HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 697 Entertainment Industry Economic Development
SPONSOR(S): Finance & Tax Council; Economic Development Policy Committee; Precourt and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1430

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Economic Development Policy Committee	14 Y, 0 N, As CS	Wintering	Kruse
2)	Finance & Tax Council	14 Y, 0 N, As CS	Aldridge	Langston
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill creates the Entertainment Industry Financial Incentive Program which awards transferrable tax credits for certain expenditures associated with qualified productions. Generally, the credits are 20% of qualified expenditures, with additional amounts available in certain circumstances.

The aggregate amount of tax credits authorized under this bill is $55 million for fiscal year 2010-2011, $50 million for fiscal year 2011-2012, and $27 million for each of fiscal years 2012-2013, 2013-2014 and 2014-2015. The bill provides that qualified production companies may apply for tax credit awards based upon specified amounts of qualified expenditures that meet or exceed minimum requirements. Qualified expenditures are production expenditures for goods purchased or leased from, or services which are provided by, a vendor or supplier in this state that is registered with the Department of State or the Department of Revenue.

A wide range of production types can qualify. Examples include motion pictures, televisions series, television pilots, and digital media projects.

The bill provides for procedures to audit and verify the spending upon which the credits are based.

The bill provides that credits awarded may be used to offset corporate income tax or sales and use tax liabilities. Unused tax credits may be transferred or carried forward under certain circumstances. However, no credits may be claimed against tax liabilities for tax periods beginning prior to July 1, 2011.

The program expires July 1, 2015, except for tax credit carry forward provisions.

The Department of Revenue estimates a recurring operational impact of $51,339 and a nonrecurring operational impact of $27,877.

Based on a Revenue Estimating Conference analysis of a similar bill, staff estimates that the bill will have no cash impact in FY 2010-2011 and a recurring negative annual impact on General Revenue of $24.6 million. The revenue impact on state trust funds will be negative insignificant. Similarly, the bill is estimated to have no cash impact on local government revenues in FY 2010-2011 and a recurring negative annual impact of $2.4 million.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

National Context

Currently, 41 states have some combination of film and entertainment tax incentives.[1] The most common incentives are sales tax exemptions, offered by 25 states, and tax credits, offered by 21 states. Ten states offer both of those. Florida and 16 other states offer rebates, which are structured in a variety of ways and at different levels of reimbursement. The following information is based upon studies that have analyzed film and entertainment tax incentives in various states:

New Mexico

New Mexico began its tax incentive program in 2002 with a 15 percent tax credit and expanded it to 25 percent in 2006. Two studies have been conducted, arriving at substantially different conclusions:

New Mexico State University Study[2]

- The state tax return on investment is $0.14 for each $1.00 of state film tax credits.
- The total increase in economic output was $344.8 in FY 2008.
- The total increase in income was $81.2 million in FY 2008.
- The total increase in employment was 2,434 jobs in FY 2008.

Ernst and Young Study[3]

- The combined state and local tax return on investment is $1.50 for each $1.00 of state film tax credits.
- The total increase in economic output was $891.8 in 2007.
- The total increase in income was $487.5 million in 2007.
- The total increase in employment was 9,209 jobs in 2007.

[1] "2008 Economic Assessment of the Florida Film & Entertainment Industry," prepared by the Haas Center for Business Research and Economic Development at The University of West Florida. Available at http://www.filminflorida.com/ifi/ea.asp. Last visited Mar. 18, 2010.

[2] "The Film Industry in new Mexico and the Provision of Tax Incentives." A Report Submitted to the Legislative Finance Committee of the State of New Mexico, August 2008. http://legis.state.nm.us/LCS/lfc/lfcdocs/film%20credit%20study%20TP&JP_08.pdf

[3] *Economic and Fiscal Impacts of the New Mexico Film Production Tax Credit*, Prepared for the New Mexico State Film Office and State Investment Council, by Ernst & Young, January 2009. http://www.nmfilm.com/locals/downloads/nmfilmCreditImpactAnalysis.pdf

New York[4]

- Program began in 2004 with a 10 percent state tax credit and an additional 5 percent New York City tax credit.
- State tax credit expanded to 30 percent in 2008, in response to a $750 million drop in New York film production caused by Connecticut and Massachusetts' competing incentive programs.
- In 2007, New York's combined state and city ROI was $1.90 for each $1.00 of state film tax credits.
- The credit yielded $816 m in direct income, $1,242 m in indirect income, a combined total income of $2,057.4 m.
- Program created an estimated 19,512 jobs- 7,031 direct and 12,481 indirect.

Louisiana

- Program began in 2002 with:
  - A 10 percent state tax credit and a 10 percent employment credit for investments between $300,000 and $1,000,000; and
  - A 15 percent tax credit and a 20 percent employment credit for investments greater than $1,000,000.
- Louisiana's current state tax credit is 25 percent with an additional 10 percent credit for resident payroll and a 15 percent infrastructure credit capped at $25 million per project.
- According to a recent study, some impacts of Louisiana's film incentive program are as follows:[5]

  - For every potential tax credit issued Louisiana on motion picture productions, the total value added to the economy was $2.63 million in 2007.
  - Direct earnings of $100.3 million, indirect earnings of $72.5 million, induced earnings of $30.9 million resulting in total earnings of $203.7 million.
  - The incentive program created 3,310 direct jobs and 1,970 indirect jobs, totaling 6,230 jobs.

Michigan

According to a recent study,[6] Michigan's film incentive fiscal impact for 2008 were as follows:

- Michigan's total film expenditures for 2008 were $65.4 million.
- Film expenditures created multiplier effects of 1.66 for employment and 1.43 for output in 2008.
- Michigan received 136 project applications, approved 71, with 32 projects completed.
- Michigan's total direct employment effect for 2008 was 2,763 jobs; average salary of $49,000.

Georgia

- Georgia's program is a 20 percent flat tax credit on qualified Georgia expenditures, with an annual minimum of $500,000.
- An additional 10 percent tax credit is provided if a production company includes a Georgia promotional logo in the production.

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[4] *Estimated Impacts of the New York State Film Credit*, Prepared for the New York State Governors Office of Motion Picture and Television Development and the Motion Picture Association of America, February 2009, by Ernst & Young. http://www.southwindsor.org/pages/swindsorct_IT/New%20York%20Ernst%20&%20Young%20State%20Film%20Credit%20Study.pdf

[5] Project Report, Louisiana Motion Picture, Sound Recording and Digital Media Industries, Prepared for the State of Louisiana, Louisiana Economic Development, February 2009 by Economics Research Associates. http://www.louisianaentertainment.gov/film/files/(ERA%20report)pdf.pdf

[6] *The Economic Impact of Michigan's Motion Picture Production Industry and the Michigan motion Picture Production Credit*, Center for Economic Analysis, Michigan State University, February 2009. http://www.michiganfilmoffice.org/cm/The-Film-Office/MSU_Economic_Impact_Study_269263_7%5B1%5D.pdf

The following is a chart surveying current state film incentive programs created by Economics Research Associates in 2009.[7]

State	Production Tax Credit	Caps per Project/Year	Infrastructure Tax Credit	Wage/ Withholding Credits	Sales Tax Exempt.	Lodging Tax Exempt.
Alabama						✓
Alaska	30% (T)	Aggregate tax credits ≤ $100 million		10%, plus 2% rural	No Tax State	
Arizona	20-30% (T)	$7 million/$50 million	15% of base investment		✓	
Arkansas						
California[P]					✓	✓
Colorado	10% CR	$600,000				✓
Connecticut	30% (T)		10-20%		✓	✓
Delaware						
Dist. of Columbia	10% G	$1.6 million for program			Grant may apply	
Florida	15% CR + bonuses	$5 million for program			✓	
Georgia	20% (T) + 10% bonus				✓	
Hawaii	15%-20% ®	$8 million per project				
Idaho	20% CR	$500,000 per project			✓	✓
Illinois	20% (T)			15%		✓
Indiana	15% ®	$5 million annual funding			✓	✓
Iowa	25% (T)	Investor's pro rata share	25% (T)			✓
Kansas	30%	$2 million per year				✓
Kentucky					✓	✓
Louisiana	25% (T)		40% (T)	10%		
Maine				10%-12%	✓	✓
Maryland	25% CR	$4 million for FY 08-09			✓	
Massachusetts	25% ® (T)			25%	✓	
Michigan	40-42% ® & T		25% (T)	30%		✓
Minnesota	20% CR				✓	✓
Mississippi	20% CR	$8 million per project		20-25%	✓	
Missouri	35% (T)	$4.5 million annual funding				
Montana	9% ®			14%	No Tax State	✓
Nebraska[P]						✓
Nevada						✓
New Hampshire					No Tax State	
New Jersey	20% (T)	$10 million per year			✓	✓

[7] Project Report, Louisiana Motion Picture, Sound Recording and Digital Media Industries, Prepared for the State of Louisiana, Louisiana Economic Development, February 2009 by Economics Research Associates. http://www.louisianaentertainment.gov/film/files/(ERA%20report)pdf.pdf.

State	Production Tax Credit	Caps per Project/Year	Infrastructure Tax Credit	Wage/ Withholding Credits	Sales Tax Exempt.	Lodging Tax Exempt.
New Mexico	25% ®	$5 million for out of state			✓	
New York	30% ®	$65 million in 2008	4-5% eligible investment base		✓	
North Carolina	15% ®	$7.5 million per feature			✓	✓
North Dakota						✓
Ohio						✓
Oklahoma	5-15% CR	$5 million per year			✓	
Oregon	20% CR			16.2%	No Tax State	✓
Pennsylvania	25% (T)	Annual cap of $75 million				✓
Rhode Island	25% (T)	Annual cap of $15 million				
South Carolina	30% CR	$5.5 million for FY 07-08		10-20% CR	✓	✓
South Dakota					✓	✓
Tennessee	13-17% ® + bonuses				✓	✓
Texas	5% G + bonus	$2 million per feature, $2.5 million per TV, $200,000 per commercial		includes resident wages	✓	✓
Utah	15% CR	$500,000 per project, $5.5 million FY 09			✓	✓
Vermont					✓	✓
Virginia	CR - amt. discretionary	$200,000 for FY 09			✓	✓
Washington	20% CR	Annual cap of $3.5 million			✓	✓
West Virginia	27% (T) + bonus	Annual cap of $10 million			✓	✓
Wisconsin	25% ®			includes resident & non-resident wages	✓	
Wyoming	12-15% CR	Annual cap of $2 million				✓

Yellow highlight indicates states with no direct production incentives.
P = pending legislation; ® =refundable tax credit; (T) = transferable tax credit; CR = cash rebate; G = grant
Sources: Individual film commissions; Entertainment Partners (September 30, 2008); and Economics Research Associates

Florida's Current Entertainment Industry Financial Incentive Program

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program.[8] The program's dual purposes are to promote Florida as a site for filming, creating, or producing movies, television series, commercials, digital media and other types of entertainment productions; and to sustain and develop the state's entertainment workforce, studios, and other related infrastructure.

The incentive program is administered by Office of Film and Entertainment (OFE), subject to the policies and oversight of the Office of Tourism, Trade, and Economic Development (OTTED). Serving as an advisory board to OTTED and OFE is the Florida Film and Entertainment Advisory Council,

[8] Section 288.1254, F.S.

consisting of 17 members appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Currently, the program provides what amounts to a reimbursement of a certain percentage of qualified wage, equipment, and other expenditures, based on the type of production. There are three types, or "queues," of eligible productions: general production (which includes two subcategories), Independent Florida Filmmaker, and digital media products. Eighty-five percent of the state incentive funding is dedicated to the general production queue, 5 percent is dedicated to the Independent Florida Filmmaker Queue, and 10 percent is dedicated to the digital media production queue.

Two types of bonus incentives are available, depending on the type of production. General productions that film between June 1 and November 30, "hurricane season," are eligible for an additional "off-season" reimbursement of 5 percent of their qualified expenses. They also receive the incentive if they complete less than 75 percent of their principle photography due to a hurricane or tropical storm.

All certified productions are eligible for an additional reimbursement of 2 percent of the qualified expenses if the state's Film and Entertainment Commissioner, as advised by the Florida Film and Entertainment Advisory Council, determines they are "family friendly" productions that:

- Have cross-generational appeal;
- Are considered suitable for viewing by children aged 5 years or older;
- Are appropriate in theme, content and language for a broad family audience;
- Responsibly resolve issues raised in the film; and
- Do not include any act of smoking, sex, nudity, or vulgar or profane language.

Characteristics of Florida's Entertainment Industry Incentive Program Queues

Attribute	Gen.Production Queue A: movies, TV series documentaries, etc.	Gen. Production Queue B: commercials & music videos	Independent Fla. Filmmaker Queue	Digital Media
Minimum amount of qualified expenses Needed	$625,000	$100,000 per commercial or video and exceeds $500,000 combined threshold in a fiscal year	At least $100,000, but not more than $625,000 in qualified expenses	$300,000
Amount of basic incentive	15% of qualified expenses, up to $8 million	15% of qualified expenses, up to $500,000	15% of qualified expenses, up to $93,750	10% of qualified expenses, up to $1 million per project
Special criteria	-- Must make a "good faith effort" to use existing Fla. film infrastructure & services, when available. -- Only Fla. resident wages, goods & services are eligible for incentive.	-- Must make a "good faith effort" to use existing Fla. film infrastructure & services, when available. -- Only Fla. resident wages, goods & services are eligible for incentive.	-- Be a feature or a doc. at least 70 mins. long; -- Prove that 50% of its total financing is in escrow; -- Do all major post-production in Fla.; and -- Employ Floridians in at least 6 key jobs.[9]	-- Max 3 projects a year; -- Max $200,000 in wages paid per Florida employee; -- Only wages or salaries are considered qualified expenses
Eligible for 5% Off-Season Incentive?	Yes	Yes	No	No
Eligible for 2% Family-Friendly Incentive?	Yes	No	Yes	No

[9] The statute lists 8 key positions: writer, director, producer, director of photography, star or one of the lead actors, unit production manager, editor, and production designer.

According to an OFE report[10]:

- Florida had a total production expenditure of $780,849,043 and granted sales and use tax exemptions totaling $14,038,041, creating a combined return on investment of $55.60 for every $1.00 credit, and creating 33,353 jobs (5,671 full-time and 27,682 freelance.)
- The Anticipated Florida Expenditures was $69,938,964.
- The estimated number of employed Floridians was 9,266.
- Out of 36 applications, 12 productions are actively certified for the tax credit, 24 are pending qualified productions.

Film Incentive Funding

The program first received funding in 2004. The program received incremental increases in appropriations since its inception, until fiscal year 2008-09:

- FY 2004-05 $2.4 million appropriation
- FY 2005-06 $10 million appropriation
- FY 2006-07 $20 million appropriation
- FY 2007-08 $25 million appropriation
- FY 2008-09 $4.8 million appropriation
- FY 2009-10 $10.8 million appropriation

EFFECTS OF PROPOSED CHANGES

The Entertainment Industry Financial Incentive Program

The bill creates the Entertainment Industry Financial Incentive Program which awards transferrable tax credits for certain expenditures associated with qualified productions. Generally, the credits are 20% of qualified expenditures, with additional amounts available in certain circumstances.

The aggregate amount of tax credits authorized under this bill is $55 million for fiscal year 2010-2011, $50 million for fiscal year 2011-2012, and $27 million for each of fiscal years 2012-2013, 2013-2014 and 2014-2015. Any portion of the maximum annual amount of tax credits that is not certified as of the end of a fiscal year shall be carried forward and made available for certification during the following 2 fiscal years. If the total amount of allocated credits applied for in any particular fiscal year exceeds the aggregate amount of credits authorized, such excess must be treated as having been applied for on the first day of the next fiscal year in which credits remain available for allocation. Tax credits will be awarded in any fiscal year according to the start of the productions. However, tax credits may not be claimed against tax liability for any tax period beginning before July 1, 2011 regardless of when the credits are awarded. Any tax credits awarded to a certified production company may be carried forward for a maximum of 5 years from the date of the award.

Relevant Terms

Production

"Production" means a theatrical or direct-to-video motion picture; a made-for-television motion picture; visual effects or digital animation sequences produced in conjunction with a motion picture; a commercial; a music video; an industrial or educational film; an infomercial; a documentary film; a television pilot program; a presentation for a television pilot program; a television series, including, but not limited to, a drama, a reality show, a comedy, a soap opera, a telenovela, a game show, an awards show, or a miniseries production; or a digital media project by the entertainment industry. Also, one season of a television series is considered one production. The term does not include a weather or market program; a sporting event; a sports show; a gala; a production that solicits funds; a home

[10] Fiscal Year 2008-2009 Entertainment Industry Sales Tax Exemption Report issued by Lucia Fishburne, State Film Commissioner on November 17, 2009 to the Office of the Governor and the Speaker of the House of Representatives.

shopping program; a political program; a political documentary; political advertising; a gambling-related project or production; a concert production; or a local, regional, or Internet-distributed-only news show, current-events show, pornographic production, or current-affairs show. A production may be produced on or by film, tape, or otherwise by means of a motion picture camera; electronic camera or device; tape device; computer; any combination of the foregoing; or any other means, method, or device now used or later adopted.

Production Expenditures

Costs of tangible and intangible property used and services performed primarily and customarily in production, including preproduction and postproduction, excluding costs for development, marketing, and distribution.

Qualified Expenditures

Goods purchased, leased from, or services, including, but not limited to, insurance costs and bonding, payroll services, and legal fees, which are provided by, a vendor or supplier in this state that is registered with the Department of State or the Department of Revenue and has a physical location with at least one legal Florida resident employed at that location.

Qualified Production

Means a production in Florida meeting all of the requirements of the new section. The term does not include a production in which, for the first 2 years of the incentive program, less than 50 percent, and thereafter, less than 60 percent, of the positions that make up its production cast and below-the-line production crew, or, in the case of digital media projects, less than 75 percent of such positions, are filled by legal residents of this state, whose residency is demonstrated by a valid Florida driver's license or other state-issued identification confirming residency, or students enrolled full-time in a film-and-entertainment-related course of study at an institution of higher education in this state. The term also does not include a production that contains obscene content.

Qualified Production Company

Corporation, LLC, partnership, or other legal entity engaged in one or more productions in this state.

Application Procedure, Approval Process and Program Requirements

Program Application

A qualified production company producing a qualified production in this state may submit an application to the Office of Film and Entertainment (OFE) no earlier than 6 months before the first date production expenses are incurred in Florida.

Certification

OFE is required to review the application and determine whether it contains all the required information. If so, the OFE qualifies the applicant and recommends to the Office of Tourism, Trade, and Economic Development (OTTED) that the applicant be certified for the maximum tax credit award amount. OTTED must then reject the recommendation or certify the maximum recommended tax credit award, if any, to the applicant and to the executive director of the Department of Revenue. (DOR).

Verification of Actual Qualified Expenditures

OFE must develop a process to verify the actual qualified expenditures of a certified production which includes:

- A certified production must submit data substantiating each qualified expenditure to an independent certified public accountant licensed in this state after production ends, and after making all of its qualified expenditures.
- The accountant must conduct a compliance audit, at the certified production's expense, to substantiate each qualified expenditure and submit the results as a report, along with the required substantiating data to OFE.
- OFE must review the accountant's submittal and report to OTTED the final verified amount of actual qualified expenditures made by the certified production.
- OTTED must determine and approve the final tax credit award amount to each certified applicant based on the final verified amount of actual qualified expenditures. The final amount of tax credit award must not exceed the maximum tax credit award amount certified by OFE.

Queues

The bill provides for three separate categories, or "queues" of productions eligible for the tax credit.

General Production Queue

- Ninety-four percent of tax credits authorized in any state fiscal year must go to this queue.
- The credit is 20% of qualified expenditures with a minimum of $625,000 and a maximum of $8 million.
- A qualified production spanning multiple state fiscal years may combine qualified expenditures from such fiscal years to satisfy the $625,000 threshold.
- Certain off-season productions are eligible for an additional 5-percent tax credit
- A qualified high-impact television series is allowed first position in this queue.

Commercial and Music Video Queue

- Three percent of tax credits authorized in any state fiscal year must go to this queue.
- The credit is 20% of qualified expenditures, up to a maximum of $500,000, if:
    - A minimum of $100,000 in qualified expenditures per commercial or music video; and
    - A total of $500,000 in qualified expenditures.
- Surplus tax credits remaining in this queue at the end of the fiscal year rollover into the new fiscal year under the general production queue.

Independent and Emerging Media Production Queue

- Three percent of tax credits authorized in any state fiscal year must go to this queue.
- Excludes commercials, infomercials and music videos.
- The credit is 20% of qualified expenditures with a minimum of $100,000 and a maximum of $625,000.

Tax credits

Cap

The aggregate amount of tax credits authorized under this bill is $55 million for fiscal year 2010-2011, $50 million for fiscal year 2011-2012, and $27 million for each of fiscal years 2012-2013, 2013-2014 and 2014-2015.

Election and Distribution of Tax Credits

Upon award of a tax credit by OTTED, a certified production company must make an irrevocable election to apply the credit against sales and use taxes (ch. 212, F.S.), corporate income taxes (ch. 220, F.S.), or a combination of the both. The election is binding upon any distributee, successor, transferee, or purchaser.

Tax Credit Carryforward

Any tax credits awarded to a certified production company may be carried forward for a maximum of 5 years from the date of the award.

Transfers

A certified production company may transfer its tax credits only once. Sales tax credits can be transferred to only one entity, but corporate income tax credits can be transferred to up to four entities, in the same taxable year. The transferee is subject to the same rights and limitations as the certified production company awarded the tax credit, except that the transferee may not sell or otherwise transfer the tax credit.

Additional Credit

"Family-friendly" productions meeting certain specified criteria are eligible for an additional 5% tax credit.

Revocation or forfeiture of tax credits

OTTED may revoke or modify any written decision qualifying, certifying, or otherwise granting eligibility for tax credits if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive tax credits. A determination by the DOR, as a result of an audit by the DOR or from information received from the OFE, that an applicant received tax credits to which the applicant was not entitled is grounds for forfeiture of previously claimed and received tax credits. Tax credits purchased in good faith are not subject to forfeiture unless the transferee submitted fraudulent information in the purchase or failed to meet the requirements.

Repeal

The bill sunsets the program on July 1, 2015, meaning no new credits can be awarded after that date unless the program is reenacted by the Legislature. However, credits can be carried-forward for 5 years, and transferred credits do not expire until 5 years after the transaction. This means that claims against sales or corporate taxes owed may continue to be filed with DOR until July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.1254, F.S., creating the Entertainment Industry Financial Incentive Program.

Section 2: Amends s. 220.02(8), F.S., specifying where in the order of corporate income tax credits that the credits authorized in s. 288.1254, F.S., are to be applied.

Section 3: Creates s. 213.053(8)(z), F.S., allowing DOR to share otherwise confidential taxpayer information related to the tax credits taken under s. 288.1254, F.S., with OFE and OTTED.

Section 4: Creates s. 212.08(5)(q), F.S., creating a sales tax exemption related to the tax credits authorized under s. 288.1254, F.S.

Section 5: Provides a severability clause.

Section 6: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Based on a Revenue Estimating Conference analysis of a similar bill, staff estimates that the bill will have no cash impact in FY 2010-2011 and a recurring negative annual impact on General Revenue of $24.6 million. The revenue impact on state trust funds will be negative insignificant.

2. Expenditures:

   The Department of Revenue estimates a recurring operational impact of $51,339 and a nonrecurring operational impact of $27,877.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Based on a Revenue Estimating Conference analysis of a similar bill, staff estimates that the bill will have no cash impact on local government revenues in FY 2010-2011 and a recurring negative annual impact of $2.4 million.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the incentive program increases the frequency of qualified productions in Florida, then Florida-based businesses could see an economic benefit due to spending that accompanies qualified productions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

OTTED and DOR are granted rulemaking authority to carry out the provisions of this legislation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2010, the Finance and Tax Council adopted a strike-all amendment, which:

- Clarifies the definition of "certified production" where production spans more than one fiscal year.
- Clarifies the definition of "off-season certified production" as meaning a feature film, independent film or television series or pilot which films 75 percent or more of its principal photography days from June 1 through November 30.
- Adds awards shows to the definition of "production."
- Clarifies the definition of "qualified expenditures" to be production expenditures for goods purchased or leased from, or services which are provided by, a vendor or supplier in this state that is registered with the Department of State or the Department of Revenue and has a physical location with at least one legal Florida resident employed at that location.
- The maximum credit for a single production in the general production queue is reduced from $12 million to $8 million.
- Changes marketing materials promoting Florida required to receive the tax credit to include a 30-second "Visit Florida" promotional video that must be included on all optical disc formats of a film, unless such placement is prohibited by licensing or other contractual obligations.
- Renames the "Independent production queue" the "Emerging media production queue" and removes the requirement that the production be a feature film or documentary of at least 70 minutes in length or a digital media project. Also removes requirement that the production employ Florida residents in at least two key positions.
- Clarifies the definition of "family-friendly productions."
- Changes the aggregate amount of tax credits available from $75 million per fiscal year to $55 million for fiscal year 2010-2011, $50 million for fiscal year 2011-2012, and $27 million for each of fiscal years 2012-2013, 2013-2014 and 2014-2015.

The bill was reported favorably and the analysis has been updated to reflect the council substitute.

On March 3, 2010, the Economic Development Policy Committee adopted a strike-all amendment, which:

- Clarifies that a certified production does not include a production if its first day it incurs production expenses, not the first day of principal photography, occurs before certification by OTTED. Allows for a digital media project to be a certified production even if its first day of production in the state occurs before OTTED certification.
- Adds a visual effects or digital animation sequence produced in conjunction with a motion picture to the definition of a "production."
- For qualified productions that are events, the exception that allowed expenditures incurred before certification exclusively for the pickup of additional episodes of a high-impact television series was expanded to also allow pre-certification expenditures for commercials and music videos.
- Clarifies that the required percentage of legal resident employees will increase over the life of the incentive program, not over the life of a given production.
- Added the goal of encouraging Florida digital film production to the program's purpose.
- Clarifies that an application may be submitted to OTTED for an award of tax credits no earlier than before the first date production expenses are incurred in the state rather than principal photography or a digital media project start date.
- Adds that the final amount of tax credit award must not exceed the maximum tax credit award amount certified by OFE.
- Provides that the general production queue includes all qualified productions except those eligible for the commercial and music video queue or the independent production queue.

- Places a cap of $12 million on the maximum tax credit available to a production that is in the general production queue. Also, allows a production that spans multiple state fiscal years to combine qualified expenditures over those fiscal years to satisfy the threshold.
- Provides that surplus tax credits remaining at the end of the fiscal year after the OFE certifies and determines the tax credits for all applications from qualified commercial and video projects must rollover into the new fiscal year and go to eligible qualified productions under the general production queue.
- Adds digital media project to the Independent production queue. Also provides that a digital media project must employ legal residents in certain production positions.
- Adds that the credit may not be applied against discretionary sales surtaxes authorized under s. 212.055, F.S.
- Refines how unused tax credits may be carried forward into the next fiscal year.
- Moves a section to its correct location in the bill.

The bill was reported favorably and the analysis has been updated to reflect the committee substitute.