

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMERCE AND TOURISM**  
**Senator Detert, Chair**  
**Senator Abruzzo, Vice Chair**

**MEETING DATE:** Monday, March 3, 2014  
**TIME:** 4:00 —6:00 p.m.  
**PLACE:** *Toni Jennings Committee Room, 110 Senate Office Building*

**MEMBERS:** Senator Detert, Chair; Senator Abruzzo, Vice Chair; Senators Bean, Hays, Hukill, Margolis, Richter, Ring, Simpson, Stargel, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed committee bill:			
1	<b>SPB 7058</b>	Department of Economic Opportunity; Providing requirements for loan programs relating to accountability and proper stewardship of funds; requiring Space Florida to consult with the Florida Tourism Industry Marketing Corporation, rather than with Enterprise Florida, Inc., in developing a space tourism marketing plan; deleting the requirement that an unemployed individual take an initial skill review before he or she is eligible to receive reemployment assistance benefits, etc.	Submitted as Committee Bill Yeas 10 Nays 0
Consideration of proposed committee bill:			
2	<b>SPB 7056</b>	Entertainment Industry; Renaming the Office of Film and Entertainment within the Department of Economic Opportunity as the Division of Film and Entertainment and housing the division within Enterprise Florida, Inc.; requiring Enterprise Florida, Inc., to conduct a national search for a film commissioner; revising provisions relating to the application process, tax credit eligibility, election and distribution of tax credits, annual allocation of tax credits, forfeiture of tax credits, and annual report, etc.	Submitted as Committee Bill Yeas 10 Nays 0
3	<b>SB 596</b> Evers (Similar CS/H 155)	Defense Contracting; Authorizing certain prime contractors to apply to the Department of Economic Opportunity to certify that such contractors may reduce their computation of adjusted federal income by a certain amount when awarded a prime contract; providing requirements to apply for a reduction in computation of income; requiring a prime contractor to apply separately for each qualified subcontract award and to provide documentation, etc.	Fav/CS Yeas 10 Nays 0
		CM      03/03/2014 Fav/CS MS AFT AP	

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 3, 2014, 4:00 —6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 776</b> Simpson (Similar H 767)	Business Entities; Revising the filing fees of a limited liability company, corporation, corporation not for profit, limited partnership, and partnership, etc.  CM     03/03/2014 Favorable GO AP	Favorable Yeas 10 Nays 0
5	<b>SB 844</b> Latvala (Identical H 519)	Unemployment Compensation; Prohibiting benefits from being charged to the employment record of an employer that is forced to lay off workers for specified reasons, etc.  CM     03/03/2014 Temporarily Postponed ATD AP	Temporarily Postponed
6	<b>SB 856</b> Detert	Uniform Fraudulent Transfer Act; Providing that certain transfers of charitable contributions to charitable or religious organizations are exempt from specified provisions, etc.  CM     03/03/2014 Favorable BI RC	Favorable Yeas 10 Nays 0
7	Presentation by the Institute for the Ages		Presented

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## Other Related Meeting Documents

An electronic copy of the Appearance Request form is available to download from any Senate committee page on the Senate's website, [www.flSenate.gov](http://www.flSenate.gov)

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SPB 7058

INTRODUCER: For consideration by the Commerce and Tourism Committee

SUBJECT: Department of Economic Opportunity

DATE: February 28, 2014

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Siples	Hrdlicka		<b>Pre-meeting</b>

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**I. Summary:**

SPB 7058 modifies several activities under the jurisdiction of the Department of Economic Opportunity (DEO). The bill establishes requirements for the operation of all loan programs administered by the DEO to increase accountability and performance of loan programs under ch. 288, F.S. The bill requires Space Florida to consult with Florida Tourism Industry Marketing Corporation rather than Enterprise Florida, Inc., in developing a space marketing plan. The requirement for the establishment of a Center for Excellence for Aerospace is repealed, but Space Florida will continue to promote research necessary to develop commercially promising, advanced, and innovative science and technology.

The bill repeals the requirement for reemployment assistance claimants to complete an initial skills review and requires the DEO to develop a voluntary online assessment to identify an individual's skills, abilities, and career aptitude. The DEO, through the regional workforce boards and one-stop centers, must offer services and training to individuals that are consistent with the results of the online assessment.

The bill implements changes to the Short Time Compensation program to conform to federal law, including requiring an employer to describe how its plan will be implemented, requiring an employer to treat the fringe benefits of participants the same as if he or she was not a participant, and prohibiting the DEO from denying benefits due to an individual's participation in certain training programs.

The bill extends the ability of employers to make quarterly contributions to the Unemployment Compensation Trust Fund, rather than a single, annual payment. This provision was set to sunset in 2014.

The bill rebrands "rural areas of critical economic concern" as "rural areas of opportunity."

## II. Present Situation:

### **Loan Programs Administered by the Department of Economic Opportunity**

The Department of Economic Opportunity (DEO) administers the following loan programs under ch. 288, F.S.:

- Rural Development Revolving Loan Program;
- Economic Gardening Business Loan Pilot Program; and
- Black Business Loan Program.

#### ***Rural Community Development Revolving Loan Program<sup>1</sup>***

The Rural Community Development Revolving Loan Program provides long-term loans, loan guarantees, and loan loss reserves to units of local governments or economic development organizations substantially underwritten by a unit of local government. Applicants must be within a county with a population of 75,000 or fewer; a county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer, including those residing in incorporated areas and those residing in unincorporated areas of the county; or within a rural area of critical economic concern.<sup>2</sup>

Requests for loans must be made by application to the DEO and are made pursuant to agreements specifying the terms and conditions agreed to between the applicant and the DEO. All repayments of principal and interest must be returned to the loan fund and made available for loans to other applicants. However, upon approval by the DEO, in a rural area of critical economic concern repayments of principal and interest may be retained by the applicant if such repayments are dedicated and matched to fund regionally-based economic development organizations representing the rural area of critical economic concern.<sup>3</sup>

The DEO is directed to manage the fund and establish loan practices that include procedures for establishing loan interest rates, uses of funding, application procedures, and application review procedures. The DEO is granted the authority for the final approval for any loan under the program.<sup>4</sup>

#### ***Economic Gardening Business Loan Pilot Program<sup>5</sup>***

The Economic Gardening Business Loan Pilot Program provides low-interest, short-term loans to second-stage, high growth businesses. For eligibility in the loan program, a business must:<sup>6</sup>

- Be a for-profit, privately-held, investment-grade business that employs between 10 and 50 persons;

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<sup>1</sup> Section 288.065, F.S. See also DEO, Rural Revolving Loan Program, available at <http://www.floridajobs.org/business-growth-and-partnerships/rural-and-economic-development-initiative/economic-development/rural-revolving-loan-program> (last visited Feb. 28, 2014). The term “rural area of critical economic concern” is defined in s. 288.0656(2)(d), F.S.

<sup>2</sup> Section 288.065(2)(a), F.S.

<sup>3</sup> Section 288.065(2)(b) and (c), F.S.

<sup>4</sup> Section 288.065(3), F.S.

<sup>5</sup> Section 288.1081, F.S. See the DEO’s website for more information about the pilot program and loans made, available at <http://floridajobs.org/news-center/reports-and-legislative-presentations> (last visited Feb. 28, 2014).

<sup>6</sup> Sections 288.1081(3)(a), F.S., and 288.1082(4)(a), F.S.

- Have maintained its principal place of business in Florida for at least the last 2 years;
- Generate between \$1 million and \$25 million in annual revenue;
- Be eligible for the Qualified Targeted Industry tax refund program pursuant to s. 288.106, F.S.;<sup>7</sup> and
- Have experienced steady growth in its gross revenues and employment for in at least 3 of the preceding 5 years.

The maximum amount of the loan available for receipt under the pilot program is \$250,000. The proceeds of the loan may be used for working capital purchases, employee training, or salaries for newly created jobs in the state. The loan period is 4 years.<sup>8</sup>

The DEO is authorized to designate one or more qualified entities to serve as loan administrators for the program. A loan administrator must be a Florida not-for-profit corporation that has its principal place of business in this state, and have at least 5 years of verifiable experience of lending to businesses in this state.<sup>9</sup>

The DEO, upon selection of a loan administrator, must enter into a grant agreement with the administrator to issue the available loans to eligible applicants. The grant agreement must specify the aggregate amount of the loans authorized for award by the loan administrator. The term of the grant agreement must be at least 4 years, except that the DEO may terminate the agreement earlier if the loan administrator fails to meet minimum performance standards set by the DEO. The grant agreement may be amended by mutual consent of both parties.<sup>10</sup>

A loan administrator is entitled to receive a loan origination fee, payable at closing, of 1 percent of each loan issued by the loan administrator and a servicing fee of 0.625 percent per annum of the loan's outstanding principal balance, payable monthly. During the first 12 months of the loan, the servicing fee must be paid from the disbursement from the Economic Development Trust Fund, and thereafter the loan administrator must collect the servicing fee from the payments made by the borrower, charging the fee against repayments of principal.<sup>11</sup>

The loan administrator, after collecting the servicing fee, must remit the borrower's collected interest, principal payments, and charges for late payments to the DEO on a quarterly basis. If the borrower defaults on the loan, the loan administrator must initiate collection efforts to seek repayment of the loan. Upon collecting payments for a defaulted loan, the loan administrator, must remit the payments to the DEO; but, to the extent authorized in the grant agreement, may deduct the costs of the administrator's collection efforts. The DEO must deposit all funds received under this provision into the General Revenue Fund.<sup>12</sup>

The loan administrator is required to submit quarterly reports to the DEO, which must include the information required in the grant agreement, which must include the number of full-time

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<sup>7</sup> The qualified targeted industries are clean tech, life sciences, info tech, aviation/aerospace, homeland security/defense, and financial/professional services.

<sup>8</sup> Section 288.1081(4), F.S.

<sup>9</sup> Section 288.1081(5), F.S.

<sup>10</sup> Section 288.1081(5)(b), F.S.

<sup>11</sup> Section 288.1081(5)(d), F.S.

<sup>12</sup> Section 288.1081(5)(e), F.S.

equivalent jobs created as a result of the loans, the amount of wages paid to employees in the newly created jobs, and the locations and types of economic activity undertaken by the borrowers.<sup>13</sup>

The DEO contracted with the Black Business Investment Fund to administer the pilot program in 2009, and received an initial appropriation of \$8.5 million.<sup>14</sup> No additional funds have been appropriated to the program.

The program expires July 1, 2016.<sup>15</sup>

### ***Black Business Loan Program***<sup>16</sup>

Under the Black Business Loan Program, the DEO annually certifies entities to provide loans, loan guarantees, or investments to black business enterprises that cannot obtain capital through conventional lending institutions but that could otherwise compete successfully in the private sector.<sup>17</sup>

The program is subject to annual legislative appropriation. If the Black Business Loan Program is appropriated any funding in a fiscal year, the DEO must distribute an equal amount of the appropriation to each eligible entity, calculated as the total annual appropriation divided by the total number of eligible entities certified on or before July 31 of that fiscal year.<sup>18</sup>

An entity submitting an initial application for certification must demonstrate that it has:<sup>19</sup>

- A board of directors that includes citizens of the state experienced in the development of black business enterprises.
- A business plan that allows the recipient to operate in a manner consistent with the law and the DEO's rules for the program.
- The technical skills to analyze and evaluate applications by black business enterprises for loans, loan guarantees, or investments.
- Established viable partnerships with public and private funding sources, economic development agencies, and workforce development and job referral networks.
- The ability to provide a private match equal to 20 percent of the amount of funds provided by the DEO.

An eligible entity must be a corporation registered in this state. Existing certified entities must annually submit to the DEO a financial audit performed by an independent certified public accountant for the most recently completed fiscal year. The audit must not reveal any material weaknesses or instances of material noncompliance.<sup>20</sup>

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<sup>13</sup> Section 288.1081(5)(f), F.S.

<sup>14</sup> Chapter 2009-1, L.O.F.

<sup>15</sup> Section 288.1081(10), F.S.

<sup>16</sup> Section 288.7102, F.S. *See also* DEO, Minority-Owned Business Assistance, Black Business Loan Program, *available at* <http://www.floridajobs.org/business-growth-and-partnerships/for-businesses-and-entrepreneurs/business-resources/minority-owned-business-assistance> (last visited Feb. 28, 2014).

<sup>17</sup> Section 288.7102(1), F.S.

<sup>18</sup> Section 288.7102(3), F.S.

<sup>19</sup> Section 288.7102(4)(c), F.S.

<sup>20</sup> Section 288.7102(4), F.S.

Both existing and new entities must agree to maintain the books and records relating to funds received by the DEO according to generally accepted accounting principles and in accordance with the requirements of the Single Audit Act.<sup>21</sup> The entities must also agree to make those books and records available to the DEO for inspection upon reasonable notice.<sup>22</sup>

Each eligible entity must meet the requirements of the loan program, the terms of the contract between the entity and the DEO, and any other applicable state or federal laws. An entity may not receive funds unless the entity meets annual certification requirements.<sup>23</sup>

For Fiscal Year 2013-14, there are 6 certified entities and the amount appropriated was \$2.225 million.<sup>24</sup>

### **Space Florida<sup>25</sup>**

Space Florida was created as an independent special district to “foster the growth and development of a sustainable and world-leading aerospace industry in this state.” Space Florida is required to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs.

Space Florida duties, among other things, include the development of a business plan to foster the growth and development of the aerospace industry, the creation of a marketing campaign, to help attract, develop, and retain aerospace research and technology, as well as other related activities. It is also charged with developing a space tourism marketing plan in consultation with Enterprise Florida, Inc.<sup>26</sup>

### **Background on Reemployment Assistance**

According to the U.S. Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own (as determined under state law) and who meet the requirements of state law.<sup>27</sup> Individual states collect payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA).<sup>28</sup> FUTA collections go to the states for costs related to the administration of state unemployment insurance and job service programs. In addition, the FUTA pays one-half the cost of extended unemployment benefits (during periods of high

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<sup>21</sup> See s. 215.97, F.S.

<sup>22</sup> Section 288.7102(4)(d), F.S.

<sup>23</sup> Section 288.7102(5), F.S.

<sup>24</sup> Chapter 2012-118, F.S.

<sup>25</sup> Space Florida was created by ch. 2006-60, L.O.F., and codified in part II, ch. 331, F.S.

<sup>26</sup> Section 331.3051, F.S.

<sup>27</sup> USDOL, Employment and Training Administration, State Unemployment Insurance Benefits, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited Feb. 24, 2014).

<sup>28</sup> FUTA is codified at 26 U.S.C.

unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.<sup>29</sup>

States are permitted to set benefit eligibility requirements, the amount and duration of benefits and the state tax structure, as long as state law does not conflict with the FUTA or the Social Security Act requirements. Florida's unemployment insurance program was created by the Legislature in 1937.<sup>30</sup> The program was rebranded as the "reemployment assistance program" in 2012.<sup>31</sup> The DEO is responsible for administering Florida's reemployment assistance (RA) laws, primarily through its Division for Workforce Services. The DEO contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collection services.<sup>32</sup>

A qualified claimant may receive RA benefits equal to 25 percent of wages, not to exceed \$6,325 in a benefit year.<sup>33</sup> Benefits range from a minimum of \$32 per week to a maximum weekly benefit amount of \$275 for up to 23 weeks, depending on the claimant's length of prior employment and wages earned, and the unemployment rate.<sup>34</sup>

To receive RA benefits, a claimant must meet certain monetary and non-monetary eligibility requirements. Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.

### ***Initial Skills Review***

Florida requires claimants to participate in an initial skills review in order to be eligible to receive RA benefits.<sup>35</sup> The initial skills review must be completed within 14 days of filing of a benefits claim; if it is not completed during that time, benefits may be denied. The initial skills review is an online training program that is approved by the DEO and is designed to measure an individual's mastery level of workplace skills.<sup>36</sup> The program takes approximately 30-45 minutes to complete. The administrator or operator of the online education or training program is required to report to the DEO that an individual has taken the initial skills test for benefit eligibility purposes, and to the regional workforce board or One-Stop Career Center, the results of the initial skills test for purposes of reemployment services. The regional workforce board is

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<sup>29</sup> USDOL, Employment and Training Administration, Unemployment Insurance Tax Topic, available at <http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp> (last visited Feb. 24, 2014).

<sup>30</sup> Chapter 18402, L.O.F.

<sup>31</sup> Chapter 2012-30, L.O.F.

<sup>32</sup> Section 443.1316, F.S.

<sup>33</sup> Section 443.111(5), F.S. The maximum amount of benefits available is calculated by multiplying an individual's weekly benefit amount by the number of available benefit weeks.

<sup>34</sup> Section 443.111(3), F.S. A benefit week begins on Sunday and ends on Saturday. If the average unemployment rate for the 3 months in the most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12; for each 0.5 percent that the unemployment rate is above 5 percent, an additional week of benefits becomes available up to 23 weeks at an unemployment rate of 10.5 percent.

<sup>35</sup> Individuals who are not Florida residents, temporarily laid off, union members who customarily obtain employment through a union hiring hall, claiming benefits under a short-time compensation plan, or unable to complete the ISR due to illiteracy, physical or mental impairment, a legal prohibition from using a computer, or language impediment are exempt from the ISR requirement.

<sup>36</sup> Section 443.036(26), F.S.

required to develop a plan to use the initial skills review to refer individuals to training and employment opportunities.<sup>37</sup>

An individual may take the initial skills review at the assessment center or online at any location with Internet access. The assessment measures general skills necessary for most jobs in three areas: locating information, reading, and applied math. All the questions are based on workplace scenarios. After taking the initial skills review, an individual may take additional course material to try to improve his or her skills.<sup>38</sup> In Fiscal Year 2012-13, 424,886 individuals completed the initial skills review, and 61,676 individuals were denied for failure to timely complete the initial skills review.<sup>39</sup>

In 2012, the USDOL Civil Rights Center issued an initial determination as a result of a complaint of discrimination filed by the Miami Workers Center that found that the initial skills review might violate federal disability law in one of two ways.<sup>40</sup> It opined that the initial skills requirement, as implemented, had the tendency to screen out persons with disabilities from fully and equally enjoying the benefits of the RA program. Specifically, it was noted that the website required use of certain technology that could not easily be made accessible to persons with disabilities and no alternative method for completing the initial skills assessment was offered. Second, it found that the DEO did not effectively communicate to applicants that exemptions to the ISR were available to those with disabilities.

The DEO objected to the findings and there has been no resolution at this time.

### ***Installation Plans***

In Florida, RA benefits are financed solely through contributions by employers – employers pay taxes on the first \$8,000 of each employee’s wages.<sup>41</sup> The calculation for determining each employer’s tax rate is statutorily set, and takes into consideration an employer’s “experience” (as former employees collect RA benefits, these benefits are charged to the employer), the balance of the Unemployment Compensation Trust Fund, and other factors.

Since 2010, state law has allowed employers to elect to make quarterly contributions to the UC Trust Fund, instead of making a single, annual contribution.<sup>42</sup> Employers electing to pay

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<sup>37</sup> Section 443.091(1)(c), F.S.

<sup>38</sup> Florida Department of Economic Opportunity, Division of Workforce Services, “Report on the Use, Effectiveness and Costs Associated with Training Opportunities and Related Services Provided to Reemployment Assistance Claimants As Required by Chapter 2012-30, Laws of Florida,” 6-7 (Dec. 28, 2012), available at [http://www.floridajobs.org/about%20awi/open\\_government/2013\\_Chapter2012-30LawsofFloridareportReemploymentAssistanceProgram.pdf](http://www.floridajobs.org/about%20awi/open_government/2013_Chapter2012-30LawsofFloridareportReemploymentAssistanceProgram.pdf) (last visited Feb. 28, 2014).

<sup>39</sup> E-mail from Audra Wiggins, Operations Manager, Reemployment Assistance Program, Division of Workforce Services, Department of Economic Opportunity (Aug. 16, 2013) (on file with the Senate Commerce and Tourism Committee).

<sup>40</sup> USDOL, Civil Rights Center, “Initial Determination,” (Apr. 5, 2013), available at [http://www.floridajobs.org/about%20awi/docs/media\\_InitialDetermination.pdf](http://www.floridajobs.org/about%20awi/docs/media_InitialDetermination.pdf) (last visited Feb. 25, 2014).

<sup>41</sup> Nonprofit employers may choose to finance compensation through either the contributory method or the reimbursement method. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. The employer is otherwise not required to make payments to the trust fund. See s. 443.1312, F.S. State and local governments are reimbursing employers. Most employers are contributory employers. In January 2015, the “wage base” will be reduced to \$7,000. See s. 443.1217(2)(a), F.S.

<sup>42</sup> Section 443.141(1)(d), F.S.

quarterly are assessed an annual administrative fee of \$5. This fee is deposited into the DOR's Operating Trust Fund. Currently, 2014 is the last year for this option.<sup>43</sup>

### ***Short Time Compensation Program***<sup>44</sup>

Short Time Compensation (STC) is a voluntary program that allows employers to retain trained employees during a slow down or disruption to regular business activity by reducing the hours of work for an entire group of affected employees rather than laying off some while continuing others in full time employment. An employer wishing to participate in STC must submit a signed, written short-time plan to the DEO for approval.<sup>45</sup> The plan will be approved if:

- The plan applies to and identifies each specific unit affected;
- The individuals in the affected unit are identified by name and social security number;
- The normal weekly hours of work for individuals in the affected unit are reduced by at least 10 percent but not more than 40 percent;
- The plan includes a certified statement by the employer that the aggregate reduction in work hours is in lieu of temporary layoffs that would affect at least 10 percent of the employees in the affected unit and that would have resulted in an equivalent reduction in work hours;
- The plan applies to at least 10 percent of the employees in the affected unit;
- The plan has written approval of all collective bargaining groups covering individuals in the affected unit;
- The plan does not serve to subsidize seasonal employees during the off-season or subsidize employers who traditionally use part-time employees; and
- The plan certifies the manner in which the employer will treat fringe benefits<sup>46</sup> of the individuals in the affected unit if the hours of the individuals are reduced to less than their normal weekly hours.

To be eligible to receive benefits under an approved STC, an employee must meet the following conditions:

- Must be employed as a member of an affected unit in an approved plan;
- Must be able to work and available to work additional hours or full-time with the short-time employer; and
- Must have had work hours reduced by at least 10 percent but no more than 40 percent, with a corresponding reduction in wages.

In 2012, the Middle Class Tax Relief and Job Creation Act of 2012, passed by the U.S. Congress, made several changes to STC.<sup>47</sup> States are not required to enact an STC program, but must conform to the new law in order to continue to offer an STC program.<sup>48</sup>

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<sup>43</sup> Section 443.141(1)(f), F.S.

<sup>44</sup> Section 443.1116, F.S.

<sup>45</sup> Section 443.1116(2), F.S.

<sup>46</sup> Fringe benefits include, but are not limited to, health insurance, retirement benefits under defined benefit pension plans, paid vacation and holidays, and sick leave.

<sup>47</sup> Pub. Law No. 112-96, H.R. 3630, 112th Cong. (Feb. 22, 2012).

<sup>48</sup> USDOL, Employment and Training Administration, UIPL No. 22-12 (Jun. 18, 2012), available at [http://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_22\\_12\\_Acc.pdf](http://wdr.doleta.gov/directives/attach/UIPL/UIPL_22_12_Acc.pdf) (last visited Feb. 27, 2014).

## Rural Areas of Critical Economic Concern

The Rural Economic Development Initiative (REDI), housed within the DEO, is a multi-agency endeavor that coordinates the efforts of state and regional agencies to address the problems that affect the fiscal, economic, and community viability of Florida's economically distressed rural communities.<sup>49</sup> The REDI works with local governments, community-based organizations, and private organizations that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs and economic development.

A rural area of critical economic concern (RACEC) is a community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, a natural disaster, or that presents a unique economic development opportunity of regional impact.<sup>50</sup>

Upon a recommendation from the REDI, the Governor may designate up to three RACEC areas. This designation allows these areas to receive priority assignments for the REDI, and allows the Governor, acting through the REDI, to waive criteria, requirements, or similar provisions of any economic development incentive. Currently, there are three designated RACEC areas consisting of the following counties and communities:

- Northwest RACEC - Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport in Walton County.
- South Central RACEC - DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the Cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RACEC - Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.<sup>51</sup>

In 2012, Enterprise Florida, Inc., commissioned a study to help develop an economic development strategic plan for rural Florida.<sup>52</sup> The study found that Florida had a fragmented framework for addressing rural economic development; that although rural Florida is perceived to be distressed and an "an area of critical economic concern," it has greater assets than its potential competition in other southeastern states; and finally, the name "Rural Areas of Critical Economic Concern," may be counterproductive when seeking positive attention from economic development interests. One of the strategic recommendations is to change the RACEC name.

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<sup>49</sup> Section 288.0656(3), F.S.

<sup>50</sup> Section 288.0656(2)(d), F.S.

<sup>51</sup> DEO, Annual Report 2012-2013 (October 2013), 37, available at [http://sitefinity.floridajobs.org/about%20awi/open\\_government/2013\\_DEOAnnualReport.pdf](http://sitefinity.floridajobs.org/about%20awi/open_government/2013_DEOAnnualReport.pdf) (last visited Feb. 27, 2014).

<sup>52</sup> Enterprise Florida, Inc., "Florida Rural Economic Development Study," (December 2012), available at <http://www.enterpriseflorida.com/wp-content/uploads/12.31.2012-Rural-Strategy-Deliverable-Presentation.pdf> (last visited Feb. 25, 2014).

### III. Effect of Proposed Changes:

#### *Loan Programs*

**Section 1** amends s. 288.005, F.S., to provide definitions for loan administrator and loan program. The bill defines “loan administrator” as a statutorily eligible recipient of state funds authorized by the DEO to make loans under a loan program. “Loan program” is defined as a program established under ch. 288, F.S., that provides appropriated funds to an eligible entity to further a specific state purpose for a limited time. The term loan program also includes “loan fund” or “loan pilot program.”

**Section 2** creates s. 288.006, F.S., which outlines the procedure for operating all loan programs under ch. 288, F.S.

The bill provides that state funds appropriated for loan programs may only be used by an eligible recipient or loan administrator and these funds may only be used to carry out the specific state purpose of the loan program, subject to any compensation due to a recipient or loan administrator. The DEO may award state funds directly to an eligible recipient or to a loan administrator. All state funds, including any accrued interest, remain state funds unless statutory requirements of the loan program state otherwise.

Upon termination of a loan program, all appropriated funds will revert to the General Revenue Fund, minus any outstanding administrative expenses due. Upon termination of a contract between the DEO and an eligible recipient or loan administrator, any remaining funds will revert to the fund from which the appropriation was made. The DEO will become the successor entity for any outstanding loans and is directed to pay the former loan administrator for any allowable administrative expenses due to the loan administrator. However, this does not apply when the contract is terminated for fraud or a finding that the recipient or loan administrator was not meeting the terms of the program. The former loan administrator or recipient must execute all appropriate instruments to reconcile any remaining accounts associated with the terminated loan program or contract.

An eligible recipient or loan administrator must avoid any potential conflicts of interest regarding the use of loan program funds. Loan administrators, as well as their board members, employees, or agents, are not allowed to have a financial interest in an entity that is an eligible recipient of the loan program. The bill prohibits loans from being awarded to a person or entity if there is a conflict of interest between the parties involved without full disclosure of the conflict of interest to the DEO by the eligible recipient or loan administrator.

To determine eligibility as a recipient or as a loan administrator for a loan program, an applicant must submit an application to the DEO. The DEO must evaluate the applicant’s business practices, financial stability, past performance in other state programs, and ability to meet the statutory requirements of the loan program. An applicant’s eligibility may be conditionally granted or denied if the DEO determines that the entity is not compliant with any law, rule, or program requirement.

Revolving loans or new negotiable instruments using appropriated state funds that have been repaid to a loan administrator may be entered into when a loan program's statutory structure permits. However, all revolving loans or new negotiable instruments made by a loan administrator remain subject to the loan program requirements and compensation to a recipient or administrator is prohibited from exceeding the provisions that are permitted under ch. 288, F.S.

The bill authorizes the Auditor General to perform audits to verify that loan funds are expended by eligible recipients and loan administrators as required for each loan program. If the Auditor General determines that the funds are not expended as required, DEO must be notified so that it may pursue recovery of the funds. DEO is authorized to adopt rules to implement the provisions of the bill.

### *Space Florida*

**Section 3** amends s. 331.3051, F.S., to require Space Florida to consult with the Florida Tourism Industry Marketing Corporation (VISIT Florida) in developing a space tourism marketing plan, and allows Space Florida and VISIT Florida to enter into a mutually beneficial agreement to implement the plan.

The bill repeals the requirement that Space Florida develop a proposal for a Center of Excellence for Aerospace. Space Florida must still collaborate with one or more public or private universities and other public or private entities to promote research necessary to develop commercially promising, advanced, and innovative science and technology so that it may transfer those discoveries to the public sector.

### *Reemployment Assistance*

#### Initial Skills Review

**Section 4** repeals s. 443.036(26), F.S., which provides a definition for "initial skills review."

**Section 5** amends s. 443.091, F.S., to repeal the requirement that applicants for reemployment assistance must complete an initial skills requirement for receipt of benefits. The bill directs DEO to offer a voluntary online assessment that will identify an individual's skills, abilities, and career aptitude. The assessment must be made available to any person seeking services from a regional workforce board or one-stop center. The results of the online assessment must be made available to the claimant, the regional workforce board, and the one-stop center. The individual must be informed of and encouraged to participate in services, including career counseling, provision of skill match and job market information, skills upgrade, and other training opportunities offered at no cost to the individual through the one stop delivery service.

Aggregate data on the assessment outcomes may also be made available to Workforce Florida, Inc., also known as CareerSource Florida, and Enterprise Florida, Inc., for use in the development of policies related to education and training programs to ensure that businesses in this state have access to a skilled and competent workforce.

The bill authorizes DEO to competitively procure an online assessment system that will work seamlessly with the CONNECT system.<sup>53</sup>

#### Installment Plans

**Section 7** amends s. 443.141, F.S., to make the RA contribution installment plans a permanent option. Employers will continue to have the option of making quarterly contributions to the Unemployment Compensation Trust Fund for an annual administrative fee of \$5.

#### Short Time Compensation

**Section 5** amends s. 443.1116, F.S., to bring Florida in conformity with federal law. As a part of its STC plan, the employer must certify that if fringe benefits are provided to an employee whose workweek is reduced under the program, the employer will continue to provide the fringe benefits while the employee is participating in the STC program under the same terms and conditions as if the employee were not a participant or to the same extent as other employees not participating in the STC program.

The STC plan must also describe the manner in which it will be implemented, including the provision of notice and an estimate of layoffs that would have occurred in the absence of the ability to participate in the STC program. The employer's written plan and its implementation must be consistent with the employer's obligations under applicable state and federal law.

The bill prohibits the DEO from denying STC benefits to an individual who is otherwise eligible due to her or his participation in employer-sponsored training or a training program under the Workforce Investment Act to improve job skills when the training is approved by the DEO. The bill defines "employer-sponsored training" as training sponsored by an employer to improve the skills of the employer's workers.

**Sections 29 and 30** amend ss. 215.125 and 443.1216, F.S., to update statutory citations to conform to changes made by this bill.

#### *Rural Areas of Critical Economic Concern*

**Section 8 through Section 28** amend ss. 125.271, 163.3177, 163.3187, 163.3246, 211.3103, 212.098, 218.67, 288.018, 288.065, 288.0655, 288.0656, 288.1088, 288.1089, 290.0055, 339.2819, 339.63, 373.4595, 380.06, 380.0651, 985.686, and 1011.76, F.S., to replace the phrase rural area of "critical economic concern" with rural area of "opportunity."

**Section 31** provides an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

##### A. Municipality/County Mandates Restrictions:

None.

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<sup>53</sup> The CONNECT system is DEO's Reemployment Assistance Claims and Benefits Information System.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

Continuation of the installment plan option for RA contributions may have an indeterminate effect on the balance of the Unemployment Compensation Trust Fund that could affect RA tax rates.

**B. Private Sector Impact:**

The availability of the STC program allows employers to avoid layoffs while retaining skilled employees.

For those employers that may experience difficulty in remitting an annual lump sum payment of RA contributions, the continuation of installment plan option will provide an alternative means of payment and possibly reduce the risk of delinquency.

The rebranding of “rural areas of critical economic concern” to “rural areas of opportunity” may have a positive economic effect on these communities.

**C. Government Sector Impact:**

Indeterminate. The DEO will incur cost in the procurement of an online assessment. However, this may be partially offset by the elimination of the Initial Skills Review.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill authorizes DEO to adopt rules relating to the general operation of loan programs.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 125.271, 163.3177, 163.3187, 163.3246, 211.3103, 212.098, 215.425, 218.67, 288.005, 288.018, 288.065, 288.0655, 288.0656, 288.1088, 288.1089, 290.0055, 331.3051, 339.2819, 339.63, 373.4595, 380.06, 380.0651, 443.091, 443.1116, 443.141, 443.1216, 985.686, and 1011.76.

This bill creates section 288.006 of the Florida Statutes.

This bill repeals section 443.036(26) of the Florida Statutes.

**IX. Additional Information:**

A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/03/2014	.	
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The Committee on Commerce and Tourism (Simpson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 55 - 142

and insert:

Section 1. Subsection (1) of section 163.3202, Florida Statutes, is amended to read:

163.3202 Land development regulations.—

(1) Within 1 year after submission of its comprehensive plan or revised comprehensive plan for review pursuant to s. 163.3191 ~~s. 163.3167(2)~~, each county and each municipality shall



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11 adopt or amend and enforce land development regulations that are  
12 consistent with and implement their adopted comprehensive plan.

13 Section 2. Subsections (5) and (6) are added to section  
14 288.005, Florida Statutes, to read:

15 288.005 Definitions.—As used in this chapter, the term:

16 (5) "Loan administrator" means a statutorily eligible  
17 recipient of state funds which is authorized by the department  
18 to make loans under a loan program.

19 (6) "Loan program" means a program established in this  
20 chapter to provide appropriated funds to an eligible entity to  
21 further a specific state purpose for a limited period of time.

22 The term includes a "loan fund" or "loan pilot program"  
23 administered by the department under this chapter.

24 Section 3. Section 288.006, Florida Statutes, is created to  
25 read:

26 288.006 General operation of loan programs.—

27 (1) The Legislature intends to promote the goals of  
28 accountability and proper stewardship by recipients of loan  
29 program funds. This section applies to all loan programs  
30 established under this chapter.

31 (2) State funds appropriated for a loan program may be used  
32 only by an eligible recipient or loan administrator, and the use  
33 of such funds is restricted to the specific state purpose of the  
34 loan program, subject to any compensation due to a recipient or  
35 loan administrator as provided under this chapter. State funds  
36 may be awarded directly by the department to an eligible  
37 recipient or awarded by the department to a loan administrator.

38 All state funds, including any interest earned, remain state  
39 funds unless otherwise stated in the statutory requirements of



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40 the loan program.

41 (3) (a) Upon termination of a loan program by the  
42 Legislature or by statute, all appropriated funds shall revert  
43 to the General Revenue Fund. The department shall pay the entity  
44 for any allowable administrative expenses due to the loan  
45 administrator as provided under this chapter, unless otherwise  
46 required by law.

47 (b) Upon termination of a contract between the department  
48 and an eligible recipient or loan administrator, all remaining  
49 appropriated funds shall revert to the fund from which the  
50 appropriation was made. The department shall become the  
51 successor entity for any outstanding loans. Except in the case  
52 of the termination of a contract for fraud or a finding that the  
53 recipient or loan administrator was not meeting the terms of the  
54 program, the department shall pay the entity for any allowable  
55 administrative expenses due to the loan administrator as  
56 provided under this chapter.

57 (c) The eligible recipient or loan administrator to which  
58 this subsection applies shall execute all appropriate  
59 instruments to reconcile any remaining accounts associated with  
60 a terminated loan program or contract. The entity shall execute  
61 all appropriate instruments to ensure that the department is  
62 authorized to collect all receivables for outstanding loans,  
63 including, but not limited to, assignments of promissory notes  
64 and mortgages.

65 (4) An eligible recipient or loan administrator must avoid  
66 any potential conflict of interest regarding the use of  
67 appropriated funds for a loan program. An eligible recipient or  
68 loan administrator or a board member, employee, or agent thereof



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69 may not have a financial interest in an entity that is awarded a  
70 loan under a loan program. A loan may not be made to a person or  
71 entity if a conflict of interest exists between the parties  
72 involved unless the eligible recipient or loan administrator  
73 provides the department with full disclosure of the conflict of  
74 interest.

75 (5) In determining eligibility for an entity applying for  
76 the award of funds directly by the department or applying for  
77 selection as a loan administrator for a loan program, the  
78 department shall evaluate each applicant's business practices,  
79 financial stability, and past performance in other state  
80 programs, in addition to the loan program's statutory  
81 requirements. Eligibility of an entity applying to be a  
82 recipient or loan administrator may be conditionally granted or  
83 denied outright if the department determines that the entity is  
84 noncompliant with any law, rule, or program requirement.

85 (6) Recurring use of state funds, including revolving loans  
86 or new negotiable instruments, which have been repaid to the  
87 loan administrator may be made if the loan program's statutory  
88 structure permits. However, any use of state funds made by a  
89 loan administrator remains subject to subsections (2) and (3),  
90 and compensation to a loan administrator may not exceed any  
91 limitation provided by this chapter.

92 (7) The Auditor General may conduct audits as provided in  
93 s. 11.45 to verify that the appropriations under each loan  
94 program are expended by the eligible recipient or loan  
95 administrator as required for each program. If the Auditor  
96 General determines that the appropriations are not expended as  
97 required, the Auditor General shall notify the department, which



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98 may pursue recovery of the funds.

99 (8) The department may adopt rules under ss. 120.536(1) and  
100 120.54 as necessary to carry out this section.

101 Section 4. Section 290.0411, Florida Statutes, is amended  
102 to read:

103 290.0411 Legislative intent and purpose of ss. 290.0401-  
104 290.048.—It is the intent of the Legislature to provide the  
105 necessary means to develop, preserve, redevelop, and revitalize  
106 Florida communities exhibiting signs of decline, ~~or~~ distress, or  
107 economic need by enabling local governments to undertake the  
108 necessary community and economic development programs. The  
109 overall objective is to create viable communities by eliminating  
110 slum and blight, fortifying communities in urgent need,  
111 providing decent housing and suitable living environments, and  
112 expanding economic opportunities, principally for persons of low  
113 or moderate income. The purpose of ss. 290.0401-290.048 is to  
114 assist local governments in carrying out effective community and  
115 economic development and project planning and design activities  
116 to arrest and reverse community decline and restore community  
117 vitality. Community and economic development and project  
118 planning activities to maintain viable communities, revitalize  
119 existing communities, expand economic development and employment  
120 opportunities, and improve housing conditions and expand housing  
121 opportunities, providing direct benefit to persons of low or  
122 moderate income, are the primary purposes of ss. 290.0401-  
123 290.048. The Legislature, therefore, declares that the  
124 development, redevelopment, preservation, and revitalization of  
125 communities in this state and all the purposes of ss. 290.0401-  
126 290.048 are public purposes for which public money may be



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127 borrowed, expended, loaned, pledged to guarantee loans, and  
128 granted.

129 Section 5. Section 290.044, Florida Statutes, is amended to  
130 read:

131 290.044 Florida Small Cities Community Development Block  
132 Grant Program Fund; administration; distribution.—

133 (1) The Florida Small Cities Community Development Block  
134 Grant Program Fund is created. All revenue designated for  
135 deposit in such fund shall be deposited by the appropriate  
136 agency. The department shall administer this fund as a grant and  
137 loan guarantee program for carrying out the purposes of ss.  
138 290.0401-290.048.

139 (2) The department shall distribute such funds as loan  
140 guarantees and grants to eligible local governments on the basis  
141 of a competitive selection process established by rule.

142 (3) The department shall require applicants for grants to  
143 compete against each other in the following grant program  
144 categories:

- 145 (a) Housing rehabilitation.
- 146 (b) Economic development.
- 147 (c) Neighborhood revitalization.
- 148 (d) Commercial revitalization.

149 (4) ~~(3)~~ The department shall define the broad community  
150 development objectives ~~objective~~ to be achieved by the  
151 activities in each of the following grant program categories  
152 with the use of funds from the Florida Small Cities Community  
153 Development Block Grant Program Fund. Such objectives shall be  
154 designed to meet at least one of the national objectives  
155 provided in the Housing and Community Development Act of 1974.



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156 ~~and require applicants for grants to compete against each other~~  
157 ~~in these grant program categories:~~

- 158 ~~(a) Housing.~~
- 159 ~~(b) Economic development.~~
- 160 ~~(c) Neighborhood revitalization.~~
- 161 ~~(d) Commercial revitalization.~~
- 162 ~~(e) Project planning and design.~~

163 (5)~~(4)~~ The department may set aside an amount of up to 5  
164 percent of the funds annually for use in any eligible local  
165 government jurisdiction for which an emergency or natural  
166 disaster has been declared by executive order. Such funds may  
167 only be provided to a local government to fund eligible  
168 emergency-related activities for which no other source of  
169 federal, state, or local disaster funds is available. The  
170 department may provide for such set-aside by rule. In the last  
171 quarter of the state fiscal year, any funds not allocated under  
172 the emergency-related set-aside shall be distributed to unfunded  
173 applications from the most recent funding cycle.

174 (6)~~(5)~~ The department shall establish a system of  
175 monitoring grants, including site visits, to ensure the proper  
176 expenditure of funds and compliance with the conditions of the  
177 recipient's contract. The department shall establish criteria  
178 for implementation of internal control, to include, but not be  
179 limited to, the following measures:

180 (a) Ensuring that subrecipient audits performed by a  
181 certified public accountant are received and responded to in a  
182 timely manner.

183 (b) Establishing a uniform system of monitoring that  
184 documents appropriate followup as needed.



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185 (c) Providing specific justification for contract  
186 amendments that takes into account any change in contracted  
187 activities and the resultant cost adjustments which shall be  
188 reflected in the amount of the grant.

189 Section 6. Section 290.046, Florida Statutes, is amended to  
190 read:

191 290.046 Applications for grants; procedures; requirements.-

192 (1) In applying for a grant under a specific program  
193 category, an applicant shall propose eligible activities that  
194 directly address the objectives ~~objective~~ of that program  
195 category.

196 (2) (a) Except for applications for economic development  
197 grants as provided in subparagraph (b)1. ~~paragraph (c), an~~ each  
198 eligible local government may submit one ~~an~~ application for a  
199 grant ~~under either the housing program category or the~~  
200 ~~neighborhood revitalization program category~~ during each  
201 application ~~annual funding cycle. An applicant may not receive~~  
202 ~~more than one grant in any state fiscal year from any of the~~  
203 ~~following categories: housing, neighborhood revitalization, or~~  
204 ~~commercial revitalization.~~

205 (b) 1. ~~An~~ Except as provided in ~~paragraph (c),~~ each eligible  
206 local government may apply up to three times in any one annual  
207 funding cycle for an economic development ~~a grant under the~~  
208 ~~economic development program category~~ but may not ~~shall~~ receive  
209 ~~no~~ more than one such grant per annual funding cycle. A local  
210 government may have more than one open economic development  
211 grant ~~Applications for grants under the economic development~~  
212 ~~program category may be submitted at any time during the annual~~  
213 ~~funding cycle, and such grants shall be awarded no less~~



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214 ~~frequently than three times per funding cycle.~~

215       2. The department shall establish minimum criteria  
216 pertaining to the number of jobs created for persons of low or  
217 moderate income, the degree of private sector financial  
218 commitment, and the economic feasibility of the proposed project  
219 and shall establish any other criteria the department deems  
220 appropriate. Assistance to a private, for-profit business may  
221 not be provided from a grant award unless sufficient evidence  
222 exists to demonstrate that without such public assistance the  
223 creation or retention of such jobs would not occur.

224       (c)1. A local government ~~governments~~ with an open housing  
225 rehabilitation, neighborhood revitalization, or commercial  
226 revitalization contract is ~~shall~~ not be eligible to apply for  
227 another housing rehabilitation, neighborhood revitalization, or  
228 commercial revitalization grant until administrative closeout of  
229 its ~~their~~ existing contract. The department shall notify a local  
230 government of administrative closeout or of any outstanding  
231 closeout issues within 45 days after ~~of~~ receipt of a closeout  
232 package from the local government. A local government  
233 ~~governments~~ with an open housing rehabilitation, neighborhood  
234 revitalization, or commercial revitalization community  
235 development block grant contract whose activities are on  
236 schedule in accordance with the expenditure rates and  
237 accomplishments described in the contract may apply for an  
238 economic development grant.

239       2. A local government ~~governments~~ with an open economic  
240 development community development block grant contract whose  
241 activities are on schedule in accordance with the expenditure  
242 rates and accomplishments described in the contract may apply



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243 for a housing rehabilitation, ~~or~~ neighborhood revitalization, or  
244 ~~and a~~ commercial revitalization community development block  
245 grant. A local government ~~governments~~ with an open economic  
246 development contract whose activities are on schedule in  
247 accordance with the expenditure rates and accomplishments  
248 described in the contract may receive no more than one  
249 additional economic development grant in each fiscal year.

250 (d) ~~Beginning October 1, 1988,~~ The department may not ~~shall~~  
251 award a ~~no~~ grant until it ~~the~~ department has conducted  
252 ~~determined,~~ based upon a site visit to verify the information  
253 contained in the local government's application, ~~that the~~  
254 ~~proposed area matches and adheres to the written description~~  
255 ~~contained within the applicant's request. If, based upon review~~  
256 ~~of the application or a site visit, the department determines~~  
257 ~~that any information provided in the application which affects~~  
258 ~~eligibility or scoring has been misrepresented, the applicant's~~  
259 ~~request shall be rejected by the department pursuant to s.~~  
260 ~~290.0475(7). Mathematical errors in applications which may be~~  
261 ~~discovered and corrected by readily computing available numbers~~  
262 ~~or formulas provided in the application shall not be a basis for~~  
263 ~~such rejection.~~

264 (3) (a) The department shall rank each application received  
265 during the application cycle according to criteria established  
266 by rule. The ranking system shall include a procedure to  
267 eliminate or reduce any population-related bias that places  
268 exceptionally small communities at a disadvantage in the  
269 competition for funds ~~Each application shall be ranked~~  
270 ~~competitively based on community need and program impact.~~  
271 ~~Community need shall be weighted 25 percent. Program impact~~



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272 ~~shall be weighted 65 percent. Outstanding performance in equal~~  
273 ~~opportunity employment and housing shall be weighted 10 percent.~~

274 (b) Funds shall be distributed according to the rankings  
275 established in each application cycle. If economic development  
276 funds remain available after the application cycle closes, the  
277 remaining funds shall be awarded to eligible projects on a  
278 first-come, first-served basis until such funds are fully  
279 obligated ~~The criteria used to measure community need shall~~  
280 ~~include, at a minimum, indicators of the extent of poverty in~~  
281 ~~the community and the condition of physical structures. Each~~  
282 ~~application, regardless of the program category for which it is~~  
283 ~~being submitted, shall be scored competitively on the same~~  
284 ~~community need criteria. In recognition of the benefits~~  
285 ~~resulting from the receipt of grant funds, the department shall~~  
286 ~~provide for the reduction of community need scores for specified~~  
287 ~~increments of grant funds provided to a local government since~~  
288 ~~the state began using the most recent census data. In the year~~  
289 ~~in which new census data are first used, no such reduction shall~~  
290 ~~occur.~~

291 (c) The application's program impact score, equal  
292 employment opportunity and fair housing score, and communitywide  
293 needs score may take into consideration scoring factors,  
294 including, but not limited to, unemployment, poverty levels,  
295 low-income and moderate-income populations, benefits to low-  
296 income and moderate-income residents, use of minority-owned and  
297 woman-owned business enterprises in previous grants, health and  
298 safety issues, and the condition of physical structures ~~The~~  
299 ~~criteria used to measure the impact of an applicant's proposed~~  
300 ~~activities shall include, at a minimum, indicators of the direct~~



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301 ~~benefit received by persons of low income and persons of~~  
302 ~~moderate income, the extent to which the problem identified is~~  
303 ~~addressed by the proposed activities, and the extent to which~~  
304 ~~resources other than the funds being applied for under this~~  
305 ~~program are being used to carry out the proposed activities.~~

306 ~~(d) Applications shall be scored competitively on program~~  
307 ~~impact criteria that are uniquely tailored to the community~~  
308 ~~development objective established in each program category. The~~  
309 ~~criteria used to measure the direct benefit to persons of low~~  
310 ~~income and persons of moderate income shall represent no less~~  
311 ~~than 42 percent of the points assigned to the program impact~~  
312 ~~factor. For the housing and neighborhood revitalization~~  
313 ~~categories, the department shall also include the following~~  
314 ~~criteria in the scoring of applications:~~

315 ~~1. The proportion of very-low-income and low-income~~  
316 ~~households served.~~

317 ~~2. The degree to which improvements are related to the~~  
318 ~~health and safety of the households served.~~

319 ~~(4) An applicant for a neighborhood revitalization or~~  
320 ~~commercial revitalization grant shall demonstrate that its~~  
321 ~~activities are to be carried out in distinct service areas which~~  
322 ~~are characterized by the existence of slums or blighted~~  
323 ~~conditions, or by the concentration of persons of low or~~  
324 ~~moderate income.~~

325 ~~(4)-(5)~~ In order to provide citizens with information  
326 concerning an applicant's proposed project, the applicant shall  
327 make available to the public information concerning the amounts  
328 of funds available for various activities and the range of  
329 activities that may be undertaken. In addition, the applicant



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330 shall hold a minimum of two public hearings in the local  
331 jurisdiction within which the project is to be implemented to  
332 obtain the views of citizens before submitting the final  
333 application to the department. The applicant shall conduct the  
334 initial hearing to solicit public input concerning community  
335 needs, inform the public about funding opportunities available  
336 to address community needs, and discuss activities that may be  
337 undertaken. Before a second public hearing is held, the  
338 applicant must publish a summary of the proposed application  
339 that provides citizens with an opportunity to examine the  
340 contents of the application and to submit comments. The  
341 applicant shall conduct a second hearing to obtain comments from  
342 citizens concerning the proposed application and to modify the  
343 proposed application if appropriate ~~program before an~~  
344 ~~application is submitted to the department, the applicant shall:~~  
345       ~~(a) Make available to the public information concerning the~~  
346 ~~amounts of funds available for various activities and the range~~  
347 ~~of activities that may be undertaken.~~  
348       ~~(b) Hold at least one public hearing to obtain the views of~~  
349 ~~citizens on community development needs.~~  
350       ~~(c) Develop and publish a summary of the proposed~~  
351 ~~application that will provide citizens with an opportunity to~~  
352 ~~examine its contents and submit their comments.~~  
353       ~~(d) Consider any comments and views expressed by citizens~~  
354 ~~on the proposed application and, if appropriate, modify the~~  
355 ~~proposed application.~~  
356       ~~(e) Hold at least one public hearing in the jurisdiction~~  
357 ~~within which the project is to be implemented to obtain the~~  
358 ~~views of citizens on the final application prior to its~~



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359 ~~submission to the department.~~

360       (5)~~(6)~~ The local government may ~~shall~~ establish a citizen  
361 advisory task force composed of citizens in the jurisdiction in  
362 which the proposed project is to be implemented to provide input  
363 relative to all phases of the project process. ~~The local~~  
364 ~~government must obtain consent from the department for any other~~  
365 ~~type of citizen participation plan upon a showing that such plan~~  
366 ~~is better suited to secure citizen participation for that~~  
367 ~~locality.~~

368       (6)~~(7)~~ The department shall, before ~~prior to~~ approving an  
369 application for a grant, determine that the applicant has the  
370 administrative capacity to carry out the proposed activities and  
371 has performed satisfactorily in carrying out past activities  
372 funded by community development block grants. The evaluation of  
373 past performance shall take into account procedural aspects of  
374 previous grants as well as substantive results. If the  
375 department determines that any applicant has failed to  
376 accomplish substantially the results it proposed in its last  
377 previously funded application, it may prohibit the applicant  
378 from receiving a grant or may penalize the applicant in the  
379 rating of the current application. An ~~No~~ application for grant  
380 funds may not be denied solely upon the basis of the past  
381 performance of the eligible applicant.

382       Section 7. Subsections (3) and (6) of section 290.047,  
383 Florida Statutes, are amended to read:

384       290.047 Establishment of grant ceilings and maximum  
385 administrative cost percentages; elimination of population bias;  
386 loans in default.-

387       (3) The maximum percentage of block grant funds that can be



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388 spent on administrative costs by an eligible local government  
389 shall be 15 percent for the housing rehabilitation program  
390 category, 8 percent for both the neighborhood and the commercial  
391 revitalization program categories, and 8 percent for the  
392 economic development program category. The maximum amount of  
393 block grant funds that may be spent on administrative costs by  
394 an eligible local government for the economic development  
395 program category is \$120,000. The purpose of the ceiling is to  
396 maximize the amount of block grant funds actually going toward  
397 the redevelopment of the area. The department will continue to  
398 encourage eligible local governments to consider ways to limit  
399 the amount of block grant funds used for administrative costs,  
400 consistent with the need for prudent management and  
401 accountability in the use of public funds. However, this  
402 subsection does ~~shall not be construed, however, to~~ prohibit  
403 eligible local governments from contributing their own funds or  
404 making in-kind contributions to cover administrative costs which  
405 exceed the prescribed ceilings, provided that all such  
406 contributions come from local government resources other than  
407 Community Development Block Grant funds.

408 (6) The maximum amount ~~percentage~~ of block grant funds that  
409 may be spent on engineering and architectural costs by an  
410 eligible local government shall be determined in accordance with  
411 a method ~~schedule~~ adopted by the department by rule. Any such  
412 method ~~schedule~~ so adopted shall be consistent with the schedule  
413 used by the United States Farmer's Home Administration as  
414 applied to projects in Florida or another comparable schedule as  
415 amended.

416 Section 8. Section 290.0475, Florida Statutes, is amended



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417 to read:

418           290.0475 Rejection of grant applications; penalties for  
419 failure to meet application conditions.—Applications are  
420 ineligible ~~received~~ for funding if ~~under all program categories~~  
421 ~~shall be rejected without scoring only in the event that~~ any of  
422 the following circumstances arise:

423           (1) The application is not received by the department by  
424 the application deadline;~~—~~

425           (2) The proposed project does not meet one of the three  
426 national objectives as contained in federal and state  
427 legislation;~~—~~

428           (3) The proposed project is not an eligible activity as  
429 contained in the federal legislation;~~—~~

430           (4) The application is not consistent with the local  
431 government's comprehensive plan adopted pursuant to s.  
432 163.3184;~~—~~

433           (5) The applicant has an open community development block  
434 grant, except as provided in s. 290.046(2)(b) and (c) and  
435 department rules; 290.046(2)(e).

436           (6) The local government is not in compliance with the  
437 citizen participation requirements prescribed in ss. 104(a)(1)  
438 and (2) and 106(d)(5)(c) of Title I of the Housing and Community  
439 Development Act of 1984, s. 290.046(4), and department rules;  
440 or—

441           (7) Any information provided in the application that  
442 affects eligibility or scoring is found to have been  
443 misrepresented, and the information is not a mathematical error  
444 which may be discovered and corrected by readily computing  
445 available numbers or formulas provided in the application.



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446 Section 9. Subsection (5) of section 290.048, Florida  
447 Statutes, is amended to read:

448 290.048 General powers of department under ss. 290.0401-  
449 290.048.—The department has all the powers necessary or  
450 appropriate to carry out the purposes and provisions of the  
451 program, including the power to:

452 ~~(5) Adopt and enforce strict requirements concerning an~~  
453 ~~applicant's written description of a service area. Each such~~  
454 ~~description shall contain maps which illustrate the location of~~  
455 ~~the proposed service area. All such maps must be clearly legible~~  
456 ~~and must:~~

457 ~~(a) Contain a scale which is clearly marked on the map.~~

458 ~~(b) Show the boundaries of the locality.~~

459 ~~(c) Show the boundaries of the service area where the~~  
460 ~~activities will be concentrated.~~

461 ~~(d) Display the location of all proposed area activities.~~

462 ~~(e) Include the names of streets, route numbers, or easily~~  
463 ~~identifiable landmarks where all service activities are located.~~

465 ===== T I T L E A M E N D M E N T =====

466 And the title is amended as follows:

467 Delete lines 3 - 9

468 and insert:

469 Opportunity; amending s. 163.3202, F.S.; requiring  
470 each county and municipality to adopt and enforce land  
471 development regulations in accordance with the  
472 submitted comprehensive plan; amending s. 288.005,  
473 F.S.; defining terms; creating s. 288.006, F.S.;

474 providing requirements for loan programs relating to



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475           accountability and proper stewardship of funds;  
476           authorizing the Auditor General to conduct audits for  
477           a specified purpose; authorizing the department to  
478           adopt rules; amending s. 290.0411, F.S.; revising  
479           legislative intent for purposes of the Florida Small  
480           Cities Community Development Block Grant Program;  
481           amending s. 290.044, F.S.; requiring the Department of  
482           Economic Opportunity to adopt rules establishing a  
483           competitive selection process for loan guarantees and  
484           grants awarded under the block grant program; revising  
485           the criteria for the award of grants; amending s.  
486           290.046, F.S.; revising limits on the number of grants  
487           that an applicant may apply for and receive; revising  
488           the requirement that the department conduct a site  
489           visit before awarding a grant; requiring the  
490           department to rank applications according to criteria  
491           established by rule and to distribute funds according  
492           to the rankings; revising scoring factors to consider  
493           in ranking applications; revising requirements for  
494           public hearings; providing that the creation of a  
495           citizen advisory task force is discretionary, rather  
496           than required; deleting a requirement that a local  
497           government obtain consent from the department for an  
498           alternative citizen participation plan; amending s.  
499           290.047, F.S.; revising the maximum amount and  
500           percentage of block grant funds that may be spent on  
501           certain costs and expenses; amending s. 290.0475,  
502           F.S.; conforming provisions to changes made by the  
503           act; amending s. 290.048, F.S.; deleting a provision



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504 | authorizing the department to adopt and enforce strict  
505 | requirements concerning an applicant's written  
506 | description of a service area; amending s. 331.3051,  
507 | F.S.; requiring

FOR CONSIDERATION By the Committee on Commerce and Tourism

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1 A bill to be entitled  
 2 An act relating to the Department of Economic  
 3 Opportunity; amending s. 288.005, F.S.; defining  
 4 terms; creating s. 288.006, F.S.; providing  
 5 requirements for loan programs relating to  
 6 accountability and proper stewardship of funds;  
 7 authorizing the Auditor General to conduct audits for  
 8 a specified purpose; authorizing the department to  
 9 adopt rules; amending s. 331.3051, F.S.; requiring  
 10 Space Florida to consult with the Florida Tourism  
 11 Industry Marketing Corporation, rather than with  
 12 Enterprise Florida, Inc., in developing a space  
 13 tourism marketing plan; authorizing Space Florida to  
 14 enter into an agreement with the corporation, rather  
 15 than with Enterprise Florida, Inc., for a specified  
 16 purpose; revising the research and development duties  
 17 of Space Florida; repealing s. 443.036(26), relating  
 18 to the definition of the term "initial skills review";  
 19 amending s. 443.091, F.S.; deleting the requirement  
 20 that an unemployed individual take an initial skill  
 21 review before he or she is eligible to receive  
 22 reemployment assistance benefits; requiring the  
 23 department to make available for such individual a  
 24 voluntary online assessment that identifies an  
 25 individual's skills, abilities, and career aptitude;  
 26 requiring information from such assessment to be made  
 27 available to certain groups; revising the requirement  
 28 that the department offer certain training  
 29 opportunities; amending s. 443.1116, F.S.; defining

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 the term "employer sponsored training"; revising the  
 31 requirements for a short-term compensation plan to be  
 32 approved by the department; revising the treatment of  
 33 fringe benefits in such plan; requiring an employer to  
 34 describe the manner in which the employer will  
 35 implement the plan; requiring the director to approve  
 36 the plan if it is consistent with employer obligations  
 37 under law; prohibiting the department from denying  
 38 short-time compensation benefits to certain  
 39 individuals; amending s. 443.141, F.S.; providing an  
 40 employer payment schedule for specified years'  
 41 contributions to the Unemployment Compensation Trust  
 42 Fund; providing applicability; amending ss. 125.271,  
 43 163.3177, 163.3187, 163.3246, 211.3103, 212.098,  
 44 218.67, 288.018, 288.065, 288.0655, 288.0656,  
 45 288.1088, 288.1089, 290.0055, 339.2819, 339.63,  
 46 373.4595, 380.06, 380.0651, 985.686, and 1011.76,  
 47 F.S.; renaming "rural areas of critical economic  
 48 concern" as "rural areas of opportunity"; amending ss.  
 49 215.425 and 443.1216, F.S.; conforming cross-  
 50 references to changes made by the act; providing an  
 51 effective date.

52  
 53 Be It Enacted by the Legislature of the State of Florida:

54  
 55 Section 1. Subsections (5) and (6) are added to section  
 56 288.005, Florida Statutes, to read:  
 57 288.005 Definitions.—As used in this chapter, the term:  
 58 (5) "Loan administrator" means a statutorily eligible

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59 recipient of state funds which is authorized by the department  
60 to make loans under a loan program.

61 (6) "Loan program" means a program established in this  
62 chapter to provide appropriated funds to an eligible entity to  
63 further a specific state purpose for a limited period of time.  
64 The term includes a "loan fund" or "loan pilot program"  
65 administered by the department under this chapter.

66 Section 2. Section 288.006, Florida Statutes, is created to  
67 read:

68 288.006 General operation of loan programs.-

69 (1) The Legislature intends to promote the goals of  
70 accountability and proper stewardship by recipients of loan  
71 program funds. This section applies to all loan programs  
72 established under this chapter.

73 (2) State funds appropriated for a loan program may be used  
74 only by an eligible recipient or loan administrator, and the use  
75 of such funds is restricted to the specific state purpose of the  
76 loan program, subject to any compensation due to a recipient or  
77 loan administrator as provided under this chapter. State funds  
78 may be awarded directly by the department to an eligible  
79 recipient or awarded by the department to a loan administrator.  
80 All state funds, including any interest earned, remain state  
81 funds unless otherwise stated in the statutory requirements of  
82 the loan program.

83 (3) (a) Upon termination of a loan program by the  
84 Legislature or by statute, all appropriated funds shall revert  
85 to the General Revenue Fund. The department shall pay the entity  
86 for any allowable administrative expenses due to the loan  
87 administrator as provided under this chapter, unless otherwise

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88 required by law.

89 (b) Upon termination of a contract between the department  
90 and an eligible recipient or loan administrator, all remaining  
91 appropriated funds shall revert to the fund from which the  
92 appropriation was made. The department shall become the  
93 successor entity for any outstanding loans. Except in the case  
94 of the termination of a contract for fraud or a finding that the  
95 recipient or loan administrator was not meeting the terms of the  
96 program, the department shall pay the entity for any allowable  
97 administrative expenses due to the loan administrator as  
98 provided under this chapter.

99 (c) The eligible recipient or loan administrator to which  
100 this subsection applies shall execute all appropriate  
101 instruments to reconcile any remaining accounts associated with  
102 a terminated loan program or contract. The entity shall execute  
103 all appropriate instruments to ensure that the department is  
104 authorized to collect all receivables for outstanding loans,  
105 including, but not limited to, assignments of promissory notes  
106 and mortgages.

107 (4) An eligible recipient or loan administrator must avoid  
108 any potential conflict of interest regarding the use of  
109 appropriated funds for a loan program. An eligible recipient or  
110 loan administrator or a board member, employee, or agent thereof  
111 may not have a financial interest in an entity that is awarded a  
112 loan under a loan program. A loan may not be made to a person or  
113 entity if a conflict of interest exists between the parties  
114 involved unless the eligible recipient or loan administrator  
115 provides the department with full disclosure of the conflict of  
116 interest.

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117 (5) In determining eligibility for an entity applying for  
 118 the award of funds directly by the department or applying for  
 119 selection as a loan administrator for a loan program, the  
 120 department shall evaluate each applicant's business practices,  
 121 financial stability, and past performance in other state  
 122 programs, in addition to the loan program's statutory  
 123 requirements. Eligibility of an entity applying to be a  
 124 recipient or loan administrator may be conditionally granted or  
 125 denied outright if the department determines that the entity is  
 126 noncompliant with any law, rule, or program requirement.

127 (6) Recurring use of state funds, including revolving loans  
 128 or new negotiable instruments, which have been repaid to the  
 129 loan administrator may be made if the loan program's statutory  
 130 structure permits. However, any use of state funds made by a  
 131 loan administrator remains subject to subsections (2) and (3),  
 132 and compensation to a loan administrator may not exceed any  
 133 limitation provided by this chapter.

134 (7) The Auditor General may conduct audits as provided in  
 135 s. 11.45 to verify that the appropriations under each loan  
 136 program are expended by the eligible recipient or loan  
 137 administrator as required for each program. If the Auditor  
 138 General determines that the appropriations are not expended as  
 139 required, the Auditor General shall notify the department, which  
 140 may pursue recovery of the funds.

141 (8) The department may adopt rules under ss. 120.536(1) and  
 142 120.54 as necessary to carry out this section.

143 Section 3. Subsection (5) and paragraph (b) of subsection  
 144 (8) of section 331.3051, Florida Statutes, are amended to read:  
 145 331.3051 Duties of Space Florida.—Space Florida shall:

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146 (5) Consult with the Florida Tourism Industry Marketing  
 147 Corporation Enterprise Florida, Inc., in developing a space  
 148 tourism marketing plan. Space Florida and the Florida Tourism  
 149 Industry Marketing Corporation Enterprise Florida, Inc., may  
 150 enter into a mutually beneficial agreement that provides funding  
 151 to the corporation Enterprise Florida, Inc., for its services to  
 152 implement this subsection.

153 (8) Carry out its responsibility for research and  
 154 development by:

155 (b) Working in collaboration with one or more public or  
 156 private universities and other public or private entities to  
 157 ~~develop a proposal for a Center of Excellence for Aerospace that~~  
 158 ~~will foster and promote the research necessary to develop~~  
 159 ~~commercially promising, advanced, and innovative science and~~  
 160 ~~technology and will transfer those discoveries to the commercial~~  
 161 ~~sector.~~

162 Section 4. Subsection (26) of section 443.036, Florida  
 163 Statutes, is repealed.

164 Section 5. Paragraph (c) of subsection (1) of section  
 165 443.091, Florida Statutes, is amended to read:

166 443.091 Benefit eligibility conditions.—

167 (1) An unemployed individual is eligible to receive  
 168 benefits for any week only if the Department of Economic  
 169 Opportunity finds that:

170 (c) To make continued claims for benefits, she or he is  
 171 reporting to the department in accordance with this paragraph  
 172 and department rules, ~~and participating in an initial skills~~  
 173 ~~review, as directed by the department.~~ Department rules may not  
 174 conflict with s. 443.111(1)(b), which requires that each

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175 claimant continue to report regardless of any pending appeal  
176 relating to her or his eligibility or disqualification for  
177 benefits.

178 1. For each week of unemployment claimed, each report must,  
179 at a minimum, include the name, address, and telephone number of  
180 each prospective employer contacted, or the date the claimant  
181 reported to a one-stop career center, pursuant to paragraph (d).

182 2. The department must offer an online assessment that  
183 serves to identify an individual's skills, abilities, and career  
184 aptitude. The skills assessment must be voluntary, and the  
185 department must allow a claimant to choose whether to take the  
186 skills assessment. The online assessment shall be made available  
187 to any person seeking services from a regional workforce board  
188 or a one-stop career center. The administrator or operator of the  
189 initial skills review shall notify the department when the  
190 individual completes the initial skills review and report the  
191 results of the review to the regional workforce board or the  
192 one-stop career center as directed by the workforce board. The  
193 department shall prescribe a numeric score on the initial skills  
194 review that demonstrates a minimal proficiency in workforce  
195 skills.

196 a. If the claimant chooses to take the online assessment,  
197 the outcome of the assessment must be made available to the  
198 claimant, regional workforce board, and one-stop career center.  
199 The department, workforce board, or one-stop career center shall  
200 use the assessment ~~initial skills review~~ to develop a plan for  
201 referring individuals to training and employment opportunities.  
202 Aggregate data on assessment outcomes may be made available to  
203 Workforce Florida, Inc., and Enterprise Florida, Inc., for use

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204 in the development of policies related to education and training  
205 programs that will ensure that businesses in this state have  
206 access to a skilled and competent workforce. The failure of the  
207 individual to comply with this requirement will result in the  
208 individual being determined ineligible for benefits for the week  
209 in which the noncompliance occurred and for any subsequent week  
210 of unemployment until the requirement is satisfied. However,  
211 this requirement does not apply if the individual is exempt from  
212 the work registration requirement as set forth in paragraph (b).

213 b.3. Individuals Any individual who falls below the minimal  
214 proficiency score prescribed by the department in subparagraph  
215 2. on the initial skills review shall be informed of and offered  
216 services through the one-stop delivery system, including career  
217 counseling, provision of skill match and job market information,  
218 and skills upgrade and other training opportunities, and shall  
219 be encouraged to participate in such services training at no  
220 cost to the individuals individual in order to improve his or  
221 her workforce skills to the minimal proficiency level.

222 4. The department shall coordinate with Workforce Florida,  
223 Inc., the workforce boards, and the one-stop career centers to  
224 identify, develop, and use ~~utilize~~ best practices for improving  
225 the skills of individuals who choose to participate in skills  
226 upgrade and other training opportunities. The department may  
227 contract with an entity to create the online assessment in  
228 accordance with the competitive bidding requirements in s.  
229 287.057. The online assessment must work seamlessly with the  
230 Reemployment Assistance Claims and Benefits Information System  
231 and who have a minimal proficiency score below the score  
232 prescribed in subparagraph 2.

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233 5. ~~The department, in coordination with Workforce Florida,~~  
 234 ~~Inc., the workforce boards, and the one-stop career centers,~~  
 235 ~~shall evaluate the use, effectiveness, and costs associated with~~  
 236 ~~the training prescribed in subparagraph 3. and report its~~  
 237 ~~findings and recommendations for training and the use of best~~  
 238 ~~practices to the Governor, the President of the Senate, and the~~  
 239 ~~Speaker of the House of Representatives by January 1, 2013.~~

240 Section 6. Subsections (1), (2), and (5) of section  
 241 443.1116, Florida Statutes, are amended to read:

242 443.1116 Short-time compensation.—

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

244 (a) "Affected unit" means a specified plant, department,  
 245 shift, or other definable unit of two or more employees  
 246 designated by the employer to participate in a short-time  
 247 compensation plan.

248 (b) "Employer-sponsored training" means a training  
 249 component sponsored by an employer to improve the skills of the  
 250 employer's workers.

251 ~~(c)~~ (b) "Normal weekly hours of work" means the number of  
 252 hours in a week that an individual would regularly work for the  
 253 short-time compensation employer, not to exceed 40 hours,  
 254 excluding overtime.

255 ~~(d)~~ (e) "Short-time compensation benefits" means benefits  
 256 payable to individuals in an affected unit under an approved  
 257 short-time compensation plan.

258 ~~(e)~~ (d) "Short-time compensation employer" means an employer  
 259 with a short-time compensation plan in effect.

260 ~~(f)~~ (e) "Short-time compensation plan" or "plan" means an  
 261 employer's written plan for reducing unemployment under which an

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262 affected unit shares the work remaining after its normal weekly  
 263 hours of work are reduced.

264 (2) APPROVAL OF SHORT-TIME COMPENSATION PLANS.—An employer  
 265 wishing to participate in the short-time compensation program  
 266 must submit a signed, written, short-time plan to the Department  
 267 of Economic Opportunity for approval. The director or his or her  
 268 designee shall approve the plan if:

269 (a) The plan applies to and identifies each specific  
 270 affected unit;

271 (b) The individuals in the affected unit are identified by  
 272 name and social security number;

273 (c) The normal weekly hours of work for individuals in the  
 274 affected unit are reduced by at least 10 percent and by not more  
 275 than 40 percent;

276 (d) The plan includes a certified statement by the employer  
 277 that the aggregate reduction in work hours is in lieu of  
 278 ~~temporary~~ layoffs that would affect at least 10 percent of the  
 279 employees in the affected unit and that would have resulted in  
 280 an equivalent reduction in work hours;

281 (e) The plan applies to at least 10 percent of the  
 282 employees in the affected unit;

283 (f) The plan is approved in writing by the collective  
 284 bargaining agent for each collective bargaining agreement  
 285 covering any individual in the affected unit;

286 (g) The plan does not serve as a subsidy to seasonal  
 287 employers during the off-season or as a subsidy to employers who  
 288 traditionally use part-time employees; ~~and~~

289 (h) The plan certifies that, if the employer provides  
 290 fringe benefits to any employee whose workweek is reduced under

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291 ~~the program, the fringe benefits will continue to be provided to~~  
 292 ~~the employee participating in the short-time compensation~~  
 293 ~~program under the same terms and conditions as though the~~  
 294 ~~workweek of such employee had not been reduced or to the same~~  
 295 ~~extent as other employees not participating in the short-time~~  
 296 ~~compensation program the manner in which the employer will treat~~  
 297 ~~fringe benefits of the individuals in the affected unit if the~~  
 298 ~~hours of the individuals are reduced to less than their normal~~  
 299 ~~weekly hours of work.~~ As used in this paragraph, the term  
 300 "fringe benefits" includes, but is not limited to, health  
 301 insurance, retirement benefits under defined benefit pension  
 302 plans as defined in subsection 35 of s. 1002 of the Employee  
 303 Retirement Income Security Act of 1974, 29 U.S.C., contributions  
 304 under a defined contribution plan as defined in s. 414(i) of the  
 305 Internal Revenue Code, paid vacation and holidays, and sick  
 306 leave;-

307 (i) The plan describes the manner in which the requirements  
 308 of this subsection will be implemented, including a plan for  
 309 giving notice, if feasible, to an employee whose workweek is to  
 310 be reduced, together with an estimate of the number of layoffs  
 311 that would have occurred absent the ability to participate in  
 312 short-time compensation; and

313 (j) The terms of the employer's written plan and  
 314 implementation are consistent with employer obligations under  
 315 applicable federal laws and laws of this state.

316 (5) ELIGIBILITY REQUIREMENTS FOR SHORT-TIME COMPENSATION  
 317 BENEFITS.—

318 (a) Except as provided in this subsection, an individual is  
 319 eligible to receive short-time compensation benefits for any

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320 week only if she or he complies with this chapter and the  
 321 Department of Economic Opportunity finds that:

322 1. The individual is employed as a member of an affected  
 323 unit in an approved plan that was approved before the week and  
 324 is in effect for the week;

325 2. The individual is able to work and is available for  
 326 additional hours of work or for full-time work with the short-  
 327 time employer; and

328 3. The normal weekly hours of work of the individual are  
 329 reduced by at least 10 percent but not by more than 40 percent,  
 330 with a corresponding reduction in wages.

331 (b) The department may not deny short-time compensation  
 332 benefits to an individual who is otherwise eligible for these  
 333 benefits for any week by reason of the application of any  
 334 provision of this chapter relating to availability for work,  
 335 active search for work, or refusal to apply for or accept work  
 336 from other than the short-time compensation employer of that  
 337 individual.

338 (c) The department may not deny short-time compensation  
 339 benefits to an individual who is otherwise eligible for these  
 340 benefits for any week because such individual is participating  
 341 in an employer-sponsored training or a training under the  
 342 Workforce Investment Act to improve job skills when the training  
 343 is approved by the department.

344 (d)-(e) Notwithstanding any other provision of this chapter,  
 345 an individual is deemed unemployed in any week for which  
 346 compensation is payable to her or him, as an employee in an  
 347 affected unit, for less than her or his normal weekly hours of  
 348 work in accordance with an approved short-time compensation plan

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349 in effect for the week.

350 Section 7. Paragraph (f) of subsection (1) of section  
351 443.141, Florida Statutes, is amended to read:

352 443.141 Collection of contributions and reimbursements.—

353 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,  
354 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

355 (f) *Payments for ~~2012, 2013, and 2014~~ contributions.*—For an  
356 annual administrative fee not to exceed \$5, a contributing  
357 employer may pay its quarterly contributions due for wages paid  
358 in the first three quarters of each year ~~of 2012, 2013, and 2014~~  
359 in equal installments if those contributions are paid as  
360 follows:

361 1. For contributions due for wages paid in the first  
362 quarter of each year, one-fourth of the contributions due must  
363 be paid on or before April 30, one-fourth must be paid on or  
364 before July 31, one-fourth must be paid on or before October 31,  
365 and one-fourth must be paid on or before December 31.

366 2. In addition to the payments specified in subparagraph  
367 1., for contributions due for wages paid in the second quarter  
368 of each year, one-third of the contributions due must be paid on  
369 or before July 31, one-third must be paid on or before October  
370 31, and one-third must be paid on or before December 31.

371 3. In addition to the payments specified in subparagraphs  
372 1. and 2., for contributions due for wages paid in the third  
373 quarter of each year, one-half of the contributions due must be  
374 paid on or before October 31, and one-half must be paid on or  
375 before December 31.

376 4. The annual administrative fee assessed for electing to  
377 pay under the installment method shall be collected at the time

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378 the employer makes the first installment payment each year. The  
379 fee shall be segregated from the payment and deposited into the  
380 Operating Trust Fund of the Department of Revenue.

381 5. Interest does not accrue on any contribution that  
382 becomes due for wages paid in the first three quarters of each  
383 year if the employer pays the contribution in accordance with  
384 subparagraphs 1.-4. Interest and fees continue to accrue on  
385 prior delinquent contributions and commence accruing on all  
386 contributions due for wages paid in the first three quarters of  
387 each year which are not paid in accordance with subparagraphs  
388 1.-3. Penalties may be assessed in accordance with this chapter.  
389 The contributions due for wages paid in the fourth quarter ~~of~~  
390 ~~2012, 2013, and 2014~~ are not affected by this paragraph and are  
391 due and payable in accordance with this chapter.

392 Section 8. Paragraph (a) of subsection (1) of section  
393 125.271, Florida Statutes, is amended to read:

394 125.271 Emergency medical services; county emergency  
395 medical service assessments.—

396 (1) As used in this section, the term "county" means:

397 (a) A county that is within a rural area of opportunity  
398 ~~critical economic concern~~ as designated by the Governor pursuant  
399 to s. 288.0656;

400 Once a county has qualified under this subsection, it always  
401 retains the qualification.

402 Section 9. Paragraphs (a), (b), and (e) of subsection (7)  
403 of section 163.3177, Florida Statutes, are amended to read:

404 163.3177 Required and optional elements of comprehensive  
405 plan; studies and surveys.—  
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407 (7) (a) The Legislature finds that:

408 1. There are a number of rural agricultural industrial  
409 centers in the state that process, produce, or aid in the  
410 production or distribution of a variety of agriculturally based  
411 products, including, but not limited to, fruits, vegetables,  
412 timber, and other crops, and juices, paper, and building  
413 materials. Rural agricultural industrial centers have a  
414 significant amount of existing associated infrastructure that is  
415 used for processing, producing, or distributing agricultural  
416 products.

417 2. Such rural agricultural industrial centers are often  
418 located within or near communities in which the economy is  
419 largely dependent upon agriculture and agriculturally based  
420 products. The centers significantly enhance the economy of such  
421 communities. However, these agriculturally based communities are  
422 often socioeconomically challenged and designated as rural areas  
423 of opportunity critical economic concern. If such rural  
424 agricultural industrial centers are lost and not replaced with  
425 other job-creating enterprises, the agriculturally based  
426 communities will lose a substantial amount of their economies.

427 3. The state has a compelling interest in preserving the  
428 viability of agriculture and protecting rural agricultural  
429 communities and the state from the economic upheaval that would  
430 result from short-term or long-term adverse changes in the  
431 agricultural economy. To protect these communities and promote  
432 viable agriculture for the long term, it is essential to  
433 encourage and permit diversification of existing rural  
434 agricultural industrial centers by providing for jobs that are  
435 not solely dependent upon, but are compatible with and

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436 complement, existing agricultural industrial operations and to  
437 encourage the creation and expansion of industries that use  
438 agricultural products in innovative ways. However, the expansion  
439 and diversification of these existing centers must be  
440 accomplished in a manner that does not promote urban sprawl into  
441 surrounding agricultural and rural areas.

442 (b) As used in this subsection, the term "rural  
443 agricultural industrial center" means a developed parcel of land  
444 in an unincorporated area on which there exists an operating  
445 agricultural industrial facility or facilities that employ at  
446 least 200 full-time employees in the aggregate and process and  
447 prepare for transport a farm product, as defined in s. 163.3162,  
448 or any biomass material that could be used, directly or  
449 indirectly, for the production of fuel, renewable energy,  
450 bioenergy, or alternative fuel as defined by law. The center may  
451 also include land contiguous to the facility site which is not  
452 used for the cultivation of crops, but on which other existing  
453 activities essential to the operation of such facility or  
454 facilities are located or conducted. The parcel of land must be  
455 located within, or within 10 miles of, a rural area of  
456 opportunity critical economic concern.

457 (e) ~~Nothing in~~ This subsection ~~does not shall be construed~~  
458 ~~to~~ confer the status of rural area of opportunity critical  
459 ~~economic concern~~, or any of the rights or benefits derived from  
460 such status, on any land area not otherwise designated as such  
461 pursuant to s. 288.0656(7).

462 Section 10. Subsection (3) of section 163.3187, Florida  
463 Statutes, is amended to read:

464 163.3187 Process for adoption of small-scale comprehensive

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465 plan amendment.-

466 (3) If the small scale development amendment involves a  
 467 site within a rural area of opportunity ~~critical economic~~  
 468 ~~concern~~ as defined under s. 288.0656(2) (d) for the duration of  
 469 such designation, the 10-acre limit listed in subsection (1)  
 470 shall be increased by 100 percent to 20 acres. The local  
 471 government approving the small scale plan amendment shall  
 472 certify to the Office of Tourism, Trade, and Economic  
 473 Development that the plan amendment furthers the economic  
 474 objectives set forth in the executive order issued under s.  
 475 288.0656(7), and the property subject to the plan amendment  
 476 shall undergo public review to ensure that all concurrency  
 477 requirements and federal, state, and local environmental permit  
 478 requirements are met.

479 Section 11. Subsection (10) of section 163.3246, Florida  
 480 Statutes, is amended to read:

481 163.3246 Local government comprehensive planning  
 482 certification program.-

483 (10) Notwithstanding subsections (2), (4), (5), (6), and  
 484 (7), any municipality designated as a rural area of opportunity  
 485 ~~critical economic concern~~ pursuant to s. 288.0656 which is  
 486 located within a county eligible to levy the Small County Surtax  
 487 under s. 212.055(3) shall be considered certified during the  
 488 effectiveness of the designation of rural area of opportunity  
 489 ~~critical economic concern~~. The state land planning agency shall  
 490 provide a written notice of certification to the local  
 491 government of the certified area, which shall be considered  
 492 final agency action subject to challenge under s. 120.569. The  
 493 notice of certification shall include the following components:

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494 (a) The boundary of the certification area.

495 (b) A requirement that the local government submit ~~either~~  
 496 an annual or biennial monitoring report to the state land  
 497 planning agency according to the schedule provided in the  
 498 written notice. The monitoring report shall, at a minimum,  
 499 include the number of amendments to the comprehensive plan  
 500 adopted by the local government, the number of plan amendments  
 501 challenged by an affected person, and the disposition of those  
 502 challenges.

503 Section 12. Paragraph (a) of subsection (6) of section  
 504 211.3103, Florida Statutes, is amended to read:

505 211.3103 Levy of tax on severance of phosphate rock; rate,  
 506 basis, and distribution of tax.-

507 (6) (a) Beginning July 1 of the 2011-2012 fiscal year, the  
 508 proceeds of all taxes, interest, and penalties imposed under  
 509 this section are exempt from the general revenue service charge  
 510 provided in s. 215.20, and such proceeds shall be paid into the  
 511 State Treasury as follows:

- 512 1. To the credit of the Conservation and Recreation Lands  
 513 Trust Fund, 25.5 percent.
- 514 2. To the credit of the General Revenue Fund of the state,  
 515 35.7 percent.
- 516 3. For payment to counties in proportion to the number of  
 517 tons of phosphate rock produced from a phosphate rock matrix  
 518 located within such political boundary, 12.8 percent. The  
 519 department shall distribute this portion of the proceeds  
 520 annually based on production information reported by the  
 521 producers on the annual returns for the taxable year. Any such  
 522 proceeds received by a county shall be used only for phosphate-

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523 related expenses.

524 4. For payment to counties that have been designated as a  
 525 rural area of opportunity critical economic concern pursuant to  
 526 s. 288.0656 in proportion to the number of tons of phosphate  
 527 rock produced from a phosphate rock matrix located within such  
 528 political boundary, 10.0 percent. The department shall  
 529 distribute this portion of the proceeds annually based on  
 530 production information reported by the producers on the annual  
 531 returns for the taxable year. Payments under this subparagraph  
 532 shall be made to the counties unless the Legislature by special  
 533 act creates a local authority to promote and direct the economic  
 534 development of the county. If such authority exists, payments  
 535 shall be made to that authority.

536 5. To the credit of the Nonmandatory Land Reclamation Trust  
 537 Fund, 6.2 percent.

538 6. To the credit of the Phosphate Research Trust Fund in  
 539 the Division of Universities of the Department of Education, 6.2  
 540 percent.

541 7. To the credit of the Minerals Trust Fund, 3.6 percent.

542 Section 13. Paragraph (c) of subsection (1) of section  
 543 212.098, Florida Statutes, is amended to read:

544 212.098 Rural Job Tax Credit Program.—

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

546 (c) "Qualified area" means any area that is contained  
 547 within a rural area of opportunity critical economic concern  
 548 designated under s. 288.0656, a county that has a population of  
 549 fewer than 75,000 persons, or a county that has a population of  
 550 125,000 or less and is contiguous to a county that has a  
 551 population of less than 75,000, selected in the following

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552 manner: every third year, the Department of Economic Opportunity  
 553 shall rank and tier the state's counties according to the  
 554 following four factors:

555 1. Highest unemployment rate for the most recent 36-month  
 556 period.

557 2. Lowest per capita income for the most recent 36-month  
 558 period.

559 3. Highest percentage of residents whose incomes are below  
 560 the poverty level, based upon the most recent data available.

561 4. Average weekly manufacturing wage, based upon the most  
 562 recent data available.

563 Section 14. Subsection (1) of section 218.67, Florida  
 564 Statutes, is amended to read:

565 218.67 Distribution for fiscally constrained counties.—

566 (1) Each county that is entirely within a rural area of  
 567 opportunity critical economic concern as designated by the  
 568 Governor pursuant to s. 288.0656 or each county for which the  
 569 value of a mill will raise no more than \$5 million in revenue,  
 570 based on the taxable value certified pursuant to s.  
 571 1011.62(4)(a)1.a., from the previous July 1, shall be considered  
 572 a fiscally constrained county.

573 Section 15. Subsection (1) of section 288.018, Florida  
 574 Statutes, is amended to read:

575 288.018 Regional Rural Development Grants Program.—

576 (1) The department shall establish a matching grant program  
 577 to provide funding to regionally based economic development  
 578 organizations representing rural counties and communities for  
 579 the purpose of building the professional capacity of their  
 580 organizations. Such matching grants may also be used by an

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581 economic development organization to provide technical  
 582 assistance to businesses within the rural counties and  
 583 communities that it serves. The department is authorized to  
 584 approve, on an annual basis, grants to such regionally based  
 585 economic development organizations. The maximum amount an  
 586 organization may receive in any year will be \$35,000, or  
 587 \$100,000 in a rural area of opportunity ~~critical-economic~~  
 588 ~~concern~~ recommended by the Rural Economic Development Initiative  
 589 and designated by the Governor, and must be matched each year by  
 590 an equivalent amount of nonstate resources.

591 Section 16. Paragraphs (a) and (c) of subsection (2) of  
 592 section 288.065, Florida Statutes, are amended to read:

593 288.065 Rural Community Development Revolving Loan Fund.—

594 (2) (a) The program shall provide for long-term loans, loan  
 595 guarantees, and loan loss reserves to units of local  
 596 governments, or economic development organizations substantially  
 597 underwritten by a unit of local government, within counties with  
 598 populations of 75,000 or fewer, or within any county with a  
 599 population of 125,000 or fewer which is contiguous to a county  
 600 with a population of 75,000 or fewer, based on the most recent  
 601 official population estimate as determined under s. 186.901,  
 602 including those residing in incorporated areas and those  
 603 residing in unincorporated areas of the county, or to units of  
 604 local government, or economic development organizations  
 605 substantially underwritten by a unit of local government, within  
 606 a rural area of opportunity ~~critical-economic concern~~.

607 (c) All repayments of principal and interest shall be  
 608 returned to the loan fund and made available for loans to other  
 609 applicants. However, in a rural area of opportunity ~~critical~~

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610 ~~economic concern~~ designated by the Governor, and upon approval  
 611 by the department, repayments of principal and interest may be  
 612 retained by the applicant if such repayments are dedicated and  
 613 matched to fund regionally based economic development  
 614 organizations representing the rural area of opportunity  
 615 ~~critical-economic concern~~.

616 Section 17. Paragraphs (b), (c), and (e) of subsection (2)  
 617 of section 288.0655, Florida Statutes, are amended to read:

618 288.0655 Rural Infrastructure Fund.—

619 (2)

620 (b) To facilitate access of rural communities and rural  
 621 areas of opportunity ~~critical-economic concern~~ as defined by the  
 622 Rural Economic Development Initiative to infrastructure funding  
 623 programs of the Federal Government, such as those offered by the  
 624 United States Department of Agriculture and the United States  
 625 Department of Commerce, and state programs, including those  
 626 offered by Rural Economic Development Initiative agencies, and  
 627 to facilitate local government or private infrastructure funding  
 628 efforts, the department may award grants for up to 30 percent of  
 629 the total infrastructure project cost. If an application for  
 630 funding is for a catalyst site, as defined in s. 288.0656, the  
 631 department may award grants for up to 40 percent of the total  
 632 infrastructure project cost. Eligible projects must be related  
 633 to specific job-creation or job-retention opportunities.  
 634 Eligible projects may also include improving any inadequate  
 635 infrastructure that has resulted in regulatory action that  
 636 prohibits economic or community growth or reducing the costs to  
 637 community users of proposed infrastructure improvements that  
 638 exceed such costs in comparable communities. Eligible uses of

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639 funds shall include improvements to public infrastructure for  
 640 industrial or commercial sites and upgrades to or development of  
 641 public tourism infrastructure. Authorized infrastructure may  
 642 include the following public or public-private partnership  
 643 facilities: storm water systems; telecommunications facilities;  
 644 broadband facilities; roads or other remedies to transportation  
 645 impediments; nature-based tourism facilities; or other physical  
 646 requirements necessary to facilitate tourism, trade, and  
 647 economic development activities in the community. Authorized  
 648 infrastructure may also include publicly or privately owned  
 649 self-powered nature-based tourism facilities, publicly owned  
 650 telecommunications facilities, and broadband facilities, and  
 651 additions to the distribution facilities of the existing natural  
 652 gas utility as defined in s. 366.04(3)(c), the existing electric  
 653 utility as defined in s. 366.02, or the existing water or  
 654 wastewater utility as defined in s. 367.021(12), or any other  
 655 existing water or wastewater facility, which owns a gas or  
 656 electric distribution system or a water or wastewater system in  
 657 this state where:

658 1. A contribution-in-aid of construction is required to  
 659 serve public or public-private partnership facilities under the  
 660 tariffs of any natural gas, electric, water, or wastewater  
 661 utility as defined herein; and

662 2. Such utilities as defined herein are willing and able to  
 663 provide such service.

664 (c) To facilitate timely response and induce the location  
 665 or expansion of specific job creating opportunities, the  
 666 department may award grants for infrastructure feasibility  
 667 studies, design and engineering activities, or other

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668 infrastructure planning and preparation activities. Authorized  
 669 grants shall be up to \$50,000 for an employment project with a  
 670 business committed to create at least 100 jobs; up to \$150,000  
 671 for an employment project with a business committed to create at  
 672 least 300 jobs; and up to \$300,000 for a project in a rural area  
 673 of opportunity ~~critical economic concern~~. Grants awarded under  
 674 this paragraph may be used in conjunction with grants awarded  
 675 under paragraph (b), provided that the total amount of both  
 676 grants does not exceed 30 percent of the total project cost. In  
 677 evaluating applications under this paragraph, the department  
 678 shall consider the extent to which the application seeks to  
 679 minimize administrative and consultant expenses.

680 (e) To enable local governments to access the resources  
 681 available pursuant to s. 403.973(18), the department may award  
 682 grants for surveys, feasibility studies, and other activities  
 683 related to the identification and preclearance review of land  
 684 which is suitable for preclearance review. Authorized grants  
 685 under this paragraph may ~~shall~~ not exceed \$75,000 each, except  
 686 in the case of a project in a rural area of opportunity ~~critical~~  
 687 ~~economic concern~~, in which case the grant may ~~shall~~ not exceed  
 688 \$300,000. Any funds awarded under this paragraph must be matched  
 689 at a level of 50 percent with local funds, except that any funds  
 690 awarded for a project in a rural area of opportunity ~~critical~~  
 691 ~~economic concern~~ must be matched at a level of 33 percent with  
 692 local funds. If an application for funding is for a catalyst  
 693 site, as defined in s. 288.0656, the requirement for local match  
 694 may be waived pursuant to the process in s. 288.06561. In  
 695 evaluating applications under this paragraph, the department  
 696 shall consider the extent to which the application seeks to

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697 minimize administrative and consultant expenses.

698 Section 18. Paragraphs (a), (b), and (d) of subsection (2)  
699 and subsection (7) of section 288.0656, Florida Statutes, are  
700 amended to read:

701 288.0656 Rural Economic Development Initiative.—

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

703 (a) "Catalyst project" means a business locating or  
704 expanding in a rural area of opportunity ~~critical economic~~  
705 ~~concern~~ to serve as an economic generator of regional  
706 significance for the growth of a regional target industry  
707 cluster. The project must provide capital investment on a scale  
708 significant enough to affect the entire region and result in the  
709 development of high-wage and high-skill jobs.

710 (b) "Catalyst site" means a parcel or parcels of land  
711 within a rural area of opportunity ~~critical economic concern~~  
712 that has been prioritized as a geographic site for economic  
713 development through partnerships with state, regional, and local  
714 organizations. The site must be reviewed by REDI and approved by  
715 the department for the purposes of locating a catalyst project.

716 (d) "Rural area of opportunity ~~critical economic concern~~"  
717 means a rural community, or a region composed of rural  
718 communities, designated by the Governor, which ~~that~~ has been  
719 adversely affected by an extraordinary economic event, severe or  
720 chronic distress, or a natural disaster or that presents a  
721 unique economic development opportunity of regional impact.

722 (7) (a) REDI may recommend to the Governor up to three rural  
723 areas of opportunity ~~critical economic concern~~. The Governor may  
724 by executive order designate up to three rural areas of  
725 opportunity ~~critical economic concern~~ which will establish these

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726 areas as priority assignments for REDI as well as to allow the  
727 Governor, acting through REDI, to waive criteria, requirements,  
728 or similar provisions of any economic development incentive.  
729 Such incentives shall include, but are not ~~be~~ limited to, + the  
730 Qualified Target Industry Tax Refund Program under s. 288.106,  
731 the Quick Response Training Program under s. 288.047, the Quick  
732 Response Training Program for participants in the welfare  
733 transition program under s. 288.047(8), transportation projects  
734 under s. 339.2821, the brownfield redevelopment bonus refund  
735 under s. 288.107, and the rural job tax credit program under ss.  
736 212.098 and 220.1895.

737 (b) Designation as a rural area of opportunity ~~critical~~  
738 ~~economic concern~~ under this subsection shall be contingent upon  
739 the execution of a memorandum of agreement among the department;  
740 the governing body of the county; and the governing bodies of  
741 any municipalities to be included within a rural area of  
742 opportunity ~~critical economic concern~~. Such agreement shall  
743 specify the terms and conditions of the designation, including,  
744 but not limited to, the duties and responsibilities of the  
745 county and any participating municipalities to take actions  
746 designed to facilitate the retention and expansion of existing  
747 businesses in the area, as well as the recruitment of new  
748 businesses to the area.

749 (c) Each rural area of opportunity ~~critical economic~~  
750 ~~concern~~ may designate catalyst projects, provided that each  
751 catalyst project is specifically recommended by REDI, identified  
752 as a catalyst project by Enterprise Florida, Inc., and confirmed  
753 as a catalyst project by the department. All state agencies and  
754 departments shall use all available tools and resources to the

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755 extent permissible by law to promote the creation and  
756 development of each catalyst project and the development of  
757 catalyst sites.

758 Section 19. Paragraph (a) of subsection (3) of section  
759 288.1088, Florida Statutes, is amended to read:

760 288.1088 Quick Action Closing Fund.—

761 (3) (a) The department and Enterprise Florida, Inc., shall  
762 jointly review applications pursuant to s. 288.061 and determine  
763 the eligibility of each project consistent with the criteria in  
764 subsection (2). Waiver of these criteria may be considered under  
765 the following criteria:

766 1. Based on extraordinary circumstances;

767 2. In order to mitigate the impact of the conclusion of the  
768 space shuttle program; or

769 3. In rural areas of opportunity ~~critical economic concern~~  
770 if the project would significantly benefit the local or regional  
771 economy.

772 Section 20. Paragraphs (b), (c), and (d) of subsection (4)  
773 of section 288.1089, Florida Statutes, are amended to read:

774 288.1089 Innovation Incentive Program.—

775 (4) To qualify for review by the department, the applicant  
776 must, at a minimum, establish the following to the satisfaction  
777 of the department:

778 (b) A research and development project must:

779 1. Serve as a catalyst for an emerging or evolving  
780 technology cluster.

781 2. Demonstrate a plan for significant higher education  
782 collaboration.

783 3. Provide the state, at a minimum, a cumulative break-even

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784 economic benefit within a 20-year period.

785 4. Be provided with a one-to-one match from the local  
786 community. The match requirement may be reduced or waived in  
787 rural areas of opportunity ~~critical economic concern~~ or reduced  
788 in rural areas, brownfield areas, and enterprise zones.

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

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

793 b. Result in the creation of at least 500 direct, new jobs  
794 if the project is located in a rural area, a brownfield area, or  
795 an enterprise zone.

796 2. Have an activity or product that is within an industry  
797 that is designated as a target industry business under s.  
798 288.106 or a designated sector under s. 288.108.

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

801 b. Have a cumulative investment that exceeds \$250 million  
802 within a 10-year period if the project is located in a rural  
803 area, brownfield area, or an enterprise zone.

804 4. Be provided with a one-to-one match from the local  
805 community. The match requirement may be reduced or waived in  
806 rural areas of opportunity ~~critical economic concern~~ or reduced  
807 in rural areas, brownfield areas, and enterprise zones.

808 (d) For an alternative and renewable energy project in this  
809 state, the project must:

810 1. Demonstrate a plan for significant collaboration with an  
811 institution of higher education;

812 2. Provide the state, at a minimum, a cumulative break-even

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813 economic benefit within a 20-year period;

814 3. Include matching funds provided by the applicant or  
815 other available sources. The match requirement may be reduced or  
816 waived in rural areas of opportunity ~~critical economic concern~~  
817 or reduced in rural areas, brownfield areas, and enterprise  
818 zones;

819 4. Be located in this state; and

820 5. Provide at least 35 direct, new jobs that pay an  
821 estimated annual average wage that equals at least 130 percent  
822 of the average private sector wage.

823 Section 21. Paragraph (d) of subsection (6) of section  
824 290.0055, Florida Statutes, is amended to read:

825 290.0055 Local nominating procedure.—

826 (6)

827 (d)1. The governing body of a jurisdiction which has  
828 nominated an application for an enterprise zone that is at least  
829 15 square miles and less than 20 square miles and includes a  
830 portion of the state designated as a rural area of opportunity  
831 ~~critical economic concern~~ under s. 288.0656(7) may apply to the  
832 department to expand the boundary of the existing enterprise  
833 zone by not more than 3 square miles.

834 2. The governing body of a jurisdiction which has nominated  
835 an application for an enterprise zone that is at least 20 square  
836 miles and includes a portion of the state designated as a rural  
837 area of opportunity ~~critical economic concern~~ under s.

838 288.0656(7) may apply to the department to expand the boundary  
839 of the existing enterprise zone by not more than 5 square miles.

840 3. An application to expand the boundary of an enterprise  
841 zone under this paragraph must be submitted by December 31,

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842 2013.

843 4. Notwithstanding the area limitations specified in  
844 subsection (4), the department may approve the request for a  
845 boundary amendment if the area continues to satisfy the  
846 remaining requirements of this section.

847 5. The department shall establish the initial effective  
848 date of an enterprise zone designated under this paragraph.

849 Section 22. Paragraph (c) of subsection (4) of section  
850 339.2819, Florida Statutes, is amended to read:

851 339.2819 Transportation Regional Incentive Program.—

852 (4)

853 (c) The department shall give priority to projects that:

854 1. Provide connectivity to the Strategic Intermodal System  
855 developed under s. 339.64.

856 2. Support economic development and the movement of goods  
857 in rural areas of opportunity ~~critical economic concern~~  
858 designated under s. 288.0656(7).

859 3. Are subject to a local ordinance that establishes  
860 corridor management techniques, including access management  
861 strategies, right-of-way acquisition and protection measures,  
862 appropriate land use strategies, zoning, and setback  
863 requirements for adjacent land uses.

864 4. Improve connectivity between military installations and  
865 the Strategic Highway Network or the Strategic Rail Corridor  
866 Network.

867

868 The department shall also consider the extent to which local  
869 matching funds are available to be committed to the project.

870 Section 23. Paragraph (b) of subsection (5) of section

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871 339.63, Florida Statutes, is amended to read:

872 339.63 System facilities designated; additions and  
873 deletions.—

874 (5)

875 (b) A facility designated part of the Strategic Intermodal  
876 System pursuant to paragraph (a) that is within the jurisdiction  
877 of a local government that maintains a transportation  
878 concurrency system shall receive a waiver of transportation  
879 concurrency requirements applicable to Strategic Intermodal  
880 System facilities in order to accommodate any development at the  
881 facility which occurs pursuant to a building permit issued on or  
882 before December 31, 2017, but only if such facility is located:

883 1. Within an area designated pursuant to s. 288.0656(7) as  
884 a rural area of opportunity ~~critical economic concern~~;

885 2. Within a rural enterprise zone as defined in s.  
886 290.004(5); or

887 3. Within 15 miles of the boundary of a rural area of  
888 opportunity ~~critical economic concern~~ or a rural enterprise  
889 zone.

890 Section 24. Paragraph (c) of subsection (3) of section  
891 373.4595, Florida Statutes, is amended to read:

892 373.4595 Northern Everglades and Estuaries Protection  
893 Program.—

894 (3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.—A  
895 protection program for Lake Okeechobee that achieves phosphorus  
896 load reductions for Lake Okeechobee shall be immediately  
897 implemented as specified in this subsection. The program shall  
898 address the reduction of phosphorus loading to the lake from  
899 both internal and external sources. Phosphorus load reductions

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900 shall be achieved through a phased program of implementation.  
901 Initial implementation actions shall be technology-based, based  
902 upon a consideration of both the availability of appropriate  
903 technology and the cost of such technology, and shall include  
904 phosphorus reduction measures at both the source and the  
905 regional level. The initial phase of phosphorus load reductions  
906 shall be based upon the district's Technical Publication 81-2  
907 and the district's WOD program, with subsequent phases of  
908 phosphorus load reductions based upon the total maximum daily  
909 loads established in accordance with s. 403.067. In the  
910 development and administration of the Lake Okeechobee Watershed  
911 Protection Program, the coordinating agencies shall maximize  
912 opportunities provided by federal cost-sharing programs and  
913 opportunities for partnerships with the private sector.

914 (c) *Lake Okeechobee Watershed Phosphorus Control Program.*—  
915 The Lake Okeechobee Watershed Phosphorus Control Program is  
916 designed to be a multifaceted approach to reducing phosphorus  
917 loads by improving the management of phosphorus sources within  
918 the Lake Okeechobee watershed through implementation of  
919 regulations and best management practices, development and  
920 implementation of improved best management practices,  
921 improvement and restoration of the hydrologic function of  
922 natural and managed systems, and utilization of alternative  
923 technologies for nutrient reduction. The coordinating agencies  
924 shall facilitate the application of federal programs that offer  
925 opportunities for water quality treatment, including  
926 preservation, restoration, or creation of wetlands on  
927 agricultural lands.

928 1. Agricultural nonpoint source best management practices,

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929 developed in accordance with s. 403.067 and designed to achieve  
 930 the objectives of the Lake Okeechobee Watershed Protection  
 931 Program, shall be implemented on an expedited basis. The  
 932 coordinating agencies shall develop an interagency agreement  
 933 pursuant to ss. 373.046 and 373.406(5) that assures the  
 934 development of best management practices that complement  
 935 existing regulatory programs and specifies how those best  
 936 management practices are implemented and verified. The  
 937 interagency agreement shall address measures to be taken by the  
 938 coordinating agencies during any best management practice  
 939 reevaluation performed pursuant to sub-subparagraph d. The  
 940 department shall use best professional judgment in making the  
 941 initial determination of best management practice effectiveness.

942 a. As provided in s. 403.067(7)(c), the Department of  
 943 Agriculture and Consumer Services, in consultation with the  
 944 department, the district, and affected parties, shall initiate  
 945 rule development for interim measures, best management  
 946 practices, conservation plans, nutrient management plans, or  
 947 other measures necessary for Lake Okeechobee watershed total  
 948 maximum daily load reduction. The rule shall include thresholds  
 949 for requiring conservation and nutrient management plans and  
 950 criteria for the contents of such plans. Development of  
 951 agricultural nonpoint source best management practices shall  
 952 initially focus on those priority basins listed in subparagraph  
 953 (b)1. The Department of Agriculture and Consumer Services, in  
 954 consultation with the department, the district, and affected  
 955 parties, shall conduct an ongoing program for improvement of  
 956 existing and development of new interim measures or best  
 957 management practices for the purpose of adoption of such

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958 practices by rule. The Department of Agriculture and Consumer  
 959 Services shall work with the University of Florida's Institute  
 960 of Food and Agriculture Sciences to review and, where  
 961 appropriate, develop revised nutrient application rates for all  
 962 agricultural soil amendments in the watershed.

963 b. Where agricultural nonpoint source best management  
 964 practices or interim measures have been adopted by rule of the  
 965 Department of Agriculture and Consumer Services, the owner or  
 966 operator of an agricultural nonpoint source addressed by such  
 967 rule shall either implement interim measures or best management  
 968 practices or demonstrate compliance with the district's WOD  
 969 program by conducting monitoring prescribed by the department or  
 970 the district. Owners or operators of agricultural nonpoint  
 971 sources who implement interim measures or best management  
 972 practices adopted by rule of the Department of Agriculture and  
 973 Consumer Services shall be subject to the provisions of s.  
 974 403.067(7). The Department of Agriculture and Consumer Services,  
 975 in cooperation with the department and the district, shall  
 976 provide technical and financial assistance for implementation of  
 977 agricultural best management practices, subject to the  
 978 availability of funds.

979 c. The district or department shall conduct monitoring at  
 980 representative sites to verify the effectiveness of agricultural  
 981 nonpoint source best management practices.

982 d. Where water quality problems are detected for  
 983 agricultural nonpoint sources despite the appropriate  
 984 implementation of adopted best management practices, the  
 985 Department of Agriculture and Consumer Services, in consultation  
 986 with the other coordinating agencies and affected parties, shall

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987 institute a reevaluation of the best management practices and  
 988 make appropriate changes to the rule adopting best management  
 989 practices.

990 2. Nonagricultural nonpoint source best management  
 991 practices, developed in accordance with s. 403.067 and designed  
 992 to achieve the objectives of the Lake Okeechobee Watershed  
 993 Protection Program, shall be implemented on an expedited basis.  
 994 The department and the district shall develop an interagency  
 995 agreement pursuant to ss. 373.046 and 373.406(5) that assures  
 996 the development of best management practices that complement  
 997 existing regulatory programs and specifies how those best  
 998 management practices are implemented and verified. The  
 999 interagency agreement shall address measures to be taken by the  
 1000 department and the district during any best management practice  
 1001 reevaluation performed pursuant to sub-subparagraph d.

1002 a. The department and the district are directed to work  
 1003 with the University of Florida's Institute of Food and  
 1004 Agricultural Sciences to develop appropriate nutrient  
 1005 application rates for all nonagricultural soil amendments in the  
 1006 watershed. As provided in s. 403.067(7)(c), the department, in  
 1007 consultation with the district and affected parties, shall  
 1008 develop interim measures, best management practices, or other  
 1009 measures necessary for Lake Okeechobee watershed total maximum  
 1010 daily load reduction. Development of nonagricultural nonpoint  
 1011 source best management practices shall initially focus on those  
 1012 priority basins listed in subparagraph (b)1. The department, the  
 1013 district, and affected parties shall conduct an ongoing program  
 1014 for improvement of existing and development of new interim  
 1015 measures or best management practices. The district shall adopt

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1016 technology-based standards under the district's WOD program for  
 1017 nonagricultural nonpoint sources of phosphorus. Nothing in this  
 1018 sub-subparagraph shall affect the authority of the department or  
 1019 the district to adopt basin-specific criteria under this part to  
 1020 prevent harm to the water resources of the district.

1021 b. Where nonagricultural nonpoint source best management  
 1022 practices or interim measures have been developed by the  
 1023 department and adopted by the district, the owner or operator of  
 1024 a nonagricultural nonpoint source shall implement interim  
 1025 measures or best management practices and be subject to the  
 1026 provisions of s. 403.067(7). The department and district shall  
 1027 provide technical and financial assistance for implementation of  
 1028 nonagricultural nonpoint source best management practices,  
 1029 subject to the availability of funds.

1030 c. The district or the department shall conduct monitoring  
 1031 at representative sites to verify the effectiveness of  
 1032 nonagricultural nonpoint source best management practices.

1033 d. Where water quality problems are detected for  
 1034 nonagricultural nonpoint sources despite the appropriate  
 1035 implementation of adopted best management practices, the  
 1036 department and the district shall institute a reevaluation of  
 1037 the best management practices.

1038 3. The provisions of subparagraphs 1. and 2. ~~may shall~~ not  
 1039 preclude the department or the district from requiring  
 1040 compliance with water quality standards or with current best  
 1041 management practices requirements set forth in any applicable  
 1042 regulatory program authorized by law for the purpose of  
 1043 protecting water quality. Additionally, subparagraphs 1. and 2.  
 1044 are applicable only to the extent that they do not conflict with

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1045 any rules adopted ~~promulgated~~ by the department that are  
1046 necessary to maintain a federally delegated or approved program.

1047 4. Projects that reduce the phosphorus load originating  
1048 from domestic wastewater systems within the Lake Okeechobee  
1049 watershed shall be given funding priority in the department's  
1050 revolving loan program under s. 403.1835. The department shall  
1051 coordinate and provide assistance to those local governments  
1052 seeking financial assistance for such priority projects.

1053 5. Projects that make use of private lands, or lands held  
1054 in trust for Indian tribes, to reduce nutrient loadings or  
1055 concentrations within a basin by one or more of the following  
1056 methods: restoring the natural hydrology of the basin, restoring  
1057 wildlife habitat or impacted wetlands, reducing peak flows after  
1058 storm events, increasing aquifer recharge, or protecting range  
1059 and timberland from conversion to development, are eligible for  
1060 grants available under this section from the coordinating  
1061 agencies. For projects of otherwise equal priority, special  
1062 funding priority will be given to those projects that make best  
1063 use of the methods outlined above that involve public-private  
1064 partnerships or that obtain federal match money. Preference  
1065 ranking above the special funding priority will be given to  
1066 projects located in a rural area of opportunity critical  
1067 ~~economic concern~~ designated by the Governor. Grant applications  
1068 may be submitted by any person or tribal entity, and eligible  
1069 projects may include, but are not limited to, the purchase of  
1070 conservation and flowage easements, hydrologic restoration of  
1071 wetlands, creating treatment wetlands, development of a  
1072 management plan for natural resources, and financial support to  
1073 implement a management plan.

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1074 6.a. The department shall require all entities disposing of  
1075 domestic wastewater residuals within the Lake Okeechobee  
1076 watershed and the remaining areas of Okeechobee, Glades, and  
1077 Hendry Counties to develop and submit to the department an  
1078 agricultural use plan that limits applications based upon  
1079 phosphorus loading. By July 1, 2005, phosphorus concentrations  
1080 originating from these application sites may ~~shall~~ not exceed  
1081 the limits established in the district's WOD program. After  
1082 December 31, 2007, the department may not authorize the disposal  
1083 of domestic wastewater residuals within the Lake Okeechobee  
1084 watershed unless the applicant can affirmatively demonstrate  
1085 that the phosphorus in the residuals will not add to phosphorus  
1086 loadings in Lake Okeechobee or its tributaries. This  
1087 demonstration shall be based on achieving a net balance between  
1088 phosphorus imports relative to exports on the permitted  
1089 application site. Exports shall include only phosphorus removed  
1090 from the Lake Okeechobee watershed through products generated on  
1091 the permitted application site. This prohibition does not apply  
1092 to Class AA residuals that are marketed and distributed as  
1093 fertilizer products in accordance with department rule.

1094 b. Private and government-owned utilities within Monroe,  
1095 Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian  
1096 River, Okeechobee, Highlands, Hendry, and Glades Counties that  
1097 dispose of wastewater residual sludge from utility operations  
1098 and septic removal by land spreading in the Lake Okeechobee  
1099 watershed may use a line item on local sewer rates to cover  
1100 wastewater residual treatment and disposal if such disposal and  
1101 treatment is done by approved alternative treatment methodology  
1102 at a facility located within the areas designated by the

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1103 Governor as rural areas of opportunity ~~critical economic concern~~  
 1104 pursuant to s. 288.0656. This additional line item is an  
 1105 environmental protection disposal fee above the present sewer  
 1106 rate and may shall not be considered a part of the present sewer  
 1107 rate to customers, notwithstanding provisions to the contrary in  
 1108 chapter 367. The fee shall be established by the county  
 1109 commission or its designated assignee in the county in which the  
 1110 alternative method treatment facility is located. The fee shall  
 1111 be calculated to be no higher than that necessary to recover the  
 1112 facility's prudent cost of providing the service. Upon request  
 1113 by an affected county commission, the Florida Public Service  
 1114 Commission will provide assistance in establishing the fee.  
 1115 Further, for utilities and utility authorities that use the  
 1116 additional line item environmental protection disposal fee, such  
 1117 fee may shall not be considered a rate increase under the rules  
 1118 of the Public Service Commission and shall be exempt from such  
 1119 rules. Utilities using the provisions of this section may  
 1120 immediately include in their sewer invoicing the new  
 1121 environmental protection disposal fee. Proceeds from this  
 1122 environmental protection disposal fee shall be used for  
 1123 treatment and disposal of wastewater residuals, including any  
 1124 treatment technology that helps reduce the volume of residuals  
 1125 that require final disposal, but such proceeds may shall not be  
 1126 used for transportation or shipment costs for disposal or any  
 1127 costs relating to the land application of residuals in the Lake  
 1128 Okeechobee watershed.

1129 c. No less frequently than once every 3 years, the Florida  
 1130 Public Service Commission or the county commission through the  
 1131 services of an independent auditor shall perform a financial

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1132 audit of all facilities receiving compensation from an  
 1133 environmental protection disposal fee. The Florida Public  
 1134 Service Commission or the county commission through the services  
 1135 of an independent auditor shall also perform an audit of the  
 1136 methodology used in establishing the environmental protection  
 1137 disposal fee. The Florida Public Service Commission or the  
 1138 county commission shall, within 120 days after completion of an  
 1139 audit, file the audit report with the President of the Senate  
 1140 and the Speaker of the House of Representatives and shall  
 1141 provide copies to the county commissions of the counties set  
 1142 forth in sub-subparagraph b. The books and records of any  
 1143 facilities receiving compensation from an environmental  
 1144 protection disposal fee shall be open to the Florida Public  
 1145 Service Commission and the Auditor General for review upon  
 1146 request.

1147 7. The Department of Health shall require all entities  
 1148 disposing of septage within the Lake Okeechobee watershed to  
 1149 develop and submit to that agency an agricultural use plan that  
 1150 limits applications based upon phosphorus loading. By July 1,  
 1151 2005, phosphorus concentrations originating from these  
 1152 application sites may shall not exceed the limits established in  
 1153 the district's WOD program.

1154 8. The Department of Agriculture and Consumer Services  
 1155 shall initiate rulemaking requiring entities within the Lake  
 1156 Okeechobee watershed which land-apply animal manure to develop  
 1157 resource management system level conservation plans, according  
 1158 to United States Department of Agriculture criteria, which limit  
 1159 such application. Such rules may include criteria and thresholds  
 1160 for the requirement to develop a conservation or nutrient

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1161 management plan, requirements for plan approval, and  
1162 recordkeeping requirements.

1163 9. The district, the department, or the Department of  
1164 Agriculture and Consumer Services, as appropriate, shall  
1165 implement those alternative nutrient reduction technologies  
1166 determined to be feasible pursuant to subparagraph (d)6.

1167 Section 25. Paragraph (e) of subsection (2) and paragraph  
1168 (b) of subsection (26) of section 380.06, Florida Statutes, are  
1169 amended to read:

1170 380.06 Developments of regional impact.-

1171 (2) STATEWIDE GUIDELINES AND STANDARDS.-

1172 (e) With respect to residential, hotel, motel, office, and  
1173 retail developments, the applicable guidelines and standards  
1174 shall be increased by 50 percent in urban central business  
1175 districts and regional activity centers of jurisdictions whose  
1176 local comprehensive plans are in compliance with part II of  
1177 chapter 163. With respect to multiuse developments, the  
1178 applicable individual use guidelines and standards for  
1179 residential, hotel, motel, office, and retail developments and  
1180 multiuse guidelines and standards shall be increased by 100  
1181 percent in urban central business districts and regional  
1182 activity centers of jurisdictions whose local comprehensive  
1183 plans are in compliance with part II of chapter 163, if one land  
1184 use of the multiuse development is residential and amounts to  
1185 not less than 35 percent of the jurisdiction's applicable  
1186 residential threshold. With respect to resort or convention  
1187 hotel developments, the applicable guidelines and standards  
1188 shall be increased by 150 percent in urban central business  
1189 districts and regional activity centers of jurisdictions whose

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1190 local comprehensive plans are in compliance with part II of  
1191 chapter 163 and where the increase is specifically for a  
1192 proposed resort or convention hotel located in a county with a  
1193 population greater than 500,000 and the local government  
1194 specifically designates that the proposed resort or convention  
1195 hotel development will serve an existing convention center of  
1196 more than 250,000 gross square feet built ~~before~~ prior to July  
1197 1, 1992. The applicable guidelines and standards shall be  
1198 increased by 150 percent for development in any area designated  
1199 by the Governor as a rural area of opportunity ~~critical economic~~  
1200 ~~concern~~ pursuant to s. 288.0656 during the effectiveness of the  
1201 designation.

1202 (26) ABANDONMENT OF DEVELOPMENTS OF REGIONAL IMPACT.-

1203 (b) Upon receipt of written confirmation from the state  
1204 land planning agency that any required mitigation applicable to  
1205 completed development has occurred, an industrial development of  
1206 regional impact located within the coastal high-hazard area of a  
1207 rural area of opportunity ~~county of economic concern~~ which was  
1208 approved before ~~prior to~~ the adoption of the local government's  
1209 comprehensive plan required under s. 163.3167 and which plan's  
1210 future land use map and zoning designates the land use for the  
1211 development of regional impact as commercial may be unilaterally  
1212 abandoned without the need to proceed through the process  
1213 described in paragraph (a) if the developer or owner provides a  
1214 notice of abandonment to the local government and records such  
1215 notice with the applicable clerk of court. Abandonment shall be  
1216 deemed to have occurred upon the recording of the notice. All  
1217 development following abandonment shall be fully consistent with  
1218 the current comprehensive plan and applicable zoning.

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1219 Section 26. Paragraph (g) of subsection (3) of section  
1220 380.0651, Florida Statutes, is amended to read:

1221 380.0651 Statewide guidelines and standards.—

1222 (3) The following statewide guidelines and standards shall  
1223 be applied in the manner described in s. 380.06(2) to determine  
1224 whether the following developments shall be required to undergo  
1225 development-of-regional-impact review:

1226 (g) *Residential development.*—~~A~~ ~~No~~ rule may not be adopted  
1227 concerning residential developments which treats a residential  
1228 development in one county as being located in a less populated  
1229 adjacent county unless more than 25 percent of the development  
1230 is located within 2 ~~or less~~ miles or less of the less populated  
1231 adjacent county. The residential thresholds of adjacent counties  
1232 with less population and a lower threshold may ~~shall~~ not be  
1233 controlling on any development wholly located within areas  
1234 designated as rural areas of opportunity ~~critical economic~~  
1235 ~~concern~~.

1236 Section 27. Paragraph (b) of subsection (2) of section  
1237 985.686, Florida Statutes, is amended to read:

1238 985.686 Shared county and state responsibility for juvenile  
1239 detention.—

1240 (2) As used in this section, the term:

1241 (b) "Fiscally constrained county" means a county within a  
1242 rural area of opportunity ~~critical economic concern~~ as  
1243 designated by the Governor pursuant to s. 288.0656 or each  
1244 county for which the value of a mill will raise no more than \$5  
1245 million in revenue, based on the certified school taxable value  
1246 certified pursuant to s. 1011.62(4)(a)1.a., from the previous  
1247 July 1.

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1248 Section 28. Subsection (2) of section 1011.76, Florida  
1249 Statutes, is amended to read:

1250 1011.76 Small School District Stabilization Program.—

1251 (2) In order to participate in this program, a school  
1252 district must be located in a rural area of opportunity ~~critical~~  
1253 ~~economic concern~~ designated by the Executive Office of the  
1254 Governor, and the district school board must submit a resolution  
1255 to the Department of Economic Opportunity requesting  
1256 participation in the program. A rural area of opportunity  
1257 ~~critical economic concern~~ must be a rural community, or a region  
1258 composed of such, that has been adversely affected by an  
1259 extraordinary economic event or a natural disaster or that  
1260 presents a unique economic development concern or opportunity of  
1261 regional impact. The resolution must be accompanied by ~~with~~  
1262 documentation of the economic conditions in the community and,  
1263 provide information indicating the negative impact of these  
1264 conditions on the school district's financial stability, and the  
1265 school district must participate in a best financial management  
1266 practices review to determine potential efficiencies that could  
1267 be implemented to reduce program costs in the district.

1268 Section 29. Paragraph (a) of subsection (4) of section  
1269 215.425, Florida Statutes, is amended to read:

1270 215.425 Extra compensation claims prohibited; bonuses;  
1271 severance pay.—

1272 (4)(a) On or after July 1, 2011, a unit of government that  
1273 enters into a contract or employment agreement, or renewal or  
1274 renegotiation of an existing contract or employment agreement,  
1275 that contains a provision for severance pay with an officer,  
1276 agent, employee, or contractor must include the following

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1277 provisions in the contract:

1278 1. A requirement that severance pay provided may not exceed  
1279 an amount greater than 20 weeks of compensation.

1280 2. A prohibition of provision of severance pay when the  
1281 officer, agent, employee, or contractor has been fired for  
1282 misconduct, as defined in s. 443.036(29) ~~s. 443.036(30)~~, by the  
1283 unit of government.

1284 Section 30. Paragraph (f) of subsection (13) of section  
1285 443.1216, Florida Statutes, is amended to read:

1286 443.1216 Employment.—Employment, as defined in s. 443.036,  
1287 is subject to this chapter under the following conditions:

1288 (13) The following are exempt from coverage under this  
1289 chapter:

1290 (f) Service performed in the employ of a public employer as  
1291 defined in s. 443.036, except as provided in subsection (2), and  
1292 service performed in the employ of an instrumentality of a  
1293 public employer as described in s. 443.036(35)(b) or (c) ~~s.  
1294 443.036(36)(b) or (e)~~, to the extent that the instrumentality is  
1295 immune under the United States Constitution from the tax imposed  
1296 by s. 3301 of the Internal Revenue Code for that service.

1297 Section 31. This act shall take effect July 1, 2014.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

*Meeting Date*

Topic Relating to Department of Economic Opportunity Bill Number 7058

Name Bill Wilson Amendment Barcode 834202  
*(if applicable)*

Job Title Florida DEO- Legislative Affairs Director  
*(if applicable)*

Address 107 E. Madison Street Phone 850-245-7116  
*Street*

Tallahassee FL 32399  
*City State Zip*

E-mail bill.wilson@deo.myflorida.com

Speaking:  For  Against  Information

Representing Florida Department of Economic Opportunity

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

*Meeting Date*

Topic Relating to Department of Economic Opportunity Bill Number 7058  
*(if applicable)*

Name Bill Wilson Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Florida DEO- Legislative Affairs Director

Address 107 E. Madison Street Phone 850-245-7116

*Street*

Tallahassee FL 32399  
*City State Zip*

E-mail bill.wilson@deo.myflorida.com

Speaking:  For  Against  Information

Representing Florida Department of Economic Opportunity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14  
Meeting Date

Topic Dept. of Economic Opportunity

Bill Number PCB 7058  
*(if applicable)*

Name Dorene Barker

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Director

Address 2424 Torruya Dr

Phone 850-507-3631

Inll FL 32303  
City State Zip

E-mail dorene@floridalegal.org

Speaking:  For  Against  Information

Waive in Support

Representing Florida Legal Services, Inc

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
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3/3/2014

*Meeting Date*

Topic Department of Economic Opportunity

Bill Number SPB 7058  
*(if applicable)*

Name Ryan Padgett

Amendment Barcode Amendment 834202  
*(if applicable)*

Job Title Assistant General Counsel

Address PO Box 1757

Phone 701-3676

*Street*

Tallahassee

FL

32302

*City*

*State*

*Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Topic DEO

Bill Number 7058  
*(if applicable)*

Name Carolyn Johnson

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Policy Director

Address \_\_\_\_\_  
*Street*

Phone 521-1235

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FL Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SPB 7056

INTRODUCER: For consideration by the Commerce and Tourism Committee

SUBJECT: Entertainment Industry

DATE: February 28, 2014

REVISED: \_\_\_\_\_

---

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hrdlicka</u>	<u>Hrdlicka</u>		<b>Pre-meeting</b>

---

**I. Summary:**

SPB 7056 restructures Florida's approach to the entertainment industry in the state.

The bill transfers the Department of Economic Opportunity's Office of Film and Entertainment, including the Commissioner of Film and Entertainment, to Enterprise Florida, Inc. (EFI). The office is established as the Division of Film and Entertainment within EFI and maintains its current responsibilities, with the exception of administering the entertainment industry economic development programs, which remains the responsibility of the department. The bill repeals the current Florida Film and Entertainment Advisory Council and provides that EFI's board of directors may establish an advisory council for the division to assist in a role similar to that of the current council.

The bill makes several changes to the Entertainment Industry Financial Incentive Program, including:

- Extending the incentive program an additional 4 years and provides an additional \$50 million in tax credits for each fiscal year beginning Fiscal Year 2014-15 through 2019-20, for a total of \$300 million in available tax credits.
- Increasing the cap on the general production queue from \$8 million to \$10 million.
- Repealing the tax credit bonus for underutilized regions. Instead the bill creates a set aside of 20 percent of the tax credits in the general production queue for underutilized counties. Any funds not certified after 10 months into the fiscal year become available for certification for other applications in the queue.
- Amending the tax credit bonus for wages paid to Florida students and recent graduates to include wages paid to state residents that are participating in the Road to Independence Program, have developmental disabilities, or are veterans.
- Creating a tax credit bonus of 5 percent for productions that complete a capital investment of at least \$2 million before the completion of the qualified production.
- Repealing the tax credit bonuses for "off-season" certified productions, for productions that conduct principal photography at a qualified production facility, and for family-friendly certified theatrical or direct-to-video movies and video games.

- Repealing provisions permitting the transfer or sale of tax credits awarded under the incentive program.

## II. Present Situation:

### The Office of Film and Entertainment

The Office of Film and Entertainment (OFE), within the Department of Economic Opportunity (DEO), develops, markets, promotes, and provides services to Florida's entertainment industry, such as serving as a liaison between the industry and government entities and facilitating access to filming locations.<sup>1</sup> The OFE gathers statistical information related to the state's entertainment industry, provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities, and administers field offices outside the state, and coordinates with regional offices maintained by counties and regions of the state. The OFE is also required to develop a 5-year strategic plan to guide its activities, which is updated on an annual basis and aligns with the DEO's Strategic Plan for Economic Development.<sup>2</sup> The OFE's mission is to build, support, and market the entertainment industry in Florida.

The head of the OFE is the Commissioner of Film and Entertainment. The commissioner is hired by the executive director of the DEO, after a national search by the DEO for a qualified person to fill the position. For Fiscal Year 2013-14, the OFE has an operating budget of approximately \$673,000 and 5 full-time-equivalent (FTE) positions (two of which are vacant) The OFE's budget supports a field office in Los Angeles.

The OFE is assisted by the Florida Film and Entertainment Advisory Council (advisory council), which is composed of 17 members, of which 7 members are appointed by the Governor, and 5 members each are appointed by the President of the Senate and the Speaker of the House of Representatives.<sup>3</sup> In addition, Enterprise Florida, Inc., Workforce Florida, Inc., and the Florida Tourism Industry Marketing Corporation (commonly referred to as "VISIT Florida") each have a representative that serves as an ex officio nonvoting member of the council. The council provides the OFE and the DEO with industry insight and assists in the creation of the 5-year strategic plan.

Additionally, there are over 60 local film offices that have been established across the state, organized predominately by county and municipal governments, local chambers of commerce, economic development councils, convention and visitors bureaus, and tourist development councils.<sup>4</sup>

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<sup>1</sup> Section 288.1251, F.S. See also OFE website, available at <http://www.filminflorida.com/about/vm.asp> (last visited 2/25/2014).

<sup>2</sup> The OFE's Film and Entertainment Industry Strategic Plan for Economic Development is available at [http://www.filminflorida.com/about/OFE\\_Plan\\_V11.pdf](http://www.filminflorida.com/about/OFE_Plan_V11.pdf) (last visited 2/25/2014).

<sup>3</sup> Section 288.1252, F.S.

<sup>4</sup> For a list of Florida film commissions, see the OFE website, available at [http://www.filminflorida.com/lr/local\\_film\\_commissions.asp](http://www.filminflorida.com/lr/local_film_commissions.asp) (last visited 2/25/2014)

## **Entertainment Industry Financial Incentive Program<sup>5</sup>**

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program (incentive program).<sup>6</sup> The incentive program's dual purposes are to:

- Promote Florida as a site for filming, creating, or producing movies, television series, commercials, digital media and other types of entertainment productions; and
- Sustain and develop the state's entertainment workforce, studios, and other related infrastructure.

The incentive program is administered by the OFE, subject to the policies and oversight of the DEO. Currently the incentive program is a 6-year program, which began July 1, 2010, and sunsets June 30, 2016. The incentive program provides tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits may be applied against the corporate income tax or sales and use taxes. Additionally these tax credits may be transferred or sold one time.<sup>7</sup>

Over the 6 year period, there are a total of \$296 million in available credits. Annual limitations for tax credits are set at:

- \$53.5 million in Fiscal Year 2010-11;
- \$74.5 million in Fiscal Year 2011-12; and
- \$42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.<sup>8</sup>

The law provides that if the total tax credits applied for in a fiscal year is greater than the amount available for that year, then the excess credits are to be treated as if they had been applied for in the next fiscal year. All of the tax credits have already been awarded for all 6 years.<sup>9</sup>

### ***Eligibility and Application***

Generally, a production company that plans to engage in a production in Florida can apply to the OFE prior to beginning production for a certification of tax credits based upon estimated qualified expenditures planned for the production. A qualified production must meet the requirements in s. 288.1254, F.S., plus two additional criteria:

- Depending on the type of production and period of time in the incentive program, most of the production cast and below-the-line production crew<sup>10</sup> are Florida residents, or are students enrolled full-time in a film- and entertainment-related course of study at a Florida university or college.
- The production does not contain obscene content, as defined in s. 847.001(10), F.S.<sup>11</sup>

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<sup>5</sup> Information about the incentive program is also available on OFE's website, available at <http://filminflorida.com/ifi/incentives.asp> (last visited 2/25/2014).

<sup>6</sup> Section 288.1254, F.S. See ch. 2003-81, L.O.F. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, L.O.F.

<sup>7</sup> Also, tax credits may be relinquished to the DOR for 90 percent of the amount of the relinquished tax credit.

<sup>8</sup> Section 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, ch. 2012-32, L.O.F.

<sup>9</sup> See OFE, Fiscal Year 2012-2013 Annual Report, discussed below under The OFE Annual Report for FY 2012-13.

<sup>10</sup> "Below-the-line production crew" excludes actors, directors, producers, and writers.

<sup>11</sup> Pursuant to this section, "'obscene' means the status of material which: (a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest; (b) Depicts or describes, in a patently

**Queues**

Priority for tax credit certifications is made on a first-come, first-served basis within the appropriate “queue.”<sup>12</sup> There are three queues of eligible productions: general production, commercial and music video, and independent and emerging media production. As percentage of funding:

- 94 percent of the state incentive funding is dedicated to the general production queue;
- 3 percent is dedicated to the commercial and music video queue; and
- 3 percent is dedicated to the independent and emerging media production queue.

Further, under the general production queue, no more than 45 percent of the tax credits can be awarded to television series. First priority in the general production queue for tax credits not yet certified is given to high-impact television series and high-impact digital media projects, in alternating order, depending on the type of the first application received. OFE may certify a project out of order (ex: two high-impact television series productions in a row) if an application by the next appropriate type of production is not received within 5 business days.<sup>13</sup>

**Characteristics of Production Queues**

	<b>General Production</b>	<b>Commercial &amp; Music Video</b>	<b>Independent and Emerging Media Production Queue</b>
<b>Minimum amount of qualified expenditures</b>	\$625,000	\$100,000 per commercial or video <u>and</u> exceeds \$500,000 combined per FY year	At least \$100,000, but not more than \$625,000
<b>Amount of basic incentive</b>	20% of qualified expenditures, up to \$8 million	20% of qualified expenditures, up to \$500,000	20% of qualified expenditures, up to \$125,000

In addition to the amount of basic incentives, there are additional tax credits available for general production queue projects (also referred to as “bonuses”):

- 5 percent additional tax credit for feature films, independent films, or television series or pilots that are “off-season certified,” including those that are not able to complete 75 percent of their principal photography due to a hurricane or tropical storm. Off-season certified means that the production films 75 percent or more of its principal photography from June 1 to November 30.
- 5 percent additional tax credit for productions that incur at least 65 percent of its principal photography days occur in an underutilized region. An “underutilized region” is one with a

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offensive way, sexual conduct as specifically defined herein; and (c) Taken as a whole, lacks serious literary, artistic, political, or scientific value. A mother’s breastfeeding of her baby is not under any circumstance ‘obscene.’”

<sup>12</sup> Section 288.1254(4), F.S.

<sup>13</sup> This rotating schedule was created in 2012. ch. 2012-32, L.O.F.

regional tax credit ratio for a fiscal year that is lower than its regional population ratio that year.<sup>14</sup>

- 15 percent additional tax credit for productions that employ students enrolled full-time in a film and entertainment-related or digital media-related course of study or recent graduates of such a course of study. The course of study must have occurred at an institution of higher education in Florida. This additional 15 percent may be applied to any qualified expenditures related to wages, salaries, or other compensation paid to such students or graduates.
- 5 percent additional tax credit for productions which conduct at least 50 percent of their principal photography at a qualified production facility. This additional 5 percent may be applied to any qualified expenditures related to production activity at that facility.
- 5 percent additional tax credit for qualified digital media projects or digital animation components of productions which have at least 50 percent of their qualified expenditures related to a qualified digital media production facility. This additional 5 percent may be applied to any qualified expenditures related to production activity at that facility.

Further, family-friendly certified theatrical or direct-to-video movies and video games are eligible for an additional tax credit of 5 percent of its actual qualified expenditures. The determination for “family-friendly” is made by the OFE, with the advice of the advisory council. A family friendly production is one that:

- Has cross-generational appeal;
- Is considered suitable for viewing by children aged 5 years or older;
- Is appropriate in theme, content and language for a broad family audience;
- Responsibly resolves issues raised in the film; and
- Does not include any act of smoking, sex, nudity, or vulgar or profane language.

A qualified production is limited to a total tax credit of 30 percent of its actual qualified expenditures.

Current law defines “qualified expenditures” as production expenditures incurred by a qualified production in Florida for:<sup>15</sup>

- Goods purchased or leased from, or services provided by, a vendor or supplier in Florida that is registered with the Department of State or the Department of Revenue (DOR) and is doing business in Florida. Eligible production goods and services include:
  - Sound stages, back lots, production editing, digital effects, sound recordings, sets, and set construction;
  - Entertainment-related rental equipment, including cameras and grip or electrical equipment;
  - Newly purchased computer software and hardware, up to \$300,000; and
  - Meals, travel, and accommodations.
- Salary, wages, or other compensation paid to Florida residents, up to a maximum of \$400,000 per resident.

Additionally, for a qualified production involving an event, such as an awards show, the term “qualified expenditures” excludes expenditures solely associated with the event itself and not

<sup>14</sup> “Underutilized region” is defined in s. 288.1254(1)(p), F.S.

<sup>15</sup> See s. 288.1254(1)(i), F.S.

directly required by the production. The term also excludes expenditures prior to certification, with the exception of those incurred for a commercial, a music video, or the pickup of additional episodes of a television series within a single season.

### ***Award of Credits***

After production ends and all certified expenditures are made in Florida, the production company must have an independent certified public accountant licensed in Florida conduct a compliance audit. The OFE is required to review the audit and report to the DEO the final verified amount of actual qualified expenditures. The DEO then must review and approve the final tax credit award, and notify the DOR. Tax credit awards are subject to the limitations discussed above.

Additionally, after production the company must make an irrevocable election to apply the tax credits to the corporate income taxes or sales and use taxes or a stated combination of both. This decision is binding on any distributee, successor, transferee, or purchaser. Tax credits that are unused in any year may be carried forward to the next for a maximum of 5 years.

The production must also include information, such as a logo at the end of the credits, that indicates that the production occurred in Florida in order to be eligible for the tax credits.

Section 288.1254(9), F.S., provides audit authority to DOR related to the tax credits, and for the revocation or forfeiture of tax credits under certain circumstances. Fraudulent applications for tax credits may also result in penalties and other costs in addition to repayment of the tax credits.

### **Sales Tax Exemption Certificate for a Qualified Production Company**

Entertainment industry qualified production companies are eligible for several exemptions from taxes under ch. 212, F.S. A qualified production company can obtain a certificate to avoid paying tax at the point of sale, rather than claiming a refund after paying the tax.<sup>16</sup> Qualified production companies are exempt from paying sales tax for the following:

- *Lease or rental of real property* that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (the term “activity or service” includes photography, casting, location scouting, and designing sets).<sup>17</sup>
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.<sup>18</sup>
- *Purchase or lease of motion picture and video equipment and sound recording equipment* used in Florida for motion picture or television production or for the production of master tapes or master records.<sup>19</sup>
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes.*<sup>20</sup>

The estimated cost of these exemptions is \$36.2 million for FY 2013-14.<sup>21</sup>

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<sup>16</sup> Section 288.1258, F.S. See also DOR, Film in Florida Sales Tax Exemption, available at [http://dor.myflorida.com/dor/taxes/film\\_in\\_florida.html](http://dor.myflorida.com/dor/taxes/film_in_florida.html) (last visited 2/25/2014).

<sup>17</sup> Section 212.031(1)(a)9., F.S.

<sup>18</sup> Section 212.06(1)(b), F.S. The term “qualified motion picture” is defined in the statute.

<sup>19</sup> Section 212.08(5)(f), F.S.

<sup>20</sup> Section 212.08(12), F.S.

<sup>21</sup> Florida Revenue Estimating Conference, 2013 Florida Tax Handbook.

### **The OFE Annual Report for FY 2012-13<sup>22</sup>**

The OFE is directed to submit an annual report each November 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives, that outlines the incentive program's return on the state's investment and economic benefits to the state; the estimate of FTEs for each production that received tax credits; and the geographic distribution of the credits in Florida. The report is also required to include a report on the OFE's expenditures under s. 288.1253, F.S., and information describing the relationship between tax exemptions and incentives to industry growth.<sup>23</sup>

The OFE's annual report for FY 2012-13 reviewed the incentive program for the first 3 years of the 6-year program. As of November 1, 2013:

- 617 applications were received and processed;
- Overall, 297 projects have been certified for the 6 years; outcomes for these projects include the following estimates:
  - Over \$1.5 billion in qualified expenditures in Florida;
  - 190,681 positions with over \$930 million in wages paid;<sup>24</sup> and
  - 256,244 lodging/room nights.
- Certified productions include 69 motion pictures, 51 digital media productions, 128 television productions, television series pilots, telenovelas, award shows, and 49 commercials.
- 206 certified projects completed production in FY 2012-13; outcomes for these projects include (includes unverified data):
  - 14,623 production days;
  - Over \$604 million in qualified expenditures in Florida;
  - 84,617 positions with over \$353.8 million in wages paid;
  - 100,631 lodging/room nights; and
  - Almost \$131 million in final tax credits awarded.

Projected outcomes are based on information supplied with the applications. These outcomes are subject to change as some projects may withdraw or additional projects become certified.

The OFE's annual report states that in 2012, the Florida Office of Economic and Demographic Research conducted an analysis of the economic impact of the incentive program, which found an increase in state GDP of \$15 to \$1 of tax credit awarded and a return of state tax revenue of \$2 for every \$5 of tax credit awarded.

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<sup>22</sup> OFE, Fiscal Year 2013-2013 Annual Report (November 1, 2013), available at [http://www.filminflorida.com/ifi/PDFs/annualReports/Office%20of%20Film%20and%20Entertainment%20Annual%20Report%20FY2012-2013\\_Final%20Combined%20Draft.pdf](http://www.filminflorida.com/ifi/PDFs/annualReports/Office%20of%20Film%20and%20Entertainment%20Annual%20Report%20FY2012-2013_Final%20Combined%20Draft.pdf) (last visited 2/25/2014).

<sup>23</sup> Sections 288.1254(10), 288.1253, and 288.1258(5), F.S.

<sup>24</sup> Positions are individual positions, not FTEs. Positions may be permanent or temporary. Production cast, crew, extras, and stand-ins, etc., may work for multiple productions and fill multiple positions. The OFE was directed in the 2011 Regular Session to report positions as estimates of FTEs, but according to the annual report the OFE is still developing methodology to report the data. See ch. 2011-76, L.O.F.

The annual report also includes a calculation by the OFE on the return on investment for the sales tax exemptions to be “75.6:1”; the OFE also calculated a “combined” return on investment for both the sales tax exemptions and the incentive programs, which resulted in \$1.32 in expenditures by qualified productions for every \$1 of investment from the state from both programs.

### **III. Effect of Proposed Changes:**

SPB 7056 restructures Florida’s approach to the entertainment industry in the state.

#### **Division of Film and Entertainment**

The bill transfers and renames the Office of Film and Entertainment as the Division of Film and Entertainment (division) of Enterprise Florida, Inc. The entertainment industry economic development programs administered by the DEO will function similar to the other economic development programs administered by the DEO. Generally, Enterprise Florida, Inc., markets the state to businesses, including working with regional offices to provide assistance and information on location decisions, workforce needs, and economic development programs. The DEO is responsible for administering the economic development programs. (**Section 2**, transferring and renumbering s. 288.1251, F.S., as s. 288.924, F.S., and amending that statute; **Section 8**, amending s. 288.92, F.S.)

The division will maintain the OFE’s current responsibilities, except with respect to administration of the entertainment industry economic development programs. Enterprise Florida, Inc., is governed by a board of directors, and under the bill the board may establish an advisory council for the division to assist in a role similar to that of the current Florida Film and Entertainment Advisory Council. The bill sets parameters for such an advisory council to include membership that is the same as that of the current council. (**Section 2**, transferring and renumbering s. 288.1251, F.S., as s. 288.924, F.S., and amending that statute; and **Section 3**, repealing s. 288.1252, F.S.)

**Sections 1, 4, and 7**, amend ss. 288.125, 288.1253, and 288.1258, F.S., to reflect the transfer of the OFE to Enterprise Florida, Inc. **Section 4** also transfers and renumbers s. 288.1253, F.S., as s. 288.9241, F.S. (dealing with allowable travel, entertainment, and incidental expenditures and reimbursement of the division).

#### **Entertainment Industry Financial Incentive Program**

**Section 5** amends s. 288.1254, F.S., related to the Entertainment Industry Financial Incentive Program.

#### ***Eligibility and Application***

The bill increases the requirements for a qualified production related to the amount of state residents that make up a production’s cast and crew. For a production, the cast and crew must be at least 70 percent state residents (current law is 60 percent); for a digital media production, the cast and crew must be at least 80 percent state residents (current law is 75 percent).

The bill amends the definition of “high-impact television series” to include telenovelas that have qualified expenditures of more than \$4.5 million, at least 45 principal photography days in the state, cast and crews that are at least 90 percent state residents, and have at least 90 percent of production occurring in the state.

The bill requires a production to include in its application documentation related to the planned aggregate nonqualifying expenditures the production will make in the state and proof of financing for the production. Under current law, a production has 90 days from the date it submits the application to provide proof of financing. The bill requires such proof to be submitted at the same time as the application. Additionally, an applicant applying to the independent and emerging media queue will now be required to submit proof of financing. Applications received by the DEO after all tax credits allocated for the fiscal year have been certified may be accepted until the DEO receives the application that causes the amount of tax credit eligibility requested to exceed 125 percent of the tax credits allocated for the fiscal year. Applications received requesting tax credit eligibility over the fiscal year allocation shall be assigned a queue number. Any applications in the queue on June 30<sup>th</sup> each year will be deemed denied. The DEO may deny an application if there are no additional tax credits available for certification.

The bill specifies that the DEO may only certify the amount of tax credits allocated in a fiscal year. However, the bill provides an exception for applications by high-impact television series that have an executed contract or order for season renewal. The DEO is permitted to certify such a qualified production for one additional ordered season per future fiscal year in which the production would occur.

Upon certification, the production is required to provide the DEO and the division with information related to the production’s needs for cast, crew, contractors, and vendors. The production must also provide a single point of contact. The division will publish this information online and include relevant information such as the starting date of the production and its location. The DEO and division may adopt procedures for a production to post such information itself within a week of certification.

Current law permits the DEO to withdraw the eligibility of a production for tax credits if the production does not continue on a reasonable basis or if the production does not provide proof of financing. The bill clarifies when the DEO may deny a certified production. The DEO may deny a certified production upon finding any circumstance that affects the reasonable schedule or timely completion of the production, including a break in production or loss of financing. The certified production must notify the DEO within 5 days after any circumstance affecting the timely completion of the production. However, a certified production that has lost financing may avoid denial by the DEO if it provides the DEO with proof of replacement financing within 10 days of the original loss.

### ***General Production Queue***

The bill increases the cap on the general production queue from \$8 million to \$10 million. Additionally, the bill substantially amends several of the additional tax credits (bonuses) for the queue:

- The bill repeals the tax credit bonus for underutilized regions. Instead the bill creates a set aside of 20 percent of the tax credits in the general production queue for underutilized counties. An “underutilized county” is one in which less than \$500,000 in qualified expenditures occurred in the last 2 fiscal years. Any funds not certified after 10 months into the fiscal year become available for certification for other applications in the queue.
- The bill amends the tax credit bonus for productions that employ students and recent graduates to include wages paid to state residents that are participating in the Road to Independence Program, have developmental disabilities, or are veterans.
- The bill creates a tax credit bonus of 5 percent for productions that complete a capital investment of at least \$2 million before the completion of the qualified production. This additional 5 percent may be applied to any qualified expenditures.
- The bill repeals the tax credit bonus for “off-season” certified productions.
- The bill repeals the tax credit bonus for productions that conduct principal photography at a qualified production facility or a qualified digital media production facility.
- The bill repeals the tax credit bonus for family-friendly certified theatrical or direct-to-video movies and video games.

The bill also repeals the limitation on tax credits awarded to television series. The bill clarifies that first priority in the general production queue for tax credits not yet certified is given to high-impact television series and high-impact digital media projects, and thereafter is determined on a first-come, first-served basis.

Due to these changes, a qualified production is limited to a total tax credit of 25 percent of its actual qualified expenditures.

### ***Transfer of Tax Credits***

The bill repeals provisions permitting the transfer or sale of tax credits awarded under the incentive program. The bill also repeals provisions permitting the DOR to pay for relinquished tax credits under the incentive program.

### ***Allocation of Tax Credits***

The bill provides for the availability of additional tax credits in Fiscal Years 2014-15 and 2015-16 and extends the incentive program an additional 4 years. The bill provides for an additional \$50 million in tax credits in each Fiscal Year 2014-15 and 2015-16, and for \$50 million in tax credits in each Fiscal Year 2016-17, 2017-18, 2018-19, and 2019-20.

The bill provides an additional \$300 million in tax credits, for a total of \$596 million in credits for the 10 year incentive program. The bill again specifies that the additional credits provided are not available for certification prior to the fiscal year in which they are allocated.

The incentive program expires July 1, 2020.

**Sections 9, 10, 11, and 12** amend ss. 288.212.08(5)(q), 220.13(1)(a)15., 220.1899(3), and 477.0135(5), F.S., to correct cross-references and make conforming changes.

**Section 13** provides an effective date of July 1, 2014.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill provides a total of \$300 million in additional tax credits for the incentive program. The bill provides for an additional \$50 million in tax credits for each Fiscal Year 2014-15 and 2015-16, and for \$50 million in tax credits for each Fiscal Year 2016-17, 2017-18, 2018-19, and 2019-20. The credits are not permitted to be certified prior to the fiscal year in which they are allocated, except for applications for additional ordered season renewals for high-impact television series.

The Revenue Estimating Conference has not yet adopted a fiscal impact for this bill.

B. Private Sector Impact:

Indeterminate, but expected to be positive.

C. Government Sector Impact:

The DEO stated that currently it has 3 FTE positions and one OPS position dedicated to administration of the incentive program. The DEO states that because of the increase in funding for the program, it would require 5 FTE positions and additional OPS staff to implement this bill.

The DEO estimates that it would require \$703,000 to continue to implement the incentive program if the current 3 FTE positions are transferred to EFI. The DEO estimates that EFI would require \$673,000 to implement the bill.

If only the Commissioner of Film and Entertainment and the staff member located in the Los Angeles field office were transferred to EFI, then the DEO would require \$330,000 to implement the incentive program. In this scenario, the DEO estimates that EFI would require \$300,000 to implement the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends the following sections of the Florida Statutes: 212.08, 220.13, 220.1899, 288.125, 288.1254, 288.1258, 288.92, and 477.0135.

This bill repeals section 288.1252 of the Florida Statutes.

This bill amends, transfers, and renumbers the following sections of the Florida Statutes: 288.1251 and 288.1253.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.



530128

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/03/2014	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

**Senate Amendment**

Delete line 714  
and insert:  
expenditures, up to a maximum of \$8 million. A



626016

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/03/2014	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

**Senate Amendment**

Delete line 802  
and insert:  
credit. The capital investment must be made during the  
production, be permanent, and remain



912158

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/03/2014	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

**Senate Amendment**

Delete lines 962 - 964  
and insert:  
2015-2016, an additional \$50 million per fiscal year.  
5. Beginning July 1, 2016, for fiscal years 2016-2017,  
2017-2018, 2018-2019, and 2019-2020, \$50 million per fiscal  
year.



691114

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/03/2014	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

**Senate Substitute for Amendment (912158)**

Delete lines 873 - 1075

and insert:

The election is binding upon any distributee, successor, transferee, or purchaser. The department shall notify the Department of Revenue of any election made pursuant to this paragraph.

2. A qualified production company is eligible for tax credits against its sales and use tax liabilities and corporate



691114

11 income tax liabilities as provided in this section. However, tax  
12 credits awarded under this section may not be claimed against  
13 sales and use tax liabilities or corporate income tax  
14 liabilities for any tax period beginning before July 1, 2011,  
15 regardless of when the credits are applied for or awarded.

16 (d)~~(e)~~ *Tax credit carryforward.*—If the certified production  
17 company cannot use the entire tax credit in the taxable year or  
18 reporting period in which the credit is awarded, any excess  
19 amount may be carried forward to a succeeding taxable year or  
20 reporting period. A tax credit applied against taxes imposed  
21 under chapter 212 or ~~may be carried forward for a maximum of 5~~  
22 ~~years after the date the credit is awarded. A tax credit applied~~  
23 ~~against taxes imposed under~~ chapter 220 may be carried forward  
24 for a maximum of 5 years after the date the credit is awarded,  
25 after which the credit expires and may not be used.

26 (e)~~(f)~~ *Consolidated returns.*—A certified production company  
27 that files a Florida consolidated return as a member of an  
28 affiliated group under s. 220.131(1) may be allowed the credit  
29 on a consolidated return basis up to the amount of the tax  
30 imposed upon the consolidated group under chapter 220.

31 (f)~~(g)~~ *Partnership and noncorporate distributions.*—A  
32 qualified production company that is not a corporation as  
33 defined in s. 220.03 may elect to distribute tax credits awarded  
34 under this section to its partners or members in proportion to  
35 their respective distributive income or loss in the taxable year  
36 in which the tax credits were awarded.

37 (g)~~(h)~~ *Mergers or acquisitions.*—Tax credits available under  
38 this section to a certified production company may succeed to a  
39 surviving or acquiring entity subject to the same conditions and



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40 limitations as described in this section; however, they may not  
41 be transferred again by the surviving or acquiring entity.

42 (5) TRANSFER OF TAX CREDITS.—

43 (a) *Authorization.*—Upon application to ~~the Office of Film~~  
44 ~~and Entertainment~~ and approval by the department, a certified  
45 production company, or a partner or member that has received a  
46 distribution under paragraph (4) (f) ~~(4) (g)~~, may elect to  
47 transfer, in whole or in part, any unused credit amount granted  
48 under this section. An election to transfer any unused tax  
49 credit amount under chapter 212 or chapter 220 must be made no  
50 later than 5 years after the date the credit is awarded, after  
51 which period the credit expires and may not be used. The  
52 department shall notify the Department of Revenue of the  
53 election and transfer.

54 (b) *Number of transfers permitted.*—A certified production  
55 company that elects to apply a credit amount against taxes  
56 remitted under chapter 212 is permitted a one-time transfer of  
57 unused credits to one transferee. A certified production company  
58 that elects to apply a credit amount against taxes due under  
59 chapter 220 is permitted a one-time transfer of unused credits  
60 to no more than four transferees, and such transfers must occur  
61 in the same taxable year.

62 (c) *Transferee rights and limitations.*—The transferee is  
63 subject to the same rights and limitations as the certified  
64 production company awarded the tax credit, except that the  
65 initial transferee shall be permitted a one-time transfer of  
66 unused credits to no more than two subsequent transferees, and  
67 such transfers must occur in the same taxable year as the  
68 credits were received by the initial transferee, after which the



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69 subsequent transferees may not sell or otherwise transfer the  
70 tax credit.

71 (6) RELINQUISHMENT OF TAX CREDITS.—

72 (a) Beginning July 1, 2011, a certified production company,  
73 or any person who has acquired a tax credit from a certified  
74 production company pursuant to subsections (4) and (5), may  
75 elect to relinquish the tax credit to the Department of Revenue  
76 in exchange for 90 percent of the amount of the relinquished tax  
77 credit.

78 (b) The Department of Revenue may approve payments to  
79 persons relinquishing tax credits pursuant to this subsection.

80 (c) Subject to legislative appropriation, the Department of  
81 Revenue shall request the Chief Financial Officer to issue  
82 warrants to persons relinquishing tax credits. Payments under  
83 this subsection shall be made from the funds from which the  
84 proceeds from the taxes against which the tax credits could have  
85 been applied pursuant to the irrevocable election made by the  
86 certified production company under subsection (4) are deposited.

87 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

88 (a) The aggregate amount of the tax credits that may be  
89 certified pursuant to paragraph (3) (d) may not exceed:

- 90 1. For fiscal year 2010-2011, \$53.5 million.
- 91 2. For fiscal year 2011-2012, \$74.5 million.
- 92 3. For fiscal years 2012-2013, 2013-2014, 2014-2015, and  
93 2015-2016, \$42 million per fiscal year.
- 94 4. Beginning July 1, 2014, for fiscal years 2014-2015 and  
95 2015-2016, an additional \$50 million per fiscal year.
- 96 5. Beginning July 1, 2016, for fiscal years 2016-2017,  
97 2017-2018, 2018-2019, and 2019-2020, \$50 million per fiscal



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98 year.

99 (b) Any portion of the maximum amount of tax credits  
100 established per fiscal year in paragraph (a) that is not  
101 certified as of the end of a fiscal year shall be carried  
102 forward and made available for certification during the  
103 following 2 fiscal years in addition to the amounts available  
104 for certification under paragraph (a) for those fiscal years.

105 (c) Upon approval of the final tax credit award amount  
106 pursuant to subparagraph (3) (g) 2. ~~(3) (f) 2.~~, an amount equal to  
107 the difference between the maximum tax credit award amount  
108 previously certified under paragraph (3) (d) and the approved  
109 final tax credit award amount shall immediately be available for  
110 recertification during the current and following fiscal years in  
111 addition to the amounts available for certification under  
112 paragraph (a) for those fiscal years.

113 (d) Amounts available on and after July 1, 2014, for  
114 certification may not be certified before the fiscal year in  
115 which the amounts are listed in paragraph (a), except as  
116 provided in subparagraph (3) (d) 2. ~~If, during a fiscal year, the~~  
117 ~~total amount of credits applied for, pursuant to paragraph~~  
118 ~~(3) (a), exceeds the amount of credits available for~~  
119 ~~certification in that fiscal year, such excess shall be treated~~  
120 ~~as having been applied for on the first day of the next fiscal~~  
121 ~~year in which credits remain available for certification.~~

122 (8) RULES, POLICIES, AND PROCEDURES.-

123 (a) The department may adopt rules pursuant to ss.  
124 120.536(1) and 120.54 and develop policies and procedures to  
125 implement and administer this section, including, but not  
126 limited to, rules specifying requirements for the application



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127 and approval process, records required for substantiation for  
128 tax credits, procedures for making the election in paragraph  
129 (4) (c) ~~(4) (d)~~, the manner and form of documentation required to  
130 claim tax credits awarded or transferred under this section, and  
131 marketing requirements for tax credit recipients.

132 (b) The Department of Revenue may adopt rules pursuant to  
133 ss. 120.536(1) and 120.54 to administer this section, including  
134 rules governing the examination and audit procedures required to  
135 administer this section and the manner and form of documentation  
136 required to claim tax credits awarded, transferred, or  
137 relinquished under this section.

138 (9) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX  
139 CREDITS; FRAUDULENT CLAIMS.—

140 (a) *Audit authority.*—The Department of Revenue may conduct  
141 examinations and audits as provided in s. 213.34 to verify that  
142 tax credits under this section are received, transferred, and  
143 applied according to the requirements of this section. If the  
144 Department of Revenue determines that tax credits are not  
145 received, transferred, or applied as required by this section,  
146 it may, in addition to the remedies provided in this subsection,  
147 pursue recovery of such funds pursuant to the laws and rules  
148 governing the assessment of taxes.

149 (b) *Revocation of tax credits.*—The department may revoke or  
150 modify any written decision qualifying, certifying, or otherwise  
151 granting eligibility for tax credits under this section if it is  
152 discovered that the tax credit applicant submitted any false  
153 statement, representation, or certification in any application,  
154 record, report, plan, or other document filed in an attempt to  
155 receive tax credits under this section. The department shall



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156 immediately notify the Department of Revenue of any revoked or  
157 modified orders affecting previously granted tax credits.  
158 Additionally, the applicant must notify the Department of  
159 Revenue of any change in its tax credit claimed.

160 (c) *Forfeiture of tax credits.*—A determination by the  
161 Department of Revenue, as a result of an audit pursuant to  
162 paragraph (a) or from information received from the department  
163 or the Division Office of Film and Entertainment of Enterprise  
164 Florida, Inc., that an applicant received tax credits pursuant  
165 to this section to which the applicant was not entitled is  
166 grounds for forfeiture of previously claimed and received tax  
167 credits. The applicant is responsible for returning forfeited  
168 tax credits to the Department of Revenue, and such funds shall  
169 be paid into the General Revenue Fund of the state. Tax credits  
170 purchased in good faith are not subject to forfeiture unless the  
171 transferee submitted fraudulent information in the purchase or  
172 failed to meet the requirements in subsection (5).

173 (d) *Fraudulent claims.*—Any applicant that submits  
174 fraudulent information under this section is liable for  
175 reimbursement of the reasonable costs and fees associated with  
176 the review, processing, investigation, and prosecution of the  
177 fraudulent claim. An applicant that obtains a credit payment  
178 under this section through a claim that is fraudulent is liable  
179 for reimbursement of the credit amount plus a penalty in an  
180 amount double the credit amount. The penalty is in addition to  
181 any criminal penalty to which the applicant is liable for the  
182 same acts. The applicant is also liable for costs and fees  
183 incurred by the state in investigating and prosecuting the  
184 fraudulent claim.



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185           (10) ANNUAL REPORT.—Each November 1, the department Office  
186 ~~of Film and Entertainment~~ shall submit an annual report for the  
187 previous fiscal year to the Governor, the President of the  
188 Senate, and the Speaker of the House of Representatives which  
189 outlines the incentive program's return on investment and  
190 economic benefits to the state. The report must also include an  
191 estimate of the full-time equivalent positions created by each  
192 production that received tax credits under this section and  
193 information relating to the distribution of productions  
194 receiving credits by geographic region and type of production.  
195 The report must also include the expenditures report required  
196 under s. 288.9241 ~~s. 288.1253(3)~~ and the information describing  
197 the relationship between tax exemptions and incentives to  
198 industry growth required under s. 288.1258(5). The department  
199 may work with the Division of Film and Entertainment of  
200 Enterprise Florida, Inc., to develop the annual report.

201           (11) REPEAL.—This section is repealed July 1, 2020 ~~July 1,~~  
202 ~~2016~~, except that:

203           (a) Tax credits certified under paragraph (3) (d) before  
204 July 1, 2020 ~~July 1, 2016~~, may be awarded under paragraph (3) (g)  
205 ~~(3) (f)~~ on or after July 1, 2020 ~~July 1, 2016~~, if the other  
206 requirements of this section are met.

207           (b) Tax credits carried forward under paragraph (4) (d)  
208 ~~(4) (e)~~ remain valid for the period specified.

209           (c) Subsections (5), (8), and (9) shall remain



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/03/2014	.	
	.	
	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1283 - 1358.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 42

and insert:

entertainment; amending ss. 212.08, 220.1899,

FOR CONSIDERATION By the Committee on Commerce and Tourism

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1 A bill to be entitled  
 2 An act relating to the entertainment industry;  
 3 amending s. 288.125, F.S.; specifying the application  
 4 of the term "entertainment industry"; transferring,  
 5 renumbering, and amending s. 288.1251, F.S.; renaming  
 6 the Office of Film and Entertainment within the  
 7 Department of Economic Opportunity as the Division of  
 8 Film and Entertainment and housing the division within  
 9 Enterprise Florida, Inc.; requiring Enterprise  
 10 Florida, Inc., to conduct a national search for a film  
 11 commissioner; requiring the president of Enterprise  
 12 Florida, Inc., to hire the film commissioner; revising  
 13 the requirements of the division's 5-year plan;  
 14 authorizing the board of directors of Enterprise  
 15 Florida, Inc., to establish a council to serve as an  
 16 advisory body to the division for matters relating to  
 17 the entertainment industry; conforming provisions to  
 18 changes made by the act; repealing s. 288.1252, F.S.,  
 19 relating to the Florida Film and Entertainment  
 20 Advisory Council and its creation, purpose,  
 21 membership, powers, and duties; transferring,  
 22 renumbering, and amending s. 288.1253, F.S.;  
 23 conforming provisions to changes made by the act;  
 24 amending s. 288.1254, F.S.; redefining and deleting  
 25 terms; requiring the department, rather than the  
 26 Office of Film and Entertainment, to be responsible  
 27 for applications for the entertainment industry  
 28 financial incentive program; revising provisions  
 29 relating to the application process, tax credit

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 eligibility, election and distribution of tax credits,  
 31 annual allocation of tax credits, forfeiture of tax  
 32 credits, and annual report; extending the repeal date;  
 33 conforming provisions to changes made by the act;  
 34 specifying a date on which the applications on file  
 35 with the department and not yet certified are deemed  
 36 denied; amending s. 288.1258, F.S.; conforming  
 37 provisions to changes made by the act; requiring the  
 38 department to develop a standardized application form  
 39 in cooperation with the division and other agencies;  
 40 amending s. 288.92, F.S.; requiring Enterprise  
 41 Florida, Inc., to have a division relating to film and  
 42 entertainment; amending ss. 212.08, 220.13, 220.1899,  
 43 and 477.0135, F.S.; conforming cross-references and  
 44 provisions to changes made by the act; providing an  
 45 effective date.

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

48  
 49 Section 1. Section 288.125, Florida Statutes, is amended to  
 50 read:

51 288.125 Definition of "entertainment industry".—For the  
 52 purposes of ss. 288.1254, 288.1258, 288.924, and 288.9241 ~~ss.~~  
 53 ~~288.1251-288.1258~~, the term "entertainment industry" means those  
 54 persons or entities engaged in the operation of motion picture  
 55 or television studios or recording studios; those persons or  
 56 entities engaged in the preproduction, production, or  
 57 postproduction of motion pictures, made-for-television movies,  
 58 television programming, digital media projects, commercial

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59 advertising, music videos, or sound recordings; and those  
60 persons or entities providing products or services directly  
61 related to the preproduction, production, or postproduction of  
62 motion pictures, made-for-television movies, television  
63 programming, digital media projects, commercial advertising,  
64 music videos, or sound recordings, including, but not limited  
65 to, the broadcast industry.

66 Section 2. Section 288.1251, Florida Statutes, is  
67 transferred, renumbered as section 288.924, Florida Statutes,  
68 and amended to read:

69 288.924 ~~288.1251~~ Promotion and development of entertainment  
70 industry; Division Office of Film and Entertainment; creation;  
71 purpose; powers and duties.—

72 (1) CREATION.—

73 ~~(a)~~ The Division of Film and Entertainment is ~~There is~~  
74 ~~hereby~~ created within Enterprise Florida, Inc., the department  
75 ~~the Office of Film and Entertainment~~ for the purpose of  
76 developing, marketing, promoting, and providing services to the  
77 state's entertainment industry. The division shall serve as a  
78 liaison between the entertainment industry and other state and  
79 local governmental agencies, local film commissions, and labor  
80 organizations.

81 ~~(2)(b)~~ COMMISSIONER.—Enterprise Florida, Inc., The  
82 ~~department~~ shall conduct a national search for a qualified  
83 person to fill the position of Commissioner of Film and  
84 Entertainment when the position is vacant. The president of  
85 Enterprise Florida, Inc., executive director of the department  
86 has the responsibility to hire the film commissioner.  
87 Qualifications for the film commissioner include, but are not

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88 limited to, the following:

89 ~~(a)1-~~ A working knowledge of the equipment, personnel,  
90 financial, and day-to-day production operations of the  
91 industries to be served by the division Office of Film and  
92 ~~Entertainment;~~

93 ~~(b)2-~~ Marketing and promotion experience related to the  
94 film and entertainment industries to be served;

95 ~~(c)3-~~ Experience working with a variety of individuals  
96 representing large and small entertainment-related businesses,  
97 industry associations, local community entertainment industry  
98 liaisons, and labor organizations; and

99 ~~(d)4-~~ Experience working with a variety of state and local  
100 governmental agencies.

101 ~~(3)(2)~~ POWERS AND DUTIES.—

102 (a) The Division Office of Film and Entertainment, in  
103 performance of its duties, shall develop and+

104 1. In consultation with the Florida Film and Entertainment  
105 ~~Advisory Council,~~ update a 5-year the strategic plan every 5  
106 years to guide the activities of the division Office of Film and  
107 ~~Entertainment~~ in the areas of entertainment industry  
108 development, marketing, promotion, liaison services, field  
109 office administration, and information. The plan shall+

110 ~~a-~~ be annual in construction and ongoing in nature.

111 1. At a minimum, the plan must discuss the following:

112 ~~a.b-~~ Include recommendations relating to The organizational  
113 structure of the division, including any field offices outside  
114 the state.

115 b. The coordination of the division with local or regional  
116 offices maintained by counties and regions of the state, local

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117 film commissions, and labor organizations, and the coordination  
 118 of such entities with each other to facilitate a working  
 119 relationship office.

120 c. Strategies to identify, solicit, and recruit  
 121 entertainment production opportunities for the state, including  
 122 implementation of programs for rural and urban areas designed to  
 123 develop and promote the state's entertainment industry.

124 d.e- Include An annual budget projection for the division  
 125 office for each year of the plan.

126 d. Include an operational model for the office to use in  
 127 implementing programs for rural and urban areas designed to:  
 128 (I) develop and promote the state's entertainment industry.  
 129 (II) Have the office serve as a liaison between the  
 130 entertainment industry and other state and local governmental  
 131 agencies, local film commissions, and labor organizations.

132 (III) Gather statistical information related to the state's  
 133 entertainment industry.

134 e.(IV) Provision of Provide information and service to  
 135 businesses, communities, organizations, and individuals engaged  
 136 in entertainment industry activities.

137 (V) Administer field offices outside the state and  
 138 coordinate with regional offices maintained by counties and  
 139 regions of the state, as described in sub-sub-subparagraph (II),  
 140 as necessary.

141 f.e- Include Performance standards and measurable outcomes  
 142 for the programs to be implemented by the division office.

143 2. The plan shall be annually reviewed and approved by the  
 144 board of directors of Enterprise Florida, Inc.

145 f. Include an assessment of, and make recommendations on,

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146 ~~the feasibility of creating an alternative public-private~~  
 147 ~~partnership for the purpose of contracting with such a~~  
 148 ~~partnership for the administration of the state's entertainment~~  
 149 ~~industry promotion, development, marketing, and service~~  
 150 ~~programs.~~

151 ~~2. Develop, market, and facilitate a working relationship~~  
 152 ~~between state agencies and local governments in cooperation with~~  
 153 ~~local film commission offices for out-of-state and indigenous~~  
 154 ~~entertainment industry production entities.~~

155 ~~3. Implement a structured methodology prescribed for~~  
 156 ~~coordinating activities of local offices with each other and the~~  
 157 ~~commissioner's office.~~

158 (b) The division shall also:

159 1.4- Represent the state's indigenous entertainment  
 160 industry to key decisionmakers within the national and  
 161 international entertainment industry, and to state and local  
 162 officials.

163 ~~2.5- Prepare an inventory and analysis of the state's~~  
 164 ~~entertainment industry, including, but not limited to,~~  
 165 ~~information on crew, related businesses, support services, job~~  
 166 ~~creation, talent, and economic impact and coordinate with local~~  
 167 ~~offices to develop an information tool for common use.~~

168 ~~6. Identify, solicit, and recruit entertainment production~~  
 169 ~~opportunities for the state.~~

170 ~~3.7- Assist rural communities and other small communities~~  
 171 ~~in the state in developing the expertise and capacity necessary~~  
 172 ~~for such communities to develop, market, promote, and provide~~  
 173 ~~services to the state's entertainment industry.~~

174 (c)(b) The division Office of Film and Entertainment, in

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175 the performance of its duties, may:

176 1. Conduct or contract for specific promotion and marketing  
177 functions, including, but not limited to, production of a  
178 statewide directory, production and maintenance of an Internet  
179 website, establishment and maintenance of a toll-free telephone  
180 number, organization of trade show participation, and  
181 appropriate cooperative marketing opportunities.

182 2. Conduct its affairs, carry on its operations, establish  
183 offices, and exercise the powers granted by this act in any  
184 state, territory, district, or possession of the United States.

185 3. Carry out any program of information, special events, or  
186 publicity designed to attract entertainment industry to Florida.

187 4. Develop relationships and leverage resources with other  
188 public and private organizations or groups in their efforts to  
189 publicize to the entertainment industry in this state, other  
190 states, and other countries the depth of Florida's entertainment  
191 industry talent, crew, production companies, production  
192 equipment resources, related businesses, and support services,  
193 including the establishment of and expenditure for a program of  
194 cooperative advertising with these public and private  
195 organizations and groups in accordance with the provisions of  
196 chapter 120.

197 5. Provide and arrange for reasonable and necessary  
198 promotional items and services for such persons as the division  
199 office deems proper in connection with the performance of the  
200 promotional and other duties of the division office.

201 6. Prepare an ~~annual~~ economic impact analysis on  
202 entertainment industry-related activities in the state.

203 7. Request or accept any grant, payment, or gift of funds

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204 or property made by this state, the United States, or any  
205 department or agency thereof, or by any individual, firm,  
206 corporation, municipality, county, or organization, for any or  
207 all of the purposes of the ~~Office of Film and Entertainment's~~ 5-  
208 year strategic plan or those permitted activities enumerated in  
209 this paragraph. ~~Such funds shall be deposited in the Grants and~~  
210 ~~Donations Trust Fund of the Executive Office of the Governor for~~  
211 ~~use by the Office of Film and Entertainment in carrying out its~~  
212 ~~responsibilities and duties as delineated in law. The division~~  
213 ~~office~~ may expend such funds in accordance with the terms and  
214 conditions of any such grant, payment, or gift in the pursuit of  
215 its administration or in support of fulfilling its duties and  
216 responsibilities. The division office shall separately account  
217 for the public funds and the private funds ~~deposited into the~~  
218 ~~trust fund~~.

219 (4) ADVISORY COUNCIL.—The board of directors of Enterprise  
220 Florida, Inc., may establish a council to serve as an advisory  
221 body to the division to provide industry insight and expertise  
222 related to developing, marketing, promoting, and providing  
223 service to the state's entertainment industry, including  
224 development of the 5-year strategic plan. The council must  
225 consist of individuals who are residents of the state; who are  
226 highly knowledgeable of, and active in, the motion picture,  
227 television, video, sound recording, or other entertainment  
228 industries; and who are recognized leaders in these industries  
229 in the state. These individuals may include representatives of  
230 local film commissions, representatives of entertainment  
231 associations, representatives of the broadcast industry,  
232 representatives of labor organizations in the entertainment

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233 industry, and executives of leading or otherwise important  
 234 entertainment industry businesses and offices.

235 Section 3. Section 288.1252, Florida Statutes, is repealed.

236 Section 4. Section 288.1253, Florida Statutes, is  
 237 transferred, renumbered as section 288.9241, Florida Statutes,  
 238 and amended to read:

239 288.9241 ~~288.1253~~ Travel and entertainment expenses.—

240 (1) As used in this section, the term "travel expenses"  
 241 means the actual, necessary, and reasonable costs of  
 242 transportation, meals, lodging, and incidental expenses normally  
 243 incurred by an employee of the Division Office of Film and  
 244 Entertainment, which costs are defined and prescribed by rules  
 245 adopted by the department, subject to approval by the Chief  
 246 Financial Officer.

247 (2) Notwithstanding ~~the provisions of~~ s. 112.061, the  
 248 department shall adopt rules by which the Division of Film and  
 249 Entertainment ~~it~~ may make expenditures by reimbursement to: the  
 250 Governor, the Lieutenant Governor, security staff of the  
 251 Governor or Lieutenant Governor, the Commissioner of Film and  
 252 Entertainment, or staff of the Division Office of Film and  
 253 Entertainment for travel expenses or entertainment expenses  
 254 incurred by such individuals solely and exclusively in  
 255 connection with the performance of the statutory duties of the  
 256 ~~division Office of Film and Entertainment~~. The rules are subject  
 257 to approval by the Chief Financial Officer before adoption. The  
 258 rules shall require the submission of paid receipts, or other  
 259 proof of expenditure prescribed by the Chief Financial Officer,  
 260 with any claim for reimbursement.

261 (3) The Division Office of Film and Entertainment shall

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262 include in the annual report for the entertainment industry  
 263 financial incentive program required under s. 288.1254(8) ~~or~~  
 264 ~~288.1254(10)~~ a report of the division's office's expenditures  
 265 for the previous fiscal year. The report must consist of a  
 266 summary of all travel, entertainment, and incidental expenses  
 267 incurred within the United States and all travel, entertainment,  
 268 and incidental expenses incurred outside the United States, as  
 269 well as a summary of all successful projects that developed from  
 270 such travel.

271 (4) The Division Office of Film and Entertainment and its  
 272 employees and representatives, when authorized, may accept and  
 273 use complimentary travel, accommodations, meeting space, meals,  
 274 equipment, transportation, and any other goods or services  
 275 necessary for or beneficial to the performance of the division's  
 276 office's duties and purposes, so long as such acceptance or use  
 277 is not in conflict with part III of chapter 112. The department  
 278 shall, by rule, develop internal controls to ensure that such  
 279 goods or services accepted or used pursuant to this subsection  
 280 are limited to those that will assist solely and exclusively in  
 281 the furtherance of the division's office's goals and are in  
 282 compliance with part III of chapter 112.

283 (5) Any claim submitted under this section is not required  
 284 to be sworn to before a notary public or other officer  
 285 authorized to administer oaths, but any claim authorized or  
 286 required to be made under any provision of this section shall  
 287 contain a statement that the expenses were actually incurred as  
 288 necessary travel or entertainment expenses in the performance of  
 289 official duties of the Division Office of Film and Entertainment  
 290 and shall be verified by written declaration that it is true and

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291 correct as to every material matter. Any person who willfully  
 292 makes and subscribes to any claim which he or she does not  
 293 believe to be true and correct as to every material matter or  
 294 who willfully aids or assists in, procures, or counsels or  
 295 advises with respect to, the preparation or presentation of a  
 296 claim pursuant to this section that is fraudulent or false as to  
 297 any material matter, whether such falsity or fraud is with the  
 298 knowledge or consent of the person authorized or required to  
 299 present the claim, commits a misdemeanor of the second degree,  
 300 punishable as provided in s. 775.082 or s. 775.083. Whoever  
 301 receives a reimbursement by means of a false claim is civilly  
 302 liable, in the amount of the overpayment, for the reimbursement  
 303 of the public fund from which the claim was paid.

304 Section 5. Section 288.1254, Florida Statutes, is amended  
 305 to read:

306 288.1254 Entertainment industry financial incentive  
 307 program.—

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

309 (a) "Certified production" means a qualified production  
 310 that has tax credits allocated to it by the department based on  
 311 the production's estimated qualified expenditures, up to the  
 312 production's maximum certified amount of tax credits, by the  
 313 department. The term does not include a production if its first  
 314 day of principal photography or project start date in this state  
 315 occurs before the production is certified by the department,  
 316 unless the production spans more than 1 fiscal year, was a  
 317 certified production on its first day of principal photography  
 318 or project start date in this state, and submits an application  
 319 for continuing the same production for the subsequent fiscal

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320 year.

321 (b) "Digital media project" means a production of  
 322 interactive entertainment that is produced for distribution in  
 323 commercial or educational markets. The term includes a video  
 324 game or production intended for Internet or wireless  
 325 distribution, an interactive website, digital animation, and  
 326 visual effects, including, but not limited to, three-dimensional  
 327 movie productions and movie conversions. The term does not  
 328 include a production that contains content that is obscene as  
 329 defined in s. 847.001.

330 (c) "High-impact digital media project" means a digital  
 331 media project that has qualified expenditures greater than \$4.5  
 332 million.

333 (d) "High-impact television series" means:

334 1. A production created to run multiple production seasons  
 335 which has ~~and having~~ an estimated order of at least seven  
 336 episodes per season and qualified expenditures of at least  
 337 \$625,000 per episode; or

338 2. A telenovela that has qualified expenditures of more  
 339 than \$4.5 million; a minimum of 45 principal photography days  
 340 filmed in this state; a production cast, including background  
 341 actors, and crew of which at least 90 percent are legal  
 342 residents of this state; and at least 90 percent of its  
 343 production occurring in this state.

344 ~~(e) "Off-season certified production" means a feature film,~~  
 345 ~~independent film, or television series or pilot that films 75~~  
 346 ~~percent or more of its principal photography days from June 1~~  
 347 ~~through November 30.~~

348 (e)-(f) "Principal photography" means the filming of major

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349 or significant components of the qualified production which  
350 involve lead actors.

351 ~~(f)(g)~~ "Production" means a theatrical, ~~or~~ direct-to-video,  
352 or direct-to-internet motion picture; a made-for-television  
353 motion picture; visual effects or digital animation sequences  
354 produced in conjunction with a motion picture; a commercial; a  
355 music video; an industrial or educational film; an infomercial;  
356 a documentary film; a television pilot program; a presentation  
357 for a television pilot program; a television series, including,  
358 but not limited to, a drama, a reality show, a comedy, a soap  
359 opera, a telenovela, a game show, an awards show, or a  
360 miniseries production; a direct-to-internet television series;  
361 or a digital media project by the entertainment industry. One  
362 season of a television series is considered one production. The  
363 term does not include a weather or market program; a sporting  
364 event or a sporting event broadcast; a gala; a production that  
365 solicits funds; a home shopping program; a political program; a  
366 political documentary; political advertising; a gambling-related  
367 project or production; a concert production; a local, regional,  
368 or Internet-distributed-only news show or current-events show; a  
369 sports news or sports recap show; a pornographic production; or  
370 any production deemed obscene under chapter 847. A production  
371 may be produced on or by film, tape, or otherwise by means of a  
372 motion picture camera; electronic camera or device; tape device;  
373 computer; any combination of the foregoing; or any other means,  
374 method, or device.

375 ~~(g)(h)~~ "Production expenditures" means the costs of  
376 tangible and intangible property used for, and services  
377 performed primarily and customarily in, production, including

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378 preproduction and postproduction, but excluding costs for  
379 development, marketing, and distribution. The term includes, but  
380 is not limited to:

381 1. Wages, salaries, or other compensation paid to legal  
382 residents of this state, including amounts paid through payroll  
383 service companies, for technical and production crews,  
384 directors, producers, and performers.

385 2. Net expenditures for sound stages, backlots, production  
386 editing, digital effects, sound recordings, sets, and set  
387 construction.

388 3. Net expenditures for rental equipment, including, but  
389 not limited to, cameras and grip or electrical equipment.

390 4. Up to \$300,000 of the costs of newly purchased computer  
391 software and hardware unique to the project, including servers,  
392 data processing, and visualization technologies, which are  
393 located in and used exclusively in the state for the production  
394 of digital media.

395 5. Expenditures for meals, travel, and accommodations. For  
396 purposes of this paragraph, the term "net expenditures" means  
397 the actual amount of money a qualified production spent for  
398 equipment or other tangible personal property, after subtracting  
399 any consideration received for reselling or transferring the  
400 item after the qualified production ends, if applicable.

401 ~~(h)(i)~~ "Qualified expenditures" means production  
402 expenditures incurred in this state by a qualified production  
403 for:

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

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407 supplier in this state that is registered with the Department of  
 408 State or the Department of Revenue, has a physical location in  
 409 this state, and employs one or more legal residents of this  
 410 state. This does not include rebilled goods or services provided  
 411 by an in-state company from out-of-state vendors or suppliers.  
 412 When services provided by the vendor or supplier include  
 413 personal services or labor, only personal services or labor  
 414 provided by residents of this state, evidenced by the required  
 415 documentation of residency in this state, qualify.

416 2. Payments to legal residents of this state in the form of  
 417 salary, wages, or other compensation up to a maximum of \$400,000  
 418 per resident unless otherwise specified in subsection (4). A  
 419 completed declaration of residency in this state must accompany  
 420 the documentation submitted to the department office for  
 421 reimbursement.

422  
 423 For a qualified production involving an event, such as an awards  
 424 show, the term does not include expenditures solely associated  
 425 with the event itself and not directly required by the  
 426 production. The term does not include expenditures incurred  
 427 before certification, with the exception of those incurred for a  
 428 commercial, a music video, or the pickup of additional episodes  
 429 of a high-impact television series within a single season. Under  
 430 no circumstances may the qualified production include in the  
 431 calculation for qualified expenditures the original purchase  
 432 price for equipment or other tangible property that is later  
 433 sold or transferred by the qualified production for  
 434 consideration. In such cases, the qualified expenditure is the  
 435 net of the original purchase price minus the consideration

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436 received upon sale or transfer.

437 ~~(i)-(j)~~ "Qualified production" means a production in this  
 438 state meeting the requirements of this section. The term does  
 439 not include a production:

440 1. In which, ~~for the first 2 years of the incentive~~  
 441 ~~program, less than 50 percent, and thereafter, less than 70 60~~  
 442 percent, of the positions that make up its production cast and  
 443 below-the-line production crew, or, in the case of digital media  
 444 projects, less than 80 75 percent of such positions, are filled  
 445 by legal residents of this state, whose residency is  
 446 demonstrated by a valid Florida driver ~~driver's~~ license or other  
 447 state-issued identification confirming residency, or students  
 448 enrolled full-time in a film-and-entertainment-related course of  
 449 study at an institution of higher education in this state; or

450 2. That contains obscene content as defined in s.  
 451 847.001(10).

452 ~~(j)-(k)~~ "Qualified production company" means a corporation,  
 453 limited liability company, partnership, or other legal entity  
 454 engaged in one or more productions in this state.

455 ~~(l)~~ "Qualified digital media production facility" means a  
 456 ~~building or series of buildings and their improvements in which~~  
 457 ~~data processing, visualization, and sound synchronization~~  
 458 ~~technologies are regularly applied for the production of~~  
 459 ~~qualified digital media projects or the digital animation~~  
 460 ~~components of qualified productions.~~

461 ~~(m)~~ "Qualified production facility" means a ~~building or~~  
 462 ~~complex of buildings and their improvements and associated~~  
 463 ~~backlot facilities in which regular filming activity for film or~~  
 464 ~~television has occurred for a period of no less than 1 year and~~

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465 which contain at least one sound stage of at least 7,800 square  
466 feet.

467 (n) "Regional population ratio" means the ratio of the  
468 population of a region to the population of this state. The  
469 regional population ratio applicable to a given fiscal year is  
470 the regional population ratio calculated by the Office of Film  
471 and Entertainment using the latest official estimates of  
472 population certified under s. 186.901, available on the first  
473 day of that fiscal year.

474 (o) "Regional tax credit ratio" means a ratio the numerator  
475 of which is the sum of tax credits awarded to productions in a  
476 region to date plus the tax credits certified, but not yet  
477 awarded, to productions currently in that region and the  
478 denominator of which is the sum of all tax credits awarded in  
479 the state to date plus all tax credits certified, but not yet  
480 awarded, to productions currently in the state. The regional tax  
481 credit ratio applicable to a given year is the regional tax  
482 credit ratio calculated by the Office of Film and Entertainment  
483 using credit award and certification information available on  
484 the first day of that fiscal year.

485 (p) "Underutilized region" for a given state fiscal year  
486 means a region with a regional tax credit ratio applicable to  
487 that fiscal year that is lower than its regional population  
488 ratio applicable to that fiscal year. The following regions are  
489 established for purposes of making this determination:

490 1. North Region, consisting of Alachua, Baker, Bay,  
491 Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,  
492 Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,  
493 Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,

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494 Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,  
495 Union, Wakulla, Walton, and Washington Counties.

496 2. Central East Region, consisting of Brevard, Flagler,  
497 Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.  
498 Lucie, and Volusia Counties.

499 3. Central West Region, consisting of Citrus, Hernando,  
500 Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,  
501 and Sumter Counties.

502 4. Southwest Region, consisting of Charlotte, Collier,  
503 DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.

504 5. Southeast Region, consisting of Broward, Martin, Miami-  
505 Dade, Monroe, and Palm Beach Counties.

506 (k) ~~(q)~~ "Interactive website" means a website or group of  
507 websites that includes interactive and downloadable content, and  
508 creates 25 new Florida full-time equivalent positions operating  
509 from a principal place of business located within Florida. An  
510 interactive website or group of websites must provide  
511 documentation that those jobs were created to the department  
512 before Office of Film and Entertainment prior to the award of  
513 tax credits. Each subsequent program application must provide  
514 proof that 25 Florida full-time equivalent positions are  
515 maintained.

516 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment  
517 industry financial incentive program is created ~~within the~~  
518 ~~Office of Film and Entertainment~~. ~~The purpose of this program is~~  
519 ~~to encourage the use of this state as a site for entertainment~~  
520 ~~production, for filming, and for the digital production of~~  
521 ~~entertainment films~~, and to develop and sustain the workforce  
522 and infrastructure for film, digital media, and entertainment

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523 production.

524 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

525 (a) *Program application.*—A qualified production company  
 526 producing a qualified production in this state may submit a  
 527 program application to the ~~department Office of Film and~~  
 528 ~~Entertainment~~ for the purpose of determining qualification for  
 529 an award of tax credits authorized by this section no earlier  
 530 than ~~150 180~~ days before the first day of principal photography  
 531 or project start date in this state. The applicant shall provide  
 532 the ~~department Office of Film and Entertainment~~ with information  
 533 required to determine whether the production is a qualified  
 534 production and to determine the qualified expenditures and other  
 535 information necessary for the ~~department office~~ to determine  
 536 eligibility for the tax credit.

537 (b) *Required documentation.*—The ~~department Office of Film~~  
 538 ~~and Entertainment~~ shall develop an application form for  
 539 qualifying an applicant as a qualified production. The form must  
 540 include, but need not be limited to, production-related  
 541 information concerning employment of residents in this state, a  
 542 detailed budget of planned qualified expenditures and aggregate  
 543 nonqualified expenditures in this state, proof of financing for  
 544 the production, and the applicant's signed affirmation that the  
 545 information on the form has been verified and is correct. The  
 546 ~~Division Office~~ of Film and Entertainment of Enterprise Florida,  
 547 ~~Inc.~~, and local film commissions shall distribute the form.

548 (c) *Application process.*—The ~~department Office of Film and~~  
 549 ~~Entertainment~~ shall establish a process by which an application  
 550 is accepted and reviewed and by which tax credit eligibility and  
 551 award amount are determined. The department may consult with the

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552 ~~Division Office~~ of Film and Entertainment of Enterprise Florida,  
 553 ~~Inc., or may request assistance from~~ a duly appointed local film  
 554 commission in determining compliance with this section.

555 1. Applications may be accepted until, and shall include,  
 556 the application that causes the amount of tax credit eligibility  
 557 requested to exceed 125 percent of tax credits allocated for the  
 558 fiscal year under paragraph (5) (a). Applications received after  
 559 all tax credits allocated for the fiscal year have been  
 560 certified shall be assigned a queue number that is determined by  
 561 the date and time the application was received by the  
 562 department. Applications in the queue are deemed denied on June  
 563 30 of each year.

564 2. A ~~certified~~ high-impact television series may submit an  
 565 initial application for no more than two successive seasons,  
 566 notwithstanding the fact that the ~~second season has successive~~  
 567 seasons have not been ordered. The ~~successive season's~~ qualified  
 568 expenditure amounts for the second season shall be based on the  
 569 current season's estimated qualified expenditures. Upon the  
 570 completion of production of each season, a high-impact  
 571 television series may submit an application for no more than one  
 572 additional season. To be certified for credits, the applicant  
 573 must provide proof that the additional season has been ordered  
 574 as part of the application for the additional season.

575 (d) *Certification.*—

576 1. The ~~department Office of Film and Entertainment~~ shall  
 577 review the application within 15 business days after receipt.  
 578 Upon the ~~department's its~~ determination, in consultation with  
 579 the Division of Film and Entertainment of Enterprise Florida,  
 580 Inc., that the application contains all the information required

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581 by this subsection and meets the criteria set out in this  
 582 section, the ~~department Office of Film and Entertainment shall~~  
 583 ~~deny qualify the applicant and recommend to the department that~~  
 584 ~~the applicant be certified for the maximum tax credit award~~  
 585 ~~amount. Within 5 business days after receipt of the~~  
 586 ~~recommendation, the department shall reject the application~~  
 587 ~~recommendation~~ or certify the maximum ~~recommended~~ tax credit  
 588 award, if any funds are available, to the applicant and to the  
 589 executive director of the Department of Revenue.

590 2. In a fiscal year, the department may certify only the  
 591 amount of tax credits allocated for that fiscal year, as  
 592 provided under subsection (5). However, the department may  
 593 certify a high-impact television series for additional tax  
 594 credits allocated in a future fiscal year if the high-impact  
 595 television series has an executed contract or order for season  
 596 renewal effective for the future fiscal year from which tax  
 597 credits would be allocated. The department may certify one  
 598 additional ordered season per future fiscal year in which the  
 599 qualified production would occur.

600 (e) Employment.—Upon certification by the department, the  
 601 production must provide the department and the Division of Film  
 602 and Entertainment of Enterprise Florida, Inc., with a single  
 603 point of contact and information related to the production's  
 604 needs for cast, crew, contractors, and vendors. The division  
 605 shall publish this information online, including the type of  
 606 production, the projected start date of the production, the  
 607 locations in this state for such production, and the e-mail or  
 608 other contact information for the production's point of contact.  
 609 The department, in consultation with the division, may adopt

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610 procedures for a production to post such information itself  
 611 within 7 days after certification.

612 ~~(f)(e) Grounds for denial.~~

613 1. The department Office of Film and Entertainment shall  
 614 deny an application if it determines that the application is not  
 615 complete, ~~or~~ the production or application does not meet the  
 616 requirements of this section, or there are no additional credits  
 617 for certification as provided under paragraph (c). ~~Within 90~~  
 618 days after submitting a program application, except with respect  
 619 to applications in the independent and emerging media queue, a  
 620 production must provide proof of project financing to the Office  
 621 of Film and Entertainment, otherwise the project is deemed  
 622 denied and withdrawn. A project that has been ~~denied~~ ~~withdrawn~~  
 623 may submit a new application upon providing the Office of Film  
 624 and Entertainment proof of financing.

625 2. The department shall deny a certified production upon  
 626 any circumstance affecting the reasonable schedule or timely  
 627 completion of the certified production, including a break in  
 628 production, change in the production schedule, or loss of  
 629 financing for the production. A certified production must notify  
 630 the department within 5 days after any circumstance affecting  
 631 its timely completion. A certified production may not be denied  
 632 if it provides the department with proof of replacement  
 633 financing within 10 days after the loss of financing for the  
 634 production. To keep a reasonable schedule, the certified  
 635 production must begin principal photography or the production  
 636 project in this state no more than 45 calendar days before or  
 637 after the principal photography or project start date provided  
 638 in the production's program application.

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639 ~~(g)~~ (g) Verification of actual qualified expenditures.-  
 640 1. The department, in consultation with the Division of  
 641 Film and Entertainment, ~~Office of Film and Entertainment~~ shall  
 642 develop a process to verify the actual qualified expenditures of  
 643 a certified production. The process must require:  
 644 a. A certified production to submit, within 180 days ~~in a~~  
 645 ~~timely manner~~ after production ends in this state and after  
 646 making all of its qualified expenditures in this state, data  
 647 substantiating each qualified expenditure, including  
 648 documentation on the net expenditure on equipment and other  
 649 tangible personal property by the qualified production, to an  
 650 independent certified public accountant licensed in this state;  
 651 b. Such accountant to conduct a compliance audit, at the  
 652 certified production's expense, to substantiate each qualified  
 653 expenditure and submit the results as a report, along with the  
 654 required substantiating data, to the department Office of Film  
 655 ~~and Entertainment~~; and  
 656 c. The department Office of Film and Entertainment to  
 657 review the accountant's submittal and verify report to the  
 658 ~~department~~ the final verified amount of actual qualified  
 659 expenditures made by the certified production.  
 660 2. The department shall determine and approve the final tax  
 661 credit award amount to each certified applicant based on the  
 662 final verified amount of actual qualified expenditures and shall  
 663 notify the executive director of the Department of Revenue in  
 664 writing that the certified production has met the requirements  
 665 of the incentive program and of the final amount of the tax  
 666 credit award. The final tax credit award amount may not exceed  
 667 the maximum tax credit award amount certified under paragraph

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668 (d).  
 669 ~~(h)~~ (g) Promoting Florida.-The department Office of Film and  
 670 ~~Entertainment~~ shall ensure that, as a condition of receiving a  
 671 tax credit under this section, marketing materials promoting  
 672 this state as a tourist destination or film and entertainment  
 673 production destination are included, when appropriate, at no  
 674 cost to the state, which must, at a minimum, include placement  
 675 of a "Filmed in Florida" or "Produced in Florida" logo in the  
 676 opening titles and end credits. The placement of a "Filmed in  
 677 Florida" or "Produced in Florida" logo on all packaging material  
 678 and hard media is also required, unless such placement is  
 679 prohibited by licensing or other contractual obligations. The  
 680 size and placement of such logo shall be commensurate to other  
 681 logos used. If no logos are used, the statement "Filmed in  
 682 Florida using Florida's Entertainment Industry Financial  
 683 Incentive," or a similar statement approved by the Division  
 684 Office of Film and Entertainment of Enterprise Florida, Inc.,  
 685 shall be used. The Division Office of Film and Entertainment of  
 686 Enterprise Florida, Inc., shall provide a logo and supply it for  
 687 the purposes specified in this paragraph. A 30-second "Visit  
 688 Florida" promotional video must also be included on all optical  
 689 disc formats of a film, unless such placement is prohibited by  
 690 licensing or other contractual obligations. The 30-second  
 691 promotional video shall be approved and provided by the Florida  
 692 Tourism Industry Marketing Corporation in consultation with the  
 693 Division Commissioner of Film and Entertainment of Enterprise  
 694 Florida, Inc.  
 695 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;  
 696 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;

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697 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND  
698 ACQUISITIONS.—

699 (a) *Priority for tax credit award.*—The priority of a  
700 qualified production for tax credit awards must be determined on  
701 a first-come, first-served basis within its appropriate queue.  
702 Each qualified production must be placed into the appropriate  
703 queue and is subject to the requirements of that queue.

704 (b) *Tax credit eligibility.*—

705 1. General production queue.—Ninety-four percent of tax  
706 credits authorized pursuant to subsection (5) ~~(6)~~ in any state  
707 fiscal year must be dedicated to the general production queue.  
708 The general production queue consists of all qualified  
709 productions other than those eligible for the commercial and  
710 music video queue or the independent and emerging media  
711 production queue. A qualified production that demonstrates a  
712 minimum of \$625,000 in qualified expenditures is eligible for  
713 tax credits equal to 20 percent of its actual qualified  
714 expenditures, up to a maximum of \$10 million ~~\$8 million~~. A  
715 qualified production that incurs qualified expenditures during  
716 multiple state fiscal years may combine those expenditures to  
717 satisfy the \$625,000 minimum threshold.

718 a. For the first 10 months of each fiscal year, 20 percent  
719 of the credits in the general production queue shall be set  
720 aside for qualified productions in underutilized counties. A  
721 qualified production eligible for these funds is a production  
722 for which at least 70 percent of its principal photography days  
723 occur within an underutilized county designated as an  
724 underutilized county at the time that the production is  
725 certified. The term “underutilized county” means a county in

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726 which less than \$500,000 in qualified expenditures were made in  
727 the last 2 fiscal years. Any funds not yet certified from this  
728 set-aside at the end of the 10-month period may be certified to  
729 qualified productions pursuant to this section ~~An off-season~~  
730 ~~certified production that is a feature film, independent film,~~  
731 ~~or television series or pilot is eligible for an additional 5~~  
732 ~~percent tax credit on actual qualified expenditures. An off-~~  
733 ~~season certified production that does not complete 75 percent of~~  
734 ~~principal photography due to a disruption caused by a hurricane~~  
735 ~~or tropical storm may not be disqualified from eligibility for~~  
736 ~~the additional 5 percent credit as a result of the disruption.~~

737 b. ~~If more than 45 percent of the sum of total tax credits~~  
738 ~~initially certified and awarded after April 1, 2012, total tax~~  
739 ~~credits initially certified after April 1, 2012, but not yet~~  
740 ~~awarded, and total tax credits available for certification after~~  
741 ~~April 1, 2012, but not yet certified has been awarded for high-~~  
742 ~~impact television series, then no high-impact television series~~  
743 ~~is eligible for tax credits under this subparagraph. Tax credits~~  
744 ~~initially certified for a high-impact television series after~~  
745 ~~April 1, 2012, may not be awarded if the award will cause the~~  
746 ~~percentage threshold in this sub-subparagraph to be exceeded.~~  
747 ~~This sub-subparagraph does not prohibit the award of tax credits~~  
748 ~~certified before April 1, 2012, for high-impact television~~  
749 ~~series.~~

750 ~~b.e.~~ Subject to sub-subparagraph b., First priority in the  
751 queue for tax credit awards not yet certified shall be given to  
752 high-impact television series and high-impact digital media  
753 projects. For the purposes of determining priority between a  
754 high-impact television series and a high-impact digital media

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757 project, the first position must go to the first application  
 758 received. Thereafter, priority shall be determined by  
 759 ~~alternating between a high-impact television series and a high-~~  
 760 ~~impact digital media project on a first-come, first-served~~  
 761 ~~basis. However, if the Office of Film and Entertainment receives~~  
 762 ~~an application for a high-impact television series or high-~~  
 763 ~~impact digital media project that would be certified but for the~~  
 764 ~~alternating priority, the office may certify the project as~~  
 765 ~~being in the priority position if an application that would~~  
 766 ~~normally be the priority position is not received within 5~~  
 767 ~~business days.~~

768 d. A qualified production for which at least 67 percent of  
 769 its principal photography days occur within a region designated  
 770 as an underutilized region at the time that the production is  
 771 certified is eligible for an additional 5 percent tax credit.

772 ~~c.e.~~ A qualified production is eligible for an additional  
 773 15 percent tax credit on qualified expenditures that are wages,  
 774 salaries, or other compensation paid to the following  
 775 individuals employed by the qualified production: ~~that employe~~  
 776 students enrolled full-time in a film and entertainment-related  
 777 or digital media-related course of study at an institution of  
 778 higher education in this state, individuals participating in the  
 779 Road-to-Independence Program under s. 409.1451, individuals with  
 780 developmental disabilities as defined under s. 393.063 residing  
 781 in this state, veterans residing in this state, and individuals  
 782 ~~is eligible for an additional 15 percent tax credit on qualified~~  
 783 ~~expenditures that are wages, salaries, or other compensation~~  
 784 ~~paid to such students. The additional 15 percent tax credit is~~  
 785 ~~also applicable to persons hired within 12 months after~~

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784 graduating from a film and entertainment-related or digital  
 785 media-related course of study at an institution of higher  
 786 education in this state. ~~The additional 15 percent tax credit~~  
 787 ~~applies to qualified expenditures that are wages, salaries, or~~  
 788 ~~other compensation paid to such recent graduates for 1 year~~  
 789 ~~after the date of hiring.~~

790 ~~f. A qualified production for which 50 percent or more of~~  
 791 ~~its principal photography occurs at a qualified production~~  
 792 ~~facility, or a qualified digital media project or the digital~~  
 793 ~~animation component of a qualified production for which 50~~  
 794 ~~percent or more of the project's or component's qualified~~  
 795 ~~expenditures are related to a qualified digital media production~~  
 796 ~~facility, is eligible for an additional 5 percent tax credit on~~  
 797 ~~actual qualified expenditures for production activity at that~~  
 798 ~~facility.~~

799 d. A qualified production that completes a capital  
 800 investment of at least \$2 million before the completion of the  
 801 qualified production is eligible for an additional 5 percent tax  
 802 credit. The capital investment must be permanent and must remain  
 803 in this state after the production ends in this state.

804 ~~e.g.~~ A qualified production is not eligible for tax credits  
 805 provided under this paragraph totaling more than 25 percent ~~30~~  
 806 ~~percent~~ of its actual qualified expenses.

807 2. Commercial and music video queue.—Three percent of tax  
 808 credits authorized pursuant to subsection (5) ~~(6)~~ in any state  
 809 fiscal year must be dedicated to the commercial and music video  
 810 queue. A qualified production company that produces national or  
 811 regional commercials or music videos may be eligible for a tax  
 812 credit award if it demonstrates a minimum of \$100,000 in

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813 qualified expenditures per national or regional commercial or  
 814 music video and exceeds a combined threshold of \$500,000 after  
 815 combining actual qualified expenditures from qualified  
 816 commercials and music videos during a single state fiscal year.  
 817 After a qualified production company that produces commercials,  
 818 music videos, or both reaches the threshold of \$500,000, it is  
 819 eligible to apply for certification for a tax credit award. The  
 820 maximum credit award shall be equal to 20 percent of its actual  
 821 qualified expenditures up to a maximum of \$500,000. If there is  
 822 a surplus at the end of a fiscal year after the department  
 823 ~~Office of Film and Entertainment~~ certifies and determines the  
 824 tax credits for all qualified commercial and video projects,  
 825 such surplus tax credits shall be carried forward to the  
 826 following fiscal year and are available to any eligible  
 827 qualified productions under the general production queue.

828 3. Independent and emerging media production queue.—Three  
 829 percent of tax credits authorized pursuant to subsection (5) ~~(6)~~  
 830 in any state fiscal year must be dedicated to the independent  
 831 and emerging media production queue. This queue is intended to  
 832 encourage independent film and emerging media production in this  
 833 state. Any qualified production, excluding commercials,  
 834 infomercials, or music videos, which demonstrates at least  
 835 \$100,000, but not more than \$625,000, in total qualified  
 836 expenditures is eligible for tax credits equal to 20 percent of  
 837 its actual qualified expenditures. If a surplus exists at the  
 838 end of a fiscal year after the department ~~Office of Film and~~  
 839 ~~Entertainment~~ certifies and determines the tax credits for all  
 840 qualified independent and emerging media production projects,  
 841 such surplus tax credits shall be carried forward to the

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842 following fiscal year and are available to any eligible  
 843 qualified productions under the general production queue.

844 ~~4. Family-friendly productions. A certified theatrical or~~  
 845 ~~direct-to-video motion picture production or video game~~  
 846 ~~determined by the Commissioner of Film and Entertainment, with~~  
 847 ~~the advice of the Florida Film and Entertainment Advisory~~  
 848 ~~Council, to be family-friendly, based on review of the script~~  
 849 ~~and review of the final release version, is eligible for an~~  
 850 ~~additional tax credit equal to 5 percent of its actual qualified~~  
 851 ~~expenditures. Family-friendly productions are those that have~~  
 852 ~~cross-generational appeal; would be considered suitable for~~  
 853 ~~viewing by children age 5 or older; are appropriate in theme,~~  
 854 ~~content, and language for a broad family audience; embody a~~  
 855 ~~responsible resolution of issues; and do not exhibit or imply~~  
 856 ~~any act of smoking, sex, nudity, or vulgar or profane language.~~

857 ~~(c) Withdrawal of tax credit eligibility.—A qualified or~~  
 858 ~~certified production must continue on a reasonable schedule,~~  
 859 ~~which includes beginning principal photography or the production~~  
 860 ~~project in this state no more than 45 calendar days before or~~  
 861 ~~after the principal photography or project start date provided~~  
 862 ~~in the production's program application. The department shall~~  
 863 ~~withdraw the eligibility of a qualified or certified production~~  
 864 ~~that does not continue on a reasonable schedule.~~

865 (c)(d) Election and distribution of tax credits.—

866 1. A certified production company receiving a tax credit  
 867 award under this section shall, at the time the credit is  
 868 awarded by the department after production is completed and all  
 869 requirements to receive a credit award have been met, make an  
 870 irrevocable election to apply the credit against taxes due under

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871 chapter 220, against state taxes collected or accrued under  
872 chapter 212, or against a stated combination of the two taxes.  
873 The election is binding upon any distributee, successor, or  
874 transferee, ~~or purchaser~~. The department shall notify the  
875 Department of Revenue of any election made pursuant to this  
876 paragraph.

877 2. A qualified production company is eligible for tax  
878 credits against its sales and use tax liabilities and corporate  
879 income tax liabilities as provided in this section. However, tax  
880 credits awarded under this section may not be claimed against  
881 sales and use tax liabilities or corporate income tax  
882 liabilities for any tax period beginning before July 1, 2011,  
883 regardless of when the credits are applied for or awarded.

884 (d)(e) Tax credit carryforward.—If the certified production  
885 company cannot use the entire tax credit in the taxable year or  
886 reporting period in which the credit is awarded, any excess  
887 amount may be carried forward to a succeeding taxable year or  
888 reporting period. A tax credit applied against taxes imposed  
889 under chapter 212 or may be carried forward for a maximum of 5  
890 years after the date the credit is awarded. A tax credit applied  
891 against taxes imposed under chapter 220 may be carried forward  
892 for a maximum of 5 years after the date the credit is awarded,  
893 after which the credit expires and may not be used.

894 (e)(f) Consolidated returns.—A certified production company  
895 that files a Florida consolidated return as a member of an  
896 affiliated group under s. 220.131(1) may be allowed the credit  
897 on a consolidated return basis up to the amount of the tax  
898 imposed upon the consolidated group under chapter 220.

899 (f)(g) Partnership and noncorporate distributions.—A

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900 qualified production company that is not a corporation as  
901 defined in s. 220.03 may elect to distribute tax credits awarded  
902 under this section to its partners or members in proportion to  
903 their respective distributive income or loss in the taxable year  
904 in which the tax credits were awarded.

905 (g)(h) Mergers or acquisitions.—Tax credits available under  
906 this section to a certified production company may succeed to a  
907 surviving or acquiring entity subject to the same conditions and  
908 limitations as described in this section; however, they may not  
909 be transferred again by the surviving or acquiring entity.

910 ~~(5) TRANSFER OF TAX CREDITS.~~—

911 ~~(a) Authorization.~~ Upon application to the Office of Film  
912 and Entertainment and approval by the department, a certified  
913 production company, or a partner or member that has received a  
914 distribution under paragraph (4) (g), may elect to transfer, in  
915 whole or in part, any unused credit amount granted under this  
916 section. An election to transfer any unused tax credit amount  
917 under chapter 212 or chapter 220 must be made no later than 5  
918 years after the date the credit is awarded, after which period  
919 the credit expires and may not be used. The department shall  
920 notify the Department of Revenue of the election and transfer.

921 ~~(b) Number of transfers permitted.~~ A certified production  
922 company that elects to apply a credit amount against taxes  
923 remitted under chapter 212 is permitted a one-time transfer of  
924 unused credits to one transferee. A certified production company  
925 that elects to apply a credit amount against taxes due under  
926 chapter 220 is permitted a one-time transfer of unused credits  
927 to no more than four transferees, and such transfers must occur  
928 in the same taxable year.

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929 ~~(e) Transferee rights and limitations. The transferee is~~  
 930 ~~subject to the same rights and limitations as the certified~~  
 931 ~~production company awarded the tax credit, except that the~~  
 932 ~~initial transferee shall be permitted a one-time transfer of~~  
 933 ~~unused credits to no more than two subsequent transferees, and~~  
 934 ~~such transfers must occur in the same taxable year as the~~  
 935 ~~credits were received by the initial transferee, after which the~~  
 936 ~~subsequent transferees may not sell or otherwise transfer the~~  
 937 ~~tax credit.~~

938 ~~(6) RELINQUISHMENT OF TAX CREDITS.—~~

939 ~~(a) Beginning July 1, 2011, a certified production company,~~  
 940 ~~or any person who has acquired a tax credit from a certified~~  
 941 ~~production company pursuant to subsections (4) and (5), may~~  
 942 ~~elect to relinquish the tax credit to the Department of Revenue~~  
 943 ~~in exchange for 90 percent of the amount of the relinquished tax~~  
 944 ~~credit.~~

945 ~~(b) The Department of Revenue may approve payments to~~  
 946 ~~persons relinquishing tax credits pursuant to this subsection.~~

947 ~~(c) Subject to legislative appropriation, the Department of~~  
 948 ~~Revenue shall request the Chief Financial Officer to issue~~  
 949 ~~warrants to persons relinquishing tax credits. Payments under~~  
 950 ~~this subsection shall be made from the funds from which the~~  
 951 ~~proceeds from the taxes against which the tax credits could have~~  
 952 ~~been applied pursuant to the irrevocable election made by the~~  
 953 ~~certified production company under subsection (4) are deposited.~~

954 ~~(5)(7) ANNUAL ALLOCATION OF TAX CREDITS.—~~

955 (a) The aggregate amount of the tax credits that may be  
 956 certified pursuant to paragraph (3) (d) may not exceed:

957 1. For fiscal year 2010-2011, \$53.5 million.

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958 2. For fiscal year 2011-2012, \$74.5 million.

959 3. For fiscal years 2012-2013, 2013-2014, 2014-2015, and  
 960 2015-2016, \$42 million per fiscal year.

961 4. Beginning July 1, 2014, for fiscal years 2014-2015 and  
 962 2015-2016, an additional \$50 million.

963 5. Beginning July 1, 2016, for fiscal years 2016-2017,  
 964 2017-2018, 2018-2019, and 2019-2020, \$50 million.

965 (b) Any portion of the maximum amount of tax credits  
 966 established per fiscal year in paragraph (a) that is not  
 967 certified as of the end of a fiscal year shall be carried  
 968 forward and made available for certification during the  
 969 following 2 fiscal years in addition to the amounts available  
 970 for certification under paragraph (a) for those fiscal years.

971 (c) Upon approval of the final tax credit award amount  
 972 pursuant to subparagraph (3) (g) 2. ~~(3) (f) 2.~~, an amount equal to  
 973 the difference between the maximum tax credit award amount  
 974 previously certified under paragraph (3) (d) and the approved  
 975 final tax credit award amount shall immediately be available for  
 976 recertification during the current and following fiscal years in  
 977 addition to the amounts available for certification under  
 978 paragraph (a) for those fiscal years.

979 (d) Amounts available on and after July 1, 2014, for  
 980 certification may not be certified before the fiscal year in  
 981 which the amounts are listed in paragraph (a), except as  
 982 provided in subparagraph (3) (d) 2. ~~If, during a fiscal year, the~~  
 983 ~~total amount of credits applied for, pursuant to paragraph~~  
 984 ~~(3) (a), exceeds the amount of credits available for~~  
 985 ~~certification in that fiscal year, such excess shall be treated~~  
 986 ~~as having been applied for on the first day of the next fiscal~~

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987 ~~year in which credits remain available for certification.~~

988 ~~(6)(8)~~ RULES, POLICIES, AND PROCEDURES.—

989 (a) The department may adopt rules pursuant to ss.

990 120.536(1) and 120.54 and develop policies and procedures to  
 991 implement and administer this section, including, but not  
 992 limited to, rules specifying requirements for the application  
 993 and approval process, records required for substantiation for  
 994 tax credits, procedures for making the election in paragraph  
 995 (4)(c) ~~(4)(d)~~, the manner and form of documentation required to  
 996 claim tax credits awarded or transferred under this section, and  
 997 marketing requirements for tax credit recipients.

998 (b) The Department of Revenue may adopt rules pursuant to  
 999 ss. 120.536(1) and 120.54 to administer this section, including  
 1000 rules governing the examination and audit procedures required to  
 1001 administer this section and the manner and form of documentation  
 1002 required to claim tax credits awarded or transferred, ~~or~~  
 1003 ~~relinquished~~ under this section.

1004 ~~(7)(9)~~ AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX  
 1005 CREDITS; FRAUDULENT CLAIMS.—

1006 (a) *Audit authority.*—The Department of Revenue may conduct  
 1007 examinations and audits as provided in s. 213.34 to verify that  
 1008 tax credits under this section are received, transferred, and  
 1009 applied according to the requirements of this section. If the  
 1010 Department of Revenue determines that tax credits are not  
 1011 received, transferred, or applied as required by this section,  
 1012 it may, in addition to the remedies provided in this subsection,  
 1013 pursue recovery of such funds pursuant to the laws and rules  
 1014 governing the assessment of taxes.

1015 (b) *Revocation of tax credits.*—The department may revoke or

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1016 modify any written decision qualifying, certifying, or otherwise  
 1017 granting eligibility for tax credits under this section if it is  
 1018 discovered that the tax credit applicant submitted any false  
 1019 statement, representation, or certification in any application,  
 1020 record, report, plan, or other document filed in an attempt to  
 1021 receive tax credits under this section. The department shall  
 1022 immediately notify the Department of Revenue of any revoked or  
 1023 modified orders affecting previously granted tax credits.  
 1024 Additionally, the applicant must notify the Department of  
 1025 Revenue of any change in its tax credit claimed.

1026 (c) *Forfeiture of tax credits.*—A determination by the  
 1027 Department of Revenue, as a result of an audit pursuant to  
 1028 paragraph (a) or from information received from the department  
 1029 or Division Office of Film and Entertainment of Enterprise  
 1030 Florida, Inc., that an applicant received tax credits pursuant  
 1031 to this section to which the applicant was not entitled is  
 1032 grounds for forfeiture of previously claimed and received tax  
 1033 credits. The applicant is responsible for returning forfeited  
 1034 tax credits to the Department of Revenue, and such funds shall  
 1035 be paid into the General Revenue Fund of the state. ~~Tax credits~~  
 1036 ~~purchased in good faith are not subject to forfeiture unless the~~  
 1037 ~~transferee submitted fraudulent information in the purchase or~~  
 1038 ~~failed to meet the requirements in subsection (5).~~

1039 (d) *Fraudulent claims.*—Any applicant that submits  
 1040 fraudulent information under this section is liable for  
 1041 reimbursement of the reasonable costs and fees associated with  
 1042 the review, processing, investigation, and prosecution of the  
 1043 fraudulent claim. An applicant that obtains a credit payment  
 1044 under this section through a claim that is fraudulent is liable

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1045 for reimbursement of the credit amount plus a penalty in an  
 1046 amount double the credit amount. The penalty is in addition to  
 1047 any criminal penalty to which the applicant is liable for the  
 1048 same acts. The applicant is also liable for costs and fees  
 1049 incurred by the state in investigating and prosecuting the  
 1050 fraudulent claim.

1051 ~~(8)(10)~~ ANNUAL REPORT.—Each November 1, the department  
 1052 ~~Office of Film and Entertainment~~ shall submit an annual report  
 1053 for the previous fiscal year to the Governor, the President of  
 1054 the Senate, and the Speaker of the House of Representatives  
 1055 which outlines the incentive program's return on investment and  
 1056 economic benefits to the state. The report must also include an  
 1057 estimate of the full-time equivalent positions created by each  
 1058 production that received tax credits under this section and  
 1059 information relating to the distribution of productions  
 1060 receiving credits by geographic region and type of production.  
 1061 The report must also include the expenditures report required  
 1062 under s. 288.9241 ~~s. 288.1253(3)~~ and the information describing  
 1063 the relationship between tax exemptions and incentives to  
 1064 industry growth required under s. 288.1258(5). The department  
 1065 may work with the Division of Film and Entertainment of  
 1066 Enterprise Florida, Inc., to develop the annual report.

1067 ~~(9)(11)~~ REPEAL.—This section is repealed July 1, 2020 ~~July~~  
 1068 ~~1, 2016~~, except that:

1069 (a) Tax credits certified under paragraph (3)(d) before  
 1070 July 1, 2020 ~~July 1, 2016~~, may be awarded under paragraph (3)(g)  
 1071 ~~(3)(f)~~ on or after July 1, 2020 ~~July 1, 2016~~, if the other  
 1072 requirements of this section are met.

1073 (b) Tax credits carried forward under paragraph (4)(d)

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1074 ~~(4)(e)~~ remain valid for the period specified.

1075 (c) Subsections (6) and (7) ~~(5), (8) and (9)~~ shall remain  
 1076 in effect until July 1, 2025 ~~July 1, 2021~~.

1077 Section 6. Beginning July 1, 2014, applications on file  
 1078 with the Department of Economic Opportunity to receive a tax  
 1079 credit through the entertainment industry financial incentive  
 1080 program under s. 288.1254, Florida Statutes, which are not yet  
 1081 certified are deemed denied.

1082 Section 7. Section 288.1258, Florida Statutes, is amended  
 1083 to read:

1084 288.1258 Entertainment industry qualified production  
 1085 companies; application procedure; categories; duties of the  
 1086 Department of Revenue; records and reports.—

1087 (1) PRODUCTION COMPANIES AUTHORIZED TO APPLY.—

1088 (a) Any production company engaged in this state in the  
 1089 production of motion pictures, made-for-TV motion pictures,  
 1090 television series, commercial advertising, music videos, or  
 1091 sound recordings may submit an application to the Department of  
 1092 Revenue to be approved by the department ~~Office of Film and~~  
 1093 ~~Entertainment~~ as a qualified production company for the purpose  
 1094 of receiving a sales and use tax certificate of exemption from  
 1095 the Department of Revenue.

1096 (b) As used in ~~For the purposes of~~ this section, the term  
 1097 "qualified production company" means any production company that  
 1098 has submitted a properly completed application to the Department  
 1099 of Revenue and that is subsequently qualified by the department  
 1100 ~~Office of Film and Entertainment~~.

1101 (2) APPLICATION PROCEDURE.—

1102 (a) The Department of Revenue will review all submitted

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1103 applications for the required information. Within 10 working  
 1104 days after the receipt of a properly completed application, the  
 1105 Department of Revenue will forward the completed application to  
 1106 the ~~department Office of Film and Entertainment~~ for approval.

1107 (b)1. The ~~department Office of Film and Entertainment~~ shall  
 1108 establish a process by which an entertainment industry  
 1109 production company may be approved by the ~~department office~~ as a  
 1110 qualified production company and may receive a certificate of  
 1111 exemption from the Department of Revenue for the sales and use  
 1112 tax exemptions under ss. 212.031, 212.06, and 212.08.

1113 2. Upon determination by the ~~department Office of Film and~~  
 1114 ~~Entertainment~~ that a production company meets the established  
 1115 approval criteria and qualifies for exemption, the ~~department~~  
 1116 ~~Office of Film and Entertainment~~ shall return the approved  
 1117 application or application renewal or extension to the  
 1118 Department of Revenue, which shall issue a certificate of  
 1119 exemption.

1120 3. The ~~department Office of Film and Entertainment~~ shall  
 1121 deny an application or application for renewal or extension from  
 1122 a production company if it determines that the production  
 1123 company does not meet the established approval criteria.

1124 (c) The ~~department Office of Film and Entertainment~~ shall  
 1125 develop, with the cooperation of the Department of Revenue, the  
 1126 Division of Film and Entertainment of Enterprise Florida, Inc.,  
 1127 and local government entertainment industry promotion agencies,  
 1128 a standardized application form for use in approving qualified  
 1129 production companies.

1130 1. The application form shall include, but not be limited  
 1131 to, production-related information on employment, proposed

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1132 budgets, planned purchases of items exempted from sales and use  
 1133 taxes under ss. 212.031, 212.06, and 212.08, a signed  
 1134 affirmation from the applicant that any items purchased for  
 1135 which the applicant is seeking a tax exemption are intended for  
 1136 use exclusively as an integral part of entertainment industry  
 1137 preproduction, production, or postproduction activities engaged  
 1138 in primarily in this state, and a signed affirmation from the  
 1139 ~~department Office of Film and Entertainment~~ that the information  
 1140 on the application form has been verified and is correct. In  
 1141 lieu of information on projected employment, proposed budgets,  
 1142 or planned purchases of exempted items, a production company  
 1143 seeking a 1-year certificate of exemption may submit summary  
 1144 historical data on employment, production budgets, and purchases  
 1145 of exempted items related to production activities in this  
 1146 state. Any information gathered from production companies for  
 1147 the purposes of this section shall be considered confidential  
 1148 taxpayer information and shall be disclosed only as provided in  
 1149 s. 213.053.

1150 2. The application form may be distributed to applicants by  
 1151 the ~~department, the Division Office~~ of Film and Entertainment of  
 1152 Enterprise Florida, Inc., or local film commissions.

1153 (d) All applications, renewals, and extensions for  
 1154 designation as a qualified production company shall be processed  
 1155 by the ~~department Office of Film and Entertainment~~.

1156 (e) ~~If in the event that~~ the Department of Revenue  
 1157 determines that a production company no longer qualifies for a  
 1158 certificate of exemption, or has used a certificate of exemption  
 1159 for purposes other than those authorized by this section and  
 1160 chapter 212, the Department of Revenue shall revoke the

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1161 certificate of exemption of that production company, and any  
 1162 sales or use taxes exempted on items purchased or leased by the  
 1163 production company during the time such company did not qualify  
 1164 for a certificate of exemption or improperly used a certificate  
 1165 of exemption shall become immediately due to the Department of  
 1166 Revenue, along with interest and penalty as provided by s.  
 1167 212.12. In addition to the other penalties imposed by law, any  
 1168 person who knowingly and willfully falsifies an application, or  
 1169 uses a certificate of exemption for purposes other than those  
 1170 authorized by this section and chapter 212, commits a felony of  
 1171 the third degree, punishable as provided in ss. 775.082,  
 1172 775.083, and 775.084.

## (3) CATEGORIES.—

1174 (a)1. A production company may be qualified for designation  
 1175 as a qualified production company for a period of 1 year if the  
 1176 company has operated a business in Florida at a permanent  
 1177 address for a period of 12 consecutive months. Such a qualified  
 1178 production company shall receive a single 1-year certificate of  
 1179 exemption from the Department of Revenue for the sales and use  
 1180 tax exemptions under ss. 212.031, 212.06, and 212.08, which  
 1181 certificate shall expire 1 year after issuance or upon the  
 1182 cessation of business operations in the state, at which time the  
 1183 certificate shall be surrendered to the Department of Revenue.

1184 2. The department Office of Film and Entertainment shall  
 1185 develop a method by which a qualified production company may  
 1186 annually renew a 1-year certificate of exemption for a period of  
 1187 up to 5 years without requiring the production company to  
 1188 resubmit a new application during that 5-year period.

1189 3. Any qualified production company may submit a new

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1190 application for a 1-year certificate of exemption upon the  
 1191 expiration of that company's certificate of exemption.

1192 (b)1. A production company may be qualified for designation  
 1193 as a qualified production company for a period of 90 days. Such  
 1194 production company shall receive a single 90-day certificate of  
 1195 exemption from the Department of Revenue for the sales and use  
 1196 tax exemptions under ss. 212.031, 212.06, and 212.08, which  
 1197 certificate shall expire 90 days after issuance, with extensions  
 1198 contingent upon approval of the department Office of Film and  
 1199 ~~Entertainment~~. The certificate shall be surrendered to the  
 1200 Department of Revenue upon its expiration.

1201 2. Any production company may submit a new application for  
 1202 a 90-day certificate of exemption upon the expiration of that  
 1203 company's certificate of exemption.

## (4) DUTIES OF THE DEPARTMENT OF REVENUE.—

1205 (a) The Department of Revenue shall review the initial  
 1206 application and notify the applicant of any omissions and  
 1207 request additional information if needed. An application shall  
 1208 be complete upon receipt of all requested information. The  
 1209 Department of Revenue shall forward all complete applications to  
 1210 the department Office of Film and Entertainment within 10  
 1211 working days.

1212 (b) The Department of Revenue shall issue a numbered  
 1213 certificate of exemption to a qualified production company  
 1214 within 5 working days of the receipt of an approved application,  
 1215 application renewal, or application extension from the  
 1216 department Office of Film and Entertainment.

1217 (c) The Department of Revenue may adopt promulgate such  
 1218 rules and shall prescribe and publish such forms as may be

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1219 necessary to effectuate the purposes of this section or any of  
1220 the sales tax exemptions which are reasonably related to the  
1221 provisions of this section.

1222 (d) The Department of Revenue ~~may is authorized to~~  
1223 establish audit procedures in accordance with the provisions of  
1224 ss. 212.12, 212.13, and 213.34 which relate to the sales tax  
1225 exemption provisions of this section.

1226 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO  
1227 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The department  
1228 ~~Office of Film and Entertainment~~ shall keep annual records from  
1229 the information provided on taxpayer applications for tax  
1230 exemption certificates ~~beginning January 1, 2001~~. These records  
1231 also must reflect a ratio of the annual amount of sales and use  
1232 tax exemptions under this section, plus the incentives awarded  
1233 pursuant to s. 288.1254 to the estimated amount of funds  
1234 expended by certified productions. In addition, the department  
1235 ~~office~~ shall maintain data showing annual growth in Florida-  
1236 based entertainment industry companies and entertainment  
1237 industry employment and wages. The employment information must  
1238 include an estimate of the full-time equivalent positions  
1239 created by each production that received tax credits pursuant to  
1240 s. 288.1254. The department Office of Film and Entertainment  
1241 shall include this information in the annual report for the  
1242 entertainment industry financial incentive program required  
1243 under s. 288.1254(8) ~~s. 288.1254(10)~~.

1244 Section 8. Subsection (1) of section 288.92, Florida  
1245 Statutes, is amended to read:

1246 288.92 Divisions of Enterprise Florida, Inc.—

1247 (1) Enterprise Florida, Inc., may create and dissolve

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1248 divisions as necessary to carry out its mission. Each division  
1249 shall have distinct responsibilities and complementary missions.  
1250 At a minimum, Enterprise Florida, Inc., shall have divisions  
1251 related to the following areas:

- 1252 (a) International Trade and Business Development;
- 1253 (b) Business Retention and Recruitment;
- 1254 (c) Tourism Marketing;
- 1255 (d) Minority Business Development; ~~and~~
- 1256 (e) Sports Industry Development; and
- 1257 (f) Film and Entertainment.

1258 Section 9. Paragraph (q) of subsection (5) of section  
1259 212.08, Florida Statutes, is amended to read:

1260 212.08 Sales, rental, use, consumption, distribution, and  
1261 storage tax; specified exemptions.—The sale at retail, the  
1262 rental, the use, the consumption, the distribution, and the  
1263 storage to be used or consumed in this state of the following  
1264 are hereby specifically exempt from the tax imposed by this  
1265 chapter.

1266 (5) EXEMPTIONS; ACCOUNT OF USE.—

1267 (q) *Entertainment industry tax credit; authorization;*  
1268 *eligibility for credits*.—The credits against the state sales tax  
1269 authorized pursuant to s. 288.1254 shall be deducted from any  
1270 sales and use tax remitted by the dealer to the department by  
1271 electronic funds transfer and may only be deducted on a sales  
1272 and use tax return initiated through electronic data  
1273 interchange. The dealer shall separately state the credit on the  
1274 electronic return. The net amount of tax due and payable must be  
1275 remitted by electronic funds transfer. If the credit for the  
1276 qualified expenditures is larger than the amount owed on the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1277 sales and use tax return that is eligible for the credit, the  
 1278 unused amount of the credit may be carried forward to a  
 1279 succeeding reporting period as provided in s. 288.1254(4) (d) ~~or~~  
 1280 ~~288.1254(4) (e)~~. A dealer may only obtain a credit using the  
 1281 method described in this subparagraph. A dealer is not  
 1282 authorized to obtain a credit by applying for a refund.

1283 Section 10. Paragraph (a) of subsection (1) of section  
 1284 220.13, Florida Statutes, is amended to read:

1285 220.13 "Adjusted federal income" defined.—

1286 (1) The term "adjusted federal income" means an amount  
 1287 equal to the taxpayer's taxable income as defined in subsection  
 1288 (2), or such taxable income of more than one taxpayer as  
 1289 provided in s. 220.131, for the taxable year, adjusted as  
 1290 follows:

1291 (a) *Additions*.—There shall be added to such taxable income:

1292 1. The amount of any tax upon or measured by income,  
 1293 excluding taxes based on gross receipts or revenues, paid or  
 1294 accrued as a liability to the District of Columbia or any state  
 1295 of the United States which is deductible from gross income in  
 1296 the computation of taxable income for the taxable year.

1297 2. The amount of interest which is excluded from taxable  
 1298 income under s. 103(a) of the Internal Revenue Code or any other  
 1299 federal law, less the associated expenses disallowed in the  
 1300 computation of taxable income under s. 265 of the Internal  
 1301 Revenue Code or any other law, excluding 60 percent of any  
 1302 amounts included in alternative minimum taxable income, as  
 1303 defined in s. 55(b) (2) of the Internal Revenue Code, if the  
 1304 taxpayer pays tax under s. 220.11(3).

1305 3. In the case of a regulated investment company or real

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1306 estate investment trust, an amount equal to the excess of the  
 1307 net long-term capital gain for the taxable year over the amount  
 1308 of the capital gain dividends attributable to the taxable year.

1309 4. That portion of the wages or salaries paid or incurred  
 1310 for the taxable year which is equal to the amount of the credit  
 1311 allowable for the taxable year under s. 220.181. This  
 1312 subparagraph shall expire on the date specified in s. 290.016  
 1313 for the expiration of the Florida Enterprise Zone Act.

1314 5. That portion of the ad valorem school taxes paid or  
 1315 incurred for the taxable year which is equal to the amount of  
 1316 the credit allowable for the taxable year under s. 220.182. This  
 1317 subparagraph shall expire on the date specified in s. 290.016  
 1318 for the expiration of the Florida Enterprise Zone Act.

1319 6. The amount taken as a credit under s. 220.195 which is  
 1320 deductible from gross income in the computation of taxable  
 1321 income for the taxable year.

1322 7. That portion of assessments to fund a guaranty  
 1323 association incurred for the taxable year which is equal to the  
 1324 amount of the credit allowable for the taxable year.

1325 8. In the case of a nonprofit corporation which holds a  
 1326 pari-mutuel permit and which is exempt from federal income tax  
 1327 as a farmers' cooperative, an amount equal to the excess of the  
 1328 gross income attributable to the pari-mutuel operations over the  
 1329 attributable expenses for the taxable year.

1330 9. The amount taken as a credit for the taxable year under  
 1331 s. 220.1895.

1332 10. Up to nine percent of the eligible basis of any  
 1333 designated project which is equal to the credit allowable for  
 1334 the taxable year under s. 220.185.

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1335 11. The amount taken as a credit for the taxable year under  
 1336 s. 220.1875. The addition in this subparagraph is intended to  
 1337 ensure that the same amount is not allowed for the tax purposes  
 1338 of this state as both a deduction from income and a credit  
 1339 against the tax. This addition is not intended to result in  
 1340 adding the same expense back to income more than once.

1341 12. The amount taken as a credit for the taxable year under  
 1342 s. 220.192.

1343 13. The amount taken as a credit for the taxable year under  
 1344 s. 220.193.

1345 14. Any portion of a qualified investment, as defined in s.  
 1346 288.9913, which is claimed as a deduction by the taxpayer and  
 1347 taken as a credit against income tax pursuant to s. 288.9916.

1348 ~~15. The costs to acquire a tax credit pursuant to s.  
 1349 288.1254(5) that are deducted from or otherwise reduce federal  
 1350 taxable income for the taxable year.~~

1351 ~~15.16.~~ The amount taken as a credit for the taxable year  
 1352 pursuant to s. 220.194.

1353 ~~16.17.~~ The amount taken as a credit for the taxable year  
 1354 under s. 220.196. The addition in this subparagraph is intended  
 1355 to ensure that the same amount is not allowed for the tax  
 1356 purposes of this state as both a deduction from income and a  
 1357 credit against the tax. The addition is not intended to result  
 1358 in adding the same expense back to income more than once.

1359 Section 11. Subsection (3) of section 220.1899, Florida  
 1360 Statutes, is amended to read:

1361 220.1899 Entertainment industry tax credit.-

1362 (3) To the extent that the amount of a tax credit exceeds  
 1363 the amount due on a return, the balance of the credit may be

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1364 carried forward to a succeeding taxable year pursuant to s.  
 1365 288.1254(4)(d) ~~s. 288.1254(4)(e)~~.

1366 Section 12. Subsection (5) of section 477.0135, Florida  
 1367 Statutes, is amended to read:

1368 477.0135 Exemptions.-

1369 (5) A license is not required of any individual providing  
 1370 makeup, special effects, or cosmetology services to an actor,  
 1371 stunt person, musician, extra, or other talent during a  
 1372 production recognized by the Department of Economic Opportunity  
 1373 ~~the Office of Film and Entertainment~~ as a qualified production  
 1374 as defined in s. 288.1254(1). Such services are not required to  
 1375 be performed in a licensed salon. Individuals exempt under this  
 1376 subsection may not provide such services to the general public.

1377 Section 13. This act shall take effect July 1, 2014.

3/3/14

*[Handwritten signature]*

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic ENTERTAINMENT INDUSTRY

Name DAVIN SUGGS

Job Title SR. LEGISLATIVE ADVOCATE

Address 100 S. MONROE ST.

Street

TALLAHASSEE

City

FL

State

32308

Zip

Bill Number PCB 7056

(if applicable)

Amendment Barcode \_\_\_\_\_  
(if applicable)

Phone 850.320.2635

E-mail DSUGGS@FL-COUNTIES.COM

Speaking:  For  Against  Information

Representing FL. ASSOCIATION OF COUNTIES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

*Meeting Date*

Topic Entertainment Industry

Bill Number SPB 7056  
*(if applicable)*

Name Carolyn Johnson

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Director of Business, Economic Development & Innovation

Address 136 S Bronough St

Phone 521-1235

*Street*

Tallahassee

FL

32301

E-mail cjohnson@flchamber.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/2014

*Meeting Date*

Topic Entertainment Industry

Bill Number SPB 7056  
*(if applicable)*

Name Ryan Padgett

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Assistant General Counsel

Address PO Box 1757

Phone 850-701-3676

*Street*

Tallahassee

FL

*City*

*State*

*Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)



3-3-14

Meeting Date

Topic Tot Credit Entertainment Industry

Bill Number 7056  
(if applicable)

Name DENISE LASTER

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address PO Box 1440

Phone 813 240 4567

Street

Lutz FL 33548

E-mail LASTERINC@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Representing Straz Center for Performing Arts

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

Meeting Date

Topic Entertainment Industry Executives Program

Bill Number SRB 7056  
(if applicable)

Name CHRIS RAWUNG

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Chair - COMPASS

Address 403 Seawack Road  
Street

Phone \_\_\_\_\_

St. Augustine, Florida 32086  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Congress of Motion Picture Associations

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 596

INTRODUCER: Commerce and Tourism Committee and Senator Evers

SUBJECT: Defense Contracting

DATE: March 4, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	Fav/CS
2.			MS	
3.			AFT	
4.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 596 creates the Defense Works in Florida incentive program, which allows a national security-related prime contractor to reduce its taxable income by an amount of 4 percent for each subcontract it awards to a qualifying Florida-based subcontractor. To receive the incentive, the business must submit an application to the Department of Economic Opportunity (DEO) for certification that the subcontract award meets the requirements of the bill. Eligible businesses may claim the incentive for taxable years beginning on or after January 1, 2014.

The bill caps the amount of qualified subcontract awards that may be awarded to each contractor by the DEO each calendar year. The bill also limits the total amount of certifications the DEO may certify for the incentive program each calendar year.

The bill gives the DEO authority to develop forms and procedures to implement the incentive program and provides rule-making authority to the DEO and the Department of Revenue (DOR).

**II. Present Situation:**

**Florida's Defense Industry**

Florida is home to three of ten unified combatant commands and hosts two of only four Navy deep-water ports in the country with adjacent airfields, the military's only space launch facility

on the east coast, the Marine Corps' only maritime prepositioning facility, and one of only three Navy Fleet Readiness Centers. The state also hosts several critical research, development, testing and evaluation centers. In addition, the Joint Gulf Range Complex connects test and training ranges that extend from Key West to Northwest Florida and across the eastern Gulf of Mexico, and encompasses 180,000 square miles of Department of Defense-controlled airspace.<sup>1</sup>

Defense spending in Florida was directly or indirectly responsible for \$73.4 billion, or 9.4 percent, of gross state product in 2011.<sup>2</sup> In 2011, Florida businesses generated \$13.6 billion in U.S. Department of Defense (DoD) contract awards, ranking the state 5th in the nation.<sup>3</sup> Total defense spending also accounts for more than 758,000 jobs around the state.<sup>4</sup>

According to the federal government, 58,888 contracts have been awarded to prime contractors by DoD and National Aeronautics and Space Administration from federal fiscal year 2013 through the current federal fiscal year for work done in the State of Florida. Combined, these contracts have a total value of over \$12 billion. There have been 1,832 subcontracts awarded through those 58,888 contracts, valued at nearly \$1.7 billion.<sup>5</sup>

### **Federal Contracting Overview**

The typical federal procurement process involves an agency identifying the goods and services it needs, determining the most appropriate method for purchasing those items, and carrying out an acquisition process. Under most procurement processes, an agency posts a solicitation on the Federal Business Opportunities website. Interested businesses prepare their offers in response to the solicitation, and agency personnel evaluate the offers. To be eligible to compete for government contracts a business must first obtain a Data Universal Numbering System (DUNS) number, and register with the System for Award Management (SAM). Many agencies provide assistance and services to potential and existing federal contractors.

Businesses may also serve as subcontractors for other businesses (known as “prime contractors”) that have been awarded federal contracts. Most federal agencies typically release information on their websites listing prime contractors that have been awarded federal contracts, which can be a valuable resource for potential subcontractors. Other agencies, including the General Services Administration, Department of Homeland Security, and Small Business Administration provide

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<sup>1</sup> Enterprise Florida, Inc. (EFI), *Florida Defense Factbook*, January 2013, available at <http://www.floridadefense.org/documents/HAAS%20Study%202013/Factbook%202013%20FINAL.pdf> (last visited Feb. 20, 2014).

<sup>2</sup> EFI, *Florida Defense Industry Economic Impact Analysis*, January 2013, available at <http://www.floridadefense.org/documents/HAAS%20Study%202013/Impact2013FinalSubmission3.26.13.pdf> (last visited Feb. 20, 2014).

<sup>3</sup> EFI, *Defense and Homeland Security*, available at [http://www.enterpriseflorida.com/wp-content/uploads/MB\\_Homeland\\_Security1.pdf](http://www.enterpriseflorida.com/wp-content/uploads/MB_Homeland_Security1.pdf) (last visited Feb. 20, 2014).

<sup>4</sup> EFI, *Florida Defense Factbook*. Direct employment includes 61,189 military personnel, 24,705 civilian personnel, and 12,449 National Guard personnel.

<sup>5</sup> United States Office of Management and Budget, *USASpending.gov* (information may be obtained by using search criteria for Department of Defense, prime contracts, performed in Florida, and by fiscal year), available at <http://usaspending.gov/> (last visited Feb. 20, 2014).

more specific information regarding subcontracting opportunities with prime contractors on their websites.<sup>6</sup>

### **Corporate Income Tax in Florida**

Florida began imposing an income tax on corporations in 1972.<sup>7</sup> The initial tax rate was 5 percent, but that rate was increased to 5.5 percent in 1984.<sup>8</sup>

Currently, Florida's corporate income tax is comprised of two separate 5.5 percent taxes and a 3.3 percent alternative minimum tax.<sup>9</sup> The primary component of the tax is the 5.5 percent tax that applies to "corporations," as defined in s. 220.03, F.S.<sup>10</sup> The second 5.5 percent tax is referred to as the "franchise tax" and is imposed on Florida banks and savings institutions, as defined in s. 220.62, F.S.<sup>11</sup>

Regardless of which 5.5 percent tax applies to a taxpayer, if the taxpayer is subject to the federal alternative minimum tax (AMT), then the taxpayer could be subject to Florida's AMT.<sup>12</sup> If so, the taxpayer must pay the greater of the 5.5 percent tax or the 3.3 percent AMT.<sup>13</sup>

Florida's corporate income tax is imposed on a taxpayer's "net income."<sup>14</sup> Net income is determined through the following process:

1. **Begin with Federal Taxable Income.** Rather than requiring the taxpayer to fully recalculate all of its income and deductions for Florida purposes, Florida taxpayers use their federal taxable income as the starting point for determining how much tax is owed Florida.
2. **Make Certain Statutory Adjustments.** These adjustments are generally known as "additions and subtractions,"<sup>15</sup> and they relate to various items that Florida treats differently than the federal government. The income remaining after these additions and subtractions is known as "adjusted federal income."

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<sup>6</sup> L. Elaine Halchin, Congressional Research Service, *Overview of the Federal Procurement Process and Resources*, September 11, 2012, available at <https://www.fas.org/sgp/crs/misc/RS22536.pdf> (last visited Feb. 20, 2014).

<sup>7</sup> See Ch. 71-984, L.O.F. Florida began imposing a corporate income tax after a constitutional amendment was adopted in 1971. Currently, the Florida Constitution does not permit an income tax on natural persons. See Art. VII, Sec. 5, Fla. Const.

<sup>8</sup> See s. 21, 84-549, L.O.F. The Florida Constitution requires a 3/5 vote of the membership of each house of the Legislature in order to impose a tax in excess of 5 percent. See Art. VII, Sec. 5, Fla. Const.

<sup>9</sup> Only 1 of these 3 tax components can apply to a taxpayer in a given year.

<sup>10</sup> This component of the tax is imposed by s. 220.11(1), F.S. Only a fraction of total Florida businesses are considered "corporations" subject to the Florida corporate income tax. Sole proprietorships, partnerships, limited liability companies, and S corporations are not subject to the tax except under limited circumstances. See s. 220.03(1)(e), F.S.

<sup>11</sup> The franchise tax is imposed by s. 220.63(1), F.S.

<sup>12</sup> More information about the AMT for corporations is available from many sources, but a concise explanation was prepared by the nonpartisan Tax Policy Center, an affiliate of The Brookings Institute and the Urban Institute. The article is available at <http://www.taxpolicycenter.org/publications/url.cfm?ID=1000515> (last visited February 6, 2014).

<sup>13</sup> See s. 220.11(4), F.S. Although the AMT is a lower nominal rate compared to the 5.5 percent tax, the AMT can result in a higher tax due because it uses a different definition of "taxable income."

<sup>14</sup> See s. 220.12, F.S.

<sup>15</sup> See generally s. 220.13, F.S.

3. **Apportion and Allocate.** Multi-state taxpayers must determine what portion of their adjusted federal income is properly taxable in Florida – a process generally referred to as “apportionment.” Within this process, the taxpayer first determines what portion of its income is from business operations and what portion of its income is non-business.<sup>16</sup> Its business income is then “apportioned”<sup>17</sup> among the states where it does business and its non-business income “allocated” to the state where the transactions or activities that gave rise to the non-business income occurred.<sup>18</sup>

Florida generally uses a three-factor apportionment formula determined by the taxpayer’s payroll, sales, and property. The formula compares the taxpayer’s total payroll, sales, and property in all states with the taxpayer’s payroll, sales and property in Florida. The ultimate result of this calculation will be a fraction. A multi-state taxpayer’s business income is then apportioned to Florida based upon that fraction.

4. **Subtract the Exemption.** Lastly, Florida grants an exemption for the first \$50,000 of income that would otherwise be taxable in Florida.<sup>19</sup> Accordingly, after apportionment and allocation are applied to determine a taxpayer’s income that is properly taxable in Florida, the taxpayer subtracts \$50,000 before applying the tax rate. The amount of income remaining after subtraction of the \$50,000 exemption is known as “net income” and is the amount subject to Florida corporate income tax.

### III. Effect of Proposed Changes:

**Section 1** creates s. 288.1046, F.S., the Defense Works in Florida incentive program to provide an incentive to certain defense contractors to reduce the taxable corporate income.

The bill defines the following terms:

- “Florida prime contractor” as a business entity that is awarded a prime contract. “Florida small business subcontractor” is defined as a business entity that maintains a primary place of business in this state, has fewer than 250 employees at the time the subcontract award is made, is awarded a subcontract from a Florida prime contractor, and has no subsidiary or affiliate business relationship with the Florida prime contractor awarding the subcontract.
- “Prime contract” is defined as one that is awarded directly from the federal government.
- “Qualified defense work” is defined as a prime contract awarded for goods or services that directly or indirectly support the United States Armed Forces or that can be reasonably determined to support national security, including space-related activities. However, the term does not include contracts awarded prior to October 1, 2013.
- “Qualified subcontract award” refers to qualified defense work, in part or in whole, subcontracted from a Florida prime contractor to a Florida small business subcontractor, executed in this state and valued at more than \$250,000.

<sup>16</sup> Nonbusiness income is certain income that does not arise from transactions and activities in the regular course of the taxpayer’s trade or business. See s. 220.03(1)(r), F.S.

<sup>17</sup> See s. 220.15, F.S.

<sup>18</sup> See s. 220.16, F.S.

<sup>19</sup> The Florida Constitution requires an exemption of at least \$5,000. See Art. VII, Sec. 5, Fla. Const. See also s. 220.14, F.S.

The bill provides that a Florida prime contractor may apply to the DEO to certify that the contractor may reduce the computation of its adjusted federal income by an amount equal to 4 percent of the subcontract award if it meets certain conditions. To qualify for the reduction, the Florida prime contractor must be subject to ch. 220, F.S., be awarded qualified defense work, and must award a qualified subcontract award. The incentive may be claimed for each qualified subcontract award. However, the Florida prime contractor must apply separately for each qualified subcontract award for taxable years beginning on or after January 1, 2014, providing the DEO with any required documentation.

Within 10 days of certification, the DEO must provide a letter certifying a qualified subcontract award to the applicant to use when filing taxes and a copy of the letter to the DOR. For each Florida prime contractor, the DEO may certify up to \$250 million in aggregate qualified subcontract awards, equaling \$10 million in reduced taxable income and \$550,000 in reduced taxes per calendar year. The maximum amount of certifications the DEO may certify in a calendar year is \$2.5 billion in aggregate qualified subcontract awards, equaling \$100 million in reduced taxable income and \$5.5 million in reduced taxes.

For multi-year contracts, the DEO shall certify the full amount of the award in the calendar year the contract was awarded; and the Florida prime contractor may claim the incentive in the taxable year in which the payment is made to the Florida small business subcontractor.

The bill grants the DEO the authority to develop any necessary forms and processes needed to implement the incentive program. The DEO may consult with Enterprise Florida, Inc., and the Florida Defense Support Task Force, as necessary.

**Section 2** amends s. 220.13(b)(1), F.S., to include the incentive created by this bill as an allowable subtraction in the computation of the adjusted federal income.

**Section 3** provides an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference reviewed the impact of this bill on January 17, 2014.<sup>20</sup> The bill is estimated to have a recurring negative impact of \$3.3 million to general revenue each year.

In adopting this estimate, the conference determined there would be sufficient qualified defense activity to meet the cap of \$100 million in deductions to the adjusted federal income, but the apportionment to Florida would result in less tax impact than the total \$5.5 million tax cap.

**B. Private Sector Impact:**

The bill may have a positive fiscal impact on defense industry prime contractors that will be able to reduce corporate tax liability and may encourage Florida prime contractors to award subcontracts to small business within the state.

**C. Government Sector Impact:**

The DEO indicates that the fiscal impact is insignificant and any administrative costs will be absorbed by the DEO.<sup>21</sup> The DOR indicates that there will be an insignificant fiscal impact.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill provides rulemaking authority to the DEO and the DOR to administer the provisions of the bill.

**VIII. Statutes Affected:**

This bill substantially amends section 220.13 of the Florida Statutes.

This bill creates section 288.1046 of the Florida Statutes.

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<sup>20</sup> Revenue Estimating Conference Impact Conference Results from January 17, 2014, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact0117.pdf> (last visited Feb. 20, 2014).

<sup>21</sup> DEO, *2014 Agency Legislative Bill Analysis, Senate Bill 596*, (Jan. 15, 2014) (on file with Senate Commerce and Tourism Committee).

<sup>22</sup> DOR, *Legislative Bill Analysis, Senate Bill 596* (Feb. 3, 2014) (on file with the Senate Commerce and Tourism Committee).

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism on March 3, 2014:**

The committee substitute:

- Clarifies that a “Florida small business contractor” must have 250 employees or less at the time the subcontract award is made to qualify for the incentive.
- Removes the provision that prevented work awarded locally by military institutions from being included in the definition of “qualified defense work.”
- Adds a requirement that “qualified subcontract award” must be valued at more than \$250,000 to qualify for the incentive.
- Requires the DEO, within 10 days of certification, to provide a letter certifying a qualified subcontract award to the applicant and to the DOR.
- Allows eligible businesses to claim the incentive for taxable years beginning on or after January 1, 2014.
- Makes technical changes recommended by the DOR, including changing the term “taxable year” or “tax year” to “calendar year,” as needed.
- Amends s. 220.13, F.S., to include the incentive created by this bill as an allowable subtraction in the computation of the adjusted federal income.

- B. **Amendments:**

None.



817598

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2014	.	
	.	
	.	
	.	

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The Committee on Commerce and Tourism (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 288.1046, Florida Statutes, is created  
to read:

288.1046 Defense Works in Florida Incentive.-

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

(a) "Florida prime contractor" means a business entity  
operating in this state that is awarded a prime contract.



817598

11 (b) "Florida small business subcontractor" means a business  
12 entity that:

13 1. Maintains its primary place of business in the state;

14 2. Has 250 or fewer employees at the time a qualified  
15 subcontract award is made;

16 3. Is awarded a subcontract from a Florida prime  
17 contractor; and

18 4. Has no subsidiary or affiliate business relationship to  
19 the prime contractor making the award.

20 (c) "Prime contract" means a contract that is awarded  
21 directly from the Federal Government.

22 (d) "Qualified defense work" means a prime contract awarded  
23 for manufacturing, engineering, construction, distribution,  
24 research, development, or other activities related to equipment,  
25 supplies, technology, or other goods or services that directly  
26 or indirectly support the United States Armed Forces or that can  
27 be reasonably determined to support national security, including  
28 space related activities. The term does not include contracts  
29 awarded before October 1, 2013.

30 (e) "Qualified subcontract award" means qualified defense  
31 work, in part or in whole, subcontracted from a Florida prime  
32 contractor to a Florida small business subcontractor, which is  
33 executed in the state and valued at more than \$250,000.

34 (2) A Florida prime contractor may apply to the department  
35 to certify that it may reduce its computation of adjusted  
36 federal income under s. 220.13 by an amount equal to 4 percent  
37 of the subcontract award if such prime contractor:

38 (a) Is subject to chapter 220;

39 (b) Is awarded qualified defense work; and



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- 40           (c) Awards a qualified subcontract award.
- 41           (3) A Florida prime contractor may claim the incentive  
42 under subsection (2) only for taxable years beginning on or  
43 after January 1, 2014, and must apply separately to the  
44 department for each qualified subcontract award and provide the  
45 department required documentation, including, but not limited  
46 to, the application for the award and copies of contracts, tax  
47 records, or employment records.
- 48           (4) The department may establish application, approval,  
49 appeal, and accountability processes as necessary. The  
50 department may consult with Enterprise Florida, Inc., and the  
51 Florida Defense Support Task Force as necessary to administer  
52 this section.
- 53           (a) Within 10 days after certifying a qualified subcontract  
54 award, the department shall provide:
- 55           1. A letter certifying the award to the applicant; and  
56           2. A copy of the letter certifying the award to the  
57 Department of Revenue.
- 58           (b) The department may certify, for each Florida prime  
59 contractor applicant per calendar year, up to \$250 million in  
60 aggregate qualified subcontract awards, equaling up to \$10  
61 million in reduced taxable income and up to \$550,000 in reduced  
62 taxes.
- 63           (c) The department may certify in total, per calendar year,  
64 up to \$2.5 billion in aggregate qualified subcontract awards,  
65 equaling up to \$100 million in reduced taxable income and up to  
66 \$5.5 million in reduced taxes.
- 67           (d) For a multiyear qualified subcontract award:
- 68           1. The department shall certify the full amount of the



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69 award under paragraphs (b) and (c) in the calendar year it was  
70 awarded; and

71 2. The Florida prime contractor may claim the incentive in  
72 the taxable year in which payment is made to the Florida small  
73 business subcontractor.

74 (5) The department and the Department of Revenue may adopt  
75 rules to administer this section.

76 Section 2. Paragraph (b) of subsection (1) of 220.13,  
77 Florida Statutes, is amended to read:

78 220.13 "Adjusted federal income" defined.—

79 (1) The term "adjusted federal income" means an amount  
80 equal to the taxpayer's taxable income as defined in subsection  
81 (2), or such taxable income of more than one taxpayer as  
82 provided in s. 220.131, for the taxable year, adjusted as  
83 follows:

84 (b) *Subtractions.*—

85 1. There shall be subtracted from such taxable income:

86 a. The net operating loss deduction allowable for federal  
87 income tax purposes under s. 172 of the Internal Revenue Code  
88 for the taxable year, except that any net operating loss that is  
89 transferred pursuant to s. 220.194(6) may not be deducted by the  
90 seller;τ

91 b. The net capital loss allowable for federal income tax  
92 purposes under s. 1212 of the Internal Revenue Code for the  
93 taxable year;τ

94 c. The excess charitable contribution deduction allowable  
95 for federal income tax purposes under s. 170(d)(2) of the  
96 Internal Revenue Code for the taxable year;τ and

97 d. The excess contributions deductions allowable for



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98 federal income tax purposes under s. 404 of the Internal Revenue  
99 Code for the taxable year.

100

101 However, a net operating loss and a capital loss shall never be  
102 carried back as a deduction to a prior taxable year, but all  
103 deductions attributable to such losses shall be deemed net  
104 operating loss carryovers and capital loss carryovers,  
105 respectively, and treated in the same manner, to the same  
106 extent, and for the same time periods as are prescribed for such  
107 carryovers in ss. 172 and 1212, respectively, of the Internal  
108 Revenue Code.

109 2. There shall be subtracted from such taxable income any  
110 amount to the extent included therein the following:

111 a. Dividends treated as received from sources without the  
112 United States, as determined under s. 862 of the Internal  
113 Revenue Code.

114 b. All amounts included in taxable income under s. 78 or s.  
115 951 of the Internal Revenue Code.

116

117 However, as to any amount subtracted under this subparagraph,  
118 there shall be added to such taxable income all expenses  
119 deducted on the taxpayer's return for the taxable year which are  
120 attributable, directly or indirectly, to such subtracted amount.  
121 Further, no amount shall be subtracted with respect to dividends  
122 paid or deemed paid by a Domestic International Sales  
123 Corporation.

124 3. In computing "adjusted federal income" for taxable years  
125 beginning after December 31, 1976, there shall be allowed as a  
126 deduction the amount of wages and salaries paid or incurred



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127 within this state for the taxable year for which no deduction is  
128 allowed pursuant to s. 280C(a) of the Internal Revenue Code  
129 (relating to credit for employment of certain new employees).

130 4. There shall be subtracted from such taxable income any  
131 amount of nonbusiness income included therein.

132 5. There shall be subtracted any amount of taxes of foreign  
133 countries allowable as credits for taxable years beginning on or  
134 after September 1, 1985, under s. 901 of the Internal Revenue  
135 Code to any corporation which derived less than 20 percent of  
136 its gross income or loss for its taxable year ended in 1984 from  
137 sources within the United States, as described in s.

138 861(a)(2)(A) of the Internal Revenue Code, not including credits  
139 allowed under ss. 902 and 960 of the Internal Revenue Code,  
140 withholding taxes on dividends within the meaning of sub-  
141 subparagraph 2.a., and withholding taxes on royalties, interest,  
142 technical service fees, and capital gains.

143 6. There shall be subtracted from such taxable income 4  
144 percent of the amount of the subcontract award certified by the  
145 Department of Economic Opportunity pursuant to s. 288.1046.

146 7. Notwithstanding any other provision of this code, except  
147 with respect to amounts subtracted pursuant to subparagraphs 1.  
148 and 3., any increment of any apportionment factor which is  
149 directly related to an increment of gross receipts or income  
150 which is deducted, subtracted, or otherwise excluded in  
151 determining adjusted federal income shall be excluded from both  
152 the numerator and denominator of such apportionment factor.  
153 Further, all valuations made for apportionment factor purposes  
154 shall be made on a basis consistent with the taxpayer's method  
155 of accounting for federal income tax purposes.



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156 Section 3. This act shall take effect July 1, 2014.

157

158 ===== T I T L E A M E N D M E N T =====

159 And the title is amended as follows:

160 Delete everything before the enacting clause

161 and insert:

162 A bill to be entitled

163 An act relating to defense contracting; creating s.  
164 288.1046, F.S.; defining terms; authorizing certain  
165 prime contractors to apply to the Department of  
166 Economic Opportunity to certify that such contractors  
167 may reduce their computation of adjusted federal  
168 income by a certain amount when awarded a prime  
169 contract; providing requirements to apply for a  
170 reduction in computation of income; requiring a prime  
171 contractor to apply separately for each qualified  
172 subcontract award and to provide documentation;  
173 providing guidelines for the department to certify an  
174 award; authorizing the department and the Department  
175 of Revenue to adopt rules; amending s. 220.13, F.S.;  
176 revising the definition of the term "adjusted federal  
177 income" for corporate income tax purposes; providing  
178 for certain reduction in computation of income, to  
179 conform; providing an effective date.

By Senator Evers

2-00469-14

2014596\_\_

1 A bill to be entitled  
 2 An act relating to defense contracting; creating s.  
 3 288.1046, F.S.; providing definitions; authorizing  
 4 certain prime contractors to apply to the Department  
 5 of Economic Opportunity to certify that such  
 6 contractors may reduce their computation of adjusted  
 7 federal income by a certain amount when awarded a  
 8 prime contract; providing requirements to apply for a  
 9 reduction in computation of income; requiring a prime  
 10 contractor to apply separately for each qualified  
 11 subcontract award and to provide documentation;  
 12 providing guidelines for the department to certify an  
 13 award; authorizing the department and the Department  
 14 of Revenue to adopt rules; providing an effective  
 15 date.  
 16  
 17 Be It Enacted by the Legislature of the State of Florida:  
 18  
 19 Section 1. Section 288.1046, Florida Statutes, is created  
 20 to read:  
 21 288.1046 Defense works in Florida incentive.-  
 22 (1) As used in this section, the term:  
 23 (a) "Florida prime contractor" means a business entity  
 24 operating in the state which is awarded a prime contract.  
 25 (b) "Florida small business subcontractor" means a business  
 26 entity that:  
 27 1. Maintains its primary place of business in this state;  
 28 2. Has 250 or fewer employees;  
 29 3. Is awarded a subcontract from a Florida prime

Page 1 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

2-00469-14

2014596\_\_

30 contractor; and  
 31 4. Has no subsidiary or affiliate business relationship to  
 32 the Florida prime contractor making the award.  
 33 (c) "Prime contract" means a contract that is awarded  
 34 directly from the Federal Government.  
 35 (d) "Qualified defense work" means a prime contract awarded  
 36 for manufacturing, engineering, construction, distribution,  
 37 research, development, or other activities related to equipment,  
 38 supplies, technology, or other goods or services that directly  
 39 or indirectly support the United States Armed Forces or that can  
 40 be reasonably determined to support national security, including  
 41 space-related activities. The term does not include work that  
 42 only may be awarded locally by a military installation and does  
 43 not include contracts awarded before October 1, 2013.  
 44 (e) "Qualified subcontract award" means qualified defense  
 45 work, in part or in whole, subcontracted from a Florida prime  
 46 contractor to a Florida small business subcontractor which is  
 47 executed in this state and is approved by the department.  
 48 (2) A Florida prime contractor may apply to the department  
 49 to certify that the Florida prime contractor may reduce its  
 50 computation of adjusted federal income under s. 220.13 by an  
 51 amount equal to 4 percent of the subcontract award if the  
 52 Florida prime contractor:  
 53 (a) Is subject to chapter 220;  
 54 (b) Is awarded qualified defense work; and  
 55 (c) Awards a qualified subcontract award.  
 56 (3) A Florida prime contractor may claim the incentive  
 57 under subsection (2) for each qualified subcontract award. A  
 58 Florida prime contractor must apply separately to the department

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

2-00469-14 2014596\_\_

59 for each qualified subcontract award and provide the department  
 60 with required documentation, including, but not limited to, the  
 61 application for the award and copies of contracts, tax records,  
 62 or employment records.

63 (4) The department may establish application, approval,  
 64 appeal, and accountability processes as necessary. The  
 65 department may consult with Enterprise Florida, Inc., and the  
 66 Florida Defense Support Task Force as necessary to administer  
 67 this section.

68 (a) The department shall provide a letter certifying a  
 69 qualified subcontract award to a Florida prime contractor for  
 70 use when the business entity files its taxes. Certifications  
 71 apply beginning in the 2014 tax year.

72 (b) The department may certify, for each Florida prime  
 73 contractor applicant per tax year, up to \$250 million in  
 74 aggregate qualified subcontract awards, equaling \$10 million in  
 75 reduced taxable income and \$550,000 in reduced taxes.

76 (c) The department may certify in total, per tax year, up  
 77 to \$2.5 billion in aggregate qualified subcontract awards,  
 78 equaling \$100 million in reduced taxable income and \$5.5 million  
 79 in reduced taxes.

80 (d) For a multiyear qualified subcontract award:

81 1. The department shall certify the full amount of the  
 82 award under paragraphs (b) and (c) in the year it is awarded.

83 2. The Florida prime contractor may claim the incentive in  
 84 the tax year in which payment is made to the Florida small  
 85 business subcontractor.

86 (5) The department and the Department of Revenue may adopt  
 87 rules to administer this section.

2-00469-14 2014596\_\_

88 Section 2. This act shall take effect July 1, 2014.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Subcommittee on Finance and Tax  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Communications, Energy, and Public Utilities  
Military and Veterans Affairs, Space, and  
Domestic Security  
Transportation

## JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

## SENATOR GREG EVERS

2nd District

February 5, 2014

Honorable Nancy Detert  
Senate Commerce and Tourism  
406 SOB  
404 S. Monroe St.  
Tallahassee, FL 32399

### RE: SB 596

Dear Chairman Detert:

Please allow this letter to serve as my respectful request to include SB 596 regarding Defense Contracting on the agenda for your next Commerce and Tourism Committee meeting.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Greg Evers".

Greg Evers  
State Senator, District 2

#### REPLY TO:

- 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

*Meeting Date*

Topic Defense Contracting Bill Number SB 596  
*(if applicable)*

Name Carolyn Johnson Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Director of Business, Economic Development & Innovation

Address 136 S Bronough St Phone 521-1235

*Street*

Tallahassee

FL

32301

*City*

*State*

*Zip*

E-mail cjohnson@flchamber.com

Speaking:  For  Against  Information

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-3-14

Meeting Date

Topic Defense Contracting

Bill Number 596  
*(if applicable)*

Name Jon Costello

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Lobbyist

Address 119 S Monroe

Phone 850-681-6788

Street

Tallahassee

FL

E-mail jon@ceughlaw.com

City

State

Zip

Speaking:  For  Against  Information

Representing Associated Industries of FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/2014

Meeting Date

Topic Defense Contracting in FL

Bill Number 596  
*(if applicable)*

Name Joe Marino

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title President

Address 4067 Roscrea Dr

Phone 850 320 8780

Tall, FL 32309  
*Street City State Zip*

E-mail joe.marino@fl-dc.org

Speaking:  For  Against  Information

Representing Florida Defense Contractors Assoc

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Subcommittee on Finance and Tax  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Communications, Energy, and Public Utilities  
Military and Veterans Affairs, Space, and  
Domestic Security  
Transportation

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

### SENATOR GREG EVERS

2nd District

March 3, 2014

Chairman Nancy Detert  
Commerce and Tourism Committee  
416 SOB  
Tallahassee, FL 32399

Dear Chair Detert:

Please allow my Legislative Assistant, Dave Murzin, to present SB 596 on Defense Contracting in your committee today.

Thank you for your time and attention to this request.

Sincerely,

A handwritten signature in cursive script that reads "Greg Evers".

Greg Evers  
State Senator, District 2

#### REPLY TO:

- 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

---

BILL: SB 776

INTRODUCER: Senator Simpson

SUBJECT: Business Entities

DATE: February 28, 2014      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Malcolm</u>	<u>Hrdlicka</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>                    </u>	<u>                    </u>	<u>GO</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

---

**I. Summary:**

SB 776 reduces and standardizes the various filing fees and other costs limited liability companies (LLCs), for-profit corporations, not-for-profit corporations, and partnerships pay to the Department of State (DOS). The bill reduces filing fees for most documents to \$25 and reduces the cost to have documents provided by the DOS to \$8.75.

The bill also repeals the \$88.75 supplemental corporate fee that is currently paid by LLCs, for-profit corporations, and certain partnerships, and as a consequence, reduces the total costs associated with filing an annual report for these entities to \$125.

Lastly, the bill replaces the flat \$400 late charge for annual reports that are filed after May 1 each year with a tiered late charge structure that provides incrementally larger late charges. Under the tiered system, a business entity filing its annual report after May 1, but during the month of May, will be subject to a late fee of \$125. After May 31, the late fee is \$250. After June 30, the late fee is \$375, and after July 31, the maximum late fee of \$400 will apply.

**II. Present Situation:**

Business entities, such as LLCs, for-profit corporations, not-for-profit corporations, and partnerships, that do business in Florida are required to file a number of documents with the DOS. Some of the documents that a business must file include its initial filings, such as articles of incorporation or organization and registered agent designation, and filings related to certain business transactions, such as a certificate or articles of merger and amendments of articles of incorporation. Along with the required documents, the business entity must also pay a filing fee, which ranges from \$5 to over \$900 based on the type of document filed and the type of business entity filing the document.

One of the most significant documents a business entity must file is its annual report. A business must file its annual report by May 1 of each year<sup>1</sup> and pay a fee of \$50 if it's an LLC,<sup>2</sup> \$61.25 if it's a for-profit or a not-for-profit corporation,<sup>3</sup> \$411.25 if it's a limited partnership (LP) or limited liability limited partnership (LLLP),<sup>4</sup> or \$25 if it's a limited liability partnership (LLP).<sup>5</sup> In addition to the fee for filing an annual report, an LLC, a for-profit corporation, an LP, and an LLLP must also pay an additional annual supplemental corporate fee of \$88.75 at the same time it files its annual report.<sup>6</sup> Failure to file an annual report and pay the annual report filing fee and supplemental corporate fee by May 1 results in a \$400 late charge, unless the business entity was administratively dissolved or its certificate of authority was revoked due to its failure to file an annual report and the entity subsequently applied for reinstatement and paid the applicable reinstatement fee.<sup>7</sup>

**III. Effect of Proposed Changes:**

*LLC Fees*

**Section 1** amends s. 605.0213, F.S., to change the fees paid by LLCs to the DOS under ch. 605, F.S.

	<b>Current Fee</b>	<b>New Fee Under the Bill</b>
Original articles of organization	\$100	\$125 <sup>8</sup>
Annual report	\$50	\$125 <sup>9</sup>
Articles of revocation of dissolution	\$100	\$25
Foreign LLC's application for a certificate of authority to transact business	\$100	\$125 <sup>10</sup>
Certificate of merger	\$25 per party to the merger, unless a specific fee is required for a party under other law	\$25 flat fee
Registered agent's statement of resignation from an active LLC	\$85	\$25

<sup>1</sup> Sections 605.0212(3), 607.1622(5), 617.1622(5), 620.1210(3), and 620.9003(2), F.S.

<sup>2</sup> Section 605.0213(5), F.S.

<sup>3</sup> Sections 607.0122(17) and 617.0122(17), F.S.

<sup>4</sup> Section 620.1109(7), F.S.

<sup>5</sup> Section 620.81055(1)(h), F.S.

<sup>6</sup> Section 607.193, F.S.

<sup>7</sup> *Id.* at (2)(b).

<sup>8</sup> Includes the \$25 filing fee for the initial registered agent designation, which is consistent with both the current \$25 filing fee for registered agents in s. 605.0213(7), F.S., and the filing fee for the same in section 1 of the bill.

<sup>9</sup> According to the DOS, this increase incorporates a portion of the \$88.75 supplemental corporate fee under s. 607.0193(1), F.S., that is repealed in section 5 of the bill. Telephone conversation with the DOS (Feb. 21, 2013).

<sup>10</sup> *Supra* note 8.

Registered agent’s statement of resignation from a dissolved LLC	\$25	No change
Application for reinstatement after an administrative or judicial dissolution or a revocation of authority to transact business	\$100	No change
Certificate designating or changing a registered agent	\$25	No change
Certificate of conversion of an LLC	\$25	No change
Certified copy furnished by the DOS	\$30	\$8.75
Certificate of status furnished by the DOS	\$5	No change
Any other LLC document	\$25	No change

*For-profit Corporation Fees*

**Section 2** amends s. 607.0122, F.S., to change the fees paid by for-profit corporations to the DOS under ch. 607, F.S.

	<b>Current Fee</b>	<b>New Fee Under the Bill</b>
Articles of incorporation	\$35	\$70 <sup>11</sup>
Annual report	\$61.25	\$125 <sup>12</sup>
Supplemental corporate fee	\$88.75	Repealed: \$0
Application for registered name and renewal of registered name	\$87.50	\$25
Application for certificate of authority to transact business by a foreign corporation	\$35	\$70 <sup>13</sup>
Articles of merger or share exchange	\$35 per party	\$25 flat fee
Agent’s statement of resignation from active corporation	\$87.50	\$25
Application for reinstatement following administrative dissolution	\$600	No change

<sup>11</sup> Includes the \$35 filing fee for the initial registered agent designation, which is consistent with the current \$35 filing fee for registered agents in s. 607.0122(5), F.S.

<sup>12</sup> *Supra* note 9.

<sup>13</sup> *Supra* note 11.

Agent’s statement of resignation from an inactive corporation	\$35	\$25
Statement of change of registered agent or registered office (if not included on the annual report)	\$35	\$25
Designation of and acceptance by registered agent	\$35	\$25
Amendment of articles of incorporation	\$35	\$25
Restatement of articles of incorporation with amendment of articles	\$35	\$25
Articles of dissolution	\$35	\$25
Articles of revocation of dissolution	\$35	\$25
Application for amended certificate of authority	\$35	\$25
Application for certificate of withdrawal by a foreign corporation	\$35	\$25
Articles of correction	\$35	\$25
Certificate of domestication of a foreign corporation	\$50	\$25
The DOS serving as agent for substitute service of process	\$87.50	\$8.75
Certified copy furnished by the DOS	\$52.50	\$8.75
Certificate of status furnished by the DOS	\$8.75	No change
Any other filed document	\$35	\$25

*Not-for-profit Corporation Fees*

**Section 6** amends. s. 617.0122, F.S., to change the fees paid by not-for-profit corporations to the DOS under ch. 617, F.S.

	<b>Current Fee</b>	<b>New Fee Under the Bill</b>
Articles of incorporation	\$35	\$70 <sup>14</sup>
Annual report	\$61.25	No change

<sup>14</sup> Includes the \$35 filing fee for the initial registered agent designation, which is consistent with the current \$35 filing fee for registered agents in s. 617.0122(5), F.S.

Application for registered name and renewal of registered name	\$87.50	\$25
Application for certificate of authority to transact business by a foreign corporation	\$35	\$70 <sup>15</sup>
Articles of merger	\$35 per party	\$25 flat fee
Agent's statement of resignation from active corporation	\$87.50	\$25
Agent's statement of resignation from inactive corporation	\$35	\$25
Statement of change of registered agent or registered office (if not included on the annual report)	\$35	\$25
Designation of and acceptance by registered agent	\$35	\$25
Amendment of articles of incorporation	\$35	\$25
Restatement of articles of incorporation with amendment of articles	\$35	\$25
Articles of dissolution	\$35	\$25
Articles of revocation of dissolution	\$35	\$25
Application for reinstatement following administrative dissolution	\$175	No change
Application for amended certificate of authority	\$35	\$25
Application for certificate of withdrawal by a foreign corporation	\$35	\$25
Articles of correction	\$35	\$25
Certificate of conversion of a limited agricultural association to a domestic corporation	\$35	\$25
The DOS serving as agent for substitute service of process	\$87.50	\$8.75
Certificate of status furnished by the DOS	\$8.75	No change

---

<sup>15</sup> *Supra* note 14.

Certified copy furnished by the DOS	\$52.50	\$8.75
Any other filed document	\$35	\$25

### *Partnership Fees*

Part I of ch. 620, F.S., applies to LPs and LLLPs.<sup>16</sup> Part II of ch. 620, F.S., applies to general partnerships and LLPs.<sup>17</sup>

**Section 8** amends s. 620.1109, F.S., to change the fees paid by LPs and LLLPs to the DOS under part I of ch. 620, F.S.

	<b>Current Fee</b>	<b>New Fee Under the Bill</b>
Original certificate of limited partnership	\$965	\$1,000 <sup>18</sup>
Original application for registration as a foreign limited partnership	\$965	\$1,000 <sup>19</sup>
Annual report	\$411.25	\$125 <sup>20</sup>
Certificate of merger	\$52.50 per party	\$25 flat fee
Reinstatement application	\$500 for each year in which the partnership was administratively dissolved or revoked	No change
Certificate resigning as a registered agent	\$87.50	\$25
Certificate designating a registered agent	\$35	\$25
Certificate changing a registered agent or registered office address	\$35	\$25
Certificate of conversion	\$52.50	\$25
Certificate of amendment or restatement of the certificate of limited partnership	\$52.50	\$25
Statement of termination	\$52.50	\$25
Notice of cancellation for foreign limited partnership	\$52.50	\$25
Certificate of dissolution	\$52.50	\$25

<sup>16</sup> Section 620.2204(2), F.S.; see s. 620.1102(12), F.S. (including “limited liability limited partnership” within the definition of “limited partnership”).

<sup>17</sup> Section 620.8106(2), F.S.

<sup>18</sup> Includes the \$35 filing fee for the initial registered agent designation, which is consistent with the current \$35 filing fee for registered agents in s. 620.1109(8), F.S.

<sup>19</sup> *Supra* note 18.

<sup>20</sup> The reduction from \$411.25 to \$125 makes this filing fee for LPs and LLLPs the same as those for LLCs and for-profit corporations in sections 1 and 2 of the bill.

Certificate of revocation of dissolution	\$52.50	\$25
Certified copy furnished by the DOS	\$52.50 for first 15 pages plus \$1 for each additional page	\$8.75
Certificate of status or authorization furnished by the DOS	\$8.75	No change
Filing any other document	\$52.50	\$25

**Section 10** amends s. 620.81055, F.S., to change the fees paid by general partnerships and LLPs under part II of ch. 620, F.S. The current fees in s. 620.81055, F.S., are consistent with the new fees in s. 620.1109, F.S., as updated in section 9 of the bill. The only substantive update to the fees in s. 620.81005, F.S., in the bill is to change the filing fee for a certificate of merger from \$25 per party to a flat fee of \$25. This change is consistent with other certificate of merger filing fee changes in the bill.

*Supplemental Corporate Fees and Late Charges*

**Sections 4 and 5** repeal s. 607.193, F.S., and create s. 607.1623, F.S., to repeal the \$88.75 supplemental corporate fee and \$400 late charge for annual reports not filed by May 1 each year that applies to LLCs, for-profit corporations, LPs, and LLLPs. The bill replaces the \$400 late charge for these entities with a tiered late fee for annual reports filed after May 1 as follows:

Annual report fee remitted after May 1:	\$125
Annual report fee remitted after May 31:	\$250
Annual report fee remitted after June 30:	\$375
Annual report fee remitted after July 31:	\$400

A late charge will not be incurred if a business entity is administratively dissolved or its certificate of authority is revoked due to its failure to file an annual report and the entity subsequently applies for reinstatement and pays the applicable reinstatement fee.

**Sections 3, 7, and 9** amend ss. 607.01401, 620.1102, and 620.8101, F.S., respectively, to define the term “department” as used in chs. 607 and 620, F.S., to mean the Department of State.

**Sections 11 through 15** amends ss. 339.12, 605.0118, 607.0505, 610.104, and 631.0515, F.S., to conform to changes made by the bill, to conform cross-references, and to delete obsolete cross-references.

**Section 16** provides an effective date of January 1, 2015.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates SB 776 will result in the following negative impact to general revenue:<sup>21</sup>

	<b>General Revenue<sup>22</sup></b>
	Recurring
<b>FY 2014-15</b>	(40.7)
<b>FY 2015-16</b>	(41.7)
<b>FY 2016-17</b>	(42.6)
<b>FY 2017-18</b>	(43.4)
<b>FY 2018-19</b>	(44.1)

B. Private Sector Impact:

The decreased and standardized filing fees and costs for documents filed with the DOS will likely reduce costs for LLCs, for-profit corporations, not-for-profit corporations, and partnerships that operate in Florida. Specifically, the repeal of the \$88.75 supplemental corporate fee will likely result in net savings of \$13.75 for an LLC, \$25 for a for-profit corporation, and \$286.25 for an LP or LLLP due to a net reduction in fees when an annual report is filed. Additionally, business entities will also no longer pay a flat \$400 late charge for annual reports that are filed after May 1 each year, but instead will pay a late charge based on a tiered charge that increases each 30 days past due the annual report is late up to a maximum of \$400.

C. Government Sector Impact:

According to the DOS, the bill will not have any fiscal impact on its operations; however, the DOS notes the bill will have an impact on its technology system due to extensive computer code changes necessitated by the bill.<sup>23</sup>

<sup>21</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, *Analysis of HB 767: Corporate Filing Fees* (Feb. 6, 2014) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/pages165-168.pdf> (last visited Feb. 25, 2014).

<sup>22</sup> Amounts are in millions of dollars.

<sup>23</sup> DOS, *Analysis of SB 776* (Feb. 24, 2014) (on file with the Committee on Commerce and Tourism).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 605.0213, 607.0122, 607.01401, 617.0122, 620.1102, 620.1109, 620.8101, 620.81055, 339.12, 605.0118, 607.0505, 610.104, and 631.0515.

This bill creates section 607.1623 of the Florida Statutes.

This bill repeals section 607.193 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Simpson

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1 A bill to be entitled  
 2 An act relating to business entities; amending s.  
 3 605.0213, F.S.; revising the filing fees of a limited  
 4 liability company; making technical changes; amending  
 5 s. 607.0122, F.S.; revising the filing fees for a  
 6 corporation; making technical changes; amending s.  
 7 607.01401, F.S.; defining the term "department";  
 8 creating s. 607.1623, F.S.; requiring a fee to be  
 9 imposed for late annual reports; specifying the fee;  
 10 repealing s. 607.193, F.S., relating to a supplemental  
 11 corporate fee; amending 617.0122, F.S.; revising the  
 12 filing fees of a corporation not for profit; making  
 13 technical changes; amending s. 620.1102, F.S.;  
 14 defining the term "department"; amending s. 620.1109,  
 15 F.S.; revising the filing fees of a limited  
 16 partnership; making technical changes; amending s.  
 17 620.8101, F.S.; defining the term "department";  
 18 amending s. 620.81055, F.S.; revising the filing fees  
 19 of a partnership; making technical changes; amending  
 20 ss. 339.12, 605.0118, 607.0505, 610.104, and 631.0515,  
 21 F.S.; conforming cross-references to changes made in  
 22 the act; providing an effective date.  
 23  
 24 Be It Enacted by the Legislature of the State of Florida:  
 25  
 26 Section 1. Section 605.0213, Florida Statutes, is amended  
 27 to read:  
 28 605.0213 Fees of the department.-  
 29 (1) The fees of the department shall collect the following

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30 fees on documents delivered to the department for filing under  
 31 this chapter are as follows:  
 32 ~~(1) For furnishing a certified copy, \$30.~~  
 33 (a)(2) For filing Original articles of organization and  
 34 initial registered agent designation ~~or articles of revocation~~  
 35 of dissolution, ~~\$125~~ \$100.  
 36 ~~(b)(3) For filing a Foreign limited liability company's~~  
 37 application for a certificate of authority to transact business  
 38 and initial registered agent designation, ~~\$125~~ \$100.  
 39 ~~(c)(4) For filing a Certificate of merger of limited~~  
 40 liability companies or other business entities, \$25 ~~per~~  
 41 constituent party to the merger, unless a specific fee is  
 42 required for a party under other applicable law.  
 43 ~~(d)(5) For filing an Annual report, \$125 ~~\$50.~~~~  
 44 ~~(e)(6) For filing an Application for reinstatement after an~~  
 45 administrative or judicial dissolution or a revocation of  
 46 authority to transact business, \$100.  
 47 ~~(f)(7) For filing a Certificate designating a registered~~  
 48 agent or changing a registered agent, \$25.  
 49 ~~(g)(8) For filing a Registered agent's statement of~~  
 50 resignation from ~~a~~ an active limited liability company, ~~\$25~~ \$85.  
 51 ~~(9) For filing a registered agent's statement of~~  
 52 resignation from a dissolved limited liability company, ~~\$25.~~  
 53 ~~(h)(10) For filing a Certificate of conversion of a limited~~  
 54 liability company, \$25.  
 55 (i) Articles of revocation of dissolution, \$25.  
 56 ~~(j)(11) For filing Any other limited liability company~~  
 57 document, \$25.  
 58 ~~(12) For furnishing a certificate of status, \$5.~~

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59 (2) The department shall collect the following fees on  
 60 documents furnished by the department:  
 61 (a) Certified copy, \$8.75.  
 62 (b) Certificate of status, \$5.  
 63 Section 2. Section 607.0122, Florida Statutes, is amended  
 64 to read:  
 65 607.0122 Fees of the department for filing documents and  
 66 issuing certificates.-  
 67 (1) The department of State shall collect the following  
 68 fees on when the documents described in this section are  
 69 delivered to the department for filing:  
 70 (a)(1) Original articles of incorporation and initial  
 71 registered agent designation, \$70+-\$35.  
 72 (b)(2) Application for registered name, \$25+-\$87.50.  
 73 (c)(3) Application for renewal of registered name, \$25+  
 74 \$87.50.  
 75 (d)(4) Corporation's statement of change of registered  
 76 agent or registered office or both if not included on the annual  
 77 report, \$25+-\$35.  
 78 (e)(5) Designation of and acceptance by registered agent,  
 79 \$25+-\$35.  
 80 (f)(6) Agent's statement of resignation, \$25 from active  
 81 corporation: \$87.50.  
 82 ~~(7) Agent's statement of resignation from an inactive~~  
 83 ~~corporation: \$35.~~  
 84 (g)(8) Amendment of articles of incorporation, \$25+-\$35.  
 85 (h)(9) Restatement of articles of incorporation with  
 86 amendment of articles, \$25+-\$35.  
 87 (i)(10) Articles of merger or share exchange, \$25 for each

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88 ~~party thereto: \$35.~~  
 89 (j)(11) Articles of dissolution, \$25+-\$35.  
 90 (k)(12) Articles of revocation of dissolution, \$25+-\$35.  
 91 (l)(13) Application for reinstatement following  
 92 administrative dissolution, \$600.  
 93 (m)(14) Application for certificate of authority to  
 94 transact business in this state by a foreign corporation and  
 95 initial registered agent designation, \$70+-\$35.  
 96 (n)(15) Application for amended certificate of authority,  
 97 \$25+-\$35.  
 98 (o)(16) Application for certificate of withdrawal by a  
 99 foreign corporation, \$25+-\$35.  
 100 (p)(17) Annual report, \$125+-\$61.25.  
 101 (q)(18) Articles of correction, \$25+-\$35.  
 102 ~~(19) Application for certificate of status: \$8.75.~~  
 103 (r)(20) Certificate of domestication of a foreign  
 104 corporation, \$25+-\$50.  
 105 ~~(21) Certified copy of document: \$52.50.~~  
 106 ~~(22) Serving as agent for substitute service of process:~~  
 107 ~~\$87.50.~~  
 108 ~~(23) Supplemental corporate fee: \$88.75.~~  
 109 (s)(24) Any other document required or permitted to be  
 110 filed by this act, \$25+-\$35.  
 111 (2) The department shall collect the following fees on  
 112 documents furnished by the department:  
 113 (a) Certified copy, \$8.75.  
 114 (b) Certificate of status, \$8.75.  
 115 (3) The department shall collect a fee of \$8.75 to serve as  
 116 an agent for substitute service of process.

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117 Section 3. Present subsections (8) through (31) of section  
118 607.01401, Florida Statutes, are redesignated as subsections (9)  
119 through (32), respectively, and a new subsection (8) is added to  
120 that section, to read:

121 607.01401 Definitions.—As used in this act, unless the  
122 context otherwise requires, the term:

123 (8) "Department" means the Department of State.

124 Section 4. Section 607.1623, Florida Statutes, is created  
125 to read:

126 607.1623 Annual report late fee.—

127 (1) In addition to the fees required under ss. 605.0213,  
128 607.0122, and 620.1109, the department shall collect one of the  
129 following late fees:

130 (a) If the annual report fee is remitted after May 1, \$125.

131 (b) If the annual report fee is remitted after May 31,  
132 \$250.

133 (c) If the annual report fee is remitted after June 30,  
134 \$375.

135 (d) If the annual report fee is remitted after July 31,  
136 \$400.

137 (2) A late fee under subsection (1) may not be collected if  
138 a business entity is administratively dissolved or its  
139 certificate of authority is revoked due to its failure to file  
140 an annual report and the entity subsequently applies for  
141 reinstatement and pays the applicable reinstatement fee.

142 Section 5. Section 607.193, Florida Statutes, is repealed.

143 Section 6. Section 617.0122, Florida Statutes, is amended  
144 to read:

145 617.0122 Fees of the department for filing documents and

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146 ~~issuing certificates.—~~

147 (1) The department of State shall collect the following  
148 fees on documents delivered to the department for filing:

149 (a)(1) Original articles of incorporation and initial  
150 registered agent designation, \$70+~~\$35~~.

151 (b)(2) Application for registered name, \$25+~~\$87.50~~.

152 (c)(3) Application for renewal of registered name, \$25+~~\$87.50~~.

153 (d)(4) Corporation's statement of change of registered  
154 agent or registered office or both if not included on the annual  
155 report, \$25+~~\$35~~.

156 (e)(5) Designation of and acceptance by registered agent,  
157 \$25+~~\$35~~.

158 (f)(6) Agent's statement of resignation, \$25 ~~from active~~  
159 corporation: ~~\$87.50~~.

160 (7) Agent's statement of resignation from inactive  
161 corporation: ~~\$35~~.

162 (g)(8) Amendment of articles of incorporation, \$25+~~\$35~~.

163 (h)(9) Restatement of articles of incorporation with  
164 amendment of articles, \$25+~~\$35~~.

165 (i)(10) Articles of merger, \$25 ~~for each party thereto+~~\$35~~~~.

166 (j)(11) Articles of dissolution, \$25+~~\$35~~.

167 (k)(12) Articles of revocation of dissolution, \$25+~~\$35~~.

168 (l)(13) Application for reinstatement following  
169 administrative dissolution, ~~\$175~~.

170 (m)(14) Application for certificate of authority to  
171 transact business in this state by a foreign corporation and  
172 initial registered agent designation, \$70+~~\$35~~.

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175 (n)~~(15)~~ Application for amended certificate of authority,  
 176 ~~\$25;~~ \$35.

177 (o)~~(16)~~ Application for certificate of withdrawal by a  
 178 foreign corporation, ~~\$25;~~ \$35.

179 (p)~~(17)~~ Annual report, ~~+~~ \$61.25.

180 (q)~~(18)~~ Articles of correction, ~~\$25;~~ \$35.

181 ~~(19) Application for certificate of status; \$8.75.~~

182 ~~(20) Certified copy of document; \$52.50.~~

183 ~~(21) Serving as agent for substitute service of process;~~  
 184 ~~\$87.50.~~

185 (r)~~(22)~~ Certificate of conversion of a limited agricultural  
 186 association to a domestic corporation, ~~\$25;~~ \$35.

187 (s)~~(23)~~ Any other document required or permitted to be  
 188 filed by this chapter, ~~\$25;~~ \$35.

189 (2) The department shall collect the following fees on  
 190 documents furnished by the department:

191 (a) Certified copy, \$8.75.

192 (b) Certificate of status, \$8.75.

193 (3) The department shall collect a fee of \$8.75 to serve as  
 194 an agent for substitute service of process.

195 (4) ~~A~~ Any citizen support organization that is required by  
 196 rule of the Department of Environmental Protection to be formed  
 197 as a nonprofit organization and is under contract with the  
 198 department is exempt from the any fees required for  
 199 incorporation as a nonprofit organization, and the Secretary of  
 200 State may not assess ~~any~~ such fees if the citizen support  
 201 organization is certified by the Department of Environmental  
 202 Protection to the Secretary of State as being under contract  
 203 with the Department of Environmental Protection.

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204 Section 7. Present subsections (5) through (26) of section  
 205 620.1102, Florida Statutes, are redesignated as subsections (6)  
 206 through (27), respectively, and a new subsection (5) is added to  
 207 that section, to read:

208 620.1102 Definitions.—As used in this act:

209 (5) "Department" means the Department of State.

210 Section 8. Section 620.1109, Florida Statutes, is amended  
 211 to read:

212 620.1109 Fees of the department ~~of State; fees.~~—

213 (1) The department shall collect the following fees on  
 214 documents delivered to the department for filing ~~In addition to~~  
 215 ~~the supplemental corporate fee of \$88.75 imposed pursuant to s.~~  
 216 ~~607.193, the fees of the Department of State under this act are~~  
 217 ~~as follows:~~

218 ~~(1) For furnishing a certified copy, \$52.50 for the first~~  
 219 ~~15 pages plus \$1.00 for each additional page.~~

220 (a)~~(2)~~ ~~For filing an~~ Original certificate of limited  
 221 partnership and initial registered agent designation, \$1,000  
 222 ~~\$965.~~

223 (b)~~(3)~~ ~~For filing an~~ Original application for registration  
 224 as a foreign limited partnership and initial registered agent  
 225 designation, \$1,000 ~~\$965.~~

226 (c)~~(4)~~ ~~For filing~~ Certificate of conversion, ~~\$25~~ \$52.50.

227 (d)~~(5)~~ ~~For filing~~ Certificate of merger, ~~\$25~~ \$52.50 ~~for~~  
 228 ~~each party thereto.~~

229 (e)~~(6)~~ ~~For filing a~~ Reinstatement application, \$500 for  
 230 each calendar year or part thereof the limited partnership was  
 231 administratively dissolved or foreign limited partnership was  
 232 revoked in the records of the Department of State.

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233 ~~(f)(7) For filing an Annual report, \$125 \$411.25.~~  
 234 ~~(g)(8) For filing a Certificate+~~  
 235 ~~(a) designating a registered agent, \$25. \$35,~~  
 236 ~~(h)(b) Certificate~~ changing a registered agent or  
 237 registered office address, ~~\$25. \$35,~~  
 238 ~~(i)(e) Certificate~~ resigning as a registered agent, \$25.  
 239 ~~\$87.50; or~~  
 240 ~~(j)(d) Certificate~~ of amendment or restatement of the  
 241 certificate of limited partnership, ~~\$25. \$52.50,~~  
 242 ~~(k)(9) For filing a Statement of termination, \$25 \$52.50.~~  
 243 ~~(l)(10) For filing a Notice of cancellation for foreign~~  
 244 limited partnership, ~~\$25 \$52.50.~~  
 245 ~~(11) For furnishing a Certificate of status or~~  
 246 authorization, ~~\$8.75.~~  
 247 ~~(m)(12) For filing a Certificate of dissolution, \$25~~  
 248 ~~\$52.50.~~  
 249 ~~(n)(13) For filing a Certificate of revocation of~~  
 250 dissolution, ~~\$25 \$52.50.~~  
 251 ~~(o)(14) For filing Any other domestic or foreign limited~~  
 252 partnership document, ~~\$25 \$52.50.~~  
 253 (2) The department shall collect the following fees on  
 254 documents furnished by the department:  
 255 (a) Certified copy, \$8.75.  
 256 (b) Certificate of status or authorization, \$8.75.  
 257 Section 9. Present subsections (4) through (16) of section  
 258 620.8101, Florida Statutes, are redesignated as subsections (5)  
 259 through (17), respectively, and a new subsection (4) is added to  
 260 that section, to read:  
 261 620.8101 Definitions.—As used in this act, the term:

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262 (4) "Department" means the Department of State.  
 263 Section 10. Section 620.81055, Florida Statutes, is amended  
 264 to read:  
 265 620.81055 Fees of the department for filing documents and  
 266 ~~issuing certificates;~~ powers and authority of the department ~~of~~  
 267 State.—  
 268 (1) The department ~~of State~~ shall collect the following  
 269 fees ~~on when~~ documents ~~authorized by this act~~ are delivered to  
 270 the department ~~of State~~ for filing:  
 271 (a) Partnership registration statement, + \$50.  
 272 (b) Statement of partnership authority, + \$25.  
 273 (c) Statement of denial, + \$25.  
 274 (d) Statement of dissociation, + \$25.  
 275 (e) Statement of dissolution, + \$25.  
 276 (f) Statement of qualification, + \$25.  
 277 (g) Statement of foreign qualification, + \$25.  
 278 (h) Limited liability partnership annual report, + \$25.  
 279 (i) Certificate of merger, ~~for each party thereto,~~ + \$25.  
 280 (j) Amendment to any statement or registration, + \$25.  
 281 (k) Cancellation of any statement or registration, + \$25.  
 282 ~~(l) Certified copy of any recording or part thereof:~~  
 283 ~~\$52.50.~~  
 284 ~~(m) Certificate of status: \$8.75.~~  
 285 ~~(1)(n) Certificate of conversion,~~ + \$25.  
 286 ~~(m)(o) Any other document required or permitted to be filed~~  
 287 by this act, + \$25.  
 288 (2) The department shall collect the following fees on  
 289 documents furnished by the department:  
 290 (a) Certified copy, \$8.75.

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291 (b) Certificate of status, \$8.75.

292 ~~(3)(2)~~ The department of State has the power and authority  
293 reasonably necessary to ~~enable it to~~ administer this act  
294 efficiently, to perform the duties imposed upon it by this act,  
295 and to adopt rules pursuant to ss. 120.536(1) and 120.54 to  
296 implement the provisions of this act conferring duties upon it.

297 Section 11. Paragraph (a) of subsection (4) of section  
298 339.12, Florida Statutes, is amended to read:

299 339.12 Aid and contributions by governmental entities for  
300 department projects; federal aid.—

301 (4) (a) Prior to accepting the contribution of road bond  
302 proceeds, time warrants, or cash for which reimbursement is  
303 sought, the department shall enter into agreements with the  
304 governing body of the governmental entity for the project or  
305 project phases in accordance with specifications agreed upon  
306 between the department and the governing body of the  
307 governmental entity. The department in no instance is to receive  
308 from such governmental entity an amount in excess of the actual  
309 cost of the project or project phase. By specific provision in  
310 the written agreement between the department and the governing  
311 body of the governmental entity, the department may agree to  
312 reimburse the governmental entity for the actual amount of the  
313 bond proceeds, time warrants, or cash used on a highway project  
314 or project phases that are not revenue producing and are  
315 contained in the department's adopted work program, or any  
316 public transportation project contained in the adopted work  
317 program. Subject to appropriation of funds by the Legislature,  
318 the department may commit state funds for reimbursement of such  
319 projects or project phases. Reimbursement to the governmental

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320 entity for such a project or project phase must be made from  
321 funds appropriated by the Legislature, and reimbursement for the  
322 cost of the project or project phase is to begin in the year the  
323 project or project phase is scheduled in the work program as of  
324 the date of the agreement. Funds advanced pursuant to this  
325 section, which were originally designated for transportation  
326 purposes and so reimbursed to a county or municipality, shall be  
327 used by the county or municipality for any transportation  
328 expenditure authorized under s. 336.025(7). Also, cities and  
329 counties may receive funds from persons, and reimburse those  
330 persons, for the purposes of this section. Such persons may  
331 include, but are not limited to, those persons defined in s.  
332 607.01401(20) ~~s. 607.01401(19)~~.

333 Section 12. Subsection (3) of section 605.0118, Florida  
334 Statutes, is amended to read:

335 605.0118 Delivery of record.—

336 (3) If a check is mailed to the department for payment of  
337 an annual report fee ~~or the annual fee required under s.~~  
338 ~~607.193~~, the check shall be deemed to have been received by the  
339 department as of the postmark date appearing on the envelope or  
340 package transmitting the check if the envelope or package is  
341 received by the department.

342 Section 13. Paragraph (b) of subsection (1) and subsections  
343 (5) and (6) of section 607.0505, Florida Statutes, are amended  
344 to read:

345 607.0505 Registered agent; duties.—

346 (1)

347 (b) Each such corporation, foreign corporation, or alien  
348 business organization which fails to have and continuously

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349 maintain a registered office and a registered agent as required  
 350 in this section will be liable to this state for \$500 for each  
 351 year, or part of a year, during which the corporation, foreign  
 352 corporation, or alien business organization fails to comply with  
 353 these requirements; but such liability will be forgiven in full  
 354 upon the compliance by the corporation, foreign corporation, or  
 355 alien business organization with the requirements of this  
 356 subsection, even if such compliance occurs after an action to  
 357 collect such liability is instituted. The Department of Legal  
 358 Affairs may file an action in the circuit court for the judicial  
 359 circuit in which the corporation, foreign corporation, or alien  
 360 business organization is found or transacts business, or in  
 361 which real property belonging to the corporation, foreign  
 362 corporation, or alien business organization is located, to  
 363 petition the court for an order directing that a registered  
 364 agent be appointed and that a registered office be designated,  
 365 and to obtain judgment for the amount owed under this  
 366 subsection. In connection with such proceeding, the Department  
 367 of Legal Affairs may, without prior approval by the court, file  
 368 a lis pendens against real property owned by the corporation,  
 369 foreign corporation, or alien business organization, which lis  
 370 pendens shall set forth the legal description of the real  
 371 property and shall be filed in the public records of the county  
 372 where the real property is located. If the lis pendens is filed  
 373 in any county other than the county in which the action is  
 374 pending, the lis pendens which is filed must be a certified copy  
 375 of the original lis pendens. The failure to comply timely or  
 376 fully with an order directing that a registered agent be  
 377 appointed and that a registered office be designated will result

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378 in a civil penalty of not more than \$1,000 for each day of  
 379 noncompliance. A judgment or an order of payment entered  
 380 pursuant to this subsection will become a judgment lien against  
 381 any real property owned by the corporation, foreign corporation,  
 382 or alien business organization when a certified copy of the  
 383 judgment or order is recorded as required by s. 55.10. The  
 384 Department of Legal Affairs will be able to avail itself of, and  
 385 is entitled to use, any provision of law or of the Florida Rules  
 386 of Civil Procedure to further the collecting or obtaining of  
 387 payment pursuant to a judgment or order of payment. The state,  
 388 through the Attorney General, may bid, at any judicial sale to  
 389 enforce its judgment lien, any amount up to the amount of the  
 390 judgment or lien obtained pursuant to this subsection. All  
 391 moneys recovered under this subsection shall be treated as  
 392 forfeitures under ss. 895.01-895.09 and used or distributed in  
 393 accordance with the procedure set forth in s. 895.09. A  
 394 corporation, foreign corporation, or alien business organization  
 395 which fails to have and continuously maintain a registered  
 396 office and a registered agent as required in this section may  
 397 not defend itself against any action instituted by the  
 398 Department of Legal Affairs or by any other agency of this state  
 399 until the requirements of this subsection have been met.  
 400 (5) If a corporation, foreign corporation, or alien  
 401 business organization fails without lawful excuse to comply  
 402 timely or fully with a subpoena issued pursuant to subsection  
 403 (2), the Department of Legal Affairs may file an action in the  
 404 circuit court for the judicial circuit in which the corporation,  
 405 foreign corporation, or alien business organization is found or  
 406 transacts business or in which real property belonging to the

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407 corporation, foreign corporation, or alien business organization  
 408 is located, for an order compelling compliance with the  
 409 subpoena. The failure without a lawful excuse to comply timely  
 410 or fully with an order compelling compliance with the subpoena  
 411 will result in a civil penalty of not more than \$1,000 for each  
 412 day of noncompliance with the order. In connection with such  
 413 proceeding, the Department of Legal Affairs may, without prior  
 414 approval by the court, file a lis pendens against real property  
 415 owned by the corporation, foreign corporation, or alien business  
 416 organization, which lis pendens shall set forth the legal  
 417 description of the real property and shall be filed in the  
 418 public records of the county where the real property is located.  
 419 If the lis pendens is filed in any county other than the county  
 420 in which the action is pending, the lis pendens which is filed  
 421 must be a certified copy of the original lis pendens. A judgment  
 422 or an order of payment entered pursuant to this subsection will  
 423 become a judgment lien against any real property owned by the  
 424 corporation, foreign corporation, or alien business organization  
 425 when a certified copy of the judgment or order is recorded as  
 426 required by s. 55.10. The Department of Legal Affairs will be  
 427 able to avail itself of, and is entitled to use, any provision  
 428 of law or of the Florida Rules of Civil Procedure to further the  
 429 collecting or obtaining of payment pursuant to a judgment or  
 430 order of payment. The state, through the Attorney General, may  
 431 bid, at any judicial sale to enforce its judgment lien, an  
 432 amount up to the amount of the judgment or lien obtained  
 433 pursuant to this subsection. All moneys recovered under this  
 434 subsection shall be treated as forfeitures under ss. 895.01-  
 435 895.09 and used or distributed in accordance with the procedure

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436 set forth in s. 895.09.

437 (6) Information provided to, and records and transcriptions  
 438 of testimony obtained by, the Department of Legal Affairs  
 439 pursuant to this section are confidential and exempt from the  
 440 provisions of s. 119.07(1) while the investigation is active.  
 441 For purposes of this section, an investigation shall be  
 442 considered "active" while such investigation is being conducted  
 443 with a reasonable, good faith belief that it may lead to the  
 444 filing of an administrative, civil, or criminal proceeding. An  
 445 investigation does not cease to be active so long as the  
 446 Department of Legal Affairs is proceeding with reasonable  
 447 dispatch and there is a good faith belief that action may be  
 448 initiated by the Department of Legal Affairs or other  
 449 administrative or law enforcement agency. Except for active  
 450 criminal intelligence or criminal investigative information, as  
 451 defined in s. 119.011, and information which, if disclosed,  
 452 would reveal a trade secret, as defined in s. 688.002, or would  
 453 jeopardize the safety of an individual, all information,  
 454 records, and transcriptions become public record when the  
 455 investigation is completed or ceases to be active. The  
 456 Department of Legal Affairs ~~may~~ shall not disclose confidential  
 457 information, records, or transcriptions of testimony except  
 458 pursuant to the authorization by the Attorney General in any of  
 459 the following circumstances:

460 (a) To a law enforcement agency participating in or  
 461 conducting a civil investigation under chapter 895, or  
 462 participating in or conducting a criminal investigation.  
 463 (b) In the course of filing, participating in, or  
 464 conducting a judicial proceeding instituted pursuant to this

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465 section or chapter 895.

466 (c) In the course of filing, participating in, or  
467 conducting a judicial proceeding to enforce an order or judgment  
468 entered pursuant to this section or chapter 895.

469 (d) In the course of a criminal or civil proceeding.

470

471 A person or law enforcement agency which receives any  
472 information, record, or transcription of testimony that has been  
473 made confidential by this subsection shall maintain the  
474 confidentiality of such material and shall not disclose such  
475 information, record, or transcription of testimony except as  
476 provided for herein. Any person who willfully discloses any  
477 information, record, or transcription of testimony that has been  
478 made confidential by this subsection, except as provided for  
479 herein, is guilty of a misdemeanor of the first degree,  
480 punishable as provided in s. 775.082 or s. 775.083. If any  
481 information, record, or testimony obtained pursuant to  
482 subsection (2) is offered in evidence in any judicial  
483 proceeding, the court may, in its discretion, seal that portion  
484 of the record to further the policies of confidentiality set  
485 forth herein.

486 Section 14. Subsection (12) of section 610.104, Florida  
487 Statutes, is amended to read:

488 610.104 State authorization to provide cable or video  
489 service.—

490 (12) Beginning 5 years after approval of the  
491 certificateholder's initial certificate of franchise issued by  
492 the department, and every 5 years thereafter, the  
493 certificateholder shall update the information contained in the

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494 original application for a certificate of franchise. At the time  
495 of filing the information update, the certificateholder shall  
496 pay a processing fee of \$1,000. Any certificateholder that fails  
497 to file the updated information and pay the processing fee on  
498 the 5-year anniversary dates shall be subject to cancellation of  
499 its state-issued certificate of franchise authority if, upon  
500 notice given to the certificateholder at its last address on  
501 file with the department, the certificateholder fails to file  
502 the updated information and pay the processing fee within 30  
503 days after the date notice was mailed. The application and  
504 processing fees imposed in this section shall be paid to the  
505 Department of State for deposit into the Clearing Funds Trust  
506 Fund for immediate transfer by the Chief Financial Officer to  
507 the General Inspection Trust Fund of the Department of  
508 Agriculture and Consumer Services. The Department of Agriculture  
509 and Consumer Services shall maintain a separate account within  
510 the General Inspection Trust Fund to distinguish cable franchise  
511 revenues from all other funds. The application, any amendments  
512 to the certificate, or information updates must be accompanied  
513 by a fee to the Department of State equal to that for filing  
514 articles of incorporation under s. 607.0122 ~~pursuant to s.~~  
515 ~~607.0122(1).~~

516 Section 15. Section 631.0515, Florida Statutes, is amended  
517 to read:

518 631.0515 Appointment of receiver; insurance holding  
519 company.—A delinquency proceeding pursuant to this chapter  
520 constitutes the sole and exclusive method of dissolving,  
521 liquidating, rehabilitating, reorganizing, conserving, or  
522 appointing a receiver of a Florida corporation which is not

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523 insolvent as defined by s. 607.01401(17) ~~s. 607.01401(16)~~; which  
524 through its shareholders, board of directors, or governing body  
525 is deadlocked in the management of its affairs; and which  
526 directly or indirectly owns all of the stock of a Florida  
527 domestic insurer. The department may petition for an order  
528 directing it to rehabilitate such corporation if the interests  
529 of policyholders or the public will be harmed as a result of the  
530 deadlock. The department shall use due diligence to resolve the  
531 deadlock. Whether or not the department petitions for an order,  
532 the circuit court does ~~shall~~ not have jurisdiction ~~pursuant to~~  
533 ~~s. 607.271, s. 607.274, or s. 607.277~~ to dissolve, liquidate, or  
534 appoint receivers with respect to, a Florida corporation that  
535 ~~which~~ directly or indirectly owns all of the stock of a Florida  
536 domestic insurer and that ~~which~~ is not insolvent as defined by  
537 s. 607.01401(17) ~~s. 607.01401(16)~~. However, a managing general  
538 agent or holding company with a controlling interest in a  
539 domestic insurer in this state is subject to jurisdiction of the  
540 court under the provisions of s. 631.025.

541 Section 16. This act shall take effect January 1, 2015.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR WILTON SIMPSON**

18th District

**COMMITTEES:**

Community Affairs, *Chair*  
Appropriations Subcommittee on General Government  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Commerce and Tourism  
Communications, Energy, and Public Utilities  
Environmental Preservation and Conservation

**JOINT COMMITTEE:**

Joint Legislative Auditing Committee

February 7, 2014

Senator Nancy C. Detert, Chair  
Committee on Commerce and Tourism  
310 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Senator Detert,

Please place Senate Bill 776 relating to business filing fee reductions, on the next Committee on Commerce and Tourism agenda.

Please contact my office with any questions.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson  
Senator, 18<sup>th</sup> District

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-3-14  
Meeting Date

Topic \_\_\_\_\_

Bill Number SB 776  
*(if applicable)*

Name Lance Lozano

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Chief Operating Officer

Address 116 S. Monroe St.

Phone 681-6265

Tallahassee FL 32301  
City State Zip

E-mail llozano@fuba.org

Speaking:  For  Against  Information

Representing Florida United Businesses Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

*This form is part of the public record for this meeting.*

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/2014

*Meeting Date*

Topic SB 776- Business Entities Bill Number SB 776  
*(if applicable)*

Name Christie Burrus Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Affairs Director

Address 500 S. Bronough St. Phone 850-245-6512

*Street*

Tallahassee FL 32399

*City*

*State*

*Zip*

E-mail christie.burrus@dos.myflorida.com

Speaking:  For  Against  Information

Representing Florida Department of State

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

Meeting Date

Topic Corporate Filing Fees

Bill Number 776  
*(if applicable)*

Name Tim Nungesser

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Director

Address 110 East Jefferson St.

Phone 850-445-5367

Street

Tallahassee

FL

32303

City

State

Zip

E-mail tim.nungesser@nfib.org

Speaking:  For  Against  Information

Representing National Federation of Independent Business

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-3-14

Meeting Date

Topic Business Entities

Bill Number 776  
*(if applicable)*

Name Jon Costello

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Lobbyist

Address 119 S. Monroe St

Phone 850-766-8654

Tallahassee FL  
City State Zip

E-mail Jon@ReupLaw.com

Speaking:  For  Against  Information

Representing Associated Industries of FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

*Meeting Date*

Topic Business Entities

Bill Number SB 776  
*(if applicable)*

Name Carolyn Johnson

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Director of Business, Economic Development & Innovation

Address 136 S Bronough St

Phone 521-1235

*Street*

Tallahassee

FL

32301

E-mail cjohnson@flchamber.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 844

INTRODUCER: Senator Latvala

SUBJECT: Unemployment Compensation

DATE: February 28, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	<b>Pre-meeting</b>
2.			ATD	
3.			AP	

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**I. Summary:**

SB 844 authorizes the Department of Economic Opportunity (DEO) to noncharge the accounts of employers who are required to lay off employees due to the termination of a federal contract or a change in the security clearance requirements of a federal contract.

**II. Present Situation:**

**Reemployment Assistance**

The Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no-fault of their own (as determined under state law) and who meet the requirements of state law.<sup>1</sup> The program is administered as a partnership of the federal government and the states.<sup>2</sup>

States are permitted to set benefit eligibility requirements, the amount and duration of benefits and the state tax structure, as long as state law does not conflict with the Federal Unemployment Tax Act (FUTA) or the Social Security Act requirements. Florida's unemployment insurance program was created by the Legislature in 1937.<sup>3</sup> The program was rebranded as the "reemployment assistance" program in 2012.<sup>4</sup> The DEO is responsible for administering Florida's reemployment assistance (RA) laws, primarily through its Division for Workforce Services. The DEO contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collection services.<sup>5</sup>

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<sup>1</sup> United States Department of Labor, Employment and Training Administration, State Unemployment Insurance Benefits, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited Feb. 6, 2014).

<sup>2</sup> There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.

<sup>3</sup> Chapter 18402, L.O.F.

<sup>4</sup> Chapter 2012-30, L.O.F.

<sup>5</sup> Section 443.1316, F.S.

Individual states collect payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under FUTA.<sup>6</sup> FUTA collections go to the states for costs related to the administration of state unemployment insurance and job service programs. In addition, FUTA pays one-half the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.<sup>7</sup> The Internal Revenue Service charges each liable employer a federal unemployment tax of 6.0 percent.<sup>8</sup> If, however, a state program meets the federal requirements and has no delinquent federal loans, employers are eligible for up to a 5.4 percent tax credit, making the net tax rate 0.6 percent. Employers file an annual return with the Internal Revenue Service each January for taxes on the first \$7,000 of employee's annual wages during the previous year.

In Florida, RA benefits are financed solely through contributions by employers – employers pay taxes on the first \$8,000 of each employee's wages.<sup>9</sup> The calculation for determining each employer's tax rate is statutorily set, and takes into consideration an employer's "experience," the balance of the Unemployment Compensation Trust Fund, and other factors. The employer's experience rating is based on the employer's own employment records (employers are "charged" when an eligible employee collects RA benefits), in relation to the employment records of all other employers.<sup>10</sup> The experience rating serves to stabilize the Unemployment Compensation Trust Fund, as well as ensure that all employers pay their fair share based on their own experience rating. An employer's tax rate is adjusted annually, and may vary from the maximum rate of 5.4 percent to the minimum rate which varies each year based on adjustment factors.

### **Federal Contracting Overview**

The typical federal procurement process involves an agency identifying the goods and services it needs, determining the most appropriate method for purchasing those items, and carrying out an acquisition process. Under most procurement processes, an agency posts a solicitation on the Federal Business Opportunities website. Interested businesses prepare their offers in response to the solicitation, and agency personnel evaluate the offers. To be eligible to compete for government contracts a business must first obtain a Data Universal Numbering System (DUNS) number, and register with the System for Award Management (SAM). Many agencies provide assistance and services to potential and existing federal contractors.

Businesses may also serve as subcontractors for other businesses (known as "prime contractors") that have been awarded federal contracts. Most federal agencies typically release information on

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<sup>6</sup> FUTA is codified at 26 U.S.C. ss. 3301-3311.

<sup>7</sup> United States Department of Labor, Employment and Training Administration, "Unemployment Insurance Tax Topic," available at <http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp> (last visited Feb. 20, 2014).

<sup>8</sup> 26 U.S.C. s. 3301.

<sup>9</sup> Nonprofit employers may choose to finance compensation through either the contributory method or the reimbursement method. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. The employer is otherwise not required to make payments to the trust fund. See s. 443.1312, F.S. State and local governments are reimbursing employers. Most employers are contributory employers. In January 2015, the "wage base" will be reduced to \$7,000. See s. 443.1217(2)(a), F.S.

<sup>10</sup> Florida Department of Revenue, "Employer Guide to Reemployment Tax," available at <http://dor.myflorida.com/dor/forms/current/rt800002.pdf> (last visited Feb. 20, 2014).

their websites listing prime contractors that have been awarded federal contracts, which can be a valuable resource for potential subcontractors. Other agencies, including the General Services Administration, Department of Homeland Security, and Small Business Administration provide more specific information regarding subcontracting opportunities with prime contractors on their websites.<sup>11</sup>

For Federal Fiscal Year (FFY) 2013, approximately \$28.7 billion in federal contract and grant dollars were obligated for goods and services to be performed in Florida.<sup>12</sup> Thus far in Federal Fiscal Year 2014, more than \$10 billion have been obligated for contracts and grants to be performed in Florida.<sup>13</sup>

It is expected, however, that defense spending will face a significant reduction in upcoming years. According to the Department of Defense (DoD), the overall defense budget will drop by 20 percent by 2017 from the post-9/11 peak level in 2010.<sup>14</sup> In an effort to meet the challenges of a reduced budget, DoD has implemented or will implement a number of cost-saving measures, such as personnel reductions, reduction of overhead expenses, and shifting of investments.

### Security Clearances

A security clearance is a determination that a federal employee or a private contractor performing services for the government is eligible to access classified national security information.<sup>15</sup> There are 3 levels of security clearances, which are “top secret,” “secret,” and “confidential.”<sup>16</sup>

There are four stages in the security clearance process: pre-investigation, investigation, adjudication, and reinvestigation. As of the fourth quarter of the FFY 2010, the average processing time for a security clearance, from initiation to adjudication was 53 days. There is some speculation that due to recent breaches of security and unauthorized release of national security information, the process for screening individuals for security clearances may become more stringent and possibly cause a delay in processing times.<sup>17</sup> The determination on the issuance of a security clearance is based on adjudicative guidelines, and adverse information

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<sup>11</sup> L. Elaine Halchin, Congressional Research Service; “Overview of the Federal Procurement Process and Resources,” September 11, 2012, available at <https://www.fas.org/sgp/crs/misc/RS22536.pdf> (last visited Feb. 20, 2014).

<sup>12</sup> U.S. Office of Management and Budget, USASpending.gov, available at <http://usaspending.gov/> (last visited Feb. 24, 2014). Search criteria used to obtain information included contracts and grants for fiscal year 2013 to be performed in Florida.

<sup>13</sup> Id. Search criteria used to obtain information included contracts and grants for fiscal year 2014 to be performed in Florida.

<sup>14</sup> U.S. Department of Defense, “Defense Budget Priorities and Choices, Fiscal Year 2014,” (Apr. 2013), available at <http://www.defense.gov/pubs/DefenseBudgetPrioritiesChoicesFiscalYear2014.pdf> (last visited Feb. 24, 2014).

<sup>15</sup> Michelle D. Christensen and Frederick M. Kaiser, Cong. Research Serv., R43216, “Security Clearance Process: Answers to Frequently Asked Questions” (Sept. 9, 2013), available at <https://www.fas.org/sgp/crs/secrecy/R43216.pdf> (last visited Feb. 19, 2014).

<sup>16</sup> Id. at 2. “Top secret” is the highest level and provides access to security information that would “cause exceptionally grave damage to national security” if disclosed without authorization, “secret” provides access to security information that would “cause serious damage to national security” if disclosed without authorization, and “confidential” provides access to security information that would “cause damage to national security” if disclosed without authorization.

<sup>17</sup> Stephen Losey, “Expect Security Clearance Delays NSA Leak Could Mean Less Info-Sharing, More Polygraphs,” Fed. Times, June 24, 2013, available at <http://www.federaltimes.com/article/20130624/PERSONNEL03/306240008/Expect-security-clearance-delays> (last visited Feb. 20, 2014).

regarding one guideline will not automatically result in a denial of a security clearance.<sup>18</sup> If an applicant receives an unfavorable determination, it may be appealed. The appeals are typically handled within the agency that issued the determination; however, security clearance decisions are generally not subject to judicial review.

Continuing eligibility for a security clearance is re-determined periodically. The schedule for the re-investigation and re-determination varies across agencies and is typically based on the level of security clearance an individual holds.<sup>19</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 443.131, F.S., to create two new conditions for which employers' unemployment accounts will not be charged for benefits paid as a result of an eligible reemployment assistance claim. In the first situation, the DEO may not charge an employer's account for RA benefits paid as a result of a separation from employment due to the termination of federal contract award, except for cases of default. This provision expires December 31, 2017.

In the second situation, the DEO may not charge an employer's account for RA benefits paid as a result of the employer's termination of the employment of an individual as a result of a federal law, regulation, or executive order that mandates a higher level of security clearance or background check for doing the same or similar work the individual was performing prior to the imposition of the mandate; and the individual is deemed ineligible to continue such work by the federal government.

According to the DEO, an informal opinion issued by the U.S. Department of Labor (USDOL) suggests that the provision of the bill that relieves an employer's account of benefit charges in the event of a termination of a federal contract could cause the Florida RA program to be out of compliance with federal law.<sup>20</sup>

**Section 2** provides an effective date of July 1, 2014.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>18</sup> Christensen and Kaiser, *supra* note 15 at 9-10. The adjudicative guidelines used by governmental agencies in making security clearance determinations include: allegiance to the United States, foreign influence, foreign preference, sexual behavior, personal conduct, financial considerations, alcohol consumption, drug involvement, criminal conduct, security violations, outside activities, misuse of information systems, and emotional, mental, and personality disorders.

<sup>19</sup> Christensen and Kaiser, *supra* note 15 at 6. General guidelines are that someone with a confidential clearance will be reinvestigated at least once every 15 years; secret, at least once every 10 years; and top secret, at least once every 5 years.

<sup>20</sup> DEO, *2014 Agency Legislative Bill Analysis, House Bill 519*, (Feb. 5, 2014) (on file with Senate Commerce and Tourism Committee).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the impact of this bill.

B. Private Sector Impact:

If Florida's program is determined to be out of compliance with federal law by the USDOL, the 5.4 percent credit in FUTA taxes that Florida employers now receive may be eliminated.<sup>21</sup>

Those employers who must lay off employees due to termination of a federal contract or a change in the security clearance requirements for which incumbent employees are unable to meet, would not be subject to benefit charges to their employer accounts and would not see an increase in their experience ratings. However, these costs would be shared by all employers through the calculation of adjustment factors in the unemployment tax calculation.

C. Government Sector Impact:

The DEO advises that there will be some costs associated with reprogramming the RA benefit and claims system, known as CONNECT. This cost is estimated to be between \$150,000 and \$250,000. Any additional administrative costs will be absorbed with current staff and resources.<sup>22</sup>

To the extent that provisions of the bill impact the conformity of Florida's RA law with federal requirements, the federal funding provided to administer the program could be jeopardized.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 443.131 of the Florida Statutes.

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<sup>21</sup> Id.

<sup>22</sup> Id.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

By Senator Latvala

20-00249-14

2014844\_\_

1                                   A bill to be entitled  
 2           An act relating to unemployment compensation; amending  
 3           s. 443.131, F.S.; prohibiting benefits from being  
 4           charged to the employment record of an employer that  
 5           is forced to lay off workers for specified reasons;  
 6           providing an effective date.  
 7  
 8   Be It Enacted by the Legislature of the State of Florida:  
 9  
 10           Section 1. Paragraph (a) of subsection (3) of section  
 11   443.131, Florida Statutes, is amended to read:  
 12           443.131 Contributions.—  
 13           (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT  
 14   EXPERIENCE.—  
 15           (a) *Employment records.*—The regular and short-time  
 16   compensation benefits paid to an eligible individual shall be  
 17   charged to the employment record of each employer who paid the  
 18   individual wages of at least \$100 during the individual's base  
 19   period in proportion to the total wages paid by all employers  
 20   who paid the individual wages during the individual's base  
 21   period. Benefits may not be charged to the employment record of  
 22   an employer who furnishes part-time work to an individual who,  
 23   because of loss of employment with one or more other employers,  
 24   is eligible for partial benefits while being furnished part-time  
 25   work by the employer on substantially the same basis and in  
 26   substantially the same amount as the individual's employment  
 27   during his or her base period, regardless of whether this part-  
 28   time work is simultaneous or successive to the individual's lost  
 29   employment. Further, as provided in s. 443.151(3), benefits may

Page 1 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30   not be charged to the employment record of an employer who  
 31   furnishes the Department of Economic Opportunity with notice, as  
 32   prescribed in rules of the department, that any of the following  
 33   apply:  
 34           1. If an individual leaves his or her work without good  
 35   cause attributable to the employer or is discharged by the  
 36   employer for misconduct connected with his or her work, benefits  
 37   subsequently paid to the individual based on wages paid by the  
 38   employer before the separation may not be charged to the  
 39   employment record of the employer.  
 40           2. If an individual is discharged by the employer for  
 41   unsatisfactory performance during an initial employment  
 42   probationary period, benefits subsequently paid to the  
 43   individual based on wages paid during the probationary period by  
 44   the employer before the separation may not be charged to the  
 45   employer's employment record. As used in this subparagraph, the  
 46   term "initial employment probationary period" means an  
 47   established probationary plan that applies to all employees or a  
 48   specific group of employees and that does not exceed 90 calendar  
 49   days following the first day a new employee begins work. The  
 50   employee must be informed of the probationary period within the  
 51   first 7 days of work. The employer must demonstrate by  
 52   conclusive evidence that the individual was separated because of  
 53   unsatisfactory work performance and not because of lack of work  
 54   due to temporary, seasonal, casual, or other similar employment  
 55   that is not of a regular, permanent, and year-round nature.  
 56           3. Benefits subsequently paid to an individual after his or  
 57   her refusal without good cause to accept suitable work from an  
 58   employer may not be charged to the employment record of the

Page 2 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

20-00249-14

2014844\_\_

59 employer if any part of those benefits are based on wages paid  
60 by the employer before the individual's refusal to accept  
61 suitable work. As used in this subparagraph, the term "good  
62 cause" does not include distance to employment caused by a  
63 change of residence by the individual. The department shall  
64 adopt rules prescribing for the payment of all benefits whether  
65 this subparagraph applies regardless of whether a  
66 disqualification under s. 443.101 applies to the claim.

67 4. If an individual is separated from work as a direct  
68 result of a natural disaster declared under the Robert T.  
69 Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.  
70 ss. 5121 et seq., benefits subsequently paid to the individual  
71 based on wages paid by the employer before the separation may  
72 not be charged to the employment record of the employer.

73 5. If an individual is separated from work as a direct  
74 result of an oil spill, terrorist attack, or other similar  
75 disaster of national significance not subject to a declaration  
76 under the Robert T. Stafford Disaster Relief and Emergency  
77 Assistance Act, benefits subsequently paid to the individual  
78 based on wages paid by the employer before the separation may  
79 not be charged to the employment record of the employer.

80 6. If an individual is separated from work as a direct  
81 result of the termination of a federal contract awarded to his  
82 or her employer, unless the contract is terminated for default,  
83 benefits subsequently paid to the individual based on wages paid  
84 by the employer before the separation may not be charged to the  
85 employment record of the employer. This subparagraph expires  
86 December 31, 2017.

87 7. If an individual is separated from work as a direct

Page 3 of 4

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20-00249-14

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88 result of a federal law, regulation, or executive order  
89 mandating a higher level of security clearance or background  
90 check, such as the National Agency Check with Local Agency  
91 Checks and Credit Check, for doing the same or similar work when  
92 the individual was previously under no such mandate, and the  
93 Federal Government determines that the individual's eligibility  
94 is denied to continue such work, benefits subsequently paid to  
95 the individual based on wages paid by the employer before the  
96 separation may not be charged to the employment record of the  
97 employer.

98 Section 2. This act shall take effect July 1, 2014.

Page 4 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Ethics and Elections, *Chair*  
Appropriations  
Appropriations Subcommittee on General  
Government  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Community Affairs  
Environmental Preservation and Conservation  
Gaming  
Judiciary  
Rules

SENATOR JACK LATVALA  
20th District

RECEIVED

FEB 14 2014

COMMERCE

February 10, 2014

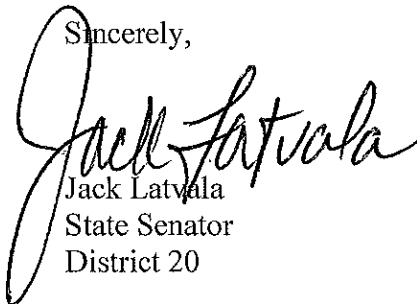
The Honorable Senator Nancy Detert, Chair  
Senate Commerce and Tourism Committee  
310 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Detert:

I respectfully request that Senate Bill 844, pertaining to Unemployment Compensation be placed on the agenda of the Senate Committee on Commerce and Tourism at your earliest convenience. This bill will prohibit benefits from being charged to the employment record of an employer that is forced to lay off workers for specified reasons.

I would greatly appreciate the opportunity to present this legislation to the Committee on Commerce and Tourism as soon as possible. If you have any questions regarding this legislation, please contact me. Thank you for your consideration.

Sincerely,

  
Jack Latvala  
State Senator  
District 20

Cc: Jennifer Hrdicka, Staff Director

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

DON GAETZ  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 856

INTRODUCER: Senator Detert

SUBJECT: Uniform Fraudulent Transfer Act

DATE: February 28, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Malcolm	Hrdlicka	CM	<b>Favorable</b>
2.			BI	
3.			RC	

---

**I. Summary:**

SB 856 amends the Florida Uniform Fraudulent Transfer Act to expand the protection against a creditor’s clawback action for charitable contributions received in good faith by qualified religious or charitable organizations. The bill protects charitable contributions made by a debtor who makes such a contribution without receiving equivalent value in exchange for the contribution while the debtor was insolvent or became insolvent as a result of making the contribution. The bill aligns this exemption with similar provisions in the Federal Bankruptcy Code.

**II. Present Situation:**

**Florida Uniform Fraudulent Transfer Act**

According to the National Conference of Commissioners on Uniform State Laws, the Uniform Fraudulent Transfer Act (UFTA) has been enacted by 43 states, as well as the District of Columbia and the U.S. Virgin Islands.<sup>1</sup> Florida adopted the UFTA in 1987.<sup>2</sup> Chapter 726, F.S., the Florida Uniform Fraudulent Transfer Act (FUFTA), gives a present or future creditor the ability to reach assets that a debtor has transferred to another person or entity in order to shield the assets from being used to satisfy a debt to the creditor.

For present and future creditors, s. 726.105, F.S., provides that a transfer made or an obligation incurred by a debtor is fraudulent if the debtor made the transfer or incurred the obligation:

- (1)(a) With actual intent to hinder, delay, or defraud any creditor; or
- (1)(b) Without receiving reasonably equivalent value in exchange for the transfer or obligation, and either the debtor:

---

<sup>1</sup> Uniform Law Commission, Legislative Fact Sheet – Fraudulent Transfer Act, *available at* <http://uniformlaws.org/LegislativeFactSheet.aspx?title=Fraudulent%20Transfer%20Act> (last visited Feb. 25, 2014).

<sup>2</sup> Chapter 87-79, L.O.F. The short title for ch. 726, F.S., is the “Uniform Fraudulent Transfer Act.”

- was engaged, or was about to engage, in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or
- intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.<sup>3</sup>

For present creditors only, s. 726.106(1), F.S., provides that a transfer made or an obligation incurred by a debtor is fraudulent if the debtor made the transfer or incurred the obligation without receiving reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent or became insolvent as a result of the transfer or obligation.

For the fraudulent transfers described above, the FUFTA provides a statutory remedy for creditors primarily through a “clawback” action in which a creditor may have a debtor’s transfer or obligation voided and surrendered back to the creditor.<sup>4</sup> Clawback actions under the FUFTA are permitted in federal district and bankruptcy courts to allow receivers to bring suits “against Ponzi scheme investors to the extent that the investors have received payments in excess of the amounts invested and those payments are avoidable as fraudulent transfers.”<sup>5</sup> This remedy is subject to a 4 year statute of limitations, unless otherwise specified in s. 726.110, F.S.<sup>6</sup>

The FUFTA also provides protections for an innocent third party transferee. A transfer from a debtor is not voidable when the transferee is “a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee . . . .”<sup>7</sup> In addition to this “good faith and value” exception, in 2013, the Legislature amended the FUFTA to add specific protections for certain transfers received by charitable organizations, which generally do not give value in exchange for contributions and thus would not qualify for the “good faith and value” exception.<sup>8</sup>

The 2013 amendment protects charitable contributions that would otherwise be considered fraudulent transfers under s. 726.105(1)(b), F.S. The protections provided under the 2013 amendment do not apply if the charitable transfer occurred in the 2 years preceding commencement of a clawback action, insolvency proceedings, or a petition for bankruptcy, unless the transfer was consistent with the debtor’s charitable contribution practices or the transfer was received in good faith and the contribution amount did not exceed 15 percent of the debtors gross annual income.<sup>9</sup>

The 2013 amendment did not include protections for charitable contributions that would otherwise be considered fraudulent transfers under s. 726.106(1), F.S. As a result of the 2013 amendment, a charitable organization is protected against a clawback action under FUFTA for transfers under s. 726.105(1)(b), F.S., but is not protected against a clawback action for similar transfers under s. 726.106(1), F.S.

---

<sup>3</sup> Section 726.105, F.S.

<sup>4</sup> See s. 726.108, F.S.

<sup>5</sup> *Wiand v. Dancing \$, LLC*, 919 F. Supp. 2d 1296, 1300 (M.D. Fla. 2013).

<sup>6</sup> Section 726.110, F.S.

<sup>7</sup> Section 726.109(1), F.S.

<sup>8</sup> Chapter 2013-189, L.O.F.; s. 726.109(7), F.S.

<sup>9</sup> Section 726.109(7)(b), F.S.

## Federal Bankruptcy Code

Like the FUFTA, the Federal Bankruptcy Code<sup>10</sup> (bankruptcy code) allows certain fraudulent transfers made by a debtor to be voided. However, unlike the FUFTA, which relies on individual creditors to bring actions to void the transfer, the code empowers the bankruptcy trustee to bring the action to void the fraudulent transfers for the benefit of all the debtor's creditors.

Section 548 of the bankruptcy code deals exclusively with fraudulent transfers and allows a bankruptcy trustee to void fraudulent transactions.<sup>11</sup> The elements that must be established to void a fraudulent transfer under this provision are substantially similar to those that are required under the FUFTA. Section 548 also parallels the innocent transferee protections in the FUFTA by providing a "good faith and value" defense that is nearly identical to the defense provided by the FUFTA and that is available to a transferee that takes in good faith for reasonably equivalent value.<sup>12</sup> Additionally, like the 2013 amendment to the FUFTA, the bankruptcy code also provides that a transfer or contribution to a charitable or religious organization is not voidable as a fraudulent transfer, even if it does not meet the "good faith and value" defense.<sup>13</sup>

Unlike the FUFTA, however, the charitable transfer exemption under the bankruptcy code encompasses transfers identical to those identified in s. 726.106(1), F.S., in which the debtor did not receive reasonably equivalent value in exchange for the transfer and the debtor was insolvent at the time of the transfer or became insolvent as a result of the transfer.<sup>14</sup> Consequently, the bankruptcy code affords broader protections to charitable organizations against clawback actions than the FUFTA.

### III. Effect of Proposed Changes:

Section 726.106(1), F.S., identifies a fraudulent transfer as one in which the debtor made the transfer without receiving equivalent value in exchange for the transfer and the debtor was insolvent at the time or the debtor became insolvent due to the transfer.

**Section 1** amends s. 726.109, F.S., to expand the exemption for charitable contributions received by a qualified religious or charitable entity in good faith to include otherwise fraudulent transfers under s. 726.106(1), F.S. This addition makes the charitable contribution exemption under the FUFTA the same as that provided under the bankruptcy code.

A charitable contribution may still be subject to a clawback action if it is received within 2 years of the commencement of an action under the FUFTA, a bankruptcy petition, or an insolvency proceeding, unless the transfer was consistent with the debtor's practices in making charitable contributions or the transfer did not exceed 15 percent of the debtor's gross annual income.

**Section 2** provides that the act will take effect upon becoming law.

---

<sup>10</sup> 11 U.S.C. s. 101 et. seq.

<sup>11</sup> 11 U.S.C. s. 548(a)(1).

<sup>12</sup> 11 U.S.C. s. 548(c); *see* s. 726.109(1), F.S.

<sup>13</sup> 11 U.S.C. s. 548(a)(2); *see* s. 726.109(7), F.S.

<sup>14</sup> *Id.*

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Under the bill, creditors would not be able to void certain fraudulent transfers that they currently are able to void under the FUFTA. Thus, fewer assets may be available to make creditors whole in certain circumstances. However, charities may feel more secure about contributions they receive.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 726.109 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

By Senator Detert

28-01257-14

2014856\_\_

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A bill to be entitled

An act relating to the Uniform Fraudulent Transfer Act; amending s. 726.109, F.S.; providing that certain transfers of charitable contributions to charitable or religious organizations are exempt from s. 726.106(1), F.S.; providing an effective date.

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

Section 1. Paragraph (a) of subsection (7) of section 726.109, Florida Statutes, is amended to read:

726.109 Defenses, liability, and protection of transferee.—

(7) (a) The transfer of a charitable contribution that is received in good faith by a qualified religious or charitable entity or organization is not a fraudulent transfer under s. 726.105(1) (b) or s. 726.106(1).

Section 2. This act shall take effect upon becoming a law.



# From Pioneers to Innovation Leadership in Positive Aging

Tom Esselman

President and CEO

THE INSTITUTE FOR THE AGES

March 3, 2014

**Senate Commerce and Tourism Committee**

**Tallahassee, Florida**

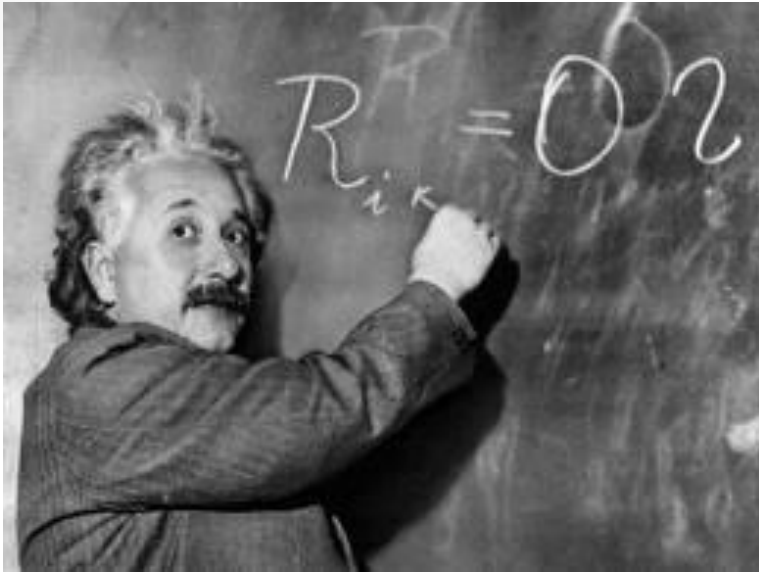


We're happy, free,  
confused and lonely at  
the same time.  
It's miserable and  
magical - oh yeah.

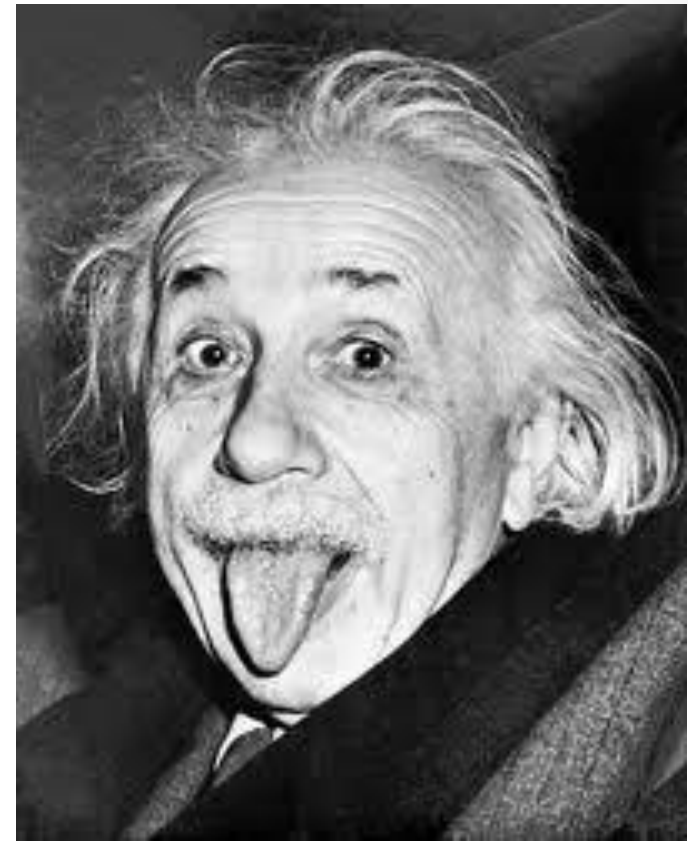
You don't know  
about me;  
but I bet you want  
to.

**Everything will be  
alright if we just  
keep dancing like  
we're 22**





“Seek simplicity—  
and distrust it!”



“Imagination is  
more important  
than knowledge”

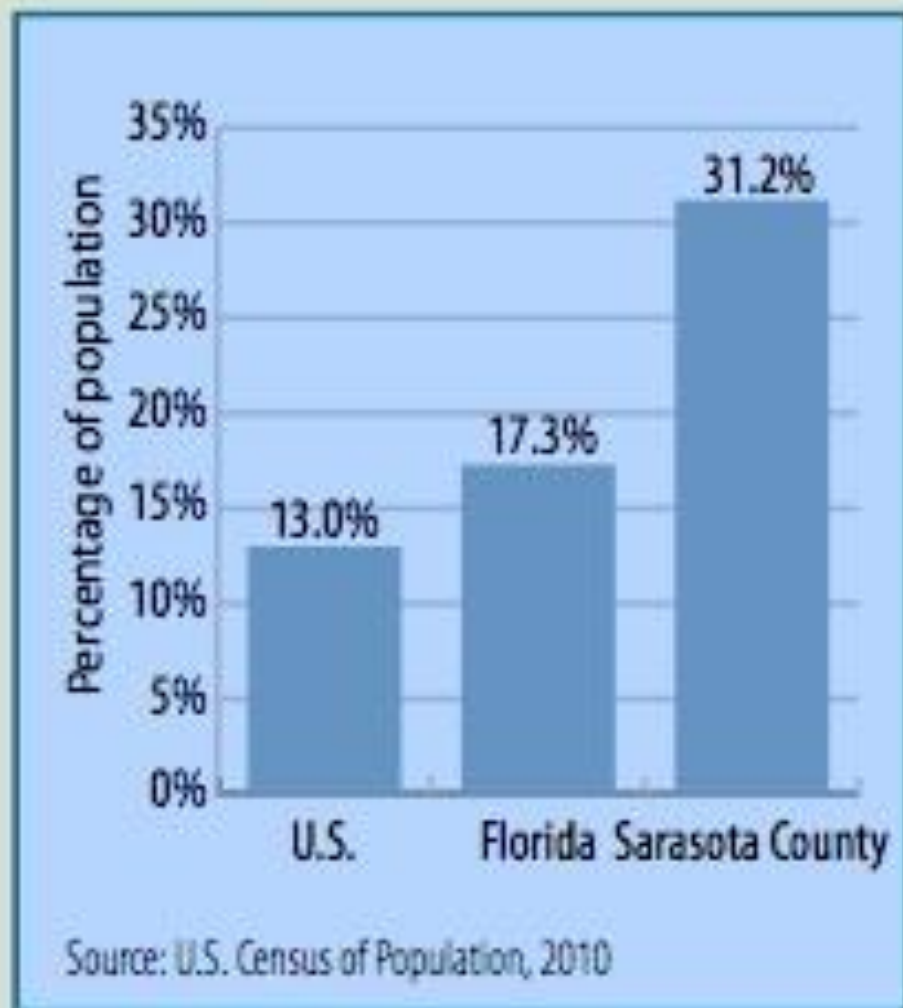


Hallmark

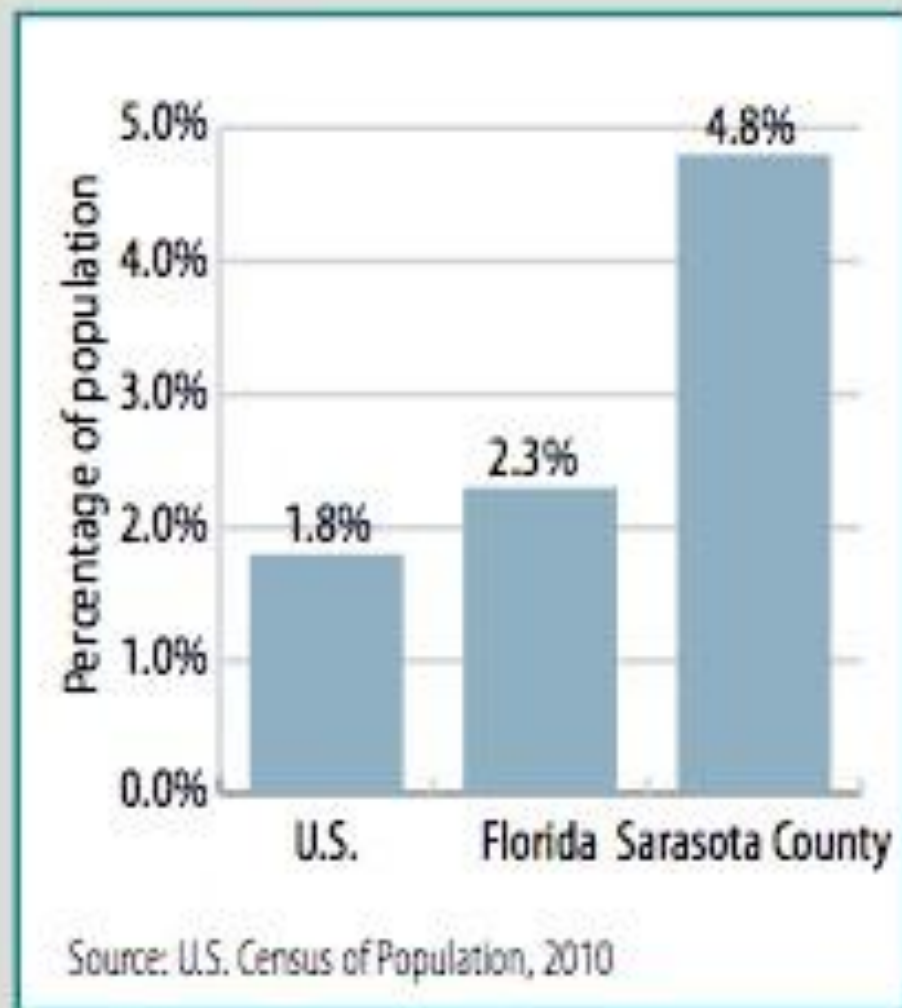


Hallmark  
Hall of Fame

**Figure 1. Percentage of Persons 65 Years and Over, 2010**



**Figure 2. Percentage of Persons 85 Years and Over, 2010**



INSTITUTE | AGES  
FOR THE

# The Institute for the Ages

## Innovation strategy:

- Philosophy
- Physics and Chemistry
- History

# Philosophy

- Reflect
- Visualize
- Act

# Philosophy: Reflect





LARGE PRINT EDITION

# Successful Aging

"Every  
baby boomer—  
and their parents—  
should read this book!"  
—Daniel Goleman,  
author of *Emotional  
Intelligence*

The MacArthur Foundation Study shows you how the lifestyle choices you make now—more than heredity—determine your health and vitality

John W. Rowe, M.D.

President, Mount Sinai Hospital and School of Medicine

and Robert L. Kahn, Ph.D.

Professor of Psychology and Public Health, University of Michigan

# Barriers to Innovation in Aging

- **CONSUMER INSIGHTS**
- **MARKETING AND TRUST**
- **DISTRIBUTION**
- **TALENT**
- **FUNDING**

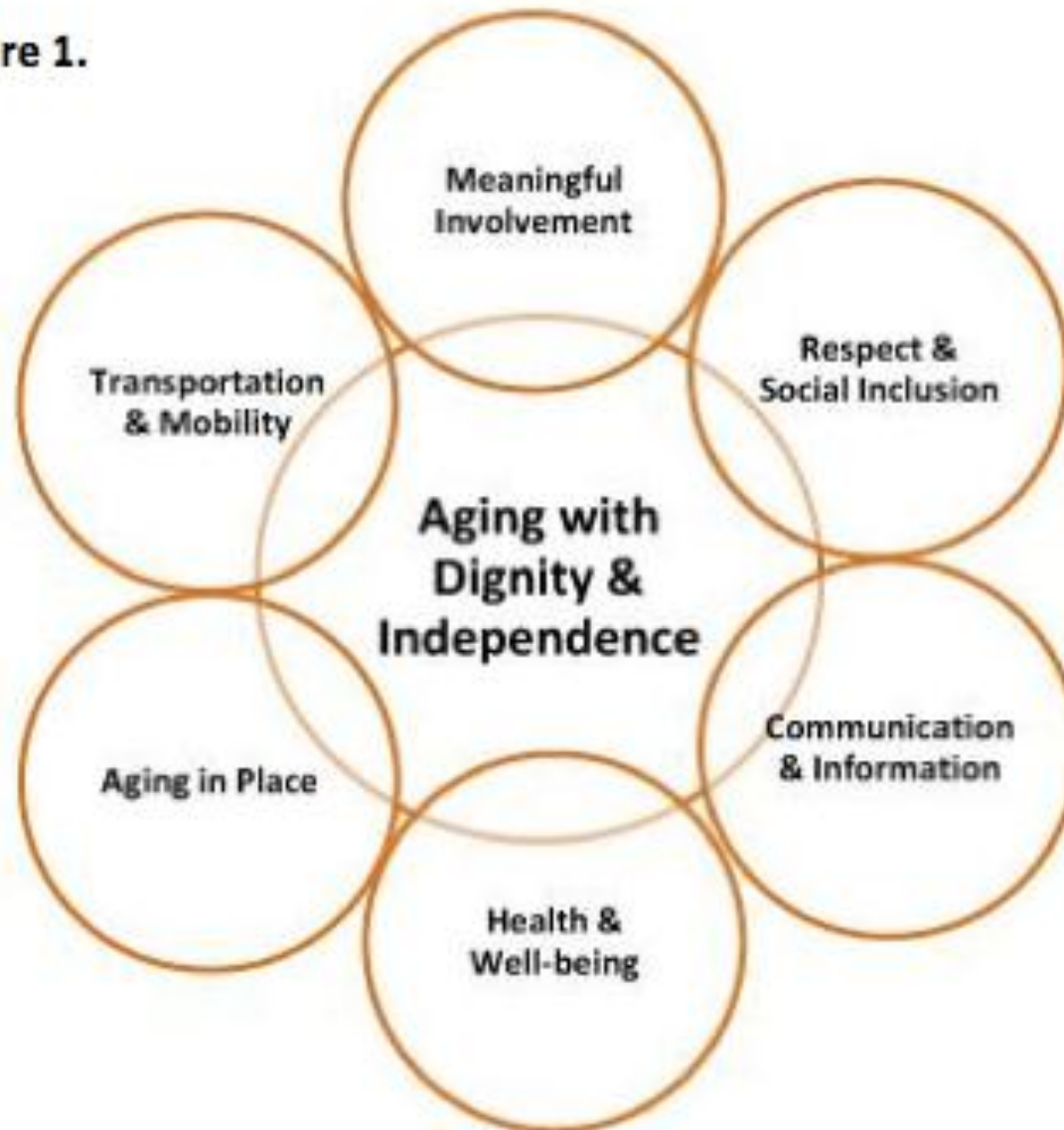
## MISSION STATEMENT

The i4A will transform aging through the **authentic voice** of the older adult.

# Philosophy: Visualize



Figure 1.



# Meaningful Involvement

- **Adult Education**
- **Volunteerism**
- **Philanthropy**

# Respect and Social Inclusion

- **Ageism research and prevention**
- **Dementia recognition and training**
- **Intergenerational dynamics**
- **Senior workforce and entrepreneurship**

# Health and Wellness

- **Personalized healthcare technology**
- **Pharmaceutical Testing**
- **Cognition Prevention and Treatment**
- **Caregiving Tools and Programs**

# Transportation and Mobility

- **Assessment research**
- **New service solution trials**
- **Urban neighborhood  
planning models**

# Communication and Information

- **Technology competency and comfort assessments**
- **Social Media effectiveness**
- **Library and Senior Center Information Hubs**
- **Public speaking topic experts**

# **Aging in (the right) Place**

- **Universal Design consulting and trial expertise**
- **Home retrofitting examples**
- **Retail shopping pilot experts**
- **Neighborhood planning trials**

## **THE VISION**

Drive sustainable economic development by turning Sarasota County and the State of Florida, into a global model, a living laboratory for:

**\*Catalyzing Innovation (R&D and Education in Aging )**

**\*Engaging Communities**

**\*Evangelizing Positive Aging**


# Philosophy: **Act**

Even if you're on the right track, you'll get run over if you just sit there.

Will Rogers



# Actions since July 2011

- **Sarasota County Commission and local philanthropic funding**
-  **sponsored national innovation event**
- **Opened office, hired staff**
- **Educational Events: Winter Forum and 7<sup>th</sup> Annual International Conference on Positive Aging**
- **Research Clients/Customers—5 national contracts**
- **Partnerships—Local, Regional, National**

# Positive Aging Conference

## Wellness



# Positive Aging Conference

## Technology



# Positive Aging Conference

## Community



# Positive Aging Conference

## Creativity



# Positive Aging Conference

## Transitions



# Positive Aging Conference





# The i4A Innovation strategy:

- Philosophy
- **Physics and Chemistry**
- History

# PHYSICS AND CHEMISTRY

- Boats and Wakes
- Carbs and Proteins
- The C's

# Boats and wakes



# Live!y

Be connected.  
Be well.  
Be Live!y.



## KITCHEN FAUCETS

Three most popular models that are used in older homes – lower priced models.

**MOEN Model #7425**



**MOEN Model #7430**



**DELTA Model 100 Series**



Higher end models (lower percentage in usage – depending on the region) / pull-out spray models.(from most to least preferred). Preferred by people who use interior decorators.

**Moen Extensa Model # 7560CSL**



**Grohe 32-459 Ashford Pull-Out Spray Kitchen Faucet**



**Kohler Coralais single-control pull-out spray kitchen sink faucet**



# Other **research** contracts



## Juvent Regenerative Technologies





# Prospect list

Large corporations

- National Foundations
- Government Agencies
- Universities

- Proctor and Gamble
- Intel and GE
- Kimberly Clark
- Marriott Corporation
- Hallmark
- Robert Woods Johnson
- NIH, NIA, NSF
- MIT, Stanford

ENTREPRENEURIAL STARTUPS

SMALL COMPANIES

INDIVIDUAL AND GROUP  
FUNDERS AND INVESTORS

SMALLER UNIVERSITIES AND  
COLLEGES

# AGING 2.0: a global network of innovators

- **Connected Independence** - *Maintaining independence using technology and social connectivity to help individuals age in place or in their community of choice.*
  - [Be Close, Live!y, MedCottage, Qmedic, The Amazings](#)
- **Ageless Style** - *Taking a fresh, design-centric approach to the everyday household and medical objects needed to age successfully.*
  - [Sabi, Omh, Liz & Ett, Rota Mobility](#)
- **Empowered Care** - *Easy to use tools, products and services that help improve the lives and effectiveness of family and professional caregivers.*
  - [ClearCare, CareLinx, Unfrazzle, CareZone, OpenPlacement, Serality](#)
- **Lifelong Wellness** - *Diagnosing, treating, managing and preventing specific conditions most associated with aging populations (balance, cognitive decline etc).*
  - [NeuroTrack, Ode, GeriJoy, PrimeWellness](#)

# Innovate LTC—Louisville KY

- Industry cluster serving the Long Term Care field
- Over \$48 billion in annual revenue to Kentucky
- Lacking **demographics** to effectively accelerate validation and market entry
- Connections led to a partnership
- Georgia Tech Research Institute has since joined this partnership, creating an **immersion** path for companies, new products and services

# Partnerships

- **Local**

- Hospitals
- Home Healthcare Companies
- Social Service Providers

- **State and Regional**

- FPN
- SECF
- FCOA
- Lake Nona

- **Local**

- Senior Housing Facilities
- Assisted Living Facilities
- Public Housing Authority

- **National**

- AARP
- GIA
- N4A

# The C's

- Curiosity/Creativity
- Compassion/Collaboration
- Courage/Conviction

# Creativity:

## HUGH DOWNS



“In today’s age there’s little time to ‘steep’; and yet, as time goes on, the thing about aging is that you discover you have time to learn things you could never have learned earlier”

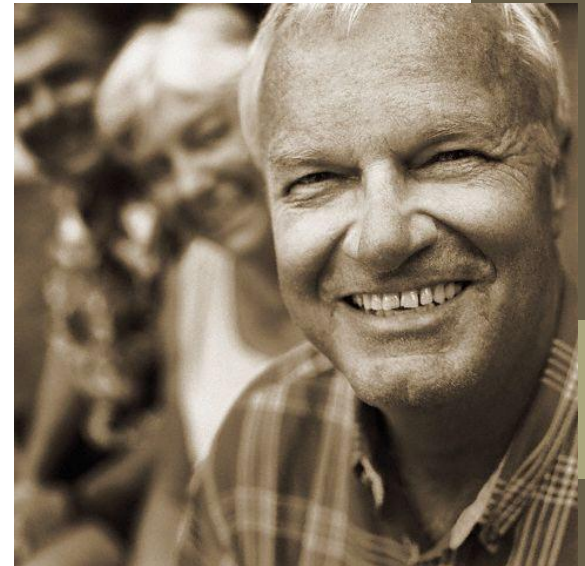
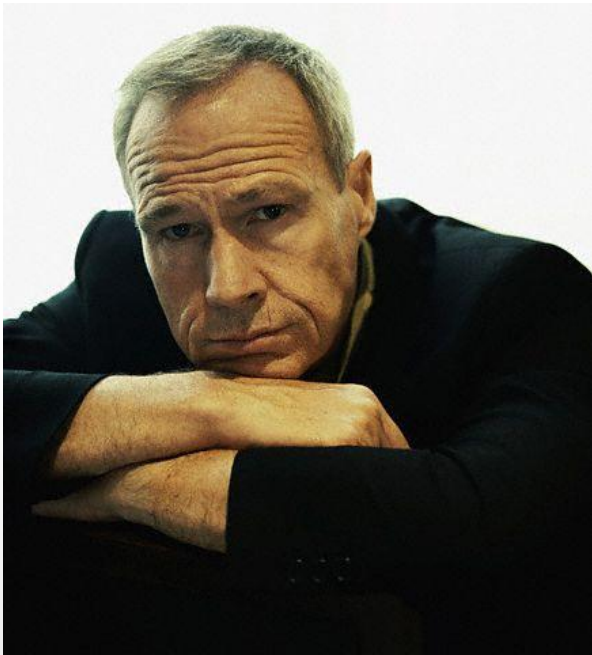
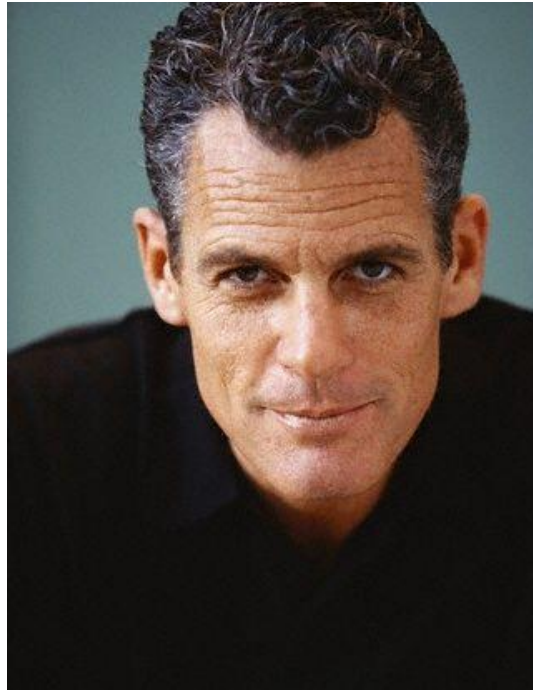
“The human spirit has an amazing capacity for finding silver linings. Stephen Hawking, commenting on his paralysis, said, ‘I’m able to spend every waking moment thinking about theoretical physics!’”

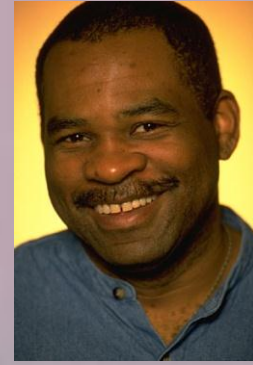
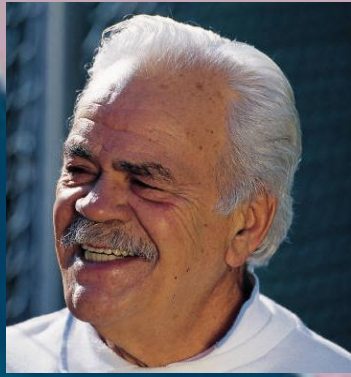
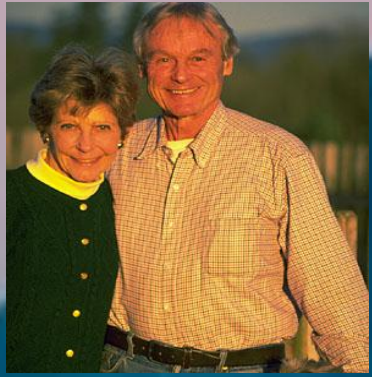
On being the first person to walk the 14 foot diameter circle around the actual South Pole, crossing every time zone in less than 30 seconds, he said, “It didn’t do a lot for humanity, but it did a heckuva lot for me!”

“There is no average day for me. Every day is different.”

# Collaboration







“If we have no peace,  
it is because we have  
forgotten that we  
belong to each other.”  
— Mother Teresa



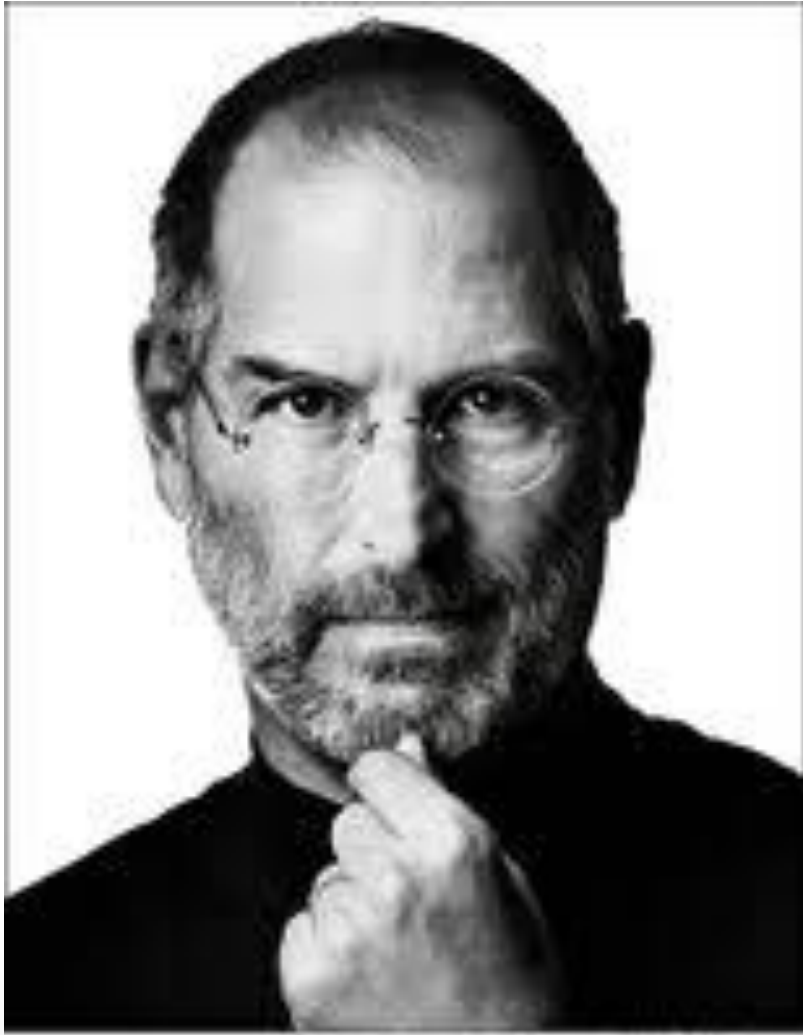
# The i4A Innovation strategy:

- Philosophy
- Physics
- History

# History: Just Start

- “The rainmaker makes more rain”
- “The soul of the idea is missing from the imitators”

# History: Connect the Dots



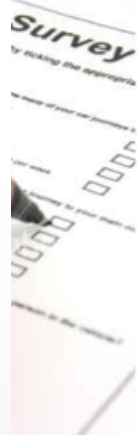
# History:



Google™

# 50+ Community Research Network (CRN)

## Sarasota Community Research Panel: SARASOTA COUNTY FLORIDA



### What Will I Be Asked to do?

You will complete a brief enrollment interview to determine which research studies you are eligible to participate in. After you complete the interview, you may be contacted and asked to participate in studies. Your participation is completely voluntary.

### How Can I Enroll?

Call this toll-free number: 1-xxx-xxx-xxxx. You can also visit our website at [www.xxxxxx.org](http://www.xxxxxx.org) to give us your contact information, find out more about the Sarasota Community Research Panel, and receive a call back. The Institute for the Ages will also hold a series of community events to allow residents to enroll in person. The enrollment interview takes 15-20 minutes.

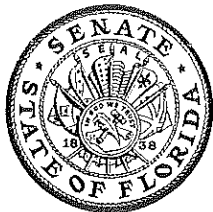


# 50+ Community Research Network (CRN)

The world's largest, most  
pro-active, community-based  
research network of older  
adults and the organizations  
who serve them

# Pioneers, innovators...

- **Economic Development Leadership**
  - Aging Education and R&D
  - Sarasota—Manatee—Charlotte Counties
  - State of **Florida**



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR GERALDINE F. THOMPSON**  
12th District

### COMMITTEES:

Appropriations Subcommittee on General  
Government, *Vice Chair*  
Community Affairs, *Vice Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Commerce and Tourism  
Transportation

### JOINT COMMITTEE:

Joint Administrative Procedures Committee

March 4, 2014

RECEIVED

MAR 04 2014

COMMERCE

The Honorable Nancy Detert  
416 Senate Office Building  
By Hand

Dear Chair Detert:

Please excuse my absence from the March 3, 2014, meeting of the Committee on Commerce and Tourism.

I was presenting bills in the Committee on Agriculture, and the Committee on Criminal Justice. The Committee on Commerce and Tourism concluded by the time I was finished presenting the bills.

Sincerely,

A handwritten signature in cursive script that reads "Geraldine F. Thompson".

Senator Geraldine F. Thompson

cc: Jennifer Hrdlicka

### REPLY TO:

- 511 W. South Street, Suite 204, Orlando, Florida 32805
- 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** EL 110

**Case:**

**Caption:** Senate Commerce and Tourism Committee

**Type:**

**Judge:**

**Started:** 3/3/2014 4:03:59 PM

**Ends:** 3/3/2014 4:56:44 PM **Length:** 00:52:46

**4:04:00 PM** Call to order  
**4:04:25 PM** Tab 3 SB 596 Senator Evers legislative aid Dave Murzin  
**4:05:25 PM** Amendment 1 barcode 817598  
**4:06:25 PM** Roll call on SB 596  
**4:07:07 PM** Bill passes  
**4:07:44 PM** Tab 1 SPB 7058 Staff Director Jennifer  
**4:10:31 PM** Amendment 1 barcode 834202 Senator Simpson  
**4:13:04 PM** Bill passes  
**4:13:34 PM** Tab 2 SPB 7056 Senator Detert  
**4:18:27 PM** Amendment 1 barcode 626016 withdrawn  
**4:19:28 PM** Amendment 2 barcode 912158  
**4:20:02 PM** Substitute Amendment barcode 691114  
**4:20:14 PM** Amendment 3 barcode 515376  
**4:20:48 PM** Amendment 4 barcode 530128  
**4:21:34 PM** Senator Hays  
**4:23:28 PM** Speaker Chris Ranung representing Congress of Motion Picture Associations  
**4:25:58 PM** Speaker Denise Lasher representing Straz Center for Performing Arts  
**4:30:57 PM** Roll call on SPB 7056  
**4:31:28 PM** Bill passed  
**4:31:39 PM** Tab 4 SB 776 Senator Simpson  
**4:32:36 PM** Roll call on SB 776  
**4:33:30 PM** Bill passes  
**4:33:51 PM** Tab 6 SB 856 Senator Detert  
**4:35:05 PM** Roll call on SB 856  
**4:35:14 PM** Bill passes  
**4:35:34 PM** Tab 7 Presentation on the Institution for the Ages Tom Esselman  
**4:56:03 PM** Adjournment