

By Senator Latvala

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1 A bill to be entitled
2 An act relating to economic development; amending s.
3 220.191, F.S.; revising the term "cumulative capital
4 investment"; amending s. 288.0001, F.S.; requiring the
5 Office of Economic and Demographic Research and the
6 Office of Program Policy Analysis and Government
7 Accountability to provide a detailed analysis of the
8 retention of Major League Baseball spring training
9 baseball franchises; amending s. 288.005, F.S.;
10 revising the term "economic benefits"; amending s.
11 288.061, F.S.; requiring the Department of Economic
12 Opportunity to prescribe a specified application form;
13 requiring the incentive application to include
14 specified information; requiring the Office of
15 Economic and Demographic Research to include
16 guidelines for the appropriate application of the
17 department's internal model in the establishment of
18 the methodology and model it will use to calculate
19 economic benefits; requiring that if the Office of
20 Economic and Demographic Research develops an amended
21 definition of the term "economic benefits," it must
22 reflect a specified requirement; prohibiting the
23 department from attributing to the business any
24 capital investment made by a business using state
25 funds; requiring the department's evaluation of the
26 application to include specified information;
27 requiring the department to recommend to the Governor
28 approval or disapproval of a project that will receive
29 funds from specified programs; requiring the

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30 department, in recommending a project, to include
31 justification for the project and proposed performance
32 conditions that the project must meet to obtain
33 incentive funds; authorizing the Governor to approve a
34 project without consulting the Legislature if the
35 requested funding is less than a specified amount;
36 requiring the Governor to provide a written
37 description and evaluation of the project to specified
38 persons during a specified timeframe; requiring the
39 recommendation to include proposed payment and
40 performance conditions that the project must meet in
41 order to obtain incentive funds and to avoid
42 sanctions; requiring the Governor to instruct the
43 department to immediately suspend an action or
44 proposed action until the Legislative Budget
45 Commission or the Legislature makes a determination on
46 the project in certain circumstances; requiring a
47 project that requires funding that falls into a
48 specified range to be approved by the Legislative
49 Budget Commission before final approval by the
50 Governor; requiring a project that requires at least a
51 specified amount of funds and that provides a waiver
52 of program requirements to be approved by the
53 Legislative Budget Commission before final approval by
54 the Governor; requiring the department to issue a
55 letter certifying the applicant as qualified for an
56 award upon approval; specifying the funding sources
57 authorized within the definition of the term
58 "project"; requiring the department and the applicant

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59 to enter into an agreement or contract upon
60 certification; requiring any agreement or contract
61 that requires capital investment to be made by the
62 business to also require that such investment remain
63 in the state for the duration of the agreement or
64 contract; prohibiting an agreement or contract from
65 having a term of longer than 10 years; authorizing the
66 department to enter into a successive agreement or
67 contract for a specified project under certain
68 circumstances; providing that the restriction on
69 duration of the agreement or contract does not apply
70 in certain circumstances; requiring the agreement or
71 contract to require that the applicant use the
72 workforce information systems in certain
73 circumstances; requiring the department to provide
74 notice, with a written description and evaluation, to
75 the Legislature of any proposed amendment to an
76 agreement or contract; requiring the department to
77 provide notice of the proposed change to specified
78 persons in order to provide an opportunity for review;
79 providing that a proposed amendment to an agreement or
80 contract which reduces projected economic benefits
81 calculated at the time the agreement or contract was
82 executed by a specified amount or more or that results
83 in an economic benefit ratio below a specified level
84 is subject to specified notice and objection
85 procedures; requiring the Governor to instruct the
86 department to immediately suspend an action or
87 proposed action until the Legislative Budget

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88 Commission or Legislature makes a determination on the
89 project in certain circumstances; amending s.
90 288.1045, F.S.; revising the term "average wage in the
91 area"; conforming a provision to a change made by the
92 act; increasing the number of days the department may
93 extend the filing date; extending the future
94 expiration of an applicant for a tax refund; amending
95 s. 288.106, F.S.; conforming provisions to changes
96 made by the act; revising the definition of the term
97 "local financial support exemption option" to remove a
98 limit on the allowable percentage of total tax
99 refunds; increasing the number of days the department
100 may extend the filing date; revising the limitations
101 on the average private sector wage paid by the
102 business; amending s. 288.107, F.S.; revising the term
103 "eligible business"; defining the term "fixed capital
104 investment"; amending s. 288.1088, F.S.; revising the
105 requirements for projects eligible for receipt of
106 funds from the Quick Action Closing Fund; conforming a
107 provision to a change made by the act; requiring a
108 specified request to be transmitted in writing to the
109 department with an explanation of the specific
110 justification for the request; requiring a decision to
111 be stated in writing with an explanation of the reason
112 for approving the request if the department approves
113 the request; prohibiting the department from waiving
114 more than a specified amount of criteria; revising the
115 information that the department must include in an
116 evaluation of an individual proposal for high-impact

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117 business facilities; prohibiting the payment of moneys
118 from the fund to a business until the scheduled goals
119 have been achieved; revising the information that must
120 be included in a contract that sets forth the
121 conditions for payments of moneys from the fund;
122 amending s. 288.1089, F.S.; conforming provisions to
123 changes made by the act; amending s. 288.905, F.S.;
124 providing that the president appointed by the board of
125 directors of Enterprise Florida, Inc., is subject to
126 confirmation by the Senate; prohibiting a former
127 president from receiving compensation for personally
128 representing a specified entity before the legislative
129 or executive branch of state government; providing
130 applicability; amending s. 288.9937, F.S.; requiring
131 the Office of Program Policy Analysis and Government
132 Accountability to analyze and evaluate certain
133 programs for a specified period; requiring the Office
134 of Economic and Demographic Research to determine the
135 economic benefits of certain programs; requiring the
136 Office of Program Policy Analysis and Government
137 Accountability to identify inefficiencies in certain
138 programs and to recommend changes to such programs;
139 revising the date by which each office must submit a
140 report to certain persons; providing an effective
141 date.

142
143 Be It Enacted by the Legislature of the State of Florida:

144
145 Section 1. Paragraph (b) of subsection (1) of section

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146 220.191, Florida Statutes, is amended to read:

147 220.191 Capital investment tax credit.—

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

149 (b) "Cumulative capital investment" means the total capital
150 investment in land, buildings, and equipment made in connection
151 with a qualifying project during the period from the beginning
152 of construction of the project to the commencement of
153 operations. The term does not include any state or local funds,
154 including funds appropriated to public or private entities, used
155 for capital investment.

156 Section 2. Paragraph (e) of subsection (2) of section
157 288.0001, Florida Statutes, is amended to read:

158 288.0001 Economic Development Programs Evaluation.—The
159 Office of Economic and Demographic Research and the Office of
160 Program Policy Analysis and Government Accountability (OPPAGA)
161 shall develop and present to the Governor, the President of the
162 Senate, the Speaker of the House of Representatives, and the
163 chairs of the legislative appropriations committees the Economic
164 Development Programs Evaluation.

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

168 (e) Beginning January 1, 2018, and every 3 years
169 thereafter, an analysis of the Sports Development Program
170 established under s. 288.11625 and the retention of Major League
171 Baseball spring training baseball franchises under s. 288.11631.

172 Section 3. Subsection (1) of section 288.005, Florida
173 Statutes, is amended to read:

174 288.005 Definitions.—As used in this chapter, the term:

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175 (1) "Economic benefits" means the direct, indirect, and
176 induced gains in state revenues as a percentage of the state's
177 investment. The state's investment includes all state funds
178 spent or forgone to benefit the business, including state funds
179 appropriated to public and private entities, state grants, tax
180 exemptions, tax refunds, tax credits, and other state
181 incentives.

182 Section 4. Section 288.061, Florida Statutes, is amended to
183 read:

184 288.061 Economic development incentive application
185 process.—

186 (1) Beginning January 1, 2016, the department shall
187 prescribe a form upon which an application for an incentive must
188 be made. At a minimum, the incentive application must include
189 all of the following:

190 (a) The applicant's federal employer identification number,
191 reemployment assistance account number, and state sales tax
192 registration number. If such numbers are not available at the
193 time of application, they must be submitted to the department in
194 writing before the disbursement of any economic incentive
195 payments or the grant of any tax credits or refunds.

196 (b) The applicant's signature.

197 (c) The location in this state at which the project is or
198 will be located.

199 (d) The anticipated commencement date of the project.

200 (e) A description of the type of business activity,
201 product, or research and development undertaken by the
202 applicant, including the six-digit North American Industry
203 Classification System code for all activities included in the

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204 project.

205 (f) An attestation verifying that the information provided
206 on the application is true and accurate.

207 (2)~~(1)~~ Upon receiving a submitted economic development
208 incentive application, the Division of Strategic Business
209 Development of the department ~~of Economic Opportunity~~ and
210 designated staff of Enterprise Florida, Inc., shall review the
211 application to ensure that the application is complete, whether
212 and what type of state and local permits may be necessary for
213 the applicant's project, whether it is possible to waive such
214 permits, and what state incentives and amounts of such
215 incentives may be available to the applicant. The department
216 shall recommend to the executive director to approve or
217 disapprove an applicant business. If review of the application
218 demonstrates that the application is incomplete, the executive
219 director shall notify the applicant business within the first 5
220 business days after receiving the application.

221 (3)~~(2)~~ ~~Beginning July 1, 2013,~~ The department shall review
222 and evaluate each economic development incentive application for
223 the economic benefits of the proposed award of state incentives
224 proposed for the project. The term "economic benefits" has the
225 same meaning as in s. 288.005. The Office of Economic and
226 Demographic Research shall establish the methodology and model
227 used to calculate the economic benefits, including guidelines
228 for the appropriate application of the department's internal
229 model. For purposes of this requirement, an amended definition
230 of the term "economic benefits" may be developed by the Office
231 of Economic and Demographic Research. However, the amended
232 definition must reflect the requirement of s. 288.005 that the

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233 state's investment include all state funds spent or forgone to
234 benefit the business, including state funds appropriated to
235 public and private entities, to the extent that those funds
236 should reasonably be known to the department at the time of
237 approval. In the department's evaluation of an economic
238 development incentive application, the department may not
239 attribute to the business any capital investment made by the
240 business using state funds.

241 (4) The department's evaluation of the application must
242 also include all of the following:

243 (a) A financial analysis of the company, including
244 information regarding liens and pending or ongoing litigation,
245 credit ratings, and regulatory filings.

246 (b) A review of any independent evaluations of the company.

247 (c) A review of the historical market performance of the
248 company.

249 (d) A review of the latest audit of the company's financial
250 statement and the related auditor management letter.

251 (e) A review of any other audits that are related to the
252 internal controls or management of the company.

253 (f) A review of performance in connection with past
254 incentives.

255 (g) Any other review deemed necessary by the department.

256 (5) (a) ~~(3)~~ Except as provided in paragraph (b), within 10
257 business days after the department receives a complete ~~the~~
258 ~~submitted~~ economic development incentive application, the
259 executive director shall approve or disapprove the application
260 and issue a letter of certification to the applicant which
261 includes a justification of that decision, unless the business

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262 requests an extension of ~~that~~ time.

263 (b) Within 10 business days after the department receives a
264 complete economic development incentive application for a
265 project identified in paragraph (d), the executive director
266 shall recommend to the Governor approval or disapproval of the
267 application. The recommendation must include a justification for
268 the recommendation and the proposed performance conditions that
269 the project must meet to obtain incentive funds.

270 1. The Governor may approve a project without consulting
271 the Legislature for a project that requires less than \$2 million
272 in funding.

273 2. Except as provided in subparagraph 4., for any project
274 that requires funding in the amount of at least \$2 million and
275 up to \$7.5 million, the Governor shall provide a written
276 description and evaluation of the project to the chair and vice
277 chair of the Legislative Budget Commission at least 10 days
278 before giving final approval for the project. The recommendation
279 must include proposed payment and performance conditions that
280 the project must meet in order to obtain incentive funds and to
281 avoid sanctions. If the chair or vice chair of the Legislative
282 Budget Commission, the President of the Senate, or the Speaker
283 of the House of Representatives advises the Governor, in
284 writing, that his or her planned or proposed action exceeds the
285 delegated authority of the Governor or is contrary to
286 legislative policy or intent, the Governor shall instruct the
287 department to immediately suspend any action planned or proposed
288 until the Legislative Budget Commission or the Legislature makes
289 a determination on the project.

290 3. Any project that requires funding in the amount of \$7.5

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291 million or greater must be approved by the Legislative Budget
292 Commission before final approval by the Governor.

293 4. Any project that requires funding in the amount of \$5
294 million or greater and that provides a waiver of program
295 requirements must be approved by the Legislative Budget
296 Commission prior to final approval by the Governor.

297 (c) Upon approval of a project under paragraph (b), the
298 department shall issue a letter certifying the applicant as
299 qualified for an award.

300 (d) For purposes of paragraphs (b) and (c), the term
301 "project" means a project that will receive funds under any one
302 of the following programs:

303 1. The Local Government Distressed Area Matching Grant
304 Program established by s. 288.0659.

305 2. The qualified defense contractor and space flight
306 business tax refund program established under s. 288.1045.

307 3. The qualified target industry business tax refund
308 authorized under s. 288.106.

309 4. The brownfield redevelopment bonus refund established
310 under s. 288.107.

311 5. High-impact business performance grants established
312 under s. 288.108.

313 6. The Quick Action Closing Fund established under s.
314 288.1088.

315 7. The Innovation Incentive Program created by s. 288.1089.

316 (6) (a) Upon certification, the department and the applicant
317 shall enter into an agreement or contract. The ~~contract or~~
318 agreement or contract with the applicant must specify the total
319 amount of the award, the performance conditions that must be met

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320 to obtain the award, the schedule for payment, and sanctions
321 that would apply for failure to meet performance conditions. Any
322 agreement or contract that requires capital investment to be
323 made by the business must also require that such investment
324 remain in this state for the duration of the agreement or
325 contract. The department may enter into one agreement or
326 contract covering all of the state incentives that are being
327 provided to the applicant. The duration of an agreement or
328 contract may not exceed 10 years. However, the department may
329 enter into a successive agreement or contract for a specific
330 project to extend the initial 10-year term, provided that each
331 successive agreement or contract is contingent upon the
332 successful completion of the previous agreement or contract. If
333 all of the state incentives for one agreement or contract total
334 \$20 million or greater, the restriction on the term of the
335 agreement or contract does not apply. The agreement or contract
336 must provide that release of funds is contingent upon sufficient
337 appropriation of funds by the Legislature.

338 (b) The release of funds for the incentive or incentives
339 awarded to the applicant depends upon the statutory requirements
340 of the particular incentive program. For any performance
341 conditions that relate to job creation, the agreement or
342 contract must require that the applicant use the workforce
343 information systems implemented under s. 445.011.

344 ~~(7)~~(4) The department shall validate contractor performance
345 and report such validation in the annual incentives report
346 required under s. 288.907.

347 ~~(8)~~(5)(a) The executive director may not approve an
348 economic development incentive application unless the

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349 application includes a signed written declaration by the
350 applicant which states that the applicant has read the
351 information in the application and that the information is true,
352 correct, and complete to the best of the applicant's knowledge
353 and belief.

354 (b) After an economic development incentive application is
355 approved, the awardee shall provide, in each year that the
356 department is required to validate contractor performance, a
357 signed written declaration. The written declaration must state
358 that the awardee has reviewed the information and that the
359 information is true, correct, and complete to the best of the
360 awardee's knowledge and belief.

361 (9) The department shall provide notice, including a
362 written description and evaluation, to the Legislature of any
363 proposed amendment to an agreement or contract. In order to
364 provide an opportunity for review, at least 3 business days
365 before signing an amendment to an agreement or contract, the
366 department shall provide notice of the proposed change to the
367 chair and vice chair of the Legislative Budget Commission, the
368 President of the Senate, and the Speaker of the House of
369 Representatives. However, a proposed amendment to an agreement
370 or contract that reduces the projected economic benefits
371 calculated at the time the agreement or contract was executed by
372 0.50 or more or that results in an economic benefit ratio below
373 a statutorily required level for receipt of funds is subject to
374 the 10-day notice and objection procedures set forth in this
375 section. Any such amended agreement or contract must also
376 provide for a proportionate reduction in the award amount. If
377 the chair or vice chair of the Legislative Budget Commission,

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378 the President of the Senate, or the Speaker of the House of
 379 Representatives timely advises the Governor, in writing, that
 380 such action or proposed action exceeds the delegated authority
 381 of the Governor or is contrary to legislative policy or intent,
 382 the Governor shall instruct the department to immediately
 383 suspend any action proposed or taken until the Legislative
 384 Budget Commission or the Legislature makes a determination on
 385 the project.

386 (10)~~(6)~~ The department is authorized to adopt rules to
 387 implement this section.

388 Section 5. Paragraph (b) of subsection (1), paragraph (e)
 389 of subsection (3), paragraphs (a) and (d) of subsection (5), and
 390 subsection (7) of section 288.1045, Florida Statutes, are
 391 amended to read:

392 288.1045 Qualified defense contractor and space flight
 393 business tax refund program.—

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

395 (b) "Average private sector wage in the area" means the
 396 average of all private sector wages and salaries in ~~the state,~~
 397 ~~the county,~~ or in the standard metropolitan area in which the
 398 business unit is located.

399 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
 400 DETERMINATION.—

401 (e) To qualify for review by the department, the
 402 application of an applicant must, at a minimum, establish the
 403 following to the satisfaction of the department:

404 1. The jobs proposed to be provided under the application,
 405 pursuant to subparagraph (b)6., subparagraph (c)6., or
 406 subparagraph (j)6., must pay an estimated annual average wage

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407 equaling at least 115 percent of the average private sector wage
408 in the area where the project is to be located.

409 2. The consolidation of a Department of Defense contract
410 must result in a net increase of at least 25 percent in the
411 number of jobs at the applicant's facilities in this state or
412 the addition of at least 80 jobs at the applicant's facilities
413 in this state.

414 3. The conversion of defense production jobs to nondefense
415 production jobs must result in net increases in nondefense
416 employment at the applicant's facilities in this state.

417 4. The Department of Defense contract or the space flight
418 business contract cannot allow the business to include the costs
419 of relocation or retooling in its base as allowable costs under
420 a cost-plus, or similar, contract.

421 5. A business unit of the applicant must have derived not
422 less than 60 percent of its gross receipts in this state from
423 Department of Defense contracts or space flight business
424 contracts over the applicant's last fiscal year, and must have
425 derived not less than an average of 60 percent of its gross
426 receipts in this state from Department of Defense contracts or
427 space flight business contracts over the 5 years preceding the
428 date an application is submitted pursuant to this section. This
429 subparagraph does not apply to any application for certification
430 based on a contract for reuse of a defense-related facility.

431 6. The reuse of a defense-related facility must result in
432 the creation of at least 100 jobs at such facility.

433 7. A new space flight business contract or the
434 consolidation of a space flight business contract must result in
435 net increases in space flight business employment at the

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436 applicant's facilities in this state.

437 (5) ANNUAL CLAIM FOR REFUND.—

438 (a) To be eligible to claim any scheduled tax refund,
439 qualified applicants who have entered into a written agreement
440 with the department pursuant to subsection (4) and who have
441 entered into a valid new Department of Defense contract, entered
442 into a valid new space flight business contract, commenced the
443 consolidation of a space flight business contract, commenced the
444 consolidation of a Department of Defense contract, commenced the
445 conversion of defense production jobs to nondefense production
446 jobs, or entered into a valid contract for reuse of a defense-
447 related facility must apply by January 31 of each fiscal year to
448 the department for tax refunds scheduled to be paid from the
449 appropriation for the fiscal year that begins on July 1
450 following the January 31 claims-submission date. The department
451 may, upon written request, grant up to a 60-day ~~30-day~~ extension
452 of the filing date. The application must include a notarized
453 signature of an officer of the applicant.

454 (d) The department, with assistance from the Department of
455 Revenue, shall, by June 30 following the scheduled date for
456 submitting the tax refund claim, specify by written order the
457 approval or disapproval of the tax refund claim and, if
458 approved, the amount of the tax refund that is authorized to be
459 paid to the qualified applicant for the annual tax refund. The
460 department may grant up to a 60-day ~~an~~ extension of this date
461 upon the request of the qualified applicant for the purpose of
462 filing additional information in support of the claim.

463 (7) EXPIRATION.—An applicant may not be certified as
464 qualified under this section after June 30, 2020 ~~2014~~. A tax

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465 refund agreement existing on that date shall continue in effect
466 in accordance with its terms.

467 Section 6. Paragraphs (c) and (k) of subsection (2),
468 paragraph (b) of subsection (4), and paragraphs (a), (e), and
469 (f) of subsection (6) of section 288.106, Florida Statutes, are
470 amended to read:

471 288.106 Tax refund program for qualified target industry
472 businesses.—

473 (2) DEFINITIONS.—As used in this section:

474 (c) "Average private sector wage in the area" means ~~the~~
475 ~~statewide private sector average wage or~~ the average of all
476 private sector wages and salaries in the county or in the
477 standard metropolitan area in which the business is located.

478 (k) "Local financial support exemption option" means the
479 option to exercise an exemption from the local financial support
480 requirement available to an ~~any~~ applicant whose project is
481 located in a brownfield area, a rural city, or a rural
482 community. ~~Any applicant that exercises this option is not~~
483 ~~eligible for more than 80 percent of the total tax refunds~~
484 ~~allowed such applicant under this section.~~

485 (4) APPLICATION AND APPROVAL PROCESS.—

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

489 1.a. The jobs proposed to be created under the application,
490 pursuant to subparagraph (a)4., must pay an estimated annual
491 average wage equaling at least 115 percent of the average
492 private sector wage in the area where the business is to be
493 located ~~or the statewide private sector average wage~~. The

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494 governing board of the local governmental entity providing the
495 local financial support of the jurisdiction where the qualified
496 target industry business is to be located shall notify the
497 department and Enterprise Florida, Inc., which calculation of
498 the average private sector wage in the area must be used as the
499 basis for the business's wage commitment. In determining the
500 average annual wage, the department shall include only new
501 proposed jobs, and wages for existing jobs shall be excluded
502 from this calculation.

503 b. The department may waive the average wage requirement at
504 the request of the local governing body recommending the project
505 and Enterprise Florida, Inc. The department may waive the wage
506 requirement for a project located in a brownfield area
507 designated under s. 376.80, in a rural city, in a rural
508 community, in an enterprise zone, or for a manufacturing project
509 at any location in the state if the jobs proposed to be created
510 pay an estimated annual average wage equaling at least 100
511 percent of the average private sector wage in the area where the
512 business is to be located, only if the merits of the individual
513 project or the specific circumstances in the community in
514 relationship to the project warrant such action. If the local
515 governing body and Enterprise Florida, Inc., make such a
516 recommendation, it must be transmitted in writing with,~~and~~ the
517 specific justification for the waiver recommendation ~~must be~~
518 explained. If the department elects to waive the wage
519 requirement, the waiver must be stated in writing with,~~and~~ the
520 reasons for granting the waiver ~~must be~~ explained.

521 2. The target industry business's project must result in
522 the creation of at least 10 jobs at the project and, in the case

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523 of an expansion of an existing business, must result in a net
524 increase in employment of at least 10 percent at the business.
525 At the request of the local governing body recommending the
526 project and Enterprise Florida, Inc., the department may waive
527 this requirement for a business in a rural community or
528 enterprise zone if the merits of the individual project or the
529 specific circumstances in the community in relationship to the
530 project warrant such action. If the local governing body and
531 Enterprise Florida, Inc., make such a request, the request must
532 be transmitted in writing with an explanation of, ~~and~~ the
533 specific justification for the request ~~must be explained~~. If the
534 department elects to grant the request, the grant must be stated
535 in writing and explain, ~~and~~ the reason for granting the request
536 ~~must be explained~~.

537 3. The business activity or product for the applicant's
538 project must be within an industry identified by the department
539 as a target industry business that contributes to the economic
540 growth of the state and the area in which the business is
541 located, that produces a higher standard of living for residents
542 of this state in the new global economy, or that can be shown to
543 make an equivalent contribution to the area's and state's
544 economic progress.

545 (6) ANNUAL CLAIM FOR REFUND.—

546 (a) To be eligible to claim any scheduled tax refund, a
547 qualified target industry business that has entered into a tax
548 refund agreement with the department under subsection (5) must
549 apply by January 31 of each fiscal year to the department for
550 the tax refund scheduled to be paid from the appropriation for
551 the fiscal year that begins on July 1 following the January 31

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552 claims-submission date. The department may, upon written
553 request, grant up to a 60-day ~~30-day~~ extension of the filing
554 date.

555 (e) A prorated tax refund, less a 5 percent penalty, shall
556 be approved for a qualified target industry business if all
557 other applicable requirements have been satisfied and the
558 business proves to the satisfaction of the department that:

559 1. It has achieved at least 80 percent of its projected
560 employment; and

561 2. The average wage paid by the business is at least 90
562 percent of that ~~the average wage~~ specified in the tax refund
563 agreement. However, the average wage may not be, but in no case
564 less than 115 percent of the average private sector wage in the
565 area available at the time of certification; or, if the business
566 requested the additional per-job tax refund authorized in
567 paragraph (3) (b) for wages of at least 150 percent of the
568 average private sector wage in the area available at the time of
569 certification, less than 135 percent of the average private
570 sector wage in the area available at the time of certification;
571 or if the business requested the additional per-job tax refund
572 authorized in paragraph (3) (b) for wages of at least 150 percent
573 ~~or~~ 200 percent of the average private sector wage in the area
574 available at the time of certification, less than 180 percent of
575 the average private sector wage in the area available at the
576 time of certification ~~if the business requested the additional~~
577 ~~per-job tax refund authorized in paragraph (3) (b) for wages~~
578 ~~above those levels.~~ The prorated tax refund shall be calculated
579 by multiplying the tax refund amount for which the qualified
580 target industry business would have been eligible, if all

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581 applicable requirements had been satisfied, by the percentage of
582 the average employment specified in the tax refund agreement
583 which was achieved, and by the percentage of the average wages
584 specified in the tax refund agreement which was achieved.

585 (f) The department, with such assistance as may be required
586 from the Department of Revenue, shall, by June 30 following the
587 scheduled date for submission of the tax refund claim, specify
588 by written order the approval or disapproval of the tax refund
589 claim and, if approved, the amount of the tax refund that is
590 authorized to be paid to the qualified target industry business
591 for the annual tax refund. The department may grant up to a 60-
592 day ~~an~~ extension of this date on the request of the qualified
593 target industry business for the purpose of filing additional
594 information in support of the claim.

595 Section 7. Paragraph (d) of subsection (1) and paragraph
596 (b) of subsection (3) of section 288.107, Florida Statutes, are
597 amended to read:

598 288.107 Brownfield redevelopment bonus refunds.—

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

600 (d) "Eligible business" means:

601 1. A qualified target industry business as defined in s.
602 288.106(2); or

603 2. A business that can demonstrate that it has made a fixed
604 capital investment of at least \$2 million in mixed-use business
605 activities, including multiunit housing, commercial, retail, and
606 industrial in brownfield areas eligible for bonus refunds, and
607 that provides benefits to its employees.

608 (3) CRITERIA.—The minimum criteria for participation in the
609 brownfield redevelopment bonus refund are:

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610 (b) The completion of a fixed capital investment of at
611 least \$2 million in mixed-use business activities, including
612 multiunit housing, commercial, retail, and industrial in
613 brownfield areas eligible for bonus refunds, by an eligible
614 business applying for a refund under paragraph (2) (b) which
615 provides benefits to its employees. As used in this paragraph,
616 the term "fixed capital investment" does not include state funds
617 used for the capital investment, including state funds
618 appropriated to public and private entities.

619 Section 8. Subsections (2), (3), and (4) of section
620 288.1088, Florida Statutes, are amended to read:

621 288.1088 Quick Action Closing Fund.—

622 (2) There is created within the department the Quick Action
623 Closing Fund. Except as provided in subsection (3), projects
624 eligible for receipt of funds from the Quick Action Closing Fund
625 must shall:

626 (a) Be in an industry as referenced in s. 288.106.

627 (b) Have a positive economic benefit ratio of at least 4 to
628 1 ~~5 to 1~~.

629 (c) Be an inducement to the project's location or expansion
630 in the state.

631 (d) Pay an average annual wage of at least 125 percent of
632 the average ~~areawide or statewide~~ private sector ~~average~~ wage in
633 the area. As used in this section, the term "average private
634 sector wage in the area" means the average of all private sector
635 wages in the county or in the standard metropolitan area in
636 which the project is located as determined by the department.

637 (e) Be supported by the local community in which the
638 project is to be located.

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639 (3) (a) The department and Enterprise Florida, Inc., shall
640 jointly review applications pursuant to s. 288.061 and determine
641 the eligibility of each project consistent with the criteria in
642 subsection (2).

643 (b) If the local governing body and Enterprise Florida,
644 Inc., decide to request a waiver of the criteria in subsection
645 (2), such request must be transmitted in writing to the
646 department with an explanation of the specific justification for
647 the request. If the department approves the request, the
648 decision must be stated in writing with an explanation of the
649 reason for approving the request.

650 (c) The department may not waive more than two of the
651 criteria in subsection (2), and a waiver may

652 ~~Waiver of these criteria may be considered only under the~~
653 ~~following criteria:~~

654 1. If the department determines the existence of ~~Based on~~
655 ~~extraordinary circumstances;~~

656 2. In order to mitigate the impact of the conclusion of the
657 space shuttle program; or

658 3. In rural areas of opportunity if the project would
659 significantly benefit the local or regional economy.

660 (d) The criteria in subsection (2) may not be waived if:

661 a. The economic benefit ratio would be below 2 to 1; or

662 b. The average annual wage would be below 100 percent of
663 the average private sector wage in the area.

664 (e) The criteria that the incentive be an inducement to the
665 project's location or expansion in this state may not be waived.

666 (4) ~~(b)~~ The department shall evaluate individual proposals
667 for high-impact business facilities. Such evaluation must

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668 include, but need not be limited to:

669 (a)1. A description of the type of facility or
670 infrastructure, its operations, and the associated product or
671 service associated with the facility.

672 (b)2. The minimum and maximum number of full-time-
673 equivalent jobs that will be created by the facility and the
674 total estimated average annual wages of those jobs or, in the
675 case of privately developed rural infrastructure, the types of
676 business activities and jobs stimulated by the investment.

677 (c)3. The cumulative amount of investment to be dedicated
678 to the facility within a specified period.

679 (d)4. A statement of any special impacts the facility is
680 expected to stimulate in a particular business sector in the
681 state or regional economy or in the state's universities and
682 community colleges.

683 (e)5. A statement of the role the incentive is expected to
684 play in the decision of the applicant business to locate or
685 expand in this state or for the private investor to provide
686 critical rural infrastructure.

687 (f)6. A report evaluating the quality and value of the
688 company submitting a proposal. The report must include:

689 1.a. A financial analysis of the company, including an
690 evaluation of the company's short-term liquidity ratio as
691 measured by its assets to liability, the company's profitability
692 ratio, and the company's long-term solvency as measured by its
693 debt-to-equity ratio;

694 2.b. The historical market performance of the company;

695 3.e. A review of any independent evaluations of the
696 company;

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697 ~~4.d.~~ A review of the latest audit of the company's
698 financial statement and the related auditor's management letter;
699 and

700 ~~5.e.~~ A review of any other types of audits that are related
701 to the internal and management controls of the company.

702 ~~(c)1. Within 7 business days after evaluating a project,~~
703 ~~the department shall recommend to the Governor approval or~~
704 ~~disapproval of a project for receipt of funds from the Quick~~
705 ~~Action Closing Fund. In recommending a project, the department~~
706 ~~shall include proposed performance conditions that the project~~
707 ~~must meet to obtain incentive funds.~~

708 ~~2. The Governor may approve projects without consulting the~~
709 ~~Legislature for projects requiring less than \$2 million in~~
710 ~~funding.~~

711 ~~3. For projects requiring funding in the amount of \$2~~
712 ~~million to \$5 million, the Governor shall provide a written~~
713 ~~description and evaluation of a project recommended for approval~~
714 ~~to the chair and vice chair of the Legislative Budget Commission~~
715 ~~at least 10 days prior to giving final approval for a project.~~
716 ~~The recommendation must include proposed performance conditions~~
717 ~~that the project must meet in order to obtain funds.~~

718 ~~4. If the chair or vice chair of the Legislative Budget~~
719 ~~Commission or the President of the Senate or the Speaker of the~~
720 ~~House of Representatives timely advises the Executive Office of~~
721 ~~the Governor, in writing, that such action or proposed action~~
722 ~~exceeds the delegated authority of the Executive Office of the~~
723 ~~Governor or is contrary to legislative policy or intent, the~~
724 ~~Executive Office of the Governor shall void the release of funds~~
725 ~~and instruct the department to immediately change such action or~~

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726 ~~proposed action until the Legislative Budget Commission or the~~
727 ~~Legislature addresses the issue. Notwithstanding such~~
728 ~~requirement, any project exceeding \$5 million must be approved~~
729 ~~by the Legislative Budget Commission prior to the funds being~~
730 ~~released.~~

731 (5) ~~(d)~~ Upon the approval of the Governor, the department
732 and the business shall enter into a contract that sets forth the
733 conditions for payment of moneys from the fund. Such payment may
734 not be made to the business until the scheduled goals have been
735 achieved. The contract must include the total amount of funds
736 awarded; the minimum and maximum amount of funds that may be
737 awarded, if applicable; the performance conditions that must be
738 met to obtain the award, including, but not limited to, net new
739 employment in the state, average salary, ~~and~~ total capital
740 investment incurred by the business, and the minimum and maximum
741 number of jobs that will be created, if applicable; demonstrate
742 a baseline of current service and a measure of enhanced
743 capability; the methodology for validating performance; the
744 schedule of payments from the fund; and sanctions for failure to
745 meet performance conditions. The contract must provide that
746 payment of moneys from the fund is contingent upon sufficient
747 appropriation of funds by the Legislature.

748 Section 9. Paragraph (b) of subsection (2), paragraphs (a)
749 and (d) of subsection (4), subsection (7), and paragraph (b) of
750 subsection (8) of section 288.1089, Florida Statutes, are
751 amended to read:

752 288.1089 Innovation Incentive Program.—

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

754 (b) "Average private sector wage in the area" means ~~the~~

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755 ~~statewide average wage in the private sector or~~ the average of
756 all private sector wages in the county or in the standard
757 metropolitan area in which the project is located as determined
758 by the department.

759 (4) To qualify for review by the department, the applicant
760 must, at a minimum, establish the following to the satisfaction
761 of the department:

762 (a) The jobs created by the project must pay an estimated
763 annual average wage equaling at least 130 percent of the average
764 private sector wage in the area. The department may waive this
765 average wage requirement at the request of Enterprise Florida,
766 Inc., for a project located in a rural area, a brownfield area,
767 or an enterprise zone, when the merits of the individual project
768 or the specific circumstances in the community in relationship
769 to the project warrant such action. A recommendation for waiver
770 by Enterprise Florida, Inc., must include a specific
771 justification for the waiver and be transmitted to the
772 department in writing. If the department elects to waive the
773 wage requirement, the waiver must be stated in writing and
774 explain ~~and~~ the reasons for granting the waiver ~~must be~~
775 ~~explained~~.

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

778 1. Demonstrate a plan for significant collaboration with an
779 institution of higher education;

780 2. Provide the state, at a minimum, a cumulative break-even
781 economic benefit within a 20-year period;

782 3. Include matching funds provided by the applicant or
783 other available sources. The match requirement may be reduced or

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784 waived in rural areas of opportunity or reduced in rural areas,
785 brownfield areas, and enterprise zones;

786 4. Be located in this state; and

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

790 (7) Upon receipt of the evaluation and recommendation from
791 the department, the Governor shall approve or deny an award
792 pursuant to s. 288.061. In recommending approval of an award,
793 the department shall include proposed performance conditions
794 that the applicant must meet in order to obtain incentive funds
795 and any other conditions that must be met before the receipt of
796 any incentive funds. ~~The Governor shall consult with the~~
797 ~~President of the Senate and the Speaker of the House of~~
798 ~~Representatives before giving approval for an award. Upon review~~
799 ~~and approval of an award by the Legislative Budget Commission,~~
800 ~~the Executive Office of the Governor shall release the funds.~~

801 (8)

802 (b) Additionally, ~~agreements signed on or after July 1,~~
803 ~~2009,~~ must include the following provisions:

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

809 2. A reinvestment requirement. Each recipient of an award
810 shall reinvest up to 15 percent of net royalty revenues,
811 including revenues from spin-off companies and the revenues from
812 the sale of stock it receives from the licensing or transfer of

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813 inventions, methods, processes, and other patentable discoveries
814 conceived or reduced to practice using its facilities in Florida
815 or its Florida-based employees, in whole or in part, and to
816 which the recipient of the grant becomes entitled during the 20
817 years following the effective date of its agreement with the
818 department. Each recipient of an award also shall reinvest up to
819 15 percent of the gross revenues it receives from naming
820 opportunities associated with any facility it builds in this
821 state. Reinvestment payments shall commence no later than 6
822 months after the recipient of the grant has received the final
823 disbursement under the contract and shall continue until the
824 maximum reinvestment, as specified in the contract, has been
825 paid. Reinvestment payments shall be remitted to the department
826 for deposit in the Biomedical Research Trust Fund for companies
827 specializing in biomedicine or life sciences, or in the Economic
828 Development Trust Fund for companies specializing in fields
829 other than biomedicine or the life sciences. If these trust
830 funds no longer exist at the time of the reinvestment, the
831 state's share of reinvestment shall be deposited in their
832 successor trust funds as determined by law. Each recipient of an
833 award shall annually submit a schedule of the shares of stock
834 held by it as payment of the royalty required by this paragraph
835 and report on any trades or activity concerning such stock. Each
836 recipient's reinvestment obligations survive the expiration or
837 termination of its agreement with the state.

838 3. Requirements for the establishment of internship
839 programs or other learning opportunities for educators and
840 secondary, postsecondary, graduate, and doctoral students.

841 4. A requirement that the recipient submit quarterly

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842 reports and annual reports related to activities and performance
843 to the department, according to standardized reporting periods.

844 5. A requirement for an annual accounting to the department
845 of the expenditure of funds disbursed under this section.

846 6. A process for amending the agreement.

847 Section 10. Subsection (1) is amended and subsection (5) is
848 added to section 288.905, Florida Statutes, to read:

849 288.905 President and employees of Enterprise Florida,
850 Inc.—

851 (1) The board of directors of Enterprise Florida, Inc.,
852 shall appoint a president, subject to confirmation by the
853 Senate, who shall serve at the pleasure of the Governor. The
854 president shall also be known as the "secretary of commerce" and
855 shall serve as the Governor's chief negotiator for business
856 recruitment and business expansion.

857 (5) For a period of 2 years following vacation of office, a
858 former president may not receive compensation for personally
859 representing before the legislative or executive branch of state
860 government an entity that applied for funding, received state
861 funds, or negotiated with Enterprise Florida, Inc., for the
862 receipt of state funds, regardless of whether the entity
863 actually received any state funds.

864 Section 11. The changes made to s. 288.905, Florida
865 Statutes, apply only to presidents who are appointed or
866 reappointed on or after July 1, 2015.

867 Section 12. Section 288.9937, Florida Statutes, is amended
868 to read:

869 288.9937 Evaluation of programs.—The Office of Economic and
870 Demographic Research and the Office of Program Policy Analysis

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871 and Government Accountability shall analyze and ~~7~~ evaluate, ~~and~~
872 ~~determine the economic benefits, as defined in s. 288.005, of~~
873 the first 3 years of the Microfinance Loan Program and the
874 Microfinance Guarantee Program. The analysis by the Office of
875 Economic and Demographic Research must ~~also~~ determine the
876 economic benefits, as defined in s. 288.005, evaluate the number
877 of jobs created, the increase or decrease in personal income,
878 and the impact on state gross domestic product from the direct,
879 indirect, and induced effects of the state's investment. The
880 analysis by the Office of Program Policy Analysis and Government
881 Accountability must ~~also~~ identify any inefficiencies in the
882 programs and provide recommendations for changes to the
883 programs. Each ~~The~~ office shall submit a report to the President
884 of the Senate and the Speaker of the House of Representatives by
885 January 15 ~~4~~, 2018. This section expires January 31, 2018.

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