

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Precourt offered the following:

2  
3 **Amendment (with directory and title amendments)**

4 Remove lines 607-832 and insert:

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

6 (b) "Digital media project" means a production of  
7 interactive entertainment that is produced for distribution in  
8 commercial or educational markets. The term includes a video  
9 game or production intended for Internet or wireless  
10 distribution. The term does not include a production that  
11 contains ~~deemed by the Office of Film and Entertainment to~~  
12 ~~contain~~ obscene content as defined in s. 847.001(10) or portrays  
13 America, Americans, Florida, or Floridians in a negative light.

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

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16 1. Goods purchased or leased from, or services, including,  
17 but not limited to, insurance costs and bonding, payroll  
18 services, and legal fees, which are provided by, a vendor or  
19 supplier in this state that is registered with the Department of  
20 State or the Department of Revenue, has a physical location in  
21 this state, and employs one or more legal residents of this  
22 state. This does not include re-billed goods or services  
23 provided by an in-state company from out-of-state vendors or  
24 suppliers. When services are provided by the vendor or supplier  
25 include personal services or labor, only personal services or  
26 labor provided by residents of this state, evidenced by the  
27 required documentation of residency in this state, qualify.

28 2. Payments to legal residents of this state in the form  
29 of salary, wages, or other compensation up to a maximum of  
30 \$400,000 per resident unless otherwise specified in subsection  
31 (4). A completed declaration of residency in this state must  
32 accompany the documentation submitted to the office for  
33 reimbursement.

34  
35 For a qualified production involving an event, such as an awards  
36 show, the term does not include expenditures solely associated  
37 with the event itself and not directly required by the  
38 production. The term does not include expenditures incurred  
39 before certification, with the exception of those incurred for a  
40 commercial, a music video, or the pickup of additional episodes  
41 of a high-impact television series within a single season. Under  
42 no circumstances may the qualified production include in the  
43 calculation for qualified expenditures the original purchase

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44 price for equipment or other tangible property that is later  
45 sold or transferred by the qualified production for  
46 consideration. In such cases, the qualified expenditure is the  
47 net of the original purchase price minus the consideration  
48 received upon sale or transfer.

49 (i) "Qualified production" means a production in this  
50 state meeting the requirements of this section. The term does  
51 not include a production:

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

62 2. That contains ~~is deemed by the Office of Film and~~  
63 ~~Entertainment to contain~~ obscene content as defined in s.  
64 847.001(10) or portrays America, Americans, Florida, or  
65 Floridians in a negative light.

66 (k) "Qualified digital media production facility" means a  
67 building or series of buildings and their improvements in which  
68 data processing, visualization, and sound synchronization  
69 technologies are regularly applied for the production of  
70 qualified digital media projects.

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71       (l) "Qualified production facility" means a building or  
72 complex of buildings and their improvements and associated  
73 backlot facilities in which regular filming activity for film or  
74 television has occurred for a period of no less than one year  
75 and which contain at least one sound stage of at least 7,800  
76 square feet.

77       (m) "Regional population ratio" means the ratio of the  
78 population of a region to the population of this state. The  
79 regional population ratio applicable to a given fiscal year is  
80 the regional population ratio calculated by the Office of Film  
81 and Entertainment using the latest official estimates of  
82 population certified under s. 186.901, available on the first  
83 day of that fiscal year.

84       (n) "Regional tax credit ratio" means a ratio the  
85 numerator of which is of the sum of tax credits awarded to  
86 productions in a region to date plus the tax credits certified,  
87 but not yet awarded, to productions currently in that region and  
88 the denominator of which is the sum of all tax credits awarded  
89 in the state to date plus all tax credits certified, but not yet  
90 awarded, to productions currently in the state. The regional tax  
91 credit ratio applicable to a given year is the regional tax  
92 credit ratio calculated by the Office of Film and Entertainment  
93 using credit award and certification information available on  
94 the first day of that fiscal year.

95       (o) "Underutilized region" for a given state fiscal year  
96 means a region with a regional tax credit ratio applicable to  
97 that fiscal year that is lower than its regional population

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98 ratio applicable to that fiscal year. The following regions are  
99 established for purposes of making this determination:

100 1. North Region, consisting of Alachua, Baker, Bay,  
101 Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,  
102 Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,  
103 Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,  
104 Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,  
105 Union, Wakulla, Walton, and Washington counties.

106 2. Central East Region, consisting of Brevard, Flagler,  
107 Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.  
108 Lucie, and Volusia counties.

109 3. Central West Region, consisting of Citrus, Hernando,  
110 Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,  
111 and Sumter counties.

112 4. Southwest Region, consisting of Charlotte, Collier,  
113 DeSoto, Glades, Hardee, Hendry, Highlands, and Lee counties.

114 5. Southeast Region, consisting of Broward, Martin, Miami-  
115 Dade, Monroe, and Palm Beach counties.

116 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

117 (c) Application process.—The Office of Film and  
118 Entertainment shall establish a process by which an application  
119 is accepted and reviewed and by which tax credit eligibility and  
120 award amount are determined. The Office of Film and  
121 Entertainment may request assistance from a duly appointed local  
122 film commission in determining compliance with this section. A  
123 high-impact television series may submit an application for no  
124 more than two successive seasons, notwithstanding the fact that  
125 the successive season has not been ordered. The successive

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126 season qualified expenditure amounts shall be based on the  
127 current season's estimated qualified expenditures.

128 (e) Grounds for denial.—The Office of Film and  
129 Entertainment shall deny an application if it determines that  
130 the application is not complete or the production or application  
131 does not meet the requirements of this section. Within 90 days  
132 after submitting a program application, except with respect to  
133 applications in the independent and emerging media queue, a  
134 production must provide proof of project financing to the Office  
135 of Film and Entertainment, otherwise the project is deemed  
136 denied and withdrawn. A project that has been withdrawn may  
137 submit a new application upon providing the Office of Film and  
138 Entertainment proof of financing.

139 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;  
140 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;  
141 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND  
142 ACQUISITIONS.—

143 (b) Tax credit eligibility.—

144 1. General production queue.—Ninety-four percent of tax  
145 credits authorized pursuant to subsection (6) in any state  
146 fiscal year must be dedicated to the general production queue.  
147 The general production queue consists of all qualified  
148 productions other than those eligible for the commercial and  
149 music video queue or the independent and emerging media  
150 production queue. A qualified production that demonstrates a  
151 minimum of \$625,000 in qualified expenditures is eligible for  
152 tax credits equal to 20 percent of its actual qualified  
153 expenditures, up to a maximum of \$8 million. A qualified

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154 production that incurs qualified expenditures during multiple  
155 state fiscal years may combine those expenditures to satisfy the  
156 \$625,000 minimum threshold.

157 a. An off-season certified production that is a feature  
158 film, independent film, or television series or pilot is  
159 eligible for an additional 5-percent tax credit on actual  
160 qualified expenditures. An off-season certified production that  
161 does not complete 75 percent of principal photography due to a  
162 disruption caused by a hurricane or tropical storm may not be  
163 disqualified from eligibility for the additional 5-percent  
164 credit as a result of the disruption.

165 b. If more than 25 percent of the sum of total tax credits  
166 awarded to productions after July 1, 2010, and total tax credits  
167 certified, but not yet awarded, to productions currently in this  
168 state has been awarded for television series, then no television  
169 series or pilot shall be eligible for tax credits under this  
170 subparagraph.

171 c. The calculations required by this sub-subparagraph  
172 shall use only credits available to be certified and awarded on  
173 or after July 1, 2011.

174 (I) If less than 25 percent of the sum of the total tax  
175 credits awarded to productions and the total tax credits  
176 certified, but not yet awarded, to productions currently in this  
177 state has been to high-impact television series, any A qualified  
178 high-impact television series shall be allowed first position in  
179 this queue for tax credit awards not yet certified.

180 (II) If less than 20 percent of the sum of the total tax  
181 credits awarded to productions and the total tax credits

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182 certified, but not yet awarded, to productions currently in this  
183 state has been to digital media projects, any digital media  
184 project shall be allowed first position in this queue for tax  
185 credit awards not yet certified.

186 (III) For the purposes of determining position between a  
187 high-impact television series allowed first position and a  
188 digital media project allowed first position under this sub-  
189 subparagraph, tax credits shall be awarded on a first-come,  
190 first-served basis.

191 d. A qualified production that incurs at least 85 percent  
192 of its qualified expenditures within a region designated as an  
193 underutilized region at the time that the production is  
194 certified is eligible for an additional 5 percent tax credit.

195 e. Any qualified production that employs students enrolled  
196 full-time in a film and entertainment-related or digital media-  
197 related course of study at an institution of higher education in  
198 this state is eligible for an additional 15 percent tax credit  
199 on qualified expenditures that are wages, salaries, or other  
200 compensation paid to such students.

201 f. A qualified production for which 50 percent or more of  
202 its principal photography occurs at a qualified production  
203 facility or a digital media project for which 50 percent or more  
204 of its qualified expenditures are related to a qualified digital  
205 media production facility shall be eligible for an additional 5  
206 percent tax credit on actual qualified expenditures for  
207 production activity at that facility.

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208 g. No qualified production shall be eligible for tax  
209 credits provided under this paragraph totaling more than 30  
210 percent of its actual qualified expenses.

211 2. Commercial and music video queue.—Three percent of tax  
212 credits authorized pursuant to subsection (6) in any state  
213 fiscal year must be dedicated to the commercial and music video  
214 queue. A qualified production company that produces national or  
215 regional commercials or music videos may be eligible for a tax  
216 credit award if it demonstrates a minimum of \$100,000 in  
217 qualified expenditures per national or regional commercial or  
218 music video and exceeds a combined threshold of \$500,000 after  
219 combining actual qualified expenditures from qualified  
220 commercials and music videos during a single state fiscal year.  
221 After a qualified production company that produces commercials,  
222 music videos, or both reaches the threshold of \$500,000, it is  
223 eligible to apply for certification for a tax credit award. The  
224 maximum credit award shall be equal to 20 percent of its actual  
225 qualified expenditures up to a maximum of \$500,000. If there is  
226 a surplus at the end of a fiscal year after the Office of Film  
227 and Entertainment certifies and determines the tax credits for  
228 all qualified commercial and video projects, such surplus tax  
229 credits shall be carried forward to the following fiscal year  
230 and be available to any eligible qualified productions under the  
231 general production queue.

232 3. Independent and emerging media production queue.—Three  
233 percent of tax credits authorized pursuant to subsection (6) in  
234 any state fiscal year must be dedicated to the independent and  
235 emerging media production queue. This queue is intended to  
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236 encourage Florida independent film and emerging media  
237 production. Any qualified production, excluding commercials,  
238 infomercials, or music videos, that demonstrates at least  
239 \$100,000, but not more than \$625,000, in total qualified  
240 expenditures is eligible for tax credits equal to 20 percent of  
241 its actual qualified expenditures. If a surplus exists at the  
242 end of a fiscal year after the Office of Film and Entertainment  
243 certifies and determines the tax credits for all qualified  
244 independent and emerging media production projects, such surplus  
245 tax credits shall be carried forward to the following fiscal  
246 year and be available to any eligible qualified productions  
247 under the general production queue.

248 4. Family-friendly productions.—A certified theatrical or  
249 direct-to-video motion picture production or video game  
250 determined by the Commissioner of Film and Entertainment, with  
251 the advice of the Florida Film and Entertainment Advisory  
252 Council, to be family-friendly, based on the review of the  
253 script and the review of the final release version, is eligible  
254 for an additional tax credit equal to 5 percent of its actual  
255 qualified expenditures. Family-friendly productions are those  
256 that have cross-generational appeal; would be considered  
257 suitable for viewing by children age 5 or older; are appropriate  
258 in theme, content, and language for a broad family audience;  
259 embody a responsible resolution of issues; and do not exhibit or  
260 imply any act of smoking, sex, nudity, or vulgar or profane  
261 language.

262 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

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263 (a) The aggregate amount of the tax credits that may be  
264 certified pursuant to paragraph (3)(d) may not exceed:

265 1. For fiscal year 2010-2011, \$53.5 million.

266 2. For fiscal year 2011-2012, \$74.5 million.

267 3. For fiscal years 2012-2013, 2013-2014, and 2014-2015,  
268 \$50 ~~\$38~~ million per fiscal year.

269 (10) ANNUAL REPORT.—Each October 1, the Office of Film and  
270 Entertainment shall provide an annual report for the previous  
271 fiscal year to the Governor, the President of the Senate, and  
272 the Speaker of the House of Representatives which outlines the  
273 return on investment and economic benefits to the state. The  
274 report shall also include an estimate of the full-time  
275 equivalent positions created by each production that received  
276 tax credits under s. 288.1254 and information relating to the  
277 distribution of productions receiving credits by geographic  
278 region and type of production.

282 -----  
283 **D I R E C T O R Y A M E N D M E N T**

284 Remove lines 600-604 and insert:

285 Section 16. Paragraphs (b), (h), and (i) of subsection (1),  
286 paragraphs (c) and (e) of subsection (3), paragraph (b) of  
287 subsection (4), paragraph (a) of subsection (7), and subsection  
288 (10) of section 288.1254, Florida Statutes, are amended, and  
289 paragraphs (k), (l), (m), (n), and (o) are added to subsection  
290 (1) of that section, to read:

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**T I T L E   A M E N D M E N T**

Remove lines 33-37 and insert:

F.S.; revising and providing definitions; revising criteria for  
awarding tax credits and increasing the amount of credits to be  
awarded under the entertainment industry financial incentive  
program; revising the application procedure and approval  
process; revising requirements relating to the annual report of  
the Office of Film and Entertainment;