

1 A bill to be entitled
2 An act relating to innovation incentives; creating s.
3 288.1089, F.S.; providing legislative findings and intent;
4 creating within the Office of Tourism, Trade, and Economic
5 Development the Innovation Incentive Program for certain
6 purposes; providing definitions; limiting innovation
7 incentive awards; establishing the Innovation Incentive
8 Account within the Economic Development Trust Fund;
9 providing award application and eligibility requirements
10 and procedures; providing business applicant qualification
11 requirements; providing proposal evaluation and
12 recommendations requirements for Enterprise Florida, Inc.;
13 authorizing the office to negotiate award amounts to
14 applicants; providing negotiation requirements; requiring
15 the director of the office to make recommendations to the
16 Governor for approval or disapproval of certain projects;
17 providing recommendation requirements; requiring
18 consultation with the Legislature; providing for
19 certification of applicants as qualified innovation
20 businesses; providing for incentive payment agreements;
21 providing requirements for investment of funds in the
22 Innovation Incentive Account within the Economic
23 Development Trust Fund; requiring Enterprise Florida,
24 Inc., to assist the office in validating certain business
25 performances; requiring a report; authorizing the Governor
26 to reallocate certain funds for certain purposes;
27 providing for transfer of certain unallocated funds to the
28 General Revenue Fund; providing for future repeal of s.

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29 288.1089, F.S., relating to the Innovation Incentive
 30 Program; providing appropriations; providing limitations;
 31 providing effective dates.

32

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

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

37 288.1089 Innovation incentive.--

38 (1) LEGISLATIVE FINDINGS AND INTENT; CREATION OF
 39 INNOVATION INCENTIVE PROGRAM.--

40 (a) The Legislature finds that science-based research
 41 projects of significant scale and world-class excellence can
 42 help to strengthen and expedite the growth of the innovation
 43 economy of this state. World-class research institutes and
 44 research and development operations can serve as catalysts for
 45 evolving technology clusters, boost the talent base of this
 46 state at the very highest levels, benefit the existing research
 47 and university base of this state with increased research and
 48 development collaboration, and help to spawn new businesses
 49 based in this state. Serious regional, national, and
 50 international competition exists for these projects and in most
 51 instances, when all available resources for economic development
 52 have been used, the state continues to encounter severe
 53 competitive disadvantages in vying for these research and
 54 development opportunities.

55 (b) The Legislature further finds that attracting,
 56 retaining, and providing favorable conditions for the growth of

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57 certain innovation business operations in this state provides
58 widespread economic benefits to the public through high-quality
59 employment opportunities at such operations and in related
60 operations attracted to this state or region through an enhanced
61 entrepreneurial climate in the state or region, and the
62 resulting business and employment opportunities, and through the
63 stimulation and enhancement of the state's universities and
64 community colleges. As with research and development operations,
65 when all available resources for economic development have been
66 used, the state continues to encounter severe competitive
67 disadvantages in vying for these high-impact business
68 operations.

69 (c) It is the intent of the Legislature to provide
70 resources to meet the unique needs of attracting the growth and
71 location of catalyst projects in this state of a significant
72 scale that will serve as platforms for emerging or evolving
73 technology clusters or increase research, development, and
74 collaboration between the universities of this state and the
75 state's private sector and, in so doing, make meaningful
76 progress toward an unparalleled state of innovation.

77 (d) The Legislature therefore hereby creates within the
78 Office of Tourism, Trade, and Economic Development the
79 Innovation Incentive Program for qualified innovation businesses
80 to ensure that sufficient resources shall be available to
81 respond to extraordinary economic opportunities and to compete
82 effectively for those research and development operations and
83 innovation business projects in this state.

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

85 (a) "Average wage" means the statewide private sector
86 average wage or the average of all private sector wages and
87 salaries in the county or in the standard metropolitan area in
88 which the applicant is located as determined by the Agency for
89 Workforce Innovation.

90 (b) "Competitive gap" means the difference between the
91 cost and benefits of locating the project in this state versus
92 identified locations under consideration in other states or
93 countries when the total cost of start-up and operations,
94 incentive offers, and other relevant factors are considered in
95 this state versus those alternative locations.

96 (c) "Cumulative investment" means the total private
97 investment in buildings and equipment made by a qualified, new
98 business since the beginning of construction of such facility or
99 an expanding business in this state since the beginning of the
100 expansion project.

101 (d) "Director" means the director of the Office of
102 Tourism, Trade, and Economic Development.

103 (e) "Eligible business" means a business meeting the
104 requirements of subsection (5).

105 (f) "Fiscal year" means the state fiscal year.

106 (g) "Jobs" means full-time equivalent positions, as that
107 term is consistent with terms used by the Agency for Workforce
108 Innovation and the United States Department of Labor for
109 purposes of unemployment compensation tax administration and
110 employment estimation, resulting directly from a project in this
111 state. The term does not include temporary construction jobs
112 involved in the construction of a project facility.

113 (h) "Match" means funding from local sources, public or
 114 private, which is paid to the qualified business and which is
 115 equal to 100 percent of an award. Eligible match funding may
 116 include any tax abatement granted to that business under s.
 117 196.1995 or the appraised market value of land, buildings,
 118 infrastructure, or equipment conveyed or provided at a discount
 119 to that business. Complete documentation of a match payment or
 120 other conveyance must be presented to and verified by the office
 121 prior to transfer of state funds to the qualified business. A
 122 qualified business may not provide, directly or indirectly, more
 123 than 5 percent of match funding in any fiscal year. The sources
 124 of such funding may not include, directly or indirectly, state
 125 funds appropriated from the General Revenue Fund or any state
 126 trust fund, excluding tax revenues shared with local governments
 127 pursuant to law.

128 (i) "Office" means the Office of Tourism, Trade, and
 129 Economic Development.

130 (j) "Predominately" means at least 50 percent of the time.

131 (k) "Qualified business" means an eligible business that
 132 has been approved to receive an economic investment innovation
 133 fund incentive award.

134 (l) "Research and development" means basic and applied
 135 research in the sciences or engineering, as well as the design,
 136 development, and testing of prototypes or processes of new or
 137 improved products. Research and development does not include
 138 market research, routine consumer product testing, sales
 139 research, research in the social sciences or psychology,
 140 nontechnological activities, or technical services.

141 (m) "Research and development facility" means a facility
 142 that is predominately engaged in research and development
 143 activities.

144 (3) INNOVATION INCENTIVE AWARDS; LIMITATION.--The total
 145 amount of active innovation incentive awards may not exceed the
 146 amount remaining in the Innovation Incentive Account within the
 147 Economic Development Trust Fund, which account is established.

148 (4) AWARD APPLICATION; ELIGIBILITY.--To be eligible for
 149 consideration for an innovation incentive award, a business or
 150 research and development entity must submit a written
 151 application to Enterprise Florida, Inc., before the applicant
 152 has made the decision to locate new operations in this state or
 153 before the applicant has made the decision to expand an existing
 154 operation in this state. The application shall include, but not
 155 be limited to:

156 (a) The applicant's federal employer identification
 157 number, unemployment account number, and state sales tax
 158 registration number. If such numbers are not available at the
 159 time of application, they must be submitted to the office in
 160 writing prior to the disbursement of any payments under this
 161 section.

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

164 (c) A description of the type of business activity,
 165 product, or research and development undertaken by the project,
 166 including six-digit North American Industry Classification
 167 System codes for all activities included in the project.

168 (d) The applicant's projected investment in the project.

169 (e) The total investment, from all sources, in the
170 project.

171 (f) The number of net new full-time equivalent jobs in
172 this state the applicant anticipates having created as of
173 December 31 of each year of the project and the average wage of
174 such jobs.

175 (g) The total number of full-time equivalent employees
176 currently employed by the applicant in this state and the number
177 employed at the facility.

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

179 (i) A detailed explanation of why the innovation incentive
180 is needed to induce the applicant to expand or locate in the
181 state and how the incentive will close or help close the
182 competitive gap impeding the applicant's decision to locate or
183 expand in this state.

184 (j) If applicable, an estimate of the proportion of the
185 revenues resulting from the project that will be generated
186 outside this state.

187 (5) REVIEW QUALIFICATIONS.--To qualify for review by the
188 office, the applicant must, at a minimum, establish the
189 following to the satisfaction of Enterprise Florida, Inc., and
190 the office:

191 (a) The jobs proposed to be created under the application
192 must pay an estimated annual average wage equaling at least 130
193 percent of the average private sector wage in the area where the
194 applicant is to be located or the statewide private sector
195 average wage. The office may waive this average wage requirement
196 at its discretion or at the request of Enterprise Florida, Inc.

197 The wage requirement may only be waived for a project located in
 198 a brownfield area designated under s. 376.80, in a rural city or
 199 rural county as defined in s. 288.106, or in an enterprise zone
 200 and only when the merits of the individual project or the
 201 specific circumstances in the community in relationship to the
 202 project warrant such action. If Enterprise Florida, Inc., makes
 203 such a recommendation, the recommendation must be transmitted in
 204 writing and the specific justification for the waiver
 205 recommendation must be explained. If the director elects to
 206 wave the wage requirement, the waiver must be stated in writing
 207 and the reasons for granting the waiver must be explained.

208 (b) For a research and development project:

209 1. The project must serve as a catalyst for an emerging or
 210 evolving technology cluster.

211 2. The project must demonstrate a plan for significant
 212 higher education collaboration.

213 3. The project must provide the state a break-even return
 214 on investment within a 20-year period.

215 4. The project must be provided with a one to one match
 216 from the local community. The match requirement may be reduced
 217 or waived in rural areas of critical economic concern or reduced
 218 in rural communities, brownfields, and enterprise zones within
 219 an urban county.

220 (c) For a innovation business project in this state, other
 221 than a research and development project:

222 1.a. The project must result in the creation of at least
 223 1,000 direct, new jobs at the business; or

224 b. If the project is located in a rural city or rural

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225 county as defined in s. 288.106, the project must result in the
226 creation of at least 750 direct, new jobs.

227 2. The activity or product for the applicant's project
228 must be within an industry or industries that have been
229 designated as a target industry business under s. 288.106 or a
230 high-impact sector under s. 288.108.

231 3.a. The cumulative investment in the project is at least
232 \$500 million within a 3-year period; or

233 b. If the project is located in a rural city or rural city
234 as defined in s. 288.106, or in an enterprise zone, the
235 cumulative investment in the project must exceed \$375 million
236 within a 3-year period.

237 (6) PROPOSAL EVALUATION AND RECOMMENDATIONS.--Enterprise
238 Florida, Inc., shall evaluate individual proposals for
239 innovation incentive projects and transmit to the office
240 recommendations regarding the use of appropriated funds for such
241 projects. Such evaluation and recommendation must include, but
242 need not be limited to:

243 (a) A description of the type of operation, its required
244 facilities, and the associated product, service, or research and
245 development associated with the project.

246 (b) The number of full-time equivalent jobs that will be
247 created by the project, the total estimated average annual wages
248 of such jobs, and the types of business activities and jobs
249 stimulated by the investment.

250 (c) The cumulative investment to be dedicated to the
251 project within 3 years and the total investment expected in the
252 project if more than 3 years.

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253 (d) The economic and fiscal impacts on the local and state
254 economies relative to investment.

255 (e) A statement of any special impacts the project is
256 expected to stimulate in a particular business sector in the
257 state or regional economy or in the state's universities and
258 community colleges.

259 (f) A statement of any anticipated or proposed
260 relationships with state universities.

261 (g) A statement of the role the incentive is expected to
262 play in the decision of the applicant to locate or expand in
263 this state.

264 (h) A recommendation of the amount of the innovation
265 incentive that is needed to close a competitive gap, including
266 an explanation of why an incentive of that amount is needed to
267 induce the applicant to expand or locate in this state.

268 (i) A discussion of the efforts and commitments made by
269 the local community in which the project is to be located to
270 induce the project location or expansion, taking into
271 consideration local resources and abilities.

272 (j) A recommendation for specific performance criteria the
273 applicant would be expected to achieve to receive any payments
274 from the fund and penalties or sanctions for failure to meet or
275 maintain performance conditions.

276 (k) For a research and development facility project:

277 1. A description of the extent to which the project has
278 the potential to serve as catalyst for an emerging or evolving
279 technology cluster.

280 2. The percentage of match provided for the project.

281 3. A description of the extent to which the project has or
282 could have a long-term collaborative research and development
283 relationship with a state university or community college.

284 4. A description of the existing or projected impact of
285 the project on established technology clusters or targeted
286 industry sectors.

287 5. A description of the project's contribution to the
288 diversity and resiliency of the innovation economy of this
289 state.

290 6. A description of the project's impact on special needs
291 communities, including, but not limited to, rural areas,
292 distressed urban areas, and enterprise zones.

293 (7) AWARD NEGOTIATION; CONSIDERATIONS.--The office, in
294 consultation with Enterprise Florida, Inc., may negotiate the
295 proposed amount of an award for any eligible applicant. In
296 negotiating such award, the office shall consider the amount of
297 the incentive needed to close the competitive gap in conjunction
298 with other relevant applicant impact and cost information and
299 analysis as described in this section. Particular emphasis shall
300 be given to the potential for the project to stimulate
301 additional private investment and high-quality employment
302 opportunities in the area.

303 (8) AWARD APPROVAL OR DISAPPROVAL.--Upon receipt of the
304 evaluation and recommendation from Enterprise Florida, Inc., the
305 director shall recommend to the Governor approval or disapproval
306 of a project. In recommending approval of a project, the
307 director shall include proposed performance conditions that the
308 project must meet to obtain incentive funds and any other

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309 conditions that must be met prior to the receipt of any
310 incentive funds. The Governor shall consult with the President
311 of the Senate and the Speaker of the House of Representatives
312 before giving approval for a project. Upon approval of a
313 project, the Executive Office of the Governor shall release the
314 funds pursuant to the legislative consultation and review
315 requirements set forth in 216.177.

316 (9) AWARD AGREEMENT.--Upon approval by the Governor and
317 release of the funds as set forth in subsection (8), the
318 director shall issue a letter certifying the applicant as a
319 qualified innovation business. The office and the business shall
320 enter into an agreement that sets forth the conditions for
321 payment of incentives. The agreement must include the total
322 amount of funds awarded; the performance conditions that must be
323 met to obtain the award or portions of the award, including, but
324 not limited to, net new employment in the state, average wage,
325 and total investment; demonstration of a baseline of current
326 service and a measure of enhanced capability; the methodology
327 for validating performance; the schedule of payments; and
328 sanctions for failure to meet performance conditions.

329 (10) INVESTMENT OF FUNDS.--Funds allocated to the
330 Innovation Incentive Account shall be invested pursuant to s.
331 17.57, and any interest earned on such investments shall be
332 transferred from the Economic Development Trust Fund to the
333 General Revenue Fund.

334 (11) PERFORMANCE VALIDATION; REPORT.--Enterprise Florida,
335 Inc., shall assist the office in validating the qualified
336 business's performance. At the conclusion of the innovation

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337 incentive award agreement, or its earlier termination,
338 Enterprise Florida, Inc. shall, within 90 days, report the
339 results of the innovation incentive award to the Governor, the
340 President of the Senate, and the Speaker of the House of
341 Representatives.

342 (12) ADDITIONAL USES OF INNOVATION INCENTIVE PROGRAM
343 ALLOCATIONS.--The Governor may, in an emergency or special
344 circumstance, and in consultation with the President of the
345 Senate and the Speaker of the House of Representatives,
346 reallocate unencumbered funds appropriated to the Innovation
347 Incentive Program to supplement economic development programs
348 and operations established by law. The Executive Office of the
349 Governor shall recommend approval of the transfer and release of
350 the funds pursuant to the legislative consultation and review
351 requirements set forth in s. 216.177.

352 Section 2. Effective July 1, 2011, s. 288.1089, Florida
353 Statutes, is repealed. Upon that date, any unobligated funds
354 remaining in the Economic Development Trust Fund from the
355 transfer made in section 3 of this act shall be transferred back
356 to the General Revenue Fund. Notwithstanding the provisions of
357 s. 216.301(1), Florida Statutes, and pursuant to s. 216.351,
358 Florida Statutes, any funds remaining in the Innovation
359 Incentive Account within the Economic Development Trust Fund
360 that are obligated to a properly approved project under the
361 Innovation Incentive Program, but that are only partially
362 disbursed, shall remain in the Economic Development Trust Fund
363 to be disbursed by the Office of Tourism, Trade, and Economic

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364 Development pursuant to the terms of the originally approved
365 contract.

366 Section 3. For fiscal year 2006-2007, the sum of
367 \$250,000,000 is transferred from the General Revenue Fund to the
368 Innovation Incentive Account within the Economic Development
369 Trust Fund to be used for the purposes of the Innovation
370 Incentive Program under s. 288.1089, Florida Statutes. Funds
371 transferred under this section are not subject to the service
372 charge set forth in s. 215.20, Florida Statutes.

373 Section 4. Beginning in fiscal year 2006-2007 and annually
374 for the next 4 fiscal years, the sum of \$50,000,000 is
375 appropriated from the Innovation Incentive Account within the
376 Economic Development Trust Fund to the Office of Tourism, Trade,
377 and Economic Development to be used to implement the purposes of
378 the Innovation Incentive Program. During any fiscal year to
379 which this act applies, the Office of Tourism, Trade, and
380 Economic Development may request additional budget authority as
381 necessary to locate a new business in this state or to expand an
382 existing business in this state so long as the request meets the
383 purposes of the Innovation Incentive Program and is approved
384 pursuant to s. 288.1089(8), Florida Statutes. However, under no
385 circumstances shall the total funds used to implement the
386 Innovation Incentive Program exceed the amount funded under
387 section 3 of this act.

388 Section 5. Except as otherwise expressly provided in this
389 act, this act shall take effect July 1, 2006.