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1                                   A bill to be entitled  
 2           An act relating to public records exemptions; amending s.  
 3           288.1067, F.S.; expanding the public records exemption for  
 4           incentive programs to include the mega fund incentive  
 5           program under s. 288.1089, F.S.; providing for future  
 6           review and repeal; providing a statement of public  
 7           necessity; providing a contingent effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

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 11           Section 1. Subsections (1) and (4) of section 288.1067,  
 12   Florida Statutes, are amended to read:

13           288.1067 Confidentiality of records.--

14           (1) The following information held by the Office of  
 15   Tourism, Trade, and Economic Development, Enterprise Florida,  
 16   Inc., or county or municipal governmental entities, and their  
 17   employees or agents, pursuant to the incentive programs for  
 18   qualified businesses as provided in s. 220.191, s. 288.1045, s.  
 19   288.106, s. 288.108, ~~or~~ s. 288.1088, or s. 288.1089 is  
 20   confidential and exempt from the provisions of s. 119.07(1) and  
 21   s. 24(a), Art. I of the State Constitution, for a period not to  
 22   exceed the duration of the relevant tax refund, tax credit, or  
 23   incentive agreement:

24           (a) The business's federal employer identification number,  
 25   unemployment compensation account number, and Florida sales tax  
 26   registration number.

27           (b) Any trade secret information as defined in s. 812.081.  
 28   Notwithstanding any provision of this section, trade secret  
 29   information shall continue to be confidential and exempt after

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30 the duration of the tax refund, tax credit, or incentive  
 31 agreement.

32 (c) The percentage of the business's sales occurring  
 33 outside this state and, for businesses applying under s.  
 34 288.1045, the percentage of the business's gross receipts  
 35 derived from Department of Defense contracts during the 5 years  
 36 immediately preceding the date the business's application is  
 37 submitted.

38 (d) The anticipated wages for the project jobs that the  
 39 business plans to create, as reported on the application for  
 40 certification.

41 (e) The average wage actually paid by the business for  
 42 those jobs created by the project and any detailed proprietary  
 43 business information or an employee's personal identifying  
 44 information, held as evidence of the achievement or  
 45 nonachievement of the wage requirements of the tax refund, tax  
 46 credit, or incentive agreement programs or of the job creation  
 47 requirements of such programs.

48 (f) Any proprietary business information regarding capital  
 49 investment in eligible building and equipment made by the  
 50 qualified business project when held by the Office of Tourism,  
 51 Trade, and Economic Development as evidence of the achievement  
 52 or nonachievement of the investment requirements for the tax  
 53 credit certification under s. 220.191, for the high-impact  
 54 performance agreement under s. 288.108, or for the Quick Action  
 55 Closing Fund agreement under s. 288.1088.

56 (g) The amount of:

- 57 1. Taxes on sales, use, and other transactions paid
- 58 pursuant to chapter 212;

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- 59           2. Corporate income taxes paid pursuant to chapter 220;  
 60           3. Intangible personal property taxes paid pursuant to  
 61 chapter 199;  
 62           4. Emergency excise taxes paid pursuant to chapter 221;  
 63           5. Insurance premium taxes paid pursuant to chapter 624;  
 64           6. Excise taxes paid on documents pursuant to chapter 201;  
 65 or  
 66           7. Ad valorem taxes paid, as defined in s. 220.03(1),

67  
 68 which the qualified business reports on its application for  
 69 certification or reports during the term of the tax refund  
 70 agreement, and for which the qualified business claims a tax  
 71 refund under s. 288.1045 or s. 288.106, and any such information  
 72 held as evidence of the achievement or nonachievement of  
 73 performance items contained in the tax refund agreement.

74           (4) This section is subject to the Open Government Sunset  
 75 Review Act of 1995 in accordance with s. 119.15 and shall stand  
 76 repealed on October 2, 2009 ~~2007~~, unless reviewed and saved from  
 77 repeal through reenactment by the Legislature.

78           Section 2. The Legislature finds that it is a public  
 79 necessity to provide confidentiality for certain information  
 80 concerning businesses that is obtained through the  
 81 administration of the incentive program for qualified mega fund  
 82 businesses under s. 288.1089, Florida Statutes. The disclosure  
 83 of information such as trade secrets, tax identification  
 84 numbers, analyses of gross receipts, the amount of taxes paid,  
 85 the amount of capital investment, and the amount of employee  
 86 wages paid, and the detailed documentation to substantiate such  
 87 performance information, could injure a business in the

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88 marketplace by providing its competitors with detailed insights  
89 into the financial status and the strategic plans of the  
90 business, thereby diminishing the advantage that the business  
91 maintains over those that do not possess such information. Some  
92 of the documentation supplied to support a business's incentive  
93 claims could reveal private information, such as employee names  
94 and social security numbers, concerning that business's  
95 employees. Without this exemption, private sector businesses,  
96 whose records generally are not required to be open to the  
97 public, might refrain from participating in the economic  
98 development program and thus would not be able to use the  
99 incentives available under the program. If a business were  
100 unable to use the incentives, the business might choose to  
101 locate its employment and other investment activities outside  
102 the state, depriving the state and the public of the potential  
103 economic benefits associated with such business activities in  
104 this state. The harm to businesses in the marketplace and to the  
105 effective administration of the economic development program  
106 caused by the public disclosure of such information far  
107 outweighs the public benefits derived from its release. In  
108 addition, because the confidentiality provided by this act does  
109 not preclude the reporting of statistics in the aggregate  
110 concerning the program, as well as the names of businesses  
111 participating in the program and the amount of incentives  
112 awarded and claimed, the public has access to information  
113 important to an assessment of the performance of the program.

114 Section 3. This act shall take effect upon becoming a law,  
115 if House Bill 3-E or similar legislation is adopted in the same  
116 legislative session or an extension thereof and becomes law.