

By Representative Andrews

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 effective  
13 dates.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
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 tax year which it has  
11 paid to the department. This statement shall also contain any  
12 additional information specified in the product development  
13 agreement and shall contain a copy of the product development  
14 agreement.

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

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

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

28 (3) To qualify under this section, a product  
29 development agreement shall specify that a minimum of 75  
30 percent of the jobs created by the production of the new  
31 product or technology shall be located in this state. In

1 addition, the agreement shall specify the amount of  
2 compensation to be remitted by the receiving company for the  
3 license, and the type of credit the donor company has elected  
4 to receive. The agreement shall further provide for submission  
5 by the receiving company of an annual statement of fees due to  
6 the Department of Revenue and shall specify the information to  
7 be included in the statement.

8 (4) Each receiving company shall submit an annual  
9 statement of fees due to the Department of Revenue within 30  
10 days after filing its corporate income tax return for this  
11 state for the preceding tax year, in a format developed by the  
12 department. The department shall be responsible for producing  
13 an annual statement of donor credit for each donor company  
14 using the information contained in the statements. The donor  
15 credit for each donor company shall equal 94.5 percent of the  
16 total of the amounts specified in the annual statements of  
17 fees due from all receiving companies with which it has  
18 entered into a product development agreement. In any year the  
19 total amount of credits granted under all annual statements of  
20 donor credit shall not exceed 94.5 percent of the amount due  
21 to the state under all annual statements of fees due.

22 (5) The Department of Revenue shall send the annual  
23 statement of donor credit to each donor company within 90 days  
24 after the receipt of the annual statement of fees due. These  
25 statements shall contain the information specified by the  
26 product development agreement. The department shall specify,  
27 in a format developed by the department, the amount of credit  
28 due to each donor company based upon the funds paid to the  
29 department by the receiving company for the preceding tax  
30 year, the identities of the receiving companies from which  
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1 those credits originated, and the type of credit the donor  
2 company has elected to receive.

3 (6) The donor company may elect to apply the amount  
4 specified in the annual statement of donor credit as a  
5 corporate income tax credit under s. 220.1825, as a payment to  
6 a state university's division of sponsored research under  
7 subsection (7), or as a purchase price refund under subsection  
8 (8). In no case shall the combined benefits exceed the amount  
9 specified in the annual statement of donor credit.

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

24 (8) A donor company shall be eligible to receive a  
25 reimbursement for the purchase price paid on the purchase of  
26 machinery and equipment which is installed in a Florida  
27 manufacturing facility, or for the building materials used in  
28 the construction or rehabilitation of a Florida manufacturing  
29 facility. This reimbursement shall be limited to the amount  
30 shown on the annual statement of donor credit which the donor  
31 company has elected to apply as a purchase reimbursement.

1 Application for such reimbursement shall be made on a form  
2 approved by the Department of Revenue and accompanied by any  
3 supporting documentation required by the department. The  
4 Department of Revenue may adopt rules to implement this  
5 subsection.

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

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

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

30 220.1825 Credit for donor companies pursuant to s.  
31 288.1172.--A credit against the tax imposed by this chapter

1 shall be allowed to a donor company which has entered into a  
2 product development agreement pursuant to s. 288.1172, and  
3 which has elected to apply its donor credit as a corporate  
4 income tax credit. Such credit shall be limited to 94.5  
5 percent of the amount stated in the annual statement of fees  
6 due submitted to the Department of Revenue by the receiving  
7 companies. If any credit granted under this section is not  
8 fully used in the first year for which it becomes available,  
9 the unused amount may be carried forward for a period not to  
10 exceed 5 years. The Department of Revenue may adopt rules  
11 relating to the method of reporting and claiming this credit.

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

14 220.02 Legislative intent.--

15 (8) It is the intent of the Legislature that credits  
16 against either the corporate income tax or the franchise tax  
17 be applied in the following order: those enumerated in s.  
18 631.828, those enumerated in s. 220.191, those enumerated in  
19 s. 220.181, those enumerated in s. 220.183, those enumerated  
20 in s. 220.182, those enumerated in s. 220.1895, those  
21 enumerated in s. 221.02, those enumerated in s. 220.184, those  
22 enumerated in s. 220.186, those enumerated in s. 220.1845,  
23 those enumerated in s. 220.19, those enumerated in s. 220.185,  
24 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.  
25 220.1825.

26 Section 6. Paragraph (d) of subsection (6) of section  
27 212.20, Florida Statutes, is amended to read:

28 212.20 Funds collected, disposition; additional powers  
29 of department; operational expense; refund of taxes  
30 adjudicated unconstitutionally collected.--

31

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

3           (d) The proceeds of all other taxes and fees imposed  
4 pursuant to this chapter or remitted pursuant to s.  
5 202.18(1)(b) and (2)(b) shall be distributed as follows:

6           1. In any fiscal year, the greater of \$500 million,  
7 minus an amount equal to 4.6 percent of the proceeds of the  
8 taxes collected pursuant to chapter 201, or 5 percent of all  
9 other taxes and fees imposed pursuant to this chapter or  
10 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be  
11 deposited in monthly installments into the General Revenue  
12 Fund.

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

15           3. After the distribution under subparagraphs 1. and  
16 2., 9.653 percent of the amount remitted by a sales tax dealer  
17 located within a participating county pursuant to s. 218.61  
18 shall be transferred into the Local Government Half-cent Sales  
19 Tax Clearing Trust Fund.

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

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

29           6. For proceeds received after July 1, 2000, and after  
30 the distributions under subparagraphs 1., 2., 3., and 4.,  
31 1.0715 percent of the available proceeds pursuant to this



1 paragraph shall be transferred monthly to the Revenue Sharing  
2 Trust Fund for Municipalities pursuant to s. 218.215. If the  
3 total revenue to be distributed pursuant to this subparagraph  
4 is at least as great as the amount due from the Revenue  
5 Sharing Trust Fund for Municipalities and the Municipal  
6 Financial Assistance Trust Fund in state fiscal year  
7 1999-2000, no municipality shall receive less than the amount  
8 due from the Revenue Sharing Trust Fund for Municipalities and  
9 the Municipal Financial Assistance Trust Fund in state fiscal  
10 year 1999-2000. If the total proceeds to be distributed are  
11 less than the amount received in combination from the Revenue  
12 Sharing Trust Fund for Municipalities and the Municipal  
13 Financial Assistance Trust Fund in state fiscal year  
14 1999-2000, each municipality shall receive an amount  
15 proportionate to the amount it was due in state fiscal year  
16 1999-2000.

17           7. Of the remaining proceeds:

18           a. Beginning July 1, 2000, and in each fiscal year  
19 thereafter, the sum of \$29,915,500 shall be divided into as  
20 many equal parts as there are counties in the state, and one  
21 part shall be distributed to each county. The distribution  
22 among the several counties shall begin each fiscal year on or  
23 before January 5th and shall continue monthly for a total of 4  
24 months. If a local or special law required that any moneys  
25 accruing to a county in fiscal year 1999-2000 under the  
26 then-existing provisions of s. 550.135 be paid directly to the  
27 district school board, special district, or a municipal  
28 government, such payment shall continue until such time that  
29 the local or special law is amended or repealed. The state  
30 covenants with holders of bonds or other instruments of  
31 indebtedness issued by local governments, special districts,

1 or district school boards prior to July 1, 2000, that it is  
2 not the intent of this subparagraph to adversely affect the  
3 rights of those holders or relieve local governments, special  
4 districts, or district school boards of the duty to meet their  
5 obligations as a result of previous pledges or assignments or  
6 trusts entered into which obligated funds received from the  
7 distribution to county governments under then-existing s.  
8 550.135. This distribution specifically is in lieu of funds  
9 distributed under s. 550.135 prior to July 1, 2000.

10         b. The department shall distribute \$166,667 monthly  
11 pursuant to s. 288.1162 to each applicant that has been  
12 certified as a "facility for a new professional sports  
13 franchise" or a "facility for a retained professional sports  
14 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
15 distributed monthly by the department to each applicant that  
16 has been certified as a "facility for a retained spring  
17 training franchise" pursuant to s. 288.1162; however, not more  
18 than \$208,335 may be distributed monthly in the aggregate to  
19 all certified facilities for a retained spring training  
20 franchise. Distributions shall begin 60 days following such  
21 certification and shall continue for not more than 30 years.  
22 Nothing contained in this paragraph shall be construed to  
23 allow an applicant certified pursuant to s. 288.1162 to  
24 receive more in distributions than actually expended by the  
25 applicant for the public purposes provided for in s.  
26 288.1162(6). However, a certified applicant is entitled to  
27 receive distributions up to the maximum amount allowable and  
28 undistributed under this section for additional renovations  
29 and improvements to the facility for the franchise without  
30 additional certification.

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

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

17           e. Within 90 days after issuance of the annual  
18 statement of donor credit by the Department of Revenue  
19 certifying the amount to be paid to each corporation that is  
20 due a purchase price refund or payment for sponsored research  
21 pursuant to s. 288.1172, the department shall distribute such  
22 amount to each corporation using proceeds as provided in this  
23 subparagraph.

24           8. All other proceeds shall remain with the General  
25 Revenue Fund.

26           Section 7. Effective July 1, 2003, paragraph (d) of  
27 subsection (6) of section 212.20, Florida Statutes, as amended  
28 by chapter 2002- , Laws of Florida, is amended to read:

29           212.20 Funds collected, disposition; additional powers  
30 of department; operational expense; refund of taxes  
31 adjudicated unconstitutionally collected.--

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

3           (d) The proceeds of all other taxes and fees imposed  
4 pursuant to this chapter or remitted pursuant to s.  
5 202.18(1)(b) and (2)(b) shall be distributed as follows:

6           1. In any fiscal year, the greater of \$500 million,  
7 minus an amount equal to 4.6 percent of the proceeds of the  
8 taxes collected pursuant to chapter 201, or 5 percent of all  
9 other taxes and fees imposed pursuant to this chapter or  
10 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be  
11 deposited in monthly installments into the General Revenue  
12 Fund.

13           2. Two-tenths of one percent shall be transferred to  
14 the Ecosystem Management and Restoration Trust Fund to be used  
15 for water quality improvement and water restoration projects.

16           3. After the distribution under subparagraphs 1. and  
17 2., 9.653 percent of the amount remitted by a sales tax dealer  
18 located within a participating county pursuant to s. 218.61  
19 shall be transferred into the Local Government Half-cent Sales  
20 Tax Clearing Trust Fund.

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

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

30           6. For proceeds received after July 1, 2000, and after  
31 the distributions under subparagraphs 1., 2., 3., and 4.,

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

18 7. Of the remaining proceeds:

19 a. Beginning July 1, 2000, and in each fiscal year  
20 thereafter, the sum of \$29,915,500 shall be divided into as  
21 many equal parts as there are counties in the state, and one  
22 part shall be distributed to each county. The distribution  
23 among the several counties shall begin each fiscal year on or  
24 before January 5th and shall continue monthly for a total of 4  
25 months. If a local or special law required that any moneys  
26 accruing to a county in fiscal year 1999-2000 under the  
27 then-existing provisions of s. 550.135 be paid directly to the  
28 district school board, special district, or a municipal  
29 government, such payment shall continue until such time that  
30 the local or special law is amended or repealed. The state  
31 covenants with holders of bonds or other instruments of

1 indebtedness issued by local governments, special districts,  
2 or district school boards prior to July 1, 2000, that it is  
3 not the intent of this subparagraph to adversely affect the  
4 rights of those holders or relieve local governments, special  
5 districts, or district school boards of the duty to meet their  
6 obligations as a result of previous pledges or assignments or  
7 trusts entered into which obligated funds received from the  
8 distribution to county governments under then-existing s.  
9 550.135. This distribution specifically is in lieu of funds  
10 distributed under s. 550.135 prior to July 1, 2000.

11         b. The department shall distribute \$166,667 monthly  
12 pursuant to s. 288.1162 to each applicant that has been  
13 certified as a "facility for a new professional sports  
14 franchise" or a "facility for a retained professional sports  
15 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
16 distributed monthly by the department to each applicant that  
17 has been certified as a "facility for a retained spring  
18 training franchise" pursuant to s. 288.1162; however, not more  
19 than \$208,335 may be distributed monthly in the aggregate to  
20 all certified facilities for a retained spring training  
21 franchise. Distributions shall begin 60 days following such  
22 certification and shall continue for not more than 30 years.  
23 Nothing contained in this paragraph shall be construed to  
24 allow an applicant certified pursuant to s. 288.1162 to  
25 receive more in distributions than actually expended by the  
26 applicant for the public purposes provided for in s.  
27 288.1162(6). However, a certified applicant is entitled to  
28 receive distributions up to the maximum amount allowable and  
29 undistributed under this section for additional renovations  
30 and improvements to the facility for the franchise without  
31 additional certification.

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

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

17           e. Within 90 days after issuance of the annual  
18 statement of donor credit by the Department of Revenue  
19 certifying the amount to be paid to each corporation that is  
20 due a purchase price refund or payment for sponsored research  
21 pursuant to s. 288.1172, the department shall distribute such  
22 amount to each corporation using proceeds as provided in this  
23 subparagraph.

24           8. All other proceeds shall remain with the General  
25 Revenue Fund.

26           Section 8. This act shall take effect upon becoming a  
27 law.

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HOUSE SUMMARY

Creates the New Product Transfer Enhancement Act. Provides for licensing of products or technologies by donor companies to receiving companies for production and marketing. Provides duties of such companies and the Department of Revenue. Provides that donor companies may be granted a credit which may be used to fund sponsored research at a state university, as reimbursement for the purchase of machinery, equipment, or building supplies used in a Florida manufacturing facility, or as a corporate income tax credit. Provides requirements for product development agreements. Requires receiving companies to file a corporate tax return and remit fees to the state in addition to any corporate income tax due. Provides for application of administrative and penalty provisions of chapter 220, Florida Statutes.