

## CHAMBER ACTION

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1 The Commerce Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to innovation incentives; amending s.  
7 288.1088, F.S.; providing eligibility criteria for receipt  
8 of funds from the Quick Action Closing Fund; requiring  
9 Enterprise Florida, Inc., to determine eligibility using  
10 specified criteria; providing for waiver of eligibility  
11 criteria under certain circumstances; requiring the  
12 Governor to provide evaluations of certain projects to the  
13 President of the Senate and the Speaker of the House of  
14 Representatives; creating s. 288.1089, F.S.; creating  
15 within the Office of Tourism, Trade, and Economic  
16 Development the Innovation Incentive Program for certain  
17 purposes; providing definitions; providing for innovation  
18 incentive awards; providing limitations; providing  
19 qualification requirements for review of applicants and  
20 projects by the office and Enterprise Florida, Inc.;  
21 providing proposal evaluation and recommendation  
22 requirements for Enterprise Florida, Inc.; authorizing the  
23 office to negotiate award amounts to applicants; providing

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24 negotiation requirements; requiring the director of the  
25 office to make recommendations to the Governor for  
26 approval or disapproval of certain projects; providing  
27 recommendation requirements; requiring consultation with  
28 the Legislature; providing for certification of applicants  
29 as qualified innovation businesses; providing for  
30 incentive payment agreements; requiring Enterprise  
31 Florida, Inc., to assist the office in validating certain  
32 business performances; requiring a report; requiring  
33 Enterprise Florida, Inc., to establish certain business  
34 ethics standards; requiring the standards to be reported  
35 to the Governor, the President of the Senate, and the  
36 Speaker of the House of Representatives; requiring  
37 incentive award agreements to require compliance with the  
38 standards; amending s. 403.973, F.S.; requiring the office  
39 to review certain sites for projects funded under the  
40 Innovation Incentive Program; amending s. 288.0655, F.S.;  
41 correcting a cross-reference; providing appropriations;  
42 providing for carrying forward certain unexpended balances  
43 of appropriations until a time certain; providing for  
44 office retention of obligated funds to be used for certain  
45 purposes; providing for reversion of unobligated funds;  
46 providing an effective date.

47  
48 Be It Enacted by the Legislature of the State of Florida:  
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50 Section 1. Subsection (2) and paragraphs (a) and (b) of  
51 subsection (3) of section 288.1088, Florida Statutes, are  
52 amended to read:

53 288.1088 Quick Action Closing Fund.--

54 (2) There is created within the Office of Tourism, Trade,  
55 and Economic Development the Quick Action Closing Fund. Projects  
56 eligible for receipt of funds from the Quick Action Closing Fund  
57 shall:

58 (a) Be in a targeted industry as referenced in s. 288.106.

59 (b) Have a positive payback ratio of at least 5 to 1.

60 (c) Be an inducement to the project's location or  
61 expansion in the state.

62 (d) Pay an average annual wage of at least 125 percent of  
63 the areawide or statewide private-sector average wage.

64 (e) Be supported by the local community in which the  
65 project is to be located.

66 (3) (a) Enterprise Florida, Inc., shall determine  
67 eligibility of each project consistent with the criteria in  
68 subsection (2). Enterprise Florida, Inc., in consultation with  
69 the Office of Tourism, Trade, and Economic Development, may  
70 waive these criteria based on extraordinary circumstances when  
71 the project would significantly benefit the local or regional  
72 economy. Enterprise Florida, Inc., shall evaluate individual  
73 proposals for high-impact business facilities and forward  
74 recommendations regarding the use of moneys in the fund for such  
75 facilities to the director of the Office of Tourism, Trade, and  
76 Economic Development. Such evaluation and recommendation must  
77 include, but need not be limited to:

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78 | 1. A description of the type of facility or  
79 | infrastructure, its operations, and the associated product or  
80 | service associated with the facility.

81 | 2. The number of full-time-equivalent jobs that will be  
82 | created by the facility and the total estimated average annual  
83 | wages of those jobs or, in the case of privately developed rural  
84 | infrastructure, the types of business activities and jobs  
85 | stimulated by the investment.

86 | 3. The cumulative amount of investment to be dedicated to  
87 | the facility within a specified period.

88 | 4. A statement of any special impacts the facility is  
89 | expected to stimulate in a particular business sector in the  
90 | state or regional economy or in the state's universities and  
91 | community colleges.

92 | 5. A statement of the role the incentive is expected to  
93 | play in the decision of the applicant business to locate or  
94 | expand in this state or for the private investor to provide  
95 | critical rural infrastructure.

96 | (b) Upon receipt of the evaluation and recommendation from  
97 | Enterprise Florida, Inc., the director shall recommend approval  
98 | or disapproval of a project for receipt of funds from the Quick  
99 | Action Closing Fund to the Governor. In recommending a project,  
100 | the director shall include proposed performance conditions that  
101 | the project must meet to obtain incentive funds. The Governor  
102 | shall provide the evaluations of projects recommended for  
103 | approval to the President of the Senate and the Speaker of the  
104 | House of Representatives and consult with the President of the  
105 | Senate and the Speaker of the House of Representatives before

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106 giving final approval for a project. The Executive Office of the  
107 Governor shall recommend approval of a project and the release  
108 of funds pursuant to the legislative consultation and review  
109 requirements set forth in s. 216.177. The recommendation must  
110 include proposed performance conditions that the project must  
111 meet in order to obtain funds.

112 Section 2. Section 288.1089, Florida Statutes, is created  
113 to read:

114 288.1089 Innovation Incentive Program.--

115 (1) The Innovation Incentive Program is created within the  
116 Office of Tourism, Trade, and Economic Development to ensure  
117 that sufficient resources are available to allow the state to  
118 respond expeditiously to extraordinary economic opportunities  
119 and to compete effectively for high-value research and  
120 development and innovation business projects.

121 (2) As used in this section, the term:

122 (a) "Average private-sector wage" means the statewide  
123 average wage in the private sector or the average of all  
124 private-sector wages in the county or in the standard  
125 metropolitan area in which the project is located as determined  
126 by the Agency for Workforce Innovation.

127 (b) "Brownfield area" means an area designated as a  
128 brownfield area pursuant to s. 376.80.

129 (c) "Cumulative investment" means cumulative capital  
130 investment and all eligible capital costs, as defined in s.  
131 220.191.

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

134        (e) "Enterprise zone" means a area designated as an  
135 enterprise zone pursuant to s. 290.0065.

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

137        (g) "Innovation business" means a business expanding or  
138 locating in this state that is likely to serve as a catalyst for  
139 the growth of an existing or emerging technology cluster or will  
140 significantly impact the regional economy in which it is to  
141 expand or locate.

142        (h) "Jobs" means full-time equivalent positions, as that  
143 term is consistent with terms used by the Agency for Workforce  
144 Innovation and the United States Department of Labor for  
145 purposes of unemployment compensation tax administration and  
146 employment estimation, resulting directly from a project in this  
147 state. The term does not include temporary construction jobs.

148        (i) "Match" means funding from local sources, public or  
149 private, which will be paid to the applicant and which is equal  
150 to 100 percent of an award. Eligible match funding may include  
151 any tax abatement granted to the applicant under s. 196.1995 or  
152 the appraised market value of land, buildings, infrastructure,  
153 or equipment conveyed or provided at a discount to the  
154 applicant. Complete documentation of a match payment or other  
155 conveyance must be presented to and verified by the office prior  
156 to transfer of state funds to an applicant. An applicant may not  
157 provide, directly or indirectly, more than 5 percent of match  
158 funding in any fiscal year. The sources of such funding may not  
159 include, directly or indirectly, state funds appropriated from  
160 the General Revenue Fund or any state trust fund, excluding tax  
161 revenues shared with local governments pursuant to law.

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162        (j) "Office" means the Office of Tourism, Trade, and  
163 Economic Development.

164        (k) "Project" means the location to or expansion in this  
165 state by an innovation business or research and development  
166 applicant approved for an award pursuant to this section.

167        (l) "Research and development" means basic and applied  
168 research in the sciences or engineering, as well as the design,  
169 development, and testing of prototypes or processes of new or  
170 improved products. Research and development does not include  
171 market research, routine consumer product testing, sales  
172 research, research in the social sciences or psychology,  
173 nontechnological activities, or technical services.

174        (m) "Research and development facility" means a facility  
175 that is predominately engaged in research and development  
176 activities. For purposes of this paragraph, the term  
177 "predominantly" means at least 51 percent of the time.

178        (n) "Rural area" means a rural city, rural community, or  
179 rural county as defined in s. 288.106.

180        (3) To be eligible for consideration for an innovation  
181 incentive award, an innovation business or research and  
182 development entity must submit a written application to  
183 Enterprise Florida, Inc., before making a decision to locate new  
184 operations in this state or expand an existing operation in this  
185 state. The application must include, but not be limited to:

186        (a) The applicant's federal employer identification  
187 number, unemployment account number, and state sales tax  
188 registration number. If such numbers are not available at the  
189 time of application, they must be submitted to the office in

190 writing prior to the disbursement of any payments under this  
 191 section.

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

194 (c) A description of the type of business activity,  
 195 product, or research and development undertaken by the  
 196 applicant, including six-digit North American Industry  
 197 Classification System codes for all activities included in the  
 198 project.

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

200 (e) The total investment, from all sources, in the  
 201 project.

202 (f) The number of net new full-time equivalent jobs in  
 203 this state the applicant anticipates having created as of  
 204 December 31 of each year in the project and the average annual  
 205 wage of such jobs.

206 (g) The total number of full-time equivalent employees  
 207 currently employed by the applicant in this state, if  
 208 applicable.

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

210 (i) A detailed explanation of why the innovation incentive  
 211 is needed to induce the applicant to expand or locate in the  
 212 state and whether an award would cause the applicant to locate  
 213 or expand in this state.

214 (j) If applicable, an estimate of the proportion of the  
 215 revenues resulting from the project that will be generated  
 216 outside this state.

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217       (4) To qualify for review by the office, the applicant  
218 must, at a minimum, establish the following to the satisfaction  
219 of Enterprise Florida, Inc., and the office:

220       (a) The jobs created by the project must pay an estimated  
221 annual average wage equaling at least 130 percent of the average  
222 private-sector wage. The office may waive this average wage  
223 requirement at the request of Enterprise Florida, Inc., for a  
224 project located in a rural area, a brownfield area, or an  
225 enterprise zone, when the merits of the individual project or  
226 the specific circumstances in the community in relationship to  
227 the project warrant such action. A recommendation for waiver by  
228 Enterprise Florida, Inc., must include a specific justification  
229 for the waiver and be transmitted to the office in writing. If  
230 the director elects to waive the wage requirement, the waiver  
231 must be stated in writing and the reasons for granting the  
232 waiver must be explained.

233       (b) A research and development project must:

234       1. Serve as a catalyst for an emerging or evolving  
235 technology cluster.

236       2. Demonstrate a plan for significant higher education  
237 collaboration.

238       3. Provide the state, at a minimum, a break-even return on  
239 investment within a 20-year period.

240       4. Be provided with a one-to-one match from the local  
241 community. The match requirement may be reduced or waived in  
242 rural areas, brownfield areas, and enterprise zones.

243       (c) An innovation business project in this state, other  
244 than a research and development project, must:

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245       1.a. Result in the creation of at least 1,000 direct, new  
246 jobs at the business; or

247       b. Result in the creation of at least 750 direct, new jobs  
248 if the project is located in a rural area, a brownfield area, or  
249 an enterprise zone.

250       2. Have an activity or product that is within an industry  
251 that is designated as a target industry business under s.  
252 288.106 or a designated sector under s. 288.108.

253       3.a. Have a cumulative investment of at least \$500 million  
254 within a 5-year period; or

255       b. Have a cumulative investment that exceeds \$375 million  
256 within a 3-year period if the project is located in a rural  
257 area, brownfield area, or an enterprise zone.

258       (5) Enterprise Florida, Inc., shall evaluate proposals for  
259 innovation incentive awards and transmit recommendations for  
260 awards to the office. Such evaluation and recommendation must  
261 include, but need not be limited to:

262           (a) A description of the project, its required facilities,  
263 and the associated product, service, or research and development  
264 associated with the project.

265           (b) The percentage of match provided for the project.

266           (c) The number of full-time equivalent jobs that will be  
267 created by the project, the total estimated average annual wages  
268 of such jobs, and the types of business activities and jobs  
269 likely to be stimulated by the investment.

270           (d) The cumulative investment to be dedicated to the  
271 project within 5 years and the total investment expected in the  
272 project if more than 5 years.

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273 (e) The projected economic and fiscal impacts on the local  
274 and state economies relative to investment.

275 (f) A statement of any special impacts the project is  
276 expected to stimulate in a particular business sector in the  
277 state or regional economy or in the state's universities and  
278 community colleges.

279 (g) A statement of any anticipated or proposed  
280 relationships with state universities.

281 (h) A statement of the role the incentive is expected to  
282 play in the decision of the applicant to locate or expand in  
283 this state.

284 (i) A recommendation and explanation of the amount of the  
285 award needed to cause the applicant to expand or locate in this  
286 state.

287 (j) A discussion of the efforts and commitments made by  
288 the local community in which the project is to be located to  
289 induce the applicant's location or expansion, taking into  
290 consideration local resources and abilities.

291 (k) A recommendation for specific performance criteria the  
292 applicant would be expected to achieve in order to receive  
293 payments from the fund and penalties or sanctions for failure to  
294 meet or maintain performance conditions.

295 (l) For a research and development facility project:

296 1. A description of the extent to which the project has  
297 the potential to serve as catalyst for an emerging or evolving  
298 cluster.

299 2. A description of the extent to which the project has or  
300 could have a long-term collaborative research and development

301 relationship with one or more universities or community colleges  
302 in this state.

303 3. A description of the existing or projected impact of  
304 the project on established clusters or targeted industry  
305 sectors.

306 4. A description of the project's contribution to the  
307 diversity and resiliency of the innovation economy of this  
308 state.

309 5. A description of the project's impact on special-needs  
310 communities, including, but not limited to, rural areas,  
311 distressed urban areas, and enterprise zones.

312 (6) In consultation with Enterprise Florida, Inc., the  
313 office may negotiate the proposed amount of an award for any  
314 applicant meeting the requirements of this section. In  
315 negotiating such award, the office shall consider the amount of  
316 the incentive needed to cause the applicant to locate or expand  
317 in this state in conjunction with other relevant applicant  
318 impact and cost information and analysis as described in this  
319 section. Particular emphasis shall be given to the potential for  
320 the project to stimulate additional private investment and high-  
321 quality employment opportunities in the area.

322 (7) Upon receipt of the evaluation and recommendation from  
323 Enterprise Florida, Inc., the director shall recommend to the  
324 Governor the approval or disapproval of an award. In  
325 recommending approval of an award, the director shall include  
326 proposed performance conditions that the applicant must meet in  
327 order to obtain incentive funds and any other conditions that  
328 must be met before the receipt of any incentive funds. The

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329 Governor shall consult with the President of the Senate and the  
330 Speaker of the House of Representatives before giving approval  
331 for an award. Upon approval of an award, the Executive Office of  
332 the Governor shall release the funds pursuant to the legislative  
333 consultation and review requirements set forth in s. 216.177.

334 (8) Upon approval by the Governor and release of the funds  
335 as set forth in subsection (7), the director shall issue a  
336 letter certifying the applicant as qualified for an award. The  
337 office and the applicant shall enter into an agreement that sets  
338 forth the conditions for payment of incentives. The agreement  
339 must include the total amount of funds awarded; the performance  
340 conditions that must be met to obtain the award or portions of  
341 the award, including, but not limited to, net new employment in  
342 the state, average wage, and total cumulative investment;  
343 demonstration of a baseline of current service and a measure of  
344 enhanced capability; the methodology for validating performance;  
345 the schedule of payments; and sanctions for failure to meet  
346 performance conditions, including any clawback provisions.

347 (9) Enterprise Florida, Inc., shall assist the office in  
348 validating the performance of an innovation business or research  
349 and development facility that has received an award. At the  
350 conclusion of the innovation incentive award agreement, or its  
351 earlier termination, Enterprise Florida, Inc., shall, within 90  
352 days, report the results of the innovation incentive award to  
353 the Governor, the President of the Senate, and the Speaker of  
354 the House of Representatives.

355 (10) Enterprise Florida, Inc., shall develop business  
356 ethics standards based on appropriate best industry practices

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357 which shall be applicable to all award recipients. The standards  
358 shall address ethical duties of business enterprises, fiduciary  
359 responsibilities of management, and compliance with the laws of  
360 this state. Enterprise Florida, Inc., may collaborate with the  
361 State University System in reviewing and evaluating appropriate  
362 business ethics standards. Such standards shall be provided to  
363 the Governor, the President of the Senate, and the Speaker of  
364 the House of Representatives by December 31, 2006. An award  
365 agreement entered into on or after December 31, 2006, shall  
366 require a recipient to comply with the business ethics standards  
367 developed pursuant to this section.

368 Section 3. Subsections (16) through (19) of section  
369 403.973, Florida Statutes, are renumbered as subsections (17)  
370 through (20), respectively, and a new subsection (16) is added  
371 to that section, to read:

372 403.973 Expedited permitting; comprehensive plan  
373 amendments.--

374 (16) The office, working with the agencies participating  
375 in the memoranda of agreement, shall review sites proposed for  
376 the location of facilities eligible for the Innovation Incentive  
377 Program under s. 288.1089. Within 20 days after the request for  
378 the review by the office, the agencies shall provide to the  
379 office a statement as to each site's necessary permits under  
380 local, state, and federal law and an identification of  
381 significant permitting issues, which if unresolved, may result  
382 in the denial of an agency permit or approval or any significant  
383 delay caused by the permitting process.

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384 Section 4. Paragraph (e) of subsection (2) of section  
385 288.0655, Florida Statutes, is amended to read:

386 288.0655 Rural Infrastructure Fund.--  
387 (2)

388 (e) To enable local governments to access the resources  
389 available pursuant to s. 403.973 (19) ~~(18)~~, the office may award  
390 grants for surveys, feasibility studies, and other activities  
391 related to the identification and preclearance review of land  
392 which is suitable for preclearance review. Authorized grants  
393 under this paragraph shall not exceed \$75,000 each, except in  
394 the case of a project in a rural area of critical economic  
395 concern, in which case the grant shall not exceed \$300,000. Any  
396 funds awarded under this paragraph must be matched at a level of  
397 50 percent with local funds, except that any funds awarded for a  
398 project in a rural area of critical economic concern must be  
399 matched at a level of 33 percent with local funds. In evaluating  
400 applications under this paragraph, the office shall consider the  
401 extent to which the application seeks to minimize administrative  
402 and consultant expenses.

403 Section 5. For the 2006-2007 fiscal year, the sum of \$50  
404 million is appropriated from nonrecurring funds from the General  
405 Revenue Fund in fiscal year 2006-2007 to the Quick Action  
406 Closing Fund.

407 Section 6. For fiscal year 2006-2007, the sum of  
408 \$250,000,000 is appropriated from nonrecurring general revenue  
409 to the Office of Tourism, Trade, and Economic Development.  
410 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.  
411 216.351, Florida Statutes, any unexpended balance from this

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412 appropriation shall be carried forward at the end of each fiscal  
413 year until the 2010-2011 fiscal year. At the end of the 2010-  
414 2011 fiscal year, any obligated funds for qualified projects  
415 that are not yet disbursed shall remain with the office to be  
416 used for the purposes of this act. Any unobligated funds of this  
417 appropriation shall revert to the General Revenue Fund  
418 unallocated at the end of the 2010-2011 fiscal year.

419 Section 7. This act shall take effect July 1, 2006.