



Transportation & Economic Development Appropriations Subcommittee

Meeting Packet

**March 16, 2015
4:00 p.m. – 6:00 p.m.
Reed Hall**



The Florida House of Representatives

Appropriations Committee

Transportation & Economic Development Appropriations Subcommittee

Steve Crisafulli
Speaker

Clay Ingram
Chair

March 16, 2015


AGENDA
4:00 PM – 6:00 PM
Reed Hall

- I. Call to Order/Roll Call**
- II. Consideration of Bills**
HB 1293 Trust Funds/Creation/Land Acquisition Trust Fund/DOS by Rep. Boyd

PCB TEDAS 15-02 Economic Development by Transportation & Economic Development Appropriations Subcommittee, Rep. Ingram
- III. Chair's Budget Proposal for Fiscal Year 2015-16**
- IV. Closing Remarks/Adjourn**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1293 Trust Funds/Creation/Land Acquisition Trust Fund/DOS
SPONSOR(S): Boyd
TIED BILLS: HB 1291 **IDEN./SIM. BILLS:** SB 580

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Economic Development Appropriations Subcommittee		Davis 	Davis
2) Appropriations Committee			

SUMMARY ANALYSIS

HB 1291, a companion to this bill, implements the amendment to the Florida Constitution relating to water and land conservation that was adopted by the voters on November 4, 2014. As required by the constitutional amendment, that bill requires that 33 percent of documentary stamp tax revenue be distributed to the Land Acquisition Trust Fund of the Department of Environmental Protection. This bill creates the Land Acquisition Trust Fund within the Department of State. The trust fund is established as a depository for funds received from the Land Acquisition Trust Fund within the Department of Environmental Protection (DEP). Funds in the trust fund must be used for the purposes prescribed in s. 28, Art. X of the State Constitution.

The bill specifies that any moneys transferred from the DEP available from reversions or reductions of budget authority must be transferred back to the Land Acquisition Trust Fund in the DEP for future appropriation pursuant to s. 28, Art. X of the State Constitution.

Section 19(f), Art. III of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. This bill has no fiscal impact.

This bill is effective July 1, 2015, if HB 1291 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law, and only if enacted by a three-fifths vote of the membership of each house of the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

HB 1291, a companion to this bill, implements the amendment to the Florida Constitution relating to water and land conservation that was adopted by the voters on November 4, 2014. As required by the constitutional amendment, the bill requires that 33 percent of documentary stamp tax revenue be distributed to the Land Acquisition Trust Fund of the Department of Environmental Protection.

This bill creates the Land Acquisition Trust Fund within the Department of State for use as a depository for funds received from the Land Acquisition Trust Fund within the Department of Environmental Protection (DEP). Funds in the trust fund must be used for the purposes prescribed in s. 28, Article X of the State Constitution.

Any moneys transferred from the DEP available from reversions or reductions of budget authority will be transferred back to the Land Acquisition Trust Fund in the DEP for future appropriation pursuant to s. 28, Art. X of the State Constitution.

Section 19(f), Art. III of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. State trust funds shall terminate not more than four years after the initial creation unless re-created. This trust fund will terminate on July 1, 2019, pursuant to s. 19(f)(2), Art. III of the Florida Constitution, unless terminated sooner or re-created by the Legislature

B. SECTION DIRECTORY:

Section 1. Creates the Land Acquisition Trust Fund in the Department of State.

Section 2. Provides an effective date of July 1, 2015, if HB 1291 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law, and only if enacted by a three-fifths vote of the membership of each house of the Legislature.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill has no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

Section 19(f), Art. III of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. State trust funds shall terminate not more than four years after the initial creation unless re-created. This trust fund will terminate on July 1, 2019, pursuant to section 19(f)(2), Art. III of the Florida Constitution, unless terminated sooner or re-created by the Legislature.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to trust funds; creating s. 20.101,
 3 F.S.; creating the Land Acquisition Trust Fund within
 4 the Department of State; identifying the purpose of
 5 the trust fund and sources of funds; providing for
 6 transfer of funds from reversions or reductions in
 7 budget authority to another trust fund; providing for
 8 future review and termination or re-creation of the
 9 trust fund; providing a contingent effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 20.101, Florida Statutes, is created to
 14 read:

15 20.101 Land Acquisition Trust Fund.-

16 (1) The Land Acquisition Trust Fund is created within the
 17 Department of State. The Land Acquisition Trust Fund is
 18 established as a depository for funds received from the Land
 19 Acquisition Trust Fund within the Department of Environmental
 20 Protection. Funds in the trust fund shall be used for the
 21 purposes prescribed in s. 28, Art. X of the State Constitution.

22 (2) The Department of State must maintain the integrity of
 23 such moneys transferred from the Department of Environmental
 24 Protection. Any transferred moneys available from reversions or
 25 reductions of budget authority shall be transferred back to the
 26 Land Acquisition Trust Fund within the Department of



27 | Environmental Protection no later than 15 days after such
 28 | reversion or reduction and shall be available for future
 29 | appropriation pursuant to s. 28, Art. X of the State
 30 | Constitution.

31 | (3) In accordance with s. 19(f)(2), Art. III of the State
 32 | Constitution, the Land Acquisition Trust Fund within the
 33 | Department of State, unless terminated sooner, shall be
 34 | terminated on July 1, 2019. Before its scheduled termination,
 35 | the trust fund shall be reviewed as provided in s. 215.3206(1)
 36 | and (2).

37 | Section 2. This act shall take effect on the same date
 38 | that HB 1291 or similar legislation takes effect, if such
 39 | legislation is enacted in the same legislative session or an
 40 | extension thereof and becomes law, and only if this act is
 41 | enacted by a three-fifths vote of the membership of each house
 42 | of the Legislature.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TEDAS 15-02 Economic Development
SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Economic Development Appropriations Subcommittee		Proctor 	Davis 

SUMMARY ANALYSIS

The Proposed Committee Bill (PCB) conforms to the proposed House Budget for Fiscal Year 2015-16 by making appropriations and modifications to the definitions, processes, and administration of economic development incentive tax refund and grant programs. Specifically, the PCB:

- requires “cumulative capital investment” to be considered as part of the evaluation of incentive applications and clarifies that such capital investment does not include state or local government funds;
- clarifies that the model used to determine a project’s “economic benefits” as developed by the Office of Economic and Demographic Research must include all state funds spent to benefit a business;
- requires additional review and evaluation of a project following an incentive agreement amendment or modification and prohibits incentive agreements with terms longer than 10 years;
- provides a limit of no more than \$60 million in total payments for certain tax refund and grant programs each fiscal year, of which no more than \$35 million may be attributed to the Quick Action Closing Fund Program;
- removes the \$35 million limit on applications certified for the Qualified Target Industry Tax Refund Program and the Qualified Defense Contractor and Space Flight Business Tax Refund Program;
- specifies that the average wage used to determine incentive eligibility is the average wage of the county where the project is located;
- modifies the definition of “local financial support” and waiver processes across multiple incentive programs for consistency and uniformity;
- defines waiver processes for performance-based cash incentive programs;
- creates a new approval process for performance-based cash incentive programs;
- defines rural areas as “rural areas of opportunity” across multiple incentive programs;
- establishes a job creation component within the Quick Action Closing Fund program;
- removes expired provisions within the Qualified Target Industry Tax Refund program; and
- reauthorizes Qualified Defense Contractor and Space Flight Business Tax Refund program through June 30, 2017.

The PCB contains a nonrecurring appropriation of \$20 million in the State Economic Enhancement and Development Trust Fund and \$3.8 million in the Economic Development Trust Fund to the Department of Economic Opportunity for making contractual payments and tax refunds for Fiscal Year 2015-16.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

ECONOMIC DEVELOPMENT INCENTIVES

Enterprise Florida, Inc., (EFI) is the state's point of contact for businesses seeking relocation, expansion, or job retention opportunities. As part of the early project development process, EFI sells the value of doing business in the state. When a business is contemplating an expansion or relocation, EFI evaluates the competitive nature of the project in order to determine if incentives are needed and, if so, the appropriate programs for which the project might qualify. A strong commitment by the local community can also help define the level of commitment on behalf of the state.¹

During the project evaluation process, the needs of the project are identified and an incentive package is developed. It is during this stage that the Department of Economic Opportunity (DEO) analyzes the risk profile of the company involved, the particular project, and the recommended incentive package prepared by EFI to ensure it is in the best interest of the state. Once the incentive package is finalized, DEO and/or the other appropriate state bodies issue the formal approvals.²

The state's economic development incentives utilize tax refunds and performance-based cash awards. To receive an incentive, businesses must first enter into a contract with DEO which outlines performance expectations such as specific job creation goals, a schedule by which new jobs should be created, an average wage to be paid for the new jobs, and a schedule by which new capital investment should be made. After the business has commenced the project and begun hiring, it will submit an annual claim form and documentation of taxes paid. The state verifies the claim data with the company's quarterly reemployment assistance and payroll reports and verifies the tax documentation. If the state confirms the contractual obligations have been met and any required local financial support has been received, a tax refund check is sent to the business. Businesses not filing claims or not meeting the performance obligations of its contract may be terminated from the program.

Businesses receiving economic development incentive grant awards must also enter into performance-based contracts with the state which outline specific milestones for performance and payment. All of the state's incentive grant awards contain penalties for non-performance, and the state may actively pursue the recapture of funds in cases where a business has failed to meet the terms of its contract.

Present Situation

Qualified Target Industry Tax Refund Program (QTI)

- The Qualified Target Industry Tax Refund Program was established to serve to attract new high quality, high wage jobs for Floridians.³
- Tax refunds are made to qualifying, pre-approved businesses creating new jobs within Florida's target industries.
- All QTI projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by the state prior to payment of refunds.
- Local Financial Support: Twenty percent of the award must come from the local city or county government.⁴

¹ Florida Department of Economic Opportunity, *2014 Annual Incentives Report*, pg. 3, (Dec. 30, 2014).

² *Id.*

³ See s. 288.061(1), F.S.

⁴ See s. 288.106(1)(j), F.S.

Prior to June 30, 2014, DEO was authorized to reduce this requirement by one-half for a qualified target industry business located in the counties of Bay, Escambia, Franklin, Gadsden, Gulf, Jefferson, Leon, Okaloosa, Santa Rosa, Wakulla or Walton. The reduction in local match was determined by DEO and based on a determination that the project facilitates economic development, growth, or new employment within the previously referenced counties, and was in the best interest of the state.⁵

- **Economic Recovery Extension:** For the period of January 2, 2009, through June 30, 2012, a qualified target industry business could submit a request to DEO for an economic recovery extension. The request was required to provide quantitative evidence that negative economic conditions in the business's industry, the effects of a named hurricane or tropical storm, or specific acts of terrorism have affected the business and prevented it from complying with the terms and conditions of its incentive agreement with the state. An approved economic recovery extension allowed DEO to prorate a business's tax refund and renegotiate the terms of the incentive agreement. Additionally, DEO was authorized to extend the duration of the incentive agreement up to two years.⁶
- **Job and Wage Requirements:** A project must propose to create at least 10 new jobs, or in the case of a business expansion, must result in a net increase in employment of at least 10 percent at that business. The jobs proposed to be created or retained must pay an average annual wage of at least 115% of the average private sector wage in the area where the business is located, or the statewide private sector average wage.
- The amount of the refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee, and the maximum amount is \$11,000 per employee over the term of the incentive agreement. Jobs created in rural communities and enterprise zones, as well as those paying higher annual average wages, are eligible for more incentives.

Since the inception of the QTI program, 1,264 applications have been approved, 1,110 contracts have been executed, and 122 agreements have been completed. Of those 1,264 projects, 322 remain active, meaning they are eligible to receive refunds through the QTI program. In Fiscal Year 2013-2014, \$55,324,300 in QTI incentives was awarded.⁷

Qualified Defense Contractor and Space Flight Tax Refund

- The Qualified Defense Contractor and Space Flight tax refund program was established to attract new high quality, high wage jobs for Floridians in the defense and space industries.⁸
- Tax refunds are made to qualifying, pre-approved businesses bidding on new competitive contracts or consolidating existing defense or space contracts.⁹
- **Local Community Support:** This incentive is a partnership between the state and local community - 20 percent of the award comes from the local city or county government.¹⁰
- All Qualified Defense Contractor and Space Flight tax refund program projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by DEO prior to payment of refunds.¹¹
- **Jobs and Wages:** The program requires that jobs created by a Qualified Defense Contractor and Space Flight tax refund program project have an average annual wage of at least 115% of

⁵ Section 288.106(4)(f), F.S.

⁶ Section 288.106(5)(b), F.S.

⁷ *Id.*, pg. 11

⁸ See s. 288.1045, F.S.

⁹ See s. 288.1045(2), F.S.

¹⁰ Section 288.1045(1)(j), F.S.

¹¹ Section 288.1045(4), F.S. See *supra* note 1 at 9.

the average private sector wage in the area where the business is located, or the statewide private sector average wage.

- The amount of the tax refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee, and the maximum amount is \$8,000 per employee over the term of the incentive agreement.¹²
- Since the Qualified Defense Contractor and Space Flight tax refund program's inception 33 Qualified Defense Contractor and Space Flight tax refund program applications have been approved. Of those 33 approved applications 5 remain active. In Fiscal Year 2013-2014, \$3,208,000 in Qualified Defense Contractor and Space Flight tax refund program incentives were awarded.¹³ Approved applicants may receive up to 25 percent of their total tax refund, not to exceed \$2.5 million, in any given fiscal year.¹⁴
- Applicants may no longer be certified as eligible for the Qualified Defense Contractor and Space Flight tax refund program as of June 30, 2014.¹⁵

Quick Action Closing Fund (QAC)

- The Legislature created the Quick Action Closing Fund (QAC) in 1999 as a discretionary "deal closing" tool in highly competitive negotiations where the state's traditional incentives are not enough to win the deal. The program was created in reaction to the announcement that the space shuttle program was being discontinued by NASA with expected job losses that would negatively impact families, companies, the state and regional economies.¹⁶
- Jobs and Wages: To be eligible to receive a QAC award, an applicant must be a business that operates within a targeted industry,¹⁷ must propose a project that has a positive return on investment (ROI) of at least five to one,¹⁸ must be induced by the award to locate or expand within the state¹⁹ and must pay an average annual wage of at least 125 percent of the average private sector average.²⁰
- Local Community Support: The project must be supported by the local community in which the project will be located.²¹
- DEO and EFI jointly review applications²² and determine the eligibility of each project. Waivers of eligibility criteria may be granted based on extraordinary circumstances,²³ in order to mitigate the impact of the conclusion of the space shuttle program,²⁴ or if the project would significantly benefit the local or regional economy in a rural area of opportunity.²⁵
- DEO is required to evaluate proposals for high-impact business facilities based on the following criteria:²⁶

¹² Section 288.1045(2)(b), F.S.

¹³ See *supra* note 1 at 11.

¹⁴ Section 288.1045(2)(b), F.S.

¹⁵ Section 288.1045(7), F.S.

¹⁶ See s. 288.1088(1)(b), F.S.

¹⁷ As identified by s. 288.106(2)(q), F.S.

¹⁸ Section 288.1088(2)(b), F.S.

¹⁹ Section 288.1088(2)(c), F.S.

²⁰ Section 288.1088(2)(d), F.S.

²¹ Section 288.1088(2)(e), F.S.

²² See s. 288.061, F.S.

²³ Section 288.1088(3)(a)1., F.S.

²⁴ Section 288.1088(3)(a)2., F.S.

²⁵ Section 288.1088(3)(a)3., F.S.

²⁶ Privately developed rural infrastructure projects are evaluated on the types of business activities and jobs stimulated by the state's investment, not for the number of jobs created or average annual wages. S. 288.1088(3)(b)2., F.S.

- a description of the type of facility or infrastructure, its operations, and the product or service associated with the facility;²⁷
 - the number of full-time equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs;²⁸
 - the cumulative amount of capital investment to be made in the facility;²⁹
 - a statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or region or in the state's universities or colleges;³⁰
 - a statement of the role the award will play in the decision of the company to locate or expand in the state; and³¹
 - a report evaluating the quality and value of the company submitting the proposal.³²
- Performance-Based Approval Process
 - Within seven business days of evaluating a project, DEO must recommend to the Governor that a project be approved or disapproved for an award. Approved projects may be awarded as follows:³³
 - The Governor is authorized to award projects less than \$2 million without Legislative approval.
 - For project awards between \$2 million and \$5 million, the Governor must provide a written description and evaluation of a project award to the chair and vice chair of the Legislative Budget Commission (LBC) at least 10 days prior to giving final approval for a project award.
 - Project awards over \$5 million must be approved by the LBC prior to funds being released.
 - Following approval, DEO is required to enter into a contract with the business which specifies the conditions for payment of funds.³⁴
 - The contract must include the total amount of funds awarded, the performance conditions for the project,³⁵ a baseline of current service with a measure of enhanced capability following the project, methodology for measuring performance, the schedule of payments, and sanctions for failure to meet performance conditions.³⁶

Innovation Incentive Program

- The Innovation Incentive Program was established to provide financial resources so that the state can “respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development, innovation business, and alternative and renewal energy projects.”³⁷
- To be eligible for consideration to receive an Innovation Incentive Program award, an innovation business, a research and development entity, or an alternative and renewable energy company

²⁷ Section 288.1088(3)(b)1., F.S.

²⁸ Section 288.1088(3)(b)2., F.S.

²⁹ Section 288.1088(3)(b)3., F.S.

³⁰ Section 288.1088(3)(b)4., F.S.

³¹ Section 288.1088(3)(b)5., F.S.

³² Section 288.1088(3)(b)6., F.S.

³³ Section 288.1088(3)(c), F.S.

³⁴ Section 288.1088(3)(d), F.S.

³⁵ Performance conditions include net new employment in the state, average salary, and total capital investment. *See* s. 288.1088(3)(d), F.S.

³⁶ Section 288.1088(3)(d), F.S.

³⁷ Section 288.1089(1), F.S.

must submit a written application to DEO before making a decision to locate new operations in the state or expand an existing operation in the state.³⁸

- **Jobs and Wages:** To qualify for review by DEO, the applicant must establish that the jobs created by the project must pay an estimated annual wage of at least 130 percent of the average private sector wage.³⁹
- **Waiver of Wage Requirement:** DEO is authorized to waive the average wage requirement at the request of Enterprise Florida, Inc., for a project located in a rural area, a brownfield area, or an enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action.⁴⁰
- **Research and development projects** must provide the state at least a break-even return-on-investment (ROI) within a 20-year period.⁴¹
- **Local Support:** A one-to-one match from the local community. The match requirement may be reduced or waived in rural areas of opportunity or reduced in rural areas, brownfield areas, and enterprise zones.⁴²
- **Performance-Based Approval Process**
 - DEO must make a recommendation to the Governor to approve or deny an Innovation Incentive Program award.
 - If the project is recommended, DEO must include in their recommendation proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that are required to be met before the receipt of any incentive funds.
 - The Governor must:
 - Approve or deny the award based on the valuation and recommendation received from DEO; and
 - Consult with the President of the Senate and the Speaker of the House of Representatives prior to approving an award. The funds may not be released until the award has been reviewed and approved by the LBC.
- Upon approval, DEO and the award recipient must enter into an agreement that specifies the amount of the award, the performance conditions and measures, and a schedule of payments and sanctions for failure to comply with performance conditions, including clawback provisions.⁴³ Agreements signed on or after July 1, 2009, must also include, among other things, provisions related to job creation, reinvestment of royalty revenues, reporting requirements, and a process for amending the agreement.⁴⁴

High-Impact Sector Performance Incentive

The High-Impact Sector Performance Incentive⁴⁵ is a grant reserved for major facilities operating in designated portions of high-impact sectors including clean energy, life sciences, financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility.

³⁸ Section 288.1089(3), F.S.

³⁹ Section 288.1089(4)(a), F.S.

⁴⁰ *Id.*

⁴¹ Section 288.1089(4)(b), F.S.

⁴² Section 288.1089(4)(b)4., F.S.

⁴³ Section 288.1089(8)(a), F.S.

⁴⁴ Section 288.1089(8)(b), F.S.

⁴⁵ Ch. 97-278, L.O.F.

- This performance-based cash award is paid in two equal installments, one upon commencement of operations and the other upon commencement of full operations.⁴⁶
- An “eligible high-impact business” is a business in one of the high-impact sectors identified by EFI, and certified by DEO, which is making a cumulative investment in the state of at least \$50 million and creating at least 50 new full-time equivalent jobs, or a research and development facility making a cumulative investment of at least \$25 million and creating at least 25 new full-time equivalent jobs. Such investment and employment must be achieved in a period not to exceed 3 years after the date the business is certified as a qualified high-impact business.⁴⁷
- DEO reviews an application⁴⁸ received from an eligible business for consideration as a qualified high-impact business before the business has made a decision to locate or expand a facility in this state. The business must provide the following information:
 - A complete description of the type of facility, business operations, and product or service associated with the project.
 - The number of full-time equivalent jobs that will be created by the project and the average annual wage of those jobs.
 - The cumulative amount of investment to be dedicated to this project within 3 years.
 - A statement concerning any special impacts the facility is expected to stimulate in the sector, the state, or regional economy and in state universities and community colleges.
 - A statement concerning the role the grant will play in the decision of the applicant business to locate or expand in this state.
 - Any additional information requested by the department.⁴⁹
- In negotiating the amount of a High-Impact Sector Performance Incentive award, DEO must consider the following guidelines in conjunction with other relevant applicant impact and cost information and analysis:⁵⁰
 - A qualified high-impact business making a cumulative investment of \$50 million and creating 50 jobs may be eligible for a total grant between \$500,000 and \$1 million.
 - A qualified high-impact business making a cumulative investment of \$100 million and creating 100 jobs may be eligible for a total grant between \$1 million and \$2 million.
 - A qualified high-impact business making a cumulative investment of \$800 million and creating 800 jobs may be eligible for a total grant between \$10 million and \$12 million.
 - A qualified high-impact business engaged in research and development making a cumulative investment of \$25 million and creating 25 jobs may be eligible for a total grant between \$700,000 and \$1 million.
 - A qualified high-impact business engaged in research and development making a cumulative investment of \$75 million and creating 75 jobs may be eligible for a total grant between \$2 million and \$3 million.
 - A qualified high-impact business engaged in research and development making a cumulative investment of \$150 million and creating 150 jobs may be eligible for a total grant between \$3.5 million and \$4.5 million.
- The total amount of active performance grants scheduled for payment by DEO in any single fiscal year may not exceed the lesser of \$30 million or the amount appropriated by the Legislature for that fiscal year for qualified high-impact business performance grants.⁵¹

⁴⁶ See *supra* note 1 at 10.

⁴⁷ Section 288.108(2)(c), F.S.

⁴⁸ In accordance with Section 288.061, F.S.

⁴⁹ Section 288.108(5), F.S.

⁵⁰ Section 288.108(3)(b), F.S.

- Within 10 business days after DEO receives the submitted High-Impact Sector Performance Incentive application, the executive director of DEO must approve or disapprove the application and issue a letter of certification which includes a justification of that decision, unless the business requests an extension of that time.⁵²
- DEO has the authority to grant awards to qualifying High-Impact Sector Performance Incentive projects without approval by the Governor or LBC.⁵³
- Performance-Based Award
 - Upon approval, DEO and the award recipient must enter into an agreement which specifies the conditions for payment of the qualified high-impact business performance grant.
 - The agreement includes the total amount of the qualified high-impact business facility performance grant award, the performance conditions that must be met to obtain the award, including the employment, average salary, investment, the methodology for determining if the conditions have been met, and the schedule of performance grant payments.⁵⁴

Incentive Application Process

Economic Benefits and Cumulative Capital Investment

Current law requires DEO to review and evaluate each economic development incentive application for the economic benefits of the proposed award of state incentives. The Office of Economic and Demographic Research (EDR) is required to establish the methodology and model used to calculate those economic benefits.⁵⁵

Economic benefits mean the direct, indirect, and induced gains in state revenues as a percentage of the state's investment.⁵⁶ State investment means any state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under a program administered by DEO, including the capital investment tax credit.⁵⁷ The cumulative capital investment means the total capital investment in land, buildings, and equipment made in connection with a qualifying project from the beginning of construction of the project to the commencement of operations.⁵⁸

The current methodology and model developed by EDR, which only represents state investments directly under the control of EFI or DEO⁵⁹, is used across all economic development incentive programs required by law to be evaluated for economic benefits.⁶⁰

Employ Florida Marketplace

⁵¹ Section 288.108(4)(a), F.S.

⁵² See s. 288.108(5), F.S.; and s.288.061(3), F.S.

⁵³ See s. 288.108(3-5), F.S.

⁵⁴ Section 288.108(5)(c), F.S.

⁵⁵ Section 288.061(2), F.S.

⁵⁶ Section 200.005(1), F.S.

⁵⁷ Section 288.076((1)(e), F.S.

⁵⁸ Section 220.191(1)(b), F.S.

⁵⁹ 2013 Review of the Department of Economic Opportunity's Legacy Economic Impact Model (on file with the House Transportation & Economic Development Appropriations Subcommittee).

⁶⁰ See s. 288.0001, F.S. The Innovation Incentive Program is not required to be evaluated for economic benefits. Innovation Incentive Program projects are required to have a cumulative break-even economic benefit within a 20-year period except for certain exceptions. See s. 288.1089(4)(b)(3), F.S.

The Employ Florida Marketplace⁶¹ is an automated job-matching or job bank system, implemented by CareerSource Florida, Inc., (formerly Workforce Florida, Inc.), which is accessible to employers, job seekers, and others via the Internet.

Receiving more than 9 million hits per day, EmployFlorida.com also offers labor market statistics, access to training grant information and contact information for any of the state's Regional Workforce Boards and CareerSource Centers. Throughout the life cycle of the Employ Florida Marketplace, nearly 6.5 million individuals have registered in the system, posting more than 4 million resumes and receiving more than 181 million services to assist them with either re-entering the workforce or finding better employment opportunities. In addition, over 200,000 employers have registered in the Employ Florida Marketplace, posting over 2.1 million job openings and receiving nearly 9.7 million employer services.⁶²

Terms of Incentive Agreement

Following approval of an incentive package, DEO executes an incentive agreement or contract between the business⁶³ and the state. The contract or agreement with the applicant must specify the total amount of the award, the performance conditions that must be met to obtain the award, the schedule for payment, and sanctions that would apply for failure to meet performance conditions. DEO may enter into one agreement covering all of the state incentives that are being provided to the applicant.⁶⁴ The law does not dictate the length of term for incentive agreements between a business and the state, nor does it address the usage of escrow accounts for the holding of funds for future performance payments.

Incentive Agreement Amendments

Under current law, contracts or agreements executed for the Qualified Defense and Space Contractor Refund Program, QTI, and the Innovation Incentive Program may be amended under certain circumstances.

Appropriation of Funds

Under current law, funds to make tax refunds and payments to qualifying businesses under the Qualified Defense Contractor and Space Flight, QTI, High-Impact Sector Performance Incentive, and Brownfield Redevelopment Bonus programs are appropriated in the General Appropriations Act in the year following the year in which a business meets its contractual performance requirements.

In contrast, funds are currently appropriated up front in the General Appropriations Act for use on prospective QAC and Innovation Incentive Program projects. Any funds encumbered under contract for either of these programs may be paid to the business in the same fiscal year, or transferred to an escrow account managed by EFI outside of the state budget system, to be paid to the qualifying business in a later year after meeting its contractual performance requirements. Any funds not encumbered as of June 30 of each year revert.⁶⁵ There is currently an estimated \$86.3 million in escrow.

Limitation on Application Certification

Under current law, there is a limitation on applications that may be certified for the QTI and Qualified Defense Contractor and Space Flight tax refund programs. The state share of tax refund payments under these two programs may not exceed \$35 million per fiscal year.⁶⁶

⁶¹ Employ Florida Marketplace; available at: www.employflorida.com (last visited Feb. 12, 2015).

⁶² *Id.*

⁶³ In some instances local governments may enter into a contract with DEO for a project.

⁶⁴ Section 288.061(3)(a), F.S.

⁶⁵ Section 216.301, F.S.

⁶⁶ Section 288.095(3)(a), F.S.

Effect of Proposed Changes

Waivers (QTI, QAC, Innovation Incentive Program)

The PCB amends QTI, QAC, and Innovation Incentive Program, to prohibit DEO from granting waivers to projects that do not pay an average wage of at least 105 percent of average wage of the county in which the project is located or will be located.

The PCB amends QAC to provide that a QAC project may receive no more than two waivers of eligibility criteria. Additionally, the PCB prohibits DEO from granting a waiver for a QAC project that does not produce an economic benefit ratio of at least two to one. The PCB also prohibits DEO from granting a waiver for inducement and for a QAC project that does not qualify as a target industry project.⁶⁷

Average Wage (Qualified Defense Contractor and Space Flight tax refund program, QAC, Innovation Incentive Program)

The PCB amends the economic development incentive application process for the Qualified Defense Contractor and Space Flight tax refund program, QAC, and Innovation Incentive Program to provide that “average private sector wage in the area” means the average of all private sector wages and salaries in the county in which the project is located or will be located, rather than the state or the standard metropolitan area.

Local Financial Support (Qualified Defense Contractor and Space Flight tax refund program, QTI, High-Impact Sector Performance Incentive , QAC, Innovation Incentive Program)

The PCB amends the Qualified Defense Contractor and Space Flight tax refund program and QTI to create uniform local financial support requirements and waivers across these incentive programs and activities, and provides for a more clear definition of support from local communities for the QAC, and High-Impact Sector Performance Incentive.

Qualified Defense Contractor and Space Flight tax refund program and QTI program

The PCB authorizes DEO upon the request of a local government to:

- Reduce the required local financial support amount from 20% to 10%; or
- Eliminate the required local financial support amount for a project located within a rural area of opportunity (RAO).

The PCB requires a local government that requests a waiver to provide DEO with a resolution adopted by the governing body of the local government notifying DEO of its request, as well as a statement by a state-certified public accountant that describes the financial constraints preventing the local government from providing the required local financial support amount.

The PCB provides that a qualified applicant may not receive more than 80% of the total tax refunds approved by DEO from state funds.

High-Impact Sector Performance Incentive and QAC (Performance-Based Grant Incentives)

The PCB defines “support by the local community” (QAC) and “local financial support” (High-Impact Sector Performance Incentive) as financial, in-kind, or other quantifiable contributions from local

⁶⁷ Target industries are defined within s. 288.106, F.S.
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sources that, combined, equal 20% or more of the total investment in the project by state and local sources.

Innovation Incentive Program (Performance-Based Grant Incentive)

A local government that requests a waiver reducing or eliminating the one-to-one match requirement of the program must provide DEO with a written statement, prepared by a state-certified public accountant describing the financial constraints preventing the local government from providing the required local financial support amount.

Performance-Based Grant Approval Process (High-Impact Sector Performance Incentive, QAC, Innovation Incentive Program)

The PCB creates a new, uniform approval process for High-Impact Sector Performance Incentive, QAC, and Innovation Incentive Program as follows:

Within seven business days after evaluating an incentive application, DEO must recommend to the Governor approval or disapproval of a project. The recommendation must include a memorandum of understanding (MOU) between the department and the applicant which provides:

- the total proposed award amount; the award's performance conditions;⁶⁸
- a baseline of current service and a measure of enhanced capability;
- the methodology used for validating performance;
- a schedule of payments; and
- sanctions for failure to meet performance conditions.

For projects less than \$2 million:

- The Governor is authorized to approve the award. However, a written description and evaluation of the project and the MOU must be provided to the chairman and vice chairman of the Legislative Budget Commission (LBC), the President of the Senate (President), and the Speaker of the House of Representatives (Speaker) within one business day after approval.

For projects \$2 million and more:

- The Governor must provide a written description and evaluation of the project and the MOU to the chairman and vice chairman of the LBC, the President, and the Speaker at least 14 days prior to granting approval. Any of those four individuals may advise the Executive Office of the Governor (EOG) in writing that the award exceeds the authority of the EOG or is contrary to legislative policy or intent. If the EOG be so advised, the EOG shall instruct the DEO to change its action on the project.

The PCB eliminates the requirement that projects of \$5 million and more be approved by the LBC.

QTI

The PCB amends QTI to remove provisions related to economic recovery extensions and local financial support reductions for certain counties. These provisions have expired.

Quick Action Closing Fund

⁶⁸ Such performance conditions must include, but are not limited to, net new employment in the state, average salary, and total capital investment incurred by the business.

The PCB amends QAC to provide that in order for a business to be eligible for a QAC award, the business must create at least 10 new jobs if the business is newly established, or must increase the number of jobs by at least 10% if the business is expanding.

The required economic benefit ratio must be at least 4 to 1, rather than 5 to 1.

The PCB allows DEO to certify QAC eligible applications as long as it does not result in more than \$35 million in payments in any single fiscal year.

Qualified Defense Contractor and Space Flight Business Tax Refund Program Reauthorization

The PCB amends the Qualified Defense Contractor and Space Flight tax refund program to allow DEO to certify eligible applicants under the Qualified Defense Contractor and Space Flight tax refund program until June 30, 2017.

Incentive Application Process

Economic Benefit

The PCB amends the definition of economic benefits and the incentive application process to specify that all state funds spent or forgone to benefit a business must be considered the state's investment for the purposes of establishing the economic benefits of a project.

EDR is directed to establish guidelines for the appropriate use of the economic benefits model used to determine economic benefits. EDR must also develop an amended definition of "economic benefits," for the purposes of creating the model and methodology used for the economic benefits model that includes all state funds spent or forgone to benefit a business.

Cumulative Capital Investment

The PCB amends the capital investment tax credit, the incentive application process, and the return on investment reporting requirements to limit the definition of "cumulative capital investment," to the total capital investment made by or on behalf of a business in conjunction with a qualifying project that does not include appropriated funds from the General Appropriations Act or any funds provided by a state agency or local government. Additionally, "cumulative capital investment" must be considered as part of the evaluation process involving economic development incentive applications.

Employ Florida Marketplace

The PCB amends the incentive application process to require that all vacant jobs created as a result of an executed state incentive agreement be posted on the state's job bank system, Employ Florida Marketplace.

Limitation on Application Certification

The PCB removes the \$35 million limitation on applications that may be certified for the QTI and Qualified Defense Contractor and Space Flight tax refund programs, and provides for an overall limitation on applications that may be certified for the QTI, Qualified Defense Contractor and Space Flight tax refund program, QAC, Innovation Incentive Program, High-Impact Sector Performance Incentive, Brownfield Redevelopment, and Local Government Distressed Area Matching Grant programs. The total of all tax refunds and payments under these programs may not exceed \$60 million per fiscal year.

Term of Incentive Agreements

The PCB amends the incentive application process to prohibit DEO from entering into incentive agreements with businesses for terms longer than ten years.

Incentive Agreement Amendments

The PCB amends the incentive application process to require DEO to evaluate the projected economic benefits of a project prior to awarding a contract and reevaluate the projected economic benefits of a project each time an amendment or modification is made to a contract. Should a reevaluation result in the reduction of a project's projected economic benefits, DEO is precluded from executing a contract amendment or modification unless the state incentives outlined in the original contract are reduced by an amount proportionate to the reduction in the projected economic benefits. DEO is required to notify the Legislature any time an incentive contract is amended or modified.

The PCB also amends the High-Impact Sector Performance Incentive, QAC, and the Innovation Incentive Program to provide that if an amended incentive agreement under one of these programs results in a 0.5 or greater reduction in the economic benefit ratio of a project, then the contract or amendment must be reapproved by the new performance-based grant incentive approval process provided for by the PCB. DEO may not amend or modify a contract if the economic benefit ratio would be reduced below 2 to 1.

Appropriation of Funds

The PCB provides a process for the Legislature to make nonrecurring annual appropriations for making payments and tax refunds under the QTI, Qualified Defense Contractor and Space Flight, QAC, Innovation Incentive Program, High-Impact Sector Performance Incentive, Local Government Distressed Area Matching Grant, and Brownfield Redevelopment programs to qualifying businesses after they have met their contractual performance requirements. DEO shall submit a list of scheduled payments for the next fiscal year on January 2, and a list of actual claims submitted for auditing, to potentially be paid in the next fiscal year, on March 1 of each year. Any funds unexpended by June 30 of each year will revert in accordance with statute.

Escrow

The PCB provides that funds appropriated for the QTI, Qualified Defense Contractor and Space Flight tax refund program, QAC, Innovation Incentive Program, High-Impact Sector Performance Incentive, LGDAMG, and Brownfield Redevelopment programs may not be transferred to an escrow account. It further specifies, however, that funds transferred prior to July 1, 2015, for contract payments may be used to make payments to applicants which have met performance criteria until all such funds are expended. Any funds in escrow whose contract requirements are not met shall be returned to the state within 10 days of notification by DEO.

Rural Areas Definition (Qualified Defense Contractor and Space Flight tax refund program, Innovation Incentive Program, and QTI)

The PCB amends Qualified Defense Contractor and Space Flight tax refund program, QTI, and Innovation Incentive Program to replace various definitions of rural areas with "rural area of opportunity" as defined within s. 288.0656, F.S.⁶⁹

B. SECTION DIRECTORY:

Section 1: Amends s. 220.191, F.S., excluding certain funds from the definition of "cumulative capital investment."

⁶⁹"Rural area of opportunity" means a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Section 288.0656(2)(d), F.S.

- Section 2: Amends s. 288.005, F.S., revising the definition of “economic benefits” to include all state funds.
- Section 3: Amends s. 288.061, F.S., revising payment, evaluation and contract requirements of the economic development incentive programs.
- Section 4: Amends s. 288.076, F.S., conforming a cross-reference; revising the definition of “state investment” to include all state funds spent or forgone to benefit a business.
- Section 5: Amends s. 288.095, F.S., revising the limit on applications certified.
- Section 6: Amends s. 288.1045, F.S., relating to the Qualified Defense Contractor and Space Flight Business tax refund program.
- Section 7: Amends s. 288.106, F.S., relating to the Qualified Target Industry tax refund program.
- Section 8: Amends s. 288.108, F.S., relating to the High-Impact Performance Incentive.
- Section 9: Amends s. 288.1088, F.S., relating to the Quick Action Closing Fund.
- Section 10: Amends s. 288.1089, F.S., relating to the Innovation Incentive Program.
- Section 11: Amends s. 196.012, F.S. conforming cross reference.
- Section 12: Provides for an appropriation.
- Section 13: Provides an effective date of July 1, 2015

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The PCB contains a nonrecurring appropriation of \$20 million in the State Economic Enhancement and Development Trust Fund and \$3.8 million in the Economic Development Trust Fund to provide payments and tax refunds for specified incentive programs.

The PCB contains an extension to the Qualified Defense Contractor and Space Flight tax refund program to allow DEO to certify applications through June 30, 2017. This is estimated to have a \$2.6 million impact per year to the state.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact on local governments depends upon the use of the various economic development incentives and programs addressed in the conforming bill.

2. Expenditures:

The fiscal impact on local governments depends upon the use of the various economic development incentives and programs addressed in the conforming bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to economic development; amending s.
 3 220.191, F.S.; excluding certain funds from the
 4 definition of the term "cumulative capital
 5 investment"; amending s. 288.005, F.S.; revising
 6 definition of the term "economic benefits" to include
 7 all state funds; amending s. 288.061, F.S.; revising
 8 evaluation and contract requirements of the economic
 9 development incentive application process; specifying
 10 requirements for approval and disbursement of certain
 11 payments and tax refund claims; amending s. 288.076,
 12 F.S.; conforming a cross-reference; revising
 13 definition of the term "state investment" to include
 14 all state funds spent or forgone to benefit a
 15 business; amending s. 288.095, F.S.; deleting a
 16 restriction on certain tax refund payments approved by
 17 the Department of Economic Opportunity; amending s.
 18 288.1045, F.S.; revising provisions of the qualified
 19 defense contractor and space flight business tax
 20 refund program; revising definitions; revising local
 21 financial support requirements; revising provisions
 22 applicable to a rural areas of opportunity;
 23 authorizing certain qualified applicants to receive a
 24 tax refund by providing certain information to the
 25 Department of Economic Opportunity; delaying the
 26 expiration date of the qualified defense contractor

27 and space flight business tax refund program; amending
 28 s. 288.106, F.S.; revising provisions of the tax
 29 refund program for qualified target industry
 30 businesses; revising definitions; revising local
 31 financial support requirements; revising provisions
 32 applicable to a rural area of opportunity; repealing
 33 provisions regarding economic recovery extensions of
 34 certain tax refund agreements; amending s. 288.108,
 35 F.S.; revising provisions relating to high-impact
 36 businesses; defining the term "local financial
 37 support"; authorizing certain waivers from local
 38 financial support requirements; revising application
 39 requirements and requiring the Department of Economic
 40 Opportunity to certify high-impact business grant
 41 applications; providing requirements for the Governor
 42 relating to such applications; providing contract and
 43 department validation requirements for such
 44 applications; amending s. 288.1088, F.S.; revising
 45 provisions regarding the Quick Action Closing Fund;
 46 revising project eligibility requirements; providing
 47 limitations local financial support requirements;
 48 revising contract requirements for certain projects
 49 eligible for funding through the Quick Action Closing
 50 Fund; revising approval requirements for amendments or
 51 modifications of contract requirements for such
 52 projects; revising requirements of the Governor

53 relating to certain projects eligible for funding
 54 through the Quick Action Closing Fund; limiting the
 55 total amount of payments scheduled by the department
 56 in a fiscal year; amending s. 288.1089, F.S.; revising
 57 provisions relating to the Innovation Incentive
 58 Program; revising definitions; revising provisions
 59 applicable to a rural areas of opportunity; limiting
 60 wage requirement waivers in certain circumstances;
 61 authorizing and providing limitations on waivers from
 62 local financial support requirements relating to the
 63 program; revising requirements of the Governor and the
 64 Department of Economic Opportunity relating to certain
 65 projects eligible for funding through the program;
 66 revising contract requirements for such projects;
 67 revising approval requirements for amendments or
 68 modifications of contract requirements for such
 69 projects; amending s. 196.012, F.S.; conforming a
 70 cross-reference; providing an appropriation; providing
 71 an effective date.

72

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

74

75 Section 1. Paragraph (b) of subsection (1) of section
 76 220.191, Florida Statutes, is amended to read:

77 220.191 Capital investment tax credit.—

78 (1) DEFINITIONS.—For purposes of this section:

79 (b) "Cumulative capital investment" means the total
 80 capital investment in land, buildings, and equipment made by or
 81 on behalf of the qualifying business in connection with a
 82 qualifying project during the period from the beginning of
 83 construction of the project to the commencement of operations.
 84 The term does not include funds granted to or spent on behalf of
 85 the qualifying business by the state, a local government, or
 86 other governmental entity; funds appropriated in the General
 87 Appropriations Act; or funds otherwise provided to the
 88 qualifying business by a state agency, local government, or
 89 other governmental entity.

90 Section 2. Subsection (1) of section 288.005, Florida
 91 Statutes, is amended to read:

92 288.005 Definitions.—As used in this chapter, the term:

93 (1) "Economic benefits" means the direct, indirect, and
 94 induced gains in state revenues as a percentage of the state's
 95 investment. The state's investment includes all state funds
 96 spent or forgone to benefit the business, including, but not
 97 limited to, state funds appropriated to public and private
 98 entities, state grants, tax exemptions, tax refunds, tax
 99 credits, and other state incentives.

100 Section 3. Subsections (2) and (3) of section 288.061,
 101 Florida Statutes, are amended to read:

102 288.061 Economic development incentive application
 103 process.—

104 (2) (a) ~~Beginning July 1, 2013,~~ The department shall review

105 and evaluate each economic development incentive application for
 106 the economic benefits of the proposed award of state incentives
 107 proposed for the project. Such review shall occur before the
 108 department approves an economic development incentive
 109 application and each time an approved incentive agreement or
 110 contract is amended, extended, or otherwise altered by the
 111 department or Enterprise Florida, Inc. The department shall
 112 notify the Legislature within 5 business days after any contract
 113 amendment or use of an incentive contract extension. Except as
 114 otherwise provided in this chapter, the department may not
 115 execute an amendment to an incentive agreement or contract for a
 116 project for which the economic benefits have been reduced unless
 117 the award of state incentives outlined in the incentive
 118 agreement or contract have been reduced by a proportionate
 119 amount. When evaluating an economic development incentive
 120 application, the department may not attribute to the business
 121 any capital investment made by the business using state funds.

122 (b) As used in this subsection, the term "economic
 123 benefits" has the same meaning as defined in s. 288.005. The
 124 Office of Economic and Demographic Research shall establish the
 125 methodology and model used to calculate the economic benefits
 126 and shall establish guidelines for appropriate application of
 127 the model. For purposes of this requirement, an amended
 128 definition of "economic benefits" may be developed by the Office
 129 of Economic and Demographic Research but must include all state
 130 funds spent or forgone to benefit a business, including, but not

131 limited to, state funds appropriated to public and private
 132 entities, state grants, tax exemptions, tax refunds, tax
 133 credits, other state incentives, and any other source of state
 134 funds which should reasonably be known to the department at the
 135 time of approval.

136 (c) For the purpose of calculating the economic benefits
 137 of a project, the department may not attribute to the business
 138 any capital investment made by the business using state funds.

139 (d) For the purpose of evaluating economic development
 140 incentive applications, the department shall consider the
 141 cumulative capital investment, as defined in s. 220.191.

142 (3) Within 10 business days after the department receives
 143 the submitted economic development incentive application, the
 144 executive director shall approve or disapprove the application
 145 and issue a letter of certification to the applicant which
 146 includes a justification of that decision, unless the business
 147 requests an extension of that time.

148 (a) The contract or agreement with the applicant must
 149 specify the total amount of the award, the performance
 150 conditions that must be met to obtain the award, the schedule
 151 for payment, and sanctions that would apply for failure to meet
 152 performance conditions. The contract or agreement with the
 153 applicant must require that the applicant use the state's job
 154 bank system to advertise job openings created as a result of the
 155 state incentive agreement. The department may enter into one
 156 agreement or contract covering all of the state incentives that

157 are being provided to the applicant. The contract must provide
 158 that release of funds is contingent upon sufficient
 159 appropriation of funds by the Legislature. The state may not
 160 enter into a contract or agreement with a term of more than 10
 161 years with any applicant.

162 (b) The release of funds for the incentive or incentives
 163 awarded to the applicant depends upon the statutory requirements
 164 of the particular incentive program.

165 (c) The department may only provide payments and tax
 166 refunds once the department has verified that the applicant has
 167 met the required project performance criteria, and only in the
 168 year in which the payment or tax refund is scheduled to be paid
 169 pursuant to the contract. Funds appropriated may only be paid to
 170 the applicant and not to a third party. Any funds unexpended by
 171 June 30 of each year shall revert in accordance with s. 216.301
 172 and may not be transferred to an escrow account. Any funds
 173 transferred before July 1, 2015, to an escrow account held by
 174 Enterprise Florida, Inc., for payments for a contract entered
 175 into pursuant to s. 288.1088 or s. 288.1089 before July 1, 2015,
 176 may be used to make payment to applicants who have met
 177 performance criteria until all such funds are expended. Any
 178 funds deposited in the escrow account encumbered under a
 179 contract whose requirements are not met, or that has been
 180 terminated, must be returned by Enterprise Florida, Inc., to the
 181 state within 10 calendar days after notification by the
 182 department.

183 (d) The total amount of payments and tax refunds approved
 184 for payment by the department based on actual project
 185 performance may not exceed the amount appropriated for such
 186 purposes for the fiscal year. Claims for payments and tax
 187 refunds under ss. 288.0659, 288.1045, 288.106, 288.107, 288.108,
 188 288.1088, and 288.1089 shall be paid in the order that the
 189 claims are approved by the department. The Legislature shall
 190 annually appropriate in the General Appropriations Act an amount
 191 estimated to sufficiently satisfy payments and tax refunds under
 192 ss. 288.0659, 288.1045, 288.106, 288.107, 288.108, 288.1088, and
 193 288.1089 in a fiscal year. In the event that the Legislature
 194 does not appropriate an amount sufficient to satisfy the
 195 payments and tax refunds under ss. 288.0659, 288.1045, 288.106,
 196 288.107, 288.108, 288.1088, and 288.1089 in a fiscal year, the
 197 department shall pay the claims from the appropriation for the
 198 following fiscal year. By March 1 of each year, the department
 199 shall notify the legislative appropriations committees of the
 200 Senate and the House of Representatives of any anticipated
 201 shortfall in the amount of funds needed to satisfy claims for
 202 payments and tax refunds from the appropriation for the current
 203 fiscal year.

204 (e) By January 2 of each year, the department shall
 205 provide to the Legislature a list of potential payment and tax
 206 refund claims that may be filed for payment in the following
 207 fiscal year under ss. 288.0659, 288.1045, 288.106, 288.107,
 208 288.108, 288.1088, and 288.1089.

209 (f) By March 1 of each year, the department shall provide
 210 to the Legislature a list of actual payment and tax refund
 211 claims filed for payment in the following fiscal year under ss.
 212 288.0659, 288.1045, 288.106, 288.107, 288.108, 288.1088, and
 213 288.1089.

214 (g) The department may approve applications for
 215 certification pursuant to ss. 288.0659, 288.1045, 288.106,
 216 288.107, 288.108, 288.1088, and 288.1089. The total payments and
 217 tax refunds scheduled to be paid may not exceed \$60 million in
 218 any one fiscal year.

219 Section 4. Paragraphs (c) and (e) of subsection (1) of
 220 section 288.076, Florida Statutes, are amended to read:

221 288.076 Return on investment reporting for economic
 222 development programs.—

223 (1) As used in this section, the term:

224 (c) "Project" has the same meaning as provided in s.
 225 288.106(2)(l) ~~288.106(2)(m)~~.

226 (e) "State investment" means all state funds spent or
 227 forgone to benefit a business, including, but not limited to,
 228 state funds appropriated to public and private entities, state
 229 grants, tax exemptions, tax refunds, tax credits, and any other
 230 source of state funds which should reasonably be known to the
 231 department at the time of approval ~~any state grants, tax~~
 232 ~~exemptions, tax refunds, tax credits, or other state incentives~~
 233 ~~provided to a business under a program administered by the~~
 234 ~~department~~, including the capital investment tax credit under s.

235 220.191.

236 Section 5. Subsection (3) of section 288.095, Florida
 237 Statutes, is amended to read:

238 288.095 Economic Development Trust Fund.—

239 ~~(3)(a) The department may approve applications for~~
 240 ~~certification pursuant to ss. 288.1045(3) and 288.106. However,~~
 241 ~~the total state share of tax refund payments may not exceed \$35~~
 242 ~~million.~~

243 (a)~~(b)~~ The total amount of tax refund claims approved for
 244 payment by the department based on actual project performance
 245 may not exceed the amount appropriated to the Economic
 246 Development Incentives Account for such purposes for the fiscal
 247 year. Claims for tax refunds under ss. 288.1045 and 288.106
 248 shall be paid in the order the claims are approved by the
 249 department. In the event the Legislature does not appropriate an
 250 amount sufficient to satisfy the tax refunds under ss. 288.1045
 251 and 288.106 in a fiscal year, the department shall pay the tax
 252 refunds from the appropriation for the following fiscal year. By
 253 March 1 of each year, the department shall notify the
 254 legislative appropriations committees of the Senate and House of
 255 Representatives of any anticipated shortfall in the amount of
 256 funds needed to satisfy claims for tax refunds from the
 257 appropriation for the current fiscal year.

258 (b)~~(e)~~ Moneys in the Economic Development Incentives
 259 Account may be used only to pay tax refunds and make other
 260 payments authorized under s. 288.1045, s. 288.106, or s.

261 288.107.

262 (c)~~(d)~~ The department may adopt rules necessary to carry
 263 out the provisions of this subsection, including rules providing
 264 for the use of moneys in the Economic Development Incentives
 265 Account and for the administration of the Economic Development
 266 Incentives Account.

267 Section 6. Subsection (1), paragraph (b) of subsection
 268 (2), paragraphs (b), (c), (d), and (j) of subsection (3), and
 269 subsection (7) of section 288.1045, Florida Statutes, are
 270 amended, to read:

271 288.1045 Qualified defense contractor and space flight
 272 business tax refund program.—

273 (1) DEFINITIONS.—As used in this section:

274 (a) "Applicant" means any business entity that holds a
 275 valid Department of Defense contract or space flight business
 276 contract, any business entity that is a subcontractor under a
 277 valid Department of Defense contract or space flight business
 278 contract, or any business entity that holds a valid contract for
 279 the reuse of a defense-related facility, including all members
 280 of an affiliated group of corporations as defined in s.

281 220.03(1)(b).

282 (b) "Average private sector wage in the area" means the
 283 average of all wages and salaries in ~~the state~~, the county, ~~or~~
 284 ~~in the standard metropolitan area~~ in which the project business
 285 ~~unit~~ is located.

286 (c) "Business unit" means an employing unit, as defined in

287 s. 443.036, that is registered with the department for
 288 reemployment assistance purposes or means a subcategory or
 289 division of an employing unit that is accepted by the department
 290 as a reporting unit.

291 (d) "Consolidation of a Department of Defense contract"
 292 means the consolidation of one or more of an applicant's
 293 facilities under one or more Department of Defense contracts,
 294 from outside this state or from inside and outside this state,
 295 into one or more of the applicant's facilities inside this
 296 state.

297 (e) "Consolidation of a space flight business contract"
 298 means the consolidation of one or more of an applicant's
 299 facilities under one or more space flight business contracts,
 300 from outside this state or from inside and outside this state,
 301 into one or more of the applicant's facilities inside this
 302 state.

303 (f) "Contract for reuse of a defense-related facility"
 304 means a contract with a duration of 2 or more years for the use
 305 of a facility for manufacturing, assembling, fabricating,
 306 research, development, or design of tangible personal property,
 307 but excluding any contract to provide goods, improvements to
 308 real or tangible property, or services directly to or for any
 309 particular military base or installation in this state. Such
 310 facility must be located within a port, as defined in s. 313.21,
 311 and have been occupied by a business entity that held a valid
 312 Department of Defense contract or occupied by any branch of the

313 Armed Forces of the United States, within 1 year of any contract
 314 being executed for the reuse of such facility. A contract for
 315 reuse of a defense-related facility may not include any contract
 316 for reuse of such facility for any Department of Defense
 317 contract for manufacturing, assembling, fabricating, research,
 318 development, or design.

319 (g) "Department of Defense contract" means a competitively
 320 bid Department of Defense contract or subcontract or a
 321 competitively bid federal agency contract or subcontract issued
 322 on behalf of the Department of Defense for manufacturing,
 323 assembling, fabricating, research, development, or design with a
 324 duration of 2 or more years, but excluding any contract or
 325 subcontract to provide goods, improvements to real or tangible
 326 property, or services directly to or for any particular military
 327 base or installation in this state. The term includes contracts
 328 or subcontracts for products or services for military use or
 329 homeland security which contracts or subcontracts are approved
 330 by the United States Department of Defense, the United States
 331 Department of State, or the United States Department of Homeland
 332 Security.

333 (h) "Fiscal year" means the fiscal year of the state.

334 (i) "Jobs" means full-time equivalent positions,
 335 including, but not limited to, positions obtained from a
 336 temporary employment agency or employee leasing company or
 337 through a union agreement or coemployment under a professional
 338 employer organization agreement, that result directly from a

339 project in this state. This number does not include temporary
 340 construction jobs involved with the construction of facilities
 341 for the project.

342 (j) "Local financial support" means funding from local
 343 sources, public or private, which is paid to the Economic
 344 Development Trust Fund and which is equal to 20 percent of the
 345 annual tax refund for a qualified applicant.

346 1. Local financial support may include excess payments
 347 made to a utility company under a designated program to allow
 348 decreases in service by the utility company under conditions,
 349 regardless of when application is made.

350 2. A qualified applicant may not provide, directly or
 351 indirectly, more than 5 percent of such funding in any fiscal
 352 year. The sources of such funding may not include, directly or
 353 indirectly, state funds appropriated from the General Revenue
 354 Fund or any state trust fund, excluding tax revenues shared with
 355 local governments pursuant to law.

356 3. A qualified applicant may not receive more than 80
 357 percent of the total tax refunds from state funds that are
 358 allowed such applicant under this section.

359 4. The department may grant a waiver that reduces the
 360 required amount of local financial support for a project to 10
 361 percent of the annual tax refund awarded to a qualified
 362 applicant for a local government, or eliminates the required
 363 amount of local financial support for a project for a local
 364 government located in a rural area of opportunity, as designated

365 by the Governor pursuant to s. 288.0656. To be eligible to
 366 receive a waiver that reduces or eliminates the required amount
 367 of local financial support, a local government shall provide the
 368 department with:

369 a. A resolution adopted by the governing body of the
 370 county or municipality in whose jurisdiction the project will be
 371 located, requesting the applicant's project be waived from the
 372 local financial support requirement.

373 b. A statement prepared by a Florida certified public
 374 accountant, as defined in s. 473.302, that describes the
 375 financial constraints preventing the local government from
 376 providing the local financial support required by this section.

377 ~~(k) "Local financial support exemption option" means the~~
 378 ~~option to exercise an exemption from the local financial support~~
 379 ~~requirement available to any applicant whose project is located~~
 380 ~~in a county designated by the Rural Economic Development~~
 381 ~~Initiative, if the county commissioners of the county in which~~
 382 ~~the project will be located adopt a resolution requesting that~~
 383 ~~the applicant's project be exempt from the local financial~~
 384 ~~support requirement. Any applicant that exercises this option is~~
 385 ~~not eligible for more than 80 percent of the total tax refunds~~
 386 ~~allowed such applicant under this section.~~

387 (k)(1) "New Department of Defense contract" means a
 388 Department of Defense contract entered into after the date
 389 application for certification as a qualified applicant is made
 390 and after January 1, 1994.

391 (l)~~(m)~~ "New space flight business contract" means a space
 392 flight business contract entered into after an application for
 393 certification as a qualified applicant is made after July 1,
 394 2008.

395 (m)~~(n)~~ "Nondefense production jobs" means employment
 396 exclusively for activities that, directly or indirectly, are
 397 unrelated to the Department of Defense.

398 (n)~~(o)~~ "Project" means any business undertaking in this
 399 state under a new Department of Defense contract, consolidation
 400 of a Department of Defense contract, new space flight business
 401 contract, consolidation of a space flight business contract, or
 402 conversion of defense production jobs over to nondefense
 403 production jobs or reuse of defense-related facilities.

404 (o)~~(p)~~ "Qualified applicant" means an applicant that has
 405 been approved by the department to be eligible for tax refunds
 406 pursuant to this section.

407 (p)~~(q)~~ "Space flight business" means the manufacturing,
 408 processing, or assembly of space flight technology products,
 409 space flight facilities, space flight propulsion systems, or
 410 space vehicles, satellites, or stations of any kind possessing
 411 the capability for space flight, as defined by s. 212.02(23), or
 412 components thereof, and includes, in supporting space flight,
 413 vehicle launch activities, flight operations, ground control or
 414 ground support, and all administrative activities directly
 415 related to such activities. The term does not include products
 416 that are designed or manufactured for general commercial

417 aviation or other uses even if those products may also serve an
 418 incidental use in space flight applications.

419 (g)~~(r)~~ "Space flight business contract" means a
 420 competitively bid federal agency contract, federal agency
 421 subcontract, an awarded commercial contract, or an awarded
 422 commercial subcontract for space flight business with a duration
 423 of 2 or more years.

424 (r)~~(s)~~ "Taxable year" means the same as in s.
 425 220.03(1)(y).

426 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

427 (b) Upon approval by the director, a qualified applicant
 428 shall be allowed tax refund payments equal to \$3,000 times the
 429 number of jobs specified in the tax refund agreement under
 430 subparagraph (4)(a)1. or equal to \$6,000 times the number of
 431 jobs if the project is located in a rural area of opportunity
 432 ~~county~~ or an enterprise zone. Further, a qualified applicant
 433 shall be allowed additional tax refund payments equal to \$1,000
 434 times the number of jobs specified in the tax refund agreement
 435 under subparagraph (4)(a)1. if such jobs pay an annual average
 436 wage of at least 150 percent of the average private sector wage
 437 in the area or equal to \$2,000 times the number of jobs if such
 438 jobs pay an annual average wage of at least 200 percent of the
 439 average private sector wage in the area. A qualified applicant
 440 may not receive refunds of more than 25 percent of the total tax
 441 refunds provided in the tax refund agreement pursuant to
 442 subparagraph (4)(a)1. in any fiscal year, provided that no

443 qualified applicant may receive more than \$2.5 million in tax
 444 refunds pursuant to this section in any fiscal year.

445 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
 446 DETERMINATION.—

447 (b) Applications for certification based on the
 448 consolidation of a Department of Defense contract or a new
 449 Department of Defense contract must be submitted to the
 450 department as prescribed by the department and must include, but
 451 are not limited to, the following information:

452 1. The applicant's federal employer identification number,
 453 the applicant's Florida sales tax registration number, and a
 454 signature of an officer of the applicant.

455 2. The permanent location of the manufacturing,
 456 assembling, fabricating, research, development, or design
 457 facility in this state at which the project is or is to be
 458 located.

459 3. The Department of Defense contract numbers of the
 460 contract to be consolidated, the new Department of Defense
 461 contract number, or the "RFP" number of a proposed Department of
 462 Defense contract.

463 4. The date the contract was executed or is expected to be
 464 executed, and the date the contract is due to expire or is
 465 expected to expire.

466 5. The commencement date for project operations under the
 467 contract in this state.

468 6. The number of net new full-time equivalent Florida jobs

469 included in the project as of December 31 of each year and the
 470 average wage of such jobs.

471 7. The total number of full-time equivalent employees
 472 employed by the applicant in this state.

473 8. The percentage of the applicant's gross receipts
 474 derived from Department of Defense contracts during the 5
 475 taxable years immediately preceding the date the application is
 476 submitted.

477 9. The number of full-time equivalent jobs in this state
 478 to be retained by the project.

479 10. A brief statement concerning the applicant's need for
 480 tax refunds, and the proposed uses of such refunds by the
 481 applicant.

482 11. A resolution adopted by the governing board of the
 483 county or municipality in which the project will be located,
 484 which recommends the applicant be approved as a qualified
 485 applicant, and which indicates that the necessary commitments of
 486 local financial support for the applicant exist. ~~Prior to the~~
 487 ~~adoption of the resolution, the county commission may review the~~
 488 ~~proposed public or private sources of such support and determine~~
 489 ~~whether the proposed sources of local financial support can be~~
 490 ~~provided or, for any applicant whose project is located in a~~
 491 ~~county designated by the Rural Economic Development Initiative,~~
 492 ~~a resolution adopted by the county commissioners of such county~~
 493 ~~requesting that the applicant's project be exempt from the local~~
 494 ~~financial support requirement.~~

495 12. Any additional information requested by the
 496 department.

497 (c) Applications for certification based on the conversion
 498 of defense production jobs to nondefense production jobs must be
 499 submitted to the department as prescribed by the department and
 500 must include, but are not limited to, the following information:

501 1. The applicant's federal employer identification number,
 502 the applicant's Florida sales tax registration number, and a
 503 signature of an officer of the applicant.

504 2. The permanent location of the manufacturing,
 505 assembling, fabricating, research, development, or design
 506 facility in this state at which the project is or is to be
 507 located.

508 3. The Department of Defense contract numbers of the
 509 contract under which the defense production jobs will be
 510 converted to nondefense production jobs.

511 4. The date the contract was executed, and the date the
 512 contract is due to expire or is expected to expire, or was
 513 canceled.

514 5. The commencement date for the nondefense production
 515 operations in this state.

516 6. The number of net new full-time equivalent Florida jobs
 517 included in the nondefense production project as of December 31
 518 of each year and the average wage of such jobs.

519 7. The total number of full-time equivalent employees
 520 employed by the applicant in this state.

521 8. The percentage of the applicant's gross receipts
522 derived from Department of Defense contracts during the 5
523 taxable years immediately preceding the date the application is
524 submitted.

525 9. The number of full-time equivalent jobs in this state
526 to be retained by the project.

527 10. A brief statement concerning the applicant's need for
528 tax refunds, and the proposed uses of such refunds by the
529 applicant.

530 11. A resolution adopted by the governing board of the
531 county or municipality in which the project will be located,
532 which recommends the applicant be approved as a qualified
533 applicant, and which indicates that the necessary commitments of
534 local financial support for the applicant exist. ~~Prior to the~~
535 ~~adoption of the resolution, the county commission may review the~~
536 ~~proposed public or private sources of such support and determine~~
537 ~~whether the proposed sources of local financial support can be~~
538 ~~provided or, for any applicant whose project is located in a~~
539 ~~county designated by the Rural Economic Development Initiative,~~
540 ~~a resolution adopted by the county commissioners of such county~~
541 ~~requesting that the applicant's project be exempt from the local~~
542 ~~financial support requirement.~~

543 12. Any additional information requested by the
544 department.

545 (d) Applications for certification based on a contract for
546 reuse of a defense-related facility must be submitted to the

547 | department as prescribed by the department and must include, but
 548 | are not limited to, the following information:

549 | 1. The applicant's Florida sales tax registration number
 550 | and a signature of an officer of the applicant.

551 | 2. The permanent location of the manufacturing,
 552 | assembling, fabricating, research, development, or design
 553 | facility in this state at which the project is or is to be
 554 | located.

555 | 3. The business entity holding a valid Department of
 556 | Defense contract or branch of the Armed Forces of the United
 557 | States that previously occupied the facility, and the date such
 558 | entity last occupied the facility.

559 | 4. A copy of the contract to reuse the facility, or such
 560 | alternative proof as may be prescribed by the department that
 561 | the applicant is seeking to contract for the reuse of such
 562 | facility.

563 | 5. The date the contract to reuse the facility was
 564 | executed or is expected to be executed, and the date the
 565 | contract is due to expire or is expected to expire.

566 | 6. The commencement date for project operations under the
 567 | contract in this state.

568 | 7. The number of net new full-time equivalent Florida jobs
 569 | included in the project as of December 31 of each year and the
 570 | average wage of such jobs.

571 | 8. The total number of full-time equivalent employees
 572 | employed by the applicant in this state.

573 9. The number of full-time equivalent jobs in this state
574 to be retained by the project.

575 10. A brief statement concerning the applicant's need for
576 tax refunds, and the proposed uses of such refunds by the
577 applicant.

578 11. A resolution adopted by the governing board of the
579 county or municipality in which the project will be located,
580 which recommends the applicant be approved as a qualified
581 applicant, and which indicates that the necessary commitments of
582 local financial support for the applicant exist. ~~Before the~~
583 ~~adoption of the resolution, the county commission may review the~~
584 ~~proposed public or private sources of such support and determine~~
585 ~~whether the proposed sources of local financial support can be~~
586 ~~provided or, for any applicant whose project is located in a~~
587 ~~county designated by the Rural Economic Development Initiative,~~
588 ~~a resolution adopted by the county commissioners of such county~~
589 ~~requesting that the applicant's project be exempt from the local~~
590 ~~financial support requirement.~~

591 12. Any additional information requested by the
592 department.

593 (j) Applications for certification based upon a new space
594 flight business contract or the consolidation of a space flight
595 business contract must be submitted to the department as
596 prescribed by the department and must include, but are not
597 limited to, the following information:

598 1. The applicant's federal employer identification number,

599 the applicant's Florida sales tax registration number, and a
 600 signature of an officer of the applicant.

601 2. The permanent location of the space flight business
 602 facility in this state where the project is or will be located.

603 3. The new space flight business contract number, the
 604 space flight business contract numbers of the contract to be
 605 consolidated, or the request-for-proposal number of a proposed
 606 space flight business contract.

607 4. The date the contract was executed and the date the
 608 contract is due to expire, is expected to expire, or was
 609 canceled.

610 5. The commencement date for project operations under the
 611 contract in this state.

612 6. The number of net new full-time equivalent Florida jobs
 613 included in the project as of December 31 of each year and the
 614 average wage of such jobs.

615 7. The total number of full-time equivalent employees
 616 employed by the applicant in this state.

617 8. The percentage of the applicant's gross receipts
 618 derived from space flight business contracts during the 5
 619 taxable years immediately preceding the date the application is
 620 submitted.

621 9. The number of full-time equivalent jobs in this state
 622 to be retained by the project.

623 10. A brief statement concerning the applicant's need for
 624 tax refunds and the proposed uses of such refunds by the

625 applicant.

626 11. A resolution adopted by the governing board of the
 627 county or municipality in which the project will be located
 628 which recommends the applicant be approved as a qualified
 629 applicant and indicates that the necessary commitments of local
 630 financial support for the applicant exist. ~~Prior to the adoption~~
 631 ~~of the resolution, the county commission may review the proposed~~
 632 ~~public or private sources of such support and determine whether~~
 633 ~~the proposed sources of local financial support can be provided~~
 634 ~~or, for any applicant whose project is located in a county~~
 635 ~~designated by the Rural Economic Development Initiative, a~~
 636 ~~resolution adopted by the county commissioners of such county~~
 637 ~~requesting that the applicant's project be exempt from the local~~
 638 ~~financial support requirement.~~

639 12. Any additional information requested by the
 640 department.

641 (7) EXPIRATION.—An applicant may not be certified as
 642 qualified under this section after June 30, 2017 ~~2014~~. A tax
 643 refund agreement existing on that date shall continue in effect
 644 in accordance with its terms.

645 Section 7. Subsection (2), paragraph (b) of subsection
 646 (3), paragraphs (b) and (f) of subsection (4), paragraph (b) of
 647 subsection (5), and subsection (8) of section 288.106, Florida
 648 Statutes, are amended, to read:

649 288.106 Tax refund program for qualified target industry
 650 businesses.—

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

652 (a) "Account" means the Economic Development Incentives
 653 Account within the Economic Development Trust Fund established
 654 under s. 288.095.

655 (b) "Authorized local economic development agency" means a
 656 public or private entity, including an entity defined in s.
 657 288.075, authorized by a county or municipality to promote the
 658 general business or industrial interests of that county or
 659 municipality.

660 (c) "Average private sector wage in the area" means ~~the~~
 661 ~~statewide private sector average wage or~~ the average of all
 662 private sector wages and salaries in the county ~~or in the~~
 663 ~~standard metropolitan area~~ in which the project business is
 664 located or will be located.

665 (d) "Business" means an employing unit, as defined in s.
 666 443.036, that is registered for reemployment assistance purposes
 667 with the state agency providing reemployment assistance tax
 668 collection services under an interagency agreement pursuant to
 669 s. 443.1316, or a subcategory or division of an employing unit
 670 that is accepted by the state agency providing reemployment
 671 assistance tax collection services as a reporting unit.

672 (e) "Corporate headquarters business" means an
 673 international, national, or regional headquarters office of a
 674 multinational or multistate business enterprise or national
 675 trade association, whether separate from or connected with other
 676 facilities used by such business.

677 (f) "Enterprise zone" means an area designated as an
 678 enterprise zone pursuant to s. 290.0065.

679 (g) "Expansion of an existing business" means the
 680 expansion of an existing Florida business by or through
 681 additions to real and personal property, resulting in a net
 682 increase in employment of not less than 10 percent at such
 683 business.

684 (h) "Fiscal year" means the fiscal year of the state.

685 (i) "Jobs" means full-time equivalent positions,
 686 including, but not limited to, positions obtained from a
 687 temporary employment agency or employee leasing company or
 688 through a union agreement or coemployment under a professional
 689 employer organization agreement, that result directly from a
 690 project in this state. The term does not include temporary
 691 construction jobs involved with the construction of facilities
 692 for the project or any jobs previously included in any
 693 application for tax refunds under s. 288.1045 or this section.

694 (j) "Local financial support" means funding from local
 695 sources, public or private, that is paid to the Economic
 696 Development Trust Fund and that is equal to 20 percent of the
 697 annual tax refund for a qualified target industry business.

698 1. A qualified target industry business may not provide,
 699 directly or indirectly, more than 5 percent of such funding in
 700 any fiscal year. The sources of such funding may not include,
 701 directly or indirectly, state funds appropriated from the
 702 General Revenue Fund or any state trust fund, excluding tax

703 revenues shared with local governments pursuant to law.

704 2. A qualified target industry business may not receive
 705 more than 80 percent of the total tax refunds from state funds
 706 which are allowed such business under this section.

707 3. The department may grant a waiver that reduces the
 708 required amount of local financial support for a project to 10
 709 percent of the annual tax refund awarded to a qualified target
 710 industry business for a local government, or eliminates the
 711 required amount of local financial support for a project for a
 712 local government located in a rural area of opportunity, as
 713 designated by the Governor pursuant to s. 288.0656. To be
 714 eligible to receive a waiver that reduces or eliminates the
 715 required amount of local financial support, a local government
 716 shall provide the department with:

717 a. A resolution adopted by the governing body of the
 718 county or municipality in whose jurisdiction the project will be
 719 located, requesting that the applicant's project be waived from
 720 the local financial support requirement.

721 b. A statement prepared by a Florida certified public
 722 accountant, as defined in s. 473.302, which describes the
 723 financial constraints preventing the local government from
 724 providing the local financial support required by this section.

725 ~~(k) "Local financial support exemption option" means the~~
 726 ~~option to exercise an exemption from the local financial support~~
 727 ~~requirement available to any applicant whose project is located~~
 728 ~~in a brownfield area, a rural city, or a rural community. Any~~

729 ~~applicant that exercises this option is not eligible for more~~
 730 ~~than 80 percent of the total tax refunds allowed such applicant~~
 731 ~~under this section.~~

732 (k)~~(l)~~ "New business" means a business that applies for a
 733 tax refund under this section before beginning operations in
 734 this state and that is a legal entity separate from any other
 735 commercial or industrial operations owned by the same business.

736 (l)~~(m)~~ "Project" means the creation of a new business or
 737 expansion of an existing business.

738 (m)~~(n)~~ "Qualified target industry business" means a target
 739 industry business approved by the department to be eligible for
 740 tax refunds under this section.

741 ~~(o) "Rural city" means a city having a population of~~
 742 ~~10,000 or fewer, or a city having a population of greater than~~
 743 ~~10,000 but fewer than 20,000 that has been determined by the~~
 744 ~~department to have economic characteristics such as, but not~~
 745 ~~limited to, a significant percentage of residents on public~~
 746 ~~assistance, a significant percentage of residents with income~~
 747 ~~below the poverty level, or a significant percentage of the~~
 748 ~~city's employment base in agriculture related industries.~~

749 ~~(p) "Rural community" means:~~

- 750 ~~1. A county having a population of 75,000 or fewer.~~
- 751 ~~2. A county having a population of 125,000 or fewer that~~
 752 ~~is contiguous to a county having a population of 75,000 or~~
 753 ~~fewer.~~
- 754 ~~3. A municipality within a county described in~~

755 ~~subparagraph 1. or subparagraph 2.~~

756

757 ~~For purposes of this paragraph, population shall be determined~~
 758 ~~in accordance with the most recent official estimate pursuant to~~
 759 ~~s. 186.901.~~

760 (n) ~~(q)~~ "Target industry business" means a corporate
 761 headquarters business or any business that is engaged in one of
 762 the target industries identified pursuant to the following
 763 criteria developed by the department in consultation with
 764 Enterprise Florida, Inc.:

765 1. Future growth.—Industry forecasts should indicate
 766 strong expectation for future growth in both employment and
 767 output, according to the most recent available data. Special
 768 consideration should be given to businesses that export goods
 769 to, or provide services in, international markets and businesses
 770 that replace domestic and international imports of goods or
 771 services.

772 2. Stability.—The industry should not be subject to
 773 periodic layoffs, whether due to seasonality or sensitivity to
 774 volatile economic variables such as weather. The industry should
 775 also be relatively resistant to recession, so that the demand
 776 for products of this industry is not typically subject to
 777 decline during an economic downturn.

778 3. High wage.—The industry should pay relatively high
 779 wages compared to statewide or area averages.

780 4. Market and resource independent.—The location of

781 industry businesses should not be dependent on Florida markets
 782 or resources as indicated by industry analysis, except for
 783 businesses in the renewable energy industry.

784 5. Industrial base diversification and strengthening.—The
 785 industry should contribute toward expanding or diversifying the
 786 state's or area's economic base, as indicated by analysis of
 787 employment and output shares compared to national and regional
 788 trends. Special consideration should be given to industries that
 789 strengthen regional economies by adding value to basic products
 790 or building regional industrial clusters as indicated by
 791 industry analysis. Special consideration should also be given to
 792 the development of strong industrial clusters that include
 793 defense and homeland security businesses.

794 6. Positive economic impact.—The industry is expected to
 795 have strong positive economic impacts on or benefits to the
 796 state or regional economies. Special consideration should be
 797 given to industries that facilitate the development of the state
 798 as a hub for domestic and global trade and logistics.

799
 800 The term does not include any business engaged in retail
 801 industry activities; any electrical utility company as defined
 802 in s. 366.02(2); any phosphate or other solid minerals
 803 severance, mining, or processing operation; any oil or gas
 804 exploration or production operation; or any business subject to
 805 regulation by the Division of Hotels and Restaurants of the
 806 Department of Business and Professional Regulation. Any business

807 within NAICS code 5611 or 5614, office administrative services
 808 and business support services, respectively, may be considered a
 809 target industry business only after the local governing body and
 810 Enterprise Florida, Inc., make a determination that the
 811 community where the business may locate has conditions affecting
 812 the fiscal and economic viability of the local community or
 813 area, including but not limited to, factors such as low per
 814 capita income, high unemployment, high underemployment, and a
 815 lack of year-round stable employment opportunities, and such
 816 conditions may be improved by the location of such a business to
 817 the community. By January 1 of every 3rd year, beginning January
 818 1, 2011, the department, in consultation with Enterprise
 819 Florida, Inc., economic development organizations, the State
 820 University System, local governments, employee and employer
 821 organizations, market analysts, and economists, shall review
 822 and, as appropriate, revise the list of such target industries
 823 and submit the list to the Governor, the President of the
 824 Senate, and the Speaker of the House of Representatives.

825 (o) ~~(r)~~ "Taxable year" means taxable year as defined in s.
 826 220.03(1)(y).

827 (3) TAX REFUND; ELIGIBLE AMOUNTS.—

828 (b)1. Upon approval by the department, a qualified target
 829 industry business shall be allowed tax refund payments equal to
 830 \$3,000 multiplied by the number of jobs specified in the tax
 831 refund agreement under subparagraph (5)(a)1., or equal to \$6,000
 832 multiplied by the number of jobs if the project is located in a

833 rural area of opportunity ~~community~~ or an enterprise zone.

834 2. A qualified target industry business shall be allowed
 835 additional tax refund payments equal to \$1,000 multiplied by the
 836 number of jobs specified in the tax refund agreement under
 837 subparagraph (5)(a)1. if such jobs pay an annual average wage of
 838 at least 150 percent of the average private sector wage in the
 839 area, or equal to \$2,000 multiplied by the number of jobs if
 840 such jobs pay an annual average wage of at least 200 percent of
 841 the average private sector wage in the area.

842 3. A qualified target industry business shall be allowed
 843 tax refund payments in addition to the other payments authorized
 844 in this paragraph equal to \$1,000 multiplied by the number of
 845 jobs specified in the tax refund agreement under subparagraph
 846 (5)(a)1. if the local financial support is equal to that of the
 847 state's incentive award under subparagraph 1.

848 4. In addition to the other tax refund payments authorized
 849 in this paragraph, a qualified target industry business shall be
 850 allowed a tax refund payment equal to \$2,000 multiplied by the
 851 number of jobs specified in the tax refund agreement under
 852 subparagraph (5)(a)1. if the business:

853 a. Falls within one of the high-impact sectors designated
 854 under s. 288.108; or

855 b. Increases exports of its goods through a seaport or
 856 airport in the state by at least 10 percent in value or tonnage
 857 in each of the years that the business receives a tax refund
 858 under this section. For purposes of this sub-subparagraph,

859 seaports in the state are limited to the ports of Jacksonville,
 860 Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm
 861 Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg,
 862 Pensacola, Fernandina, and Key West.

863 (4) APPLICATION AND APPROVAL PROCESS.—

864 (b) To qualify for review by the department, the
 865 application of a target industry business must, at a minimum,
 866 establish the following to the satisfaction of the department:

867 1.a. The jobs proposed to be created under the
 868 application, pursuant to subparagraph (a)4., must pay an
 869 estimated annual average wage equaling at least 115 percent of
 870 the average private sector wage in the area where the business
 871 is to be located ~~or the statewide private sector average wage.~~
 872 ~~The governing board of the local governmental entity providing~~
 873 ~~the local financial support of the jurisdiction where the~~
 874 ~~qualified target industry business is to be located shall notify~~
 875 ~~the department and Enterprise Florida, Inc., which calculation~~
 876 ~~of the average private sector wage in the area must be used as~~
 877 ~~the basis for the business's wage commitment.~~ In determining the
 878 average annual wage, the department shall include only new
 879 proposed jobs, and wages for existing jobs shall be excluded
 880 from this calculation.

881 b. The department may waive the average wage requirement
 882 at the request of the local governing body recommending the
 883 project and Enterprise Florida, Inc. The department may waive
 884 the wage requirement for a project located in a brownfield area

885 designated under s. 376.80, in a rural area of opportunity ~~city,~~
 886 ~~in a rural community,~~ in an enterprise zone, or for a
 887 manufacturing project at any location in the state if the jobs
 888 proposed to be created pay an estimated annual average wage
 889 equaling at least 105 ~~100~~ percent of the average private sector
 890 wage in the area where the business is to be located, only if
 891 the merits of the individual project or the specific
 892 circumstances in the community in relationship to the project
 893 warrant such action. If the local governing body and Enterprise
 894 Florida, Inc., make such a recommendation, it must be
 895 transmitted in writing, and the specific justification for the
 896 waiver recommendation must be explained. If the department
 897 elects to waive the wage requirement, the waiver must be stated
 898 in writing, and the reasons for granting the waiver must be
 899 explained.

900 2. The target industry business's project must result in
 901 the creation of at least 10 jobs at the project and, in the case
 902 of an expansion of an existing business, must result in a net
 903 increase in employment of at least 10 percent at the business.
 904 At the request of the local governing body recommending the
 905 project and Enterprise Florida, Inc., the department may waive
 906 this requirement for a business located in a rural area of
 907 opportunity designated by the Governor pursuant to s. 288.0656,
 908 ~~community~~ or an enterprise zone if the merits of the individual
 909 project or the specific circumstances in the community in
 910 relationship to the project warrant such action. If the local

911 governing body and Enterprise Florida, Inc., make such a
 912 request, the request must be transmitted in writing, and the
 913 specific justification for the request must be explained. If the
 914 department elects to grant the request, the grant must be stated
 915 in writing, and the reason for granting the request must be
 916 explained.

917 3. The business activity or product for the applicant's
 918 project must be within an industry identified by the department
 919 as a target industry business that contributes to the economic
 920 growth of the state and the area in which the business is
 921 located, that produces a higher standard of living for residents
 922 of this state in the new global economy, or that can be shown to
 923 make an equivalent contribution to the area's and state's
 924 economic progress.

925 ~~(f) Notwithstanding paragraph (2) (j), the department may~~
 926 ~~reduce the local financial support requirements of this section~~
 927 ~~by one half for a qualified target industry business located in~~
 928 ~~Bay County, Escambia County, Franklin County, Gadsden County,~~
 929 ~~Gulf County, Jefferson County, Leon County, Okaloosa County,~~
 930 ~~Santa Rosa County, Wakulla County, or Walton County, if the~~
 931 ~~department determines that such reduction of the local financial~~
 932 ~~support requirements is in the best interest of the state and~~
 933 ~~facilitates economic development, growth, or new employment~~
 934 ~~opportunities in such county. This paragraph expires June 30,~~
 935 ~~2014.~~

936 (5) TAX REFUND AGREEMENT.—

937 (b) Compliance with the terms and conditions of the
 938 agreement is a condition precedent for the receipt of a tax
 939 refund each year. The failure to comply with the terms and
 940 conditions of the tax refund agreement results in the loss of
 941 eligibility for receipt of all tax refunds previously authorized
 942 under this section and the revocation by the department of the
 943 certification of the business entity as a qualified target
 944 industry business, unless the business is eligible to receive
 945 and elects to accept a prorated refund under paragraph (6) (e) ~~or~~
 946 ~~the department grants the business an economic recovery~~
 947 ~~extension.~~

948 ~~1. A qualified target industry business may submit a~~
 949 ~~request to the department for an economic recovery extension.~~
 950 ~~The request must provide quantitative evidence demonstrating how~~
 951 ~~negative economic conditions in the business's industry, the~~
 952 ~~effects of a named hurricane or tropical storm, or specific acts~~
 953 ~~of terrorism affecting the qualified target industry business~~
 954 ~~have prevented the business from complying with the terms and~~
 955 ~~conditions of its tax refund agreement.~~

956 ~~2. Upon receipt of a request under subparagraph 1., the~~
 957 ~~department has 45 days to notify the requesting business, in~~
 958 ~~writing, whether its extension has been granted or denied. In~~
 959 ~~determining whether an extension should be granted, the~~
 960 ~~department shall consider the extent to which negative economic~~
 961 ~~conditions in the requesting business's industry have occurred~~
 962 ~~in the state or the effects of a named hurricane or tropical~~

963 ~~storm or specific acts of terrorism affecting the qualified~~
 964 ~~target industry business have prevented the business from~~
 965 ~~complying with the terms and conditions of its tax refund~~
 966 ~~agreement. The department shall consider current employment~~
 967 ~~statistics for this state by industry, including whether the~~
 968 ~~business's industry had substantial job loss during the prior~~
 969 ~~year, when determining whether an extension shall be granted.~~

970 ~~3. As a condition for receiving a prorated refund under~~
 971 ~~paragraph (6) (e) or an economic recovery extension under this~~
 972 ~~paragraph, a qualified target industry business must agree to~~
 973 ~~renegotiate its tax refund agreement with the department to, at~~
 974 ~~a minimum, ensure that the terms of the agreement comply with~~
 975 ~~current law and the department's procedures governing~~
 976 ~~application for and award of tax refunds. Upon approving the~~
 977 ~~award of a prorated refund or granting an economic recovery~~
 978 ~~extension, the department shall renegotiate the tax refund~~
 979 ~~agreement with the business as required by this subparagraph.~~
 980 ~~When amending the agreement of a business receiving an economic~~
 981 ~~recovery extension, the department may extend the duration of~~
 982 ~~the agreement for a period not to exceed 2 years.~~

983 ~~4. A qualified target industry business may submit a~~
 984 ~~request for an economic recovery extension to the department in~~
 985 ~~lieu of any tax refund claim scheduled to be submitted after~~
 986 ~~January 1, 2009, but before July 1, 2012.~~

987 ~~5. A qualified target industry business that receives an~~
 988 ~~economic recovery extension may not receive a tax refund for the~~

989 ~~period covered by the extension.~~

990 ~~(8) SPECIAL INCENTIVES. If the department determines it is~~
 991 ~~in the best interest of the public for reasons of facilitating~~
 992 ~~economic development, growth, or new employment opportunities~~
 993 ~~within a Disproportionally Affected County, the department may,~~
 994 ~~between July 1, 2011, and June 30, 2014, waive any or all wage~~
 995 ~~or local financial support eligibility requirements and allow a~~
 996 ~~qualified target industry business from another state which~~
 997 ~~relocates all or a portion of its business to a~~
 998 ~~Disproportionally Affected County to receive a tax refund~~
 999 ~~payment of up to \$6,000 multiplied by the number of jobs~~
 1000 ~~specified in the tax refund agreement under subparagraph~~
 1001 ~~(5)(a)1. over the term of the agreement. Prior to granting such~~
 1002 ~~waiver, the executive director of the department shall file with~~
 1003 ~~the Governor a written statement of the conditions and~~
 1004 ~~circumstances constituting the reason for the waiver. Such~~
 1005 ~~business shall be eligible for the additional tax refund~~
 1006 ~~payments specified in subparagraph (3)(b)4. if it meets the~~
 1007 ~~criteria. As used in this section, the term "Disproportionally~~
 1008 ~~Affected County" means Bay County, Escambia County, Franklin~~
 1009 ~~County, Gulf County, Okaloosa County, Santa Rosa County, Walton~~
 1010 ~~County, or Wakulla County.~~

1011 Section 8. Paragraph (b) of subsection (2) of section
 1012 288.108, Florida Statutes, is amended, paragraph (h) is added to
 1013 that subsection, and subsection (5) of that section is amended,
 1014 to read:

1015 288.108 High-impact business.-

1016 (2) DEFINITIONS.-As used in this section, the term:

1017 (b) "Cumulative investment" means the total investment in
 1018 buildings and equipment made by a qualified high-impact business
 1019 since the beginning of construction of such facility. The term
 1020 does not include funds granted to or spent on behalf of the
 1021 business by the state, a local government, or other governmental
 1022 entity; funds appropriated in the General Appropriations Act; or
 1023 funds otherwise provided to the business by a state agency or
 1024 local government.

1025 (h) "Local financial support" means financial, in-kind, or
 1026 other quantifiable contributions from local sources that,
 1027 combined, equal 20 percent or more of the total investment in
 1028 the project by state and local sources.

1029 1. The department may grant a waiver that reduces the
 1030 required amount of local financial support for a project to 10
 1031 percent of the award granted to a business pursuant to this
 1032 section for a local government, or eliminates the local
 1033 financial support for a local government located in a rural area
 1034 of opportunity, as designated by the Governor pursuant to s.
 1035 288.0656.

1036 2. A local government that requests a waiver that reduces
 1037 or eliminates the local financial support requirement shall
 1038 provide the department a statement prepared by a Florida
 1039 certified public accountant as defined in s. 473.302, which
 1040 describes the financial constraints preventing the local

1041 government from providing the local financial support required
 1042 by this section.

1043 (5) APPLICATIONS; CERTIFICATION PROCESS; GRANT CONTRACT
 1044 AGREEMENT.—

1045 (a) The department shall review and certify, pursuant to
 1046 s. 288.061, an application ~~pursuant to s. 288.061 which is~~
 1047 received from any eligible business, as defined in subsection
 1048 (2), for consideration as a qualified high-impact business
 1049 before the business has made a decision to locate or expand a
 1050 facility in this state. The business must provide the following
 1051 information:

1052 1. A complete description of the type of facility,
 1053 business operations, and product or service associated with the
 1054 project.

1055 2. The number of full-time equivalent jobs that will be
 1056 created by the project and the average annual wage of those
 1057 jobs.

1058 3. The cumulative amount of investment to be dedicated to
 1059 this project within 3 years.

1060 4. A statement concerning any special impacts the facility
 1061 is expected to stimulate in the sector, the state, or regional
 1062 economy and in state universities and community colleges.

1063 5. A statement concerning the role the grant will play in
 1064 the decision of the applicant business to locate or expand in
 1065 this state.

1066 6. Any additional information requested by the department.

1067 (b) Within 7 business days after evaluating an
 1068 application, the department shall recommend to the Governor
 1069 approval or disapproval of an eligible high-impact business for
 1070 receipt of funds. Recommendations to the Governor shall include
 1071 a memorandum of understanding between the department and the
 1072 applicant, which shall be incorporated into the final contract,
 1073 setting forth the conditions for payment of the qualified high-
 1074 impact business performance grant. The memorandum of
 1075 understanding must include the total amount of the qualified
 1076 high-impact business facility performance grant award; the
 1077 performance conditions that must be met to obtain the award,
 1078 including, but not limited to, net new employment in the state,
 1079 average salary, and total capital investment incurred by the
 1080 business; a baseline of current service and a measure of
 1081 enhanced capability; the methodology for validating performance;
 1082 the schedule of performance grant payments; and sanctions for
 1083 failure to meet performance conditions ~~Applications shall be~~
 1084 ~~reviewed and certified pursuant to s. 288.061.~~

1085 (c) The Governor may approve a high-impact business
 1086 performance grant of less than \$2 million without consulting the
 1087 Legislature. For such grants, the Governor shall provide a
 1088 written description and evaluation of the approved project and a
 1089 memorandum of understanding meeting the requirements of
 1090 paragraph (b) to the chair and vice chair of the Legislative
 1091 Budget Commission, the President of the Senate, and the Speaker
 1092 of the House of Representatives within 1 business day after

1093 approval ~~The department and the qualified high impact business~~
 1094 ~~shall enter into a performance grant agreement setting forth the~~
 1095 ~~conditions for payment of the qualified high impact business~~
 1096 ~~performance grant. The agreement shall include the total amount~~
 1097 ~~of the qualified high impact business facility performance grant~~
 1098 ~~award, the performance conditions that must be met to obtain the~~
 1099 ~~award, including the employment, average salary, investment, the~~
 1100 ~~methodology for determining if the conditions have been met, and~~
 1101 ~~the schedule of performance grant payments.~~

1102 (d) The Governor shall provide a written description and
 1103 evaluation of each eligible high-impact business recommended for
 1104 approval for a high-impact business performance grant that
 1105 equals or exceeds \$2 million to the chair and vice chair of the
 1106 Legislative Budget Commission, the President of the Senate, and
 1107 the Speaker of the House of Representatives at least 14 days
 1108 before approving a qualified high-impact business performance
 1109 grant. The recommendation shall include a memorandum of
 1110 understanding that meets the requirements provided in paragraph
 1111 (b). If the chair or vice chair of the Legislative Budget
 1112 Commission, the President of the Senate, or the Speaker of the
 1113 House of Representatives timely advises the Executive Office of
 1114 the Governor in writing that the award of funds exceeds the
 1115 delegated authority of the Executive Office of the Governor or
 1116 is contrary to legislative policy or intent, the Executive
 1117 Office of the Governor shall instruct the department to
 1118 immediately change the action or proposed action.

1119 (e) An amendment, modification, or extension of an
 1120 executed contract that results in a 0.5 point or greater
 1121 reduction in the economic benefit ratio of the project must be
 1122 approved as provided in paragraph (d). An amendment,
 1123 modification, or extension may not be made to an executed
 1124 contract if such action would result in an economic benefit
 1125 ratio less than 2 to 1.

1126 (f) The department shall validate contractor performance
 1127 and report such validation in the annual incentives report
 1128 required by s. 288.907.

1129 Section 9. Paragraph (e) of subsection (3) of section
 1130 288.1088, Florida Statutes, is redesignated as paragraph (f),
 1131 paragraphs (b), (d), and (e) of subsection (2) and paragraphs
 1132 (a), (c), and (d) of subsection (3) are amended, and a new
 1133 paragraph (e) is added to subsection (3) of that section, to
 1134 read:

1135 288.1088 Quick Action Closing Fund.—

1136 (2) There is created within the department the Quick
 1137 Action Closing Fund. Projects eligible for receipt of funds from
 1138 the Quick Action Closing Fund shall:

1139 (b) Have a positive economic benefit ratio of at least 4 ~~5~~
 1140 to 1.

1141 (d) Pay an average annual wage of at least 125 percent of
 1142 the average private sector wage in the area, as defined in s.
 1143 288.106 ~~areawide or statewide private sector average wage.~~

1144 (e) Be supported by the local community in which the

1145 project is to be located.

1146 1. Financial support by the local community shall include
 1147 financial, in-kind, or other quantifiable contributions from
 1148 local sources that, combined, equal 20 percent or more of the
 1149 total investment in the project by state and local sources.

1150 2. The department may grant a waiver that reduces the
 1151 required amount of local financial support for a project to 10
 1152 percent of the award granted to a business pursuant to this
 1153 section for a local government, or eliminates the required
 1154 amount of local financial support for a project for a local
 1155 government located in a rural area of opportunity, as designated
 1156 by the Governor pursuant to s. 288.0656.

1157 3. A local government that requests a waiver that reduces
 1158 or eliminates the local financial support requirement shall
 1159 provide the department a statement prepared by a Florida
 1160 certified public accountant as defined in s. 473.302, which
 1161 describes the financial constraints preventing the local
 1162 government from providing the local financial support required
 1163 by this section.

1164 (f) Create at least 10 new jobs if the project is a new
 1165 business, or increase the number of jobs by at least 10 percent
 1166 if the project is an expanding business.

1167 (3) (a) The department and Enterprise Florida, Inc., shall
 1168 jointly review applications pursuant to s. 288.061 and determine
 1169 the eligibility of each project consistent with the criteria in
 1170 subsection (2). No more than two waivers ~~waiver~~ of these

1171 criteria may be considered under the following criteria:

- 1172 1. Based on extraordinary circumstances;
- 1173 2. In order to mitigate the impact of the conclusion of
- 1174 the space shuttle program; or
- 1175 3. In rural areas of opportunity if the project would
- 1176 significantly benefit the local or regional economy.

1177

1178 A waiver may not be granted by the department if the positive
 1179 economic benefit ratio of the project is below 2 to 1, the
 1180 project is not within a target industry under s. 288.106, the
 1181 award of funds is not an inducement to the project's location or
 1182 expansion in the state, or the average annual wage of jobs
 1183 directly created by the project is below 105 percent of the
 1184 average private sector wage in the area, as defined in s.
 1185 288.106.

1186 (c)1. Within 7 business days after evaluating a project,
 1187 the department shall recommend to the Governor approval or
 1188 disapproval of a project for receipt of funds from the Quick
 1189 Action Closing Fund. In recommending a project, the department
 1190 shall include a memorandum of understanding between the
 1191 department and the applicant, which shall be incorporated into
 1192 the final contract, setting forth the conditions for payment of
 1193 moneys from the fund. The memorandum of understanding must
 1194 include the total amount of recommended funds to be awarded; the
 1195 performance conditions that must be met to obtain the award,
 1196 including, but not limited to, net new employment in the state,

1197 average salary, and total capital investment incurred by the
 1198 business; a baseline of current service and a measure of
 1199 enhanced capability; the methodology for validating performance;
 1200 the schedule of payments from the fund; and sanctions for
 1201 failure to meet performance conditions, including any clawback
 1202 provisions ~~proposed performance conditions that the project must~~
 1203 ~~meet to obtain incentive funds.~~

1204 2. The Governor may approve a Quick Action Closing Fund
 1205 project award requiring less than \$2 million in funding ~~projects~~
 1206 ~~without consulting the Legislature for projects requiring less~~
 1207 ~~than \$2 million in funding.~~ For such projects, the Governor
 1208 shall provide a written description and evaluation of the
 1209 approved project and a memorandum of understanding meeting the
 1210 requirements of subparagraph 1. to the chair and vice chair of
 1211 the Legislative Budget Commission, the President of the Senate,
 1212 and the Speaker of the House of Representatives within 1
 1213 business day after approval.

1214 3. ~~For projects requiring funding in the amount of \$2~~
 1215 ~~million to \$5 million,~~ The Governor shall provide a written
 1216 description and evaluation of each Quick Action Closing Fund a
 1217 project award recommended for approval that requires funding of
 1218 \$2 million or more to the chair and vice chair of the
 1219 Legislative Budget Commission, the President of the Senate, and
 1220 the Speaker of the House of Representatives at least 14 ~~10~~ days
 1221 before ~~prior to~~ giving final approval for a project. The
 1222 recommendation must include a memorandum of understanding

1223 meeting the requirements of subparagraph 1 ~~proposed performance~~
 1224 ~~conditions that the project must meet in order to obtain funds.~~

1225 4. If the chair or vice chair of the Legislative Budget
 1226 Commission, ~~or~~ the President of the Senate, or the Speaker of
 1227 the House of Representatives timely advises the Executive Office
 1228 of the Governor, in writing, that such action or proposed action
 1229 exceeds the delegated authority of the Executive Office of the
 1230 Governor or is contrary to legislative policy or intent, the
 1231 Executive Office of the Governor shall ~~void the release of funds~~
 1232 ~~and~~ instruct the department to immediately change such action or
 1233 proposed action ~~until the Legislative Budget Commission or the~~
 1234 ~~Legislature addresses the issue. Notwithstanding such~~
 1235 ~~requirement, any project exceeding \$5 million must be approved~~
 1236 ~~by the Legislative Budget Commission prior to the funds being~~
 1237 ~~released.~~

1238 (d) Upon the approval of the Governor in accordance with
 1239 subparagraph (c)2., or upon expiration of the 14-day legislative
 1240 consultation period provided in subparagraph (c)3., the
 1241 department and the business shall enter into a contract that
 1242 sets forth the conditions for payment of moneys from the fund.
 1243 The contract must include the total amount of funds awarded; the
 1244 performance conditions that must be met to obtain the award,
 1245 including, but not limited to, net new employment in the state,
 1246 average salary, and total capital investment; demonstrate a
 1247 baseline of current service and a measure of enhanced
 1248 capability; the methodology for validating performance; the

1249 | schedule of payments from the fund; and sanctions for failure to
 1250 | meet performance conditions. The contract must provide that
 1251 | payment of moneys from the fund is contingent upon sufficient
 1252 | appropriation of funds by the Legislature. The department shall
 1253 | not schedule more than \$35 million in total payments in any
 1254 | single fiscal year for projects approved under s. 288.1088.

1255 | (e) An amendment, modification, or extension of an
 1256 | existing contract that results in a 0.5 point or greater
 1257 | reduction in the economic benefit ratio of the project may not
 1258 | take effect until it is approved through the approval process in
 1259 | subparagraph (c)3. An amendment, modification, or extension may
 1260 | not be made to an executed contract if such action would result
 1261 | in an economic benefit ratio below 2 to 1.

1262 | Section 10. Paragraphs (b) and (p) of subsection (2),
 1263 | subsection (4), paragraphs (l) and (m) of subsection (5), and
 1264 | subsections (7) and (8) of section 288.1089, Florida Statutes,
 1265 | are amended to read:

1266 | 288.1089 Innovation Incentive Program.—

1267 | (2) As used in this section, the term:

1268 | (b) "Average private sector wage in the area" means the
 1269 | average of all private sector wages and salaries in the county
 1270 | in which the project is located ~~the statewide average wage in~~
 1271 | ~~the private sector or the average of all private sector wages in~~
 1272 | ~~the county or in the standard metropolitan area in which the~~
 1273 | ~~project is located as determined by the department.~~

1274 | ~~(p) "Rural area" means a rural city or rural community as~~

1275 ~~defined in s. 288.106.~~

1276 (4) To qualify for review by the department, the applicant
 1277 must, at a minimum, establish the following to the satisfaction
 1278 of the department:

1279 (a) The jobs created by the project must pay an estimated
 1280 annual average wage equaling at least 130 percent of the average
 1281 private sector wage in the area. The department may waive this
 1282 average wage requirement at the request of Enterprise Florida,
 1283 Inc., for a project located in a rural area of opportunity, a
 1284 brownfield area, or an enterprise zone, when the merits of the
 1285 individual project or the specific circumstances in the
 1286 community in relationship to the project warrant such action. A
 1287 recommendation for waiver by Enterprise Florida, Inc., must
 1288 include a specific justification for the waiver and be
 1289 transmitted to the department in writing. If the department
 1290 elects to waive the wage requirement, the waiver must be stated
 1291 in writing and the reasons for granting the waiver must be
 1292 explained. The department may not waive the wage requirement for
 1293 any project that does not pay an estimated annual average wage
 1294 equaling at least 105 percent of the average private sector wage
 1295 in the area.

1296 (b) A research and development project must:

1297 1. Serve as a catalyst for an emerging or evolving
 1298 technology cluster.

1299 2. Demonstrate a plan for significant higher education
 1300 collaboration.

1301 3. Provide the state, at a minimum, a cumulative break-
 1302 even economic benefit within a 20-year period.

1303 4. Be provided with a one-to-one match from the local
 1304 community. The match requirement may be reduced or waived in
 1305 rural areas of opportunity ~~or reduced in rural areas~~, brownfield
 1306 areas, and enterprise zones. A local government that requests a
 1307 waiver that reduces or eliminates the one-to-one match shall
 1308 provide the department with a statement prepared by a Florida
 1309 certified public accountant, as defined in s. 473.302, which
 1310 describes the financial constraints preventing the local
 1311 government from meeting the local financial support requirement
 1312 of this section.

1313 (c) An innovation business project in this state, other
 1314 than a research and development project, must:

1315 1.a. Result in the creation of at least 1,000 direct, new
 1316 jobs at the business; or

1317 b. Result in the creation of at least 500 direct, new jobs
 1318 if the project is located in a rural area of opportunity, a
 1319 brownfield area, or an enterprise zone.

1320 2. Have an activity or product that is within an industry
 1321 that is designated as a target industry business under s.
 1322 288.106 or a designated sector under s. 288.108.

1323 3.a. Have a cumulative investment of at least \$500 million
 1324 within a 5-year period; or

1325 b. Have a cumulative investment that exceeds \$250 million
 1326 within a 10-year period if the project is located in a rural

1327 area of opportunity, brownfield area, or an enterprise zone.

1328 4. Be provided with a one-to-one match from the local
 1329 community. The match requirement may be reduced or waived in
 1330 rural areas of opportunity or reduced in ~~rural areas~~, brownfield
 1331 areas, and enterprise zones. A local government that requests a
 1332 waiver that reduces or eliminates the one-to-one match shall
 1333 provide the department with a statement prepared by a Florida
 1334 certified public accountant, as defined in s. 473.302, which
 1335 describes the financial constraints preventing the local
 1336 government from meeting the local financial support requirement
 1337 of this section.

1338 (d) For an alternative and renewable energy project in
 1339 this state, the project must:

1340 1. Demonstrate a plan for significant collaboration with
 1341 an institution of higher education.†

1342 2. Provide the state, at a minimum, a cumulative break-
 1343 even economic benefit within a 20-year period.†

1344 3. Include matching funds provided by the applicant or
 1345 other available sources. The match requirement may be reduced or
 1346 eliminated ~~waived~~ in rural areas of opportunity ~~or reduced in~~
 1347 ~~rural areas~~, brownfield areas, and enterprise zones. A local
 1348 government that requests a waiver that reduces or eliminates the
 1349 one-to-one match shall provide the department with a statement
 1350 prepared by a Florida certified public accountant, as defined in
 1351 s. 473.302, which describes the financial constraints preventing
 1352 the local government from meeting the one-to-one match

1353 requirement of this section.

1354 4. Be located in this state. ~~and~~

1355 5. Provide at least 35 direct, new jobs that pay an
 1356 estimated annual average wage that equals at least 130 percent
 1357 of the average private sector wage in the area.

1358 (5) The department shall review proposals pursuant to s.
 1359 288.061 for all three categories of innovation incentive awards.
 1360 Before making a recommendation to the executive director, the
 1361 department shall solicit comments and recommendations from the
 1362 Department of Agriculture and Consumer Services. For each
 1363 project, the evaluation and recommendation to the department
 1364 must include, but need not be limited to:

1365 (1) Additional evaluative criteria for a research and
 1366 development facility project, including:

1367 1. A description of the extent to which the project has
 1368 the potential to serve as catalyst for an emerging or evolving
 1369 cluster.

1370 2. A description of the extent to which the project has or
 1371 could have a long-term collaborative research and development
 1372 relationship with one or more universities or community colleges
 1373 in this state.

1374 3. A description of the existing or projected impact of
 1375 the project on established clusters or targeted industry
 1376 sectors.

1377 4. A description of the project's contribution to the
 1378 diversity and resiliency of the innovation economy of this

1379 state.

1380 5. A description of the project's impact on special needs
 1381 communities, including, but not limited to, rural areas of
 1382 opportunity, distressed urban areas, and enterprise zones.

1383 (m) Additional evaluative criteria for alternative and
 1384 renewable energy proposals, including:

1385 1. The availability of matching funds or other in-kind
 1386 contributions applied to the total project from an applicant.
 1387 The Department of Agriculture and Consumer Services shall give
 1388 greater preference to projects that provide such matching funds
 1389 or other in-kind contributions.

1390 2. The degree to which the project stimulates in-state
 1391 capital investment and economic development in metropolitan and
 1392 rural areas of opportunity, including the creation of jobs and
 1393 the future development of a commercial market for renewable
 1394 energy technologies.

1395 3. The extent to which the proposed project has been
 1396 demonstrated to be technically feasible based on pilot project
 1397 demonstrations, laboratory testing, scientific modeling, or
 1398 engineering or chemical theory that supports the proposal.

1399 4. The degree to which the project incorporates an
 1400 innovative new technology or an innovative application of an
 1401 existing technology.

1402 5. The degree to which a project generates thermal,
 1403 mechanical, or electrical energy by means of a renewable energy
 1404 resource that has substantial long-term production potential.

1405 6. The degree to which a project demonstrates efficient
 1406 use of energy and material resources.

1407 7. The degree to which the project fosters overall
 1408 understanding and appreciation of renewable energy technologies.

1409 8. The ability to administer a complete project.

1410 9. Project duration and timeline for expenditures.

1411 10. The geographic area in which the project is to be
 1412 conducted in relation to other projects.

1413 11. The degree of public visibility and interaction.

1414 (7)(a) Within 7 days after evaluating an innovation
 1415 incentive award proposal pursuant to s. 288.061, the department
 1416 shall recommend to the Governor approval or disapproval of an
 1417 award. In recommending an award, the department shall include a
 1418 memorandum of understanding between the department and the
 1419 applicant, which shall be incorporated into the final contract,
 1420 setting forth the conditions for payment of the incentive funds.
 1421 The memorandum of understanding shall include the total amount
 1422 of funds awarded; the performance conditions that must be met to
 1423 obtain the award, including, but not limited to, net new
 1424 employment in the state, average salary, and total capital
 1425 investment incurred by the business; a baseline of current
 1426 service and a measure of enhanced capability; the methodology
 1427 for validating performance; the schedule of payments; and
 1428 sanctions for failure to meet performance conditions, including
 1429 any clawback provisions ~~Upon receipt of the evaluation and~~
 1430 ~~recommendation from the department, the Governor shall approve~~

1431 ~~er deny an award. In recommending approval of an award, the~~
 1432 ~~department shall include proposed performance conditions that~~
 1433 ~~the applicant must meet in order to obtain incentive funds and~~
 1434 ~~any other conditions that must be met before the receipt of any~~
 1435 ~~incentive funds. The Governor shall consult with the President~~
 1436 ~~of the Senate and the Speaker of the House of Representatives~~
 1437 ~~before giving approval for an award. Upon review and approval of~~
 1438 ~~an award by the Legislative Budget Commission, the Executive~~
 1439 ~~Office of the Governor shall release the funds.~~

1440 (b) The Governor may approve an innovation incentive award
 1441 of less than \$2 million without consulting the Legislature. For
 1442 such awards, the Governor shall provide a written description
 1443 and evaluation of the approved project and a copy of the
 1444 memorandum of understanding between the department and business
 1445 meeting the requirements of paragraph (a) to the chair and vice
 1446 chair of the Legislative Budget Commission, the President of the
 1447 Senate, and the Speaker of the House of Representatives within 1
 1448 business day after approval.

1449 (c) The Governor shall provide a written description and
 1450 evaluation of each innovation incentive award proposal
 1451 recommended for approval for an innovation incentive award that
 1452 equals or exceeds \$2 million to the chair and vice chair of the
 1453 Legislative Budget Commission, the President of the Senate, and
 1454 the Speaker of the House of Representatives at least 14 days
 1455 before giving final approval for an award. The recommendation
 1456 must include a copy of the memorandum of understanding between

1457 the department and business meeting the requirements of
 1458 paragraph (a). If the chair or vice chair of the Legislative
 1459 Budget Commission, the President of the Senate, or the Speaker
 1460 of the House of Representatives timely advises the Executive
 1461 Office of the Governor in writing that the award of incentive
 1462 funds exceeds the delegated authority of the Executive Office of
 1463 the Governor or is contrary to legislative policy or intent, the
 1464 Executive Office of the Governor shall instruct the department
 1465 to immediately change action or proposed action.

1466 (d) An amendment, modification, or extension of an
 1467 executed contract that results in a 0.5 point or greater
 1468 reduction in the economic benefit ratio of the project may not
 1469 take effect until it is approved through the approval process in
 1470 paragraph (c). An amendment, modification, or extension may not
 1471 be made to an executed contract if such action would result in
 1472 an economic benefit ratio below 1 to 1.

1473 (8)(a) In addition to the requirements provided in
 1474 paragraph (7) (a), a contract between the department and an award
 1475 recipient ~~After the conditions set forth in subsection (7) have~~
 1476 ~~been met, the department shall issue a letter certifying the~~
 1477 ~~applicant as qualified for an award. The department and the~~
 1478 ~~award recipient shall enter into an agreement that sets forth~~
 1479 ~~the conditions for payment of the incentive funds. The agreement~~
 1480 ~~must include, at a minimum:~~

- 1481 ~~1. The total amount of funds awarded.~~
- 1482 ~~2. The performance conditions that must be met in order to~~

1483 ~~obtain the award or portions of the award, including, but not~~
 1484 ~~limited to, net new employment in the state, average wage, and~~
 1485 ~~total cumulative investment.~~

1486 ~~3. Demonstration of a baseline of current service and a~~
 1487 ~~measure of enhanced capability.~~

1488 ~~4. The methodology for validating performance.~~

1489 ~~5. The schedule of payments.~~

1490 ~~6. Sanctions for failure to meet performance conditions,~~
 1491 ~~including any clawback provisions.~~

1492 ~~(b) Additionally, agreements signed on or after July 1,~~
 1493 ~~2009,~~ must include the following provisions:

1494 1. Notwithstanding subsection (4), a requirement that the
 1495 jobs created by the recipient of the incentive funds pay an
 1496 annual average wage at least equal to the relevant industry's
 1497 annual average wage or at least 130 percent of the average
 1498 private sector wage in the area, whichever is greater.

1499 2. A reinvestment requirement. Each recipient of an award
 1500 shall reinvest up to 15 percent of net royalty revenues,
 1501 including revenues from spin-off companies and the revenues from
 1502 the sale of stock it receives from the licensing or transfer of
 1503 inventions, methods, processes, and other patentable discoveries
 1504 conceived or reduced to practice using its facilities in Florida
 1505 or its Florida-based employees, in whole or in part, and to
 1506 which the recipient of the grant becomes entitled during the 20
 1507 years following the effective date of its agreement with the
 1508 department. Each recipient of an award also shall reinvest up to

1509 15 percent of the gross revenues it receives from naming
 1510 opportunities associated with any facility it builds in this
 1511 state. Reinvestment payments shall commence no later than 6
 1512 months after the recipient of the grant has received the final
 1513 disbursement under the contract and shall continue until the
 1514 maximum reinvestment, as specified in the contract, has been
 1515 paid. Reinvestment payments shall be remitted to the department
 1516 for deposit in the Biomedical Research Trust Fund for companies
 1517 specializing in biomedicine or life sciences, or in the Economic
 1518 Development Trust Fund for companies specializing in fields
 1519 other than biomedicine or the life sciences. If these trust
 1520 funds no longer exist at the time of the reinvestment, the
 1521 state's share of reinvestment shall be deposited in their
 1522 successor trust funds as determined by law. Each recipient of an
 1523 award shall annually submit a schedule of the shares of stock
 1524 held by it as payment of the royalty required by this paragraph
 1525 and report on any trades or activity concerning such stock. Each
 1526 recipient's reinvestment obligations survive the expiration or
 1527 termination of its agreement with the state.

1528 3. Requirements for the establishment of internship
 1529 programs or other learning opportunities for educators and
 1530 secondary, postsecondary, graduate, and doctoral students.

1531 4. A requirement that the recipient submit quarterly
 1532 reports and annual reports related to activities and performance
 1533 to the department, according to standardized reporting periods.

1534 5. A requirement for an annual accounting to the

1535 department of the expenditure of funds disbursed under this
 1536 section.

1537 6. A process for amending the agreement.

1538 Section 11. Paragraph (a) of subsection (14) of section
 1539 196.012, Florida Statutes, is amended to read:

1540 196.012 Definitions.—For the purpose of this chapter, the
 1541 following terms are defined as follows, except where the context
 1542 clearly indicates otherwise:

1543 (14) "New business" means:

1544 (a)1. A business or organization establishing 10 or more
 1545 new jobs to employ 10 or more full-time employees in this state,
 1546 paying an average wage for such new jobs that is above the
 1547 average wage in the area, which principally engages in any one
 1548 or more of the following operations:

1549 a. Manufactures, processes, compounds, fabricates, or
 1550 produces for sale items of tangible personal property at a fixed
 1551 location and which comprises an industrial or manufacturing
 1552 plant; or

1553 b. Is a target industry business as defined in s.
 1554 288.106(2)(n) ~~288.106(2)(g)~~;

1555 2. A business or organization establishing 25 or more new
 1556 jobs to employ 25 or more full-time employees in this state, the
 1557 sales factor of which, as defined by s. 220.15(5), for the
 1558 facility with respect to which it requests an economic
 1559 development ad valorem tax exemption is less than 0.50 for each
 1560 year the exemption is claimed; or

1561 3. An office space in this state owned and used by a
 1562 business or organization newly domiciled in this state; provided
 1563 such office space houses 50 or more full-time employees of such
 1564 business or organization; provided that such business or
 1565 organization office first begins operation on a site clearly
 1566 separate from any other commercial or industrial operation owned
 1567 by the same business or organization.

1568 Section 12. The sum of \$20 million of nonrecurring funds
 1569 in the State Economic Enhancement and Development Trust Fund and
 1570 the sum of \$3.8 million of nonrecurring funds in the Economic
 1571 Development Trust Fund are appropriated to the Department of
 1572 Economic Opportunity to provide payments and tax refunds
 1573 pursuant to s. 288.061, Florida Statutes, for programs under ss.
 1574 288.0659, 288.1045, 288.106, 288.107, 288.108, 288.1088, and
 1575 288.1089, Florida Statutes, for fiscal year 2015-2016. Payments
 1576 may only be made for projects that meet statutory eligibility
 1577 requirements. Funds may not be released for any other purpose
 1578 and may only be disbursed directly to the applicant when
 1579 projects are certified to have met all contracted performance
 1580 requirements. Funds provided from the Economic Development Trust
 1581 Fund represent local matching funds.

1582 Section 13. This act shall take effect July 1, 2015.