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1 A bill to be entitled
 2 An act relating to economic development; creating s.
 3 288.1081, F.S.; creating the Economic Gardening Business
 4 Loan Pilot Program within the Office of Tourism, Trade,
 5 and Economic Development; providing legislative findings
 6 and intent; providing a finding of paramount public
 7 purpose; providing eligibility criteria for the award of
 8 loans to certain businesses; providing application
 9 procedures; requiring loan agreements; providing terms of
 10 loans; providing for use of loan proceeds; providing
 11 criteria and application procedures for selection of loan
 12 administrators; requiring a loan administrator to enter
 13 into a grant agreement; providing for the disbursement of
 14 certain funds from the Economic Development Trust Fund;
 15 requiring fees for the loan administrator; providing for
 16 the collection and deposit of loan payments; requiring the
 17 loan administrator to submit a report to the office;
 18 requiring the office to adopt rules; authorizing the use
 19 of emergency rulemaking procedures; requiring the office
 20 to submit a report to the Governor and Legislature;
 21 providing for reversion and carryforward of certain
 22 unexpended appropriations; prohibiting new loans after a
 23 specified date; providing for future repeal; creating s.
 24 288.1082, F.S.; creating the Economic Gardening Technical
 25 Assistance Pilot Program within the office; requiring the
 26 office to contract for administration of the pilot
 27 program; requiring competitive procurement; requiring the
 28 provision of technical assistance to certain businesses;

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29 providing eligibility criteria for businesses to receive
 30 technical assistance; requiring the businesses to enter
 31 into agreements with the contracted entity administering
 32 the pilot program; requiring the businesses to report
 33 certain data; providing that a contracted entity is an
 34 economic development agency under certain provisions
 35 relating to confidentiality of records; providing for
 36 review of contracts; requiring the office to submit a
 37 report to the Governor and Legislature; authorizing the
 38 office to adopt rules; directing the Office of Program
 39 Policy Analysis and Government Accountability to submit a
 40 report to the Governor and Legislature; authorizing the
 41 expenditure of certain funds appropriated for the pilot
 42 program; providing an effective date.

43

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

45

46 Section 1. Section 288.1081, Florida Statutes, is created
 47 to read:

48 288.1081 Economic Gardening Business Loan Pilot Program.--

49 (1) There is created within the Office of Tourism, Trade,
 50 and Economic Development the Economic Gardening Business Loan
 51 Pilot Program. The purpose of the pilot program is to stimulate
 52 investment in Florida's economy by providing loans to expanding
 53 businesses in the state. As used in this section, the term
 54 "office" means the Office of Tourism, Trade, and Economic
 55 Development.

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56 (2) The Legislature finds that it is vital to the overall
 57 health and growth of the state's economy to promote favorable
 58 conditions for expanding Florida businesses that demonstrate the
 59 ability to grow. The Legislature further finds that, due to the
 60 current extraordinary economic challenges confronting the state,
 61 there exists a paramount public purpose in expending state
 62 resources to stimulate investment in Florida's economy. It is
 63 therefore the intent of the Legislature that resources be
 64 provided for the pilot program.

65 (3) (a) To be eligible for a loan under the pilot program,
 66 an applicant must be a business eligible for assistance under
 67 the Economic Gardening Technical Assistance Pilot Program as
 68 provided in s. 288.1082(4) (a).

69 (b) A loan applicant must submit a written application to
 70 the loan administrator in the format prescribed by the loan
 71 administrator. The application must include:

72 1. The applicant's federal employer identification number,
 73 unemployment account number, and sales or other tax registration
 74 number.

75 2. The street address of the applicant's principal place
 76 of business in this state.

77 3. A description of the type of economic activity,
 78 product, or research and development undertaken by the
 79 applicant, including the six-digit North American Industry
 80 Classification System code for each type of economic activity
 81 conducted by the applicant.

82 4. The applicant's annual revenue, number of employees,
 83 number of full-time equivalent employees, and other information

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84 necessary to verify the applicant's eligibility for the pilot
 85 program under s. 288.1082(4) (a).

86 5. The projected investment in the business, if any, that
 87 the applicant proposes in conjunction with the loan.

88 6. The total investment in the business from all sources,
 89 if any, that the applicant proposes in conjunction with the
 90 loan.

91 7. The number of net new full-time equivalent jobs that,
 92 as a result of the loan, the applicant proposes to create in
 93 this state as of December 31 of each year and the average annual
 94 wage of the proposed jobs.

95 8. The total number of full-time equivalent employees the
 96 applicant currently employs in this state.

97 9. The date that the applicant anticipates it needs the
 98 loan.

99 10. A detailed explanation of why the loan is needed to
 100 assist the applicant in expanding jobs in the state.

101 11. A statement that all of the applicant's corporate
 102 assets are pledged as collateral for the loan.

103 12. A statement that the applicant, upon receiving the
 104 loan, agrees not to seek additional long-term debt without prior
 105 approval of the loan administrator.

106 13. A statement that the loan is a joint obligation of the
 107 business and of each person who owns at least 20 percent of the
 108 business.

109 14. Any additional information requested by the office or
 110 the loan administrator.

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111 (c) The loan administrator, after verifying the accuracy
 112 of a submitted application, shall award the loan to the
 113 applicant if the administrator determines that the applicant, as
 114 compared to other applicants submitting applications, is in the
 115 best position to use the loan to continue making a successful
 116 long-term business commitment to the state.

117 (d) A borrower awarded a loan under this section and the
 118 loan administrator must enter into a loan agreement that
 119 provides for the borrower's repayment of the loan.

120 (4) The following terms apply to a loan received under the
 121 pilot program:

122 (a) The maximum amount of the loan is \$250,000.

123 (b) The proceeds of the loan may be used for working
 124 capital purchases, employee training, or salaries for newly
 125 created jobs in the state.

126 (c) The security interest for the loan's collateral
 127 covering all of the borrower's corporate assets must be
 128 perfected by recording a lien under the Uniform Commercial Code.

129 (d) The period of the loan is 4 years.

130 (e) The interest rate of the loan is 2 percent. However,
 131 if the borrower does not create the projected number of jobs
 132 within 24 months after the loan is awarded, the interest rate
 133 shall be increased for the remaining period of the loan to the
 134 prime rate published in the Wall Street Journal, as of the date
 135 specified in the loan agreement, plus 4 percent.

136 (f) For each month of the first 12 months of the loan,
 137 payment is due for interest only. Thereafter, payment for
 138 interest and principal is due each month until the loan is

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139 repaid in full. Interest and principal payments are based on the
 140 unpaid balance of the total loan amount.

141 (5) (a) The office may designate one or more qualified
 142 entities to serve as loan administrators for the pilot program.
 143 A loan administrator must:

144 1. Be a Florida corporation not for profit incorporated
 145 under chapter 617 that has its principal place of business in
 146 the state.

147 2. Have 5 years of verifiable experience of lending to
 148 businesses in this state.

149 3. Submit an application to the office on forms prescribed
 150 by the office. The application must include the loan
 151 administrator's business plan for its proposed lending
 152 activities under the pilot program, including, but not limited
 153 to, a description of its outreach efforts, underwriting, credit
 154 policies and procedures, credit decision processes, monitoring
 155 policies and procedures, and collection practices; the
 156 membership of its board of directors; and samples of its
 157 currently used loan documentation. The application must also
 158 include a detailed description and supporting documentation of
 159 the nature of the loan administrator's partnerships with local
 160 or regional economic and business development organizations.

161 (b) The office, upon selecting a loan administrator, shall
 162 enter into a grant agreement with the administrator to issue the
 163 available loans to eligible applicants. The grant agreement must
 164 specify the aggregate amount of the loans authorized for award
 165 by the loan administrator. The term of the grant agreement must
 166 be at least 4 years, except that the office may terminate the

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167 agreement earlier if the loan administrator fails to meet
 168 minimum performance standards set by the office. The grant
 169 agreement may be amended by mutual consent of both parties.

170 (c) The office shall disburse from the Economic
 171 Development Trust Fund to the loan administrator the
 172 appropriations provided for the pilot program. Disbursements to
 173 the loan administrator must not exceed the aggregate amount of
 174 the loans authorized in the grant agreement. The office may not
 175 disburse more than 50 percent of the aggregate amount of the
 176 loans authorized in the grant agreement until the office
 177 verifies the borrowers' use of the loan proceeds and the loan
 178 administrator's successful credit decisionmaking policies.

179 (d) A loan administrator is entitled to receive a loan
 180 origination fee, payable at closing, of 1 percent of each loan
 181 issued by the loan administrator and a monthly servicing fee of
 182 0.625 percent of each payment made by the borrower. The loan
 183 administrator shall collect the monthly servicing fee from the
 184 payments made by the borrower, first charging the fee against
 185 interest payments and then charging the remainder of the fee
 186 against repayments of principal.

187 (e) A loan administrator, after collecting the servicing
 188 fee in accordance with paragraph (d), shall remit the borrower's
 189 collected interest and principal payments to the office on a
 190 quarterly basis. If the borrower defaults on the loan, the loan
 191 administrator shall initiate collection efforts to seek
 192 repayment of the loan. The loan administrator, upon collecting
 193 payments for a defaulted loan, shall remit the payments to the
 194 office but, to the extent authorized in the grant agreement, may

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195 deduct the costs of the administrator's collection efforts. The
 196 office shall deposit all funds received under this paragraph in
 197 the General Revenue Fund.

198 (f) A loan administrator shall submit quarterly reports to
 199 the office that include the information required in the grant
 200 agreement. A quarterly report must include, at a minimum, the
 201 number of full-time equivalent jobs created as a result of the
 202 loans, the amount of wages paid to employees in the newly
 203 created jobs, and the locations and types of economic activity
 204 undertaken by the borrowers.

205 (6) The office shall adopt rules under ss. 120.536(1) and
 206 120.54 to administer this section. To the extent necessary to
 207 expedite implementation of the pilot program, the office may
 208 adopt initial emergency rules for the pilot program in
 209 accordance with s. 120.54(4).

210 (7) On June 30 and December 31 of each year, beginning in
 211 2009, the office shall submit a report to the Governor, the
 212 President of the Senate, and the Speaker of the House of
 213 Representatives that describes in detail the use of the loan
 214 funds. The report must include, at a minimum, the number of
 215 businesses receiving loans, the number of full-time equivalent
 216 jobs created as a result of the loans, the amount of wages paid
 217 to employees in the newly created jobs, the locations and types
 218 of economic activity undertaken by the borrowers, the amounts of
 219 loan repayments made to date, and the default rate of borrowers.

220 (8) Unexpended balances of appropriations provided for the
 221 pilot program shall not revert to the fund from which the
 222 appropriation was made at the end of a fiscal year but shall be

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223 retained in the Economic Development Trust Fund and be carried
 224 forward for expenditure for the pilot program during the
 225 following fiscal year. A loan administrator may not award a new
 226 loan or enter into a loan agreement after June 30, 2011.
 227 Balances of appropriations provided for the pilot program that
 228 remain unexpended as of July 1, 2011, shall revert to the
 229 General Revenue Fund.

230 (9) This section is repealed July 1, 2016, unless reviewed
 231 and reenacted by the Legislature before that date.

232 Section 2. Section 288.1082, Florida Statutes, is created
 233 to read:

234 288.1082 Economic Gardening Technical Assistance Pilot
 235 Program.--

236 (1) There is created within the Office of Tourism, Trade,
 237 and Economic Development the Economic Gardening Technical
 238 Assistance Pilot Program. The purpose of the pilot program is to
 239 stimulate investment in Florida's economy by providing technical
 240 assistance for expanding businesses in the state. As used in
 241 this section, the term "office" means the Office of Tourism,
 242 Trade, and Economic Development.

243 (2) The office shall contract with one or more entities to
 244 administer the pilot program under this section. The office
 245 shall award each contract in accordance with the competitive
 246 bidding requirements in s. 287.057 to an entity that
 247 demonstrates the ability to implement the pilot program on a
 248 statewide basis and the capability to provide counseling
 249 services, access to technology and information, marketing

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250 services and advice, business management support, and other
 251 similar services.

252 (3) A contracted entity administering the pilot program
 253 shall provide technical assistance for eligible businesses that
 254 includes, but is not limited to, the following:

255 (a) Access to free or affordable information services and
 256 consulting services, including information on markets,
 257 customers, and competitors, such as business databases,
 258 geographic information systems, and search engine marketing.

259 (b) Information on how to obtain infrastructure, including
 260 basic physical infrastructure; quality-of-life infrastructure,
 261 such as parks and open spaces; and intellectual infrastructure
 262 that provides educational opportunities to help a business
 263 maintain its competitiveness.

264 (c) Business connections, including interaction and
 265 exchange among business owners and resource providers, such as
 266 trade associations, think tanks, academic institutions, business
 267 roundtables, peer-to-peer learning sessions, and mentoring
 268 programs.

269 (4) (a) To be eligible for assistance under the pilot
 270 program, a business must be a for-profit, privately held,
 271 investment-grade business that employs at least 10 persons but
 272 not more than 99 persons, has maintained its principal place of
 273 business in the state for at least the previous 2 years,
 274 generates at least \$1 million but not more than \$50 million in
 275 annual revenue, qualifies for the tax refund program for
 276 qualified target industry businesses under s. 288.106, and,
 277 during the previous 2-year period, has increased its number of

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278 full-time equivalent employees in this state by at least 10
 279 percent.

280 (b) A contracted entity administering the pilot program,
 281 in selecting the eligible businesses to receive assistance,
 282 shall choose businesses in more than one industry cluster and,
 283 to the maximum extent practicable, shall choose businesses that
 284 are geographically distributed throughout the state.

285 (5) (a) A business receiving assistance under the pilot
 286 program must enter into an agreement with the contracted entity
 287 administering the program to establish the business' commitment
 288 to participation in the pilot program. The agreement must
 289 require, at a minimum, that the business:

290 1. Attend a minimum number of meetings between the
 291 business and the contracted entity administering the pilot
 292 program.

293 2. Report job creation data in the manner prescribed by
 294 the contracted entity administering the pilot program.

295 3. Provide financial data in the manner prescribed by the
 296 contracted entity administering the program.

297 (b) The office or the contracted entity administering the
 298 pilot program may prescribe additional reporting requirements in
 299 the agreement that are necessary to track the progress of the
 300 business and monitor the business' implementation of the
 301 assistance. The contracted entity shall report the information
 302 to the office on a quarterly basis.

303 (6) A contracted entity administering the pilot program is
 304 an economic development agency as defined in s. 288.075 that is

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305 authorized to promote the general business interests or
 306 industrial interests of the state.

307 (7) The office shall review the progress of a contracted
 308 entity administering the pilot program at least once each 6
 309 months and shall determine whether the contracted entity is
 310 meeting its contractual obligations for administration of the
 311 pilot program. The office may terminate and rebid a contract if
 312 the contracted entity does not meet its contractual obligations.

313 (8) On December 31 of each year, beginning in 2009, the
 314 office shall submit a report to the Governor, the President of
 315 the Senate, and the Speaker of the House of Representatives that
 316 describes in detail the progress of the pilot program. The
 317 report must include, at a minimum, the number of businesses
 318 receiving assistance, the number of full-time equivalent jobs
 319 created as a result of the assistance, if any, the amount of
 320 wages paid to employees in the newly created jobs, and the
 321 locations and types of economic activity undertaken by the
 322 businesses.

323 (9) The office may adopt rules under ss. 120.536(1) and
 324 120.54 to administer this section.

325 Section 3. By December 31, 2012, the Office of Program
 326 Policy Analysis and Government Accountability shall submit a
 327 report to the Governor, the President of the Senate, and the
 328 Speaker of the House of Representatives that evaluates the
 329 Economic Gardening Technical Assistance Pilot Program in s.
 330 288.1082, Florida Statutes, and the pilot program's
 331 effectiveness in expanding the targeted businesses.

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332 Section 4. From the funds provided in a special
 333 appropriations act for the 2008-2009 fiscal year to the Office
 334 of Tourism, Trade, and Economic Development for implementation
 335 of this act, the office may expend up to \$1.5 million for
 336 implementation of the Economic Gardening Technical Assistance
 337 Pilot Program created in s. 288.1082, Florida Statutes.

338 Section 5. This act shall take effect upon becoming a law.