

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 and the Department of Revenue; providing
10 requirements for product development
11 agreements; providing that donor companies may
12 be granted a credit which may be used to fund
13 sponsored research at a state university, as
14 reimbursement for the purchase of machinery,
15 equipment, or building supplies used in a
16 Florida manufacturing facility, or as a
17 corporate income tax credit; requiring the
18 office to certify certain amounts to the
19 department; requiring the department to make
20 certain distributions; authorizing donor
21 companies to elect to change the type of
22 credit, payment, or reimbursement under certain
23 circumstances; providing requirements for such
24 election; creating s. 220.115, F.S.; requiring
25 receiving companies to file a corporate tax
26 return and remit to the state certain fees in
27 addition to any corporate income tax due;
28 relieving receiving companies of payments to
29 donor companies under certain circumstances;
30 providing remedies against a donor company when
31 a receiving company fails to remit funds;

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

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

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

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

21 288.1172 Licensing of products or technologies by
22 donor companies to receiving companies; credits and use
23 thereof.--

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

29 (2) As used in this section:

30 (a) "Annual statement of donor credit" means the
31 statement produced by the Department of Revenue for each donor

1 company listing the total amount of credit available to the
2 donor company for all of the product development agreements it
3 has entered into. This statement shall also include any
4 additional information specified in the product development
5 agreement.

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

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

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

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

26 (3) To qualify under this section, a product
27 development agreement shall specify that a minimum of 75
28 percent of the jobs created by the production of the new
29 product or technology shall be located in Florida. In
30 addition, the agreement shall specify the amount of
31 compensation to be remitted by the receiving company for the

1 license, and the type of credit the donor company has elected
2 to receive. The agreement shall further provide for submission
3 by the receiving company of an annual statement of fees due to
4 both the Office of Tourism, Trade, and Economic Development
5 and the Department of Revenue and shall specify the
6 information to be included in the statement.

7 (4) Each receiving company shall submit an annual
8 statement of fees due to the Department of Revenue by February
9 1 each year, in a format developed by the department. The
10 department shall be responsible for producing an annual
11 statement of donor credit for each donor company using the
12 information contained in the statements. The donor credit for
13 each donor company shall equal 94.5 percent of the total of
14 the amounts specified in the annual statements of fees due
15 from all receiving companies with which it has entered into a
16 product development agreement. In any year the total amount of
17 credits granted under all annual statements of donor credit
18 shall not exceed 94.5 percent of the amount due to the state
19 under all annual statements of fees due.

20 (5) The Department of Revenue shall send the annual
21 statement of donor credit to each donor company by March 1
22 each year. These statements shall contain the information
23 specified by the product development agreement. The
24 department shall specify, in a format developed by the
25 department, the amount of credit due to each donor company,
26 the identities of the receiving companies from which those
27 credits originated, and the type of credit the donor company
28 has elected to receive.

29 (6) The donor company may elect to apply the amount
30 specified in the annual statement of donor credit as a
31 corporate income tax credit under s. 220.1825, as a payment to

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

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

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

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

3 220.115 Fees due from receiving companies pursuant to
4 s. 288.1172.--In addition to the tax imposed by this chapter,
5 any company which has entered into a product development
6 agreement pursuant to s. 288.1172 as a receiving company shall
7 remit to the state the funds listed as due on the annual
8 statement of fees due which the company has submitted to the
9 Department of Revenue. Even if no tax is due under this
10 chapter and a return would not normally be required, a Florida
11 corporate income tax return shall be filed by the receiving
12 company, and the funds listed on the annual statement of fees
13 due shall be remitted to the department, subject to all filing
14 requirements, fines, and penalties specified for returns and
15 taxes due under this chapter. The department may adopt rules
16 requiring the information that it considers necessary to
17 ensure that the funds due under this section are properly
18 reported and paid, including, but not limited to, rules
19 relating to the methods, forms (including returns to be filed
20 by the receiving companies), deadlines, and penalties for
21 providing the information required under this section.

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

24 220.1825 Credit for donor companies pursuant to s.
25 288.1172.--A credit against the tax imposed by this chapter
26 shall be allowed to a donor company which has entered into a
27 product development agreement pursuant to s. 288.1172, and
28 which has elected to apply its donor credit as a corporate
29 income tax credit. Such credit shall be limited to 94.5
30 percent of the amount stated in the annual statement of fees
31 due submitted to the Department of Revenue by the receiving

1 companies. If any credit granted under this section is not
2 fully used in the first year for which it becomes available,
3 the unused amount may be carried forward for a period not to
4 exceed 5 years. The Department of Revenue may adopt rules
5 relating to the method of reporting and claiming this credit.

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

8 220.02 Legislative intent.--

9 (8) It is the intent of the Legislature that credits
10 against either the corporate income tax or the franchise tax
11 be applied in the following order: those enumerated in s.
12 631.828, those enumerated in s. 220.191, those enumerated in
13 s. 220.181, those enumerated in s. 220.183, those enumerated
14 in s. 220.182, those enumerated in s. 220.1895, those
15 enumerated in s. 221.02, those enumerated in s. 220.184, those
16 enumerated in s. 220.186, those enumerated in s. 220.1845,
17 those enumerated in s. 220.19, those enumerated in s. 220.185,
18 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
19 220.1825.

20 Section 6. Paragraph (d) of subsection (6) of section
21 212.20, Florida Statutes, is amended to read:

22 212.20 Funds collected, disposition; additional powers
23 of department; operational expense; refund of taxes
24 adjudicated unconstitutionally collected.--

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

27 (d) The proceeds of all other taxes and fees imposed
28 pursuant to this chapter or remitted pursuant to s.

29 202.18(1)(b) and (2)(b) shall be distributed as follows:

30 1. In any fiscal year, the greater of \$500 million,
31 minus an amount equal to 4.6 percent of the proceeds of the

1 taxes collected pursuant to chapter 201, or 5 percent of all
2 other taxes and fees imposed pursuant to this chapter or
3 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be
4 deposited in monthly installments into the General Revenue
5 Fund.

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

8 3. After the distribution under subparagraphs 1. and
9 2., 9.653 percent of the amount remitted by a sales tax dealer
10 located within a participating county pursuant to s. 218.61
11 shall be transferred into the Local Government Half-cent Sales
12 Tax Clearing Trust Fund.

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

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

22 6. For proceeds received after July 1, 2000, and after
23 the distributions under subparagraphs 1., 2., 3., and 4.,
24 1.0715 percent of the available proceeds pursuant to this
25 paragraph shall be transferred monthly to the Revenue Sharing
26 Trust Fund for Municipalities pursuant to s. 218.215. If the
27 total revenue to be distributed pursuant to this subparagraph
28 is at least as great as the amount due from the Revenue
29 Sharing Trust Fund for Municipalities and the Municipal
30 Financial Assistance Trust Fund in state fiscal year
31 1999-2000, no municipality shall receive less than the amount

1 due from the Revenue Sharing Trust Fund for Municipalities and
2 the Municipal Financial Assistance Trust Fund in state fiscal
3 year 1999-2000. If the total proceeds to be distributed are
4 less than the amount received in combination from the Revenue
5 Sharing Trust Fund for Municipalities and the Municipal
6 Financial Assistance Trust Fund in state fiscal year
7 1999-2000, each municipality shall receive an amount
8 proportionate to the amount it was due in state fiscal year
9 1999-2000.

10 7. Of the remaining proceeds:

11 a. Beginning July 1, 2000, and in each fiscal year
12 thereafter, the sum of \$29,915,500 shall be divided into as
13 many equal parts as there are counties in the state, and one
14 part shall be distributed to each county. The distribution
15 among the several counties shall begin each fiscal year on or
16 before January 5th and shall continue monthly for a total of 4
17 months. If a local or special law required that any moneys
18 accruing to a county in fiscal year 1999-2000 under the
19 then-existing provisions of s. 550.135 be paid directly to the
20 district school board, special district, or a municipal
21 government, such payment shall continue until such time that
22 the local or special law is amended or repealed. The state
23 covenants with holders of bonds or other instruments of
24 indebtedness issued by local governments, special districts,
25 or district school boards prior to July 1, 2000, that it is
26 not the intent of this subparagraph to adversely affect the
27 rights of those holders or relieve local governments, special
28 districts, or district school boards of the duty to meet their
29 obligations as a result of previous pledges or assignments or
30 trusts entered into which obligated funds received from the
31 distribution to county governments under then-existing s.

1 550.135. This distribution specifically is in lieu of funds
2 distributed under s. 550.135 prior to July 1, 2000.

3 b. The department shall distribute \$166,667 monthly
4 pursuant to s. 288.1162 to each applicant that has been
5 certified as a "facility for a new professional sports
6 franchise" or a "facility for a retained professional sports
7 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
8 distributed monthly by the department to each applicant that
9 has been certified as a "facility for a retained spring
10 training franchise" pursuant to s. 288.1162; however, not more
11 than \$208,335 may be distributed monthly in the aggregate to
12 all certified facilities for a retained spring training
13 franchise. Distributions shall begin 60 days following such
14 certification and shall continue for not more than 30 years.
15 Nothing contained in this paragraph shall be construed to
16 allow an applicant certified pursuant to s. 288.1162 to
17 receive more in distributions than actually expended by the
18 applicant for the public purposes provided for in s.
19 288.1162(6). However, a certified applicant is entitled to
20 receive distributions up to the maximum amount allowable and
21 undistributed under this section for additional renovations
22 and improvements to the facility for the franchise without
23 additional certification.

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

30 d. Beginning 30 days after notice by the Office of
31 Tourism, Trade, and Economic Development to the Department of

1 Revenue that the applicant has been certified as the
2 International Game Fish Association World Center facility
3 pursuant to s. 288.1169, and the facility is open to the
4 public, \$83,333 shall be distributed monthly, for up to 168
5 months, to the applicant. This distribution is subject to
6 reduction pursuant to s. 288.1169. A lump sum payment of
7 \$999,996 shall be made, after certification and before July 1,
8 2000.

9 e. Within 90 days after issuance of the annual
10 statement of donor credit by the Office of Tourism, Trade, and
11 Economic Development to the Department of Revenue certifying
12 the amount to be paid to each corporation that is due a
13 purchase price refund or payment for sponsored research
14 pursuant to s. 288.1172, the department shall distribute such
15 amount to each corporation using proceeds as provided in this
16 subparagraph.

17 8. All other proceeds shall remain with the General
18 Revenue Fund.

19 Section 7. This act shall take effect January 1, 2003.
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