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Proposed Committee Substitute by the Policy and Steering
Committee on Ways and Means

1 A bill to be entitled
2 An act relating to economic development; amending s.
3 125.045, F.S.; requiring an agency or entity that
4 receives county funds for economic development
5 purposes pursuant to a contract to submit a report on
6 the use of the funds; requiring the county to include
7 the report in its annual financial audit; requiring
8 counties to report on the provision of economic
9 development incentives to businesses to the
10 Legislative Committee on Intergovernmental Affairs;
11 amending s. 159.803, F.S.; conforming a cross-
12 reference to changes made by the act; amending s.
13 166.021, F.S.; requiring an agency or entity that
14 receives municipal funds for economic development
15 purposes pursuant to a contract to submit a report on
16 the use of the funds; requiring the municipality to
17 include the report in its annual financial audit;
18 requiring municipalities to report on the provision of
19 economic development incentives to businesses to the
20 Legislative Committee on Intergovernmental Affairs;
21 amending s. 212.05, F.S.; limiting the amount of sales
22 taxes imposed on the occasional or isolated sale of an
23 aircraft or boat; amending s. 212.08, F.S.;
24 temporarily exempting from sales and use taxes the
25 increase in purchases of certain industrial machinery
26 and equipment over the amount of purchases made in a
27 base year; redefining the terms "real property" and



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28 "rehabilitation of real property" for purposes of the
29 sales tax exemption on certain building materials used
30 in the rehabilitation of real property used in an
31 enterprise zone; specifying procedures to claim a
32 sales tax credit under the entertainment industry
33 financial incentive program; amending s. 213.053,
34 F.S.; authorizing the Department of Revenue to provide
35 confidential taxpayer information relating to certain
36 tax credits under the entertainment industry financial
37 incentive program to the Office of Film and
38 Entertainment and to the Office of Tourism, Trade, and
39 Economic Development; amending s. 220.02, F.S.;
40 providing for tax credits pursuant to the
41 entertainment industry financial incentive program and
42 the jobs for the unemployed tax credit program to be
43 taken against the corporate income tax or the
44 franchise tax after other existing credits are taken;
45 creating s. 220.1896, F.S.; creating the jobs for the
46 unemployed tax credit program to provide a tax credit
47 to certain businesses that employ certain individuals
48 who were previously unemployed after a certain date;
49 providing for applications for certification under the
50 program to be reviewed by Enterprise Florida, Inc.,
51 and the Office of Tourism, Trade, and Economic
52 Development; providing criminal penalties for
53 fraudulent claims of a tax credit; authorizing the
54 Office of Tourism, Trade, and Economic Development and
55 the Department of Revenue to adopt rules; providing
56 for the expiration of the tax credit program; creating



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57 s. 220.1899, F.S.; creating the entertainment industry
58 tax credit for a tax credit against the qualified
59 expenditures made by a qualified production company
60 pursuant to the entertainment industry financial
61 incentive program; amending s. 220.191, F.S.;
62 redefining the terms "qualifying business" and
63 "qualifying project" for purposes of the capital
64 investment tax credit; providing for the amount of the
65 credit to diminish over a 10-year period; conforming
66 cross-references to changes made in the act; providing
67 that a business seeking the tax credit has the
68 responsibility of demonstrating qualification for the
69 credit to the Department of Revenue and the Office of
70 Tourism, Trade, and Economic Development; authorizing
71 the payment of a prorated tax credit under certain
72 circumstances; providing that a business that receives
73 a capital investment tax credit is not eligible for a
74 tax refund under the qualified target industry tax
75 refund program; amending s. 288.095, F.S.; increasing
76 the amount of tax refund payments available to pay the
77 state's share of refunds under the qualified defense
78 contractor and space flight business tax refund
79 program and the tax refund program for qualified
80 target industry businesses; amending s. 288.106, F.S.;
81 providing legislative findings and declarations for
82 the tax refund program for qualified target industry
83 businesses; revising the definitions of terms
84 applicable to the program; revising the criteria for
85 the Office of Tourism, Trade, and Economic Development



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86 and Enterprise Florida, Inc., to use in identifying
87 target industry businesses; conforming cross-
88 references to changes made by the act; authorizing
89 additional tax refunds to qualified target industry
90 businesses that meet specified conditions; requiring
91 an application for certification as a qualified target
92 industry business to include an estimate of the
93 proportion of the machinery, equipment, and other
94 resources that will be used in the applicant's
95 proposed operation in Florida and purchased by the
96 applicant outside the state; requiring the Office of
97 Tourism, Trade, and Economic Development to consider
98 the state's return on investment in evaluating
99 applicants for the tax refund program; extending the
100 date by which a qualified target industry business may
101 request an economic-stimulus exemption; redesignating
102 economic-stimulus exemptions as economic recovery
103 extensions; authorizing the Office of Tourism, Trade,
104 and Economic Development to waive the requirement for
105 a business to annually provide proof of taxes paid if
106 the business provides proof that it has paid certain
107 taxes in amounts at least equal to the total amount of
108 refunds for which the business is eligible; requiring
109 the Office of Tourism, Trade, and Economic Development
110 to conduct a review of certain qualified target
111 industry businesses that have received their final tax
112 refund and provide a report of its findings and
113 recommendations to the Governor, the President of the
114 Senate, and the Speaker of the House of



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115 Representatives; extending the date by which
116 businesses may apply to participate in the tax refund
117 program for qualified target industry businesses;
118 amending s. 288.107, F.S.; conforming cross-references
119 to changes made by the act; amending s. 288.125, F.S.;
120 redefining the term "entertainment industry" to
121 include digital media projects; amending s. 288.1251,
122 F.S.; requiring the Office of Film and Entertainment
123 to update its strategic plan every 5 years; deleting
124 requirements for the Office of Film and Entertainment
125 to represent certain decisionmakers within the
126 entertainment industry and to act as a liaison between
127 entertainment industry producers and labor
128 organizations; amending s. 288.1252, F.S.; deleting
129 obsolete provisions; deleting the requirement for the
130 Commissioner of Film and Entertainment and a
131 representative of the Florida Tourism Marketing
132 Council to serve as ex officio members of the Film and
133 Entertainment Advisory Council; amending s. 288.1253,
134 F.S.; eliminating provisions authorizing the payment
135 of travel expenses to persons other than employees of
136 the Office of Film and Entertainment, the Governor and
137 Lieutenant Governor, and security staff; providing for
138 the payment of travel expenses through reimbursements;
139 amending s. 288.1254, F.S.; revising the entertainment
140 industry financial incentive program to provide
141 corporate income tax and sales and use tax credits to
142 qualified entertainment entities rather than
143 reimbursements from appropriations; revising



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144 provisions relating to definitions, creation, and
145 scope, application procedures, approval process,
146 eligibility, required documents, qualified and
147 certified productions, and annual reports; providing
148 duties and responsibilities of the Office of Film and
149 Entertainment, the Office of Tourism, Trade, and
150 Economic Development, and the Department of Revenue
151 relating to the tax credits; providing criteria and
152 limitations for awards of tax credits; providing for
153 uses, allocations, election, distributions, and
154 carryforward of the tax credits; providing for
155 withdrawal of tax credit eligibility; providing for
156 use of consolidated returns; providing for partnership
157 and noncorporate distributions of tax credits;
158 providing for succession of tax credits; providing
159 requirements for transfer of tax credits; authorizing
160 the Office of Tourism, Trade, and Economic Development
161 to adopt rules, policies, and procedures; authorizing
162 the Department of Revenue to adopt rules and conduct
163 audits; providing for revocation and forfeiture of tax
164 credits; providing liability for reimbursement of
165 certain costs and fees associated with a fraudulent
166 claim; requiring an annual report to the Governor and
167 the Legislature; providing for future repeal;
168 amending s. 288.1258, F.S.; requiring the Office of
169 Film and Entertainment to include in its records
170 certain ratios of tax exemptions and incentives to the
171 estimated funds expended by a certified production;
172 creating s. 288.9552, F.S.; creating the Research



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173 Commercialization Matching Grant Program to provide
174 grants to certain small companies; designating the
175 Florida Institute for the Commercialization of Public
176 Research to serve as the administrator of the program;
177 specifying criteria to determine eligibility for a
178 grant; limiting the maximum amount of an award;
179 requiring the institute to issue an annual report
180 relating to the grant program to the Governor, the
181 President of the Senate, and the Speaker of the House
182 of Representatives; amending s. 290.00677, F.S.;
183 conforming cross-references to changes made by the
184 act; amending s. 373.4141, F.S.; providing legislative
185 intent to expedite the processing of permits; deleting
186 provisions relating to a requirement that the
187 Department of Environmental Protection and a water
188 management district request additional information
189 needed from an applicant within 30 days after receipt
190 of the application; requiring an application for
191 certain permits, including certain permits from a
192 local government, to be approved or denied within 30
193 days; amending s. 373.441, F.S.; requiring the
194 Department of Environmental Protection to adopt rules
195 that authorize a local government to petition the
196 Governor and Cabinet for certain delegation requests;
197 requiring the Department of Environmental Protection
198 detail the statutes or rules that were not satisfied
199 by a local government that made a request for
200 delegation and to detail actions that could be taken
201 to allow for delegation; authorizing a local



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202 government to petition the Governor and Cabinet to
203 review the denial of a delegation request; requiring
204 certain counties and municipalities to apply for
205 delegation by a certain date to require permits
206 similar to an environmental resource permit; amending
207 s. 403.061, F.S.; directing the Department of
208 Environmental Protection to expand the use of online
209 self-certification for certain exemptions and permits;
210 limiting the authority of a local government the
211 method or form for documenting that a project
212 qualifies for an exemption or meets the requirements
213 for a permit; amending s. 403.814, F.S.; granting a
214 general permit for the construction and maintenance of
215 certain surface water management systems that satisfy
216 specified conditions; requiring the Office of Program
217 Policy Analysis and Government Accountability to
218 review the Enterprise Zone Program and submit a report
219 of its findings and recommendations to the Governor,
220 the President of the Senate, and the Speaker of the
221 House of Representatives; authorizing the funds in
222 specific appropriation 2649 of ch. 2008-152, Laws of
223 Florida, to be used for additional space-related
224 economic-development purposes; providing an
225 appropriation to the Office of Tourism, Trade, and
226 Economic Development to fund the operations of Space
227 Florida; providing an appropriation to the Space
228 Business Investment and Financial Services Trust Fund
229 to carry out the purposes of the trust fund; providing
230 an appropriation to the Office of Tourism, Trade, and



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231 Economic Development to enable Space Florida to
232 provide targeted business-development support services
233 and business recruitment; providing an appropriation
234 to the Office of Tourism, Trade, and Economic
235 Development for Space Florida to retrain workers in
236 the space industry; requiring the Board of Trustees of
237 the Internal Improvement Trust Fund to direct state
238 agencies to compile a list of surplus real properties
239 and facilities that have the potential for sale or
240 exchange; requiring the Board of Trustees in
241 consultation with the Legislative Budget Commission to
242 determine which properties or facilities should be
243 declared as surplus and sold or exchanged for value;
244 requiring the Department of Management Services to
245 proceed with the disposal of surplus property;
246 providing for the proceeds from the sale of surplus
247 property to be deposited in the General Revenue Fund;
248 requiring the Office of Program Policy Analysis and
249 Government Accountability to review and evaluate the
250 Research Commercialization Matching Grant Program and
251 submit a report of its findings to the Governor,
252 President of the Senate, and the Speaker of the House
253 of Representatives; limiting the effect of a ruling by
254 a court which invalidates any portion of chapter 2009-
255 96, Laws of Florida; validating certain exemptions,
256 extensions, amendments to a local comprehensive plan
257 comprehensive, and land development regulations made
258 or granted under chapter 2009-96, Laws of Florida;
259 extending the expiration dates of certain permits



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260 issued by the Department of Environmental Protection
261 or a water management district; extending certain
262 previously granted build-out dates; amending s. 47 of
263 chapter 2009-82, Laws of Florida; delaying the
264 expiration of the Florida Homebuyer Opportunity
265 Program; providing an appropriation to the Florida
266 Institute for the Commercialization of Public Research
267 to fund grants under the Research Commercialization
268 Matching Grant Program; conditionally specifying the
269 use of an appropriation to the Board of Governors of
270 the State University System to fund proposals under
271 the State University Research Commercialization
272 Assistance Grant Program; providing a finding that the
273 act fulfills an important state interest; providing
274 for severability; providing effective dates.

275

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

277

278 Section 1. Effective July 1, 2010, section 125.045, Florida
279 Statutes, is amended to read:

280 125.045 County economic development powers.—

281 (1) The Legislature finds and declares that this state
282 faces increasing competition from other states and other
283 countries for the location and retention of private enterprises
284 within its borders. Furthermore, the Legislature finds that
285 there is a need to enhance and expand economic activity in the
286 counties of this state by attracting and retaining manufacturing
287 development, business enterprise management, and other
288 activities conducive to economic promotion, in order to provide



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289 a stronger, more balanced, and stable economy in the state; to
290 enhance and preserve purchasing power and employment
291 opportunities for the residents of this state; and to improve
292 the welfare and competitive position of the state. The
293 Legislature declares that it is necessary and in the public
294 interest to facilitate the growth and creation of business
295 enterprises in the counties of the state.

296 (2) The governing body of a county may expend public funds
297 to attract and retain business enterprises, and the use of
298 public funds toward the achievement of such economic development
299 goals constitutes a public purpose. The provisions of this
300 chapter which confer powers and duties on the governing body of
301 a county, including any powers not specifically prohibited by
302 law which can be exercised by the governing body of a county,
303 must be liberally construed in order to effectively carry out
304 the purposes of this section.

305 (3) For the purposes of this section, it constitutes a
306 public purpose to expend public funds for economic development
307 activities, including, but not limited to, developing or
308 improving local infrastructure, issuing bonds to finance or
309 refinance the cost of capital projects for industrial or
310 manufacturing plants, leasing or conveying real property, and
311 making grants to private enterprises for the expansion of
312 businesses existing in the community or the attraction of new
313 businesses to the community.

314 (4) A contract between the governing body of a county or
315 other entity engaged in economic development activities on
316 behalf of the county and an economic development agency must
317 require the agency or entity receiving county funds to submit a



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318 report to the governing body of the county detailing how county
319 funds were spent and detailing the results of the economic
320 development agency's or entity's efforts on behalf of the
321 county. The county shall include the report as an addendum to
322 the county's annual financial audit.

323 (5) (a) By December 1, 2010, and annually thereafter, each
324 county shall report to the Legislative Committee on
325 Intergovernmental Relations the economic development incentives
326 given to any business during the county's previous fiscal year.
327 Economic development incentives include:

328 1. Direct financial incentives of monetary assistance
329 provided to a business from the county or through an
330 organization authorized by the county. Such incentives include
331 grants, loans, equity investments, loan insurance and
332 guarantees, and training subsidies.

333 2. Indirect incentives in the form of grants and loans
334 provided to businesses and community organizations that provide
335 support to businesses or promote business investment or
336 development.

337 3. Fee-based or tax-based incentives, including credits,
338 refunds, exemptions, and property tax abatement or assessment
339 reductions.

340 4. Below-market rate leases or deeds for real property.

341 5. Any other inducement provided to a business in order for
342 the business to create or retain jobs, relocate to or remain in
343 the county, or expand its current operations in the county.

344 (b) A county shall report its economic development
345 incentives in the format specified by the Legislative Committee
346 on Intergovernmental Relations.



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347 (c) The Legislative Committee on Intergovernmental
348 Relations shall compile the economic development incentives
349 provided by each county in a manner that shows the total of each
350 class of economic development incentives provided by each county
351 and all counties.

352 (d) If a county did not provide any economic development
353 incentives during its previous fiscal year, the governing body
354 of the county must report to the Legislative Committee on
355 Intergovernmental Relations that the county did not provide any
356 incentives.

357 Section 2. Effective July 1, 2010, subsection (11) of
358 section 159.803, Florida Statutes, is amended to read:

359 159.803 Definitions.—As used in this part, the term:

360 (11) "Florida First Business project" means any project
361 which is certified by the Office of Tourism, Trade, and Economic
362 Development as eligible to receive an allocation from the
363 Florida First Business allocation pool established pursuant to
364 s. 159.8083. The Office of Tourism, Trade, and Economic
365 Development may certify those projects meeting the criteria set
366 forth in s. 288.106(4)(b) ~~s. 288.106(3)(b)~~ or any project
367 providing a substantial economic benefit to this state.

368 Section 3. Effective July 1, 2010, subsection (9) of
369 section 166.021, Florida Statutes, is amended to read:

370 166.021 Powers.—

371 (9) (a) The Legislature finds and declares that this state
372 faces increasing competition from other states and other
373 countries for the location and retention of private enterprises
374 within its borders. Furthermore, the Legislature finds that
375 there is a need to enhance and expand economic activity in the



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376 municipalities of this state by attracting and retaining
377 manufacturing development, business enterprise management, and
378 other activities conducive to economic promotion, in order to
379 provide a stronger, more balanced, and stable economy in the
380 state, to enhance and preserve purchasing power and employment
381 opportunities for the residents of this state, and to improve
382 the welfare and competitive position of the state. The
383 Legislature declares that it is necessary and in the public
384 interest to facilitate the growth and creation of business
385 enterprises in the municipalities of the state.

386 (b) The governing body of a municipality may expend public
387 funds to attract and retain business enterprises, and the use of
388 public funds toward the achievement of such economic development
389 goals constitutes a public purpose. The provisions of this
390 chapter which confer powers and duties on the governing body of
391 a municipality, including any powers not specifically prohibited
392 by law which can be exercised by the governing body of a
393 municipality, shall be liberally construed in order to
394 effectively carry out the purposes of this subsection.

395 (c) For the purposes of this subsection, it constitutes a
396 public purpose to expend public funds for economic development
397 activities, including, but not limited to, developing or
398 improving local infrastructure, issuing bonds to finance or
399 refinance the cost of capital projects for industrial or
400 manufacturing plants, leasing or conveying real property, and
401 making grants to private enterprises for the expansion of
402 businesses existing in the community or the attraction of new
403 businesses to the community.

404 (d) A contract between the governing body of a municipality



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405 or other entity engaged in economic development activities on
406 behalf of the municipality and an economic development agency
407 must require the agency or entity receiving county funds to
408 submit a report to the governing body of the county detailing
409 how county funds were spent and detailing the results of the
410 economic development agency's or entity's efforts on behalf of
411 the county. The municipality shall include the report as an
412 addendum to the municipality's annual financial audit.

413 (e)1. By December 1, 2010, and annually thereafter, each
414 municipality having an annual revenues or expenditures greater
415 than \$250,000 shall report to the Legislative Committee on
416 Intergovernmental Relations the economic development incentives
417 given to any business during the municipality's previous fiscal
418 year. Economic development incentives include:

419 a. Direct financial incentives of monetary assistance
420 provided to a business from the municipality or through an
421 organization authorized by the municipality. Such incentives
422 include grants, loans, equity investments, loan insurance and
423 guarantees, and training subsidies.

424 b. Indirect incentives in the form of grants and loans
425 provided to businesses and community organizations that provide
426 support to businesses or promote business investment or
427 development.

428 c. Fee-based or tax-based incentives, including credits,
429 refunds, exemptions, and property tax abatement or assessment
430 reductions.

431 d. Below-market rate leases or deeds for real property.

432 e. Any other inducement provided to a business in order for
433 the business to create or retain jobs, relocate to or remain in



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434 the county, or expand its current operations in the county.

435 2. A municipality shall report its economic development
436 incentives in the format specified by the Legislative Committee
437 on Intergovernmental Relations.

438 3. The Legislative Committee on Intergovernmental Relations
439 shall compile the economic development incentives provided by
440 each county in a manner that shows the total of each class of
441 economic development incentives provided by each municipality
442 and all municipalities.

443 4. If a municipality did not provide any economic
444 development incentives during its previous fiscal year, the
445 governing body of the municipality must report to the
446 Legislative Committee on Intergovernmental Relations that the
447 municipality did not provide any incentives.

448 (f)-(d) Nothing contained in This subsection does not limit
449 shall be construed as a limitation on the home rule powers
450 granted by the State Constitution to for municipalities.

451 Section 4. Effective July 1, 2010, paragraph (a) of
452 subsection (1) of section 212.05, Florida Statutes, is amended
453 to read:

454 212.05 Sales, storage, use tax.—It is hereby declared to be
455 the legislative intent that every person is exercising a taxable
456 privilege who engages in the business of selling tangible
457 personal property at retail in this state, including the
458 business of making mail order sales, or who rents or furnishes
459 any of the things or services taxable under this chapter, or who
460 stores for use or consumption in this state any item or article
461 of tangible personal property as defined herein and who leases
462 or rents such property within the state.



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463 (1) For the exercise of such privilege, a tax is levied on
464 each taxable transaction or incident, which tax is due and
465 payable as follows:

466 (a)1.a. At the rate of 6 percent of the sales price of each
467 item or article of tangible personal property when sold at
468 retail in this state, computed on each taxable sale for the
469 purpose of remitting the amount of tax due the state, and
470 including each and every retail sale.

471 b. Each occasional or isolated sale of an aircraft, boat,
472 mobile home, or motor vehicle of a class or type that ~~which~~ is
473 required to be registered, licensed, titled, or documented in
474 this state or by the United States Government shall be subject
475 to tax at the rate provided in this paragraph. However, the
476 maximum amount of tax imposed pursuant to this subparagraph on
477 each sale of an aircraft or boat may not exceed \$18,000. The
478 department shall by rule adopt any nationally recognized
479 publication for valuation of used motor vehicles as the
480 reference price list for any used motor vehicle that ~~which~~ is
481 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
482 (b), (c), or (e), or (9). If any party to an occasional or
483 isolated sale of such a vehicle reports to the tax collector a
484 sales price that ~~which~~ is less than 80 percent of the average
485 loan price for the specified model and year of such vehicle as
486 listed in the most recent reference price list, the tax levied
487 under this paragraph shall be computed by the department on such
488 average loan price unless the parties to the sale have provided
489 to the tax collector an affidavit signed by each party, or other
490 substantial proof, stating the actual sales price. Any party to
491 such sale who reports a sales price less than the actual sales



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492 price commits ~~is guilty of~~ a misdemeanor of the first degree,
493 punishable as provided in s. 775.082 or s. 775.083. The
494 department shall collect or attempt to collect from such party
495 any delinquent sales taxes. In addition, such party shall pay
496 any tax due and any penalty and interest assessed plus a penalty
497 equal to twice the amount of the additional tax owed.
498 Notwithstanding any other provision of law, the Department of
499 Revenue may waive or compromise any penalty imposed pursuant to
500 this subparagraph.

501 2. This paragraph does not apply to the sale of a boat or
502 aircraft by or through a registered dealer under this chapter to
503 a purchaser who, at the time of taking delivery, is a
504 nonresident of this state, does not make his or her permanent
505 place of abode in this state, and is not engaged in carrying on
506 in this state any employment, trade, business, or profession in
507 which the boat or aircraft will be used in this state, or is a
508 corporation none of the officers or directors of which is a
509 resident of, or makes his or her permanent place of abode in,
510 this state, or is a noncorporate entity that has no individual
511 vested with authority to participate in the management,
512 direction, or control of the entity's affairs who is a resident
513 of, or makes his or her permanent abode in, this state. For
514 purposes of this exemption, ~~either~~ a registered dealer acting on
515 his or her own behalf as seller, a registered dealer acting as
516 broker on behalf of a seller, or a registered dealer acting as
517 broker on behalf of the purchaser may be deemed to be the
518 selling dealer. This exemption is ~~shall~~ not ~~be~~ allowed unless:

519 a. The purchaser removes a qualifying boat, as described in
520 sub-subparagraph f., from the state within 90 days after the



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521 date of purchase or extension, or the purchaser removes a
522 nonqualifying boat or an aircraft from this state within 10 days
523 after the date of purchase or, when the boat or aircraft is
524 repaired or altered, within 20 days after completion of the
525 repairs or alterations;

526 b. The purchaser, within 30 days after ~~from~~ the date of
527 departure, shall provide the department with written proof that
528 the purchaser licensed, registered, titled, or documented the
529 boat or aircraft outside the state. If such written proof is
530 unavailable, within 30 days the purchaser shall provide proof
531 that the purchaser applied for such license, title,
532 registration, or documentation. The purchaser shall forward to
533 the department proof of title, license, registration, or
534 documentation upon receipt;

535 c. The purchaser, within 10 days after ~~of~~ removing the boat
536 or aircraft from Florida, shall furnish the department with
537 proof of removal in the form of receipts for fuel, dockage,
538 slippage, tie-down, or hangaring from outside ~~of~~ Florida. The
539 information so provided must clearly and specifically identify
540 the boat or aircraft;

541 d. The selling dealer, within 5 days after ~~of~~ the date of
542 sale, shall provide to the department a copy of the sales
543 invoice, closing statement, bills of sale, and the original
544 affidavit signed by the purchaser attesting that he or she has
545 read the provisions of this section;

546 e. The seller makes a copy of the affidavit a part of his
547 or her record for as long as required by s. 213.35; and

548 f. Unless the nonresident purchaser of a boat of 5 net tons
549 of admeasurement or larger intends to remove the boat from this



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550 state within 10 days after the date of purchase or when the boat
551 is repaired or altered, within 20 days after completion of the
552 repairs or alterations, the nonresident purchaser shall apply to
553 the selling dealer for a decal that ~~which~~ authorizes 90 days
554 after the date of purchase for removal of the boat. The
555 nonresident purchaser of a qualifying boat may apply to the
556 selling dealer within 60 days after the date of purchase for an
557 extension decal that authorizes the boat to remain in this state
558 for an additional 90 days, but not more than a total of 180
559 days, before the nonresident purchaser is required to pay the
560 tax imposed by this chapter. The department may ~~is authorized to~~
561 issue decals in advance to dealers. The number of decals issued
562 in advance to a dealer shall be consistent with the volume of
563 the dealer's past sales of boats which qualify under this sub-
564 subparagraph. The selling dealer or his or her agent shall mark
565 and affix the decals to qualifying boats, in the manner
566 prescribed by the department, before ~~prior to~~ delivery of the
567 boat.

568 (I) The department may ~~is hereby authorized to~~ charge
569 dealers a fee sufficient to recover the costs of decals issued,
570 except the extension decal shall cost \$425.

571 (II) The proceeds from the sale of decals shall ~~will~~ be
572 deposited into the administrative trust fund.

573 (III) Decals shall display information to identify the boat
574 as a qualifying boat under this sub-subparagraph, including, but
575 not limited to, the decal's date of expiration.

576 (IV) The department may ~~is authorized to~~ require dealers
577 who purchase decals to file reports with the department and may
578 prescribe all necessary records by rule. All such records are



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579 subject to inspection by the department.

580 (V) Any dealer or his or her agent who issues a decal
581 falsely, fails to affix a decal, mismarks the expiration date of
582 a decal, or fails to properly account for decals ~~shall will~~ be
583 considered prima facie to have committed a fraudulent act to
584 evade the tax, ~~is and will be~~ liable for payment of the tax plus
585 a mandatory penalty of 200 percent of the tax, and ~~is shall be~~
586 liable for fine and punishment as provided by law for a
587 conviction of a misdemeanor of the first degree, as provided in
588 s. 775.082 or s. 775.083.

589 (VI) Any nonresident purchaser of a boat who removes a
590 decal ~~before prior to~~ permanently removing the boat from the
591 state, ~~who or~~ defaces, changes, modifies, or alters a decal in a
592 manner affecting its expiration date ~~before prior to~~ its
593 expiration, or who causes or allows the same to be done by
594 another, ~~shall will~~ be considered prima facie to have committed
595 a fraudulent act to evade the tax, ~~is and will be~~ liable for
596 payment of the tax plus a mandatory penalty of 200 percent of
597 the tax, and ~~is shall be~~ liable for fine and punishment as
598 provided by law for a conviction of a misdemeanor of the first
599 degree, as provided in s. 775.082 or s. 775.083.

600 (VII) The department ~~may is authorized to~~ adopt rules
601 necessary to administer and enforce this subparagraph and to
602 publish the necessary forms and instructions.

603 (VIII) The department ~~may is hereby authorized to~~ adopt
604 emergency rules pursuant to s. 120.54(4) to administer and
605 enforce the provisions of this subparagraph.

606
607 If the purchaser fails to remove the qualifying boat from this



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608 state within the maximum 180 days after purchase or a
609 nonqualifying boat or an aircraft from this state within 10 days
610 after purchase or, when the boat or aircraft is repaired or
611 altered, within 20 days after completion of such repairs or
612 alterations, or permits the boat or aircraft to return to this
613 state within 6 months after ~~from~~ the date of departure, or if
614 the purchaser fails to furnish the department with any of the
615 documentation required by this subparagraph within the
616 prescribed time period, the purchaser is ~~shall be~~ liable for use
617 tax on the cost price of the boat or aircraft and, in addition
618 thereto, payment of a penalty to the Department of Revenue equal
619 to the tax payable. This penalty is ~~shall be~~ in lieu of the
620 penalty imposed by s. 212.12(2) and is mandatory and may ~~shall~~
621 not be waived by the department. The maximum 180-day period
622 following the sale of a qualifying boat tax-exempt to a
623 nonresident may not be tolled for any reason. Notwithstanding
624 other provisions of this paragraph to the contrary, an aircraft
625 purchased in this state under the provisions of this paragraph
626 may be returned to this state for repairs within 6 months after
627 the date of its departure without being in violation of the law
628 and without incurring liability for the payment of tax or
629 penalty on the purchase price of the aircraft if the aircraft is
630 removed from this state within 20 days after the completion of
631 the repairs and if such removal can be demonstrated by invoices
632 for fuel, tie-down, hangar charges issued by out-of-state
633 vendors or suppliers, or similar documentation.

634 Section 5. Effective July 1, 2010, paragraphs (b) and (g)
635 of subsection (5) of section 212.08, Florida Statutes, are
636 amended, and paragraph (q) is added to that subsection, to read:



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637 212.08 Sales, rental, use, consumption, distribution, and
638 storage tax; specified exemptions.—The sale at retail, the
639 rental, the use, the consumption, the distribution, and the
640 storage to be used or consumed in this state of the following
641 are hereby specifically exempt from the tax imposed by this
642 chapter.

643 (5) EXEMPTIONS; ACCOUNT OF USE.—

644 (b) *Machinery and equipment used to increase productive*
645 *output.*—

646 1. Industrial machinery and equipment purchased for
647 exclusive use by a new business in spaceport activities as
648 defined by s. 212.02 or for use in new businesses that ~~which~~
649 manufacture, process, compound, or produce for sale items of
650 tangible personal property at fixed locations are exempt from
651 the tax imposed by this chapter upon an affirmative showing by
652 the taxpayer to the satisfaction of the department that such
653 items are used in a new business in this state. Such purchases
654 must be made prior to the date the business first begins its
655 productive operations, and delivery of the purchased item must
656 be made within 12 months after ~~of~~ that date.

657 2. Industrial machinery and equipment purchased for
658 exclusive use by an expanding facility which is engaged in
659 spaceport activities as defined by s. 212.02 or for use in
660 expanding manufacturing facilities or plant units which
661 manufacture, process, compound, or produce for sale items of
662 tangible personal property at fixed locations in this state are
663 exempt from any amount of tax imposed by this chapter upon an
664 affirmative showing by the taxpayer to the satisfaction of the
665 department that such items are used to increase the productive



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666 output of such expanded facility or business by not less than 10
667 percent.

668 3. Beginning July 1, 2010, that portion of the total amount
669 incurred for industrial machinery and equipment purchased for
670 exclusive use by a facility that is engaged in spaceport
671 activities as defined by s. 212.02, or for use in manufacturing
672 facilities or plant units that manufacture, process, compound,
673 or produce for sale items of tangible personal property at fixed
674 locations in this state, which exceeds the total amount incurred
675 for such items purchased and placed into service by the taxpayer
676 in its tax year that began in 2008, is exempt from the amount of
677 tax imposed by this chapter to the extent that the taxpayer, by
678 an affirmative showing to the satisfaction of the department,
679 demonstrates the actual costs incurred for the items and that
680 the items have been located and placed into service in this
681 state. Tax year 2008 shall serve as the baseline year for future
682 computations of the tax exemption for as long as the exemption
683 exists.

684 4.3.a. To receive an exemption provided by this paragraph
685 subparagraph 1. or subparagraph 2., a qualifying business entity
686 shall apply to the department for a temporary tax exemption
687 permit. The application shall state that a new business
688 exemption or expanded business exemption is being sought. Upon a
689 tentative affirmative determination by the department pursuant
690 to subparagraph 1., or subparagraph 2., or subparagraph 3., the
691 department shall issue such permit.

692 b. The applicant shall ~~be required to~~ maintain all
693 necessary books and records to support the exemption. Upon
694 completion of purchases of qualified machinery and equipment



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695 pursuant to subparagraph 1., ~~or~~ subparagraph 2., or subparagraph
696 3., the temporary tax permit shall be delivered to the
697 department or returned to the department by certified or
698 registered mail.

699 c. If, in a subsequent audit conducted by the department,
700 it is determined that the machinery and equipment purchased as
701 exempt under subparagraph 1., ~~or~~ subparagraph 2., or
702 subparagraph 3. did not meet the criteria mandated by this
703 paragraph or if commencement of production did not occur, the
704 amount of taxes exempted at the time of purchase shall
705 immediately be due and payable to the department by the business
706 entity, together with the appropriate interest and penalty,
707 computed from the date of purchase, in the manner prescribed by
708 this chapter.

709 d. ~~If In the event~~ a qualifying business entity fails to
710 apply for a temporary exemption permit or if the tentative
711 determination by the department required to obtain a temporary
712 exemption permit is negative, a qualifying business entity shall
713 receive an the exemption provided in this paragraph ~~subparagraph~~
714 ~~1. or subparagraph 2.~~ through a refund of previously paid taxes.
715 No refund may be made for such taxes unless the criteria
716 mandated by subparagraph 1., ~~or~~ subparagraph 2., or subparagraph
717 3. have been met and commencement of production has occurred.

718 e. The exemption provided by subparagraph 3. applies to the
719 taxpayer only through a refund of previously paid taxes. The
720 taxpayer must submit a refund application to the Department of
721 Revenue within 12 months after the last day of the 12-month
722 period during which the machinery and equipment qualifies for
723 the exemption under this subparagraph. The refund shall be paid



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724 to the taxpayer from the General Revenue Fund.

725 ~~5.4.~~ The department shall adopt rules governing
726 applications for, issuance of, and the form of temporary tax
727 exemption permits; provisions for recapture of taxes; and the
728 manner and form of refund applications, and may establish
729 guidelines as to the requisites for an affirmative showing of
730 increased productive output, commencement of production, and
731 qualification for exemption.

732 ~~6.5.~~ The exemptions provided in this paragraph
733 ~~subparagraphs 1. and 2.~~ do not apply to machinery or equipment
734 purchased or used by electric utility companies, communications
735 companies, oil or gas exploration or production operations,
736 publishing firms that do not export at least 50 percent of their
737 finished product out of the state, any firm subject to
738 regulation by the Division of Hotels and Restaurants of the
739 Department of Business and Professional Regulation, or any firm
740 that ~~which~~ does not manufacture, process, compound, or produce
741 for sale items of tangible personal property or that ~~which~~ does
742 not use such machinery and equipment in spaceport activities as
743 required by this paragraph. The exemptions provided in this
744 paragraph ~~subparagraphs 1. and 2.~~ shall apply to machinery and
745 equipment purchased for use in phosphate or other solid minerals
746 severance, mining, or processing operations.

747 ~~7.6.~~ For the purposes of the exemptions provided in this
748 paragraph, ~~the term subparagraphs 1. and 2., these terms have the~~
749 ~~following meanings:~~

750 a. "Industrial machinery and equipment" means tangible
751 personal property or other property that has a depreciable life
752 of 3 years or more and that is used as an integral part in the



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753 manufacturing, processing, compounding, or production of
754 tangible personal property for sale or is exclusively used in
755 spaceport activities. A building and its structural components
756 are not industrial machinery and equipment unless the building
757 or structural component is so closely related to the industrial
758 machinery and equipment that it houses or supports that the
759 building or structural component can be expected to be replaced
760 when the machinery and equipment are replaced. Heating and air-
761 conditioning systems are not industrial machinery and equipment
762 unless the sole justification for their installation is to meet
763 the requirements of the production process, even though the
764 system may provide incidental comfort to employees or serve, to
765 an insubstantial degree, nonproduction activities. The term
766 includes parts and accessories only to the extent that the
767 exemption thereof is consistent with the provisions of this
768 paragraph.

769 b. "Productive output" means the number of units actually
770 produced by a single plant or operation in a single continuous
771 12-month period, irrespective of sales. Increases in productive
772 output shall be measured by the output for 12 continuous months
773 immediately following the completion of installation of such
774 machinery or equipment over the output for the 12 continuous
775 months immediately preceding such installation. However, if a
776 different 12-month continuous period of time would more
777 accurately reflect the increase in productive output of
778 machinery and equipment purchased to facilitate an expansion,
779 the increase in productive output may be measured during that
780 12-month continuous period of time if such time period is
781 mutually agreed upon by the Department of Revenue and the



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782 expanding business prior to the commencement of production;
783 provided, however, in no case may such time period begin later
784 than 2 years following the completion of installation of the new
785 machinery and equipment. The units used to measure productive
786 output shall be physically comparable between the two periods,
787 irrespective of sales.

788 (g) *Building materials used in the rehabilitation of real*
789 *property located in an enterprise zone.—*

790 1. Building materials used in the rehabilitation of real
791 property located in an enterprise zone are ~~shall be~~ exempt from
792 the tax imposed by this chapter upon an affirmative showing to
793 the satisfaction of the department that the items have been used
794 for the rehabilitation of real property located in an enterprise
795 zone. Except as provided in subparagraph 2., this exemption
796 inures to the owner, lessee, or lessor of the rehabilitated real
797 property located in an enterprise zone only through a refund of
798 previously paid taxes. To receive a refund pursuant to this
799 paragraph, the owner, lessee, or lessor of the rehabilitated
800 real property located in an enterprise zone must file an
801 application under oath with the governing body or enterprise
802 zone development agency having jurisdiction over the enterprise
803 zone where the business is located, as applicable, which
804 includes:

805 a. The name and address of the person claiming the refund.

806 b. An address and assessment roll parcel number of the
807 rehabilitated real property in an enterprise zone for which a
808 refund of previously paid taxes is being sought.

809 c. A description of the improvements made to accomplish the
810 rehabilitation of the real property.



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811 d. A copy of the building permit issued for the
812 rehabilitation of the real property.

813 e. A sworn statement, under the penalty of perjury, from
814 the general contractor licensed in this state with whom the
815 applicant contracted to make the improvements necessary to
816 accomplish the rehabilitation of the real property, which
817 statement lists the building materials used in the
818 rehabilitation of the real property, the actual cost of the
819 building materials, and the amount of sales tax paid in this
820 state on the building materials. ~~If In the event that~~ a general
821 contractor has not been used, the applicant shall provide this
822 information in a sworn statement, under the penalty of perjury.
823 Copies of the invoices ~~that~~ ~~which~~ evidence the purchase of the
824 building materials used in such rehabilitation and the payment
825 of sales tax on the building materials shall be attached to the
826 sworn statement provided by the general contractor or by the
827 applicant. Unless the actual cost of building materials used in
828 the rehabilitation of real property and the payment of sales
829 taxes due thereon is documented by a general contractor or by
830 the applicant in this manner, the cost of such building
831 materials shall be an amount equal to 40 percent of the increase
832 in assessed value for ad valorem tax purposes.

833 f. The identifying number assigned pursuant to s. 290.0065
834 to the enterprise zone in which the rehabilitated real property
835 is located.

836 g. A certification by the local building code inspector
837 that the improvements necessary to accomplish the rehabilitation
838 of the real property are substantially completed.

839 h. Whether the business is a small business as defined by



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840 s. 288.703(1).

841 i. If applicable, the name and address of each permanent
842 employee of the business, including, for each employee who is a
843 resident of an enterprise zone, the identifying number assigned
844 pursuant to s. 290.0065 to the enterprise zone in which the
845 employee resides.

846 2. This exemption inures to a municipality ~~city~~, county,
847 other governmental agency, or nonprofit community-based
848 organization through a refund of previously paid taxes if the
849 building materials used in the rehabilitation of real property
850 located in an enterprise zone are paid for from the funds of a
851 community development block grant, State Housing Initiatives
852 Partnership Program, or similar grant or loan program. To
853 receive a refund pursuant to this paragraph, a municipality
854 ~~city~~, county, other governmental agency, or nonprofit community-
855 based organization must file an application that ~~which~~ includes
856 the same information required to be provided in subparagraph 1.
857 by an owner, lessee, or lessor of rehabilitated real property.
858 In addition, the application must include a sworn statement
859 signed by the chief executive officer of the municipality ~~city~~,
860 county, other governmental agency, or nonprofit community-based
861 organization seeking a refund which states that the building
862 materials for which a refund is sought were paid for from the
863 funds of a community development block grant, State Housing
864 Initiatives Partnership Program, or similar grant or loan
865 program.

866 3. Within 10 working days after receipt of an application,
867 the governing body or enterprise zone development agency shall
868 review the application to determine if it contains all the



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869 information required pursuant to subparagraph 1. or subparagraph
870 2. and meets the criteria set out in this paragraph. The
871 governing body or agency shall certify all applications that
872 contain the information required pursuant to subparagraph 1. or
873 subparagraph 2. and that meet the criteria set out in this
874 paragraph as eligible to receive a refund. If applicable, the
875 governing body or agency shall also certify if 20 percent of the
876 employees of the business are residents of an enterprise zone,
877 excluding temporary and part-time employees. The certification
878 shall be in writing, and a copy of the certification shall be
879 transmitted to the executive director of the department ~~of~~
880 ~~Revenue~~. The applicant is ~~shall be~~ responsible for forwarding a
881 certified application to the department within the time
882 specified in subparagraph 4.

883 4. An application for a refund pursuant to this paragraph
884 must be submitted to the department within 6 months after the
885 rehabilitation of the property is deemed to be substantially
886 completed by the local building code inspector or by September 1
887 after the rehabilitated property is first subject to assessment.

888 5. Not more than one exemption through a refund of
889 previously paid taxes for the rehabilitation of real property
890 shall be permitted for any single parcel of property unless
891 there is a change in ownership, a new lessor, or a new lessee of
892 the real property. No refund shall be granted pursuant to this
893 paragraph unless the amount to be refunded exceeds \$500. No
894 refund granted pursuant to this paragraph shall exceed the
895 lesser of 97 percent of the Florida sales or use tax paid on the
896 cost of the building materials used in the rehabilitation of the
897 real property as determined pursuant to sub-subparagraph 1.e. or



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898 \$5,000, or, if no less than 20 percent of the employees of the
899 business are residents of an enterprise zone, excluding
900 temporary and part-time employees, the amount of refund granted
901 pursuant to this paragraph may ~~shall~~ not exceed the lesser of 97
902 percent of the sales tax paid on the cost of such building
903 materials or \$10,000. A refund approved pursuant to this
904 paragraph shall be made within 30 days after ~~of~~ formal approval
905 by the department of the application for the refund. This
906 subparagraph applies ~~shall apply~~ retroactively to July 1, 2005.

907 6. The department shall adopt rules governing the manner
908 and form of refund applications and may establish guidelines as
909 to the requisites for an affirmative showing of qualification
910 for exemption under this paragraph.

911 7. The department shall deduct an amount equal to 10
912 percent of each refund granted under ~~the provisions of~~ this
913 paragraph from the amount transferred into the Local Government
914 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20
915 for the county area in which the rehabilitated real property is
916 located and shall transfer that amount to the General Revenue
917 Fund.

918 8. For the purposes of the exemption provided in this
919 paragraph, the term:

920 a. "Building materials" means tangible personal property
921 that ~~which~~ becomes a component part of improvements to real
922 property.

923 b. "Real property" has the same meaning as provided in s.
924 192.001(12), except that the term does not include a condominium
925 parcel or condominium property as defined in s. 718.103.

926 c. "Rehabilitation of real property" means the



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927 reconstruction, renovation, restoration, rehabilitation,
928 construction, or expansion of improvements to real property.

929 d. "Substantially completed" has the same meaning as
930 provided in s. 192.042(1).

931 9. This paragraph expires on the date specified in s.
932 290.016 for the expiration of the Florida Enterprise Zone Act.

933 (g) Entertainment industry tax credit; authorization;
934 eligibility for credits.—The credit against sales tax authorized
935 pursuant to s. 288.1254 is available to the transferee only
936 through a refund of previously paid taxes. To receive a refund,
937 the transferee must submit an application for refund to the
938 Department of Revenue within 12 months of receipt of the
939 transferred credit. Such refund shall be paid to the transferee
940 from the General Revenue Fund. If the credit for the qualified
941 expenditures is larger than the amount owed on the sales and use
942 tax return on which the credit may be claimed, the unused amount
943 of the credit may be carried forward to a succeeding reporting
944 period as provided in s. 288.1254(4)(e).

945 Section 6. Effective July 1, 2012, paragraph (b) of
946 subsection (5) of section 212.08, Florida Statutes, as amended
947 by this act, is amended to read:

948 212.08 Sales, rental, use, consumption, distribution, and
949 storage tax; specified exemptions.—The sale at retail, the
950 rental, the use, the consumption, the distribution, and the
951 storage to be used or consumed in this state of the following
952 are hereby specifically exempt from the tax imposed by this
953 chapter.

954 (5) EXEMPTIONS; ACCOUNT OF USE.—

955 (b) *Machinery and equipment used to increase productive*



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956 *output.-*

957 1. Industrial machinery and equipment purchased for
958 exclusive use by a new business in spaceport activities as
959 defined by s. 212.02 or for use in new businesses that
960 manufacture, process, compound, or produce for sale items of
961 tangible personal property at fixed locations are exempt from
962 the tax imposed by this chapter upon an affirmative showing by
963 the taxpayer to the satisfaction of the department that such
964 items are used in a new business in this state. Such purchases
965 must be made prior to the date the business first begins its
966 productive operations, and delivery of the purchased item must
967 be made within 12 months after that date.

968 2. Industrial machinery and equipment purchased for
969 exclusive use by an expanding facility that is engaged in
970 spaceport activities as defined by s. 212.02 or for use in
971 expanding manufacturing facilities or plant units that
972 manufacture, process, compound, or produce for sale items of
973 tangible personal property at fixed locations in this state are
974 exempt from any amount of tax imposed by this chapter upon an
975 affirmative showing by the taxpayer to the satisfaction of the
976 department that such items are used to increase the productive
977 output of such expanded facility or business by at least 10
978 percent.

979 ~~3. Beginning July 1, 2010, that portion of the total amount~~
980 ~~incurred for industrial machinery and equipment purchased for~~
981 ~~exclusive use by a facility that is engaged in spaceport~~
982 ~~activities as defined by s. 212.02, or for use in manufacturing~~
983 ~~facilities or plant units that manufacture, process, compound,~~
984 ~~or produce for sale items of tangible personal property at fixed~~



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985 ~~locations in this state, which exceeds the total amount incurred~~
986 ~~for such items purchased and placed into service by the taxpayer~~
987 ~~in its tax year that began in 2008, is exempt from the amount of~~
988 ~~tax imposed by this chapter to the extent that the taxpayer, by~~
989 ~~an affirmative showing to the satisfaction of the department,~~
990 ~~demonstrates the actual costs incurred for the items and that~~
991 ~~the items have been located and placed into service in this~~
992 ~~state. Tax year 2008 shall serve as the baseline year for future~~
993 ~~computations of the tax exemption for as long as the exemption~~
994 ~~exists.~~

995 3.4.a. To receive an exemption provided by this paragraph,
996 a qualifying business entity shall apply to the department for a
997 temporary tax exemption permit. The application shall state that
998 a business exemption or is being sought. Upon a tentative
999 affirmative determination by the department pursuant to
1000 subparagraph 1. or, subparagraph 2., ~~or subparagraph 3.~~, the
1001 department shall issue such permit.

1002 b. The applicant shall maintain all necessary books and
1003 records to support the exemption. Upon completion of purchases
1004 of qualified machinery and equipment pursuant to subparagraph 1.
1005 or subparagraph 2., ~~or subparagraph 3.~~, the temporary tax permit
1006 shall be delivered to the department or returned to the
1007 department by certified or registered mail.

1008 c. If, in a subsequent audit conducted by the department,
1009 it is determined that the machinery and equipment purchased as
1010 exempt under subparagraph 1. or subparagraph 2., ~~or subparagraph~~
1011 ~~3.~~ did not meet the criteria mandated by this paragraph or if
1012 commencement of production did not occur, the amount of taxes
1013 exempted at the time of purchase shall immediately be due and



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1014 payable to the department by the business entity, together with
1015 the appropriate interest and penalty, computed from the date of
1016 purchase, in the manner prescribed by this chapter.

1017 d. If a qualifying business entity fails to apply for a
1018 temporary exemption permit or if the tentative determination by
1019 the department required to obtain a temporary exemption permit
1020 is negative, a qualifying business entity shall receive the
1021 exemption provided in subparagraph 1. or subparagraph 2. through
1022 a refund of previously paid taxes. No refund may be made for
1023 such taxes unless the criteria mandated by subparagraph 1. or
1024 subparagraph 2., ~~or subparagraph 3.~~ have been met and
1025 commencement of production has occurred.

1026 ~~e. The exemption provided by subparagraph 3. applies to the~~
1027 ~~taxpayer only through a refund of previously paid taxes. The~~
1028 ~~taxpayer must submit a refund application to the Department of~~
1029 ~~Revenue within 12 months after the last day of the 12-month~~
1030 ~~period during which the machinery and equipment qualifies for~~
1031 ~~the exemption under this subparagraph. The refund shall be paid~~
1032 ~~to the taxpayer from the General Revenue Fund.~~

1033 ~~4.5.~~ The department shall adopt rules governing
1034 applications for, issuance of, and the form of temporary tax
1035 exemption permits; provisions for recapture of taxes; and the
1036 manner and form of refund applications, and may establish
1037 guidelines as to the requisites for an affirmative showing of
1038 increased productive output, commencement of production, and
1039 qualification for exemption.

1040 ~~5.6.~~ The exemptions provided in this paragraph do not apply
1041 to machinery or equipment purchased or used by electric utility
1042 companies, communications companies, oil or gas exploration or



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1043 production operations, publishing firms that do not export at
1044 least 50 percent of their finished product out of the state, any
1045 firm subject to regulation by the Division of Hotels and
1046 Restaurants of the Department of Business and Professional
1047 Regulation, or any firm that does not manufacture, process,
1048 compound, or produce for sale items of tangible personal
1049 property or that does not use such machinery and equipment in
1050 spaceport activities as required by this paragraph. The
1051 exemptions provided in this paragraph apply to machinery and
1052 equipment purchased for use in phosphate or other solid minerals
1053 severance, mining, or processing operations.

1054 ~~6.7.~~ For the purposes of the exemptions provided in this
1055 paragraph, the term:

1056 a. "Industrial machinery and equipment" means tangible
1057 personal property or other property that has a depreciable life
1058 of 3 years or more and that is used as an integral part in the
1059 manufacturing, processing, compounding, or production of
1060 tangible personal property for sale or is exclusively used in
1061 spaceport activities. A building and its structural components
1062 are not industrial machinery and equipment unless the building
1063 or structural component is so closely related to the industrial
1064 machinery and equipment that it houses or supports that the
1065 building or structural component can be expected to be replaced
1066 when the machinery and equipment are replaced. Heating and air-
1067 conditioning systems are not industrial machinery and equipment
1068 unless the sole justification for their installation is to meet
1069 the requirements of the production process, even though the
1070 system may provide incidental comfort to employees or serve, to
1071 an insubstantial degree, nonproduction activities. The term



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1072 includes parts and accessories only to the extent that the
1073 exemption thereof is consistent with the provisions of this
1074 paragraph.

1075 b. "Productive output" means the number of units actually
1076 produced by a single plant or operation in a single continuous
1077 12-month period, irrespective of sales. Increases in productive
1078 output shall be measured by the output for 12 continuous months
1079 immediately following the completion of installation of such
1080 machinery or equipment over the output for the 12 continuous
1081 months immediately preceding such installation. However, if a
1082 different 12-month continuous period of time would more
1083 accurately reflect the increase in productive output of
1084 machinery and equipment purchased to facilitate an expansion,
1085 the increase in productive output may be measured during that
1086 12-month continuous period of time if such time period is
1087 mutually agreed upon by the Department of Revenue and the
1088 expanding business prior to the commencement of production;
1089 however, in no case may such time period begin later than 2
1090 years following the completion of installation of the new
1091 machinery and equipment. The units used to measure productive
1092 output shall be physically comparable between the two periods,
1093 irrespective of sales.

1094 Section 7. Effective July 1, 2010, paragraph (z) is added
1095 to subsection (8) of section 213.053, Florida Statutes, to read:

1096 213.053 Confidentiality and information sharing.—

1097 (8) Notwithstanding any other provision of this section,
1098 the department may provide:

1099 (z) Information relative to tax credits taken under s.
1100 288.1254 to the Office of Film and Entertainment and to the



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1101 Office of Tourism, Trade, and Economic Development.

1102

1103 Disclosure of information under this subsection shall be
1104 pursuant to a written agreement between the executive director
1105 and the agency. Such agencies, governmental or nongovernmental,
1106 shall be bound by the same requirements of confidentiality as
1107 the Department of Revenue. Breach of confidentiality is a
1108 misdemeanor of the first degree, punishable as provided by s.
1109 775.082 or s. 775.083.

1110 Section 8. Effective July 1, 2010, subsection (8) of
1111 section 220.02, Florida Statutes, is amended to read:

1112 220.02 Legislative intent.—

1113 (8) It is the intent of the Legislature that credits
1114 against either the corporate income tax or the franchise tax be
1115 applied in the following order: those enumerated in s. 631.828,
1116 those enumerated in s. 220.191, those enumerated in s. 220.181,
1117 those enumerated in s. 220.183, those enumerated in s. 220.182,
1118 those enumerated in s. 220.1895, those enumerated in s. 221.02,
1119 those enumerated in s. 220.184, those enumerated in s. 220.186,
1120 those enumerated in s. 220.1845, those enumerated in s. 220.19,
1121 those enumerated in s. 220.185, those enumerated in s. 220.187,
1122 those enumerated in s. 220.192, those enumerated in s. 220.193,
1123 ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.
1124 288.1254, and those enumerated in s. 220.1896.

1125 Section 9. Effective July 1, 2010, section 220.1896,
1126 Florida Statutes, is created to read:

1127 220.1896 Jobs for the Unemployed Tax Credit Program.—

1128 (1) As used in this section, the term:

1129 (a) "Certified project" means a project proposed by an



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1130 eligible business that has been certified by the Office of
1131 Tourism, Trade, and Economic Development to receive and use tax
1132 credits awarded under this incentive.

1133 (b) "Eligible business" means any target industry business
1134 as defined in s. 288.106(2) which is subject to the tax imposed
1135 by this chapter. The eligible business does not have to be
1136 certified to receive the Qualified Target Industry Tax Refund
1137 Incentive under s. 288.106 in order to receive the tax credit
1138 available under this section.

1139 (c) "Office" means the Office of Tourism, Trade, and
1140 Economic Development.

1141 (d) "Qualified employee" means a person:

1142 1. Who was unemployed and determined to be monetarily
1143 eligible for unemployment compensation benefits by the Agency
1144 for Workforce Innovation for a benefit year beginning on or
1145 after January 1, 2009.

1146 2. Who was hired by an eligible business on or after July
1147 1, 2010, and had not previously been employed by the eligible
1148 business or its parent or an affiliated corporation.

1149 3. Who performed duties connected to the operations of the
1150 eligible business on a regular, full-time basis for an average
1151 of at least 36 hours per week and for at least 12 months before
1152 an eligible business is awarded a tax credit.

1153 4. Whose employment by the eligible business has not formed
1154 the basis for any other claim to a credit pursuant to this
1155 section.

1156 (2) A certified business shall receive a \$1,000 tax credit
1157 for each qualified employee, pursuant to limitation in
1158 subsection (5).



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1159 (3) (a) In order to become a certified business, an eligible
1160 business must file under oath with the office an application
1161 that includes:

1162 1. The name, address and NAICS identifying code of the
1163 eligible business.

1164 2. Relevant employment information.

1165 3. Verification of previous unemployment of each employee
1166 for whom the eligible business is seeking credits under this
1167 section.

1168 4. Verification that the wages paid by the eligible
1169 business to each of its qualified employees exceeds the wage
1170 eligibility levels for Medicaid and other public assistance
1171 programs.

1172 5. Any other information necessary to process the
1173 application.

1174 (b) The notice of monetary determination issued by the
1175 Agency for Workforce Innovation may be used as evidence of
1176 previous unemployment under subparagraph (3) (a)3. However,
1177 before an employee provides the notice of monetary determination
1178 to the employer, the employee may redact information that the
1179 employee considers confidential if the information is not
1180 required by the office to approve the application to certify a
1181 project.

1182 (c) The office and Enterprise Florida, Inc., shall process
1183 applications to certify a business in the order in which the
1184 applications are received, without regard as to whether the
1185 applicant is a new or an existing business. The office and
1186 Enterprise Florida, Inc., shall review and approve or deny an
1187 application pursuant to s. 288.061.



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1188 (d)1. The office shall submit a copy of the letter of
1189 certification to the department within 10 days after the office
1190 issues the letter of certification to the applicant.

1191 2. If the application of an eligible business is not
1192 sufficient to certify the applicant business, the office must
1193 deny the application and issue a notice of denial to the
1194 applicant.

1195 3. If the application of an eligible business does not
1196 contain sufficient documentation of the number of qualified
1197 employees, the office shall approve the application with respect
1198 to the employees for whom the office determines are qualified
1199 employees. The office must deny the application with respect to
1200 persons for whom the office determines are not qualified
1201 employees or for whom insufficient documentation has been
1202 provided. A business may not submit a revised application for
1203 certification or for the determination of a person as qualified
1204 employee more than 3 months after the issuance of a notice of
1205 denial with respect to the business or a particular person as a
1206 qualified employee.

1207 (4) The applicant for a tax credit under this section has
1208 the responsibility to affirmatively demonstrate to the
1209 satisfaction of the office and the department that the applicant
1210 and the persons claimed as qualified employees meet the
1211 requirements of this section.

1212 (5) The total amount of tax credits under this section
1213 which may be approved by the office for all applicants is \$10
1214 million, with \$5 million available to be awarded in the 2011-
1215 2012 fiscal year and \$5 million available to be awarded in the
1216 2012-2013 fiscal year. The credit may be applied to corporate



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1217 income tax liability due on returns for fiscal years beginning
1218 July 1, 2011, and July 1, 2012.

1219 (6) An unused tax credit amount that is granted under this
1220 section which is not fully used in the first year for which it
1221 becomes available, may be carried forward to the subsequent tax
1222 year. The carryover credit may be used in the subsequent year if
1223 the tax imposed by this chapter for such year exceeds the credit
1224 for such year under this section after applying the other
1225 credits and unused credit carryovers in the order provided in s.
1226 220.02(8).

1227 (7) A person who fraudulently claims a credit under this
1228 section is liable for repayment of the credit plus a mandatory
1229 penalty of 100 percent of the credit. Such person also commits a
1230 misdemeanor of the second degree, punishable as provided in s.
1231 775.082 or s. 775.083.

1232 (8) The office may adopt rules governing the manner and
1233 form of applications for the tax credit. The office may
1234 establish guidelines for making an affirmative showing of
1235 qualification for the tax credit under this section.

1236 (9) The department may adopt rules to administer this
1237 section, including rules relating to the creation of forms to
1238 claim a tax credit and examination and audit procedures required
1239 to administer this section.

1240 (10) This section expires June 30, 2012. However, a
1241 taxpayer that is awarded a tax credit in the second year of the
1242 program may carry forward any unused credit amount to the
1243 subsequent tax reporting period. Rules adopted by the department
1244 to administer this section shall remain valid as long as a
1245 taxpayer may use a credit against its corporate income tax



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1246 liability.

1247 Section 10. Effective July 1, 2010, section 220.1899,
1248 Florida Statutes, is created to read:

1249 220.1899 Entertainment Industry Tax Credit.-

1250 (1) There shall be a credit allowed against the tax imposed
1251 by this chapter in the amounts approved by the Office of
1252 Tourism, Trade, and Economic Development pursuant to the
1253 entertainment industry financial incentives program in s.
1254 288.1254.

1255 (2) A qualified production company, as defined in s.
1256 288.1254(1)(j), which is awarded a tax credit against its
1257 qualified expenditures pursuant to s. 288.1254, for expenditures
1258 made between July 1, 2010, and June 30, 2015, may not claim a
1259 credit before July 1, 2011, regardless of when such credit is
1260 awarded.

1261 (3) To the extent that a credit amount exceeds the amount
1262 due on a return, the balance of the credit may be carried
1263 forward to a succeeding reporting period pursuant to s.
1264 288.1254(4)(e).

1265 Section 11. Effective July 1, 2010, section 220.191,
1266 Florida Statutes, is amended to read:

1267 220.191 Capital investment tax credit.-

1268 (1) DEFINITIONS.-For purposes of this section:

1269 (a) "Commencement of operations" means the beginning of
1270 active operations by a qualifying business of the principal
1271 function for which a qualifying project was constructed.

1272 (b) "Cumulative capital investment" means the total capital
1273 investment in land, buildings, and equipment made in connection
1274 with a qualifying project during the period from the beginning



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1275 of construction of the project to the commencement of
1276 operations.

1277 (c) "Eligible capital costs" means all expenses incurred by
1278 a qualifying business in connection with the acquisition,
1279 construction, installation, and equipping of a qualifying
1280 project during the period from the beginning of construction of
1281 the project to the commencement of operations, including, but
1282 not limited to:

1283 1. The costs of acquiring, constructing, installing,
1284 equipping, and financing a qualifying project, including all
1285 obligations incurred for labor and obligations to contractors,
1286 subcontractors, builders, and materialmen.

1287 2. The costs of acquiring land or rights to land and any
1288 cost incidental thereto, including recording fees.

1289 3. The costs of architectural and engineering services,
1290 including test borings, surveys, estimates, plans and
1291 specifications, preliminary investigations, environmental
1292 mitigation, and supervision of construction, as well as the
1293 performance of all duties required by or consequent to the
1294 acquisition, construction, installation, and equipping of a
1295 qualifying project.

1296 4. The costs associated with the installation of fixtures
1297 and equipment; surveys, including archaeological and
1298 environmental surveys; site tests and inspections; subsurface
1299 site work and excavation; removal of structures, roadways, and
1300 other surface obstructions; filling, grading, paving, and
1301 provisions for drainage, storm water retention, and installation
1302 of utilities, including water, sewer, sewage treatment, gas,
1303 electricity, communications, and similar facilities; and offsite



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1304 construction of utility extensions to the boundaries of the
1305 property.

1306
1307 Eligible capital costs shall not include the cost of any
1308 property previously owned or leased by the qualifying business.

1309 (d) "Income generated by or arising out of the qualifying
1310 project" means the qualifying project's annual taxable income as
1311 determined by generally accepted accounting principles and under
1312 s. 220.13.

1313 (e) "Jobs" means full-time equivalent positions, as that
1314 term is consistent with terms used by the Agency for Workforce
1315 Innovation and the United States Department of Labor for
1316 purposes of unemployment tax administration and employment
1317 estimation, resulting directly from a project in this state. The
1318 term does not include temporary construction jobs involved in
1319 the construction of the project facility.

1320 (f) "Office" means the Office of Tourism, Trade, and
1321 Economic Development.

1322 (g) "Qualifying business" means a business that is
1323 designated as a qualified target industry business pursuant to
1324 s. 288.106(2)(t), which establishes a qualifying project in this
1325 state, and which is certified by the office to receive tax
1326 credits pursuant to this section.

1327 (h) "Qualifying project" means:

1328 1. A new or expanding facility in this state which creates
1329 at least 50 ~~100~~ new jobs in this state, pays an annual average
1330 wage of at least 130 percent of the average private sector wage
1331 as defined in s. 288.106(2), makes a cumulative capital
1332 investment of at least \$25 million in this state, and is a



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1333 ~~qualified target industry business pursuant to s. 288.106(2)(t)~~
1334 ~~in one of the high-impact sectors identified by Enterprise~~
1335 ~~Florida, Inc., and certified by the office pursuant to s.~~
1336 ~~288.108(6), including, but not limited to, aviation, aerospace,~~
1337 ~~automotive, and silicon technology industries; or~~
1338 ~~2. A new or expanded facility in this state which is~~
1339 ~~engaged in a target industry designated pursuant to the~~
1340 ~~procedure specified in s. 288.106(1)(o) and which is induced by~~
1341 ~~this credit to create or retain at least 1,000 jobs in this~~
1342 ~~state, provided that at least 100 of those jobs are new, pay an~~
1343 ~~annual average wage of at least 130 percent of the average~~
1344 ~~private sector wage in the area as defined in s. 288.106(1), and~~
1345 ~~make a cumulative capital investment of at least \$100 million~~
1346 ~~after July 1, 2005. Jobs may be considered retained only if~~
1347 ~~there is significant evidence that the loss of jobs is imminent.~~
1348 ~~Notwithstanding subsection (2), annual credits against the tax~~
1349 ~~imposed by this chapter shall not exceed 50 percent of the~~
1350 ~~increased annual corporate income tax liability or the premium~~
1351 ~~tax liability generated by or arising out of a project~~
1352 ~~qualifying under this subparagraph. A facility that qualifies~~
1353 ~~under this subparagraph for an annual credit against the tax~~
1354 ~~imposed by this chapter may take the tax credit for a period not~~
1355 ~~to exceed 5 years; or~~
1356 ~~2.3. A new or expanded headquarters facility in this state~~
1357 ~~which locates in an enterprise zone and brownfield area and is~~
1358 ~~induced by this credit to create at least 1,500 jobs that ~~which~~~~
1359 ~~on average pay at least 200 percent of the statewide average~~
1360 ~~annual private sector wage, as published by the Agency for~~
1361 ~~Workforce Innovation or its successor, and which new or expanded~~



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1362 headquarters facility makes a cumulative capital investment in
1363 this state of at least \$250 million.

1364 (2) (a) On or after July 1, 2010, a qualifying business that
1365 enters into an agreement with the office for a qualifying
1366 project shall receive an annual credit against the tax imposed
1367 by this chapter shall be granted to any qualifying business in
1368 an amount equal to a diminishing percentage 5 percent of the
1369 eligible capital costs generated by a qualifying project during
1370 a 10-year, for a period not to exceed 20 years beginning with
1371 the commencement of operations of the project. The credit shall
1372 be awarded as follows: 15 percent of the eligible capital costs
1373 in each of the years 1 through 3; 10 percent in each of the
1374 years 4 through 7; and 5 percent each year in years 8 through
1375 10. An agreement for a qualifying project between a qualifying
1376 business and the office which was entered into before July 1,
1377 2010, is subject to the law in effect when the agreement was
1378 executed. Unless assigned as described in this subsection, the
1379 tax credit shall be granted against only the corporate income
1380 tax liability or the premium tax liability generated by or
1381 arising out of the qualifying project, and the sum of all tax
1382 credits provided pursuant to this section ~~may shall~~ not exceed
1383 100 percent of the eligible capital costs of the project. In no
1384 event may any credit granted under this section be carried
1385 forward or backward by any qualifying business with respect to a
1386 subsequent or prior year. The annual tax credit granted under
1387 this section ~~may shall~~ not exceed the following percentages of
1388 the annual corporate income tax liability or the premium tax
1389 liability generated by or arising out of a qualifying project:
1390 1. One hundred percent for a qualifying project which



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1391 results in a cumulative capital investment of at least \$100
1392 million.

1393 2. Seventy-five percent for a qualifying project which
1394 results in a cumulative capital investment of at least \$50
1395 million but less than \$100 million.

1396 3. Fifty percent for a qualifying project which results in
1397 a cumulative capital investment of at least \$25 million but less
1398 than \$50 million.

1399 (b) A qualifying project ~~that~~ ~~which~~ results in a cumulative
1400 capital investment of less than \$25 million is not eligible for
1401 the capital investment tax credit. However, an insurance company
1402 claiming a credit against premium tax liability under this
1403 program ~~is shall~~ not ~~be~~ required to pay any additional
1404 retaliatory tax levied pursuant to s. 624.5091 as a result of
1405 claiming such credit. Because credits under this section are
1406 available to an insurance company, s. 624.5091 does not limit
1407 such credit in any manner.

1408 (c) A qualifying business that establishes a qualifying
1409 project that includes locating a new solar panel manufacturing
1410 facility in this state which ~~that~~ generates a minimum of 400
1411 jobs within 6 months after commencement of operations with an
1412 average salary of at least \$50,000 may assign or transfer the
1413 annual credit, or any portion thereof, granted under this
1414 section to any other business. However, the amount of the tax
1415 credit that may be transferred in any year shall be the lesser
1416 of the qualifying business's state corporate income tax
1417 liability for that year, as limited by the percentages
1418 applicable under paragraph (a) and as calculated prior to taking
1419 any credit pursuant to this section, or the credit amount



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1420 granted for that year. A business receiving the transferred or
1421 assigned credits may use the credits only in the year received,
1422 and the credits may not be carried forward or backward. To
1423 perfect the transfer, the transferor shall provide the
1424 department with a written transfer statement notifying the
1425 department of the transferor's intent to transfer the tax
1426 credits to the transferee; the date the transfer is effective;
1427 the transferee's name, address, and federal taxpayer
1428 identification number; the tax period; and the amount of tax
1429 credits to be transferred. The department shall, upon receipt of
1430 a transfer statement conforming to the requirements of this
1431 paragraph, provide the transferee with a certificate reflecting
1432 the tax credit amounts transferred. A copy of the certificate
1433 must be attached to each tax return for which the transferee
1434 seeks to apply such tax credits.

1435 (3) (a) Notwithstanding subsection (2), an annual credit
1436 against the tax imposed by this chapter shall be granted to a
1437 qualifying business that ~~which~~ establishes a qualifying project
1438 pursuant to subparagraph (1) (h) 2. ~~(1) (h) 3.~~, in an amount equal
1439 to the lesser of \$15 million or 5 percent of the eligible
1440 capital costs made in connection with a qualifying project, for
1441 a period not to exceed 20 years beginning with the commencement
1442 of operations of the project. The tax credit shall be granted
1443 against the corporate income tax liability of the qualifying
1444 business and as further provided in paragraph (c). The total tax
1445 credit provided pursuant to this subsection shall be equal to no
1446 more than 100 percent of the eligible capital costs of the
1447 qualifying project.

1448 (b) If the credit granted under this subsection is not



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1449 fully used in any one year because of insufficient tax liability
1450 on the part of the qualifying business, the unused amount may be
1451 carried forward for a period not to exceed 20 years after the
1452 commencement of operations of the project. The carryover credit
1453 may be used in a subsequent year when the tax imposed by this
1454 chapter for that year exceeds the credit for which the
1455 qualifying business is eligible in that year under this
1456 subsection after applying the other credits and unused
1457 carryovers in the order provided by s. 220.02(8).

1458 (c) The credit granted under this subsection may be used in
1459 whole or in part by the qualifying business or any corporation
1460 that is ~~either~~ a member of that qualifying business's affiliated
1461 group of corporations, is a related entity taxable as a
1462 cooperative under subchapter T of the Internal Revenue Code, or,
1463 if the qualifying business is an entity taxable as a cooperative
1464 under subchapter T of the Internal Revenue Code, is related to
1465 the qualifying business. Any entity related to the qualifying
1466 business may continue to file as a member of a Florida-nexus
1467 consolidated group pursuant to a prior election made under s.
1468 220.131(1), Florida Statutes (1985), even if the parent of the
1469 group changes due to a direct or indirect acquisition of the
1470 former common parent of the group. Any credit may ~~can~~ be used by
1471 any of the affiliated companies or related entities referenced
1472 in this paragraph to the same extent as it could have been used
1473 by the qualifying business. However, any such use does ~~shall~~ not
1474 operate to increase the amount of the credit or extend the
1475 period within which the credit must be used.

1476 (4) Prior to receiving tax credits pursuant to this
1477 section, a qualifying business must achieve and maintain the



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1478 minimum employment goals beginning with the commencement of
1479 operations at a qualifying project and continuing each year
1480 thereafter during which tax credits are available pursuant to
1481 this section. However, the office may approve a prorated tax
1482 credit amount for a qualifying business that enters into an
1483 agreement with the office on or after July 1, 2010, has
1484 satisfied the capital investment and average wage requirements
1485 but that has not met the employment requirements because of
1486 market conditions. The prorated tax refund shall be calculated
1487 by multiplying the tax refund amount for which the qualifying
1488 business would have been eligible if all applicable requirements
1489 had been satisfied by the percentage of the average employment
1490 specified in the tax refund agreement which was actually
1491 achieved.

1492 (5) Applications shall be reviewed and certified pursuant
1493 to s. 288.061. The office, upon a recommendation by Enterprise
1494 Florida, Inc., shall first certify a business as eligible to
1495 receive tax credits pursuant to this section prior to the
1496 commencement of operations of a qualifying project, and such
1497 certification shall be transmitted to the Department of Revenue.
1498 Upon receipt of the certification, the Department of Revenue
1499 shall enter into a written agreement with the qualifying
1500 business specifying, at a minimum, the method by which income
1501 generated by or arising out of the qualifying project will be
1502 determined.

1503 (6) The office, in consultation with Enterprise Florida,
1504 Inc., ~~may is authorized to~~ develop the necessary guidelines and
1505 application materials for the certification process described in
1506 subsection(5).



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1507 (7) ~~It shall be the responsibility of~~ The qualifying
1508 business has the responsibility to affirmatively demonstrate to
1509 the satisfaction of the department and the office ~~of Revenue~~
1510 that such business meets the job creation and capital investment
1511 requirements of this section.

1512 (8) The department ~~of Revenue~~ may specify by rule the
1513 methods by which a qualifying project's pro forma annual taxable
1514 income is determined.

1515 (9) A business that receives a tax credit pursuant to this
1516 section is not eligible for a tax refund under the tax refund
1517 program for qualified target industry businesses, s. 288.106.

1518 Section 12. Effective July 1, 2010, paragraph (a) of
1519 subsection (3) of section 288.095, Florida Statutes, is amended
1520 to read:

1521 288.095 Economic Development Trust Fund.—

1522 (3) (a) The Office of Tourism, Trade, and Economic
1523 Development may approve applications for certification pursuant
1524 to ss. 288.1045(3) and 288.106. ~~However, the total state share~~
1525 ~~of tax refund payments scheduled in all active certifications~~
1526 ~~for fiscal year 2001-2002 may not exceed \$30 million.~~ The total
1527 state share of tax refund payments for active certifications ~~for~~
1528 each subsequent fiscal year may not exceed \$100 ~~\$35~~ million.

1529 Section 13. Effective July 1, 2010, section 288.106,
1530 Florida Statutes, is reordered and amended to read:

1531 288.106 Tax refund program for qualified target industry
1532 businesses.—

1533 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.—The Legislature
1534 finds that retaining and expanding existing businesses in
1535 Florida, encouraging the creation of new businesses in Florida,



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1536 attracting new businesses from out of state, and generally
1537 providing conditions favorable for the growth of target
1538 industries creates high-quality, high-wage employment
1539 opportunities for the citizens of this state and strengthens
1540 Florida's economic foundation. The Legislature also finds that
1541 incentives that are narrowly focused in application and scope
1542 tend to be more effective at achieving the state's economic-
1543 development goals. Further, the Legislature finds that higher-
1544 wage jobs reduce the state's share of hidden costs such as
1545 public assistance and subsidized health care associated with
1546 low-wage jobs. Therefore, the Legislature declares that it is
1547 the policy of this state to encourage the growth of higher-wage
1548 jobs and a diverse economic base by providing state tax refunds
1549 to qualified target industry businesses that originate or expand
1550 in this state or that relocate to this state.

1551 (2)(1) DEFINITIONS.—As used in this section:

1552 (a) "Account" means the Economic Development Incentives
1553 Account within the Economic Development Trust Fund established
1554 under s. 288.095.

1555 (c)(b) "Average area private sector wage ~~in the area~~" means
1556 the statewide private sector average wage, ~~or~~ the average of all
1557 private sector wages and salaries in the county, or the average
1558 of all private sector wages and salaries in the standard
1559 metropolitan area, as determined by the governing body of the
1560 county or municipality in which the business will be ~~is~~ located.

1561 (d)(e) "Business" means an employing unit, as defined in s.
1562 443.036, which is registered for unemployment compensation
1563 purposes with the state agency providing unemployment tax
1564 collection services under contract with the Agency for Workforce



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1565 Innovation through an interagency agreement pursuant to s.
1566 443.1316, or a subcategory or division of an employing unit
1567 which is accepted by the state agency providing unemployment tax
1568 collection services as a reporting unit.

1569 ~~(e)-(d)~~ "Corporate headquarters business" means an
1570 international, national, or regional headquarters office of a
1571 multinational or multistate business enterprise or national
1572 trade association, whether separate from or connected with other
1573 facilities used by such business.

1574 ~~(n)-(e)~~ "Office" means the Office of Tourism, Trade, and
1575 Economic Development.

1576 ~~(g)-(f)~~ "Enterprise zone" means an area designated as an
1577 enterprise zone pursuant to s. 290.0065.

1578 ~~(h)-(g)~~ "Expansion of an existing business" means the
1579 expansion of an existing Florida business by or through
1580 additions to real and personal property, resulting in a net
1581 increase in employment of not less than 10 percent at such
1582 business.

1583 ~~(i)-(h)~~ "Fiscal year" means the fiscal year of the state.

1584 ~~(j)-(i)~~ "Jobs" means full-time equivalent positions, as that
1585 term is consistent with terms used by the Agency for Workforce
1586 Innovation and the United States Department of Labor for
1587 purposes of unemployment compensation tax administration and
1588 employment estimation, resulting directly from a project in this
1589 state. The term does not include temporary construction jobs
1590 involved with the construction of facilities for the project or
1591 any jobs previously included in any application for tax refunds
1592 under s. 288.1045 or this section.

1593 ~~(k)-(j)~~ "Local financial support" means funding from local



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1594 sources, public or private, which is paid to the Economic
1595 Development Trust Fund and which is equal to 20 percent of the
1596 annual tax refund for a qualified target industry business. A
1597 qualified target industry business may not provide, directly or
1598 indirectly, more than 5 percent of such funding in any fiscal
1599 year. The sources of such funding may not include, directly or
1600 indirectly, state funds appropriated from the General Revenue
1601 Fund or any state trust fund, excluding tax revenues shared with
1602 local governments pursuant to law.

1603 ~~(l)(k)~~ "Local financial support exemption option" means the
1604 option to exercise an exemption from the local financial support
1605 requirement available to any applicant whose project is located
1606 in a brownfield area or a rural community ~~county with a~~
1607 ~~population of 75,000 or fewer or a county with a population of~~
1608 ~~125,000 or fewer which is contiguous to a county with a~~
1609 ~~population of 75,000 or fewer.~~ Any applicant that exercises this
1610 option ~~is shall~~ not be eligible for more than 80 percent of the
1611 total tax refunds allowed such applicant under this section.

1612 ~~(m)(l)~~ "New business" means a business that applies for the
1613 qualified target industry refund program before beginning
1614 operations which heretofore did not exist in this state and will
1615 begin, first beginning operations on a site that was not used
1616 for the operations of a related entity within the 48 months
1617 before the submission of the application located in this state
1618 ~~and clearly separate from any other commercial or industrial~~
1619 ~~operations owned by the same business.~~

1620 ~~(o)(m)~~ "Project" means the creation of a new business or
1621 expansion of an existing business.

1622 ~~(f)(n)~~ "Director" means the Director of the Office of



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1623 Tourism, Trade, and Economic Development.

1624 ~~(t)(e)~~ "Target industry business" means a corporate
1625 headquarters business or any business that is engaged in one of
1626 the target industries identified pursuant to the following
1627 criteria developed by the office in consultation with Enterprise
1628 Florida, Inc.:

1629 1. Future growth.—Industry forecasts should indicate strong
1630 expectation for future growth in both employment and output,
1631 according to the most recent available data. ~~Preference~~ ~~Special~~
1632 ~~consideration~~ should be given to businesses that export goods or
1633 services ~~Florida's growing access~~ to international markets or to
1634 businesses that replace domestic and international ~~replacing~~
1635 imports of goods or services.

1636 2. Stability.—The industry should not be subject to
1637 periodic layoffs, whether due to seasonality or sensitivity to
1638 volatile economic variables such as weather. The industry should
1639 also be relatively resistant to recession, so that the demand
1640 for products of this industry is not typically ~~necessarily~~
1641 subject to decline during an economic downturn.

1642 3. High wage.—The industry should pay higher ~~relatively~~
1643 ~~high~~ wages compared to statewide or area averages.

1644 4. Market and resource independent.—The location of
1645 industry businesses should not be dependent on Florida markets
1646 or resources as indicated by industry analysis, with the
1647 exception of businesses in the renewable-energy industry.
1648 ~~Special consideration should be given to the development of~~
1649 ~~strong industrial clusters which include defense and homeland~~
1650 ~~security businesses.~~

1651 5. Industrial base diversification and strengthening.—The



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1652 industry should contribute toward expanding or diversifying the
1653 state's or area's economic base, as indicated by analysis of
1654 employment and output shares compared to national and regional
1655 trends. Preference ~~Special consideration~~ should be given to
1656 industries that strengthen regional economies by adding value to
1657 basic products or building regional industrial clusters as
1658 indicated by industry analysis. Additionally, preference should
1659 be given to the development of strong industrial clusters that
1660 include defense and homeland security businesses.

1661 6. Economic benefits.—The industry is expected to ~~should~~
1662 have strong positive impacts on or benefits to the state or ~~and~~
1663 regional economies.

1664
1665 The office, in consultation with Enterprise Florida, Inc., shall
1666 develop a list of such target industries annually and submit
1667 such list as part of the final agency legislative budget request
1668 submitted pursuant to s. 216.023(1). A target industry business
1669 may not include any industry engaged in retail activities; any
1670 electrical utility company; any phosphate or other solid
1671 minerals severance, mining, or processing operation; any oil or
1672 gas exploration or production operation; ~~or~~ any business firm
1673 subject to regulation by the Division of Hotels and Restaurants
1674 of the Department of Business and Professional Regulation; or
1675 any business within NAICS code 56, administrative support
1676 services, including call centers and customer account service
1677 centers.

1678 (u) ~~(p)~~ "Taxable year" means taxable year as defined in s.
1679 220.03(1)(y).

1680 (p) ~~(q)~~ "Qualified target industry business" means a target



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1681 industry business that has been approved by the director to be
1682 eligible for tax refunds pursuant to this section.

1683 (q) "Return on investment" means the gain in state revenues
1684 as a percentage of the state's investment. The state's
1685 investment includes state grants, tax exemptions, tax refunds,
1686 tax credits, and other state incentives. Return on investment is
1687 expressed mathematically as follows:

1688
1689 Return on investment = (gain in state revenues - state's
1690 investment)/state's investment

1691
1692 ~~(r) "Rural county" means a county with a population of~~
1693 ~~75,000 or fewer or a county with a population of 100,000 or~~
1694 ~~fewer which is contiguous to a county with a population of~~
1695 ~~75,000 or fewer.~~

1696 ~~(r)(s)~~ "Rural city" means a city having ~~with~~ a population
1697 of 10,000 or fewer ~~less~~, or a city having ~~with~~ a population of
1698 greater than 10,000 but fewer ~~less~~ than 20,000 which has been
1699 determined by the office of ~~Tourism, Trade, and Economic~~
1700 ~~Development~~ to have economic characteristics such as, but not
1701 limited to, a significant percentage of residents on public
1702 assistance, a significant percentage of residents with income
1703 below the poverty level, or a significant percentage of the
1704 city's employment base in agriculture-related industries.

1705 ~~(s)(t)~~ "Rural community" means:

- 1706 1. A county having ~~with~~ a population of 75,000 or fewer.
1707 2. A county having ~~with~~ a population of 125,000 or fewer
1708 which is contiguous to a county having ~~with~~ a population of
1709 75,000 or fewer.



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1710 3. A municipality within a county described in subparagraph
1711 1. or subparagraph 2.

1712
1713 For purposes of this paragraph, population shall be determined
1714 in accordance with the most recent official estimate pursuant to
1715 s. 186.901.

1716 ~~(b)(a)~~ "Authorized local economic development agency" means
1717 ~~a any~~ public or private entity, including those defined in s.
1718 288.075, authorized by a county or municipality to promote the
1719 general business or industrial interests of that county or
1720 municipality.

1721 ~~(3)(2)~~ TAX REFUND; ELIGIBLE AMOUNTS.—

1722 (a) There shall be allowed, from the account, a refund to a
1723 qualified target industry business for the amount of eligible
1724 taxes certified by the director which were paid by ~~the such~~
1725 business. The total amount of refunds for all fiscal years for
1726 each qualified target industry business must be determined
1727 pursuant to subsection ~~(4)~~ ~~(3)~~. The annual amount of a refund to
1728 a qualified target industry business must be determined pursuant
1729 to subsection ~~(6)~~ ~~(5)~~.

1730 (b)1. Upon approval by the director, a qualified target
1731 industry business shall be allowed tax refund payments equal to
1732 \$3,000 times the number of jobs specified in the tax refund
1733 agreement under subparagraph ~~(5)(a)1.~~ ~~(4)(a)1.~~, or equal to
1734 \$6,000 times the number of jobs if the project is located in a
1735 rural county or an enterprise zone.

1736 2. ~~Further,~~ A qualified target industry business shall be
1737 allowed additional tax refund payments equal to \$1,000 times the
1738 number of jobs specified in the tax refund agreement under



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1739 subparagraph (5)(a)1. ~~(4)(a)1.~~, if such jobs pay an annual
1740 average wage of at least 150 percent of the average area private
1741 sector wage ~~in the area~~, or equal to \$2,000 times the number of
1742 jobs if such jobs pay an annual average area wage of at least
1743 200 percent of the average area private sector wage ~~in the area~~.

1744 3. A qualified target industry business shall be allowed a
1745 tax refund payment in addition to the payments authorized in
1746 sub-subparagraphs 1. and 2. equal to \$2,000 times the number of
1747 jobs specified in the tax refund agreement under subparagraph
1748 (5)(a)1., for one of the following:

1749 a. Projects classified as a corporate headquarters for
1750 businesses that did not exist in this state before applying for
1751 certification as a qualified target industry business or
1752 corporate headquarters for businesses in the following
1753 industries: renewable energy, as defined in s. 366.91(2)(d);
1754 transportation equipment manufacturing; life sciences; financial
1755 services; or information technology.

1756 b. Businesses that increase exports of their goods through
1757 a Florida seaport or a Florida airport by at least 10 percent in
1758 value or tonnage in each of the years that they receive a tax
1759 credit under this section. For purposes of this sub-
1760 subparagraph, Florida seaports are limited to the ports of
1761 Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft.
1762 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.
1763 Petersburg, Pensacola, Fernandina, and Key West.

1764 4. A qualified target industry business shall be allowed a
1765 tax refund in addition to the payments authorized in sub-
1766 subparagraphs 1., 2., and 3. equal to \$1,000 times the number of
1767 jobs specified in the tax refund agreement under subparagraph



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1768 (5)(a)1., if:

1769 a. The local financial support is equal to that of the
1770 state's incentive award under subparagraph (3)(b)1.; or

1771 b. The business is employing, among those jobs specified in
1772 the tax refund agreement under subparagraph (5)(a)1., a Florida
1773 resident who has been unemployed and who was determined to be
1774 monetarily eligible for unemployment compensation benefits by
1775 the Agency for Workforce Innovation for a benefit year beginning
1776 on or after January 1, 2009. These employees must perform duties
1777 connected to the operations of the eligible business on a
1778 regular, full-time basis for an average of at least 36 hours per
1779 week and for at least 12 months before an eligible business
1780 files for the tax credit.

1781 (c) A qualified target industry business may not receive
1782 refund payments of more than 25 percent of the total tax refunds
1783 specified in the tax refund agreement under subparagraph
1784 (5)(a)1. ~~(4)(a)1.~~ in any fiscal year. Further, a qualified
1785 target industry business may not receive more than \$1.5 million
1786 in refunds under this section in any single fiscal year, or more
1787 than \$2.5 million in any single fiscal year if the project is
1788 located in an enterprise zone. A qualified target industry
1789 business may not receive more than \$5 million in refund payments
1790 under this section in all fiscal years, or more than \$7.5
1791 million if the project is located in an enterprise zone. ~~Funds~~
1792 ~~made available pursuant to this section may not be expended in~~
1793 ~~connection with the relocation of a business from one community~~
1794 ~~to another community in this state unless the Office of Tourism,~~
1795 ~~Trade, and Economic Development determines that without such~~
1796 ~~relocation the business will move outside this state or~~



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1797 ~~determines that the business has a compelling economic rationale~~
1798 ~~for the relocation and that the relocation will create~~
1799 ~~additional jobs.~~

1800 ~~(d)(e)~~ After entering into a tax refund agreement under
1801 subsection (5) ~~(4)~~, a qualified target industry business may:

1802 1. Receive refunds from the account for the following taxes
1803 due and paid by that business beginning with the first taxable
1804 year of the business which begins after entering into the
1805 agreement:

1806 a. Corporate income taxes under chapter 220.

1807 b. Insurance premium tax under s. 624.509.

1808 2. Receive refunds from the account for the following taxes
1809 due and paid by that business after entering into the agreement:

1810 a. Taxes on sales, use, and other transactions under
1811 chapter 212.

1812 b. Intangible personal property taxes under chapter 199.

1813 c. Emergency excise taxes under chapter 221.

1814 d. Excise taxes on documents under chapter 201.

1815 e. Ad valorem taxes paid, as defined in s. 220.03(1).

1816 f. State communications services taxes administered under
1817 chapter 202. This provision does not apply to the gross receipts
1818 tax imposed under chapter 203 and administered under chapter 202
1819 or the local communications services tax authorized under s.
1820 202.19.

1821
1822 ~~The addition of state communications services taxes administered~~
1823 ~~under chapter 202 is remedial in nature and retroactive to~~
1824 ~~October 1, 2001. The office may make supplemental tax refund~~
1825 ~~payments to allow for tax refunds for communications services~~



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1826 ~~taxes paid by an eligible qualified target industry business~~
1827 ~~after October 1, 2001.~~

1828 ~~(e)~~(d) However, a qualified target industry business may
1829 not receive a refund under this section for any amount of
1830 credit, refund, or exemption granted to that business for any of
1831 the such taxes listed in paragraph (d). If a refund for such
1832 taxes is provided by the office, which taxes are subsequently
1833 adjusted by the application of any credit, refund, or exemption
1834 granted to the qualified target industry business other than as
1835 provided in this section, the business shall reimburse the
1836 account for the amount of that credit, refund, or exemption. A
1837 qualified target industry business shall notify and tender
1838 payment to the office within 20 days after receiving any credit,
1839 refund, or exemption other than one provided in this section.

1840 (f) Refunds made available pursuant to this section may not
1841 be expended in connection with the relocation of a business from
1842 one community to another community in this state unless the
1843 office determines that without such relocation the business will
1844 move outside this state, or determines that the business has a
1845 compelling economic rationale for the relocation and that the
1846 relocation will create additional jobs.

1847 ~~(g)~~(e) A qualified target industry business that
1848 fraudulently claims a refund under this section:

1849 1. Is liable for repayment of the amount of the refund to
1850 the account, plus a mandatory penalty in the amount of 200
1851 percent of the tax refund which shall be deposited into the
1852 General Revenue Fund.

1853 2. Commits ~~is guilty of~~ a felony of the third degree,
1854 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



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1855 (4)~~(3)~~ APPLICATION AND APPROVAL PROCESS.-

1856 (a) To apply for certification as a qualified target
1857 industry business under this section, the business must file an
1858 application with the office before the business decides ~~has made~~
1859 ~~the decision~~ to locate a ~~new business~~ in this state or before
1860 the business decides ~~had made the decision~~ to expand its ~~an~~
1861 existing operations ~~business~~ in this state. The application must
1862 ~~shall~~ include, but need ~~is~~ not be limited to, ~~the following~~
1863 ~~information:~~

1864 1. The applicant's federal employer identification number
1865 and, if applicable, ~~the applicant's~~ state sales tax registration
1866 number.

1867 2. The proposed permanent location of the applicant's
1868 facility in this state at which the project is or is to be
1869 located.

1870 3. A description of the type of business activity or
1871 product covered by the project, including a minimum of a five-
1872 digit NAICS code for all activities included in the project. As
1873 used in this paragraph, "NAICS" means those classifications
1874 contained in the North American Industry Classification System,
1875 as published in 2007 by the Office of Management and Budget,
1876 Executive Office of the President, and updated periodically.

1877 4. The proposed number of net new full-time equivalent
1878 Florida jobs at the qualified target industry business as of
1879 December 31 of each year included in the project and the average
1880 wage of those jobs. If more than one type of business activity
1881 or product is included in the project, the number of jobs and
1882 average wage for those jobs must be separately stated for each
1883 type of business activity or product.



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1884 5. The total number of full-time equivalent employees
1885 employed by the applicant in this state, if applicable.

1886 6. The anticipated commencement date of the project.

1887 7. A brief statement explaining ~~concerning~~ the role that
1888 the estimated tax refunds to be requested will play in the
1889 decision of the applicant to locate or expand in this state.

1890 8. An estimate of the proportion of the sales resulting
1891 from the project that will be made outside this state.

1892 9. An estimate of the proportion of the cost of the
1893 machinery and equipment, and any other resources necessary in
1894 the development of its product or service, to be used by the
1895 business in its Florida operations which will be purchased
1896 outside this state.

1897 ~~10.9.~~ A resolution adopted by the governing board of the
1898 county or municipality in which the project will be located,
1899 which ~~resolution~~ recommends that the project ~~certain types of~~
1900 ~~businesses~~ be approved as a qualified target industry business
1901 and specifies ~~states~~ that ~~the~~ commitments of local financial
1902 support necessary for the target industry business exist. In
1903 advance of the passage of such resolution, the office may also
1904 accept an official letter from an authorized local economic
1905 development agency that endorses the proposed target industry
1906 project and pledges that sources of local financial support for
1907 such project exist. For the purposes of making pledges of local
1908 financial support under this subsection, the authorized local
1909 economic development agency shall be officially designated by
1910 the passage of a one-time resolution by the local governing
1911 authority.

1912 ~~11.10.~~ Any additional information requested by the office.



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1913 (b) To qualify for review by the office, the application of
1914 a target industry business must, at a minimum, establish the
1915 following to the satisfaction of the office:

1916 1.a. The jobs proposed to be created ~~provided~~ under the
1917 application, pursuant to subparagraph (a)4., must pay an
1918 estimated annual average wage equaling at least 115 percent of
1919 the average area private sector wage ~~in the area~~ where the
1920 business is to be located ~~or the statewide private sector~~
1921 ~~average wage~~. The governing body of the county where the
1922 qualified target industry business is to be located shall notify
1923 the office and Enterprise Florida, Inc., which calculation of
1924 the average area private sector wage must be used as the basis
1925 for the business' wage commitment. In determining the average
1926 annual wage, the office shall include only new proposed jobs,
1927 and wages for existing jobs shall be excluded from this
1928 calculation.

1929 b. The office may waive the average wage requirement at the
1930 request of the local governing body recommending the project and
1931 Enterprise Florida, Inc. The director may waive the wage
1932 requirement ~~may only be waived~~ for a project located in a
1933 brownfield area designated under s. 376.80 or in a rural city,
1934 rural community, ~~or county,~~ or ~~in an~~ enterprise zone and only if
1935 ~~when~~ the merits of the individual project or the specific
1936 circumstances in the community in relationship to the project
1937 warrant such action. If the local governing body and Enterprise
1938 Florida, Inc., make such a recommendation, it must be
1939 transmitted in writing and the specific justification for the
1940 waiver recommendation must be explained. If the director elects
1941 to waive the wage requirement, the waiver must be stated in



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1942 writing and the reasons for granting the waiver must be
1943 explained.

1944 2. The target industry business's project must result in
1945 the creation of at least 10 jobs at the ~~such~~ project and, if an
1946 expansion of an existing business, must result in an ~~a net~~
1947 increase in employment of at least 10 percent at the business.
1948 ~~Notwithstanding the definition of the term "expansion of an~~
1949 ~~existing business" in paragraph (1)(g),~~ At the request of the
1950 local governing body recommending the project and Enterprise
1951 Florida, Inc., the office may waive this requirement for a
1952 business in a rural community or enterprise zone ~~define an~~
1953 ~~"expansion of an existing business" in a rural community or an~~
1954 ~~enterprise zone as the expansion of a business resulting in a~~
1955 ~~net increase in employment of less than 10 percent at such~~
1956 ~~business~~ if the merits of the individual project or the specific
1957 circumstances in the community in relationship to the project
1958 warrant such action. If the local governing body and Enterprise
1959 Florida, Inc., make such a request, the request must be
1960 transmitted in writing and the specific justification for the
1961 request must be explained. If the director elects to grant the
1962 request, the grant must be stated in writing and the reason for
1963 granting the request must be explained.

1964 3. The business activity or product for the applicant's
1965 project is within an industry ~~or industries that have been~~
1966 identified by the office as a target industry business ~~to be~~
1967 ~~high-value-added industries~~ that contributes ~~contribute to the~~
1968 ~~area and~~ to the economic growth of the state and the region in
1969 which it is located, that produces ~~produce~~ a higher standard of
1970 living for residents of this state in the new global economy, or



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1971 that can be shown to make an equivalent contribution to the area
1972 and state's economic progress. ~~The director must approve~~
1973 ~~requests to waive the wage requirement for brownfield areas~~
1974 ~~designated under s. 376.80 unless it is demonstrated that such~~
1975 ~~action is not in the public interest.~~

1976 (c) Each application meeting the requirements of paragraph
1977 (b) must be submitted to the office for determination of
1978 eligibility. The office shall review and evaluate each
1979 application based on, but not limited to, the following
1980 criteria:

1981 1. Expected contributions to the state economy, consistent
1982 with the state strategic economic development plan adopted by
1983 Enterprise Florida, Inc., ~~taking into account the long term~~
1984 ~~effects of the project and of the applicant on the state~~
1985 ~~economy.~~

1986 2. The return on investment of the proposed award under the
1987 qualified target industry incentive program and the return on
1988 investment for all state incentives proposed for the project
1989 ~~economic benefit of the jobs created by the project in this~~
1990 ~~state, taking into account the cost and average wage of each job~~
1991 ~~created.~~

1992 3. The amount of capital investment to be made by the
1993 applicant in this state.

1994 4. The local financial commitment and support for the
1995 project.

1996 5. The effect of the project on the unemployment rate in
1997 ~~local community, taking into account the unemployment rate for~~
1998 ~~the county where the project will be located.~~

1999 6. The effect of the award ~~any tax refunds granted pursuant~~



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2000 ~~to this section~~ on the viability of the project and the
2001 probability that the project would ~~will~~ be undertaken in this
2002 state if such tax refunds are granted to the applicant, ~~taking~~
2003 ~~into account the expected long-term commitment of the applicant~~
2004 ~~to economic growth and employment in this state.~~

2005 7. The expected long-term commitment of the applicant to
2006 economic growth and employment to this state resulting from the
2007 project.

2008 8. A review of the business's past activities in this state
2009 or other states, including whether such business has been
2010 subjected to criminal or civil fines and penalties. This
2011 subparagraph does not require the disclosure of confidential
2012 information.

2013 (d) Applications shall be reviewed and certified pursuant
2014 to s. 288.061. The office shall include in its review
2015 projections of the tax refunds the business would be eligible to
2016 receive in each fiscal year based on the creation and
2017 maintenance of the net new Florida jobs specified in
2018 subparagraph (a)4. as of December 31 of the preceding state
2019 fiscal year. If appropriate, the director shall enter into a
2020 written agreement with the qualified target industry business
2021 pursuant to subsection (5) ~~(4)~~.

2022 (e) The director may not certify any target industry
2023 business as a qualified target industry business if the value of
2024 tax refunds to be included in that letter of certification
2025 exceeds the available amount of authority to certify new
2026 businesses as determined in s. 288.095(3). However, if the
2027 commitments of local financial support represent less than 20
2028 percent of the eligible tax refund payments, or to otherwise



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2029 preserve the viability and fiscal integrity of the program, the
2030 director may certify a qualified target industry business to
2031 receive tax refund payments of less than the allowable amounts
2032 specified in paragraph (3) (b) ~~(2) (b)~~. A letter of certification
2033 that approves an application must specify the maximum amount of
2034 tax refund that will be available to the qualified industry
2035 business in each fiscal year and the total amount of tax refunds
2036 that will be available to the business for all fiscal years.

2037 (f) This section does not create a presumption that an
2038 applicant shall receive any tax refunds under this section.
2039 However, the office may issue nonbinding opinion letters, upon
2040 the request of prospective applicants, as to the applicants'
2041 eligibility and the potential amount of refunds.

2042 (5) ~~(4)~~ TAX REFUND AGREEMENT.—

2043 (a) Each qualified target industry business must enter into
2044 a written agreement with the office which specifies, at a
2045 minimum:

2046 1. The total number of full-time equivalent jobs in this
2047 state that will be dedicated to the project, the average wage of
2048 those jobs, the definitions that will apply for measuring the
2049 achievement of these terms during the pendency of the agreement,
2050 and a time schedule or plan for when such jobs will be in place
2051 and active in this state.

2052 2. The maximum amount of tax refunds which the qualified
2053 target industry business is eligible to receive on the project
2054 and the maximum amount of a tax refund that the qualified target
2055 industry business is eligible to receive for each fiscal year,
2056 based on the job creation and maintenance schedule specified in
2057 subparagraph 1.



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2058 3. That the office may review and verify the financial and
2059 personnel records of the qualified target industry business to
2060 ascertain whether that business is in compliance with this
2061 section.

2062 4. The date by which, in each fiscal year, the qualified
2063 target industry business may file a claim under subsection (6)
2064 ~~(5)~~ to be considered to receive a tax refund in the following
2065 fiscal year.

2066 5. That local financial support will be annually available
2067 and will be paid to the account. The director may not enter into
2068 a written agreement with a qualified target industry business if
2069 the local financial support resolution is not passed by the
2070 local governing authority within 90 days after he or she has
2071 issued the letter of certification under subsection (4) ~~(3)~~.

2072 (b) Compliance with the terms and conditions of the
2073 agreement is a condition precedent for the receipt of a tax
2074 refund each year. The failure to comply with the terms and
2075 conditions of the tax refund agreement results in the loss of
2076 eligibility for receipt of all tax refunds previously authorized
2077 under this section and the revocation by the director of the
2078 certification of the business entity as a qualified target
2079 industry business, unless the business is eligible to receive
2080 and elects to accept a prorated refund under paragraph (6)(e)
2081 ~~(5)(d)~~ or the office grants the business an economic recovery
2082 extension ~~economic stimulus exemption~~.

2083 1. A qualified target industry business may submit, in
2084 writing, a request to the office for an economic recovery
2085 extension ~~economic stimulus exemption~~. The request must provide
2086 quantitative evidence demonstrating how negative economic



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2087 conditions in the business's industry, the effects of the impact
2088 of a named hurricane or tropical storm, or specific acts of
2089 terrorism affecting the qualified target industry business have
2090 prevented the business from complying with the terms and
2091 conditions of its tax refund agreement.

2092 2. Upon receipt of a request under subparagraph 1., the
2093 director has ~~shall have~~ 45 days to notify the requesting
2094 business, in writing, if its extension exemption ~~exemption~~ has been
2095 granted or denied. In determining if an exemption should be
2096 granted, the director shall consider the extent to which
2097 negative economic conditions in the requesting business's
2098 industry have occurred in the state or the effects of the impact
2099 of a named hurricane or tropical storm or specific acts of
2100 terrorism affecting the qualified target industry business have
2101 prevented the business from complying with the terms and
2102 conditions of its tax refund agreement. The office shall
2103 consider current employment statistics for this state by
2104 industry, including whether the business's industry had
2105 substantial job loss during the prior year, when determining
2106 whether an exemption shall be granted.

2107 3. As a condition for receiving a prorated refund under
2108 paragraph (6) (e) ~~(5) (d)~~ or an economic recovery extension
2109 ~~economic-stimulus-exemption~~ under this paragraph, a qualified
2110 target industry business must agree to renegotiate its tax
2111 refund agreement with the office to, at a minimum, ensure that
2112 the terms of the agreement comply with current law and office
2113 procedures governing application for and award of tax refunds.
2114 Upon approving the award of a prorated refund or granting an
2115 economic recovery extension ~~economic-stimulus-exemption~~, the



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2116 office shall renegotiate the tax refund agreement with the
2117 business as required by this subparagraph. When amending the
2118 agreement of a business receiving an economic recovery extension
2119 ~~economic stimulus exemption~~, the office may extend the duration
2120 of the agreement for a period not to exceed 2 years.

2121 4. A qualified target industry business may submit a
2122 request for an economic recovery extension ~~economic stimulus~~
2123 ~~exemption~~ to the office in lieu of any tax refund claim
2124 scheduled to be submitted after January 1, 2009, but before July
2125 1, 2012 ~~2011~~.

2126 5. A qualified target industry business that receives an
2127 economic recovery extension ~~economic stimulus exemption~~ may not
2128 receive a tax refund for the period covered by the extension
2129 ~~exemption~~.

2130 (c) The agreement must be signed by the director and by an
2131 authorized officer of the qualified target industry business
2132 within 120 days after the issuance of the letter of
2133 certification under subsection (4) ~~(3)~~, but not before passage
2134 and receipt of the resolution of local financial support. The
2135 office may grant an extension of this period at the written
2136 request of the qualified target industry business.

2137 (d) The agreement must contain the following legend,
2138 clearly printed on its face in bold type of not less than 10
2139 points in size: "This agreement is neither a general obligation
2140 of the State of Florida, nor is it backed by the full faith and
2141 credit of the State of Florida. Payment of tax refunds is ~~are~~
2142 conditioned on and subject to specific annual appropriations by
2143 the Florida Legislature ~~of moneys~~ sufficient to pay amounts
2144 authorized in section 288.106, Florida Statutes."



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2145 (6)~~(5)~~ ANNUAL CLAIM FOR REFUND.-

2146 (a) To be eligible to claim any scheduled tax refund, a
2147 qualified target industry business that has entered into a tax
2148 refund agreement with the office under subsection (5) ~~(4)~~ must
2149 apply by January 31 of each fiscal year to the office for the
2150 tax refund scheduled to be paid from the appropriation for the
2151 fiscal year that begins on July 1 following the January 31
2152 claims-submission date. The office may, upon written request,
2153 grant a 30-day extension of the filing date.

2154 (b) The claim for refund by the qualified target industry
2155 business must include a copy of all receipts pertaining to the
2156 payment of taxes for which the refund is sought and data related
2157 to achievement of each performance item specified in the tax
2158 refund agreement. The amount requested as a tax refund may not
2159 exceed the amount specified for the relevant fiscal year in that
2160 agreement.

2161 (c) If the qualified target industry business provides the
2162 office with proof that in a single year it has paid an amount of
2163 state taxes, from the categories in paragraph (3)(d), at least
2164 equal to the total amount of tax refunds it may receive through
2165 successful completion of its qualified target industry
2166 agreement, the office may waive the requirement for proof of
2167 taxes paid in future years.

2168 (d)~~(e)~~ A tax refund may not be approved for a qualified
2169 target industry business unless the required local financial
2170 support has been paid into the account for that refund. If the
2171 local financial support provided is less than 20 percent of the
2172 approved tax refund, the tax refund must be reduced. In no event
2173 may the tax refund exceed an amount that is equal to 5 times the



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2174 amount of the local financial support received. Further, funding
2175 from local sources includes any tax abatement granted to that
2176 business under s. 196.1995 or the appraised market value of
2177 municipal or county land conveyed or provided at a discount to
2178 that business. The amount of any tax refund for such business
2179 approved under this section must be reduced by the amount of any
2180 such tax abatement granted or the value of the land granted; and
2181 the limitations in subsection (3) ~~(2)~~ and paragraph (4) (e)
2182 ~~(3) (e)~~ must be reduced by the amount of any such tax abatement
2183 or the value of the land granted. A report listing all sources
2184 of the local financial support shall be provided to the office
2185 when such support is paid to the account.

2186 (e) ~~(d)~~ A prorated tax refund, less a 5 percent ~~5-percent~~
2187 penalty, shall be approved for a qualified target industry
2188 business if provided all other applicable requirements have been
2189 satisfied and the business proves to the satisfaction of the
2190 director that:

2191 1. It has achieved at least 80 percent of its projected
2192 employment; and ~~that~~

2193 2. The average wage paid by the business is at least 90
2194 percent of the average wage specified in the tax refund
2195 agreement, but in no case less than 115 percent of the average
2196 private sector wage in the area available at the time of
2197 certification, or 150 percent or 200 percent of the average
2198 private sector wage if the business requested the additional
2199 per-job tax refund authorized in paragraph (3) (b) ~~(2) (b)~~ for
2200 wages above those levels.

2201
2202 The prorated tax refund shall be calculated by multiplying the



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2203 tax refund amount for which the qualified target industry
2204 business would have been eligible, if all applicable
2205 requirements had been satisfied, by the percentage of the
2206 average employment specified in the tax refund agreement which
2207 was achieved, and by the percentage of the average wages
2208 specified in the tax refund agreement which was achieved.

2209 ~~(f)-(e)~~ The director, with such assistance as may be
2210 required from the office, the Department of Revenue, or the
2211 Agency for Workforce Innovation, shall, by June 30 following the
2212 scheduled date for submission of the tax refund claim, specify
2213 by written order the approval or disapproval of the tax refund
2214 claim and, if approved, the amount of the tax refund that is
2215 authorized to be paid to the qualified target industry business
2216 for the annual tax refund. The office may grant an extension of
2217 this date on the request of the qualified target industry
2218 business for the purpose of filing additional information in
2219 support of the claim.

2220 ~~(g)-(f)~~ The total amount of tax refund claims approved by
2221 the director under this section in any fiscal year must not
2222 exceed the amount authorized under s. 288.095(3).

2223 ~~(h)-(g)~~ This section does not create a presumption that a
2224 tax refund claim will be approved and paid.

2225 ~~(i)-(h)~~ Upon approval of the tax refund under paragraphs
2226 ~~(e)~~, (d), ~~and~~ (e), and (f), the Chief Financial Officer shall
2227 issue a warrant for the amount specified in the written order.
2228 If the written order is appealed, the Chief Financial Officer
2229 may not issue a warrant for a refund to the qualified target
2230 industry business until the conclusion of all appeals of that
2231 order.



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2232 (7)~~(6)~~ ADMINISTRATION.-

2233 (a) The office may ~~is authorized to~~ verify information
2234 provided in any claim submitted for tax credits under this
2235 section with regard to employment and wage levels or the payment
2236 of the taxes to the appropriate agency or authority, including
2237 the Department of Revenue, the Agency for Workforce Innovation,
2238 or any local government or authority.

2239 (b) To facilitate the process of monitoring and auditing
2240 applications made under this program, the office may provide a
2241 list of qualified target industry businesses to the Department
2242 of Revenue, to the Agency for Workforce Innovation, or to any
2243 local government or authority. The office may request the
2244 assistance of those entities with respect to monitoring jobs,
2245 wages, and the payment of the taxes listed in subsection (3)
2246 ~~(2)~~.

2247 (c) Funds specifically appropriated for the tax refund
2248 program for qualified target industry businesses may not be used
2249 by the office for any purpose other than the payment of tax
2250 refunds authorized by this section.

2251 (d) For all agreements signed after January 1, 2006, the
2252 office shall conduct a review of each qualified target industry
2253 business approximately 12 months after such business has
2254 received its final incentive refund in order to evaluate whether
2255 the business is continuing to contribute to the regional or
2256 state economy. To complete the reviews, the office shall examine
2257 the size of each business's workforce, the annual average wage
2258 of its employees, whether the business has made additional
2259 investments in its operations since the completion of its
2260 agreement, and whether the business has expanded into additional



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2261 locations. The office shall submit a report of its findings and
2262 recommendations from its reviews to the Governor, the President
2263 of the Senate, and the Speaker of the House of Representatives.
2264 The first report shall be submitted by December 1, 2011, and
2265 each December 1 thereafter.

2266 ~~(7) Notwithstanding paragraphs (4) (a) and (5) (c), the~~
2267 ~~office may approve a waiver of the local financial support~~
2268 ~~requirement for a business located in any of the following~~
2269 ~~counties in which businesses received emergency loans~~
2270 ~~administered by the office in response to the named hurricanes~~
2271 ~~of 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler,~~
2272 ~~Glades, Hardee, Hendry, Highlands, Indian River, Lake, Lee,~~
2273 ~~Martin, Okaloosa, Okeechobee, Orange, Osecola, Palm Beach, Polk,~~
2274 ~~Putnam, Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A~~
2275 ~~waiver may be granted only if the office determines that the~~
2276 ~~local financial support cannot be provided or that doing so~~
2277 ~~would effect a demonstrable hardship on the unit of local~~
2278 ~~government providing the local financial support. If the office~~
2279 ~~grants a waiver of the local financial support requirement, the~~
2280 ~~state shall pay 100 percent of the refund due to an eligible~~
2281 ~~business. The waiver shall apply for tax refund applications~~
2282 ~~made for fiscal years 2004-2005, 2005-2006, and 2006-2007.~~

2283 (8) AVAILABILITY OF OTHER TAX CREDITS.—A business that
2284 receives tax refunds pursuant to this section is not eligible
2285 for the capital investment tax credit under s. 220.191.

2286 (9) EXPIRATION.—An applicant may not be certified as
2287 qualified under this section after June 30, 2015. A tax
2288 refund agreement existing on that date shall continue in effect
2289 in accordance with its terms.



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2290 Section 14. Effective July 1, 2010, paragraph (e) of
2291 subsection (1), subsection (2), paragraphs (a) and (d) of
2292 subsection (4), and paragraph (b) of subsection (5) of section
2293 288.107, Florida Statutes, are amended to read:

2294 288.107 Brownfield redevelopment bonus refunds.—

2295 (1) DEFINITIONS.—As used in this section:

2296 (e) "Eligible business" means:

2297 1. A qualified target industry business as defined in s.
2298 288.106(2) ~~s. 288.106(1)(e)~~; or

2299 2. A business that can demonstrate a fixed capital
2300 investment of at least \$2 million in mixed-use business
2301 activities, including multiunit housing, commercial, retail, and
2302 industrial in brownfield areas, or at least \$500,000 in
2303 brownfield areas that do not require site cleanup, and which
2304 provides benefits to its employees.

2305 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—Bonus refunds
2306 shall be approved by the office as specified in the final order
2307 issued by the director and allowed from the account as follows:

2308 (a) A bonus refund of \$2,500 shall be allowed to any
2309 qualified target industry business as defined by s. 288.106 for
2310 each new Florida job created in a brownfield area which is
2311 claimed on the qualified target industry business's annual
2312 refund claim authorized in s. 288.106(6) ~~s. 288.106(5)~~.

2313 (b) A bonus refund of up to \$2,500 shall be allowed to any
2314 other eligible business as defined in subparagraph (1)(e)2. for
2315 each new Florida job created in a brownfield which is claimed
2316 under an annual claim procedure similar to the annual refund
2317 claim authorized in s. 288.106(6) ~~s. 288.106(5)~~. The amount of
2318 the refund shall be equal to 20 percent of the average annual



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2319 wage for the jobs created.

2320 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—

2321 (a) To be eligible to receive a bonus refund for new
2322 Florida jobs created in a brownfield, a business must have been
2323 certified as a qualified target industry business under s.
2324 288.106 or eligible business as defined in paragraph (1)(e) and
2325 must have indicated on the qualified target industry tax refund
2326 application form submitted in accordance with s. 288.106(4) ~~s.~~
2327 ~~288.106(3)~~ or other similar agreement for other eligible
2328 business as defined in paragraph (1)(e) that the project for
2329 which the application is submitted is or will be located in a
2330 brownfield and that the business is applying for certification
2331 as a qualified brownfield business under this section, and must
2332 have signed a qualified target industry tax refund agreement
2333 with the office which indicates that the business has been
2334 certified as a qualified target industry business located in a
2335 brownfield and specifies the schedule of brownfield
2336 redevelopment bonus refunds that the business may be eligible to
2337 receive in each fiscal year.

2338 (d) After entering into a tax refund agreement as provided
2339 in s. 288.106 or other similar agreement for other eligible
2340 businesses as defined in paragraph (1)(e), an eligible business
2341 may receive brownfield redevelopment bonus refunds from the
2342 account pursuant to s. 288.106(3)(d) ~~s. 288.106(2)(c)~~.

2343 (5) ADMINISTRATION.—

2344 (b) To facilitate the process of monitoring and auditing
2345 applications made under this program, the office may provide a
2346 list of qualified target industry businesses to the Department
2347 of Revenue, to the Agency for Workforce Innovation, to the



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2348 Department of Environmental Protection, or to any local
2349 government authority. The office may request the assistance of
2350 those entities with respect to monitoring the payment of the
2351 taxes listed in s. 288.106(3) ~~s. 288.106(2)~~.

2352 Section 15. Effective July 1, 2010, section 288.125,
2353 Florida Statutes, is amended to read:

2354 288.125 Definition of "entertainment industry".-For the
2355 purposes of ss. 288.1251-288.1258, the term "entertainment
2356 industry" means those persons or entities engaged in the
2357 operation of motion picture or television studios or recording
2358 studios; those persons or entities engaged in the preproduction,
2359 production, or postproduction of motion pictures, made-for-
2360 television movies, television programming, digital media
2361 projects, commercial advertising, music videos, or sound
2362 recordings; and those persons or entities providing products or
2363 services directly related to the preproduction, production, or
2364 postproduction of motion pictures, made-for-television movies,
2365 television programming, digital media projects, commercial
2366 advertising, music videos, or sound recordings, including, but
2367 not limited to, the broadcast industry.

2368 Section 16. Effective July 1, 2010, paragraph (b) of
2369 subsection (1) and paragraph (a) of subsection (2) of section
2370 288.1251, Florida Statutes, are amended to read:

2371 288.1251 Promotion and development of entertainment
2372 industry; Office of Film and Entertainment; creation; purpose;
2373 powers and duties.-

2374 (1) CREATION.-

2375 (b) The Office of Tourism, Trade, and Economic Development
2376 shall conduct a national search for a qualified person to fill



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2377 the position of Commissioner of Film and Entertainment, when the
2378 position is vacant. ~~and~~ The Executive Director of the Office of
2379 Tourism, Trade, and Economic Development has the responsibility
2380 to shall hire the commissioner ~~of Film and Entertainment.~~

2381 Qualifications for the commissioner ~~Guidelines for selection of~~
2382 ~~the Commissioner of Film and Entertainment shall~~ include, but
2383 are not be limited to, ~~the Commissioner of Film and~~
2384 ~~Entertainment having~~ the following:

2385 1. A working knowledge of the equipment, personnel,
2386 financial, and day-to-day production operations of the
2387 industries to be served by the Office of Film and Entertainment;

2388 2. Marketing and promotion experience related to the film
2389 and entertainment industries to be served ~~by the office;~~

2390 3. Experience working with a variety of individuals
2391 representing large and small entertainment-related businesses,
2392 industry associations, local community entertainment industry
2393 liaisons, and labor organizations; and

2394 4. Experience working with a variety of state and local
2395 governmental agencies.

2396 (2) POWERS AND DUTIES.—

2397 (a) The Office of Film and Entertainment, in performance of
2398 its duties, shall:

2399 1. In consultation with the Florida Film and Entertainment
2400 Advisory Council, update the ~~develop and implement a 5-year~~
2401 strategic plan every 5 years to guide the activities of the
2402 Office of Film and Entertainment in the areas of entertainment
2403 industry development, marketing, promotion, liaison services,
2404 field office administration, and information. The plan, ~~to be~~
2405 ~~developed by no later than June 30, 2000,~~ shall:



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- 2406 a. Be annual in construction and ongoing in nature.
- 2407 b. Include recommendations relating to the organizational
2408 structure of the office.
- 2409 c. Include an annual budget projection for the office for
2410 each year of the plan.
- 2411 d. Include an operational model for the office to use in
2412 implementing programs for rural and urban areas designed to:
- 2413 (I) Develop and promote the state's entertainment industry.
- 2414 (II) Have the office serve as a liaison between the
2415 entertainment industry and other state and local governmental
2416 agencies, local film commissions, and labor organizations.
- 2417 (III) Gather statistical information related to the state's
2418 entertainment industry.
- 2419 (IV) Provide information and service to businesses,
2420 communities, organizations, and individuals engaged in
2421 entertainment industry activities.
- 2422 (V) Administer field offices outside the state and
2423 coordinate with regional offices maintained by counties and
2424 regions of the state, as described in sub-sub-subparagraph (II),
2425 as necessary.
- 2426 e. Include performance standards and measurable outcomes
2427 for the programs to be implemented by the office.
- 2428 f. Include an assessment of, and make recommendations on,
2429 the feasibility of creating an alternative public-private
2430 partnership for the purpose of contracting with such a
2431 partnership for the administration of the state's entertainment
2432 industry promotion, development, marketing, and service
2433 programs.
- 2434 2. Develop, market, and facilitate a ~~smooth~~ working



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2435 relationship between state agencies and local governments in
2436 cooperation with local film commission offices for out-of-state
2437 and indigenous entertainment industry production entities.

2438 3. Implement a structured methodology prescribed for
2439 coordinating activities of local offices with each other and the
2440 commissioner's office.

2441 4. Represent the state's indigenous entertainment industry
2442 to key decisionmakers within the national and international
2443 entertainment industry, and to state and local officials.

2444 5. Prepare an inventory and analysis of the state's
2445 entertainment industry, including, but not limited to,
2446 information on crew, related businesses, support services, job
2447 creation, talent, and economic impact and coordinate with local
2448 offices to develop an information tool for common use.

2449 ~~6. Represent key decisionmakers within the national and~~
2450 ~~international entertainment industry to the indigenous~~
2451 ~~entertainment industry and to state and local officials.~~

2452 ~~7. Serve as liaison between entertainment industry~~
2453 ~~producers and labor organizations.~~

2454 ~~6.8.~~ Identify, solicit, and recruit entertainment
2455 production opportunities for the state.

2456 ~~7.9.~~ Assist rural communities and other small communities
2457 in the state in developing the expertise and capacity necessary
2458 for such communities to develop, market, promote, and provide
2459 services to the state's entertainment industry.

2460 Section 17. Effective July 1, 2010, subsection (3) of
2461 section 288.1252, Florida Statutes, is amended to read:

2462 288.1252 Florida Film and Entertainment Advisory Council;
2463 creation; purpose; membership; powers and duties.-



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2464 (3) MEMBERSHIP.—

2465 (a) The council shall consist of 17 members, seven to be
2466 appointed by the Governor, five to be appointed by the President
2467 of the Senate, and five to be appointed by the Speaker of the
2468 House of Representatives, ~~with the initial appointments being~~
2469 ~~made no later than August 1, 1999.~~

2470 (b) When making appointments to the council, the Governor,
2471 the President of the Senate, and the Speaker of the House of
2472 Representatives shall appoint persons who are residents of the
2473 state and who are highly knowledgeable of, active in, and
2474 recognized leaders in Florida's motion picture, television,
2475 video, sound recording, or other entertainment industries. These
2476 persons shall include, but not be limited to, representatives of
2477 local film commissions, representatives of entertainment
2478 associations, a representative of the broadcast industry,
2479 representatives of labor organizations in the entertainment
2480 industry, and board chairs, presidents, chief executive
2481 officers, chief operating officers, or persons of comparable
2482 executive position or stature of leading or otherwise important
2483 entertainment industry businesses and offices. Council members
2484 shall be appointed in such a manner as to equitably represent
2485 the broadest spectrum of the entertainment industry and
2486 geographic areas of the state.

2487 (c) Council members shall serve for 4-year terms, ~~except~~
2488 ~~that the initial terms shall be staggered:~~

2489 ~~1. The Governor shall appoint one member for a 1-year term,~~
2490 ~~two members for 2-year terms, two members for 3-year terms, and~~
2491 ~~two members for 4-year terms.~~

2492 ~~2. The President of the Senate shall appoint one member for~~



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2493 ~~a 1-year term, one member for a 2-year term, two members for 3-~~
2494 ~~year terms, and one member for a 4-year term.~~

2495 ~~3. The Speaker of the House of Representatives shall~~
2496 ~~appoint one member for a 1-year term, one member for a 2-year~~
2497 ~~term, two members for 3-year terms, and one member for a 4-year~~
2498 ~~term.~~

2499 (d) Subsequent appointments shall be made by the official
2500 who appointed the council member whose expired term is to be
2501 filled.

2502 (e) ~~The Commissioner of Film and Entertainment, A~~
2503 representative of Enterprise Florida, Inc., a representative of
2504 Workforce Florida, Inc., and a representative of Visit Florida
2505 ~~the Florida Tourism Industry Marketing Corporation~~ shall serve
2506 as ex officio, nonvoting members of the council, and shall be in
2507 addition to the 17 appointed members of the council.

2508 (f) Absence from three consecutive meetings shall result in
2509 automatic removal from the council.

2510 (g) A vacancy on the council shall be filled for the
2511 remainder of the unexpired term by the official who appointed
2512 the vacating member.

2513 (h) No more than one member of the council may be an
2514 employee of any one company, organization, or association.

2515 (i) Any member shall be eligible for reappointment but may
2516 not serve more than two consecutive terms.

2517 Section 18. Effective July 1, 2010, subsections (1), (2),
2518 (4), and (5) of section 288.1253, Florida Statutes, are amended
2519 to read:

2520 288.1253 Travel and entertainment expenses.-

2521 (1) As used in this section, the term-



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2522 ~~(a) "Business client" means any person, other than a state~~
2523 ~~official or state employee, who receives the services of~~
2524 ~~representatives of the Office of Film and Entertainment in~~
2525 ~~connection with the performance of its statutory duties,~~
2526 ~~including persons or representatives of entertainment industry~~
2527 ~~companies considering location, relocation, or expansion of an~~
2528 ~~entertainment industry business within the state.~~

2529 ~~(b) "Entertainment expenses" means the actual, necessary,~~
2530 ~~and reasonable costs of providing hospitality for business~~
2531 ~~clients or guests, which costs are defined and prescribed by~~
2532 ~~rules adopted by the Office of Tourism, Trade, and Economic~~
2533 ~~Development, subject to approval by the Chief Financial Officer.~~

2534 ~~(c) "Guest" means a person, other than a state official or~~
2535 ~~state employee, authorized by the Office of Tourism, Trade, and~~
2536 ~~Economic Development to receive the hospitality of the Office of~~
2537 ~~Film and Entertainment in connection with the performance of its~~
2538 ~~statutory duties.~~

2539 ~~(d) "travel expenses" means the actual, necessary, and~~
2540 ~~reasonable costs of transportation, meals, lodging, and~~
2541 ~~incidental expenses normally incurred by an employee of the~~
2542 ~~Office of Film and Entertainment a traveler, which costs are~~
2543 ~~defined and prescribed by rules adopted by the Office of~~
2544 ~~Tourism, Trade, and Economic Development, subject to approval by~~
2545 ~~the Chief Financial Officer.~~

2546 (2) Notwithstanding the provisions of s. 112.061, the
2547 Office of Tourism, Trade, and Economic Development shall adopt
2548 rules by which it may make expenditures by ~~advancement or~~
2549 ~~reimbursement, or a combination thereof,~~ to:

2550 ~~(a) the Governor, the Lieutenant Governor, security staff~~



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2551 of the Governor or Lieutenant Governor, the Commissioner of Film
2552 and Entertainment, or staff of the Office of Film and
2553 Entertainment for travel expenses or entertainment expenses
2554 incurred by such individuals solely and exclusively in
2555 connection with the performance of the statutory duties of the
2556 Office of Film and Entertainment.

2557 ~~(b) The Governor, the Lieutenant Governor, security staff~~
2558 ~~of the Governor or Lieutenant Governor, the Commissioner of Film~~
2559 ~~and Entertainment, or staff of the Office of Film and~~
2560 ~~Entertainment for travel expenses or entertainment expenses~~
2561 ~~incurred by such individuals on behalf of guests, business~~
2562 ~~clients, or authorized persons as defined in s. 112.061(2)(e)~~
2563 ~~solely and exclusively in connection with the performance of the~~
2564 ~~statutory duties of the Office of Film and Entertainment.~~

2565 ~~(c) Third-party vendors for the travel or entertainment~~
2566 ~~expenses of guests, business clients, or authorized persons as~~
2567 ~~defined in s. 112.061(2)(e) incurred solely and exclusively~~
2568 ~~while such persons are participating in activities or events~~
2569 ~~carried out by the Office of Film and Entertainment in~~
2570 ~~connection with that office's statutory duties.~~

2571
2572 The rules are ~~shall be~~ subject to approval by the Chief
2573 Financial Officer before adoption ~~prior to promulgation~~. The
2574 rules shall require the submission of paid receipts, or other
2575 proof of expenditure prescribed by the Chief Financial Officer,
2576 with any claim for reimbursement ~~and shall require, as a~~
2577 ~~condition for any advancement of funds, an agreement to submit~~
2578 ~~paid receipts or other proof of expenditure and to refund any~~
2579 ~~unused portion of the advancement within 15 days after the~~



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2580 ~~expense is incurred or, if the advancement is made in connection~~
2581 ~~with travel, within 10 working days after the traveler's return~~
2582 ~~to headquarters. However, with respect to an advancement of~~
2583 ~~funds made solely for travel expenses, the rules may allow paid~~
2584 ~~receipts or other proof of expenditure to be submitted, and any~~
2585 ~~unused portion of the advancement to be refunded, within 10~~
2586 ~~working days after the traveler's return to headquarters.~~
2587 ~~Operational or promotional advancements, as defined in s.~~
2588 ~~288.35(4), obtained pursuant to this section shall not be~~
2589 ~~commingled with any other state funds.~~

2590 (5) Any claim submitted under this section is ~~shall~~ not be
2591 required to be sworn to before a notary public or other officer
2592 authorized to administer oaths, but any claim authorized or
2593 required to be made under any provision of this section shall
2594 contain a statement that the expenses were actually incurred as
2595 necessary travel or entertainment expenses in the performance of
2596 official duties of the Office of Film and Entertainment and
2597 shall be verified by written declaration that it is true and
2598 correct as to every material matter. Any person who willfully
2599 makes and subscribes to any claim which he or she does not
2600 believe to be true and correct as to every material matter or
2601 who willfully aids or assists in, procures, or counsels or
2602 advises with respect to, the preparation or presentation of a
2603 claim pursuant to this section that is fraudulent or false as to
2604 any material matter, whether ~~or not~~ such falsity or fraud is
2605 with the knowledge or consent of the person authorized or
2606 required to present the claim, commits a misdemeanor of the
2607 second degree, punishable as provided in s. 775.082 or s.
2608 775.083. Whoever receives a ~~an advancement or~~ reimbursement by



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2609 means of a false claim is civilly liable, in the amount of the
2610 overpayment, for the reimbursement of the public fund from which
2611 the claim was paid.

2612 Section 19. Effective July 1, 2010, section 288.1254,
2613 Florida Statutes, is amended to read:

2614 (Substantial rewording of section. See
2615 s. 288.1254, F.S., for present text.)

2616 288.1254 Entertainment industry financial incentive
2617 program.—

2618 (1) DEFINITIONS.—As used in this section, the term:

2619 (a) "Certified production" means a qualified production
2620 that has tax credits allocated to it by the Office of Tourism,
2621 Trade, and Economic Development based on the production's
2622 estimated qualified expenditures, up to the production's maximum
2623 certified amount of tax credits, by the Office of Tourism,
2624 Trade, and Economic Development. The term does not include a
2625 production if the first date that it incurs production
2626 expenditures in this state occurs before the production is
2627 certified by the Office of Tourism, Trade, and Economic
2628 Development.

2629 (b) "Digital media project" means a production of
2630 interactive entertainment that is produced for distribution in
2631 commercial or educational markets. The term includes a video
2632 game or production intended for Internet or wireless
2633 distribution. The term does not include a production deemed by
2634 the Office of Film and Entertainment to contain obscene content
2635 as defined in s. 847.001(10).

2636 (c) "High-impact television series" means a production
2637 created to run multiple production seasons and having an



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2638 estimated order of at least seven episodes per season and
2639 qualified expenditures of at least \$625,000 per episode.

2640 (d) "Off-season certified production" means a production,
2641 other than a digital media project or an animated production,
2642 commercial, music video, or documentary, which films 75 percent
2643 or more of its principal photography days from June 1 through
2644 November 30.

2645 (e) "Principal photography" means the filming of major or
2646 significant components of the qualified production which involve
2647 lead actors.

2648 (f) "Production" means a theatrical or direct-to-video
2649 motion picture; a made-for-television motion picture; visual
2650 effects or digital animation sequences produced in conjunction
2651 with a motion picture; a commercial; a music video; an
2652 industrial or educational film; an infomercial; a documentary
2653 film; a television pilot program; a presentation for a
2654 television pilot program; a television series, including, but
2655 not limited to, a drama, a reality show, a comedy, a soap opera,
2656 a telenovela, a game show, or a miniseries production; or a
2657 digital media project by the entertainment industry. One season
2658 of a television series is considered one production. The term
2659 does not include a weather or market program; a sporting event;
2660 a sports show; a gala; a production that solicits funds; a home
2661 shopping program; a political program; a political documentary;
2662 political advertising; a gambling-related project or production;
2663 a concert production; or a local, regional, or Internet-
2664 distributed-only news show, current-events show, pornographic
2665 production, or current-affairs show. A production may be
2666 produced on or by film, tape, or otherwise by means of a motion



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2667 picture camera; electronic camera or device; tape device;
2668 computer; any combination of the foregoing; or any other means,
2669 method, or device now used or later adopted.

2670 (g) "Production expenditures" means the costs of tangible
2671 and intangible property used for, and services performed
2672 primarily and customarily in, production, including
2673 preproduction and postproduction, but excluding costs for
2674 development, marketing, and distribution. The term includes, but
2675 is not limited to:

2676 1. Wages, salaries, or other compensation paid to legal
2677 residents of this state, including amounts paid through payroll
2678 service companies, for technical and production crews,
2679 directors, producers, and performers.

2680 2. Expenditures for sound stages, backlots, production
2681 editing, digital effects, sound recordings, sets, and set
2682 construction.

2683 3. Expenditures for rental equipment, including, but not
2684 limited to, cameras and grip or electrical equipment.

2685 4. Up to \$300,000 of the costs of newly purchased computer
2686 software and hardware unique to the project, including servers,
2687 data processing, and visualization technologies, which are
2688 located in and used exclusively in the state for the production
2689 of digital media.

2690 5. Expenditures for meals, travel, and accommodations.

2691 (h) "Qualified expenditures" means production expenditures
2692 incurred in this state by a qualified production for:

2693 1. Goods purchased or leased from, or services, including,
2694 but not limited to, insurance costs and bonding, payroll
2695 services, and legal fees, which are provided by a vendor or



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2696 supplier in this state which is registered with the Department
2697 of State or the Department of Revenue, is doing business in the
2698 state, and whose primary employees involved in facilitating the
2699 transaction are legal residents of and doing business in this
2700 state.

2701 2. Payments to legal residents of this state in the form of
2702 salary, wages, or other compensation up to a maximum of \$650,000
2703 per resident unless otherwise specified in subsection (4).

2704
2705 For a qualified production involving an event, such as an awards
2706 show, the term does not include expenditures solely associated
2707 with the event itself and not directly required by the
2708 production. The term does not include expenditures incurred
2709 before certification, with the exception of those incurred for a
2710 commercial, a music video, or the pickup of additional episodes
2711 of a high-impact television series within a single season.

2712 (i) "Qualified production" means a production in this state
2713 meeting the requirements of this section. The term does not
2714 include a production:

2715 1. In which, for the first 2 years of the incentive
2716 program, less than 50 percent, and, thereafter, less than 60
2717 percent, of the positions that make up its production cast and
2718 below-the-line production crew, or, in the case of digital media
2719 projects, less than 75 percent of such positions, are filled by
2720 legal residents of this state, whose residency is demonstrated
2721 by a valid Florida driver's license or other state-issued
2722 identification confirming residency, or students enrolled full-
2723 time in a film-and-entertainment-related course of study at an
2724 institution of higher education in this state; or



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2725 2. That is deemed by the Office of Film and Entertainment
2726 to contain obscene content as defined in s. 847.001(10).

2727 (j) "Qualified production company" means a corporation,
2728 limited liability company, partnership, or other legal entity
2729 engaged in one or more productions in this state.

2730 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
2731 industry financial incentive program is created within the
2732 Office of Film and Entertainment. The purpose of this program is
2733 to encourage the use of this state as a site for filming, for
2734 the digital production of films, and to develop and sustain the
2735 workforce and infrastructure for film, digital media, and
2736 entertainment production.

2737 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

2738 (a) Program application.—A qualified production company
2739 producing a qualified production in this state may submit a
2740 program application to the Office of Film and Entertainment for
2741 the purpose of determining qualification for an award of tax
2742 credits authorized by this section no earlier than 6 months
2743 before the first date that production expenditures are incurred
2744 in this state. The applicant shall provide the Office of Film
2745 and Entertainment with information required to determine whether
2746 the production is a qualified production and to determine the
2747 qualified expenditures and other information necessary for the
2748 office to determine eligibility for the tax credit.

2749 (b) Required documentation.—The Office of Film and
2750 Entertainment shall develop an application form for qualifying
2751 an applicant as a qualified production. The form must include,
2752 but need not be limited to, production-related information
2753 concerning employment of residents in this state, a detailed



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2754 budget of planned qualified expenditures, and the applicant's
2755 signed affirmation that the information on the form has been
2756 verified and is correct. The Office of Film and Entertainment
2757 and local film commissions shall distribute the form.

2758 (c) Application process.—The Office of Film and
2759 Entertainment shall establish a process by which an application
2760 is accepted and reviewed and by which tax credit eligibility and
2761 the award amount are determined. The Office of Film and
2762 Entertainment may request assistance from a duly appointed local
2763 film commission in determining compliance with this section.

2764 (d) Certification.—The Office of Film and Entertainment
2765 shall review the application within 15 business days after
2766 receipt. Upon its determination that the application contains
2767 all the information required by this subsection and meets the
2768 criteria set out in this section, the Office of Film and
2769 Entertainment shall qualify the applicant and recommend to the
2770 Office of Tourism, Trade, and Economic Development that the
2771 applicant be certified for the maximum tax credit award amount.
2772 Within 5 business days after receipt of the recommendation, the
2773 Office of Tourism, Trade, and Economic Development shall reject
2774 the recommendation or certify the maximum recommended tax credit
2775 award, if any, to the applicant and to the executive director of
2776 the Department of Revenue.

2777 (e) Grounds for denial.—The Office of Film and
2778 Entertainment shall deny an application if it determines that
2779 the application is incomplete or the production or application
2780 does not meet the requirements of this section.

2781 (f) Verification of actual qualified expenditures.—
2782 1. The Office of Film and Entertainment shall develop a



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2783 process to verify the actual qualified expenditures of a
2784 certified production. The process must require:

2785 a. A certified production to submit, in a timely manner
2786 after principal photography, digital production, or the digital
2787 media project ends and after making all of its qualified
2788 expenditures, data substantiating each qualified expenditure to
2789 an independent certified public accountant licensed in this
2790 state;

2791 b. Such accountant to conduct a compliance audit, at the
2792 certified production's expense, to substantiate each qualified
2793 expenditure and submit the results as a report, along with the
2794 required substantiating data, to the Office of Film and
2795 Entertainment; and

2796 c. The Office of Film and Entertainment to review the
2797 accountant's submittal and report to the Office of Tourism,
2798 Trade, and Economic Development the final verified amount of
2799 actual qualified expenditures made by the certified production.

2800 2. The Office of Tourism, Trade, and Economic Development
2801 shall determine and approve the final tax credit award amount to
2802 each certified applicant based on the final verified amount of
2803 actual qualified expenditures and shall notify the executive
2804 director of the Department of Revenue in writing that the
2805 certified production has met the requirements of the incentive
2806 program and of the final amount of the tax credit award. The
2807 final tax credit award amount may not exceed the maximum tax
2808 credit award amount certified under paragraph (d).

2809 (g) Promoting Florida.—The Office of Film and Entertainment
2810 shall ensure that, as a condition of receiving a tax credit
2811 under this section, marketing materials promoting this state as



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2812 a tourist destination or film and entertainment production
2813 destination are included, when appropriate, at no cost to the
2814 state, which must, at a minimum, include placement of a "Filmed
2815 in Florida" or "Produced in Florida" logo in the opening credits
2816 and end credits and on all packaging material and hard media,
2817 unless prohibited by licensing or other contractual obligations.
2818 The size and placement of such logo shall be commensurate to
2819 other logos used. If no logos are used, the statement "Filmed in
2820 Florida using Florida's Entertainment Industry Financial
2821 Incentive," or a similar statement approved by the Office of
2822 Film and Entertainment, shall be used. The Office of Film and
2823 Entertainment shall provide a logo and supply it for the
2824 purposes specified in this paragraph.

2825 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
2826 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
2827 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
2828 ACQUISITIONS.-

2829 (a) Priority for tax credit award.-The priority of a
2830 qualified production for tax credit awards must be determined on
2831 a first-come, first-served basis within its appropriate queue.
2832 Each qualified production must be placed into the appropriate
2833 queue and is subject to the requirements of that queue.

2834 (b) Tax credit eligibility.-

2835 1. General production queue.-Ninety-four percent of tax
2836 credits authorized in any state fiscal year must be dedicated to
2837 the general production queue. The general production queue
2838 consists of all qualified productions other than those eligible
2839 for the commercial and music video queue or the independent
2840 production queue. A qualified production that demonstrates a



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2841 minimum of \$625,000 in qualified expenditures is eligible for
2842 tax credits equal to 20 percent of its actual qualified
2843 expenditures, up to a maximum of \$8 million. A qualified
2844 production that incurs qualified expenditures during multiple
2845 state fiscal years may combine those expenditures to satisfy the
2846 \$625,000 minimum threshold.

2847 a. An off-season certified production that is a feature
2848 film, independent film, or television series or pilot is
2849 eligible for an additional 5-percent tax credit on actual
2850 qualified expenditures. An off-season certified production that
2851 does not complete 75 percent of principal photography due to a
2852 disruption caused by a hurricane or tropical storm may not be
2853 disqualified from eligibility for the additional 5-percent
2854 credit as a result of the disruption.

2855 b. A qualified high-impact television series shall be
2856 allowed first position in this queue for tax credit awards not
2857 yet certified.

2858 2. Commercial and music video queue.—Three percent of tax
2859 credits authorized in any state fiscal year must be dedicated to
2860 the commercial and music video queue. A qualified production
2861 company that produces national or regional commercials or music
2862 videos may be eligible for a tax credit award if it demonstrates
2863 a minimum of \$100,000 in qualified expenditures per national or
2864 regional commercial or music video and exceeds a combined
2865 threshold of \$500,000 after combining actual qualified
2866 expenditures from qualified commercials and music videos during
2867 a single state fiscal year. After a qualified production company
2868 that produces commercials, music videos, or both reaches the
2869 threshold of \$500,000, it is eligible to apply for certification



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2870 for a tax credit award. The maximum credit award shall be equal
2871 to 20 percent of its actual qualified expenditures up to a
2872 maximum of \$500,000. If there is a surplus at the end of a
2873 fiscal year after the Office of Film and Entertainment certifies
2874 and determines the tax credits for all qualified commercial and
2875 video projects, such surplus tax credits shall be carried
2876 forward to the following fiscal year and be available to any
2877 eligible qualified productions under the general production
2878 queue.

2879 3. Independent production queue.—Three percent of tax
2880 credits authorized in any state fiscal year must be dedicated to
2881 the independent production queue. An independent Florida film or
2882 digital media project that meets the criteria of this
2883 subparagraph and demonstrates a minimum of \$100,000, but not
2884 more than \$625,000, in total qualified expenditures is eligible
2885 for tax credits equal to 20 percent of its actual qualified
2886 expenditures. To qualify for this tax credit, a qualified
2887 production must:

2888 a. Be planned as a feature film or documentary of at least
2889 70 minutes in length or be a digital media project.

2890 b. Employ legal residents of this state in at least two of
2891 the following key positions: writer, director, producer, star,
2892 or composer; or, in the case of a digital media project, employ
2893 legal residents of this state in at least two positions
2894 functionally equivalent to the positions of writer, director,
2895 producer, star, or composer.

2896 4. Family-friendly productions.—A certified production
2897 determined by the Commissioner of Film and Entertainment, with
2898 the advice of the Florida Film and Entertainment Advisory



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2899 Council, to be family-friendly, based on the review of the
2900 script and the review of the final release version, is eligible
2901 for an additional tax credit equal to 5 percent of its actual
2902 qualified expenditures. Family-friendly productions are those
2903 that have cross-generational appeal; would be considered
2904 suitable for viewing by children age 5 or older; are appropriate
2905 in theme, content, and language for a broad family audience;
2906 embody a responsible resolution of issues; and do not exhibit or
2907 imply any act of smoking, sex, nudity, gratuitous violence, or
2908 vulgar or profane language.

2909 (c) Withdrawal of tax credit eligibility.—A qualified or
2910 certified production must continue on a reasonable schedule,
2911 which means beginning principal photography, or, in the case of
2912 a digital media project, the start date of the production, in
2913 this state no more than 45 calendar days before or after the
2914 date provided in the production's program application. The
2915 Office of Tourism, Trade, and Economic Development shall
2916 withdraw the eligibility of a qualified or certified production
2917 that does not continue on a reasonable schedule.

2918 (d) Election and distribution of tax credits.—

2919 1. A certified production company receiving a tax credit
2920 award under this section shall, at the time the credit is
2921 awarded by the Office of Tourism, Trade, and Economic
2922 Development after production is completed and all requirements
2923 to receive a credit award have been met, make an irrevocable
2924 election to apply the credit against taxes due under chapter
2925 220, against taxes collected or accrued under chapter 212,
2926 except that the credit authorized under this section may not be
2927 applied against discretionary sales surtaxes authorized under s.



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2928 212.055, or against a stated combination of the two taxes. The
2929 election is binding upon any distributee, successor, transferee,
2930 or purchaser. The Office of Tourism, Trade, and Economic
2931 Development shall notify the Department of Revenue of any
2932 election made pursuant to this paragraph.

2933 2. For the fiscal years beginning July 1, 2010, and ending
2934 June 30, 2015, a qualified production company is eligible for
2935 tax credits against its sales and use tax liabilities and
2936 corporate income tax liabilities as provided in this section.
2937 However, tax credits awarded under this section may not be
2938 claimed against sales and use tax liabilities or corporate
2939 income tax liabilities for any tax period beginning before July
2940 1, 2011, regardless of when the credits are applied for or
2941 awarded.

2942 (e) Tax credit carryforward.—If the certified production
2943 company cannot use the entire tax credit in the taxable year or
2944 reporting period in which the credit is awarded, any excess
2945 amount may be carried forward to a succeeding taxable year or
2946 reporting period. A tax credit applied against taxes imposed
2947 under chapter 212 may be carried forward for a maximum of 5
2948 years after the date the credit is awarded. A tax credit applied
2949 against taxes imposed under chapter 220 may be carried forward
2950 for a maximum of 5 years after the date the credit is awarded,
2951 after which the credit expires and may not be used.

2952 (f) Consolidated returns.—A certified production company
2953 that files a Florida consolidated return as a member of an
2954 affiliated group under s. 220.131(1) may be allowed the credit
2955 on a consolidated return basis up to the amount of the tax
2956 imposed upon the consolidated group under chapter 220.



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2957 (g) Partnership and noncorporate distributions.—A qualified
2958 production company that is not a corporation as defined in s.
2959 220.03 may elect to distribute tax credits awarded under this
2960 section to its partners or members in proportion to their
2961 respective distributive income or loss in the taxable fiscal
2962 year in which the tax credits were awarded.

2963 (h) Mergers or acquisitions.—Tax credits available under
2964 this section to a certified production company may succeed to a
2965 surviving or acquiring entity subject to the same conditions and
2966 limitations as described in this section; however, they may not
2967 be transferred again by the surviving or acquiring entity.

2968 (5) TRANSFER OF TAX CREDITS.—

2969 (a) Authorization.—Upon application to the Office of Film
2970 and Entertainment and approval by the Office of Tourism, Trade,
2971 and Economic Development, a certified production company, or a
2972 partner or member that has received a distribution under
2973 paragraph (4) (g), may elect to transfer, in whole or in part,
2974 any unused credit amount granted under this section. An election
2975 to transfer any unused tax credit amount under chapter 212 or
2976 chapter 220 must be made no later than 5 years after the date
2977 the credit is awarded, after which period the credit expires and
2978 may not be used. The Office of Tourism, Trade, and Economic
2979 Development shall notify the Department of Revenue of the
2980 election and transfer.

2981 (b) Number of transfers permitted.—A certified production
2982 company that elects to apply a credit amount against taxes
2983 remitted under chapter 212 is permitted a one-time transfer of
2984 unused credits to one transferee. The credit against sales tax
2985 is available to the transferee only through a refund of



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2986 previously paid taxes pursuant to s. 212.08(5)(g). A certified
2987 production company that elects to apply a credit amount against
2988 taxes due under chapter 220 is permitted a one-time transfer of
2989 unused credits to no more than four transferees, and such
2990 transfers must occur in the same taxable year.

2991 (c) *Transferee rights and limitations.*—The transferee is
2992 subject to the same rights and limitations as the certified
2993 production company awarded the tax credit, except that the
2994 transferee may not sell or otherwise transfer the tax credit.

2995 (d) *Rulemaking.*—The Department of Revenue may adopt rules
2996 to administer this subsection, as provided in subsection (7).

2997 (6) ANNUAL ALLOCATION OF TAX CREDITS.—

2998 (a) The aggregate amount of the tax credits that may be
2999 certified pursuant to paragraph (3)(d) may not exceed \$20
3000 million per fiscal year.

3001 (b) Any portion of the maximum amount of tax credits
3002 established per fiscal year in paragraph (a) that is not
3003 certified as of the end of a fiscal year shall be carried
3004 forward and made available for certification during the
3005 following two fiscal years in addition to the amounts available
3006 for certification under paragraph (a) for those fiscal years.

3007 (c) Upon approval of the final tax credit award amount
3008 pursuant to subparagraph (3)(f)2., an amount equal to the
3009 difference between the maximum tax credit award amount
3010 previously certified under paragraph (3)(d) and the approved
3011 final tax credit award amount shall immediately be available for
3012 recertification during the current and following fiscal years in
3013 addition to the amounts available for certification under
3014 paragraph (a) for those fiscal years. Credit amounts are



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3015 available for recertification only once under this paragraph.

3016 (d) If, during a fiscal year, the total amount of credits
3017 applied for, pursuant to paragraph (3)(a), exceeds the amount of
3018 credits available for certification in that fiscal year, such
3019 excess shall be treated as having been applied for on the first
3020 day of the next fiscal year in which credits remain available
3021 for certification.

3022 (7) RULES, POLICIES, AND PROCEDURES.—

3023 (a) The Office of Tourism, Trade, and Economic Development
3024 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
3025 develop policies and procedures to implement and administer this
3026 section, including, but not limited to, rules specifying
3027 requirements for the application and approval process, records
3028 required for substantiation for tax credits, procedures for
3029 making the election in paragraph (4)(d), the manner and form of
3030 documentation required to claim tax credits awarded or
3031 transferred under this section, and marketing requirements for
3032 tax credit recipients.

3033 (b) The Department of Revenue may adopt rules pursuant to
3034 ss. 120.536(1) and 120.54 to administer this section, including
3035 rules governing the examination and audit procedures required to
3036 administer this section and the manner and form of documentation
3037 required to claim tax credits awarded or transferred under this
3038 section.

3039 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
3040 CREDITS; FRAUDULENT CLAIMS.—

3041 (a) Audit authority.—The Department of Revenue may conduct
3042 examinations and audits as provided in s. 213.34 to verify that
3043 tax credits under this section are received, transferred, and



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3044 applied according to the requirements of this section. If the
3045 Department of Revenue determines that tax credits are not
3046 received, transferred, or applied as required by this section,
3047 it may, in addition to the remedies provided in this subsection,
3048 pursue recovery of such funds pursuant to the laws and rules
3049 governing the assessment of taxes.

3050 (b) *Revocation of tax credits.*—The Office of Tourism,
3051 Trade, and Economic Development may revoke or modify any written
3052 decision qualifying, certifying, or otherwise granting
3053 eligibility for tax credits under this section if it is
3054 discovered that the tax credit applicant submitted any false
3055 statement, representation, or certification in any application,
3056 record, report, plan, or other document filed in an attempt to
3057 receive tax credits under this section. The Office of Tourism,
3058 Trade, and Economic Development shall immediately notify the
3059 Department of Revenue of any revoked or modified orders
3060 affecting previously granted tax credits. Additionally, the
3061 applicant must notify the Department of Revenue of any change in
3062 its tax credit claimed.

3063 (c) *Forfeiture of tax credits.*—A determination by the
3064 Department of Revenue, as a result of an audit or examination by
3065 the Department of Revenue or from information received from the
3066 Office of Film and Entertainment, that an applicant received tax
3067 credits pursuant to this section to which the applicant was not
3068 entitled is grounds for forfeiture of previously claimed and
3069 received tax credits. The applicant is responsible for returning
3070 forfeited tax credits to the Department of Revenue, and such
3071 funds shall be paid into the General Revenue Fund of the state.
3072 Tax credits purchased in good faith are not subject to



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3073 forfeiture unless the transferee submitted fraudulent
3074 information in the purchase or failed to meet the requirements
3075 in subsection (5).

3076 (d) *Fraudulent claims.*—Any applicant that submits
3077 fraudulent information under this section is liable for
3078 reimbursement of the reasonable costs and fees associated with
3079 the review, processing, investigation, and prosecution of the
3080 fraudulent claim. An applicant that obtains a credit payment
3081 under this section through a claim that is fraudulent is liable
3082 for reimbursement of the credit amount plus a penalty in an
3083 amount double the credit amount. The penalty is in addition to
3084 any criminal penalty to which the applicant is liable for the
3085 same acts. The applicant is also liable for costs and fees
3086 incurred by the state in investigating and prosecuting the
3087 fraudulent claim.

3088 (9) ANNUAL REPORT.—Each October 1, the Office of Film and
3089 Entertainment shall provide an annual report for the previous
3090 fiscal year to the Governor, the President of the Senate, and
3091 the Speaker of the House of Representatives which outlines the
3092 return on investment and economic benefits to the state.

3093 (10) REPEAL.—This section is repealed July 1, 2015, except
3094 that the tax credit carryforward provided in this section shall
3095 continue to be valid for the period specified.

3096 Section 20. Effective July 1, 2010, subsection (5) of
3097 section 288.1258, Florida Statutes, is amended to read:

3098 288.1258 Entertainment industry qualified production
3099 companies; application procedure; categories; duties of the
3100 Department of Revenue; records and reports.—

3101 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO



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3102 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The Office of Film
3103 and Entertainment shall keep annual records from the information
3104 provided on taxpayer applications for tax exemption certificates
3105 beginning January 1, 2001. These records shall reflect a ratio
3106 ~~percentage comparison~~ of the annual amount of ~~funds exempted~~
3107 sales and use tax exemptions under this section and incentives
3108 awarded pursuant to s. 288.1284 to the estimated amount of funds
3109 expended by certified productions, including productions that
3110 received incentives pursuant to s. 288.1254 in relation to
3111 entertainment industry products. These records also shall
3112 reflect a separate ratio of the annual amount of sales and use
3113 tax exemptions under this section, plus the incentives awarded
3114 pursuant to s. 288.1254 to the estimated amount of funds
3115 expended by certified productions. In addition, the office shall
3116 maintain data showing annual growth in Florida-based
3117 entertainment industry companies and entertainment industry
3118 employment and wages. The Office of Film and Entertainment shall
3119 report this information to the Legislature ~~by~~ no later than
3120 December 1 of each year.

3121 Section 21. Effective July 1, 2010, section 288.9552,
3122 Florida Statutes, is created to read:

3123 288.9552 Florida Research Commercialization Matching Grant
3124 Program.—

3125 (1) PURPOSE; GOALS AND OBJECTIVES; CREATION OF PROGRAM.—

3126 (a) The purpose of the Florida Research Commercialization
3127 Matching Grant Program is to increase the amount of federal
3128 funding to this state which will produce the kind of distinctive
3129 technologies that drive today's knowledge-based economy. By
3130 leveraging federal, state, and private-sector resources, the



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3131 Legislature intends that program accelerate the innovation
3132 process and more efficiently transform research results into
3133 products in the marketplace.

3134 (b) The matching grant program is specifically intended to
3135 be a catalyst for small or startup companies that can take
3136 advantage of federal and state partnerships in order to
3137 accelerate their growth and market penetration by helping them
3138 to overcome the funding gap faced by many small companies that
3139 are based in this state. Specific goals and objectives of the
3140 program include:

3141 1. Increasing the amount of federal research moneys
3142 received by small businesses in this state through awards from
3143 the Small Business Innovation Research Program and the Small
3144 Business Technology Transfer Program of the Office of Technology
3145 of the United States Small Business Administration.

3146 2. Accelerating the entry of new technology-based products
3147 into the marketplace.

3148 3. Producing additional technology-based jobs for the
3149 state.

3150 4. Providing leveraged resources to increase the
3151 effectiveness and success of applicants' projects.

3152 5. Speeding commercialization of promising technologies.

3153 6. Encouraging the establishment and growth of high-
3154 quality, advanced technology firms in the state.

3155 7. Accelerating the rate of investment and enhancing the
3156 state's investment infrastructure.

3157 (c) The Florida Research Commercialization Matching Grant
3158 Program is created for the purpose of accomplishing the goals
3159 and objectives specified in this section.



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3160 (2) ADMINISTRATION.—The Florida Institute for the
3161 Commercialization of Public Research shall develop programmatic
3162 policy, ensure statewide applicability of the matching grant
3163 program, establish criteria for grant awards, approve grant
3164 awards, and review program progress and results.

3165 (3) ELIGIBILITY GUIDELINES.—A qualified applicant must:

3166 (a) Be a business entity that is registered with the
3167 Secretary of State to operate in this state. The qualified
3168 applicant must also have its primary office and a majority of
3169 its employees domiciled in Florida, and its principal research
3170 activities must be conducted in the state.

3171 (b) Be a small company for which a state matching grant is
3172 necessary for project development and implementation.

3173 (c) Have received a Phase I award under the federal Small
3174 Business Innovation Research Program or Small Business
3175 Technology Transfer Program and have received an invitation to
3176 submit an application for a Phase II award. If a Phase II award
3177 has already been issued, the end date of the federal award must
3178 be identified and justification must be provided as to how these
3179 additional funds will enhance, not supplant, the existing award.

3180 (d) Use federal, local, and private resources to the
3181 maximum extent possible. Total project funding shall demonstrate
3182 that:

3183 1. Private-sector investments offset the total cost of the
3184 project; and

3185 2. At least 75 percent of the project's total funding is
3186 from sources other than the state grant.

3187 (e) Conduct the project funded by the matching grant
3188 program in this state.



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3189 (4) PROGRAM ADMINISTRATOR.—Subject to appropriations, the
3190 Florida Institute for the Commercialization of Public Research
3191 shall serve as program administrator. The institute may contract
3192 for the performance of a technology review and related functions
3193 with a third party. Not more than 10 percent of a legislative
3194 appropriation may be used for administrative purposes. The
3195 responsibilities of the program administrator include, but are
3196 not limited to:

3197 (a) Coordinating and supporting the grant review, approval,
3198 and contracting activities;

3199 (b) Administering the grant-selection process, including,
3200 but not limited to, issuing open-call requests for grant
3201 applications and receiving, reviewing, and processing grant
3202 applications;

3203 (c) Serving as grant contract manager for recipients of a
3204 matching grant;

3205 (d) Reporting program progress and results; and

3206 (e) Establishing a mechanism by which information regarding
3207 grant projects may be made available to facilitate additional
3208 investment by individual investors, investment for early start-
3209 up costs, or venture capital investment.

3210 (5) APPLICATION REVIEW.—An application for a matching grant
3211 award must be reviewed and approved or denied within 45 days
3212 after receipt.

3213 (6) FIDUCIARY.—The institute shall award a grant to a
3214 qualified applicant if:

3215 (a) The qualified applicant demonstrates that it has
3216 obtained a Phase II award under the federal Small Business
3217 Innovation Research Program or Small Business Technology



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3218 Transfer Program; and

3219 (b) The qualified applicant executes a performance contract
3220 with the institute.

3221
3222 The institute shall release the grant to a qualified applicant
3223 upon completion of all contract requirements.

3224 (7) AWARDS.—The matching grant program may make one-time
3225 awards of up to \$250,000 per project to a qualified applicant.

3226 (8) REPORTING.—Beginning December 1, 2011, and annually
3227 thereafter, the institute shall transmit a report relating to
3228 the grants awarded under the program to the Governor, the
3229 President of the Senate, and the Speaker of the House of
3230 Representatives for the previous fiscal year.

3231 Section 22. Effective July 1, 2010, section 290.00677,
3232 Florida Statutes, is amended to read:

3233 290.00677 Rural enterprise zones; special qualifications.—

3234 (1) Notwithstanding the enterprise zone residency
3235 requirements set out in s. 212.096(1)(c), eligible businesses as
3236 defined by s. 212.096(1)(a), located in rural enterprise zones
3237 as defined by s. 290.004, may receive the basic minimum credit
3238 provided under s. 212.096 for creating a new job and hiring a
3239 person residing within the jurisdiction of a rural community
3240 county, as defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other
3241 provisions of s. 212.096, including, but not limited to, those
3242 relating to the award of enhanced credits, apply to such
3243 businesses.

3244 (2) Notwithstanding the enterprise zone residency
3245 requirements set out in s. 220.03(1)(q), businesses as defined
3246 by s. 220.03(1)(c), located in rural enterprise zones as defined



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3247 in s. 290.004, may receive the basic minimum credit provided
3248 under s. 220.181 for creating a new job and hiring a person
3249 residing within the jurisdiction of a rural community county, as
3250 defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other provisions
3251 of s. 220.181, including, but not limited to, those relating to
3252 the award of enhanced credits apply to such businesses.

3253 Section 23. Effective July 1, 2010, section 373.4141,
3254 Florida Statutes, is amended to read:

3255 373.4141 Permits; processing.—

3256 (1) The Legislature finds that it is in the best interests
3257 of the state to expedite the processing of permits under this
3258 part. ~~Within 30 days after receipt of an application for a~~
3259 ~~permit under this part, the department or the water management~~
3260 ~~district shall review the application and shall request~~
3261 ~~submittal of all additional information the department or the~~
3262 ~~water management district is permitted by law to require. If the~~
3263 ~~applicant believes any request for additional information is not~~
3264 ~~authorized by law or rule, the applicant may request a hearing~~
3265 ~~pursuant to s. 120.57. Within 30 days after receipt of such~~
3266 ~~additional information, the department or water management~~
3267 ~~district shall review it and may request only that information~~
3268 ~~needed to clarify such additional information or to answer new~~
3269 ~~questions raised by or directly related to such additional~~
3270 ~~information. If the applicant believes the request of the~~
3271 ~~department or water management district for such additional~~
3272 ~~information is not authorized by law or rule, the department or~~
3273 ~~water management district, at the applicant's request, shall~~
3274 ~~proceed to process the permit application.~~

3275 (2) (a) An application for a permit under this part must



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3276 ~~shall~~ be approved or denied within 30 ~~90~~ days after receipt of
3277 the original application, ~~the last item of timely requested~~
3278 ~~additional material, or the applicant's written request to begin~~
3279 ~~processing the permit application.~~ An application for a permit
3280 that is not approved within 30 days is deemed approved by
3281 default.

3282 (b) A permit required by local government for an activity
3283 that also requires a state permit under this part, shall be
3284 approved or denied within 30 days after receipt of the original
3285 application. An application for a local permit that is not
3286 approved within 30 days is deemed approved by default.

3287 (3) Processing of applications for permits for affordable
3288 housing projects shall be expedited to a greater degree than
3289 other projects.

3290 Section 24. Effective July 1, 2010, section 373.441,
3291 Florida Statutes, is amended to read:

3292 373.441 Role of counties, municipalities, and local
3293 pollution control programs in permit processing; delegation.—

3294 (1) The department in consultation with the water
3295 management districts shall, by December 1, 1994, adopt rules to
3296 guide the participation of counties, municipalities, and local
3297 pollution control programs in an efficient, streamlined
3298 permitting system. Such rules shall seek to increase
3299 governmental efficiency, shall maintain environmental standards,
3300 and shall include consideration of the following:

3301 (a) Provisions under which the environmental resource
3302 permit program shall be delegated, upon approval of the
3303 department and the appropriate water management districts, to a
3304 county, municipality, or local pollution control program which



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3305 has the financial, technical, and administrative capabilities
3306 and desire to implement and enforce the program;

3307 (b) Provisions under which a locally delegated permit
3308 program may have stricter environmental standards than state
3309 standards;

3310 (c) Provisions for identifying and reconciling any
3311 duplicative permitting by January 1, 1995;

3312 (d) Provisions for timely and cost-efficient notification
3313 by the reviewing agency of permit applications, and permit
3314 requirements, to counties, municipalities, local pollution
3315 control programs, the department, or water management districts,
3316 as appropriate;

3317 (e) Provisions for ensuring the consistency of permit
3318 applications with local comprehensive plans;

3319 (f) Provisions for the partial delegation of the
3320 environmental resource permit program to counties,
3321 municipalities, or local pollution control programs, and
3322 standards and criteria to be employed in the implementation of
3323 such delegation by counties, municipalities, and local pollution
3324 control programs;

3325 (g) Special provisions under which the environmental
3326 resource permit program may be delegated to counties having ~~with~~
3327 populations of 75,000 or fewer ~~less~~, or municipalities with, or
3328 local pollution control programs serving, populations of 50,000
3329 or fewer ~~less~~; and

3330 (h) Provisions for the applicability of chapter 120 to
3331 local government programs when the environmental resource permit
3332 program is delegated to counties, municipalities, or local
3333 pollution control programs; and



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3334 (i) Provisions for a local government to petition the
3335 Governor and Cabinet for the review of a request for a
3336 delegation of authority which has not been approved or denied
3337 within 1 year after being initiated.

3338 (2) Any denial by the department of a local government's
3339 request for a delegation of authority must provide specific
3340 detail of those statutory or rule provisions that were not
3341 satisfied. Such detail shall also include specific actions that
3342 can be taken in order to allow for the delegation of authority.
3343 A local government, upon being denied a request for a delegation
3344 of authority, may petition the Governor and Cabinet for a review
3345 of the request. The Governor and Cabinet may reverse the
3346 decision of the department and may provide any necessary
3347 conditions to allow the delegation of authority to occur.

3348 (3) A county having a population of more than 75,000 or
3349 more or a municipality having or local pollution control
3350 programs serving populations of more than 50,000 must apply for
3351 delegation of authority on or before June 1, 2011. A county,
3352 municipality, or local pollution control programs that fails to
3353 apply for delegation of authority may not require permits that
3354 in part or in full are substantially similar to the requirements
3355 needed to obtain an environmental resource permit.

3356 (4)-(2) Nothing in this section affects or modifies land
3357 development regulations adopted by a local government to
3358 implement its comprehensive plan pursuant to chapter 163.

3359 (5)-(3) The department shall review environmental resource
3360 permit applications for electrical distribution and transmission
3361 lines and other facilities related to the production,
3362 transmission, and distribution of electricity which are not



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3363 certified under ss. 403.52-403.5365, the Florida Electric
3364 Transmission Line Siting Act, regulated under this part.

3365 Section 25. Effective July 1, 2010, subsection (41) is
3366 added to section 403.061, Florida Statutes, to read:

3367 403.061 Department; powers and duties.—The department shall
3368 have the power and the duty to control and prohibit pollution of
3369 air and water in accordance with the law and rules adopted and
3370 promulgated by it and, for this purpose, to:

3371 (41) Expand the use of online self-certification for
3372 appropriate exemptions and general permits issued by the
3373 department or the water management districts if such expansion
3374 is economically feasible. Notwithstanding any other provisions
3375 of law, a local government may not specify the method or form
3376 for documenting that a project qualifies for an exemption or
3377 meets the requirements for a permit under chapter 161, chapter
3378 253, chapter 373, or this chapter. This preclusion of local
3379 government authority extends to Internet-based department
3380 programs that provide for self-certification.

3381
3382 The department shall implement such programs in conjunction with
3383 its other powers and duties and shall place special emphasis on
3384 reducing and eliminating contamination that presents a threat to
3385 humans, animals or plants, or to the environment.

3386 Section 26. Effective July 1, 2010, subsection (12) is
3387 added to section 403.814, Florida Statutes, to read:

3388 403.814 General permits; delegation.—

3389 (12) A general permit is granted for the construction,
3390 alteration, and maintenance of a surface water management system
3391 serving a total project area of up to 40 acres. The construction



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3392 of such a system may proceed without any agency action by the
3393 department or water management district if:

3394 (a) The surface water management system design plans and
3395 calculations are signed and sealed by a professional engineer
3396 licensed under chapter 471;

3397 (b) The system will not be located in surface waters or
3398 wetlands, as delineated in s. 373.421(1);

3399 (c) The system will not cause adverse water quantity
3400 impacts to receiving waters and adjacent lands, as provided by
3401 department or district rule;

3402 (d) The system will not cause adverse flooding to onsite or
3403 off-site property, as provided by department or district rule;

3404 (e) The system will not cause adverse impacts to existing
3405 surface water storage and conveyance capabilities, as provided
3406 by department or district rule;

3407 (f) The system will not adversely affect the quality of
3408 receiving waters such that the standards applicable to waters as
3409 defined in s. 403.031(13), including any special standards for
3410 Outstanding Florida Waters, will be violated, as provided by
3411 department or district rule;

3412 (g) The system will not adversely impact the maintenance of
3413 surface or ground water levels or surface water flows
3414 established pursuant to s. 373.042, as provided by department or
3415 district rule;

3416 (h) The system will not cause adverse impacts to a work of
3417 the district established pursuant to s. 373.086, as provided by
3418 department or district rule;

3419 (i) The system will not be part of a larger plan of
3420 development or sale;



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3421 (j) The system will comply with all applicable NPDES
3422 requirements, as implemented by department or district rule; and

3423 (k) Within 10 days after the commencement of construction
3424 of the surface water management system, the professional
3425 engineer who is responsible for the design provides written
3426 notice of the commencement of construction to the department or
3427 district.

3428 Section 27. The Office of Program Policy Analysis and
3429 Government Accountability shall review and evaluate the Florida
3430 Enterprise Zone Program in ss. 290.001-290.014, Florida
3431 Statutes, over the 2010 interim, and submit a report of its
3432 findings and recommendations to the Governor, the President of
3433 the Senate, and the Speaker of the House of Representatives by
3434 January 11, 2011. The review shall include, but need not be
3435 limited to: how the program has changed over the years since it
3436 was created; whether the program is effectively and efficiently
3437 addressing the issues that precipitated its creation; the direct
3438 and indirect costs of the program to the state and local
3439 governments that participate; whether the program's tax
3440 incentives are effectively designed to benefit economically
3441 distressed or high-poverty areas and their residents and
3442 business owners; and whether the application, review, and
3443 approval processes are transparent, effective, and efficient.

3444 Section 28. Funds in Specific Appropriation 2649 of chapter
3445 2008-152, Laws of Florida, for Space and Aerospace
3446 Infrastructure to make improvements to Launch Complex 36 on the
3447 45th Space Wing property may also be used for improvements to
3448 other launch complexes and space transportation facilities in
3449 order to attract new space vehicle testing and launch businesses



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3450 to the state; to address intermodal requirements and impacts of
3451 the launch ranges, spaceports, and other space transportation
3452 facilities; and to assist in the development of joint-use
3453 facilities and technology that support aviation and aerospace
3454 operations, including high-altitude and suborbital flights and
3455 range technology development.

3456 Section 29. Effective July 1, 2010, the following
3457 appropriations for the 2010-2011 state fiscal year are
3458 authorized:

3459 (1) To the Office of Tourism, Trade, and Economic
3460 Development within the Office of the Governor, the sum of
3461 \$3,839,943 in nonrecurring funds from the General Revenue Fund
3462 to fund the operations of Space Florida.

3463 (2) To the Space Business Investment and Financial Services
3464 Trust Fund, the sum of \$10 million in nonrecurring funds from
3465 the General Revenue Fund. Notwithstanding s. 216.301 and
3466 pursuant to s. 216.351, any remaining funds from this
3467 appropriation as of June 30, 2011, shall remain in the trust
3468 fund and be available for carrying out the purpose of the trust
3469 fund.

3470 (3) To the Office of Tourism, Trade, and Economic
3471 Development within the Office of the Governor, the sum of \$3
3472 million in nonrecurring general revenue for the exclusive
3473 purpose of providing targeted-business-development support
3474 services and business recruitment through Space Florida.
3475 Activities and services may include securing federal programs
3476 and processes, identifying and securing new contract and grant
3477 opportunities for Florida businesses, assisting businesses in
3478 establishing operations, securing necessary qualifications and



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3479 approvals, obtaining capital, and engaging company and federal
3480 officials to site new program elements including research,
3481 design, testing, and manufacturing work packages in Florida.
3482 Emphasis will be placed on assisting small- to medium-sized
3483 businesses on a statewide basis. These funds may not be used for
3484 administrative or operational costs of Space Florida.

3485 (4) To the Office of Tourism, Trade and Economic
3486 Development within the Office of the Governor, the sum of \$3.2
3487 million in nonrecurring general revenue exclusively for Space
3488 Florida to retrain workers as the result of the retirement of
3489 the Space Shuttle Program.

3490 Section 30. (1) The Legislature finds that it is in the
3491 best interests of the state to identify surplus properties and
3492 dispose of properties owned by the state which are unnecessary
3493 to achieving the state's responsibilities, which may cost more
3494 to maintain than the revenue generated, and which serve no
3495 public purpose.

3496 (2) (a) The Board of Trustees of the Internal Improvement
3497 Trust Fund shall direct each agency that manages real property
3498 owned by the state to compile a list of all parcels or
3499 facilities owned by the state which are under the management of
3500 that agency. The list need not include real property managed for
3501 conservation purposes. The list also must include information on
3502 the total number of acres of property or number of facilities,
3503 as appropriate, which are managed by the particular agency; a
3504 brief history, description, and original purchase price or
3505 construction cost of each property listed; the current annual
3506 management costs of each property listed; and the current
3507 revenue generated by each property listed. The list must also



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3508 identify surplus properties that have the potential for sale or
3509 exchange.

3510 (b) Any agency whose list identifies fewer than 10 percent
3511 of the state-owned acreage or facilities under its management
3512 shall provide a detailed and specific written explanation as to
3513 why so few properties are identified as surplus.

3514 (c) The lists must be submitted to the Board of Trustees
3515 and the Legislative Budget Commission by August 1, 2010. The
3516 board of trustees, in consultation with the Legislative Budget
3517 Commission, shall evaluate the lists and determine by November
3518 15, 2010, which items of real property may be declared surplus
3519 and sold or exchanged for other compensation. The Department of
3520 Management Services shall investigate the marketability of the
3521 real property identified by the board of trustees and the
3522 Legislative Budget Commission, and shall present recommendations
3523 to them by February 1, 2011, on how to proceed with the disposal
3524 of the real property.

3525 (d) Notwithstanding any other law to the contrary, the
3526 proceeds of the sale of real property under this section shall
3527 be deposited in the General Revenue Fund to be used, to the
3528 extent practical, for activities supporting economic
3529 development.

3530 Section 31. Before the 2013 Regular Session of the
3531 Legislature, the Office of Program Policy Analysis and
3532 Government Accountability shall conduct a review and evaluation
3533 of the effectiveness and viability of the Florida Research
3534 Commercialization Matching Grant Program. The office shall
3535 specifically evaluate the use of federal grants and private
3536 investment and the creation of new businesses and jobs. The



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3537 office shall also recommend outcome measures for further
3538 evaluation of the program. The office shall submit a report of
3539 its findings and recommendations to the Governor, the President
3540 of the Senate, and the Speaker of the House of Representatives
3541 by January 15, 2013.

3542 Section 32. Notwithstanding any final declaration by a
3543 court of this state that chapter 2009-96, Laws of Florida, or
3544 any portion of such law is invalid, the following actions shall,
3545 if taken prior to such final judicial declaration of invalidity,
3546 remain valid and continue in effect:

3547 (1) Any exemption granted for any project for which an
3548 application for development approval has been approved or filed
3549 pursuant to s. 380.06, Florida Statutes, or for which a complete
3550 development application or rescission request has been approved
3551 or is pending and the application or rescission process is
3552 continuing in good faith, within a development that is located
3553 within an area that qualifies for an exemption under s. 380.06,
3554 Florida Statutes, as amended by chapter 2009-96, Laws of
3555 Florida.

3556 (2) Any 2-year extension authorized pursuant to section 14
3557 of chapter 2009-96, Laws of Florida.

3558 (3) Any amendment to a local comprehensive plan adopted
3559 pursuant to s. 163.3184, Florida Statutes, as amended by chapter
3560 2009-96, Laws of Florida, and legally in effect to authorize and
3561 implement a transportation concurrency exception area pursuant
3562 to s. 163.3180, Florida Statutes, as amended by chapter 2009-96,
3563 Laws of Florida.

3564 Section 33. (1) Except as provided in subsection (4), a
3565 development order issued by a local government, building permit,



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3566 permit issued by the Department of Environmental Protection, or
3567 permit issued by a water management district pursuant to part IV
3568 of chapter 373, Florida Statutes, which has an expiration date
3569 from September 1, 2008, through January 1, 2012, is extended and
3570 renewed for a period of 2 years following its previously
3571 scheduled date of expiration. This 2-year extension also applies
3572 to build-out dates including any extension of build-out date
3573 that was granted previously under s. 380.06(19)(c), Florida
3574 Statutes. This section does not prohibit conversion from the
3575 construction phase to the operation phase upon completion of
3576 construction. This extension is in addition to a 2-year permit
3577 extension under s. 14 of chapter 2009-96, Laws of Florida.

3578 (2) The commencement and completion dates for any required
3579 mitigation associated with a phased construction project are
3580 extended such that mitigation takes place in the same timeframe
3581 relative to the phase as originally permitted.

3582 (3) The holder of a valid permit or other authorization
3583 that is eligible for the 2-year extension must notify the
3584 authorizing agency in writing by December 31, 2010, identifying
3585 the specific authorization for which the holder intends to use
3586 the extension and the anticipated timeframe for acting on the
3587 authorization.

3588 (4) The extension provided for in subsection (1) does not
3589 apply to:

3590 (a) A permit or other authorization under any programmatic
3591 or regional general permit issued by the Army Corps of
3592 Engineers.

3593 (b) A permit or other authorization held by an owner or
3594 operator determined to be in significant noncompliance with the



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3595 conditions of the permit or authorization as established through
3596 the issuance of a warning letter or notice of violation, the
3597 initiation of formal enforcement, or other equivalent action by
3598 the authorizing agency.

3599 (c) A permit or other authorization, if granted an
3600 extension that would delay or prevent compliance with a court
3601 order.

3602 (5) Permits extended under this section shall continue to
3603 be governed by rules in effect at the time the permit was
3604 issued, except if it can be demonstrated that the rules in
3605 effect at the time the permit was issued would create an
3606 immediate threat to public safety or health. This provision
3607 applies to any modification of the plans, terms, and conditions
3608 of the permit which lessens the environmental impact, except
3609 that any such modification does not extend the time limit beyond
3610 2 additional years.

3611 (6) This section does not impair the authority of a county
3612 or municipality to require the owner of a property that has
3613 notified the county or municipality of the owner's intention to
3614 receive the extension of time granted by this section to
3615 maintain and secure the property in a safe and sanitary
3616 condition in compliance with applicable laws and ordinances.

3617 Section 34. Section 47 of chapter 2009-82, Laws of Florida,
3618 is amended to read:

3619 Section 47. In order to implement Specific Appropriation
3620 1570 of the 2009-2010 General Appropriations Act:

3621 (1) The intent of the Legislature is to ensure that
3622 residents of the state derive the maximum possible economic
3623 benefit from the federal first-time homebuyer tax credit created



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3624 through The American Recovery and Reinvestment Act of 2009 by
3625 providing subordinate down payment assistance loans to first-
3626 time homebuyers for owner-occupied primary residences which can
3627 be repaid by the income tax refund the homebuyer is entitled to
3628 under the First Time Homebuyer Credit. The state program shall
3629 be called the "Florida Homebuyer Opportunity Program."

3630 (2) The Florida Housing Finance Corporation shall
3631 administer the Florida Homebuyer Opportunity Program to optimize
3632 eligibility for conventional, VA, USDA, FHA, and other loan
3633 programs through the State Housing Initiatives Partnership
3634 program in accordance with ss. 420.907-420.9079, Florida
3635 Statutes, and the provisions of this section.

3636 (3) Prior to December 1, 2009, or any later date
3637 established by the Internal Revenue Service for such purchases,
3638 counties and eligible municipalities receiving funds shall
3639 expend the funds appropriated under Specific Appropriation 1570A
3640 only to provide subordinate loans to prospective first-time
3641 homebuyers under the Florida Homebuyer Opportunity Program
3642 pursuant to this section, except that up to 10 percent of such
3643 funds may be used to cover administrative expenses of the
3644 counties and eligible municipalities to implement the Florida
3645 Homebuyer Opportunity Program, and not more than .25 percent may
3646 be used to compensate the Florida Housing Finance Corporation
3647 for the expenses associated with compliance monitoring. The
3648 funds appropriated under Specific Appropriation 1570A may not be
3649 used for any other program currently existing under ss. 420.907-
3650 420.9079, Florida Statutes. Thereafter, the funds shall be
3651 expended in accordance with ss. 420.907-420.9079, Florida
3652 Statutes.



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3653 (4) Notwithstanding s. 420.9075, Florida Statutes, for
3654 purposes of the Florida Homebuyer Opportunity Program, the
3655 following exceptions shall apply:

3656 (a) The maximum income limit shall be an adjusted gross
3657 income of \$75,000 for single taxpayer households or \$150,000 for
3658 joint-filing taxpayer households, which is equal to that
3659 permitted by the American Recovery and Reinvestment Act of 2009;

3660 (b) There is no requirement to reserve 30 percent of the
3661 funds for awards to very-low-income persons or 30 percent of the
3662 funds for awards to low-income persons;

3663 (c) There is no requirement to expend 75 percent of funds
3664 for construction, rehabilitation, or emergency repair; and

3665 (d) The principal balance of the loans provided may not
3666 exceed 10 percent of the purchase price or \$8,000, whichever is
3667 less.

3668 (5) Funds shall be expended under a newly created strategy
3669 in the local housing assistance plan to implement the Florida
3670 Homebuyer Opportunity Program.

3671 (6) The homebuyer shall be expected to use their federal
3672 income tax refund to fully repay the loan. If the county or
3673 eligible municipality receives repayment from the homebuyer
3674 within 18 months after the closing date of the loan, the county
3675 or eligible municipality shall waive all interest charges. A
3676 homebuyer who fails to fully repay the loan within the earlier
3677 of 18 months or 10 days after the receipt of their federal
3678 income tax refund, shall be subject to repayment terms provided
3679 in the local housing assistance plan, including penalties for
3680 not using his or her refund for repayment. Penalties may not
3681 exceed 10 percent of the loan amount and shall be included in



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3682 the loan agreement with the homebuyer.

3683 (7) All funds repaid to a county or eligible municipality
3684 shall be considered "program income" as defined in s.
3685 420.9071(24), Florida Statutes.

3686 (8) In order to maximize the effect of the funding, the
3687 counties and eligible municipalities are encouraged to work with
3688 private lenders to provide additional funds to support the
3689 initiative. However, in all instances, the counties and eligible
3690 municipalities shall make and hold the subordinate loan.

3691 (9) This section expires July 1, 2011 ~~2010~~.

3692 Section 35. The sum of \$10 million is appropriated from the
3693 General Revenue Fund to the Florida Institute for the
3694 Commercialization of Public Research for the 2010-2011 fiscal
3695 year to fund the Phase I Florida Research Commercialization
3696 Matching Grants authorized in s. 288.9552, Florida Statutes.

3697 Section 36. Subject to an appropriation by the Legislature,
3698 funds shall be made available to the Board of Governors of the
3699 State University System from the General Revenue Fund solely to
3700 provide early-stage seed-capital funding to proposals applying
3701 for the State University Research Commercialization Assistance
3702 Grant Program created by s. 2 of chapter 2007-189, Laws of
3703 Florida. Funds must be disbursed by the Board of Governors
3704 pursuant to grant agreements and contracts by the Florida
3705 Technology, Research, and Scholarship Board.

3706 Section 37. The Legislature finds that this act fulfills an
3707 important state interest.

3708 Section 38. If any provision of this act or the application
3709 thereof to any person or circumstance is held invalid, the
3710 invalidity does not affect other provisions or applications of



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3711 this act which can be given effect without the invalid provision
3712 or application, and to this end the provisions of this act are
3713 severable.

3714 Section 39. Except as otherwise expressly provided in this
3715 act, this act shall take effect upon becoming a law.