

By the Council for Competitive Commerce and Representatives Andrews, Wallace, Alexander, Bullard, Ball, Farkas, McGriff, Allen, Baxley, Mayfield, Wishner, Seiler, Weissman, Kendrick and Brummer

1                                   A bill to be entitled  
2           An act relating to incentives to promote new  
3           product development; providing a short title;  
4           creating s. 288.1172, F.S.; providing  
5           definitions; providing for licensing of certain  
6           products or technologies by donor companies to  
7           receiving companies for production and  
8           marketing; providing duties of such companies,  
9           the Office of Tourism, Trade, and Economic  
10          Development, and the Department of Revenue;  
11          providing requirements for product development  
12          agreements; providing that donor companies may  
13          be granted a credit which may be used to fund  
14          sponsored research at a state university, as  
15          reimbursement for the purchase of machinery,  
16          equipment, or building supplies used in a  
17          Florida manufacturing facility, or as a  
18          corporate income tax credit; requiring the  
19          office to certify certain amounts to the  
20          department; requiring the department to make  
21          certain distributions; authorizing donor  
22          companies to elect to change the type of  
23          credit, payment, or reimbursement under certain  
24          circumstances; providing requirements for such  
25          election; creating s. 220.115, F.S.; requiring  
26          receiving companies to file a corporate tax  
27          return and remit to the state certain fees in  
28          addition to any corporate income tax due;  
29          relieving receiving companies of payments to  
30          donor companies under certain circumstances;  
31          providing remedies against a donor company when

1 a receiving company fails to remit funds;  
2 providing for application of administrative and  
3 penalty provisions of ch. 220, F.S.; creating  
4 s. 220.1825, F.S.; providing for a credit  
5 against the corporate income tax for donor  
6 companies that so elect; providing for  
7 carryover of the credit; providing for rules;  
8 amending s. 220.02, F.S.; providing order of  
9 credits against the corporate income tax;  
10 amending s. 212.20, F.S.; requiring the  
11 Department of Revenue to make certain  
12 distributions within a time certain under  
13 certain circumstances; providing an effective  
14 date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. This act may be cited as the "New Product  
19 Transfer Enhancement Act."

20 Section 2. Section 288.1172, Florida Statutes, is  
21 created to read:

22 288.1172 Licensing of products or technologies by  
23 donor companies to receiving companies; credits and use  
24 thereof.--

25 (1) The purpose of this section is to promote economic  
26 growth by providing an incentive for corporations which have  
27 developed or patented products or technologies they do not  
28 wish to develop further to license those items to companies  
29 located in Florida for production and marketing.

30 (2) As used in this section:  
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1       (a) "Annual statement of donor credit" means the  
2 statement produced by the Office of Tourism, Trade, and  
3 Economic Development for each donor company listing the total  
4 amount of credit available to the donor company for all of the  
5 product development agreements it has entered into. This  
6 statement shall also include any additional information  
7 specified in the product development agreement.

8       (b) "Annual statement of fees due" means the statement  
9 submitted by the receiving company to the Office of Tourism,  
10 Trade, and Economic Development and the Department of Revenue  
11 each year, which lists the amount of fees and royalties owed  
12 by it under the product development agreement to the donor  
13 company for the preceding calendar year. This statement shall  
14 also contain any additional information specified in the  
15 product development agreement.

16       (c) "Donor company" means an entity subject to the tax  
17 imposed by chapter 220 which has developed or holds the patent  
18 for a product or technology that it does not wish to develop  
19 itself and which has entered into a product development  
20 agreement.

21       (d) "Product development agreement" means a contract  
22 or series of contracts which provides the receiving company  
23 with the right to produce and market a product or technology  
24 which was developed or patented by the donor company.

25       (e) "Receiving company" means a business operating in  
26 Florida which has entered into a product development agreement  
27 for the purpose of obtaining the right to produce and market a  
28 product or technology from a donor company.

29       (3) The Office of Tourism, Trade, and Economic  
30 Development shall actively seek out corporations which may be  
31 interested in becoming donor companies and Florida businesses

1 which may be interested in becoming receiving companies and  
2 attempt to facilitate the formation of product development  
3 agreements.

4 (4) To qualify under this section, a product  
5 development agreement shall specify that a minimum of 75  
6 percent of the jobs created by the production of the new  
7 product or technology shall be located in Florida. In  
8 addition, the agreement shall specify the amount of  
9 compensation to be remitted by the receiving company for the  
10 license, and the type of credit the donor company has elected  
11 to receive. The agreement shall further provide for submission  
12 by the receiving company of an annual statement of fees due to  
13 both the Office of Tourism, Trade, and Economic Development  
14 and the Department of Revenue and shall specify the  
15 information to be included in the statement.

16 (5) Each receiving company shall submit an annual  
17 statement of fees due to the Office of Tourism, Trade, and  
18 Economic Development and the Department of Revenue by February  
19 1 each year, in a format approved by the Office of Tourism,  
20 Trade, and Economic Development. The Office of Tourism,  
21 Trade, and Economic Development shall be responsible for  
22 producing an annual statement of donor credit for each donor  
23 company using the information contained in the statements. The  
24 donor credit for each donor company shall equal 94.5 percent  
25 of the total of the amounts specified in the annual statements  
26 of fees due from all receiving companies with which it has  
27 entered into a product development agreement. In any year the  
28 total amount of credits granted under all annual statements of  
29 donor credit shall not exceed 94.5 percent of the amount due  
30 to the state under all annual statements of fees due.

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1           (6) The Office of Tourism, Trade, and Economic  
2 Development shall send the annual statement of donor credit to  
3 each donor company by March 1 each year. These statements  
4 shall contain the information specified by the product  
5 development agreement. The type of credit, payment, or  
6 reimbursement specified in the product development agreement  
7 cannot be changed for the initial tax year. A donor company  
8 may elect to change the type of credit, payment, or  
9 reimbursement in subsequent tax years by filing a written  
10 election with the Office of Tourism, Trade, and Economic  
11 Development in the format specified by the office. The  
12 election must be received by the Office of Tourism, Trade, and  
13 Economic Development at least 30 days prior to the due date  
14 for the annual statement of fees due for that tax year. A  
15 donor company may elect only one type of credit, payment, or  
16 reimbursement for a tax year. The Office of Tourism, Trade,  
17 and Economic Development shall also submit to the Department  
18 of Revenue a statement, in a format approved by the  
19 department, which certifies the amount of credit due to each  
20 donor company, the identities of the receiving companies from  
21 which those credits originated, and the type of credit the  
22 donor company has elected to receive. The Office of Tourism,  
23 Trade, and Economic Development shall certify to the  
24 Department of Revenue the amount of the corporate income tax  
25 credit, purchase price reimbursement, or payment of sponsored  
26 research elected by each donor company. Within 90 days after  
27 such certification, the Department of Revenue shall distribute  
28 purchase price reimbursements and sponsored research payments  
29 pursuant to s. 212.20(6)(d)7.e.  
30           (7) The donor company may elect to apply the amount  
31 specified in the annual statement of donor credit as a

1 corporate income tax credit under s. 220.1825, as a payment to  
2 a state university's division of sponsored research under  
3 subsection (8), or as a purchase price refund under subsection  
4 (9). In no case shall the combined benefits exceed the amount  
5 specified in the annual statement of donor credit.

6 (8) A donor company which is providing funding for  
7 sponsored research at a state university in this state may  
8 elect to use its donor credit to fund such research. If the  
9 donor company elects to apply its donor credit in this manner,  
10 it shall submit this request to the Department of Revenue on a  
11 form approved by the department. At a minimum, the form shall  
12 specify the donor company, the research being sponsored, and  
13 the state university at which the research is being conducted.  
14 The Department of Revenue shall then request the Office of the  
15 Comptroller to transfer to the appropriate university's  
16 division of sponsored research the amount shown on the donor  
17 company's annual statement of donor credit. The Office of the  
18 Comptroller and the Department of Revenue may adopt rules to  
19 implement this subsection.

20 (9) A donor company shall be eligible to receive a  
21 reimbursement for the purchase price paid on the purchase of  
22 machinery and equipment which is installed in any of its  
23 Florida manufacturing facilities, or for the building  
24 materials used in the construction or rehabilitation of any of  
25 its Florida manufacturing facilities. This reimbursement  
26 shall be limited to the amount shown on the annual statement  
27 of donor credit which the donor company has elected to apply  
28 as a purchase reimbursement. Application for such  
29 reimbursement shall be made on a form approved by the  
30 Department of Revenue and accompanied by any supporting  
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1 documentation required by the department. The Department of  
2 Revenue may adopt rules to implement this subsection.

3 Section 3. Section 220.115, Florida Statutes, is  
4 created to read:

5 220.115 Fees due from receiving companies pursuant to  
6 s. 288.1172.--In addition to the tax imposed by this chapter,  
7 any company which has entered into a product development  
8 agreement pursuant to s. 288.1172 as a receiving company shall  
9 remit to the state the funds listed as due on the annual  
10 statement of fees due which the company has submitted to both  
11 the Office of Tourism, Trade, and Economic Development and the  
12 Department of Revenue. Even if no tax is due under this  
13 chapter and a return would not normally be required, a Florida  
14 corporate income tax return shall be filed by the receiving  
15 company, and the funds listed on the annual statement of fees  
16 due shall be remitted to the department, subject to all filing  
17 requirements, fines, and penalties specified for returns and  
18 taxes due under this chapter. The payment to the state of the  
19 funds listed as due on the annual statement of fees shall  
20 discharge the receiving company from the payment to the donor  
21 company of these same funds. If a receiving company fails to  
22 timely remit to the Department of Revenue the funds listed as  
23 due on the annual statement of fees due, neither a corporate  
24 income tax credit, a payment for sponsored research, nor a  
25 purchase price reimbursement shall be allowed to the donor  
26 company for that tax year. The department may adopt rules  
27 requiring the information that it considers necessary to  
28 ensure that the funds due under this section are properly  
29 reported and paid, including, but not limited to, rules  
30 relating to the methods, forms (including returns to be filed  
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1 by the receiving companies), deadlines, and penalties for  
2 providing the information required under this section.

3 Section 4. Section 220.1825, Florida Statutes, is  
4 created to read:

5 220.1825 Credit for donor companies pursuant to s.  
6 288.1172.--A credit against the tax imposed by this chapter  
7 shall be allowed to a donor company which has entered into a  
8 product development agreement pursuant to s. 288.1172, and  
9 which has elected to apply its donor credit as a corporate  
10 income tax credit. Such credit shall be limited to 94.5  
11 percent of the amount stated in the annual statement of fees  
12 due submitted to the Office of Tourism, Trade, and Economic  
13 Development by the receiving companies. If any credit granted  
14 under this section is not fully used in the first year for  
15 which it becomes available, the unused amount may be carried  
16 forward for a period not to exceed 5 years. The Department of  
17 Revenue may adopt rules relating to the method of reporting  
18 and claiming this credit.

19 Section 5. Subsection (8) of section 220.02, Florida  
20 Statutes, is amended to read:

21 220.02 Legislative intent.--

22 (8) It is the intent of the Legislature that credits  
23 against either the corporate income tax or the franchise tax  
24 be applied in the following order: those enumerated in s.  
25 631.828, those enumerated in s. 220.191, those enumerated in  
26 s. 220.181, those enumerated in s. 220.183, those enumerated  
27 in s. 220.182, those enumerated in s. 220.1895, those  
28 enumerated in s. 221.02, those enumerated in s. 220.184, those  
29 enumerated in s. 220.186, those enumerated in s. 220.1845,  
30 those enumerated in s. 220.19, those enumerated in s. 220.185,  
31



1 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.  
2 220.1825.

3 Section 6. Paragraph (d) of subsection (6) of section  
4 212.20, Florida Statutes, is amended to read:

5 212.20 Funds collected, disposition; additional powers  
6 of department; operational expense; refund of taxes  
7 adjudicated unconstitutionally collected.--

8 (6) Distribution of all proceeds under this chapter  
9 and s. 202.18(1)(b) and (2)(b) shall be as follows:

10 (d) The proceeds of all other taxes and fees imposed  
11 pursuant to this chapter or remitted pursuant to s.  
12 202.18(1)(b) and (2)(b) shall be distributed as follows:

13 1. In any fiscal year, the greater of \$500 million,  
14 minus an amount equal to 4.6 percent of the proceeds of the  
15 taxes collected pursuant to chapter 201, or 5 percent of all  
16 other taxes and fees imposed pursuant to this chapter or  
17 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be  
18 deposited in monthly installments into the General Revenue  
19 Fund.

20 2. Two-tenths of one percent shall be transferred to  
21 the Solid Waste Management Trust Fund.

22 3. After the distribution under subparagraphs 1. and  
23 2., 9.653 percent of the amount remitted by a sales tax dealer  
24 located within a participating county pursuant to s. 218.61  
25 shall be transferred into the Local Government Half-cent Sales  
26 Tax Clearing Trust Fund.

27 4. After the distribution under subparagraphs 1., 2.,  
28 and 3., 0.065 percent shall be transferred to the Local  
29 Government Half-cent Sales Tax Clearing Trust Fund and  
30 distributed pursuant to s. 218.65.

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1           5. For proceeds received after July 1, 2000, and after  
2 the distributions under subparagraphs 1., 2., 3., and 4., 2.25  
3 percent of the available proceeds pursuant to this paragraph  
4 shall be transferred monthly to the Revenue Sharing Trust Fund  
5 for Counties pursuant to s. 218.215.

6           6. For proceeds received after July 1, 2000, and after  
7 the distributions under subparagraphs 1., 2., 3., and 4.,  
8 1.0715 percent of the available proceeds pursuant to this  
9 paragraph shall be transferred monthly to the Revenue Sharing  
10 Trust Fund for Municipalities pursuant to s. 218.215. If the  
11 total revenue to be distributed pursuant to this subparagraph  
12 is at least as great as the amount due from the Revenue  
13 Sharing Trust Fund for Municipalities and the Municipal  
14 Financial Assistance Trust Fund in state fiscal year  
15 1999-2000, no municipality shall receive less than the amount  
16 due from the Revenue Sharing Trust Fund for Municipalities and  
17 the Municipal Financial Assistance Trust Fund in state fiscal  
18 year 1999-2000. If the total proceeds to be distributed are  
19 less than the amount received in combination from the Revenue  
20 Sharing Trust Fund for Municipalities and the Municipal  
21 Financial Assistance Trust Fund in state fiscal year  
22 1999-2000, each municipality shall receive an amount  
23 proportionate to the amount it was due in state fiscal year  
24 1999-2000.

25           7. Of the remaining proceeds:

26           a. Beginning July 1, 2000, and in each fiscal year  
27 thereafter, the sum of \$29,915,500 shall be divided into as  
28 many equal parts as there are counties in the state, and one  
29 part shall be distributed to each county. The distribution  
30 among the several counties shall begin each fiscal year on or  
31 before January 5th and shall continue monthly for a total of 4

1 months. If a local or special law required that any moneys  
2 accruing to a county in fiscal year 1999-2000 under the  
3 then-existing provisions of s. 550.135 be paid directly to the  
4 district school board, special district, or a municipal  
5 government, such payment shall continue until such time that  
6 the local or special law is amended or repealed. The state  
7 covenants with holders of bonds or other instruments of  
8 indebtedness issued by local governments, special districts,  
9 or district school boards prior to July 1, 2000, that it is  
10 not the intent of this subparagraph to adversely affect the  
11 rights of those holders or relieve local governments, special  
12 districts, or district school boards of the duty to meet their  
13 obligations as a result of previous pledges or assignments or  
14 trusts entered into which obligated funds received from the  
15 distribution to county governments under then-existing s.  
16 550.135. This distribution specifically is in lieu of funds  
17 distributed under s. 550.135 prior to July 1, 2000.

18         b. The department shall distribute \$166,667 monthly  
19 pursuant to s. 288.1162 to each applicant that has been  
20 certified as a "facility for a new professional sports  
21 franchise" or a "facility for a retained professional sports  
22 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
23 distributed monthly by the department to each applicant that  
24 has been certified as a "facility for a retained spring  
25 training franchise" pursuant to s. 288.1162; however, not more  
26 than \$208,335 may be distributed monthly in the aggregate to  
27 all certified facilities for a retained spring training  
28 franchise. Distributions shall begin 60 days following such  
29 certification and shall continue for not more than 30 years.  
30 Nothing contained in this paragraph shall be construed to  
31 allow an applicant certified pursuant to s. 288.1162 to

1 receive more in distributions than actually expended by the  
2 applicant for the public purposes provided for in s.  
3 288.1162(6). However, a certified applicant is entitled to  
4 receive distributions up to the maximum amount allowable and  
5 undistributed under this section for additional renovations  
6 and improvements to the facility for the franchise without  
7 additional certification.

8 c. Beginning 30 days after notice by the Office of  
9 Tourism, Trade, and Economic Development to the Department of  
10 Revenue that an applicant has been certified as the  
11 professional golf hall of fame pursuant to s. 288.1168 and is  
12 open to the public, \$166,667 shall be distributed monthly, for  
13 up to 300 months, to the applicant.

14 d. Beginning 30 days after notice by the Office of  
15 Tourism, Trade, and Economic Development to the Department of  
16 Revenue that the applicant has been certified as the  
17 International Game Fish Association World Center facility  
18 pursuant to s. 288.1169, and the facility is open to the  
19 public, \$83,333 shall be distributed monthly, for up to 168  
20 months, to the applicant. This distribution is subject to  
21 reduction pursuant to s. 288.1169. A lump sum payment of  
22 \$999,996 shall be made, after certification and before July 1,  
23 2000.

24 e. Within 90 days after issuance of the annual  
25 statement of donor credit by the Office of Tourism, Trade, and  
26 Economic Development to the Department of Revenue certifying  
27 the amount to be paid to each corporation that is due a  
28 purchase price refund or payment for sponsored research  
29 pursuant to s. 288.1172, the department shall distribute such  
30 amount to each corporation using proceeds as provided in this  
31 subparagraph.

1           8. All other proceeds shall remain with the General  
2 Revenue Fund.  
3           Section 7. This act shall take effect January 1, 2003.  
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