

1                   A bill to be entitled  
 2           An act relating to the qualified television revolving  
 3           loan fund; creating s. 288.127, F.S.; defining terms;  
 4           providing a purpose; creating the qualified television  
 5           revolving loan fund; requiring the Department of  
 6           Economic Opportunity to contract with a fund  
 7           administrator; providing fund administrator  
 8           qualifications; providing for the fund administrator's  
 9           compensation and removal; specifying the fund  
 10          administrator's powers and duties; providing the  
 11          structure of the loans; providing qualified television  
 12          content criteria; authorizing the Auditor General to  
 13          conduct an operational audit of the fund and the fund  
 14          administrator; authorizing the department to adopt  
 15          rules; providing for expiration of the loan program;  
 16          providing emergency rulemaking authority; providing  
 17          for expiration of the emergency rulemaking authority;  
 18          amending s. 288.0001, F.S.; requiring an analysis of  
 19          the qualified television revolving loan fund in the  
 20          Economic Development Programs Evaluation; providing an  
 21          effective date.

22  
 23   Be It Enacted by the Legislature of the State of Florida:

24  
 25           Section 1.   Section 288.127, Florida Statutes, is created  
 26   to read:

27 288.127 Qualified television revolving loan fund.—  
 28 (1) DEFINITIONS.—As used in this section, the term:  
 29 (a) "Fund administrator" means a private sector  
 30 organization under contract with the department to manage and  
 31 administer the qualified television revolving loan fund.  
 32 (b) "Major broadcaster" means broadcasting organizations  
 33 that include, but are not limited to, television broadcasting  
 34 networks, cable television, direct broadcast satellite,  
 35 telecommunications companies, and Internet streaming or other  
 36 digital media platforms.  
 37 (c) "Private investment capital" means capital from  
 38 private, nongovernmental funding sources which will be  
 39 coinvested with the QTV Fund in segregated accounts.  
 40 (d) "Qualified lending partner" means a financial  
 41 institution, as defined in s. 655.005, selected by a fund  
 42 administrator that has demonstrated capability in providing  
 43 financing to television production and specialized expertise in  
 44 intellectual property, tax credit programs, customary broadcast  
 45 license agreements, advertising inventories, and ancillary  
 46 revenue sources, and a combined portfolio in film, television,  
 47 and entertainment media of at least \$500 million.  
 48 (e) "Qualified television content" means series, mini-  
 49 series, or made-for-TV content produced by a qualified  
 50 production company that has in place a distribution contract  
 51 with a major broadcaster, under a customary broadcaster license  
 52 agreement, and meets the criteria provided in subsection (7).

53 The term does not include a production that contains content  
 54 that is obscene, as defined in s. 847.001.

55 (f) "QTV Fund" means the qualified television revolving  
 56 loan fund.

57 (2) PURPOSE.—The purpose of the QTV Fund is to create a  
 58 public-private partnership in the form of a revolving loan fund  
 59 to administer a loan program for television production. The QTV  
 60 Fund is privately managed under state oversight to incentivize  
 61 the use of this state as a site for producing qualified  
 62 television content and to develop and sustain the workforce and  
 63 infrastructure for television content production.

64 (3) CREATION.—The qualified television revolving loan fund  
 65 is created within the department. The QTV Fund shall be a public  
 66 fund that is privately managed by the fund administrator under  
 67 contract with the department. The department shall disburse the  
 68 funds appropriated for this loan program to the fund  
 69 administrator to invest in the QTV Fund during the existence of  
 70 the program pursuant to this section and the contract between  
 71 the fund administrator and the department. State funds in the  
 72 QTV Fund may be used only to enter into loan agreements and to  
 73 pay any administrative costs or other authorized fees under this  
 74 section.

75 (a) The QTV Fund shall be a revolving loan fund that  
 76 invests and reinvests the principal and interest of the fund in  
 77 accordance with s. 617.2104 in a manner so as not to subject the  
 78 funds to state or federal taxes and to be consistent with the

79 investment policy statement adopted by the fund administrator.  
80 As production companies repay the principal and interest to the  
81 QTV Fund, state funds, less any QTV Fund expenses, shall be  
82 returned to the account to be lent to subsequent borrowers.

83 (b) Funds from the QTV Fund shall be disbursed by the fund  
84 administrator through a lending vehicle to make loans not to  
85 exceed 36 months in duration pursuant to this section.

86 (4) FUND ADMINISTRATOR.—

87 (a) The department shall contract with a fund  
88 administrator within 90 days after funds are appropriated for  
89 the loan program and shall award the contract in accordance with  
90 the competitive bidding requirements in s. 287.057.

91 (b) The department shall select as fund administrator a  
92 private sector entity that demonstrates the ability to implement  
93 the program under this section and that meets the requirements  
94 set forth in this section. Preference shall be given to  
95 applicants that are headquartered in this state. Additional  
96 consideration may be given to applicants that have experience in  
97 the management of economic development or job creation-related  
98 funds. The qualifications for the fund administrator must  
99 include, but are not limited to:

100 1. A demonstrated track record of managing private sector  
101 equity or debt funds in the entertainment and media industries.

102 2. The ability to demonstrate through a partnership  
103 agreement that a qualified lending partner is in place which has  
104 the capability of providing leverage of a minimum of 2.5 times

105 the capital amount of the QTV Fund, for financing the production  
106 cost of qualified television content in the form of senior debt.

107 (c) For overseeing and administering the QTV Fund, the  
108 fund administrator shall be reimbursed for the costs that the  
109 fund administrator incurs in establishing and operating the fund  
110 related to the state's investment, which shall be paid from  
111 state funds in the QTV Fund. Any additional private investment  
112 capital in the segregated accounts is responsible for its own  
113 management fees. The fund administrator is entitled to a  
114 reasonable profit, but such distribution may not be made from  
115 the principal funds from the original appropriation.

116 (d) The fund administrator shall provide services defined  
117 under this section for the duration of the QTV Fund term unless  
118 removed by the department. The contract between the department  
119 and the fund administrator shall set forth the circumstances  
120 under which the contract may be terminated.

121 (5) FUND ADMINISTRATOR POWERS AND DUTIES.—

122 (a) Authority to contract.—The fund administrator may  
123 enter into agreements with qualified lending partners for  
124 concurrent lending through the QTV Fund. A loan made by the  
125 qualified lending partner must be accounted for separately from  
126 the state funds or other private investment capital. Such loan  
127 shall be made as senior debt. The fund administrator may raise  
128 private investment capital for mezzanine equity and other equity  
129 or raise junior capital for concurrent lending through the QTV  
130 Fund. However, loans from private investment capital, which is

131 invested at the same risk profile as the QTV Fund, may not be  
132 made at more favorable terms and conditions than the terms and  
133 conditions of the state funds in the QTV Fund. The state  
134 appropriation must be maintained in a separate account from  
135 private investment capital and administered in a separate legal  
136 investment entity or entities. Private investment capital and  
137 loans shall be segregated from each other, and funds may not be  
138 commingled.

139 (b) General duties.—The fund administrator:

140 1. Shall prudently manage the funds in the QTV Fund as a  
141 revolving loan fund.

142 2. Shall contract with one or more qualified lending  
143 partners.

144 3. Shall provide improvement of the credit profile of a  
145 structured financial transaction for qualified production  
146 companies that produce qualified television content meeting the  
147 criteria in subsection (7).

148 4. May raise additional private investment capital to be  
149 held in separate accounts, in addition to the leverage provided  
150 by the qualified lending partner.

151 5. Shall administer the QTV Fund in accordance with this  
152 part.

153 6. Shall agree to verify that the recipient's books and  
154 records relating to funds received from the department are  
155 maintained according to generally accepted accounting principles  
156 and in accordance with s. 215.97(7) and to ensure that those

157 books and records will be available to the department for  
158 inspection upon reasonable notice. The books and records must be  
159 maintained with detailed records showing the use of proceeds  
160 from loans to fund qualified television content.

161 7. Shall maintain its registered office in this state  
162 throughout the duration of the contract.

163 (c) Financial reporting.—By February 28 of each year, the  
164 fund administrator shall submit to the department financial  
165 statements for the preceding tax year which are audited by an  
166 independent certified public accountant after the end of each  
167 year in which the fund administrator is under contract with the  
168 department. In addition to providing an independent opinion on  
169 the annual financial statements, such audit provides a basis for  
170 verifying the segregation of state funds from those of any  
171 private investment capital.

172 (d) Program reporting.—The fund administrator shall submit  
173 a report to the department by February 28 after the end of each  
174 year in which the fund administrator is under contract with the  
175 department. The report must include information on the loans  
176 made in the preceding calendar year, including:

177 1. The name of the qualified television content.

178 2. The names of the counties in which the production  
179 occurred.

180 3. The number of jobs created and retained as a result of  
181 the production.

182 4. The loan amounts, including the amount of private

183 investment capital and funds provided by a qualified lending  
 184 partner.

185 5. The loan repayment status for each loan.

186 6. The number and amounts of any loans with payments past  
 187 due.

188 7. The number and amounts of any loans in default.

189 8. A description of the assets securing the loans.

190 9. Other information and documentation required by the  
 191 department.

192 (e) Plan of accountability.—The fund administrator shall  
 193 submit an annual plan of accountability of economic development,  
 194 including a report detailing the job creation resulting from the  
 195 QTV Fund loans made during the current year and cumulatively  
 196 since the inception of the program. The fund administrator shall  
 197 also provide any additional information requested by the  
 198 department pertaining to economic development and job creation  
 199 in the state.

200 (f) Conflict-of-interest statement.—The fund administrator  
 201 shall provide a conflict-of-interest statement from its  
 202 governing board certifying that no board member, director,  
 203 employee, or agent, or immediate family member thereof, or other  
 204 person connected to or affiliated with the fund administrator is  
 205 receiving or will receive any type of compensation or  
 206 remuneration from a production company that has received or will  
 207 receive funds from the loan program or from a qualified lending  
 208 partner. The department may waive this requirement for good



209 cause shown.

210 (6) LOAN STRUCTURE.—

211 (a) The QTV Fund may be used to make loans to production  
212 companies to fund production costs or provide improvement of the  
213 credit profile of a structured financial transaction for  
214 qualified television content that meets the criteria  
215 requirements of subsection (7). To make a loan, the fund  
216 administrator shall consider the types of eligible collateral,  
217 the credit worthiness of the project, the producer's track  
218 record, the possibility that the project will encourage,  
219 enhance, or create economic benefits, and the extent to which  
220 assistance would foster innovative public-private partnerships  
221 and attract private debt or equity investment.

222 (b) The QTV Fund loan package shall be secured by  
223 anticipated receivables from domestic and international  
224 broadcaster license agreements and other ancillary revenues that  
225 are derived from media content rights. Unsecured loans may not  
226 be made.

227 (c) The loans shall be made on the basis of a second lien  
228 or primary security rights on the media assets listed in  
229 paragraph (b).

230 (d) The QTV Fund shall provide funding only in conjunction  
231 with senior loans provided by a qualified lending partner. Loans  
232 from the fund may be subordinated to senior debt from the  
233 qualified lending partner and may not exceed 30 percent of the  
234 total production funding cost of any particular project.

235 (e) The production company's repayment of a loan shall be  
236 in accordance with the license fee payment schedule agreement  
237 and the delivery of qualified television content to the major  
238 broadcaster and shall be within 60 days after such delivery.

239 (f) Loans made by the QTV Fund may not exceed 36 months in  
240 duration, except for extenuating circumstances for which the  
241 fund administrator may grant an extension upon making written  
242 findings to the department specifying the conditions requiring  
243 the extension.

244 (g) The fund administrator, or a board member, employee,  
245 or agent thereof, or an immediate family member of a board  
246 member, employee, or agent, may not have a financial interest in  
247 an entity that is awarded a loan under the loan program and may  
248 not benefit directly or indirectly from the making of such loan.  
249 A loan may not be made to a person if it violates this  
250 paragraph. As used in this section, the term "immediate family"  
251 means a parent, child, or spouse, or other relative by blood,  
252 marriage, or adoption, of the fund administrator, or a board  
253 member, employee, or agent thereof.

254 (h) Except for funds appropriated to the department for  
255 the loan program, the credit of the state may not be pledged.  
256 The state is not liable or obligated in any way for claims  
257 against the QTV Fund or against the fund administrator, the  
258 qualified lending partner, or the department.

259 (7) QUALIFIED TELEVISION CONTENT CRITERIA.—The fund  
260 administrator must, at a minimum, consider the following

261 criteria for evaluating the qualifying television content:

262 (a) The content is intended for broadcast by a major  
263 broadcaster on a major network, cable, or streaming channel.

264 (b) The content is produced in this state, or a minimum of  
265 80 percent of the production budget must be spent in this state.

266 This requirement may be amended by the fund administrator upon  
267 notice to the department. Such notice must include a specific

268 justification for the change and must be transmitted to the  
269 department in writing. The department has 10 business days to

270 object to the change. If the department does not object within  
271 10 business days, the change is deemed acceptable by the

272 department, and the fund administrator may grant the amendment.

273 (c) If the content is a series, the series is:

274 1. A production created to run multiple seasons which has  
275 an estimated order of at least seven episodes per season and  
276 qualified expenditures of at least \$1 million per episode; or

277 2. A telenovela that has qualified expenditures of more  
278 than \$6 million; a minimum of 45 principal photography days  
279 filmed in this state; and a production cast, including  
280 background production, occurring in this state.

281  
282 These requirements may be amended by the fund administrator upon

283 notice to the department. Such notice must include a specific  
284 justification for the change and must be transmitted to the

285 department in writing. The department has 10 business days to  
286 object to the change. If the department does not object within

287 10 business days, the change is deemed acceptable by the  
288 department, and the fund administrator may grant the amendment.

289 (d) The producer must have a contract in place with a  
290 major broadcaster to acquire content programming under a  
291 customary broadcast license agreement, and the contract must  
292 cover at least 60 percent of the budget.

293 (e) The producer must retain a foreign sales agent and  
294 must be able to provide the fund administrator with the foreign  
295 sales agent's official estimates of foreign and ancillary sales.

296 (f) The project must be bonded and secured by an industry-  
297 approved completion guarantor if the production cost per episode  
298 exceeds \$1 million. This requirement may be waived if the loan  
299 applicant provides the fund administrator with evidence of  
300 adequate structure to protect the state's funds.

301 (8) AUDITOR GENERAL AUDIT.—The Auditor General may conduct  
302 operational audits, as defined in s. 11.45, of the QTV Fund and  
303 fund administrator. The scope of the audit must include, but is  
304 not limited to, internal controls evaluations, internal audit  
305 functions, reporting and performance requirements for the use of  
306 the funds, and compliance with state and federal law. The fund  
307 administrator shall provide to the Auditor General any detail or  
308 supplemental data required.

309 (9) RULEMAKING AUTHORITY.—The department may adopt rules  
310 to administer this section.

311 (10) EXPIRATION.—This section expires December 31, 2025,  
312 at which point all funds remaining in the QTV Fund revert to the

313 General Revenue Fund.

314 (11) EMERGENCY RULES.—

315 (a) The executive director of the department is  
 316 authorized, and all conditions are deemed met, to adopt  
 317 emergency rules pursuant to ss. 120.536(1) and 120.54(4) for the  
 318 purpose of implementing this section.

319 (b) Notwithstanding any other law, the emergency rules  
 320 adopted pursuant to paragraph (a) remain in effect for 6 months  
 321 after adoption and may be renewed during the pendency of  
 322 procedures to adopt permanent rules addressing the subject of  
 323 the emergency rules.

324 (c) This subsection expires October 1, 2016.

325 Section 2. Paragraph (b) of subsection (2) of section  
 326 288.0001, Florida Statutes, is amended to read:

327 288.0001 Economic Development Programs Evaluation.—The  
 328 Office of Economic and Demographic Research and the Office of  
 329 Program Policy Analysis and Government Accountability (OPPAGA)  
 330 shall develop and present to the Governor, the President of the  
 331 Senate, the Speaker of the House of Representatives, and the  
 332 chairs of the legislative appropriations committees the Economic  
 333 Development Programs Evaluation.

334 (2) The Office of Economic and Demographic Research and  
 335 OPPAGA shall provide a detailed analysis of economic development  
 336 programs as provided in the following schedule:

337 (b) By January 1, 2018 ~~2015~~, and every 3 years thereafter,  
 338 an analysis of the following:

339 1. The entertainment industry financial incentive program  
 340 established under s. 288.1254.

341 2. The entertainment industry sales tax exemption program  
 342 established under s. 288.1258.

343 3. The VISIT Florida Tourism Industry Marketing  
 344 Corporation and its programs established or funded under ss.  
 345 288.122, 288.1226, 288.12265, and 288.124.

346 4. The Florida Sports Foundation and related programs  
 347 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,  
 348 288.1168, 288.1169, and 288.1171.

349 5. The qualified television revolving loan fund  
 350 established under s. 288.127.

351 Section 3. This act shall take effect upon becoming a law.