



Committee on Economic Development

**Thursday, March 8, 2007
8:30 a.m – 10:00 a.m.
Reed Hall**

**Marco Rubio
Speaker**

**Rep. Don Davis
Chair**

COMMITTEE ON ECONOMIC DEVELOPMENT

Thursday, March 8, 2007

8:30 am – 10:00 am

Reed Hall

I. Call to Order

II. Remarks by Chairman

III. Consideration of the following bills:

- HB 1503 – Relating to Super Enterprise Zones
Representative Rivera

1 AMENDMENT

- HB 1325 – Relating to Entertainment Industry Economic Development
Representative Cannon

IV. ADJOURN

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1503

Super Enterprise Zones

SPONSOR(S): Rivera

TIED BILLS:

IDEN./SIM. BILLS: SB 2538

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	Croom <i>SOE</i>	Croom <i>SOE</i>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill creates super enterprise zones and gives the Office of Tourism, Trade, and Economic Development the ability to designate five super enterprise zones in the state for a 10-year period each. To qualify as a super enterprise zone an area must be located in an enterprise zone and meet specific economic criteria.

Designation as a super enterprise zone will provide certified businesses in the zone with a tax-free status. Certified businesses will be eligible for a 100 percent exemption from sales and discretionary tax on tangible personal property. In addition, retail sales made by certified businesses in a super enterprise zone are provided a 100 percent exemption on sales and discretionary tax for any tangible personal property item priced up to \$1,000.

This bill creates an application and approval process for super enterprise zones, requires annual reports, and provides for an interim and final review by the Office of Program Policy Analysis and Government Accountability.

This act provides for repeal of this program on June 30, 2020.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1503.ED.doc

DATE: 3/6/2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The bill creates sales tax exemptions for certified businesses in severely impoverished areas of the state.

Empowers families: Consumers shopping at certified businesses will be relieved of sales tax on personal property items priced up to \$1,000.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment.¹ Sections 290.001-290.016, F.S., authorize the creation of the zones and sets forth criteria and goals for the program.

Prior to submitting an application for a zone, a local government body must determine an area:

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

The Office of Tourism, Trade, and Economic Development (OTTED) is responsible for approving applications for enterprise zones; in addition, OTTED approves changes in enterprise zone boundaries when authorized by the Florida Legislature. There are currently 56 state enterprise zones. Included in that number are: three Federal Enterprise Communities, two Federal Empowerment Zones, 26 Rural Enterprise Zones, and 30 Urban Enterprise Zones.

As part of the application process for an enterprise zone, the local county or municipality is also responsible to create an Enterprise Zone Development Agency and an enterprise zone development plan.

Outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least 8, and no more than 13 members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Outlined in s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;

¹ Several studies on Florida's Enterprise Zone Program have been conducted by the Office of Program Policy Analysis and Government Accountability are available online at <http://www.oppaga.state.fl.us/>.

- Describe how the community's social and human resources—transportation, housing, community development, public safety, and education and environmental concerns—will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Florida's enterprise zones qualify for various corporate income incentives and sales and use tax incentives. A total of \$23.4 million in state incentives were approved by the Department of Revenue, between October 1, 2005 and September 30, 2006, for all state enterprise zones.² During the same time period, \$9.8 million in incentives were provided by local governing bodies. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.

Available state sales tax incentives for enterprise zones include:³

- **Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone.** Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid.
- **Business Equipment Used in Enterprise Zones.** Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000 or 97 percent of the tax paid.
- **Rural Enterprise Zone Jobs Credit Against Sales Tax.** Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a Rural County.
- **Urban Enterprise Zone Jobs Credit Against Sales Tax.** Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the Enterprise Zone.
- **Business Property Used in an Enterprise Zone.** Provides a refund for sales taxes paid on the purchase of certain business property, up to \$5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an Enterprise Zone for at least 3 years.
- **Community Contribution Tax Credit.** Provides 50 percent sales tax refund for donations made to local community development projects.
- **Electrical Energy Used in an Enterprise Zone.** Provides 50 percent sales tax exemption to qualified businesses located within an Enterprise Zone on the purchase of electrical energy.

Available state corporate income tax incentives for enterprise zones include:

- **Rural Enterprise Zone Jobs Credit Against Corporate Income Tax.** Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a Rural County.
- **Urban Enterprise Zone Jobs Credit Against Corporate Income Tax.** Provides a corporate income tax credit for 15 or 20 percent of wages paid to new employees who live within the Enterprise Zone.
- **Enterprise Zone Property Tax Credit.** Provides a credit against Florida corporate income tax equal to 96% of ad valorem taxes paid on the new or improved property.

² Executive Office of the Governor, *Florida Enterprise Zone Program Annual Report*, March 1, 2007, available online at <http://www.floridaenterprisezones.com/Zones/Org1/uploads/07REPORT.pdf>.

³ A breakdown of each state financial incentive by enterprise zone for fiscal year 2005-06 is available in the Florida Enterprise Zone Annual Report published on March, 1 2007.

- **Community Contribution Tax Credit.** Provides 50 percent credit on Florida corporate income tax, or insurance premium tax for donations made to local community development projects.

Between October 1, 2005 and September 30, 2006, 3,324 new businesses moved into or were created in enterprise zones, 12,490 new jobs were created by businesses in enterprise zones, and 8,913 businesses received technical assistance from Enterprise Zone Coordinators.

Proposed Legislation

This bill creates s. 290.00681, F.S., establishing as many as five super enterprise zones in the state for a 10-year period each.

Designation as a super enterprise zone will provide certified businesses in the zone with a tax-free status. Certified businesses will be eligible for a 100 percent exemption from sales and discretionary tax on tangible personal property. In addition, retail sales made by certified businesses in a super enterprise zone are eligible for a 100 percent exemption on sales and discretionary tax for any tangible personal property item priced up to \$1,000.

To qualify as a super enterprise zone an area must:

- Be located in an enterprise zone;
- Be no larger than 3 contiguous square miles;
- Have an average unemployment rate four times greater than the state average;
- Have a minimum of 40 percent of residents living below poverty level;⁴
- Have general distress of business and residential property; and
- Demonstrate evidence of significant job loss or dislocation.

The bill gives the Enterprise Zone Development Agency the power to recommend and submit an application to the Office of Tourism, Trade, and Economic Development for the designation of a super enterprise zone. An application must include a development plan and information on the community's goals, the community's approach to social and human resources, local and private support, written approval from any associated county office or mayor's office, and methods for measuring success.

When determining eligibility for a super enterprise zone, OTTED must consider the:

- Priority of applications;
- Evidence of adverse economic conditions;
- Viability of the development plan;
- Public and private commitment;
- How the designation will relate to the community's plan as a whole;
- Level of demonstrated cooperation for surrounding communities;
- How the local regulatory burden will be eased;
- Commitment to improving real property; and
- Infrastructure available to support the development.

To qualify as a certified business and receive a tax exemption certificate a business is required to file an application with the local enterprise zone development agency. The business must also meet the following criteria:

- Operate and be primarily located in the designated super enterprise zone;
- Create new employment in the zone while not causing unemployment elsewhere in the state;
- Have no outstanding state or federal tax obligations; and
- Demonstrate no less than 20 percent of its employees are residents of the super enterprise zone or enterprise zone located within the same county.

⁴ The 2007 federal poverty threshold published by the United States Department of Health and Human Services for a family of four is \$20,650. This information is available online at <http://aspe.hhs.gov/poverty/07poverty.shtml>.

Each year, the local enterprise zone development agency is required to submit a list of new and existing certified businesses to the local government entity, the Department of Revenue, and the Office of Tourism, Trade, and Economic Development. The Department of Revenue is required to annually issue each certified business a tax exemption certification. The certificate is good for one year only. The bill gives the Department of Revenue and the local enterprise zone development agency the ability to disqualify a certified business if the business fails to continue to meet required criteria.

New businesses certified on or after July 1, 2008 in a super enterprise zone qualify for the tax exemptions provided in this bill for a period not to exceed 10 years. Existing businesses located in a super enterprise zone are eligible for tax exemptions provided in this bill for a period not to exceed five years.

A business that makes a fraudulent claim for payment of any tax exemption is liable for penalties set forth in s. 212.085, F.S. This statute requires payment of the tax plus a mandatory penalty of 200 percent of the tax, liability for fines, and possible conviction of a felony of the third degree.

The bill requires the local Enterprise Zone Development Agency to annually report to OTTED on the economic impact of the super enterprise zone. The bill also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an interim review of the program in 2013, and a final review of the program by 2019. The review by OPPAGA must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Other States

Most enterprise and tax-free zone programs were set-up to fight poverty and blight in a region and to generate economic development. In order to target the enterprise reforms, states set criteria for unemployment, population loss, and poverty household percentage thresholds. There is wide-spread opinion that determining the success of enterprise and tax-free zones is a difficult process.⁵

New Jersey's Urban Enterprise Zone Program, Michigan's Renaissance Zones, Pennsylvania's Keystone Opportunity Zones, and Minnesota's Job Opportunity Building Zone programs are all examples of tax-free zone initiatives. Generally tax-free zone initiatives designate an area of land where businesses do not have pay certain taxes for set number of years. This applies to businesses currently located in the zone and businesses locating into the zone. In order to qualify for the tax-breaks a number of factors must be met such as: poverty level, unemployment rate, average weekly wage, deteriorated property, deteriorated housing, and population loss.

New Jersey Urban Enterprise Zones⁶

New Jersey created the Urban Enterprise Zone Program in 1983 to revitalize the state's most distressed urban communities. Businesses in these zones are eligible for several tax incentives and exemptions, including the ability to buy tangible personal property, and most services (excluding telecommunication services) without sales tax. In addition, qualified businesses are able to sell personal property at a reduced rate of 50 percent of the regular sales tax rate. Since its creation, 25,000 businesses have participated in the program and have invested more than \$19 billion in their businesses.

Michigan Renaissance Zones⁷

Michigan created the first tax-free zones in 1997 to foster economic development. Michigan specifically selected certain sites in distressed areas to be tax-free for 15 years. Michigan's program has largely been touted as a successful public policy program. Internal reports show that the Renaissance Program

⁵ Most nationwide studies do not differentiate between enterprise zones and tax-free zones. Usually tax-free zones are considered a type of enterprise zone.

⁶ Information on New Jersey Urban Enterprise Zone Program is available online at http://www.state.nj.us/commerce/econ_uez_program.shtml.

⁷ Information on Michigan Renaissance Zones is available online at <http://www.michigan.org/medc/services/sitedevelopment/renzone/>.

created \$330 million in investment in just three years. By 2002 the program had generated 216 projects and created more than 5,800 jobs.

Although Michigan has the longest running tax-free program, the state has not yet performed a comprehensive evaluation or audit of the program. The yearly report provided a brief overview of the Michigan's program and lists the business projects that were developed in the zones over the last year.

Pennsylvania Keystone Opportunity Zones⁸

The Keystone Opportunity Zone (KOZ) program was developed in Pennsylvania in 1999 to attract new investment and jobs to economically distressed areas. Local and state taxes are eliminated in a zone for any business or property owner locating there for up to 12 years. Pennsylvania has expanded the program and now offers 12 tax-free zones, each of which can have 20 subzones and a maximum of 6,500 acres per zone. In three years, the KOZ program has attracted over 200 different projects, involving more than \$550 million in public and private funds. KOZ programs have created over 23,000 new jobs and helped retain 20, 000 jobs since the program began.

Minnesota Job Opportunity Building Zones⁹

More recently, in 2004, Minnesota adopted the Job Opportunity Building Zone (JOBZ) program to expand economic development in the state. The program includes 335 communities in Minnesota. So far the program has received positive buzz. Governor Pawlenty announced that in the first year 118 projects were attracted into JOBZ areas.

C. SECTION DIRECTORY:

Section 1. – Amends s. 212.02, F.S., adding a definition for “certified business.” Providing repeal on June 30, 2020.

Section 2. – Amends s. 212.08, F.S., providing exemptions for sales and use tax under s. 212.08, F.S., and discretionary sales surtaxes under s. 212.055, F.S. Providing repeal on June 30, 2020.

Section 3. – Amends s. 212.0056, F.S., authorizing an enterprise zone development agency to recommend and submit an application for a super enterprise zone and requiring the agency to submit a list of certified businesses annually to OTTED.

Section 4. – Amends s. 290.0057, F.S., requiring any application for a super enterprise zone to include a strategic plan.

Section 5. – Amends s. 290.0057, F.S., repealing requirements for super enterprise zones effective July 1, 2020.

Section 6. – Creates s. 290.00681, F.S., establishing criteria and eligibility for super enterprise zones and applications. Providing repeal on June 30, 2020.

Section 7. – Amends s. 290.007, F.S., outlining incentives available in super enterprise zones.

Section 8. – Amends s. 290.007, F.S., repealing incentives available in super enterprise zones on June 30, 2020.

Section 9. – Provides for review of super enterprise zones by the Office of Program Policy Analysis and Government Accountability.

⁸ Information on Keystone Opportunity Zones is available online at <http://koz.newpa.com>.

⁹ JOBZ NEWZ, *Minnesota's Job Opportunity Building Zone Initiative, A Report on Year One*, available online at <http://www.deed.state.mn.us/bizdev/jobz.htm>.

Section 10. – Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes additional tax exemptions for certified businesses in super enterprise zones. A formal estimate has not been provided at this time. A creation of new tax exemptions will negatively impact revenue collection for the state. In 2003, the fiscal impact on a similar bill was indeterminate.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill authorizes tax exemptions for local discretionary sales tax in super enterprise zones. Local governments must support and apply for designation as a super enterprise zone for certified businesses to receive the tax exemption.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

D. FISCAL COMMENTS:

The Office of Tourism, Trade, and Economic Development reports it can administer the super enterprise zone program without additional resources. The Department of Revenue has not yet submitted an analysis on this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill reduces the authority that municipalities have to raise revenue if the municipality applies and receives a super enterprise zone designation.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to super enterprise zones; amending s.
 3 212.02, F.S.; providing a definition; providing for future
 4 repeal; amending s. 212.08, F.S.; exempting certain
 5 property purchased for use or consumption by businesses in
 6 a super enterprise zone and retail sales by certified
 7 businesses in a super enterprise zone; providing an
 8 exception; specifying time periods for application of the
 9 exemptions for certain businesses; providing for future
 10 repeal; amending s. 290.0056, F.S.; providing additional
 11 responsibilities of an enterprise zone development agency
 12 relating to super enterprise zones; requiring an economic
 13 impact report; providing for future repeal; amending s.
 14 290.0057, F.S.; applying requirements for an enterprise
 15 zone development plan to super enterprise zones; providing
 16 for future deletion of application; creating s. 290.00681,
 17 F.S.; authorizing the Office of Tourism, Trade, and
 18 Economic Development to designate certain areas as super
 19 enterprise zones for a certain time period; providing
 20 qualification and eligibility criteria; providing
 21 application requirements; providing for future repeal and
 22 revocation of designations; creating s. 290.00682, F.S.;
 23 providing requirements for qualification as a certified
 24 business for sales tax exemption purposes; authorizing a
 25 local enterprise zone development agency to certify
 26 businesses; requiring the agency to provide lists of
 27 certified businesses; providing for disqualifying
 28 certified businesses under certain circumstances;

29 providing for future repeal and revocation of
 30 certifications; amending s. 290.007, F.S.; specifying
 31 incentives for revitalization of super enterprise zones;
 32 providing for future deletion of such incentives;
 33 requiring interim and final reviews of super enterprise
 34 zones by the Office of Program Policy Analysis and
 35 Government Accountability; providing review of criteria;
 36 requiring reports to the Legislature; providing effective
 37 dates.

38

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

40

41 Section 1. Subsection (34) is added to section 212.02,
 42 Florida Statutes, to read:

43 212.02 Definitions.--The following terms and phrases when
 44 used in this chapter have the meanings ascribed to them in this
 45 section, except where the context clearly indicates a different
 46 meaning:

47 (34) "Certified business" means a business located in a
 48 super enterprise zone that is certified under s. 290.00682. This
 49 subsection is repealed June, 30, 2020.

50 Section 2. Subsection (19) is added to section 212.08,
 51 Florida Statutes, to read:

52 212.08 Sales, rental, use, consumption, distribution, and
 53 storage tax; specified exemptions.--The sale at retail, the
 54 rental, the use, the consumption, the distribution, and the
 55 storage to be used or consumed in this state of the following

56 are hereby specifically exempt from the tax imposed by this
 57 chapter.

58 (19) EXEMPTIONS; SUPER ENTERPRISE ZONES.--

59 (a) The tax imposed by this chapter under ss. 212.05 and
 60 212.055 does not apply to:

61 1. Tangible personal property purchased by certified
 62 businesses for the exclusive use or consumption of such
 63 businesses within a super enterprise zone; or

64 2. Retail sales made by a certified business from a place
 65 of business owned or leased and regularly operated by the
 66 business for the purpose of making retail sales and located in a
 67 designated super enterprise zone. The exemption provided by this
 68 subparagraph does not apply to the retail sale of any item with
 69 a price greater than \$1,000. To qualify for the exemption under
 70 this subparagraph, the sale must be made at the location of the
 71 business; however, the item may be shipped to any location.

72 (b) Notwithstanding paragraph (a), a new business
 73 established in a super enterprise zone and certified on or after
 74 July 1, 2008, pursuant to s. 290.00682 is eligible for the
 75 exemptions provided under this subsection for a period not to
 76 exceed 10 years immediately following such certification. For an
 77 existing business located in a super enterprise zone and
 78 certified on or after July 1, 2008, the exemptions provided
 79 under this subsection shall be available for a period not to
 80 exceed 5 years, beginning in the year in which the business
 81 receives its initial certification and continuing for up to 5
 82 years immediately following such certification.

83 (c) This subsection is repealed June 30, 2020.

84 Section 3. Paragraph (i) is added to subsection (8) of
 85 section 290.0056, Florida Statutes, paragraph (f) of subsection
 86 (11) of that section is redesignated as paragraph (g), and a new
 87 paragraph (f) is added to that subsection, to read:

88 290.0056 Enterprise zone development agency.--

89 (8) The enterprise zone development agency shall have the
 90 following powers and responsibilities:

91 (i)1. To recommend and submit an application to the office
 92 for the designation of a super enterprise zone.

93 2. To coordinate with the local governmental entity for
 94 the exemptions from the sales and use tax provided under s.
 95 212.08(19).

96
 97 This paragraph is repealed June 30, 2020.

98 (11) Prior to December 1 of each year, the agency shall
 99 submit to the Office of Tourism, Trade, and Economic Development
 100 a complete and detailed written report setting forth:

101 (f) The economic impact of a super enterprise zone, if
 102 applicable, including:

103 1. A list of certified businesses and whether the business
 104 is new or where the business relocated from.

105 2. The number of jobs created.

106 3. The percentage of employees employed by certified
 107 businesses who reside in the super enterprise zone or in an
 108 enterprise zone within the same county.

109 4. The extent of capital investment by certified
 110 businesses within the zone.

111 5. The success of the super enterprise zone as measured by

112 the strategic plan and methods identified in s. 290.0057(1)(i).

113

114 This paragraph is repealed June 30, 2020.

115 Section 4. Subsection (1) of section 290.0057, Florida
116 Statutes, is amended to read:

117 290.0057 Enterprise zone development plan.--

118 (1) Any application for designation as a new enterprise
119 zone or super enterprise zone must be accompanied by a strategic
120 plan adopted by the governing body of the municipality or
121 county, or the governing bodies of the county and one or more
122 municipalities together. At a minimum, the plan must:

123 (a) Briefly describe the community's goals for
124 revitalizing the area.

125 (b) Describe the ways in which the community's approaches
126 to economic development, social and human services,
127 transportation, housing, community development, public safety,
128 and educational and environmental concerns will be addressed in
129 a coordinated fashion, and explain how these linkages support
130 the community's goals.

131 (c) Identify and describe key community goals and the
132 barriers that restrict the community from achieving these goals,
133 including a description of poverty and general distress,
134 barriers to economic opportunity and development, and barriers
135 to human development.

136 (d) Describe the process by which the affected community
137 is a full partner in the process of developing and implementing
138 the plan and the extent to which local institutions and
139 organizations have contributed to the planning process.

140 (e) Commit the governing body or bodies to enact and
 141 maintain local fiscal and regulatory incentives, if approval for
 142 the area is received under s. 290.0065. These incentives may
 143 include the municipal public service tax exemption provided by
 144 s. 166.231, the economic development ad valorem tax exemption
 145 provided by s. 196.1995, the occupational license tax exemption
 146 provided by s. 205.054, local impact fee abatement or reduction,
 147 or low-interest or interest-free loans or grants to businesses
 148 to encourage the revitalization of the nominated area.

149 (f) Identify the amount of local and private resources
 150 that will be available in the nominated area and the
 151 private/public partnerships to be used, which may include
 152 participation by, and cooperation with, universities, community
 153 colleges, small business development centers, black business
 154 investment corporations, certified development corporations, and
 155 other private and public entities.

156 (g) Indicate how state enterprise zone tax incentives and
 157 state, local, and federal resources will be utilized within the
 158 nominated area.

159 (h) Identify the funding requested under any state or
 160 federal program in support of the proposed economic, human,
 161 community, and physical development and related activities.

162 (i) Identify baselines, methods, and benchmarks for
 163 measuring the success of carrying out the strategic plan.

164 Section 5. Effective July 1, 2020, subsection (1) of
 165 section 290.0057, Florida Statutes, as amended by this act, is
 166 amended to read:

167 290.0057 Enterprise zone development plan.--

168 (1) Any application for designation as a new enterprise
 169 zone ~~or super enterprise zone~~ must be accompanied by a strategic
 170 plan adopted by the governing body of the municipality or
 171 county, or the governing bodies of the county and one or more
 172 municipalities together. At a minimum, the plan must:

173 (a) Briefly describe the community's goals for
 174 revitalizing the area.

175 (b) Describe the ways in which the community's approaches
 176 to economic development, social and human services,
 177 transportation, housing, community development, public safety,
 178 and educational and environmental concerns will be addressed in
 179 a coordinated fashion, and explain how these linkages support
 180 the community's goals.

181 (c) Identify and describe key community goals and the
 182 barriers that restrict the community from achieving these goals,
 183 including a description of poverty and general distress,
 184 barriers to economic opportunity and development, and barriers
 185 to human development.

186 (d) Describe the process by which the affected community
 187 is a full partner in the process of developing and implementing
 188 the plan and the extent to which local institutions and
 189 organizations have contributed to the planning process.

190 (e) Commit the governing body or bodies to enact and
 191 maintain local fiscal and regulatory incentives, if approval for
 192 the area is received under s. 290.0065. These incentives may
 193 include the municipal public service tax exemption provided by
 194 s. 166.231, the economic development ad valorem tax exemption
 195 provided by s. 196.1995, the occupational license tax exemption

196 provided by s. 205.054, local impact fee abatement or reduction,
 197 or low-interest or interest-free loans or grants to businesses
 198 to encourage the revitalization of the nominated area.

199 (f) Identify the amount of local and private resources
 200 that will be available in the nominated area and the
 201 private/public partnerships to be used, which may include
 202 participation by, and cooperation with, universities, community
 203 colleges, small business development centers, black business
 204 investment corporations, certified development corporations, and
 205 other private and public entities.

206 (g) Indicate how state enterprise zone tax incentives and
 207 state, local, and federal resources will be utilized within the
 208 nominated area.

209 (h) Identify the funding requested under any state or
 210 federal program in support of the proposed economic, human,
 211 community, and physical development and related activities.

212 (i) Identify baselines, methods, and benchmarks for
 213 measuring the success of carrying out the strategic plan.

214 Section 6. Sections 290.00681 and 290.00682, Florida
 215 Statutes, are created to read:

216 290.00681 Super enterprise zones; designation;
 217 eligibility.--

218 (1) The office may designate up to five areas in the state
 219 as super enterprise zones for a 10-year period. To qualify as a
 220 super enterprise zone an area shall:

221 (a) Be located in an enterprise zone and be no larger than
 222 3 contiguous square miles.

223 (b) Have an average unemployment rate four times greater
 224 than the state average.

225 (c) Have a minimum of 40 percent of residents living below
 226 poverty level.

227 (d) Have general distress of business and residential
 228 property such that the local governing body by resolution has
 229 determined that the buildings are substandard, unsafe,
 230 unsanitary, dilapidated, or obsolete, or any combination of such
 231 conditions, and are detrimental to the safety, health, and
 232 welfare of the community.

233 (e) Demonstrate evidence of significant job loss or
 234 dislocation in the area.

235 (2) When determining eligibility for a super enterprise
 236 zone, the office shall consider the following criteria:

237 (a) Priority to applications that include new business
 238 activity.

239 (b) Evidence of adverse economic and socioeconomic
 240 conditions in that area.

241 (c) The viability of the development plan.

242 (d) Whether the development plan is creative and
 243 innovative.

244 (e) Public and private commitment to and other resources
 245 available for the proposed super enterprise zone.

246 (f) How a super enterprise tax-free zone would relate to a
 247 broader plan for the community as a whole.

248 (g) The level of demonstrated cooperation from surrounding
 249 communities.

250 (h) How the local regulatory burden will be eased for
 251 businesses operating in the proposed super enterprise zone.
 252 (i) Public and private commitment to improving abandoned
 253 real property.
 254 (j) Whether sufficient infrastructure is available to
 255 support development.
 256 (3) Any application for designation as a super enterprise
 257 zone must:
 258 (a) Briefly describe the community's goals for
 259 revitalizing the area and include a development plan.
 260 (b) Describe the ways in which the community's approach to
 261 economic development, social and human services, transportation,
 262 housing, community development, public safety, and educational
 263 and environmental concerns will be addressed in a coordinated
 264 fashion and explain how these linkages support the community's
 265 goals.
 266 (c) Identify and describe key community goals and the
 267 barriers that restrict the community from achieving these goals.
 268 (d) Identify the amount of local and private support and
 269 resources that will be available.
 270 (e) Identify baselines, methods, and benchmarks for
 271 measuring success.
 272 (f) Include written approval from any associated county
 273 office and mayor's office.
 274 (4) This section is repealed June 30, 2020, and any
 275 designation made pursuant to this section shall be revoked on
 276 that date.

277 290.00682 Super enterprise zones; business
 278 certification.--
 279 (1) A certified business is eligible for the tax
 280 exemptions provided in s. 212.08(19). To qualify as a certified
 281 business, receive an exemption certificate, and continue to
 282 receive the tax exemptions provided in s. 212.08(19), a business
 283 must:
 284 (a) File an application for certification with the local
 285 enterprise zone development agency. The application shall be
 286 filed no later than September 1 preceding the calendar year for
 287 which the business is seeking an exemption.
 288 (b) Operate and be primarily located within a designated
 289 super enterprise zone.
 290 (c) Create new employment within the super enterprise zone
 291 while not causing unemployment elsewhere in the state.
 292 (d) Have no outstanding federal or state tax obligations.
 293 (e) Demonstrate that no less than 20 percent of its
 294 employees are residents of the designated super enterprise zone
 295 or an enterprise zone located within the same county. The
 296 employment requirement may be waived by the local enterprise
 297 zone development agency for good cause.
 298 (2) A local enterprise zone development agency may certify
 299 a business as eligible for the exemptions under s. 212.08(19)
 300 annually if the business meets the requirements in subsection
 301 (1). Each local enterprise zone development agency shall
 302 annually provide the local governmental entity, the office, and
 303 the Department of Revenue with a list of new and existing
 304 certified businesses. The Department of Revenue shall annually

305 issue a tax exemption certificate to each business holding an
 306 exemption certificate issued by the local enterprise zone
 307 development agency. The certificate shall be good for one
 308 calendar year.

309 (3) A local enterprise zone development agency or the
 310 Department of Revenue may disqualify a certified business at any
 311 time if the business fails to meet the requirements of
 312 subsection (1). A business that makes a fraudulent claim under
 313 this section shall be liable for the payment of the tax due,
 314 together with the penalties set forth in s. 212.085, and as
 315 otherwise provided by law.

316 (4) This section is repealed June 30, 2020, and any
 317 certification made pursuant to this section shall be revoked on
 318 that date.

319 Section 7. Section 290.007, Florida Statutes, is amended
 320 to read:

321 290.007 State incentives available in enterprise zones and
 322 super enterprise zones.--

323 (1) The following incentives are provided by the state to
 324 encourage the revitalization of enterprise zones:

325 (a) ~~(1)~~ The enterprise zone jobs credit provided in s.
 326 220.181.

327 (b) ~~(2)~~ The enterprise zone property tax credit provided in
 328 s. 220.182.

329 (c) ~~(3)~~ The community contribution tax credits provided in
 330 ss. 212.08, 220.183, and 624.5105.

331 (d)~~(4)~~ The sales tax exemption for building materials used
 332 in the rehabilitation of real property in enterprise zones
 333 provided in s. 212.08(5)(g).

334 (e)~~(5)~~ The sales tax exemption for business equipment used
 335 in an enterprise zone provided in s. 212.08(5)(h).

336 (f)~~(6)~~ The sales tax exemption for electrical energy used
 337 in an enterprise zone provided in s. 212.08(15).

338 (g)~~(7)~~ The enterprise zone jobs credit against the sales
 339 tax provided in s. 212.096.

340 (h)~~(8)~~ Notwithstanding any law to the contrary, the Public
 341 Service Commission may allow public utilities and
 342 telecommunications companies to grant discounts of up to 50
 343 percent on tariffed rates for services to small businesses
 344 located in an enterprise zone designated pursuant to s.
 345 290.0065. Such discounts may be granted for a period not to
 346 exceed 5 years. For purposes of this paragraph ~~subsection~~, the
 347 term "public utility" has the same meaning as in s. 366.02(1)
 348 and the term "telecommunications company" has the same meaning
 349 as in s. 364.02(14).

350 (2) The following incentives are provided by the state to
 351 encourage the revitalization of super enterprise zones:

352 (a) The sales tax exemption for certified businesses
 353 provided in s. 212.08(19)(a)1.

354 (b) The sales tax exemption for retail sales by certified
 355 businesses provided in s. 212.08(19)(a)2.

356 Section 8. Effective July 1, 2020, section 290.007,
 357 Florida Statutes, as amended by this act, is amended to read:

358 290.007 State incentives available in enterprise zones ~~and~~
 359 ~~super enterprise zones.~~--

360 ~~(1)~~ The following incentives are provided by the state to
 361 encourage the revitalization of enterprise zones:

362 (1)~~(a)~~ The enterprise zone jobs credit provided in s.
 363 220.181.

364 (2)~~(b)~~ The enterprise zone property tax credit provided in
 365 s. 220.182.

366 (3)~~(c)~~ The community contribution tax credits provided in
 367 ss. 212.08, 220.183, and 624.5105.

368 (4)~~(d)~~ The sales tax exemption for building materials used
 369 in the rehabilitation of real property in enterprise zones
 370 provided in s. 212.08(5)(g).

371 (5)~~(e)~~ The sales tax exemption for business equipment used
 372 in an enterprise zone provided in s. 212.08(5)(h).

373 (6)~~(f)~~ The sales tax exemption for electrical energy used
 374 in an enterprise zone provided in s. 212.08(15).

375 (7)~~(g)~~ The enterprise zone jobs credit against the sales
 376 tax provided in s. 212.096.

377 (8)~~(h)~~ Notwithstanding any law to the contrary, the Public
 378 Service Commission may allow public utilities and
 379 telecommunications companies to grant discounts of up to 50
 380 percent on tariffed rates for services to small businesses
 381 located in an enterprise zone designated pursuant to s.
 382 290.0065. Such discounts may be granted for a period not to
 383 exceed 5 years. For purposes of this subsection ~~paragraph~~, the
 384 term "public utility" has the same meaning as in s. 366.02(1)

385 and the term "telecommunications company" has the same meaning
 386 as in s. 364.02(14).

387 ~~(2) The following incentives are provided by the state to~~
 388 ~~encourage the revitalization of super enterprise zones:~~

389 ~~(a) The sales tax exemption for certified businesses~~
 390 ~~provided in s. 212.08(19)(a)1.~~

391 ~~(b) The partial sales tax exemption for retail sales by~~
 392 ~~certified businesses provided in s. 212.08(19)(a)2.~~

393 Section 9. Prior to the 2014 Regular Session of the
 394 Legislature, the Office of Program Policy Analysis and
 395 Government Accountability shall conduct an interim review and
 396 evaluation of the effectiveness and viability of the super
 397 enterprise zones created under s. 290.00681, Florida Statutes.
 398 The office shall specifically evaluate whether relief from the
 399 specified taxes caused or induced new investment and development
 400 in the super enterprise zone; increased the number of jobs
 401 created or retained in the super enterprise zone; caused or
 402 induced the renovation, rehabilitation, restoration,
 403 improvement, or new construction of businesses or housing within
 404 the super enterprise zone; or contributed to the economic
 405 viability and profitability of business and commerce located
 406 within the super enterprise zone. The office shall submit a
 407 report of its findings and recommendations to the Speaker of the
 408 House of Representatives and the President of the Senate no
 409 later than December 1, 2013. In 2019, the office shall conduct a
 410 final review in accordance with this section and shall make a
 411 final report to the President of the Senate and Speaker of the
 412 House of Representatives no later than December 1, 2019.

HB 1503

2007

413 Section 10. Except as otherwise expressly provided in this
414 act, this act shall take effect July 1, 2007.

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Amendment No. 01 (for drafter's use only)

Bill No. **HB 1503**

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Committee on Economic
2 Development
3 Representative(s) Rivera offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7

8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Subsection (34) is added to section 212.02,
11 Florida Statutes, to read:

12 212.02 Definitions.--The following terms and phrases when
13 used in this chapter have the meanings ascribed to them in this
14 section, except where the context clearly indicates a different
15 meaning:

16 (34) "Certified business" means a business located in a
17 super enterprise zone that is certified under s. 290.00682. This
18 subsection is repealed June, 30, 2020.

19 Section 2. Subsection (19) is added to section 212.08,
20 Florida Statutes, to read:

21 212.08 Sales, rental, use, consumption, distribution, and
22 storage tax; specified exemptions.--The sale at retail, the

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23 rental, the use, the consumption, the distribution, and the
24 storage to be used or consumed in this state of the following
25 are hereby specifically exempt from the tax imposed by this
26 chapter.

27 (19) EXEMPTIONS; SUPER ENTERPRISE ZONES.--

28 (a) The tax imposed by this chapter does not apply to:

29 1. Tangible personal property purchased by certified
30 businesses for the exclusive use or consumption of such
31 businesses within a super enterprise zone; or

32 2. Retail sales of tangible personal property made by a
33 certified business from a place of business owned or leased and
34 operated by the business for the purpose of making retail sales
35 and located in a designated super enterprise zone. The exemption
36 provided by this subparagraph does not apply to the retail sale
37 of any item with a price greater than \$1,000. To qualify for the
38 exemption under this subparagraph, the sale must be made at the
39 location of the business and the item must be shipped from
40 inside the super enterprise zone; however, the item may be
41 shipped to any location. For the purposes of this section, all
42 qualified sales made by a certified business located in a super
43 enterprise zone shall be considered to have occurred in the
44 super enterprise zone, regardless of where the transfer of title
45 or possession takes place.

46 (b) Notwithstanding paragraph (a), a new business
47 established in a super enterprise zone and certified on or after
48 July 1, 2008, pursuant to s. 290.00682 is eligible for the
49 exemptions provided under this subsection for a period not to
50 exceed 10 years immediately following such certification. For an
51 existing business located in a super enterprise zone and
52 certified on or after July 1, 2008, the exemptions provided
53 under this subsection shall be available for a period not to

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54 exceed 5 years, beginning in the year in which the business
55 receives its initial certification and continuing for up to 5
56 years immediately following such certification.

57 (c) This subsection is repealed June 30, 2020.

58 Section 3. Paragraph (i) is added to subsection (8) of
59 section 290.0056, Florida Statutes, paragraph (f) of subsection
60 (11) of that section is redesignated as paragraph (g), and a new
61 paragraph (f) is added to that subsection, to read:

62 290.0056 Enterprise zone development agency.--

63 (8) The enterprise zone development agency shall have the
64 following powers and responsibilities:

65 (i)1. To recommend and submit an application to the office
66 for the designation of a super enterprise zone.

67 2. To coordinate with the local governmental entity for
68 the exemptions from the sales and use tax provided under s.
69 212.08(19).

70
71 This paragraph is repealed June 30, 2020.

72 (11) Prior to December 1 of each year, the agency shall
73 submit to the Office of Tourism, Trade, and Economic Development
74 a complete and detailed written report setting forth:

75 (f) The economic impact of a super enterprise zone, if
76 applicable, including:

77 1. A list of certified businesses and whether the business
78 is new or where the business relocated from.

79 2. The number of jobs created.

80 3. The percentage of employees employed by certified
81 businesses who reside in the super enterprise zone or in an
82 enterprise zone within the same county.

83 4. The extent of capital investment by certified
84 businesses within the zone.

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85 5. The success of the super enterprise zone as measured by
86 the strategic plan and methods identified in s. 290.0057(1)(i).

87
88 This paragraph is repealed June 30, 2020.

89 Section 4. Subsection (1) of section 290.0057, Florida
90 Statutes, is amended to read:

91 290.0057 Enterprise zone development plan.--

92 (1) Any application for designation as a new enterprise
93 zone or super enterprise zone must be accompanied by a strategic
94 plan adopted by the governing body of the municipality or
95 county, or the governing bodies of the county and one or more
96 municipalities together. At a minimum, the plan must:

97 (a) Briefly describe the community's goals for
98 revitalizing the area.

99 (b) Describe the ways in which the community's approaches
100 to economic development, social and human services,
101 transportation, housing, community development, public safety,
102 and educational and environmental concerns will be addressed in
103 a coordinated fashion, and explain how these linkages support
104 the community's goals.

105 (c) Identify and describe key community goals and the
106 barriers that restrict the community from achieving these goals,
107 including a description of poverty and general distress,
108 barriers to economic opportunity and development, and barriers
109 to human development.

110 (d) Describe the process by which the affected community
111 is a full partner in the process of developing and implementing
112 the plan and the extent to which local institutions and
113 organizations have contributed to the planning process.

114 (e) Commit the governing body or bodies to enact and
115 maintain local fiscal and regulatory incentives, if approval for

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116 the area is received under s. 290.0065. These incentives may
117 include the municipal public service tax exemption provided by
118 s. 166.231, the economic development ad valorem tax exemption
119 provided by s. 196.1995, the occupational license tax exemption
120 provided by s. 205.054, local impact fee abatement or reduction,
121 or low-interest or interest-free loans or grants to businesses
122 to encourage the revitalization of the nominated area.

123 (f) Identify the amount of local and private resources
124 that will be available in the nominated area and the
125 private/public partnerships to be used, which may include
126 participation by, and cooperation with, universities, community
127 colleges, small business development centers, black business
128 investment corporations, certified development corporations, and
129 other private and public entities.

130 (g) Indicate how state enterprise zone tax incentives and
131 state, local, and federal resources will be utilized within the
132 nominated area.

133 (h) Identify the funding requested under any state or
134 federal program in support of the proposed economic, human,
135 community, and physical development and related activities.

136 (i) Identify baselines, methods, and benchmarks for
137 measuring the success of carrying out the strategic plan.

138 Section 5. Effective July 1, 2020, subsection (1) of
139 section 290.0057, Florida Statutes, as amended by this act, is
140 amended to read:

141 290.0057 Enterprise zone development plan.--

142 (1) Any application for designation as a new enterprise
143 zone ~~or super enterprise zone~~ must be accompanied by a strategic
144 plan adopted by the governing body of the municipality or
145 county, or the governing bodies of the county and one or more
146 municipalities together. At a minimum, the plan must:

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147 (a) Briefly describe the community's goals for
148 revitalizing the area.

149 (b) Describe the ways in which the community's approaches
150 to economic development, social and human services,
151 transportation, housing, community development, public safety,
152 and educational and environmental concerns will be addressed in
153 a coordinated fashion, and explain how these linkages support
154 the community's goals.

155 (c) Identify and describe key community goals and the
156 barriers that restrict the community from achieving these goals,
157 including a description of poverty and general distress,
158 barriers to economic opportunity and development, and barriers
159 to human development.

160 (d) Describe the process by which the affected community
161 is a full partner in the process of developing and implementing
162 the plan and the extent to which local institutions and
163 organizations have contributed to the planning process.

164 (e) Commit the governing body or bodies to enact and
165 maintain local fiscal and regulatory incentives, if approval for
166 the area is received under s. 290.0065. These incentives may
167 include the municipal public service tax exemption provided by
168 s. 166.231, the economic development ad valorem tax exemption
169 provided by s. 196.1995, the occupational license tax exemption
170 provided by s. 205.054, local impact fee abatement or reduction,
171 or low-interest or interest-free loans or grants to businesses
172 to encourage the revitalization of the nominated area.

173 (f) Identify the amount of local and private resources
174 that will be available in the nominated area and the
175 private/public partnerships to be used, which may include
176 participation by, and cooperation with, universities, community
177 colleges, small business development centers, black business

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178 investment corporations, certified development corporations, and
179 other private and public entities.

180 (g) Indicate how state enterprise zone tax incentives and
181 state, local, and federal resources will be utilized within the
182 nominated area.

183 (h) Identify the funding requested under any state or
184 federal program in support of the proposed economic, human,
185 community, and physical development and related activities.

186 (i) Identify baselines, methods, and benchmarks for
187 measuring the success of carrying out the strategic plan.

188 Section 6. Sections 290.00681 and 290.00682, Florida
189 Statutes, are created to read:

190 290.00681 Super enterprise zones; designation;
191 eligibility.--

192 (1) The office may designate up to five areas in the state
193 as super enterprise zones for a 10-year period. In determining
194 whether an area suffers from pervasive poverty, unemployment,
195 and general distress, the office shall use data from the most
196 current decennial census, and from information published by the
197 Bureau of the Census and the Bureau of Labor Statistics. The
198 data shall be comparable in point or period of time and
199 methodology employed. To qualify as a super enterprise zone an
200 area shall:

201 (a) Be located in an enterprise zone and be no larger than
202 3 contiguous square miles.

203 (b) Have an average unemployment rate four times greater
204 than the state average.

205 (c) Have a minimum of 40 percent of residents living below
206 the federal poverty level.

207 (d) Have general distress of business and residential
208 property such that the local governing body by resolution has

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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209 determined that the buildings are substandard, unsafe,
210 unsanitary, dilapidated, or obsolete, or any combination of such
211 conditions, and are detrimental to the safety, health, and
212 welfare of the community.

213 (e) Demonstrate evidence of significant job loss or
214 dislocation in the area.

215 (2) When determining eligibility for a super enterprise
216 zone, the office shall consider the following criteria:

217 (a) Priority to applications that include new business
218 activity.

219 (b) Evidence of adverse economic and socioeconomic
220 conditions in that area.

221 (c) The viability of the development plan.

222 (d) Whether the development plan is creative and
223 innovative.

224 (e) Public and private commitment to and other resources
225 available for the proposed super enterprise zone.

226 (f) How a super enterprise zone would relate to a broader
227 plan for the community as a whole.

228 (g) The level of demonstrated cooperation from surrounding
229 communities.

230 (h) How the local regulatory burden will be eased for
231 businesses operating in the proposed super enterprise zone.

232 (i) Public and private commitment to improving abandoned
233 real property.

234 (j) Whether sufficient infrastructure is available to
235 support development.

236 (3) The office shall set deadlines for applications for
237 designation as a super enterprise zone as necessary to implement
238 this section. Any application for designation as a super
239 enterprise zone must:

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240 (a) Briefly describe the community's goals for
241 revitalizing the area and include a development plan.

242 (b) Describe the ways in which the community's approach to
243 economic development, social and human services, transportation,
244 housing, community development, public safety, and educational
245 and environmental concerns will be addressed in a coordinated
246 fashion and explain how these linkages support the community's
247 goals.

248 (c) Identify and describe key community goals and the
249 barriers that restrict the community from achieving these goals.

250 (d) Identify the amount of local and private support and
251 resources that will be available.

252 (e) Identify baselines, methods, and benchmarks for
253 measuring success.

254 (f) Include written approval from any associated county
255 office and mayor's office.

256 (4) This section is repealed June 30, 2020, and any
257 designation made pursuant to this section shall be revoked on
258 that date.

259 290.00682 Super enterprise zones; business
260 certification.--

261 (1) A certified business is eligible for the tax
262 exemptions provided in s. 212.08(19). To qualify as a certified
263 business, receive an exemption certificate, and continue to
264 receive the tax exemptions provided in s. 212.08(19), a business
265 must:

266 (a) File an application for certification with the local
267 enterprise zone development agency. The application shall be
268 filed no later than September 1 preceding the calendar year for
269 which the business is seeking an exemption.

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270 (b) Operate and be located within a designated super
271 enterprise zone.

272 (c) Create new employment within the super enterprise zone
273 while not causing unemployment elsewhere in the state.

274 (d) Certify to the best of the business' knowledge that
275 the business has no delinquent federal or state tax obligations.

276 (e) Demonstrate that no less than 20 percent of its
277 employees are residents of the designated super enterprise zone
278 or an enterprise zone located within the same county. The
279 employment requirement may be waived by the local enterprise
280 zone development agency for good cause.

281 (2) A local enterprise zone development agency may certify
282 a business as eligible for the exemptions under s. 212.08(19)
283 annually if the business meets the requirements in subsection
284 (1). Each local enterprise zone development agency shall
285 annually provide the local governmental entity, the office, and
286 the Department of Revenue with a list of new and existing
287 certified businesses. The Department of Revenue shall annually
288 issue a tax exemption certificate to each business holding an
289 exemption certificate issued by the local enterprise zone
290 development agency. The certificate shall be good for one
291 calendar year.

292 (3) A local enterprise zone development agency may
293 disqualify a certified business at any time if the business
294 fails to meet the requirements of subsection (1). A business
295 that makes a fraudulent claim under this section or for tax
296 exemptions provided in s. 212.08(19), shall be liable for the
297 payment of the tax due, together with the penalties set forth in
298 s. 212.085, and as otherwise provided by law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01 (for drafter's use only)

299 (4) This section is repealed June 30, 2020, and any
300 certification made pursuant to this section shall be revoked on
301 that date.

302 Section 7. Section 290.007, Florida Statutes, is amended
303 to read:

304 290.007 State incentives available in enterprise zones and
305 super enterprise zones.--

306 (1) The following incentives are provided by the state to
307 encourage the revitalization of enterprise zones:

308 (a)~~(1)~~ The enterprise zone jobs credit provided in s.
309 220.181.

310 (b)~~(2)~~ The enterprise zone property tax credit provided in
311 s. 220.182.

312 (c)~~(3)~~ The community contribution tax credits provided in
313 ss. 212.08, 220.183, and 624.5105.

314 (d)~~(4)~~ The sales tax exemption for building materials used
315 in the rehabilitation of real property in enterprise zones
316 provided in s. 212.08(5)(g).

317 (e)~~(5)~~ The sales tax exemption for business equipment used
318 in an enterprise zone provided in s. 212.08(5)(h).

319 (f)~~(6)~~ The sales tax exemption for electrical energy used
320 in an enterprise zone provided in s. 212.08(15).

321 (g)~~(7)~~ The enterprise zone jobs credit against the sales
322 tax provided in s. 212.096.

323 (h)~~(8)~~ Notwithstanding any law to the contrary, the Public
324 Service Commission may allow public utilities and
325 telecommunications companies to grant discounts of up to 50
326 percent on tariffed rates for services to small businesses
327 located in an enterprise zone designated pursuant to s.
328 290.0065. Such discounts may be granted for a period not to
329 exceed 5 years. For purposes of this paragraph subsection, the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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330 term "public utility" has the same meaning as in s. 366.02(1)
331 and the term "telecommunications company" has the same meaning
332 as in s. 364.02(14).

333 (2) The following incentives are provided by the state to
334 encourage the revitalization of super enterprise zones:

335 (a) The sales tax exemption for certified businesses
336 provided in s. 212.08(19)(a)1.

337 (b) The sales tax exemption for retail sales by certified
338 businesses provided in s. 212.08(19)(a)2.

339 Section 8. Effective July 1, 2020, section 290.007,
340 Florida Statutes, as amended by this act, is amended to read:

341 290.007 State incentives available in enterprise zones ~~and~~
342 ~~super enterprise zones.--~~

343 ~~(1)~~ The following incentives are provided by the state to
344 encourage the revitalization of enterprise zones:

345 ~~(1)(a)~~ The enterprise zone jobs credit provided in s.
346 220.181.

347 ~~(2)(b)~~ The enterprise zone property tax credit provided in
348 s. 220.182.

349 ~~(3)(e)~~ The community contribution tax credits provided in
350 ss. 212.08, 220.183, and 624.5105.

351 ~~(4)(d)~~ The sales tax exemption for building materials used
352 in the rehabilitation of real property in enterprise zones
353 provided in s. 212.08(5)(g).

354 ~~(5)(e)~~ The sales tax exemption for business equipment used
355 in an enterprise zone provided in s. 212.08(5)(h).

356 ~~(6)(f)~~ The sales tax exemption for electrical energy used
357 in an enterprise zone provided in s. 212.08(15).

358 ~~(7)(g)~~ The enterprise zone jobs credit against the sales
359 tax provided in s. 212.096.

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Amendment No. 01 (for drafter's use only)

360 (8)~~(h)~~ Notwithstanding any law to the contrary, the Public
361 Service Commission may allow public utilities and
362 telecommunications companies to grant discounts of up to 50
363 percent on tariffed rates for services to small businesses
364 located in an enterprise zone designated pursuant to s.
365 290.0065. Such discounts may be granted for a period not to
366 exceed 5 years. For purposes of this subsection ~~paragraph~~, the
367 term "public utility" has the same meaning as in s. 366.02(1)
368 and the term "telecommunications company" has the same meaning
369 as in s. 364.02(14).

370 ~~(2) The following incentives are provided by the state to~~
371 ~~encourage the revitalization of super enterprise zones:~~

372 ~~(a) The sales tax exemption for certified businesses~~
373 ~~provided in s. 212.08(19)(a)1.~~

374 ~~(b) The partial sales tax exemption for retail sales by~~
375 ~~certified businesses provided in s. 212.08(19)(a)2.~~

376 Section 9. Prior to the 2014 Regular Session of the
377 Legislature, the Office of Program Policy Analysis and
378 Government Accountability shall conduct an interim review and
379 evaluation of the effectiveness and viability of the super
380 enterprise zones created under s. 290.00681, Florida Statutes.
381 The office shall specifically evaluate whether relief from the
382 specified taxes caused or induced new investment and development
383 in the super enterprise zone; increased the number of jobs
384 created or retained in the super enterprise zone; caused or
385 induced the renovation, rehabilitation, restoration,
386 improvement, or new construction of businesses or housing within
387 the super enterprise zone; or contributed to the economic
388 viability and profitability of business and commerce located
389 within the super enterprise zone. The office shall submit a
390 report of its findings and recommendations to the Speaker of the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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391 House of Representatives and the President of the Senate no
392 later than December 1, 2013. In 2019, the office shall conduct a
393 final review in accordance with this section and shall make a
394 final report to the President of the Senate and Speaker of the
395 House of Representatives no later than December 1, 2019.

396 Section 10. Except as otherwise expressly provided in this
397 act, this act shall take effect July 1, 2007.

398
399

400 ===== T I T L E A M E N D M E N T =====

401 Remove the entire title and insert:
402 An act relating to super enterprise zones; amending s.
403 212.02, F.S.; providing a definition; providing for future
404 repeal; amending s. 212.08, F.S.; exempting certain
405 property purchased for use or consumption by businesses in
406 a super enterprise zone and retail sales by certified
407 businesses in a super enterprise zone; providing an
408 exception; specifying time periods for application of the
409 exemptions for certain businesses; providing for future
410 repeal; amending s. 290.0056, F.S.; providing additional
411 responsibilities of an enterprise zone development agency
412 relating to super enterprise zones; requiring an economic
413 impact report; providing for future repeal; amending s.
414 290.0057, F.S.; applying requirements for an enterprise
415 zone development plan to super enterprise zones; providing
416 for future deletion of application; creating s. 290.00681,
417 F.S.; authorizing the Office of Tourism, Trade, and
418 Economic Development to designate certain areas as super
419 enterprise zones for a certain time period; providing
420 qualification and eligibility criteria; providing
421 application requirements; providing for future repeal and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01 (for drafter's use only)

422 revocation of designations; creating s. 290.00682, F.S.;

423 providing requirements for qualification as a certified

424 business for sales tax exemption purposes; authorizing a

425 local enterprise zone development agency to certify

426 businesses; requiring the agency to provide lists of

427 certified businesses; providing for disqualifying

428 certified businesses under certain circumstances;

429 providing for future repeal and revocation of

430 certifications; amending s. 290.007, F.S.; specifying

431 incentives for revitalization of super enterprise zones;

432 providing for future deletion of such incentives;

433 requiring interim and final reviews of super enterprise

434 zones by the Office of Program Policy Analysis and

435 Government Accountability; providing review of criteria;

436 requiring reports to the Legislature; providing effective

437 dates.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1325

Entertainment Industry Economic Development

SPONSOR(S): Davis

TIED BILLS:

IDEN./SIM. BILLS: SB 0096

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	Croom <i>SC</i>	Croom <i>SC</i>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill substantially amends the Entertainment Industry Financial Incentive Program from a cash reimbursement to a transferable tax credit that can be applied against corporate income tax and sales and use tax liability effective July 1, 2007 through June 30, 2010. The bill provides a minimum of \$75 million in tax credits for each fiscal year. A tax credit can be sold at no less than 75 percent of its worth and may be carried forward for a maximum of five years.

There are three separate queues created by HB 1325: a General Production Queue that includes TV, film, commercials, and music videos, an Independent Florida Filmmaker Queue, and a Digital Media Project Queue. Productions are qualified by the Florida Office of Film and Entertainment and certified by the Office of Tourism, Trade, and Economic Development for the tax credit award.

The General Production Queue provides a 15 percent credit on qualified TV and film productions. To qualify, these productions must have a minimum of \$625,000 in qualified expenditures and may receive a tax credit up to \$8 million per production. Commercials and music video productions within this queue are required to have a minimum of \$100,000 in qualified expenditures per production and exceed a total of \$500,000 for all productions to qualify for a 15 percent credit. Productions certified in the General Production Queue may also be eligible for an additional 5 percent credit if 75 percent of filming is conducted between June 1 and November 30.

The Independent Florida Filmmaker Queue provides a 15 percent credit to qualified films or documentaries. To qualify a production must be no less than 70 minutes in length, all postproduction must be performed in Florida, and the production must have a minimum of \$100,000 in qualified expenditures but no more than \$625,000.

The Digital Media Project Queue provides a 10 percent credit on qualified expenditures, or no more than \$1 million, for qualified productions. To qualify under this queue a production must have a minimum of \$300,000 in qualified expenditures.

The bill requires the recipient of a transferred tax credit to pay five percent of the total amount paid for a tax credit to the Office of Tourism, Trade, and Economic Development to fund newly created film education programs. One-half of these funds will be distributed into the Grants and Donation Trust Fund to provide grants and loan guarantees to films that are written, produced, and directed by Florida residents who are graduates of approved Florida film programs and are determined to be family-friendly based on the review of the script and personal interview of the director. The other one-half of funds will be awarded as grants by the Office of Film and Entertainment to assist film students attending Florida institutions with student-made production costs.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1325.ED.doc

DATE: 3/5/2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The bill creates a tax credit for productions of filmed entertainment and digital media projects that can be applied toward corporate income and sales and use tax liability.

B. EFFECT OF PROPOSED CHANGES:

Incentive Model

Present Situation

In 2003, the Florida Legislature created the Entertainment Industry Financial Incentive Program in s. 288.1254, F.S. The program offers a 15 percent financial reimbursement on qualified expenditures, up to \$2 million, to encourage productions to film in Florida and use Florida-based cast and crew.

The program first received funding in 2004 when the Legislature appropriated \$2.4 million. The program has continued to receive incremental increases in appropriations since its inception. In fiscal year 2004-05 and 2005-06 the program received \$10 million, and in fiscal year 2006-07 the program received a \$20 million appropriation.

Productions are qualified on a first-come, first serve basis. The Office of Film and Entertainment reports annually on the use of the incentive program and has found that the incentive funds are quickly obligated to pending productions. Productions incur qualified expenditures by spending money in the state on goods and services from Florida vendors. Also, salaries and wages for Florida residents can be included in this calculation, excluding the two highest-paid residents in the state. Productions that are deemed by the Office of Film and Entertainment to contain obscene content as defined by the United States Supreme Court are not eligible for this program.

The Office of Film and Entertainment reports a total of \$166.7 million has been spent in Florida by certified productions. The state's direct return on investment was 7:1 in fiscal year 2005-06 and is expected to be at least 6.6:1 in the current fiscal year. The incentive program is attracting both out-of-state and in-state corporations. Of the 48 productions that have qualified and used the incentive program since 2004, approximately 26 of these productions do not have a corporate base in Florida. In addition, these out-of-state productions account for approximately two-thirds, or \$110.1 million, of total expenditures.

Proposed Legislation

HB 1325 transforms the entertainment industry incentive program from a cash reimbursement to a transferable tax credit that can be applied against corporate income tax and sales and use tax liability effective July 1, 2007 through June 30, 2010. The credits may apply towards corporate income tax or sales and use tax liability and may be carried forward for up to five years. A minimum of \$75 million in tax credits may be awarded in any one fiscal year.

A production may sell the tax credit at no less than 75 percent of its worth. Credits for sales tax may be transferred once to only one transferee and corporate tax credits may be transferred once to no more than three transferees. Credits may only be deducted on sales and use tax liability through an electronic data interchange.

Eligibility for a tax credit remains on a first-come, first-served basis. A qualified or certified production must continue on a reasonable schedule to avoid loss of eligibility for the tax credit. Under the proposed legislation, qualified expenditures are incurred by productions spending money in the state, including good and services, and salaries and wages up to \$400,000 per resident.

If a credit is used falsely, repayment is required and a penalty, up to double the credit amount and reimbursement of reasonable costs, may be required. The bill gives the Office of Film and Entertainment the ability to revoke any credit if an applicant submitted false statements or documents related to the application.

Definitions in the bill are amended to make clarifications and to reflect the change to a tax credit program.

Production Incentives

Present Situation

To qualify for the incentive, a production must apply to the Office of Film and Entertainment on a first-come, first-serve basis and spend a minimum of \$850,000 in the state. The statute offers two queues in which a production may qualify. Sixty percent of the incentive is dedicated to theatrical or direct-to-video motion pictures, made-for-TV movies, commercials, music videos, industrial and education films, promotional videos or films, TV specials, and digital-media-effects productions by entertainment industry to be sold or displayed in electronic medium. The remaining 40 percent is dedicated to TV pilots or TV series to be sold or displayed in an electronic medium. Funding for the two queues remains separate until February 1 each fiscal year when the funding is combined and may be used for either qualified production.

The current statute also includes less used incentives. A qualified relocation project that is certified by the Office of Film and Entertainment may be eligible for a one-time incentive payment of 5 percent of its annual gross revenues for the first twelve months of conducting business in Florida or for \$200,000, whichever is less. In addition, a digital-media-effects company in the state may be eligible for a payment of 5 percent of its annual gross revenues or \$100,000, whichever is less. Since fiscal year 2004-05, one digital media company has received the incentive; presently three digital media projects are certified for the current fiscal year by the Office of Film and Entertainment.

Proposed Legislation

The proposed legislation requires a qualified production to:

- Have combined cast and crew of at least 50 percent Florida residents or students; and
- To promote Florida as a tourist or film and entertainment production destination.

HB 1325 requires the Office of Film and Entertainment to establish a process for qualifying an applicant and approving tax credit eligibility and amounts. The Office of Film and Entertainment may seek assistance from a local film office in determining whether an applicant meets the requirements for the incentive program and whether the applicant is complying with statute.

HB 1325 creates three queues: a General Production Queue that includes TV, film, commercials, and music videos, an Independent Florida Filmmaker Queue, and a Digital Media Project Queue. Productions are qualified on a first-come, first-serve basis within each queue.

General Production Queue

At least 85 percent of the film incentive credits are designated for productions that qualify under the General Production Queue. Film and TV productions must have a minimum of \$625,000 in qualified expenditures to qualify for a 15 percent reimbursement in tax credits. To attract larger film productions, the cap is raised from \$2 million to \$8 million. In addition, productions expenditures may span two fiscal years. Within the same queue, the bill includes separate standards for commercials and music videos. Under the proposed language, these productions would need to spend a minimum of \$100,000 a production and exceed a total of \$500,000 for all productions to receive a 15 percent tax credit on qualified expenditures. Qualified expenditures for commercials and music videos must be incurred in one fiscal year. In addition, all productions in the General Production Queue are eligible for an off-season incentive—an additional 5 percent reimbursement if 75 percent of filming occurs between June 1 and November 30.

To qualify under the General Production Queue, a qualified production shall make a good faith effort to obtain an estimate to utilize Florida's existing infrastructure of equipment, including camera gear, grip and lighting equipment, vehicle providers, and post-production services when available in state.

Independent Filmmaker Queue

Five percent of the film incentive tax credits, or no more than \$2 million, is designated for productions that qualify under the Independent Florida Filmmaker Queue. To qualify, a film or documentary must be no less than 70 minutes in length, must have a minimum of \$100,000 in qualified expenditures and no more than \$625,000, and all post-production must be performed in Florida. In addition, productions qualified under this queue must employ at least six of eight key positions with Florida workers. A production qualified under this queue is eligible for a 15 percent reimbursement.

Digital Media Queue

Ten percent of film incentive credits are designated for productions that qualify under the Digital Media Project Queue. To qualify, a digital media project must have a minimum of \$300,000 in qualified expenditures during one fiscal year. A digital media production under this queue is eligible for a 10 percent reimbursement, but no more than \$1 million per project.

Film Education Program

HB 1325 creates s. 288.1256, F.S., a film education program. Under the program, the Office of Film and Entertainment may award grants or loan guarantees to productions that are written, produced, and directed by Florida residents that are graduates of an approved film program in Florida and that are deemed to be family-friendly based on a review of the script and a personal interview with the director.

To fund the film education program, the bill requires a recipient of a transferred tax credit to pay 5 percent of the total amount paid for the tax credit for the purpose of film education. One-half of these funds are to be deposited in the Grants and Donations Trust Fund to pay for the film education program created in s. 288.1256, F.S. The remaining one-half is to be paid directly to the Office of Film and Entertainment for the purpose of providing grants toward production costs of student-made productions. The Office of Film and Entertainment is responsible to verify that this cash payment has been made prior to the Office of Tourism, Trade, and Economic Development approving a tax credit transfer.

Advisory Board

Present Situation

The Florida Film and Entertainment Advisory Council (FFEAC) was created within the Office of Tourism, Trade, and Economic Development (OTTED) to serve as an advisory body to OTTED and the Office of Film and Entertainment under s. 288.1252, F.S. The council consists of 17 members appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

After conducting a series of public meetings the FFEAC finalized and approved a list of recommendations to the current film and entertainment incentive program on December 15, 2006.¹ Many of these recommendations are incorporated into this legislation.

Proposed Legislation

HB 1325 gives FFEAC the additional power of advising the Office of Film and Entertainment when a film produced under the film education program in s. 288.1256, F.S., meets the required criteria.

Annual Reporting, Rulemaking, and Repeal

Annual reporting requirements under HB 1325 are identical to those provided in current statute. The Office of Film and Entertainment is required to annually report on the return on investment to the state to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

¹ These recommendations are available online at http://www.filminflorida.com/about/feac_minutes.asp.

HB 1325 provides the Office of Tourism, Trade, and Economic Development and the Department of Revenue the ability to develop and adopt rules to implement the entertainment industry financial incentive program.

The proposed language repeals the entertainment industry financial incentive program on July 1, 2010, except for the tax credit carry forward provided. The bill also repeals s. 288.1255, F.S., which states the incentive program is subject to annual appropriation.

Growing the Entertainment Industry

Many states offer larger incentives than Florida to the film and entertainment industry. New Mexico, Louisiana, North Carolina, Connecticut, Hawaii, Illinois, Georgia, Rhode Island, Massachusetts, and Wisconsin all offer an unlimited tax credits to the film industry. In addition, many of these states offer a greater reimbursement than Florida²—up to 30 percent on qualified expenditures with no cap per production.

In 2006, the Tourism Committee in the Florida House of Representatives released a study on Florida's entertainment industry infrastructure that concludes other states are aggressively pursuing various incentives and Florida may lose its seasoned workforce to other states. The study recommended:

- Determining whether a tax credit model would be more successful in bringing business to the state on a long-term basis;
- Addressing the minimum threshold required to qualify for the incentive;
- Addressing the perception of uncertainty of funding each year;
- Developing a strategic plan for growth of the industry; and
- Pursuing cooperation with post-secondary institutions to further build the industry.³

C. SECTION DIRECTORY:

Section 1. – Substantially amends s. 288.1254, F.S., to change the film and entertainment industry incentive from a cash reimbursement program to a tax credit reimbursement program. This section also revises the production queues and sets new requirements for productions to qualify under those queues.

Section 2. – Creates s. 288.1256, F.S., authorizing the Office of Film and Entertainment to administer a Florida Graduate Film Investment Fund to award grants and loan guarantees to films produced by Florida film graduates that are family-friendly.

Section 3. – Amends s. 288.1252, F.S., providing the Florida Film and Entertainment Advisory Council the power necessary to determine whether a film meets the criteria for the Florida Graduate Film Investment Fund.

Section 4. – Amends s. 220.02, F.S., including tax credits created in the Entertainment Industry Economic Development Act in a list of credits and deductions against corporate income tax.

Section 5. – Amends s. 213.053, F.S., authorizes the Department of Revenue to provide information on tax credits to the Office of Tourism, Trade, and Economic Development and the Office of Film and Entertainment.

Section 6. – Amends s. 212.08, F.S., providing a tax credit on sales and use tax for the entertainment industry financial incentive.

² Florida's film and entertainment incentive program offers a 15 percent reimbursement with a \$2 million cap per production.

³ A full report on *Florida's Entertainment Industry Infrastructure: Are we Growing the Indigenous Industry as well as Supporting Production* is available online at

<http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2235&Session=2006&DocumentType=Reports&FileName=Entertainment%20Industry%20Infrastructureonline.pdf>.

Section 7. – Repeals s. 288.1255 , F.S., requiring an annual appropriation for the entertainment industry financial incentive.

Section 8. – Providing an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

A formal estimate has not been provided at this time. A creation of new tax credits will negatively impact revenue collection for the state. The bill states that a minimum of \$75 million in tax credits shall be provided annually during the next three fiscal years to certified productions. It is not known at this time how much of the credit will be used during any given year.

2. Expenditures:

The Department of Revenue indicates a need for 1 FTE and a recurring appropriation of \$46,023 for salaries and expense related to this position. The Department estimates that it will track up to 806 transactions a year for the sales and use tax, and 2,418 transactions a year for the corporate income tax. The Department also indicates a one-time need of \$54,726 to develop, program, and test a registration and tracking system.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The credit is intended to bring more film and entertainment productions to the state of Florida. The bill is specifically targeted to bring large feature films and television series to the state. These productions have the ability to employ a workforce for a longer period and provide greater stability to the state's entertainment industry infrastructure. The bill will better meet the industry's needs by allowing them more time to schedule and produce a production. The bill also provides greater incentive for commercial and video production.

To date, approximately 53 percent of qualified expenditures for the incentive program have been spent on Florida resident wages. The remaining 47 percent has been spent with Florida vendors or businesses. In fiscal year 2005-06 alone, approximately 4,027 Florida jobs were created due to productions qualifying for the incentive program.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue and the Office of Tourism, Trade, and Economic Development the ability to adopt rules and establish guidelines for the entertainment industry financial incentive program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Due to its multi-year commitment, HB 1325 bill is crucial to the growth of the film and entertainment industry and thus the economic development of the State of Florida. It allows the producers to plan in advance, film in Florida, and qualify for the incentive; unlike the previous legislation where the filming had to be completed before June 30th or the money would revert back to General Revenue. The Sales and Corporate Income tax credit that this bill purports will be a lot better than our current system.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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 total
16 aggregate amount available for tax credits; providing for
17 uses, allocations, election, distributions, and
18 carryforward of the tax credits; 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; requiring a recipient of
23 transferred tax credits to pay a percentage of the amount
24 paid to fund specified film education grants; providing
25 priority allocation of tax credits; providing for
26 withdrawal of tax credit eligibility; establishing queues;
27 authorizing the Office of Tourism, Trade, and Economic
28 Development to adopt rules, policies, and procedures;

29 authorizing the Department of Revenue to adopt rules and
 30 conduct audits; providing for revocation and forfeiture of
 31 tax credits; providing liability for reimbursement of
 32 certain costs and fees associated with a fraudulent claim;
 33 requiring an annual report to the Governor and the
 34 Legislature; providing for future repeal; creating s.
 35 288.1256, F.S.; establishing the Florida Graduate Film
 36 Investment Fund; requiring administration by the Office of
 37 Film and Entertainment; providing for deposit of funds;
 38 requiring that funds be used for certain family-friendly
 39 films; amending s. 288.1252, F.S.; requiring the Florida
 40 Film and Entertainment Advisory Council to advise on films
 41 produced under the Florida Graduate Film Investment Fund;
 42 amending s. 220.02, F.S.; including tax credits enumerated
 43 in s. 288.1254, F.S., in the order of application of
 44 credits against certain taxes; amending s. 213.053, F.S.;
 45 authorizing the Department of Revenue to provide tax
 46 credit information to the Office of Film and Entertainment
 47 and the Office of Tourism, Trade, and Economic
 48 Development; amending s. 212.08, F.S.; requiring
 49 electronic funds transfer for the entertainment industry
 50 tax credit; providing procedures; repealing s. 288.1255,
 51 F.S., to remove the requirement that annual funding for
 52 the entertainment industry financial incentive program be
 53 subject to legislative appropriation; providing an
 54 effective date.

55

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

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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) CREATION AND PURPOSE OF PROGRAM.--There is created within the Office of Film and Entertainment an entertainment industry financial incentive program. The purpose of this program is to encourage the use of this state as a site for filming and to develop and sustain the workforce and infrastructure for film and entertainment production.

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

(a) "Production" means a theatrical or direct-to-video motion picture, a made-for-television motion picture, a commercial, a music video, an industrial or educational film, an infomercial, a documentary film, a television pilot, a presentation for a television pilot, a television series, including, but not limited to, a drama, a reality, a comedy, a soap opera, a telenovela, a game show, miniseries production, or a digital media project by the entertainment industry. One season of a television series is considered one production. The term "production" does not include a weather or market program, a sporting event, a sports show, a gala, a production that solicits funds, a home shopping program, a political program, a political documentary, political advertising, a gambling-related project or production, a concert production, or a local,

85 regional, or Internet-only news show, current events show, or
 86 current affairs show. A production may be produced on or by
 87 film, tape, or otherwise and produced by means of a motion
 88 picture camera, electronic camera or device, tape device,
 89 computer, any combination of the foregoing, or any other means,
 90 method, or device now used or that may hereafter be adopted.

91 (b) "Digital media project" means a production of
 92 interactive entertainment, including a video game, simulation,
 93 or animation, including a production intended for Internet or
 94 wireless distribution, that is produced for commercial or
 95 education distribution. The term "digital media project" does
 96 not include a production deemed by the Office of Film and
 97 Entertainment to contain obscene content as defined by the
 98 United States Supreme Court.

99 (c) "Production expenditures" means the costs of tangible
 100 and intangible property used and services performed primarily
 101 and customarily in the production, including pre-production and
 102 post-production, excluding development and distribution costs.
 103 Production expenditures generally include, but are not limited
 104 to:

105 1. Wages, salaries, or other compensation, including
 106 amounts paid through payroll service companies, for technical
 107 and production crews, directors, producers, and performers.

108 2. Expenditures for sound stages, backlots, production
 109 editing, digital effects, sound recordings, sets, and set
 110 construction.

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

113 4. Expenditures for meals, travel, and accommodations.

114 (d) "Qualified expenditures" means production expenditures
 115 incurred in this state by a qualified production for the
 116 following:

117 1. Goods purchased or leased from, or services provided
 118 by, a Florida vendor or supplier who is registered with the
 119 Department of State or the Department of Revenue and doing
 120 business in this state.

121 2. Payments to residents of this state in the form of
 122 salary, wages, or other compensation up to a maximum of \$400,000
 123 per resident.

124
 125 For a qualified production involving an event, such as an awards
 126 show, qualified expenditures exclude expenditures solely
 127 associated with the event itself and not directly required by
 128 the production. A qualified production's expenditures made prior
 129 to certification shall not be considered qualified expenditures,
 130 with the exception of those incurred by a commercial, a music
 131 video, or the pickup of additional episodes of a television
 132 series within a single season.

133 (e) "Qualified production" means a production in this
 134 state that meets the requirements of this section and the
 135 minimum qualified expenditures and requirements of its
 136 appropriate queue. A qualified production's combined production
 137 cast and below-the-line production crew positions must be filled
 138 by at least 50 percent Florida residents or students enrolled
 139 full-time in a film and entertainment-related course of study at
 140 a Florida institution of higher education, or a combination

141 thereof. For purposes of this section, proof of Florida
 142 residency is a valid Florida driver's license or other state-
 143 issued Florida identification confirming residency in the state.
 144 Productions that are deemed by the Office of Film and
 145 Entertainment to contain obscene content as defined by the
 146 United States Supreme Court are not qualified productions.

147 (f) "Certified production" means a qualified production
 148 that has tax credits allocated to it based on its estimated
 149 qualified expenditures, up to its maximum certified amount of
 150 tax credits, by the Office of Tourism, Trade, and Economic
 151 Development. A qualified production is not a certified
 152 production if its first day of principal photography in the
 153 state occurs before it is certified by the Office of Tourism,
 154 Trade, and Economic Development, unless it is a previously
 155 certified production spanning fiscal years and required to make
 156 an application for continuing the same production in the
 157 subsequent year.

158 (g) "Qualified production company" means a corporation,
 159 limited liability company, partnership, or other legal entity
 160 engaged in producing a qualified production.

161 (h) "Off-season certified production" means a certified
 162 production, other than a digital media project or an animated
 163 production, that films 75 percent or more of its principal
 164 photography days from June 1 through November 30.

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

166 (a) Program application.--A qualified production company
 167 in this state producing a qualified production may submit a
 168 program application to the Office of Film and Entertainment for

169 the purpose of determining qualification for an award of tax
 170 credits authorized by this section. The office must be provided
 171 information required to determine whether the production is a
 172 qualified production and to determine the qualified expenditures
 173 and other information necessary for the office to determine
 174 eligibility for the tax credits.

175 (b) Required documentation.--The Office of Film and
 176 Entertainment shall develop a program application form for use
 177 in qualifying an applicant as a qualified production. The
 178 program application form for qualifying an applicant as a
 179 qualified production must include, but need not be limited to,
 180 production-related information on Florida resident employment, a
 181 detailed budget of planned qualified expenditures, and a signed
 182 affirmation from the applicant that the information on the
 183 program application form has been verified and is correct. The
 184 program application form shall be distributed to applicants by
 185 the Office of Film and Entertainment or by local film
 186 commissions.

187 (c) Application process.--The Office of Film and
 188 Entertainment shall establish a process by which a program
 189 application is accepted and reviewed and by which tax credit
 190 eligibility and amount are determined. The Office of Film and
 191 Entertainment may request assistance from a duly appointed local
 192 film commission in determining qualification for the tax credit
 193 and compliance with the provisions of this section.

194 (d) Certification.--Within 10 business days after receipt
 195 of a program application, the Office of Film and Entertainment
 196 shall review the application. Upon its determination that the

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

208 (e) Grounds for denial.--The Office of Film and
 209 Entertainment shall deny an application if it determines that:

210 1. The application is not complete or does not meet the
 211 requirements of this section; or

212 2. The tax credit sought does not meet the requirements of
 213 this section.

214 (f) Verification of actual qualified expenditures.--The
 215 Office of Film and Entertainment shall develop a process by
 216 which a certified production shall submit, in a timely manner
 217 after production ends and after making all of its qualified
 218 expenditures, data substantiating each qualified expenditure to
 219 an independent Florida-licensed certified public accountant. The
 220 accountant shall conduct an audit, at the certified production's
 221 expense, to substantiate each qualified expenditure and shall
 222 submit the results and all substantiating data to the Office of
 223 Film and Entertainment, which shall review and report to the
 224 Office of Tourism, Trade, and Economic Development the final

225 | verified amount of actual qualified expenditures made by the
 226 | certified production. The Office of Tourism, Trade, and Economic
 227 | Development shall then notify the executive director of the
 228 | Department of Revenue that the certified production has met the
 229 | requirements of the incentive program and shall recommend the
 230 | final amount of the tax credit award.

231 | (g) Promoting Florida.--The Office of Film and
 232 | Entertainment shall ensure that, as a condition of receiving a
 233 | tax credit under this section, appropriate marketing materials,
 234 | including, but not limited to, promotions of this state as a
 235 | tourist or film and entertainment production destination, are
 236 | included in any production when appropriate. The Office of Film
 237 | and Entertainment may consult with promotional agencies and
 238 | other appropriate entities for the development and
 239 | implementation of marketing materials.

240 | (4) TAX CREDIT ELIGIBILITY; ELECTION AND DISTRIBUTION;
 241 | CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE
 242 | DISTRIBUTIONS; MERGERS OR ACQUISITIONS.--

243 | (a) Tax credit authorization.--For fiscal years beginning
 244 | on or after July 1, 2007, and ending June 30, 2010, qualified
 245 | production is eligible for a tax credit against taxes due under
 246 | chapter 220 or taxes collected or accrued under chapter 212.

247 | (b) Total aggregate tax credit.--The aggregate amount of
 248 | the tax credits allowed under this section in any state fiscal
 249 | year is a minimum of \$75 million.

250 | (c) Election and distribution of tax credits.--A certified
 251 | production company receiving a tax credit award under this
 252 | section shall, at the time the credit is awarded by the

253 Department of Revenue after production is completed and all
 254 requirements to receive a credit award have been met, make an
 255 irrevocable election to apply the credit against taxes due under
 256 chapter 220, against taxes collected or accrued under chapter
 257 212, or against a stated combination of the two taxes. The
 258 election shall be binding upon any distributee, successor,
 259 transferee, or purchaser.

260 (d) Tax credit carryforward.--If the certified production
 261 company cannot use the entire tax credit in the taxable year or
 262 reporting period in which the credit is awarded because of
 263 insufficient tax liability on the part of the certified
 264 production, any excess amount may be carried forward to a
 265 succeeding taxable year or reporting period. A tax credit
 266 awarded under this section and applied against taxes imposed
 267 under chapter 212 or chapter 220 may be carried forward only for
 268 a maximum of 5 taxable years following the taxable year in which
 269 the credit was awarded, after which period the credit expires
 270 and may not be used.

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

276 (f) Partnership and noncorporate distributions.--A
 277 qualified production company that is not a corporation as
 278 defined in s. 220.03 may elect to distribute tax credits awarded
 279 under this section to its partners or members in proportion to
 280 their respective distributive income or loss in the taxable

281 fiscal year in which the tax credits were awarded.

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

287 (5) TRANSFER OF TAX CREDITS.--

288 (a) Authorization.--Upon application to the Office of Film
 289 and Entertainment and approval by the Office of Tourism, Trade,
 290 and Economic Development, a certified production company may
 291 elect to transfer, in whole or in part, any unused credit amount
 292 granted under this section. An election to transfer any unused
 293 tax credit amount under chapter 212 must be made at the time the
 294 tax credit is awarded. An election to transfer any unused tax
 295 credit amount under chapter 220 must be made no later than 5
 296 years from the date the credit was awarded, after which period
 297 the credit expires and may not be used. The Office of Tourism,
 298 Trade, and Economic Development shall notify the Department of
 299 Revenue of the election and transfer.

300 (b) Number of transfers permitted.--A certified production
 301 company that has elected to apply a credit amount against taxes
 302 remitted under chapter 212 is permitted a one-time transfer of
 303 that amount to one transferee. A certified production company
 304 that has elected to apply a credit amount against taxes due
 305 under chapter 220 is permitted a one-time transfer of that
 306 amount to no more than three transferees, and such transfers
 307 shall occur in the same taxable year.

308 (c) Minimum consideration.--The transfer of any amount of

309 | the tax credit shall not be exchanged for consideration received
 310 | by the certified production of less than 75 percent of the
 311 | transferred amount of the tax credit.

312 | (d) Transferee rights and limitations.--The transferee is
 313 | subject to the same rights and limitations as the certified
 314 | production company awarded the tax credit, except that the
 315 | transferee may not sell or otherwise transfer the tax credit.

316 | (e) Film education.--

317 | 1. A recipient of any transferred tax credit under this
 318 | subsection shall pay an amount equal to 5 percent of the total
 319 | amount paid for the tax credit as a film education grant,
 320 | divided equally between the following two programs:

321 | a. One-half of the total film education grant shall be
 322 | paid into the Grants and Donations Trust Fund under s.
 323 | 14.2015(2)(f) administered by the Office of Tourism, Trade, and
 324 | Economic Development and applied by the Office of Film and
 325 | Entertainment for the purpose described in s. 288.1256.

326 | b. One-half of the total film education grant shall be
 327 | paid directly to an Office of Film and Entertainment-approved
 328 | film program at a Florida institution of higher education to be
 329 | applied as a grant toward production costs for a student-made
 330 | production.

331 | 2. The Office of Film and Entertainment shall ensure that
 332 | the transferee has made full cash payment of the film education
 333 | grant before the Office of Tourism, Trade, and Economic
 334 | Development approves the tax credit transfer.

335 | 3. An affiliated recipient company of a transferred tax
 336 | credit by a certified production shall not be subject to this

337 subsection, nor shall certified productions in the independent
 338 Florida filmmaker queue.

339 (f) Rulemaking.--The Department of Revenue may adopt rules
 340 pursuant to ss. 120.536(1) and 120.54 to administer this
 341 subsection, as provided in subsection (7).

342 (6) PRIORITY ALLOCATION OF TAX CREDITS; ELIGIBILITY
 343 WITHDRAWAL; QUEUES.--

344 (a) Tax credit priority.--Eligibility of a qualified
 345 production for a tax credit award shall be determined on a
 346 first-come, first-served basis within its appropriate queue. A
 347 qualified production shall be placed into the appropriate queue
 348 and subject to the requirements of that queue.

349 (b) Withdrawal of tax credit eligibility.--A qualified or
 350 certified production shall continue on a reasonable schedule,
 351 which means opening its production office in the state no sooner
 352 than 30 calendar days before and no later than 30 days after the
 353 date provided in the production's program application, and
 354 beginning principal photography in the state no sooner than 30
 355 calendar days before and no later than 30 days after the date
 356 provided in the production's program application. The Office of
 357 Tourism, Trade, and Economic Development shall withdraw the
 358 eligibility of a qualified or certified production that does not
 359 continue on a reasonable schedule and recertify the tax credits
 360 to the next qualified or certified production or productions in
 361 the respective queue that have not been certified for their full
 362 maximum award and have not started principal photography before
 363 the tax credits become available.

364 (c) Queues.--

365 1. General production queue.--

366 a. A qualified production, excluding commercials, music
 367 videos, and digital media projects, that demonstrates a minimum
 368 of \$625,000 in total qualified expenditures shall be eligible
 369 for tax credits equal to 15 percent of its actual qualified
 370 expenditures up to a maximum of \$8 million. A qualified
 371 production spanning state fiscal years may combine qualified
 372 expenditures from both state fiscal years to satisfy the
 373 threshold.

374 b. A qualified production company that produces national
 375 or regional commercials, music videos, or both may be eligible
 376 for a tax credit award if it demonstrates a minimum of \$100,000
 377 in qualified expenditures per national or regional commercial or
 378 music video and exceeds a combined threshold of \$500,000 after
 379 combining actual qualified expenditures from qualified
 380 commercials, music videos, or both during a single state fiscal
 381 year. The maximum tax credit award shall be equal to 15 percent
 382 of its actual qualified expenditures up to a maximum of
 383 \$500,000. After a qualified production company that produces
 384 commercials, music videos, or both reaches the threshold of
 385 \$500,000, it shall be eligible to apply for certification for a
 386 tax credit award.

387 c. At least 85 percent of all tax credits available under
 388 this section in any state fiscal year shall be dedicated to this
 389 queue.

390 d. An off-season certified production in this queue shall
 391 be eligible for an additional 5-percent tax credit on actual
 392 qualified expenditures. An off-season certified production that

393 does not complete 75 percent of principal photography as a
 394 result of a hurricane or tropical storm disruption shall not be
 395 disqualified from eligibility for the additional 5-percent
 396 credit as a result of the disruption.

397 e. If the total amount of tax credits certified to this
 398 queue exceeds the aggregate amount of the tax credits authorized
 399 annually, such excess shall be treated as having been applied
 400 for on the first day of the next state fiscal year in which tax
 401 credits remain available for allocation to this queue.

402 f. A certified production within this queue that spans
 403 state fiscal years shall have all qualified expenditures
 404 certified for the state fiscal year in which the last actual
 405 qualified expenditure is anticipated to be made.

406 g. A qualified production in this queue shall make a good
 407 faith effort to utilize Florida's existing infrastructure of
 408 equipment providers, including camera gear, grip and lighting
 409 equipment, vehicle providers, and post-production services when
 410 available in-state.

411 2. Independent Florida filmmaker queue.--An independent
 412 Florida film that meets the criteria of this queue and
 413 demonstrates a minimum of \$100,000, but not more than \$625,000,
 414 in total qualified expenditures shall be eligible for tax
 415 credits equal to 15 percent of its actual qualified
 416 expenditures. Five percent of all tax credits available under
 417 this section in any state fiscal year shall be dedicated to this
 418 queue, but not more than \$2 million in any state fiscal year. To
 419 qualify for this queue, a qualified production must:

420 a. Be planned as a feature film or documentary of no less

421 than 70 minutes in length.

422 b. Provide evidence of 50 percent of the financing for its
 423 total budget in an escrow account or other form dedicated to the
 424 production.

425 c. Do all major post-production in this state.

426 d. Employ Florida workers in at least six of the following
 427 eight key positions:

428 (I) Writer.

429 (II) Director.

430 (III) Producer.

431 (IV) Director of Photography.

432 (V) Star or one of the lead actors.

433 (VI) Unit Production Manager.

434 (VII) Editor.

435 (VIII) Production Designer.

436
 437 For purposes of this sub-subparagraph, a "Florida worker" means
 438 a person who has been a resident of this state for at least 1
 439 year prior to a production's application or a person who is
 440 attending a Florida film school or Florida college, university,
 441 or community college full-time or has graduated from such
 442 school, college, university, or community college within 5 years
 443 prior to the production's application.

444 3. Digital media projects queue.--A qualified production
 445 that is a digital media project that demonstrates a minimum of
 446 \$300,000 in total qualified expenditures shall be eligible for a
 447 tax credit equal to 10 percent of its actual qualified
 448 expenditures up to a maximum of \$1 million. Ten percent of all

449 tax credits available under this section in any state fiscal
 450 year shall be dedicated to this queue.

451 a. For purposes of this subparagraph, "qualified
 452 expenditures" are the wages or salaries paid to Florida resident
 453 labor working on a single qualified digital media project, up to
 454 a maximum of \$200,000 in wages or salaries paid per resident of
 455 this state.

456 b. A qualified production company producing digital media
 457 projects may not qualify for more than three projects in any one
 458 fiscal year. Projects that extend beyond a fiscal year must
 459 reapply each fiscal year in order to be eligible for a tax
 460 credit award for that year.

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

462 (a) The Office of Tourism, Trade, and Economic Development
 463 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
 464 develop policies and procedures to implement and administer this
 465 section, including, but not limited to, rules specifying
 466 requirements for the application and approval process, records
 467 required for substantiation for tax credits, procedures for
 468 making the election in paragraph (4)(c), and the manner and form
 469 of documentation required to claim tax credits awarded or
 470 transferred under this section, determination of, qualification
 471 for, and certification for tax credits, implementation of the
 472 Florida Graduate Film Investment Fund in s. 288.1256, and
 473 marketing requirements for tax credit recipients.

474 (b) The Department of Revenue may adopt rules pursuant to
 475 ss. 120.536(1) and 120.54 to administer this section, including
 476 rules governing the examination and audit procedures required to

477 administer this section and the manner and form of documentation
 478 required to claim tax credits awarded or transferred under this
 479 section.

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

482 (a) Audit authority.--The Department of Revenue may
 483 conduct examinations and audits as provided in s. 213.34 to
 484 verify that tax credits under this section have been received,
 485 transferred, and applied according to the requirements of this
 486 section. This information is subject to the confidentiality
 487 requirements of chapter 213. If the Department of Revenue
 488 determines that tax credits have not been received, transferred,
 489 or applied as required by this section, it may, in addition to
 490 the remedies provided in this subsection, pursue recovery of
 491 such funds pursuant to the laws and rules governing the
 492 assessment of taxes.

493 (b) Revocation of tax credits.--The Office of Tourism,
 494 Trade, and Economic Development may revoke or modify any written
 495 decision qualifying, certifying, or otherwise granting
 496 eligibility for tax credits under this section if it is
 497 discovered that the tax credit applicant submitted any false
 498 statement, representation, or certification in any application,
 499 record, report, plan, or other document filed in an attempt to
 500 receive tax credits under this section. The Office of Film and
 501 Entertainment shall immediately notify the Department of Revenue
 502 of any revoked or modified orders affecting previously granted
 503 tax credits. Additionally, the taxpayer must notify the
 504 Department of Revenue of any change in its tax credit claimed.

505 (c) Forfeiture of tax credits.--A determination by the
 506 Department of Revenue, as a result of an audit or examination by
 507 the Department of Revenue or from information received from the
 508 Office of Film and Entertainment, that a taxpayer received tax
 509 credits pursuant to this section to which the taxpayer was not
 510 entitled is grounds for forfeiture of previously claimed and
 511 received tax credits. The taxpayer is responsible for returning
 512 forfeited tax credits to the Department of Revenue, and such
 513 funds shall be paid into the General Revenue Fund of the state.
 514 In the event the credit provided for under this section is
 515 reduced as a result of an examination or audit by the Department
 516 of Revenue, the tax deficiency shall be recovered from the first
 517 entity or the surviving or acquiring entity to have claimed the
 518 credit up to the amount of the credit taken. Any subsequent
 519 deficiencies shall be assessed against any entity acquiring and
 520 claiming the credit or, in the case of multiple succeeding
 521 entities, in the order of tax credit succession.

522 (d) Fraudulent claims.--Any applicant who submits
 523 information under this section that includes fraudulent
 524 information is liable for reimbursement of the reasonable costs
 525 and fees associated with the review, processing, investigation,
 526 and prosecution of the fraudulent claim. An eligible entity,
 527 qualified production company, or certified production that
 528 obtains a credit payment under this section through a claim that
 529 is fraudulent is liable for reimbursement of the credit amount
 530 claimed plus a penalty in an amount double the credit amount
 531 claimed and reimbursement of reasonable costs, which penalty is
 532 in addition to any criminal penalty to which the eligible

533 entity, qualified production company, or certified production is
 534 liable for the same acts. The entity or company is also liable
 535 for costs and fees incurred by the state in investigating and
 536 prosecuting the fraudulent claim.

537 (9) ANNUAL REPORT.--The Office of Film and Entertainment
 538 shall provide an annual report for the previous fiscal year, due
 539 October 1, to the Governor, the President of the Senate, and the
 540 Speaker of the House of Representatives outlining the return on
 541 investment to the state on funds expended pursuant to this
 542 section.

543 (10) REPEAL.--This section is repealed July 1, 2010,
 544 except that the tax credit carryforward provided in this section
 545 shall continue to be valid for the period specified.

546 Section 2. Section 288.1256, Florida Statutes, is created
 547 to read:

548 288.1256 Florida Graduate Film Investment Fund.--

549 (1) The Office of Film and Entertainment shall create and
 550 administer a program, using moneys deposited into the Office of
 551 Tourism, Trade, and Economic Development's Grants and Donations
 552 Trust Fund pursuant to s. 288.1254(5)(e), to award either a
 553 grant or a loan guarantee for films that are:

554 (a) Written, produced, and directed by Florida residents
 555 who are graduates of an Office of Film and Entertainment
 556 approved film program at a Florida institution of higher
 557 education; and

558 (b) Determined by the Commissioner of Film and
 559 Entertainment, with the advice of the Florida Film and
 560 Entertainment Advisory Council, to be family friendly based on

561 the review of the script and a personal interview with the
 562 director.

563 (2) Films that are deemed by the Office of Film and
 564 Entertainment to contain obscene content as defined by the
 565 United States Supreme Court are not eligible for this program.

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

568 288.1252 Florida Film and Entertainment Advisory Council;
 569 creation; purpose; membership; powers and duties.--

570 (5) POWERS AND DUTIES.--The Florida Film and Entertainment
 571 Advisory Council shall have all the powers necessary or
 572 convenient to carry out and effectuate the purposes and
 573 provisions of this act, including, but not limited to, the power
 574 to:

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

577 Section 4. Subsection (8) of section 220.02, Florida
 578 Statutes, is amended to read:

579 220.02 Legislative intent.--

580 (8) It is the intent of the Legislature that credits
 581 against either the corporate income tax or the franchise tax be
 582 applied in the following order: those enumerated in s. 631.828,
 583 those enumerated in s. 220.191, those enumerated in s. 220.181,
 584 those enumerated in s. 220.183, those enumerated in s. 220.182,
 585 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 586 those enumerated in s. 220.184, those enumerated in s. 220.186,
 587 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 588 those enumerated in s. 220.185, those enumerated in s. 220.187,

589 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
 590 220.193, and those enumerated in s. 288.1254.

591 Section 5. Paragraph (z) is added to subsection (8) of
 592 section 213.053, Florida Statutes, to read:

593 213.053 Confidentiality and information sharing.--

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

596 (z) Information relative to tax credits taken under s.
 597 288.1254 to the Office of Film and Entertainment and the Office
 598 of Tourism, Trade, and Economic Development.

599
 600 Disclosure of information under this subsection shall be
 601 pursuant to a written agreement between the executive director
 602 and the agency. Such agencies, governmental or nongovernmental,
 603 shall be bound by the same requirements of confidentiality as
 604 the Department of Revenue. Breach of confidentiality is a
 605 misdemeanor of the first degree, punishable as provided by s.
 606 775.082 or s. 775.083.

607 Section 6. Paragraph (q) is added to subsection (5) of
 608 section 212.08, Florida Statutes, to read:

609 212.08 Sales, rental, use, consumption, distribution, and
 610 storage tax; specified exemptions.--The sale at retail, the
 611 rental, the use, the consumption, the distribution, and the
 612 storage to be used or consumed in this state of the following
 613 are hereby specifically exempt from the tax imposed by this
 614 chapter.

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

616 (q) Entertainment industry tax credit; requirement for
 617 electronic funds transfer.--

618 1. For the fiscal years beginning July 1, 2007, and ending
 619 June 30, 2010, a qualified production, as defined in s.
 620 288.1254(2)(e), is eligible for tax credits against its state
 621 sales and use tax liabilities as provided in s. 288.1254.

622 2. The credit shall be deducted from any sales and use tax
 623 remitted by the dealer to the department by electronic funds
 624 transfer and can only be deducted on a sales and use tax return
 625 initiated through electronic data interchange. The dealer shall
 626 separately state the credit on the electronic return. The net
 627 amount of tax due and payable must be remitted by electronic
 628 funds transfer. If the credit for the qualified expenditures is
 629 larger than the amount owed on the sales and use tax return, the
 630 amount of the credit may be carried forward to a succeeding
 631 reporting period. A dealer may only obtain a credit using the
 632 method described in this subparagraph. A dealer is not
 633 authorized to obtain a credit by applying for a refund.

634 Section 7. Section 288.1255, Florida Statutes, is
 635 repealed.

636 Section 8. This act shall take effect July 1, 2007.