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606-00053B-09A

Proposed Committee Substitute by the Committee on Transportation  
and Economic Development Appropriations

A bill to be entitled

An act relating to economic development; creating s.  
288.1081, F.S.; creating the Economic Gardening  
Business Loan Pilot Program within the Office of  
Tourism, Trade, and Economic Development; providing  
legislative findings and intent; providing eligibility  
criteria for the award of loans to certain businesses;  
providing application procedures; requiring loan  
agreements; providing terms of loans; providing for  
use of loan proceeds; providing criteria and  
application procedures for the selection of loan  
administrators; requiring a loan administrator to  
enter into a grant agreement; providing for the  
disbursement of certain funds from the Economic  
Development Trust Fund; requiring fees for the loan  
administrator; providing for the collection and  
deposit of loan payments; requiring the loan  
administrator to submit a report to the office;  
requiring the office to adopt rules; authorizing the  
use of emergency rulemaking procedures; requiring the  
office to submit a report to the Governor and  
Legislature; providing for reversion and carryforward  
of certain unexpended appropriations; prohibiting new  
loans after a specified date; providing for future  
repeal; creating s. 288.1082, F.S.; creating the  
Economic Gardening Technical Assistance Pilot Program  
within the office; requiring the office to contract



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28 for administration of the pilot program; requiring  
29 competitive procurement; requiring the provision of  
30 technical assistance to certain businesses; providing  
31 eligibility criteria for businesses to receive  
32 technical assistance; requiring the businesses to  
33 enter into agreements with the contracted entity  
34 administering the pilot program; requiring the  
35 businesses to report certain data; providing that the  
36 contracted entity is an economic development agency;  
37 providing for review of contracts; requiring the  
38 office to submit a report to the Governor and  
39 Legislature; authorizing the office to adopt rules;  
40 directing the Office of Program Policy Analysis and  
41 Government Accountability to submit a report to the  
42 Governor and Legislature; authorizing the expenditure  
43 of certain funds appropriated for the pilot program;  
44 providing an effective date.

45  
46 Be It Enacted by the Legislature of the State of Florida:

47  
48 Section 1. Section 1. Section 288.1081, Florida Statutes,  
49 is created to read:

50 288.1081 Economic Gardening Business Loan Pilot Program.-

51 (1) There is created within the Office of Tourism, Trade,  
52 and Economic Development the Economic Gardening Business Loan  
53 Pilot Program. The purpose of the pilot program is to stimulate  
54 investment in Florida's economy by providing loans to expanding  
55 businesses in the state. As used in this section, the term  
56 "office" means the Office of Tourism, Trade, and Economic



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57 Development.

58 (2) The Legislature finds that it is vital to the overall  
59 health and growth of the state's economy to promote favorable  
60 conditions for expanding Florida businesses that demonstrate the  
61 ability to grow. It is therefore the intent of the Legislature  
62 that resources be provided for the pilot program in order to  
63 respond to the current extraordinary economic challenges  
64 confronting the state.

65 (3) (a) To be eligible for a loan under the pilot program,  
66 an applicant must be a business eligible for assistance under  
67 the Economic Gardening Technical Assistance Pilot Program as  
68 provided in s. 288.1082(4) (a).

69 (b) A loan applicant must submit a written application to  
70 the loan administrator in the format prescribed by the loan  
71 administrator. The application must include:

72 1. The applicant's federal employer identification number,  
73 unemployment account number, and sales or other tax registration  
74 number.

75 2. The street address of the applicant's principal place of  
76 business in this state.

77 3. A description of the type of economic activity, product,  
78 or research and development undertaken by the applicant,  
79 including the six-digit North American Industry Classification  
80 System code for each type of economic activity conducted by the  
81 applicant.

82 4. The applicant's annual revenue, number of employees,  
83 number of full-time equivalent employees, and other information  
84 necessary to verify the applicant's eligibility for the pilot  
85 program under s. 288.1082(4) (a).



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86           5. The projected investment in the business, if any, which  
87 the applicant proposes in conjunction with the loan.

88           6. The total investment in the business from all sources,  
89 if any, which the applicant proposes in conjunction with the  
90 loan.

91           7. The number of net new full-time equivalent jobs that, as  
92 a result of the loan, the applicant proposes to create in this  
93 state as of December 31 of each year and the average annual wage  
94 of the proposed jobs.

95           8. The total number of full-time equivalent employees the  
96 applicant currently employs in this state.

97           9. The date that the applicant anticipates it needs the  
98 loan.

99           10. A detailed explanation of why the loan is needed to  
100 assist the applicant in expanding jobs in the state.

101           11. A statement that all of the applicant's corporate  
102 assets are pledged as collateral for the loan.

103           12. A statement that the applicant, upon receiving the  
104 loan, agrees not to seek additional long-term debt without prior  
105 approval of the loan administrator.

106           13. A statement that the loan is a joint obligation of the  
107 business and of each person who owns at least 20 percent of the  
108 business.

109           14. Any additional information requested by the office or  
110 the loan administrator.

111           (c) The loan administrator, after verifying the accuracy of  
112 a submitted application, shall award the loan to the applicant  
113 if the administrator determines that the applicant, as compared  
114 to other applicants submitting applications, is in the best



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115 position to use the loan to continue making a successful long-  
116 term business commitment to the state.

117 (d) A borrower awarded a loan under this section and the  
118 loan administrator must enter into a loan agreement that  
119 provides for the borrower's repayment of the loan.

120 (4) The following terms apply to a loan received under the  
121 pilot program:

122 (a) The maximum amount of the loan is \$250,000.

123 (b) The proceeds of the loan may be used for working  
124 capital purchases, employee training, or salaries for newly  
125 created jobs in the state.

126 (c) The security interest for the loan's collateral  
127 covering all of the borrower's corporate assets must be  
128 perfected by recording a lien under the Uniform Commercial Code.

129 (d) The period of the loan is 4 years.

130 (e) The interest rate of the loan is 2 percent. However, if  
131 the borrower does not create the projected number of jobs within  
132 the terms of the contract, the interest rate shall be increased  
133 for the remaining period of the loan to the prime rate published  
134 in the Wall Street Journal, as of the date specified in the loan  
135 agreement, plus 4 percent.

136 (f) For each month of the first 12 months of the loan,  
137 payment is due for interest only. Thereafter, payment for  
138 interest and principal is due each month until the loan is  
139 repaid in full. Interest and principal payments are based on the  
140 unpaid balance of the total loan amount.

141 (5) (a) The office may designate one or more qualified  
142 entities to serve as loan administrators for the pilot program.

143 A loan administrator must:



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144 1. Be a Florida corporation not for profit incorporated  
145 under chapter 617 which has its principal place of business in  
146 the state.

147 2. Have 5 years of verifiable experience of lending to  
148 businesses in this state.

149 3. Submit an application to the office on forms prescribed  
150 by the office. The application must include the loan  
151 administrator's business plan for its proposed lending  
152 activities under the pilot program, including, but not limited  
153 to, a description of its outreach efforts, underwriting, credit  
154 policies and procedures, credit decision processes, monitoring  
155 policies and procedures, and collection practices; the  
156 membership of its board of directors; and samples of its  
157 currently used loan documentation. The application must also  
158 include a detailed description and supporting documentation of  
159 the nature of the loan administrator's partnerships with local  
160 or regional economic and business development organizations.

161 (b) The office, upon selecting a loan administrator, shall  
162 enter into a grant agreement with the administrator to issue the  
163 available loans to eligible applicants. The grant agreement must  
164 specify the aggregate amount of the loans authorized for award  
165 by the loan administrator. The term of the grant agreement must  
166 be at least 4 years, except that the office may terminate the  
167 agreement earlier if the loan administrator fails to meet  
168 minimum performance standards set by the office. The grant  
169 agreement may be amended by mutual consent of both parties.

170 (c) The office shall disburse from the Economic Development  
171 Trust Fund to the loan administrator the appropriations provided  
172 for the pilot program. Disbursements to the loan administrator



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173 must not exceed the aggregate amount of the loans authorized in  
174 the grant agreement. The office may not disburse more than 50  
175 percent of the aggregate amount of the loans authorized in the  
176 grant agreement until the office verifies the borrowers' use of  
177 the loan proceeds and the loan administrator's successful credit  
178 decisionmaking policies.

179 (d) A loan administrator is entitled to receive a loan  
180 origination fee, payable at closing, of 1 percent of each loan  
181 issued by the loan administrator and a monthly servicing fee of  
182 0.625 percent of each payment made by the borrower. The loan  
183 administrator shall collect the monthly servicing fee from the  
184 payments made by the borrower, first charging the fee against  
185 interest payments and then charging the remainder of the fee  
186 against repayments of principal.

187 (e) A loan administrator, after collecting the servicing  
188 fee in accordance with paragraph (d), shall remit the borrower's  
189 collected interest and principal payments to the office on a  
190 quarterly basis. If the borrower defaults on the loan, the loan  
191 administrator shall initiate collection efforts to seek  
192 repayment of the loan. The loan administrator, upon collecting  
193 payments for a defaulted loan, shall remit the payments to the  
194 office but, to the extent authorized in the grant agreement, may  
195 deduct the costs of the administrator's collection efforts. The  
196 office shall deposit all funds received under this paragraph in  
197 the General Revenue Fund.

198 (f) A loan administrator shall submit quarterly reports to  
199 the office which include the information required in the grant  
200 agreement. A quarterly report must include, at a minimum, the  
201 number of full-time equivalent jobs created as a result of the



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202 loans, the amount of wages paid to employees in the newly  
203 created jobs, and the locations and types of economic activity  
204 undertaken by the borrowers.

205 (6) The office shall adopt rules under ss. 120.536(1) and  
206 120.54 to administer this section. To the extent necessary to  
207 expedite implementation of the pilot program, the office may  
208 adopt initial emergency rules for the pilot program in  
209 accordance with s. 120.54(4).

210 (7) On June 30 and December 31 of each year, beginning in  
211 2009, the office shall submit a report to the Governor, the  
212 President of the Senate, and the Speaker of the House of  
213 Representatives which describes in detail the use of the loan  
214 funds. The report must include, at a minimum, the number of  
215 businesses receiving loans, the number of full-time equivalent  
216 jobs created as a result of the loans, the amount of wages paid  
217 to employees in the newly created jobs, the locations and types  
218 of economic activity undertaken by the borrowers, the amounts of  
219 loan repayments made to date, and the default rate of borrowers.

220 (8) Unexpended balances of appropriations provided for the  
221 pilot program shall not revert to the fund from which the  
222 appropriation was made at the end of a fiscal year but shall be  
223 retained in the Economic Development Trust Fund and be carried  
224 forward for expenditure for the pilot program during the  
225 following fiscal year. A loan administrator may not award a new  
226 loan or enter into a loan agreement after June 30, 2011.  
227 Balances of appropriations provided for the pilot program which  
228 remain unexpended as of July 1, 2011, shall revert to the  
229 General Revenue Fund.

230 (9) This section is repealed July 1, 2016, unless reviewed





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231 and reenacted by the Legislature before that date.

232 Section 2. Section 2. Section 288.1082, Florida Statutes,  
233 is created to read:

234 288.1082 Economic Gardening Technical Assistance Pilot  
235 Program.-

236 (1) There is created within the Office of Tourism, Trade,  
237 and Economic Development the Economic Gardening Technical  
238 Assistance Pilot Program. The purpose of the pilot program is to  
239 stimulate investment in Florida's economy by providing technical  
240 assistance for expanding businesses in the state. As used in  
241 this section, the term "office" means the Office of Tourism,  
242 Trade, and Economic Development.

243 (2) The office shall contract with one or more entities to  
244 administer the pilot program under this section. The office  
245 shall award each contract in accordance with the competitive  
246 bidding requirements in s. 287.057 to an entity that  
247 demonstrates the ability to implement the pilot program on a  
248 statewide basis and the capability to provide counseling  
249 services, access to technology and information, marketing  
250 services and advice, business management support, and other  
251 similar services.

252 (3) A contracted entity administering the pilot program  
253 shall provide technical assistance for eligible businesses which  
254 includes, but is not limited to:

255 (a) Access to free or affordable information services and  
256 consulting services, including information on markets,  
257 customers, and competitors, such as business databases,  
258 geographic information systems, and search engine marketing.

259 (b) Information on how to obtain infrastructure, including



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260 basic physical infrastructure; quality-of-life infrastructure,  
261 such as parks and open spaces; and intellectual infrastructure  
262 that provides educational opportunities to help a business  
263 maintain its competitiveness.

264 (c) Business connections, including interaction and  
265 exchange among business owners and resource providers, such as  
266 trade associations, think tanks, academic institutions, business  
267 roundtables, peer-to-peer learning sessions, and mentoring  
268 programs.

269 (4) (a) To be eligible for assistance under the pilot  
270 program, a business must be a for-profit, privately held,  
271 investment-grade business that employs at least 10 persons but  
272 not more than 99 persons, has maintained its principal place of  
273 business in the state for at least the previous 2 years,  
274 generates at least \$1 million but not more than \$50 million in  
275 annual revenue, qualifies for the tax refund program for  
276 qualified target industry businesses under s. 288.106, and,  
277 during the previous 2-year period, has increased its number of  
278 full-time equivalent employees in this state by at least 10  
279 percent and has increased its gross revenue by at least 10  
280 percent.

281 (b) A contracted entity administering the pilot program, in  
282 selecting the eligible businesses to receive assistance, shall  
283 choose businesses in more than one industry cluster and, to the  
284 maximum extent practicable, shall choose businesses that are  
285 geographically distributed throughout the state.

286 (5) (a) A business receiving assistance under the pilot  
287 program must enter into an agreement with the contracted entity  
288 administering the program to establish the business's commitment



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289 to participation in the pilot program. The agreement must  
290 require, at a minimum, that the business:

291 1. Attend a minimum number of meetings between the business  
292 and the contracted entity administering the pilot program.

293 2. Report job-creation data in the manner prescribed by the  
294 contracted entity administering the pilot program.

295 3. Provide financial data in the manner prescribed by the  
296 contracted entity administering the program.

297 (b) The office or the contracted entity administering the  
298 pilot program may prescribe additional reporting requirements in  
299 the agreement which are necessary to track the progress of the  
300 business and monitor the business's implementation of the  
301 assistance. The contracted entity shall report the information  
302 to the office on a quarterly basis.

303 (6) A contracted entity administering the pilot program is  
304 authorized to promote the general business interests or  
305 industrial interests of the state.

306 (7) The office shall review the progress of a contracted  
307 entity administering the pilot program at least once each 6  
308 months and shall determine whether the contracted entity is  
309 meeting its contractual obligations for administering the pilot  
310 program. The office may terminate and rebid a contract if the  
311 contracted entity does not meet its contractual obligations.

312 (8) On December 31 of each year, beginning in 2009, the  
313 office shall submit a report to the Governor, the President of  
314 the Senate, and the Speaker of the House of Representatives  
315 which describes in detail the progress of the pilot program. The  
316 report must include, at a minimum, the number of businesses  
317 receiving assistance, the number of full-time equivalent jobs



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318 created as a result of the assistance, if any, the amount of  
319 wages paid to employees in the newly created jobs, and the  
320 locations and types of economic activity undertaken by the  
321 businesses.

322 (9) The office may adopt rules under ss. 120.536(1) and  
323 120.54 to administer this section.

324 Section 3. By December 31, 2012, the Office of Program  
325 Policy Analysis and Government Accountability shall submit a  
326 report to the Governor, the President of the Senate, and the  
327 Speaker of the House of Representatives which evaluates the  
328 Economic Gardening Technical Assistance Pilot Program in s.  
329 288.1082, Florida Statutes, and the pilot program's  
330 effectiveness in expanding the targeted businesses.

331 Section 4. From the funds provided in a special  
332 appropriations act for the 2008-2009 fiscal year to the Office  
333 of Tourism, Trade, and Economic Development for implementation  
334 of this act, the office may expend up to \$1.5 million for  
335 implementation of the Economic Gardening Technical Assistance  
336 Pilot Program created in s. 288.1082, Florida Statutes.

337 Section 5. This act shall take effect upon becoming a law.