 413 election and transfer.

414 (b) Number of transfers permitted.—A certified production
 415 company that elects to apply a credit amount against taxes
 416 remitted under chapter 212 is permitted a one-time transfer of
 417 unused credits to one transferee. A certified production company
 418 that elects to apply a credit amount against taxes due under
 419 chapter 220 is permitted a one-time transfer of unused credits
 420 to no more than four transferees, and such transfers must occur

421 in the same taxable year.

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

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

428 (6) ANNUAL ALLOCATION OF TAX CREDITS.—

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

432 (b) Any portion of the maximum amount of tax credits
433 established per fiscal year in paragraph (a) that is not
434 certified as of the end of a fiscal year shall be carried
435 forward and made available for certification during the
436 following two fiscal years in addition to the amounts available
437 for certification under paragraph (a) for those fiscal years.

438 (c) Upon approval of the final tax credit award amount
439 pursuant to subparagraph (3) (f)2., an amount equal to the
440 difference between the maximum tax credit award amount
441 previously certified under paragraph (3) (d) and the approved
442 final tax credit award amount shall immediately be available for
443 recertification during the current and following fiscal years in
444 addition to the amounts available for certification under
445 paragraph (a) for those fiscal years. Credit amounts are
446 available for recertification only once under this paragraph.

447 (d) If, during a fiscal year, the total amount of credits
448 applied for, pursuant to paragraph (3) (a), exceeds the amount of

449 credits available for certification in that fiscal year, such
 450 excess shall be treated as having been applied for on the first
 451 day of the next fiscal year in which credits remain available
 452 for certification.

453 (7) RULES, POLICIES, AND PROCEDURES.—

454 (a) The Office of Tourism, Trade, and Economic Development
 455 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
 456 develop policies and procedures to implement and administer this
 457 section, including, but not limited to, rules specifying
 458 requirements for the application and approval process, records
 459 required for substantiation for tax credits, procedures for
 460 making the election in paragraph (4) (d), the manner and form of
 461 documentation required to claim tax credits awarded or
 462 transferred under this section, and marketing requirements for
 463 tax credit recipients.

464 (b) The Department of Revenue may adopt rules pursuant to
 465 ss. 120.536(1) and 120.54 to administer this section, including
 466 rules governing the examination and audit procedures required to
 467 administer this section and the manner and form of documentation
 468 required to claim tax credits awarded or transferred under this
 469 section.

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

472 (a) Audit authority.—The Department of Revenue may conduct
 473 examinations and audits as provided in s. 213.34 to verify that
 474 tax credits under this section are received, transferred, and
 475 applied according to the requirements of this section. If the
 476 Department of Revenue determines that tax credits are not

477 received, transferred, or applied as required by this section,
 478 it may, in addition to the remedies provided in this subsection,
 479 pursue recovery of such funds pursuant to the laws and rules
 480 governing the assessment of taxes.

481 (b) Revocation of tax credits.—The Office of Tourism,
 482 Trade, and Economic Development may revoke or modify any written
 483 decision qualifying, certifying, or otherwise granting
 484 eligibility for tax credits under this section if it is
 485 discovered that the tax credit applicant submitted any false
 486 statement, representation, or certification in any application,
 487 record, report, plan, or other document filed in an attempt to
 488 receive tax credits under this section. The Office of Tourism,
 489 Trade, and Economic Development shall immediately notify the
 490 Department of Revenue of any revoked or modified orders
 491 affecting previously granted tax credits. Additionally, the
 492 applicant must notify the Department of Revenue of any change in
 493 its tax credit claimed.

494 (c) Forfeiture of tax credits.—A determination by the
 495 Department of Revenue, as a result of an audit or examination by
 496 the Department of Revenue or from information received from the
 497 Office of Film and Entertainment, that an applicant received tax
 498 credits pursuant to this section to which the applicant was not
 499 entitled is grounds for forfeiture of previously claimed and
 500 received tax credits. The applicant is responsible for returning
 501 forfeited tax credits to the Department of Revenue, and such
 502 funds shall be paid into the General Revenue Fund of the state.
 503 Tax credits purchased in good faith are not subject to
 504 forfeiture unless the transferee submitted fraudulent

505 information in the purchase or failed to meet the requirements
506 in subsection (5).

507 (d) Fraudulent claims.—Any applicant that submits
508 fraudulent information under this section is liable for
509 reimbursement of the reasonable costs and fees associated with
510 the review, processing, investigation, and prosecution of the
511 fraudulent claim. An applicant that obtains a credit payment
512 under this section through a claim that is fraudulent is liable
513 for reimbursement of the credit amount plus a penalty in an
514 amount double the credit amount. The penalty is in addition to
515 any criminal penalty to which the applicant is liable for the
516 same acts. The applicant is also liable for costs and fees
517 incurred by the state in investigating and prosecuting the
518 fraudulent claim.

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

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

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

529 220.02 Legislative intent.—

530 (8) It is the intent of the Legislature that credits
531 against either the corporate income tax or the franchise tax be
532 applied in the following order: those enumerated in s. 631.828,

533 those enumerated in s. 220.191, those enumerated in s. 220.181,
 534 those enumerated in s. 220.183, those enumerated in s. 220.182,
 535 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 536 those enumerated in s. 220.184, those enumerated in s. 220.186,
 537 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 538 those enumerated in s. 220.185, those enumerated in s. 220.187,
 539 those enumerated in s. 220.192, those enumerated in s. 220.193,
 540 ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.
 541 288.1254.

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

544 213.053 Confidentiality and information sharing.—

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

547 (z) Information relative to tax credits taken under s.
 548 288.1254 to the Office of Film and Entertainment and the Office
 549 of Tourism, Trade, and Economic Development.

550
 551 Disclosure of information under this subsection shall be
 552 pursuant to a written agreement between the executive director
 553 and the agency. Such agencies, governmental or nongovernmental,
 554 shall be bound by the same requirements of confidentiality as
 555 the Department of Revenue. Breach of confidentiality is a
 556 misdemeanor of the first degree, punishable as provided by s.
 557 775.082 or s. 775.083.

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

560 212.08 Sales, rental, use, consumption, distribution, and

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561 storage tax; specified exemptions.—The sale at retail, the
562 rental, the use, the consumption, the distribution, and the
563 storage to be used or consumed in this state of the following
564 are hereby specifically exempt from the tax imposed by this
565 chapter.

566 (5) EXEMPTIONS; ACCOUNT OF USE.—

567 (q) Entertainment industry tax credit; authorization;
568 eligibility for credits.—The credit shall be deducted from any
569 sales and use tax remitted by the dealer to the department by
570 electronic funds transfer and may only be deducted on a sales
571 and use tax return initiated through electronic data
572 interchange. The dealer shall separately state the credit on the
573 electronic return. The net amount of tax due and payable must be
574 remitted by electronic funds transfer. If the credit for the
575 qualified expenditures is larger than the amount owed on the
576 sales and use tax return that is eligible for the credit, the
577 unused amount of the credit may be carried forward to a
578 succeeding reporting period as provided in s. 288.1254(4)(e). A
579 dealer may only obtain a credit using the method described in
580 this subparagraph. A dealer is not authorized to obtain a credit
581 by applying for a refund.

582 Section 5. If any provision of this act or the application
583 thereof to any person or circumstance is held invalid, the
584 invalidity shall not affect other provisions or applications of
585 the act which can be given effect without the invalid provision
586 or application, and to this end the provisions of this act are
587 declared severable.

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