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A bill to be entitled

An act relating to the Economic Investment Mega Fund Incentive; creating s. 288.1089, F.S.; providing legislative findings; creating the Economic Investment Mega Fund Incentive within the Office of Tourism, Trade, and Economic Development for certain purposes; providing definitions; providing an incentive award limitation; providing for award application and eligibility; providing business qualification requirements; providing proposal evaluation and recommendations requirements for Enterprise Florida, Inc.; providing for negotiation of award amounts by the office; providing for agreements for payments of certain moneys under certain circumstances; providing criteria for project approval or disapproval; providing for incentive payment agreements; requiring Enterprise Florida, Inc., to assist the office in validating certain business performances; requiring a report; authorizing the office to allocate certain funds for certain purposes; amending s. 288.1088, F.S.; requiring the Executive Office of the Governor to recommend approval of certain projects and release of certain funds under certain circumstances; requiring performance conditions for funds release; providing an effective date.

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

Section 1. Section 288.1089, Florida Statutes, is created to read:

288.1089 Economic Investment Mega Fund Incentive.--

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30       (1) LEGISLATIVE FINDINGS; CREATION OF ECONOMIC INVESTMENT  
31 MEGA FUND INCENTIVE.--

32       (a) The Legislature finds that attracting, retaining, and  
33 providing favorable conditions for the growth of certain high-  
34 impact business facilities in this state provides widespread  
35 economic benefits to the public through high-quality employment  
36 opportunities in such facilities and in related facilities  
37 attracted to this state or region through an enhanced  
38 entrepreneurial climate in the state or region, and the  
39 resulting business and employment opportunities, and through the  
40 stimulation and enhancement of the state's universities and  
41 community colleges. Serious regional, national, and  
42 international competition exists for these facilities and in  
43 most instances, when all available resources for economic  
44 development have been used, the state continues to encounter  
45 severe competitive disadvantages in vying for these business  
46 facilities.

47       (b) The Legislature therefore hereby creates the Economic  
48 Investment Mega Fund Incentive within the Office of Tourism,  
49 Trade, and Economic Development to ensure that sufficient  
50 resources shall be available to respond to extraordinary  
51 economic opportunities and to compete effectively for these  
52 high-impact business facilities.

53       (2) DEFINITIONS.--As used in this section:

54       (a) "Competitive gap" means the difference between the  
55 cost of locating the project in this state versus identified  
56 locations under consideration in other states or countries when  
57 the total cost of start up and operations, incentive offers, and  
58 other relevant factors are considered in this state versus those  
59 alternate locations.

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60 (b) "Cumulative investment" means the total private  
61 investment in buildings and equipment made by a qualified  
62 business since the beginning of construction of such facility.

63 (c) "Director" means the director of the Office of  
64 Tourism, Trade, and Economic Development.

65 (d) "Eligible business" means a business meeting the  
66 requirements of subsection (5).

67 (e) "Fiscal year" means the state fiscal year.

68 (f) "Jobs" means full-time equivalent positions, as that  
69 term is consistent with terms used by the Agency for Workforce  
70 Innovation and the United States Department of Labor for  
71 purposes of unemployment compensation tax administration and  
72 employment estimation, resulting directly from a project in this  
73 state. The term does not include temporary construction jobs  
74 involved in the construction of a project facility.

75 (g) "Office" means the Office of Tourism, Trade, and  
76 Economic Development.

77 (h) "Qualified business" means an eligible business that  
78 has been approved to receive an economic investment mega fund  
79 incentive award.

80 (i) "Research and development" means basic and applied  
81 research in science or engineering, as well as the design,  
82 development, and testing of prototypes or processes of new or  
83 improved products. Research and development does not mean market  
84 research, routine consumer product testing, sales research,  
85 research in the social sciences or psychology, nontechnological  
86 activities ,or technical services.

87 (3) ECONOMIC INVESTMENT MEGA FUND INCENTIVE AWARDS;  
88 LIMITATION.--The total amount of active economic investment mega  
89 fund incentive awards scheduled for payment by the office may

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90 not exceed the amount appropriated for economic investment mega  
91 fund incentives.

92 (4) AWARD APPLICATION; ELIGIBILITY.--To be eligible for  
93 consideration for an economic investment mega fund incentive  
94 award, a business must submit a written application to  
95 Enterprise Florida, Inc. before the business has made the  
96 decision to locate a new business in this state or before the  
97 business has made the decision to expand an existing business in  
98 this state. The application shall include, but is not limited  
99 to:

100 (a) The applicant's federal employer identification  
101 number, unemployment account number, and state sales tax  
102 registration number. If these numbers are not available at the  
103 time of application, they must be submitted to the office in  
104 writing prior to the disbursement of any payments under this  
105 section.

106 (b) The location in this state at which the project is  
107 located or is to be located.

108 (c) A description of the type of business activity,  
109 product, or research and development undertaken by the project,  
110 including four-digit NAICS codes for all activities included in  
111 the project.

112 (d) The business's projected investment in the project.

113 (e) The total investment, from all sources, in the  
114 project.

115 (f) The number of net new full-time equivalent jobs in  
116 this state the business anticipates having created as of  
117 December 31 of each year in the project and the average wage of  
118 those jobs.

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119 (g) The total number of full-time equivalent employees  
 120 currently employed by the business applicant in this state.

121 (h) The anticipated commencement date of the project.

122 (i) A detailed explanation of why the economic investment  
 123 mega fund incentive is needed to induce the business to expand  
 124 or locate in the state and how the incentive will close, or help  
 125 to close, the competitive gap impeding the business' decision to  
 126 locate or expand in this state.

127 (j) An estimate of the proportion of the sales resulting  
 128 from the project that will be made outside this state.

129 (5) REVIEW QUALIFICATIONS.--To qualify for review by the  
 130 office, the business must, at a minimum, establish the following  
 131 to the satisfaction of Enterprise Florida, Inc., and the office:

132 (a) The jobs proposed to be created under the application  
 133 must pay an estimated annual average wage equaling at least 125  
 134 percent of the average private sector wage in the area where the  
 135 business is to be located or the statewide private sector  
 136 average wage. The office may waive this average wage requirement  
 137 at the request of Enterprise Florida, Inc. The wage requirement  
 138 may only be waived for a project located in a brownfield area  
 139 designated under s. 376.80, in a rural city or county as defined  
 140 in s. 288.106, or in an enterprise zone and only when the merits  
 141 of the individual project or the specific circumstances in the  
 142 community in relationship to the project warrant such action. If  
 143 Enterprise Florida, Inc., makes such a recommendation, the  
 144 recommendation must be transmitted in writing and the specific  
 145 justification for the waiver recommendation must be explained.  
 146 If the director elects to waive the wage requirement, the waiver  
 147 must be stated in writing and the reasons for granting the  
 148 waiver must be explained.

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149 (b)1.a. The project must result in the creation of at  
150 least 200 jobs at the business; or

151 b. If the project is a research and development facility,  
152 a national or international headquarters, or is located in a  
153 brownfield area designated under s. 376.80, in a rural city or  
154 county as defined in s. 288.106, or in an enterprise zone, the  
155 project must result in the creation of at least 100 jobs.

156 2. If the project is an expansion of an existing business,  
157 the project must result in a net increase in employment of not  
158 less than 10 percent. If the expansion is located in a  
159 brownfield area designated under s. 376.80, a rural county or  
160 city as defined in s. 288.106, or an enterprise zone, the 10  
161 percent job creation requirement may be waived by the office at  
162 the request of Enterprise Florida, Inc. If Enterprise Florida,  
163 Inc. makes such a request, the request must be transmitted in  
164 writing and the specific justification for the request must be  
165 explained. If the director elects to grant such request, such  
166 election must be stated in writing and the reason for granting  
167 the request must be explained.

168 (c) The business activity or product for the applicant's  
169 project is within an industry or industries that have been  
170 designated as a target industry business under s. 288.106 or a  
171 designated sector under s. 288.108.

172 (d)1. The cumulative investment in the project is at least  
173 \$25 million within a 3-year period; or

174 2. If the project is a research and development facility  
175 or a national or international headquarters or is located in a  
176 brownfield area designated under s. 376.80, in a rural county or  
177 city as defined in s. 288.106, or in an enterprise zone, the

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178 cumulative investment in the project must exceed \$10 million  
179 within a 3-year period.

180 (6) PROPOSAL EVALUATION AND RECOMMENDATIONS.--Enterprise  
181 Florida, Inc., shall evaluate individual proposals for economic  
182 investment mega fund incentive projects and forward  
183 recommendations regarding the use of moneys in the fund for such  
184 projects to the director. Such evaluation and recommendation  
185 must include, but need not be limited to:

186 (a) A description of the type of facility, its operations,  
187 and the associated product, service, or research and development  
188 associated with the project.

189 (b) The number of full-time equivalent jobs that will be  
190 created by the project, the total estimated average annual wages  
191 of those jobs, and the types of business activities and jobs  
192 stimulated by the investment.

193 (c) The cumulative investment to be dedicated to the  
194 project within 3 years and the total investment expected in the  
195 project if more than 3 years.

196 (d) A statement of any special impacts the project is  
197 expected to stimulate in a particular business sector in the  
198 state or regional economy or in the state's universities and  
199 community colleges.

200 (e) A statement of the role the incentive is expected to  
201 play in the decision of the applicant business to locate or  
202 expand in this state.

203 (f) A recommendation of the amount of the economic  
204 investment mega fund incentive that is needed to close a  
205 competitive gap, including an explanation of why an incentive of  
206 that amount is needed to induce the business to expand or locate  
207 in this state.

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208 (g) A discussion of the efforts and commitments made by  
 209 the local community in which the project is to be located to  
 210 induce the project location or expansion in light of local  
 211 resources and abilities.

212 (h) A recommendation for specific performance criteria the  
 213 business would be expected to achieve to receive any payments  
 214 from the fund and penalties or sanctions for failure to meet or  
 215 maintain performance conditions.

216 (7) AWARD NEGOTIATION; CONSIDERATIONS.--The office may, in  
 217 consultation with Enterprise Florida, Inc., negotiate the  
 218 proposed amount of an award for any eligible business. In  
 219 negotiating such award, the office shall consider the amount of  
 220 the incentive needed to close the competitive gap in conjunction  
 221 with other relevant applicant impact and cost information and  
 222 analysis as required in this section. Particular emphasis shall  
 223 be given to the potential for the project to stimulate  
 224 additional private investment and high-quality employment  
 225 opportunities in the area. No more than \$150 million may be  
 226 awarded for any qualified business. To be considered for an  
 227 award over \$100 million, an application must include the  
 228 creation of a minimum of 1000 jobs and a \$750 million cumulative  
 229 investment within a 3-year period.

230 (8) AWARD APPROVAL OR DISAPPROVAL.--Upon receipt of the  
 231 evaluation and recommendation from Enterprise Florida, Inc., the  
 232 director shall recommend to the Governor approval or disapproval  
 233 of a project. In recommending approval of a project, the  
 234 director shall include proposed performance conditions that the  
 235 project must meet to obtain incentive funds and any other  
 236 conditions that must be met prior to the receipt of any  
 237 incentive funds. The Governor shall obtain written approval of



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238 the President of the Senate and the Speaker of the House of  
 239 Representatives before giving approval for a project. The  
 240 Executive Office of the Governor shall recommend approval of a  
 241 project and release the funds upon approval of a budget  
 242 amendment by the Legislative Budget Commission.

243 (9) AWARD AGREEMENT.--Upon approval by the Executive  
 244 Office of the Governor, the director of the office shall issue a  
 245 letter certifying the business as a qualified business. The  
 246 office and the business shall enter into an agreement that sets  
 247 forth the conditions for payment of incentives. The agreement  
 248 must include the total amount of funds awarded; the performance  
 249 conditions that must be met to obtain the award or portions of  
 250 the award, including, but not limited to, net new employment in  
 251 the state, average salary, and total investment; demonstration  
 252 of a baseline of current service and a measure of enhanced  
 253 capability; the methodology for validating performance; the  
 254 schedule of payments; and sanctions for failure to meet  
 255 performance conditions.

256 (10) PERFORMANCE VALIDATION; REPORT.--Enterprise Florida,  
 257 Inc., shall assist the office in validating the qualified  
 258 business's performance. At the conclusion of the economic  
 259 investment mega fund incentive award agreement, or its earlier  
 260 termination, Enterprise Florida, Inc. shall, within 90 days,  
 261 report the results of the economic investment mega fund  
 262 incentive award to the Governor, the President of the Senate,  
 263 and the Speaker of the House of Representatives.

264 (11) ADDITIONAL USES OF ECONOMIC INVESTMENT MEGA FUND  
 265 INCENTIVE ALLOCATIONS.--The office may allocate funds  
 266 appropriated for economic investment mega fund incentive awards  
 267 to fund economic development programs and activities pursuant to

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268 s. 288.065, relating to the Rural Community Development  
 269 Revolving Loan Fund; s. 288.0655, relating to the Rural  
 270 Infrastructure Fund; s. 288.1088, relating to the Quick Action  
 271 Closing Fund; s. 288.1254, relating to the entertainment  
 272 industry financial incentive program; and s. 288.980, relating  
 273 to the military base retention grants program. These allocations  
 274 shall be approved in the same manner as provided in subsection  
 275 (8) and such approval of the Quick Action Closing Fund shall  
 276 satisfy the requirements of s. 288.1088(3)(b).

277 Section 2. Paragraph (b) of subsection (3) of section  
 278 288.1088, Florida Statutes, is amended to read:

279 288.1088 Quick Action Closing Fund.--

280 (3)

281 (b) Upon receipt of the evaluation and recommendation from  
 282 Enterprise Florida, Inc., the director shall recommend approval  
 283 or disapproval of a project for receipt of funds from the Quick  
 284 Action Closing Fund to the Governor. In recommending a project,  
 285 the director shall include proposed performance conditions that  
 286 the project must meet to obtain incentive funds. The Governor  
 287 shall consult with the President of the Senate and the Speaker  
 288 of the House of Representatives before giving final approval for  
 289 a project. The Executive Office of the Governor shall recommend  
 290 approval of a project and release of funds pursuant to the  
 291 legislative consultation and review requirements set forth in s.  
 292 216.177. The recommendation must include proposed performance  
 293 conditions the project must meet to obtain funds.

294 Section 3. This act shall take effect upon becoming a law.