

Tab 1	SB 294 by Thompson; (Similar to H 0205) Labor Regulations						
Tab 2	SB 754 by Richter; (Identical to H 0643) Public Records/Department of Agriculture and Consumer Services Criminal or Civil Intelligence or Investigative Information						
952922	A	S	RCS	CM, Richter	Delete L.73:		01/25 03:05 PM
Tab 3	SM 798 by Soto; (Similar to CS/H 0601) Promotion of Economic Recovery in Puerto Rico						
Tab 4	CS/SB 940 by BI, Bradley; (Similar to CS/H 0695) Title Insurance						
125834	A	S	RCS	CM, Richter	Delete L.111 - 121:		01/25 03:07 PM
Tab 5	SB 1228 by Detert; (Compare to H 0765) Cottage Food Operations						
Tab 6	SB 1302 by Legg; (Similar to H 1077) Convenience Businesses						
Tab 7	SB 1646 by Latvala; (Compare to H 1325) Economic Development						
168922	A	S	RCS	CM, Latvala	Delete L.354 - 710:		01/25 03:15 PM
402838	AA	S	FAV	CM, Richter	Delete L.220 - 243:		01/25 03:15 PM
553254	A	S	RCS	CM, Latvala	Delete L.1054 - 1164:		01/25 03:15 PM
551246	A	S	RCS	CM, Latvala	Delete L.2217 - 2285:		01/25 03:15 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Detert, Chair
Senator Thompson, Vice Chair

MEETING DATE: Monday, January 25, 2016
TIME: 1:00—3:30 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Detert, Chair; Senator Thompson, Vice Chair; Senators Bean, Hutson, Latvala, Richter, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 294 Thompson (Similar H 205)	Labor Regulations; Providing powers and duties of the executive director of the Department of Economic Opportunity; requiring certain employers to provide employees with paid or unpaid earned sick and safe leave under certain conditions; providing employer and employee requirements; authorizing an employee to file a civil action under certain conditions, etc. CM 01/25/2016 Unfavorable ATD AP	Unfavorable Yeas 2 Nays 4
2	SB 754 Richter (Identical H 643, Compare CS/H 641, Linked CS/S 772)	Public Records/Department of Agriculture and Consumer Services Criminal or Civil Intelligence or Investigative Information; Providing an exemption from public records requirements for criminal or civil intelligence or investigative information or any other information held by the Department of Agriculture and Consumer Services as part of an examination or investigation with another state or federal regulatory, administrative, or criminal justice agency; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CM 01/25/2016 Fav/CS GO RC	Fav/CS Yeas 6 Nays 0
3	SM 798 Soto (Similar CS/HM 601)	Promotion of Economic Recovery in Puerto Rico; Urging Congress to enact legislation to promote economic recovery in the Commonwealth of Puerto Rico, etc. CM 01/25/2016 Favorable RC	Favorable Yeas 6 Nays 1
4	CS/SB 940 Banking and Insurance / Bradley (Similar CS/H 695, Compare H 831, S 622)	Title Insurance; Revising the reserves that certain title insurers must set aside after a certain date; revising reserve requirements for a title insurer who transfers domicile to this state, etc. BI 01/11/2016 Fav/CS CM 01/25/2016 Fav/CS FP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, January 25, 2016, 1:00—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 1228 Detert (Compare H 765)	Cottage Food Operations; Increasing the annual gross sales limitation for exempting cottage food operations from certain food and building permitting requirements, etc. CM 01/25/2016 Favorable AGG FP	Favorable Yeas 6 Nays 1
6	SB 1302 Legg (Similar H 1077)	Convenience Businesses; Revising the dollar amount that a convenience business must post on a conspicuous notice at the entrance; deleting the administrative fee for a convenience business' proposed training curriculum; deleting provisions requiring the periodic reapproval of a training curriculum and the accompanying administrative fee, etc. CM 01/25/2016 Favorable ACJ FP	Favorable Yeas 7 Nays 0
7	SB 1646 Latvala (Compare H 1325)	Economic Development; Requiring the Department of Economic Opportunity to contract with a direct-support organization to promote the sports industry and the participation of residents in certain athletic competitions in this state and to promote the state as a host for certain athletic competitions; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide a detailed analysis of the retention of Major League Baseball spring training baseball franchises; repealing provisions relating to state agency funding of the International Game Fish Association World Center facility; creating the Entertainment Action Fund within the Department of Economic Opportunity, etc. CM 01/25/2016 Fav/CS ATD AP	Fav/CS Yeas 6 Nays 0

Other Related Meeting Documents

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 294

INTRODUCER: Senator Thompson

SUBJECT: Labor Regulations

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Little	McKay	CM	Unfavorable
2.			ATD	
3.			AP	

I. Summary:

SB 294 creates the “Healthy Working Families Act” (act) under ch. 448, F.S., to provide a policy by which employees are able to earn “sick and safe leave” for time away from work. The bill requires all state or local government agencies and all private employers to provide employees with 1 hour of sick and safe leave per every 30 hours worked. Employers with 10 or more employees are required to provide paid compensation for sick and safe leave that is earned and used by employees. Employers with less than 10 employees are not required to provide paid leave, but employees are still entitled to unpaid sick and safe leave.

Acceptable uses for sick and safe leave include taking time off in order for the employee, or a family member of the employee, to obtain medical care or treatment for illness, injury, or condition. Obtaining medical attention, counseling, legal services, and other related services for victims of domestic violence, sexual assault, or stalking are also acceptable uses for sick and safe leave.

The bill delegates multiple tasks to the Department of Economic Opportunity (DEO) in order to provide oversight and enforcement of the act, including conducting investigations and inspections to determine whether a violation of the act has occurred. The DEO is also required to develop an outreach program and model notices to inform individuals about the availability of sick and safe leave.

The bill sets forth penalties for those found to be in violation of the act. If an employer is found to be in violation of the act, the bill allows the DEO, the Attorney General, or an employee, to bring an action against the employer. If the action is brought by the Attorney General, the bill allows the court to order the employer to pay the state \$1,000 per violation. If an employee is found to have acted in bad faith in filing a complaint, bringing a civil action, or testifying in an action, the employee commits a misdemeanor of the first degree.

II. Present Situation:

The Family Medical Leave Act

The federal Family and Medical Leave Act (FMLA) of 1993, as amended, entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons.¹

*Covered Employers*²

The FMLA only applies to employers that meet certain criteria. A covered employer is a:

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agency, including a local, state, or federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

*Eligible Employees*³

Only eligible employees are entitled to take FMLA leave. An eligible employee is one who:

- Works for a covered employer;
- Has worked for the employer for at least 12 months;
- Has at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave; and
- Works at a location where the employer has at least 50 employees within 75 miles.

*Leave Entitlement*⁴

Eligible employees may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.⁵

¹ 29 U.S.C. § 2601.

² 29 U.S.C. § 2611.

³ *Id.*

⁴ 29 U.S.C. § 2611-2612.

⁵ An eligible employee may also take up to 26 workweeks of leave during a “single 12-month period” to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

*Notice*⁶

Employees must comply with their employer's usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request. Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

*Enforcement*⁷

The Wage and Hour Division of the United States Department of Labor administers and enforces the FMLA for all private, state and local government employees, and some federal employees. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. An employee may also be able to bring a private civil action against an employer for violations. In general, any allegation must be raised within 2 years after the date of violation.

Expansion of FMLA in other States

The FMLA allows states and local governments to set standards that are more expansive than the federal law, and many states and local entities have chosen to do so.⁸ Currently, only three states offer paid, or partially paid, family and medical leave.⁹ California, New Jersey, and Rhode Island provide funding for paid leave through a payroll tax on employees. The state of Washington passed a paid family leave law in 2007 that was to take effect in October 2009. However, due to state budget concerns, subsequent legislation delayed implementation of the paid leave law.¹⁰

Leave Provisions in Florida

In Florida, there is no specific government agency responsible for administering and enforcing worker protection laws. Hour and wage laws, including those under the FMLA, are overseen by the federal Wage and Hour Division through local offices across the state. Complaints of discrimination or harassment in the workplace are typically handled by the Florida Commission on Human Regulations and the Equal Employment Opportunity Commission. The Florida Department of Financial Services regulates issues arising under workers' compensation claims, while the DEO handles issues pertaining to unemployment insurance.¹¹

⁶ 29 U.S.C. § 2612(e).

⁷ Information under this subheading obtained from: United States Department of Labor, Wage and Hour Division, *Fact Sheet # 77B: Protection for Individuals under the FMLA*, <http://www.dol.gov/whd/regs/compliance/whdfs77b.htm> (last visited Jan. 20, 2016).

⁸ 29 C.F.R. § 825.701. Connecticut and Minnesota allow leave for an organ or bone marrow donor. Oregon's definition of "family member" includes the employee's grandparent, grandchild, or parent-in-law. North Carolina allows leave to participate in children's educational activities. See National Conference of State Legislatures, *State Family and Medical Leave Laws that Differ from the Federal FMLA* (Sept. 2008), available at <http://www.ncsl.org/Portals/1/Documents/employ/StateFamilyandMedicalLeaveLaws.pdf>.

⁹ National Conference of State Legislatures, *State Family Medical Leave Laws*, <http://www.ncsl.org/issues-research/labor/state-family-and-medical-leave-laws.aspx> (last visited Jan. 20, 2016).

¹⁰ *Id.*

¹¹ The roles of Florida's agencies are specified under ch. 20, F.S.

However, certain leave of absence and medical leave provisions exist in Florida Statutes. Chapter 110 governs public officials, employees, and records, in order to provide a uniform policy for personnel management.¹² The policy of the state is to “support employees in balancing their personal needs and work responsibilities” in such a way that allows employees “to blend the competing demands of work and personal life.”¹³

The Department of Management Services (DMS) has been delegated rulemaking authority for the creation of a policy for leave granted by agencies to employees.¹⁴ Types of leave addressed by DMS include sick leave, annual leave, and parental leave. Attendance and leave rules promulgated by DMS are found in Chapter 60L of the Florida Administrative Code.

General Requirements

The DMS requires leave of absences granted to employees to be approved in writing and prohibits authorization and use of paid leave before it has been accrued.¹⁵ Each type of leave is accrued based on the position held by an employee, the pay schedule of the employee, and the actual number of hours worked by the employee. Approved leave may be taken in increments of fifteen minutes or more and agencies are responsible for keeping a record of all authorized leaves of absences.¹⁶

Sick Leave

The DMS provides that sick leave may be authorized for personal illness, personal appointments with a doctor or dentist, and illness to certain family members or individuals for whom the employee has caretaker responsibility.¹⁷ After 3 workdays of absence within a 30-day period, agencies may require medical verification before granting additional sick leave.¹⁸ After 10 consecutive days of absence, an agency must obtain medical verification before authorizing any additional sick leave or leave without pay.¹⁹

There is no limit on the number of hours of unused sick leave an employee may accrue.²⁰ Employees in senior management service and select exempt service positions earn 104 sick hours of leave.²¹ Full-time employees, paid monthly, earn 8 hours and 40 minutes for each full

¹² For the purposes of ch. 110, F.S., the term agency refers to “any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government as defined in chapter 216.” Section 110.107(4), F.S.

¹³ Section 110.105(2)(b), F.S.

¹⁴ Section 110.1055, F.S.

¹⁵ Rule 60L-34.004(1) and (5), F.A.C.

¹⁶ Rule 60L-34.004(4) and (10), F.A.C.

¹⁷ Rule 60L-34.0042(3), F.A.C.

¹⁸ Rule 60L-34.0042(4)(b), F.A.C.

¹⁹ Rule 60L-34.0042(4)(c), F.A.C.

²⁰ Rule 60L-34.0042(2)(c), F.A.C.

²¹ Rule 60L-34.0042(1), F.A.C.

calendar month of employment while full-time employees, paid biweekly, earn 4 hours for each full biweekly period of employment.²² Part-time employees earn sick leave as follows:²³

Biweekly Pay Period		Monthly Pay Period	
Number of Hours Actually Worked	Hours of Sick Leave Credit	Number of Hours Actually Worked	Hours of Sick Leave Credit
Less than 17	0	Less than 36	0
17 through 32.99	1	36 through 70.99	2.167
33 through 47.99	2	71 through 103.99	4.333
48 through 63.99	3	104 through 138.99	6.500
64 or more	4	139 or more	8.667

Family Supportive Work Program

The DMS was also delegated the task of developing a model rule for the Family Supportive Work Program (FSWP) to be implemented by all executive branch agencies, excluding the State University System.²⁴ The FSWP establishes personnel policies that enable employees to balance work and family through flexible work schedules, compressed time, job sharing, part-time employment, parental leave, and both paid and unpaid family or administrative leave for family responsibilities.²⁵

FSWP leave must be approved in writing,²⁶ and may be granted for the following reasons up to the specified periods of time:²⁷

Reason for leave	Amount of leave allowed
Birth or adoption of child (within 12 months)	Up to 6 months for the parent
Family member’s serious health condition	Up to 6 months
Non-medical family responsibilities	Up to 30 days
Administrative leave for child’s school activities	Up to 1 hour per month
Leave of absence without pay	Up to 12 months ²⁸

Notably, FSWP provides employees medical leave to care for family members, and not for an employee’s personal illness. Non-medical family responsibilities include caring for aging

²² Rule 60L-34.0042(2)(a), F.A.C.

²³ Rule 60L-34.0042(2)(b), F.A.C.

²⁴ Section 110.1522, F.S.

²⁵ *Id.*

²⁶ Section 110.219(3), F.S.

²⁷ Rule 60L-34.0051(4)-(7), F.A.C.

²⁸ Leave of absence without pay covers any absence from work so long as the agency deems the leave to be justified and not detrimental to the agency. Rule 60L-34.0052, F.A.C.

parents, involvement in settling parents' estates upon death, relocating dependent children into schools, and visiting family members in places that require extensive travel time.²⁹

Private Sector

Currently, only one Florida law regulates when a private employer must allow leave for an employee. Section 741.313, F.S., provides that an employer must permit an employee to take up to 3 working days of leave from work in any 12-month period if the employee or a family or household member of an employee is the victim of domestic violence or sexual violence. This leave may be paid or unpaid, at the discretion of the employer.³⁰

An employee is eligible to request leave if the employee has been employed for 3 months or longer.³¹ Employers are required to keep domestic violence information confidential and that information is exempt from disclosure under public record laws.³² These provisions apply to government agencies and any employer who employs 50 or more employees.

Employer-Sponsored Benefits Study Task Force

In 2013, the Legislature created an Employer-Sponsored Benefits Study Task Force to analyze, among other things, whether the state should set minimum mandatory standards for employer-sponsored benefits.³³ Sponsored benefits were defined as “anything of value that an employee may receive from an employer in addition to wages and salary” and included “paid or unpaid days off for holidays, sick leave, vacation and personal necessity.”³⁴ Ultimately, a majority of the task force recommended not to set minimum mandatory standards, reasoning that employee benefits are an area to be determined through negotiations within the employer/employee relationship and that allowing the free market to dictate competitive employee benefits is a sound business platform that provides opportunities for economic growth.³⁵

III. Effect of Proposed Changes:

The Healthy Working Families Act

The bill creates the “Healthy Working Families Act” (act) under chapter 448, F.S., to provide a policy by which employees are able to earn “sick and safe leave” for time away from work. Earned sick and safe leave can be approved by an employer so that an employee may take a temporary leave from work in order to care for themselves or their family members.

²⁹ Leave for non-medical family responsibilities may be contingent upon causing only minimal impact to the employee's work unit. Rule 60L-34.0051(5), F.A.C.

³⁰ Section 741.313(2)(a), F.S.

³¹ *Id.*

³² Sections 741.313(4) and (7), F.S.

³³ Chapter 2013-200, L.O.F., Section 1.

³⁴ See Employer-Sponsored Benefits Study Task Force Final Report, January 15, 2014, available at <http://careersourceflorida.com/wp-content/uploads/2014/01/TaskForceBenefitsStudyFinalReport.pdf> (last accessed January 20, 2016).

³⁵ *Id.*

Covered Employers

The bill subjects all state or local government agencies and all private employers to the accrual formula for sick and safe leave. Employers with less than 10 employees are not required to provide paid compensation for the sick and safe leave used by employees, but their employees are still entitled to earn unpaid leave. Employers with 10 or more employees are required to provide paid time off when an employee uses earned sick and safe leave.

By subjecting all private employers to the sick and safe leave requirements, this bill greatly expands Florida law regulating private employer/employee benefits. Because most government agencies already implement leave policies, the impact of this bill on government agencies may not be as significant as the impact on private employers.

Eligible Employees

The bill's definition of employee appears to apply to individuals who are regularly scheduled to work more than 8 hours a week for an employer.

An employee who regularly works less than eight hours a week for an employer is not subject to this bill's provisions. Under the bill, an employee is defined as *not* being a person who meets all of the following criteria:

- Has an irregular work schedule with the employer;
- Contacts the employer for work assignments and is scheduled to work the assignments within 4 hours after contacting the employer;
- Has no obligation to work for the employer if the individual does not contact the employer for work assignments; and
- Is not employed by a temporary placement agency.

Accrual Formula

The bill sets forth an accrual formula for sick and safe leave that amounts to 1 hour of leave per 30 hours worked by an employee. The bill requires the accrual formula to be implemented by October 1, 2016.

The bill allows an employer to award an employee, at the beginning of the fiscal or calendar year, the full amount of sick and safe leave the employee would accrue within the year. For employees that are rehired by an employer within 12 months, the employer is also required to reinstate any unused sick and safe leave that the employee had earned before ending employment with the employer.

However, an employer is not required to allow an employee to take earned sick and safe leave during the first 3 months of employment, to carry forward more than 56 hours of earned sick and safe leave per year, or to allow an employee to use more than 80 hours of earned sick and safe leave per year.

Implementing this formula may complicate existing regulations for government employees. The bill does not distinguish different accrual methods for part-time and full-time employees, and the

amount of leave that can be accrued and carried over under this policy is significantly less than the current standards set forth by the DMS. Additionally, the DMS does not allow an employer to grant paid leave prior to it having been earned by the employee.

Uses of Sick and Safe Leave

The bill states that in order for an employee to use earned sick and safe leave, an employee must request approval of leave and notify the employer of the anticipated duration of the leave.

Acceptable uses for sick and safe leave include:

- Obtaining care or treatment for the employee for any mental or physical illness, condition or injury;
- Obtaining preventative medical care for the employee or a family member;
- If the employer's place of business, or a school or child care center of the employee's family member, has been closed by order of public official;
- To care for a family member if a public official or health care provider has determined the family member's presence in the community would jeopardize the health of others because of the family member's exposure to a communicable disease; or
- If necessary for the employee or an employee's family member to obtain medical attention, counseling, legal services, and other related services for victims of domestic violence, sexual assault, or stalking.

The definition of family member is more expansive than the definition of family member under the FMLA.³⁶ In the bill, family member is defined as any one of the following:

- A biological, adopted, foster, or stepchild of the employee;
- A minor for whom the employee has legal or physical custody or guardianship;
- A biological, adoptive, foster, or stepparent of the employee or employee's spouse;
- The legal guardian of the employee;
- A person who served as the primary caregiver of the employee when the employee was a minor;
- The spouse of a grandparent of the employee;
- A grandchild of the employee;
- A biological, adopted, or foster sibling of the employee; or
- The spouse of a biological, adopted, or foster sibling of the employee.

Verification for Leave

The bill allows an employer to request reasonable documentation to verify that leave was granted for an acceptable use if an employee uses sick and safe leave for more than two consecutive, scheduled shifts. The bill sets forth ways an employee can provide reasonable documentation to an employer and prohibits an employer from inquiring into unnecessary details of the nature of an illness, domestic violence, sexual assault, or stalking.

³⁶ The FMLA defines "family member" as the spouse, son, daughter, or parent of the employee.

Recordkeeping

The bill requires employers to keep documentation regarding sick and safe leave in a confidential file that is separate from the employee's personnel file. Employers are required to keep, for at least 3 years, a record of all accrued and used sick leave for each employee. If paid sick and safe leave is used, the employer is also required to provide the employee with a written statement of the amount of leave earned and the remaining balance available for use.

Department of Economic Opportunity (DEO)

The bill delegates multiple tasks to the DEO for the oversight and enforcement of the sick and safe leave policy. The DEO is required to:

- Develop and implement an outreach program to inform individuals about the availability of sick and safe leave. As part of the program, the DEO must distribute notices and other written materials, in both English and Spanish, to child care centers, elder care providers, community health centers, domestic violence shelters, health care providers, hospitals, and schools.
- Create and make available a poster and model notice that may be used by an employer to inform employees of their rights to sick and safe leave. The bill provides that notices developed by the DEO are required to include the following information:
 - a statement as to how sick and safe leave is accrued;
 - a description of when an employer is required to allow an employee to use leave;
 - a statement regarding the prohibition against an employer taking adverse action against an employee; and
 - information of the employee's right to file a complaint for any alleged violation of the requirements under the bill.
- Upon receipt of a written complaint, the DEO must conduct an investigation and inspect the records of an employer to determine whether a violation of the sick and safe leave policy has occurred. If a violation is determined to have occurred the DEO is authorized to:
 - attempt to resolve informally, by mediation, any issue involved in the violation;
 - request the Attorney General bring an action on behalf of the employee; or
 - bring an action on behalf of the employee in the county of which the violation allegedly occurred.

Violations of Sick and Safe Leave Policy

In addition to the actions the DEO is authorized to take for a violation of the sick and safe leave policy, an employee is also able to bring a civil action against the employer. The bill creates a rebuttable presumption that an employer has violated the sick and safe leave policy if an allegation is received and the employer is found to have failed to provide notice to employees, failed to keep proper records, or failed to allow the DEO to investigate the employer's records.

The bill prohibits an employer from taking adverse action or discriminating against an employee who, in good faith, files a complaint with the DEO regarding alleged violations of the sick and safe leave policy. Another rebuttable presumption is created by the bill with regards to when an employer takes adverse action against an employee. An employer's action is considered adverse if it amounts to a discharge or demotion of employee, or a threat of such action, or any other

retaliatory action, that results in a change to the terms or conditions of employment which would dissuade a reasonable employee from exercising a right under this policy.

The bill provides that if a court finds that an employer violated the sick and safe leave policy, the court may award the employee:

- the full monetary value of any unpaid earned sick and safe leave;
- actual economic damages suffered by the employee as a result of the employer's violation of this section;
- an additional amount not to exceed three-times the amount of economic damages awarded;
- reasonable attorneys fees and costs; or
- any other relief the court deems appropriate, including backpay, reinstatement of employment, and injunctive relief.

The bill also provides that if an action is brought by the Attorney General on behalf of an employee, the court may order the employer to pay the state the amount of \$1,000 per violation.

However, if an employee files a complaint, brings a civil action, or testifies in an action, in bad faith, the bill subjects the employee to a criminal penalty. The bill states that an employee found to be in violation of the sick and safe leave policy commits a misdemeanor of the first degree, punishable under s. 775.082 or s. 775.083, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The employment records of public employees, unless specifically exempted, are public records. These records include requests for leave and time sheets. The bill requires all employers to keep confidential all information related to an employee's leave granted under this bill. A public records exemption may be needed to keep sick and safe leave information confidential.

The Legislature may, by a two-thirds vote of the House and the Senate,³⁷ create an exemption to public records or open meetings requirements.³⁸ An exemption must explicitly state the public necessity of the exemption,³⁹ must be tailored to accomplish the

³⁷ FLA. CONST., art. I, s. 24(c).

³⁸ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

³⁹ FLA. CONST., art. I, s. 24(c).

stated purpose of the law,⁴⁰ and must relate to one subject containing only exemptions or provisions governing enforcement.⁴¹

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Imposing sick and safe leave requirements upon all employers will likely cause a significant fiscal impact on the private sector. Employers who employ 10 or more employees will be required to grant paid leave to employees who earn and use sick and safe leave. Employers would be subject to lawsuits from the DEO, the Attorney General's office, and employees for violations of the sick and safe leave policy.

C. Government Sector Impact:

Many agencies already provide similar leave for their employees in their personnel policies. As a result, state agencies may be less affected than private employers when it comes to implementing the sick and safe leave policy. However, government agencies would also be subject to lawsuits from the DEO, the Attorney General's office, and employees for violations of the sick and safe leave policy.

Additionally, the DEO is required by the bill to create an outreach program, notices for employers and employees in multiple languages, and to oversee and investigate complaints under the sick and safe leave policy. The DEO estimates a need of 25 FTE staff with a total budgetary cost of \$2,500,000 annually.⁴² As the volume of complaints and enforcement activities is determined, OPS staff may also be needed to supplement the primary staff.⁴³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁰ FLA. CONST., art. I, s. 24(c).

⁴¹ *State v. Knight*, 661 So. 2d 344 (Fla. 4th DCA 1995).

⁴² Department of Economic Opportunity, *Senate Bill 294 Analysis* (Sept. 24, 2015) (on file with the Senate Commerce and Tourism Committee).

⁴³ *Id.*

VIII. Statutes Affected:

This bill creates section 448.111 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.

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

By Senator Thompson

12-00215-16

2016294__

1 A bill to be entitled
 2 An act relating to labor regulations; creating s.
 3 448.111, F.S.; providing powers and duties of the
 4 executive director of the Department of Economic
 5 Opportunity; defining terms; providing applicability;
 6 requiring certain employers to provide employees with
 7 paid or unpaid earned sick and safe leave under
 8 certain conditions; providing employer and employee
 9 requirements; authorizing an employee to file a civil
 10 action under certain conditions; providing penalties;
 11 providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Section 448.111, Florida Statutes, is created to
 16 read:
 17 448.111 Healthy Working Families Act.—
 18 (1) (a) Upon the receipt of a written complaint by an
 19 employee, the executive director may conduct an investigation to
 20 determine whether a violation of this section has occurred.
 21 (b) To the extent practicable, the executive director shall
 22 keep confidential the identity of an employee who has filed a
 23 written complaint alleging a violation of this section unless
 24 the employee waives confidentiality.
 25 (2) As used in this section, the term:
 26 (a) "Abuse" means:
 27 1. An act that causes serious bodily harm.
 28 2. An act that places a person in fear of imminent serious
 29 bodily harm.

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30 3. Assault.
 31 4. Domestic violence.
 32 5. False imprisonment.
 33 6. Stalking.
 34 (b) "Department" means the Department of Economic
 35 Opportunity.
 36 (c) "Domestic violence" has the same meaning as described
 37 in s. 741.28.
 38 (d) "Earned sick and safe leave" means paid or unpaid leave
 39 away from work which is provided by an employer under this
 40 section.
 41 (e) "Employee" does not include a person who meets all of
 42 the following criteria:
 43 1. Has an irregular work schedule with the employer.
 44 2. Contacts the employer for work assignments and is
 45 scheduled to work the assignments within 4 hours after
 46 contacting the employer.
 47 3. Has no obligation to work for the employer if the
 48 individual does not contact the employer for work assignments.
 49 4. Is not employed by a temporary placement agency.
 50 (f) "Employer" means a state or local government agency and
 51 a person who acts directly or indirectly in the interest of
 52 another employer with an employee.
 53 (g) "Executive director" means the executive director of
 54 the Department of Economic Opportunity.
 55 (h) "Family member" means:
 56 1. A biological child, an adopted child, a foster child, or
 57 a stepchild of the employee.
 58 2. A minor for whom the employee has legal or physical

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59 custody or guardianship.

60 3. A minor for whom the employee is the primary caregiver.

61 4. A biological parent, an adoptive parent, a foster
62 parent, or a stepparent of the employee or of the employee's
63 spouse.

64 5. The legal guardian of the employee.

65 6. A person who served as the primary caregiver of the
66 employee when the employee was a minor.

67 7. The spouse of the employee.

68 8. A grandparent of the employee.

69 9. The spouse of a grandparent of the employee.

70 10. A grandchild of the employee.

71 11. A biological sibling, an adopted sibling, or a foster
72 sibling of the employee.

73 12. The spouse of a biological sibling, a foster sibling,
74 or an adopted sibling of the employee.

75 (i) "Health care provider" means a physician licensed under
76 chapter 458 or chapter 459.

77 (j) "Sexual assault" means:

78 1. Rape or a sexual offense.

79 2. Sexual abuse of a minor.

80 3. Sexual abuse of a vulnerable adult.

81 (k) "Stalking" has the same meaning as described in s.
82 784.048.

83 (l) "Year," unless the context requires otherwise, means:

84 1. If the employer uses a calendar year for his or her
85 regular business, a calendar year.

86 2. If the employer uses a fiscal year for his or her
87 regular business, a fiscal year.

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88 (3) This section does not:

89 (a) Require an employer to compensate an employee for
90 unused earned sick and safe leave when the employee leaves the
91 employer's employment.

92 (b) Prohibit an employer from establishing a policy under
93 which employees may voluntarily exchange assigned work hours.

94 (c) Prohibit an employer from adopting or retaining a
95 general paid leave policy that meets the minimum requirements of
96 this section.

97 (d) Affect a provision of a contract, a collective
98 bargaining agreement, an employee benefit plan, or any other
99 agreement that requires the employer to provide general paid
100 leave benefits that meet the minimum requirements of this
101 section.

102 (e) Preempt, limit, or otherwise affect any other law that
103 provides for earned sick and safe leave benefits that exceed
104 those required under this section.

105 (f) Preempt, limit, or otherwise affect any workers'
106 compensation benefits.

107 (4) This section does not apply to an employee who
108 regularly works less than 8 hours a week for an employer.

109 (5) (a) The executive director shall develop and implement a
110 multilingual outreach program to inform employees and other
111 affected persons about the availability of earned sick and safe
112 leave under this section.

113 (b) The program established under paragraph (a) must
114 include the distribution of notices and other written material
115 in at least English and Spanish to child care and elder care
116 providers, community health centers, domestic violence shelters,

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117 health care providers, hospitals, and schools.

118 (6) (a) Effective October 1, 2016, an employer who employs
 119 more than 9 employees shall provide each employee with paid
 120 earned sick and safe leave, and an employer who employs fewer
 121 than 10 employees shall provide each employee with unpaid earned
 122 sick and safe leave, accrued at a rate of at least 1 hour for
 123 every 30 hours that the employee works on or after that date.

124 (b) For the purpose of determining whether an employer is
 125 required to provide paid or unpaid earned sick and safe leave
 126 under this subsection, the number of employees is determined by
 127 calculating the average number of all employees employed by the
 128 employer each month during the preceding year.

129 (c) An employer is not required to allow an employee to use
 130 earned sick and safe leave during the first 3 months of
 131 employment; to earn in a year, or to carry forward from one year
 132 to the next, more than 56 hours of earned sick and safe leave;
 133 or to use more than 80 hours of earned sick and safe leave in
 134 the course of a year.

135 (d) An employer may award to an employee at the beginning
 136 of a year the full amount of earned sick and safe leave that an
 137 employee would earn over the course of the year rather than
 138 awarding the leave as it accrues.

139 (e) 1. Except as provided in subparagraph 2., for the
 140 purpose of calculating the accrual of earned sick and safe
 141 leave, an employee who is exempt from overtime wage requirements
 142 under the federal Fair Labor Standards Act is assumed to work 40
 143 hours each workweek.

144 2. If the employee's normal workweek is less than 40 hours,
 145 the actual number of hours worked is used.

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146 (f) An employee may carry forward the unused balance of
 147 earned sick and safe leave at the end of a year up to the limit
 148 specified in paragraph (c).

149 (g) If an employee begins working in a separate division or
 150 location but remains employed by the employer, the employee is
 151 entitled to the earned sick and safe leave that accrued before
 152 the employee moved to the separate division or location up to
 153 the maximum allowed under this subsection.

154 (h) If an employee is rehired by an employer within 12
 155 months after leaving the employment of the employer, the
 156 employer shall reinstate any unused earned sick and safe leave
 157 that the employee had when the employee left the employment of
 158 the employer. This requirement does not apply when an employee
 159 is rehired by an employer more than 12 months after leaving the
 160 employment of the employer.

161 (i) 1. An employer may allow an employee to use earned sick
 162 and safe leave before the employee accrues the amount he or she
 163 wishes to use. Any such use shall be documented by the employer
 164 and signed by the employee.

165 2. If an employee is allowed to use earned sick and safe
 166 leave before it has accrued and subsequently leaves employment
 167 before accruing the number of hours used, the employer may
 168 deduct the amount he or she paid to the employee for any
 169 unaccrued hours from the wages it pays to the employee at the
 170 time of his or her termination of employment. This subparagraph
 171 does not apply if the employer does not obtain the signed
 172 documentation required under subparagraph 1.

173 (7) (a) An employer shall allow an employee to use earned
 174 sick and safe leave:

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175 1. To obtain care or treatment for the employee or a family
 176 member of the employee for any mental or physical illness,
 177 condition, or injury.
 178 2. To obtain preventive medical care for the employee or a
 179 family member of the employee.
 180 3. If the employer's place of business has closed by order
 181 of a public official due to a public health emergency.
 182 4. If the school of, or child care provider for, the
 183 employee's family member has closed by order of a public
 184 official due to a public health emergency.
 185 5. To care for a family member if a public official or
 186 health care provider has determined that the family member's
 187 presence in the community would jeopardize the health of others
 188 because of the family member's exposure to a communicable
 189 disease.
 190 6. If an absence from work is necessary due to domestic
 191 violence, sexual assault, or stalking committed against the
 192 employee or a family member of the employee and the leave is
 193 being used:
 194 a. By the employee, on behalf of the employee or the
 195 employee's family member, to obtain:
 196 (I) Medical attention that is needed to recover from a
 197 related physical or psychological injury or disability;
 198 (II) Related services from a victim services organization;
 199 (III) Related psychological or other counseling; or
 200 (IV) Legal services, including preparing for or
 201 participating in a civil or criminal proceeding related to or
 202 resulting from the domestic violence, sexual assault, or
 203 stalking; or

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204 b. While the employee has temporarily relocated due to the
 205 domestic violence, sexual assault, or stalking.
 206 (b) In order to use earned sick and safe leave, an employee
 207 must:
 208 1. Request the leave from the employer as soon as
 209 practicable after the employee determines that he or she needs
 210 to use the leave;
 211 2. Notify the employer of the anticipated duration of the
 212 leave; and
 213 3. Comply with any reasonable procedures established by the
 214 employer under paragraph (c).
 215 (c) An employer may establish reasonable procedures to be
 216 used by an employee in requesting and using earned sick and safe
 217 leave. However, an employer may not:
 218 1. Require an employee who is requesting earned sick and
 219 safe leave to search for or find a person to work in the
 220 employee's stead during the time the employee is absent.
 221 2. Disclose details of:
 222 a. Any domestic violence, sexual assault, or stalking
 223 committed against the employee or a family member of the
 224 employee.
 225 b. Any mental or physical illness, condition, or injury of
 226 the employee or a family member of the employee.
 227 3. Provide as certification any information that would
 228 violate the federal Social Security Act or the federal Health
 229 Insurance Portability and Accountability Act.
 230 (d) Upon the mutual consent of the employer and employee,
 231 an employee may work additional hours or trade shifts with
 232 another employee to make up work hours that the employee took

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233 off which otherwise would have required the employee to use
 234 earned sick and safe leave. However, an employee may not be
 235 required to offer or to accept an offer of additional work hours
 236 or a trade in shifts.

237 (e) An employee may use earned sick and safe leave in the
 238 smallest increment that the employer's payroll system uses to
 239 account for absences or use of the employee's work time. An
 240 employer may not require an employee to use earned sick and safe
 241 leave in increments of more than 1 hour.

242 (f) When wages are paid to an employee, the employer shall
 243 provide a written statement regarding the amount of earned sick
 244 and safe leave that is available for use by the employee.

245 (g)1. An employer may require an employee who uses earned
 246 sick and safe leave for more than two consecutive scheduled
 247 shifts to provide reasonable documentation to verify that the
 248 leave was used as provided under paragraph (a).

249 2. For purposes of this paragraph, reasonable documentation
 250 includes:

251 a. For leave used under subparagraph (a)1. or subparagraph
 252 (a)5., documentation from a health care provider or public
 253 health official that the use of earned sick and safe leave is
 254 necessary.

255 b. For leave used under subparagraph (a)3., a copy of the
 256 notice received by the employee of the closure order.

257 c. For leave used under subparagraph (a)6.:

258 (I) A report by a law enforcement officer indicating that
 259 the employee or a family member of the employee was the victim
 260 of domestic violence, sexual assault, or stalking;

261 (II) Documentation of an indictment for domestic violence,

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262 sexual assault, or stalking committed against the employee or a
 263 family member of the employee;

264 (III) Certification by a state attorney's office, child
 265 protective services, a law enforcement agency, the victim's
 266 attorney, or the victim's advocate that the employee or a family
 267 member of the employee is a party to or witness in a legal
 268 action related to the domestic violence, sexual assault, or
 269 stalking committed against the employee or a family member of
 270 the employee;

271 (IV) A court order protecting the employee or a family
 272 member of the employee from the perpetrator of the domestic
 273 violence, sexual assault, or stalking committed against the
 274 employee or a family member of the employee; or

275 (V) A notice from a court, the victim's attorney, or the
 276 state attorney's office that the employee or a family member of
 277 the employee appeared or is scheduled to appear in court in
 278 connection with the domestic violence, sexual assault, or
 279 stalking committed against the employee or a family member of
 280 the employee.

281 3. An employer may not require that documentation verifying
 282 the use of the earned sick and safe leave under subparagraph
 283 (a)1. or subparagraph (a)5. explain the nature of the mental or
 284 physical illness, injury, or condition or that documentation
 285 verifying the use of the earned sick and safe leave under
 286 subparagraph (a)6. include details regarding the domestic
 287 violence, sexual assault, or stalking.

288 4. Any documentation required under subparagraph 1. which
 289 relates to the mental or physical health of, or to domestic
 290 violence, sexual assault, or stalking committed against an

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291 employee or a family member must be maintained by the employer
 292 in a confidential file that is separate from the employee's
 293 personnel file. An employer may not disclose such documentation
 294 without first receiving permission from the employee to do so.

295 (8) (a) An employer shall notify his or her employees that
 296 they are entitled to earned sick and safe leave under this
 297 section. Such notice shall include:

298 1. A statement of how earned sick and safe leave is accrued
 299 under subsection (6);

300 2. The purposes for which the employer is required to allow
 301 an employee to use earned sick and safe leave under subsection
 302 (7);

303 3. A statement regarding the prohibition in subsection (11)
 304 of the employer's taking adverse action against an employee who
 305 exercises a right under this section; and

306 4. Information regarding the right of an employee to report
 307 an alleged violation of this section by the employer to the
 308 executive director or to bring a civil action under paragraph
 309 (10) (b) .

310 (b) The department shall create and make available a poster
 311 and a model notice that may be used by an employer in complying
 312 with paragraph (a). The model notice must be printed in at least
 313 English and Spanish, and in any other language that the
 314 executive director determines is necessary to notify employees
 315 of their rights under this section.

316 (c) An employer may comply with paragraph (a) by:

317 1. Displaying the poster in a conspicuous and accessible
 318 area at the location at which the employees work; or

319 2. Including the model notice, or a notice that contains

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320 the same information that is included in the model notice, in an
 321 employee handbook or other electronic or printed employee
 322 publication relating to employee benefits or leave or providing
 323 such notice to each employee upon hiring.

324 (d) An employer who violates this subsection is subject to
 325 a civil penalty of not more than \$125 for the first violation
 326 and not more than \$250 for each subsequent violation.

327 (9) (a) An employer shall keep for at least 3 years a record
 328 of earned sick and safe leave accrued and used by each employee.
 329 The employer may keep the record in the same manner that the
 330 employer keeps other records required to be kept under this
 331 section.

332 (b) After giving the employer notice and determining a
 333 mutually agreeable time for the inspection, the executive
 334 director may inspect a record kept under paragraph (a) for the
 335 purpose of determining whether the employer is complying with
 336 this section.

337 (c) There is a rebuttable presumption that an employer has
 338 violated this section, which may be overcome only by clear and
 339 convincing evidence, if it is alleged that the employer has
 340 failed to provide the amount of earned sick and safe leave
 341 available to an employee, and the employer fails to:

342 1. Keep a record as required under paragraph (a); or
 343 2. Allow the executive director to inspect a record kept
 344 under paragraph (a).

345 (10) (a) When the executive director determines that a
 346 violation of this section has occurred, the executive director
 347 may:

348 1. Attempt to resolve informally, by mediation, any issue

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349 involved in the violation;

350 2. With the written consent of the employee, request that
 351 the Attorney General bring an action in accordance with this
 352 section on behalf of the employee; and

353 3. Bring an action on behalf of an employee in the county
 354 in which the violation allegedly occurred.

355 (b) An employee may bring a civil action against the
 356 employer for a violation of this section regardless of whether
 357 the employee first filed a complaint with the executive
 358 director.

359 (c) An action brought under paragraph (a) or paragraph (b)
 360 must be filed within 3 years after the occurrence of the act on
 361 which the action is based.

362 (d)1. In an action under paragraph (a) or paragraph (b), if
 363 a court finds that an employer violated this section, the court
 364 may award the employee:

365 a. The full monetary value of any unpaid earned sick and
 366 safe leave;

367 b. Actual economic damages suffered by the employee as a
 368 result of the employer's violation of this section;

369 c. An additional amount not exceeding three times the
 370 damages awarded under sub-subparagraph b.;

371 d. Reasonable attorney fees and other costs; and

372 e. Any other relief that the court deems appropriate,
 373 including reinstatement of employment, back pay, and injunctive
 374 relief.

375 2. If benefits are recovered under this subsection, they
 376 shall be paid to the employee without cost to the employee.

377 3. If the action was brought by the Attorney General under

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378 subparagraph (a)2., the court may order the employer to pay the
 379 state \$1,000 per violation.

380 (11) (a) As used in this subsection, the term "adverse
 381 action" includes discharge or demotion, or a threat of such
 382 action, or any other retaliatory action that results in a change
 383 to the terms or conditions of employment which would dissuade a
 384 reasonable employee from exercising a right under this section.

385 (b) A person may not interfere with the exercise of, or the
 386 attempt to exercise, any right given under this section.

387 (c)1. An employer may not:

388 a. Take adverse action or discriminate against an employee
 389 because the employee in good faith exercises the rights
 390 protected under this section; or

391 b. Count earned sick and safe leave that an employee used
 392 in accordance with this section as an absence that may lead to
 393 or result in any adverse action being taken against the
 394 employee.

395 2. There is a rebuttable presumption that an employer has
 396 violated this subsection if the employer takes adverse action
 397 against an employee within 90 days after the employee:

398 a. Files a complaint with the executive director alleging a
 399 violation of this section or brings a civil action under
 400 paragraph (10) (b);

401 b. Informs a person about an alleged violation of this
 402 subsection by his or her employer;

403 c. Cooperates with the executive director or another person
 404 in the investigation or prosecution of an alleged violation of
 405 this subsection by his or her employer; or

406 d. Opposes a policy or practice of his or her employer or

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407 an act committed by the employer which is unlawful under this
408 subsection.

409 (d) The protections afforded under this subsection apply to
410 an employee who mistakenly, but in good faith, alleges a
411 violation of this subsection.

412 (12) (a) An employee may not in bad faith:

413 1. File a complaint with the executive director alleging a
414 violation of this section;

415 2. Bring an action under paragraph (10) (b); or

416 3. Testify in an action under paragraph (10) (b).

417 (b) An employee who violates this subsection commits a
418 misdemeanor of the first degree, punishable as provided in s.
419 775.082 or s. 775.083.

420 Section 2. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

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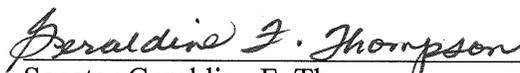
To: Senator Nancy C. Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 11, 2016

I respectfully request that **Senate Bill # 294**, relating to Labor Regulations , be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.



Senator Geraldine F. Thompson
Florida Senate, District 12

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-25-16

Meeting Date

SB 294

Bill Number (if applicable)

Topic Labor Relations

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Job Title _____

Address 873 Kingsway Rd

Street

Phone 850-320-4208

Tallahassee

FL

Email ste.f.kunkel@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Federation of Business and Professional Women

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/25/10
Meeting Date

294
Bill Number (if applicable)

Topic worker benefits

Amendment Barcode (if applicable)

Name Rich Templin

Job Title _____

Address 135 S. Monroe

Phone 850-224-6526

Street

Tallahassee

FL

State

32301

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida AFL-CIO

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)

JAN 25, 2016
Meeting Date

SB 294
Bill Number (if applicable)

Topic PAID SICK LEAVE

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title _____

Address 311 EAST PARK AVENUE
Street

Phone 224-5091

TALLAHASSEE FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/25/16
Meeting Date

294
Bill Number (if applicable)

Topic Labor Regulation

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title Vice President & General Counsel

Address 227 S. Adams St.

Phone 222-4082

Tallahassee FL 32301
City State Zip

Email samantha@frf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Retail Federation & Florida Petroleum Marketers & Convenience Store 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/25/16

Meeting Date

294

Bill Number (if applicable)

Topic Labor Regulations

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 E. Jefferson St.

Phone 850-445-5367

Street

Tallahassee FL 32301

City

State

Zip

Email tim.nungesser@nfib.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NFIB (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.

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)

1-25-16
Meeting Date

294
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Lance Lozano

Job Title Chief Operating Officer

Address 116 S. Monroe St.

Phone 850-681-6265

Tallahassee FL 32301
City State Zip

Email llozano@fuba.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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.

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: CS/SB 754

INTRODUCER: Commerce and Tourism Committee and Senator Richter

SUBJECT: Public Records/Department of Agriculture and Consumer Services Criminal or Civil Intelligence or Investigative Information

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 754 creates a new public records exemption for the Department of Agriculture and Consumer Services (DACS). The exemption provides that criminal or civil intelligence, investigative information, or any other information held by the DACS as part of a joint or multiagency examination with another state or federal agency will be confidential and exempt from public disclosure.

This exemption does not apply to information held by the DACS that that would otherwise be available for public inspection if the DACS performed an independent investigation.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a public necessity statement as required by the Florida Constitution.

II. Present Situation:

Public Records and Open Meetings Requirements

The Florida Constitution provides that the public has the right to access governmental meetings and to inspect or copy government records. The public may inspect or copy any records made or

received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government, counties, municipalities, school districts, or special districts at which public business is transacted or discussed.² The Legislature's meetings must be open and noticed to the public, unless there is an exception provided by the constitution.³

The Florida Statutes specify conditions under which public access must be provided to government records and meetings. Chapter 119, F.S., the "Public Records Act," constitutes the main body of public records laws, and states that:

It is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁵ The Florida Supreme Court interprets "public records" as "any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type."⁶ A violation of the Public Records Act may result in civil or criminal liability.⁷

Section 286.011, F.S., the "Sunshine Law,"⁸ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.⁹

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(b).

³ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.

⁴ Section 119.01(1), F.S.

⁵ Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature's records are public pursuant to s. 11.0431, F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are penalties for violations of those laws.

⁸ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

⁹ Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, s. 4(e) of the Florida Constitution, provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of

The Legislature may, by a two-thirds vote of the House and the Senate,¹⁰ create an exemption to public records or open meetings requirements.¹¹ An exemption must explicitly state the public necessity of the exemption¹² and must be tailored to accomplish the stated purpose of the law.¹³ A statutory exemption which does not meet these two criteria may be found unconstitutional, and efforts may not be made by the court to preserve the exemption.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of public records and public meeting exemptions, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (act).

The act prescribes a legislative review process for newly created or substantially amended public records and open meetings exemptions.¹⁵ The act provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repeal of the sunset date rather than reenactment of the exemption.

Under the act, the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following specific questions in such a review:¹⁷

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?

Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

¹² FLA. CONST., art. I, s. 24(c).

¹³ FLA. CONST., art. I, s. 24(c).

¹⁴ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. In *Baker County Press*, the court found that since the law did not contain a public necessity statement, it was unconstitutional.

¹⁵ Sections 286.0111 and 119.15, F.S. Section 286.0111, F.S., provides that the act's provisions found in s. 119.15, F.S., apply to s. 286.011, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered substantially amended if it is expanded to include more information or to include meetings. The act does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. While the OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one Legislature cannot bind a future Legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(a), F.S.

- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

The OGSR Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁸ An exemption serves an identifiable purpose if it meets one of the following criteria:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁰ or
- It protects trade or business secrets.²¹

In addition, the Legislature must find that the identifiable public purpose is compelling enough to override Florida's open government public policy and that the purpose of the exemption cannot be accomplished without the exemption.²²

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²³ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁴

The Department of Agriculture and Consumer Services

The Department of Agriculture and Consumer Services (DACS) safeguards the public from unsafe or defective products and deceptive business practices. The Division of Consumer Services within the DACS regulates specific business activities, including commercial weight loss practices, telephone solicitations, pawnshops, health studios, sellers of travel, and telemarketing.²⁵

The DACS investigates and regulates several professions in Florida. Most recently the DACS's oversight and regulation of charitable organizations was significantly expanded to include oversight of charitable organizations and sponsors, professional fundraising consultants, and professional solicitors.²⁶

¹⁸ Section 119.15(6)(b), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² Section 119.15(6)(b), F.S.

²³ FLA. CONST., art. I, s. 24(c).

²⁴ Section 119.15(7), F.S.

²⁵ See <http://www.freshfromflorida.com/Divisions-Offices/Consumer-Services>, (last visited Jan. 22, 2016.)

²⁶ See ch. 2014-122, L.O.F.

Florida's public record laws currently make any information obtained by the DACS in administrative and civil investigations open to the public. According to the DACS, this presents a hurdle to partnering with other state and federal agencies, such as the Federal Trade Commission (FTC) or Internal Revenue Service (IRS), because the DACS cannot maintain the same level of privacy adopted and required by those federal and other state agencies.²⁷ As a result, investigations by the DACS are hindered because it is often unable to gather pertinent information from, enter into confidentiality agreements with, or participate in multi-jurisdiction task forces with other state and federal agencies.

The FTC operates a Consumer Sentinel database that is protected from public record disclosure. Information from this database can only be provided to a state agency that agrees not to disseminate the information.²⁸ This database contains information on subjects relating to:

- Identity Theft,
- Do-Not-Call Registry Violations,
- Computers, the Internet, and Online Auctions,
- Telemarketing Scams,
- Advance-fee loans and credit scams,
- Immigration services,
- Sweepstakes, Lotteries, and Prizes,
- Business Opportunities and Work-at-home Schemes,
- Health and Weight Loss Products, and
- Debt Collection, Credit Reports, and Financial Matters.

Additionally, the Internal Revenue Service (IRS) has expressed a willingness to share information on a case-by-case basis should the DACS be able to prevent disclosure of the information beyond the DACS.²⁹ The IRS has access to tax filing information that might be valuable to the DACS when investigating whether an organization is compliant with Florida law.

III. Effect of Proposed Changes:

Section 1 creates s. 570.077, F.S., which creates a public record exemption for specific information received from another state or federal regulatory, administrative, or criminal justice agency.

The bill makes confidential and exempt criminal or civil intelligence or investigative information provided to the DACS by another state or federal agency as part of a joint or multiagency examination or investigation if the information is confidential or exempt under the regulations or laws of the state or federal agency that provides the information. The DACS will be able to obtain, use, and release the information that is confidential or exempt under the laws or

²⁷ Florida Department of Agriculture and Consumer Services, *SB 754 Agency Analysis*, (November 12, 2015) (on file with the Senate Committee on Commerce and Tourism).

²⁸ *Id.* See also, Federal Trade Commission, *Consumer Sentinel Network*, available at: <https://www.ftc.gov/enforcement/consumer-sentinel-network>, (last visited Jan. 22, 2016).

²⁹ *Id.*

regulations of the state or federal source in accordance with conditions imposed by agreements the DACS enters into with the other state or governmental entity.

This bill further provides that the DACS may release confidential and exempt information in furtherance of its official duties, and may release the information to another governmental agency in furtherance of that agency's official duties.

The exemption created by section 1 of the bill permits the DACS to receive intelligence information that is confidential or exempt under a state or federal agency's laws or regulations, and maintain it as such in the DACS investigative file. This will allow the DACS to receive and hold data that would otherwise be withheld by state or federal agencies with less open public records laws. This change should strengthen relations between the DACS and other state and federal agencies that will be able to share confidential investigatory information with the DACS.

Currently, most investigative information held by the DACS is a public record. This proposed exemption will maintain information that is obtained or developed by the DACS as part of an independent examination or investigation as a public record. Additionally, information given to the DACS by another federal or state agency that is not confidential or exempt under the source government's laws will be considered a public record.

Section 2 of the bill provides a public necessity statement, as required by the Florida Constitution. The public necessity statement explains that the DACS is currently excluded from sources of information because they lack the authority to maintain confidentiality of the information they receive. The public necessity statement provides that this exemption is necessary for the DACS to be able to perform its regulatory duties more efficiently.

The bill's exemption will expire on October 2, 2021, pursuant to the OGSR Act, unless saved by the Legislature through reenactment.

Section 3 provides that this bill goes into effect on the same date as CS/SB 772 or similar legislation takes effect if such legislation is adopted in the same legislative session.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c) of Article I of the Florida Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created or expanded public-records or public-meetings exemption. Therefore, this bill requires a two-thirds vote for passage.

Public Necessity Statement

Section 24(c) of Article I of the Florida Constitution, requires a public necessity statement for a newly created or expanded public-records or public-meetings exemption. The Constitution provides that an exemption must state with specificity the public necessity of the exemption. The public necessity statement for this bill provides that financial information be made confidential and exempt from s. 119.07(1), F.S., and Article I, section 24(a) of the Florida Constitution. This bill also includes an exemption for public meetings discussing trade secrets, and makes those meetings exempt from the requirements of s. 286.011, F.S., and Article I, section 24(b) of the Florida Constitution. This public necessity statement provides that disclosure of financial information would be detrimental to businesses.

Breadth of Exemption

Section 24(c) of Article I of the Florida Constitution, requires a public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill expands public record exemptions to include financial information. Generally, the exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The DACS may prove more efficient and therefore effective in their investigations relating to regulated businesses and organizations. As a result, consumers harmed may see more timely results.

C. Government Sector Impact:

The fiscal impact is indeterminate, but likely minimal. The DACS will be required to train their staff to exclude relevant information from public disclosure.

The bill may enable the DACS to obtain relevant information, leads, witness data, and victim data relating to unlicensed activity or violations committed by licensees more quickly. This may result in more efficient and less costly execution of the DACS' regulatory duties, and may reduce the need for duplicative independent investigations or examinations. Participation in the FTC's Sentinel database is free to law enforcement agencies, including the DACS.

The DACS states that this provision will likely increase coordination between the DACS and various state and federal agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 772 and CS/SB 754 do not appear to be directly related to each other. CS/SB 754 exempts from public records certain types of investigatory information, while CS/SB 772 amends regulatory authority and duties in a manner that does not appear to require any change to public records laws.

VIII. Statutes Affected:

The bill substantially amends s. 570.077, F.S.

IX. Additional Information:

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

CS by Commerce and Tourism on January 25, 2016:

Technical amendment to insert the bill number of the linked bill (CS/SB 772), the passage of which the effective date of CS/SB 754 is contingent.

- B. **Amendments:**

None.



952922

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Richter) recommended the following:

Senate Amendment

Delete line 73

and insert:

If CS/SB 772 or similar legislation is adopted in the same

By Senator Richter

23-00066-16

2016754__

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 570.077, F.S.; providing an exemption from public
 4 records requirements for criminal or civil
 5 intelligence or investigative information or any other
 6 information held by the Department of Agriculture and
 7 Consumer Services as part of an examination or
 8 investigation with another state or federal
 9 regulatory, administrative, or criminal justice
 10 agency; providing exceptions to the exemption;
 11 providing applicability; providing for future
 12 legislative review and repeal of the exemption;
 13 providing a statement of public necessity; providing a
 14 contingent effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 570.077, Florida Statutes, is created to
 19 read:

20 570.077 Confidentiality of intelligence or investigative
 21 information.—

22 (1) Criminal or civil intelligence or investigative
 23 information or any other information held by the department as
 24 part of a joint or multiagency examination or investigation with
 25 another state or federal regulatory, administrative, or criminal
 26 justice agency which is confidential or exempt under the laws or
 27 regulations of that state or federal agency is confidential and
 28 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 29 Constitution. The department may obtain, use, and release the

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30 information in accordance with the conditions imposed by the
 31 joint or multiagency agreement.

32 (2) The department may release information that is made
 33 confidential and exempt under subsection (1):

34 (a) In the furtherance of its official duties and
 35 responsibilities.

36 (b) To another governmental agency in the furtherance of
 37 its official duties and responsibilities.

38 (3) The public records exemption provided in subsection (1)
 39 does not apply to information held by the department as part of
 40 an independent examination or investigation conducted by the
 41 department.

42 (4) This section is subject to the Open Government Sunset
 43 Review Act in accordance with s. 119.15 and shall stand repealed
 44 on October 2, 2021, unless reviewed and saved from repeal
 45 through reenactment by the Legislature.

46 Section 2. The Legislature finds that it is a public
 47 necessity that criminal or civil intelligence or investigative
 48 information or any other information held by the Department of
 49 Agriculture and Consumer Services as part of a joint or
 50 multiagency examination or investigation with another state or
 51 federal regulatory, administrative, or criminal justice agency
 52 which is confidential or exempt under the laws or regulations of
 53 that state or federal agency be made confidential and exempt
 54 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
 55 the State Constitution. Without the exemption, the department
 56 will be unable to obtain information that could assist it in
 57 pursuing violations of law under its jurisdiction. With this
 58 exemption, the department should increase efficiency of

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59 investigations by saving time on developing investigative leads,
60 witness data, and victim data. Furthermore, the exemption is
61 necessary to enable the department to participate in joint or
62 multiagency investigations and examinations. Without the
63 exemption, the department would continue to be excluded from
64 information due to the inability to maintain investigative
65 confidentiality. Without the sharing and coordination of
66 information, governmental agencies may be required to conduct
67 duplicative independent investigations or examinations in order
68 to meet their regulatory responsibilities. With this exemption,
69 the department will strengthen relationships with other state
70 and federal agencies, allowing them to become more efficient by
71 sharing critical investigative data.

72 Section 3. This act shall take effect upon becoming a law
73 if SB__ or similar legislation is adopted in the same
74 legislative session or an extension thereof and becomes a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-25-2016

Meeting Date

754

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Grace Lovett

Job Title Dir. Legislative Affairs

Address PL 10 The Capitol

Phone 850 617 7700

Street

Tallahassee

FL

32399

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing FL Dept. of Agriculture & Consumer Services

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.)

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

BILL: SM 798

INTRODUCER: Senator Soto

SUBJECT: Promotion of Economic Recovery in Puerto Rico

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Aldana</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SM 798 urges Congress to enact legislation to promote economic recovery in the Commonwealth of Puerto Rico, including:

- Allowing Puerto Rico to use the provisions of Chapter 9 of the United States Bankruptcy Code;
- Discontinuing the proposed 11 percent reduction in Puerto Rico’s Medicare Advantage program; and
- Establishing economic development programs to promote increased manufacturing, trade, and employment in Puerto Rico.

Legislative memorials are not subject to the Governor’s veto power, and are not presented to the Governor for review. Memorials have no force of law, as they are formal petitions to the federal government that generally request the Congress to act on a particular subject.

II. Present Situation:

A History of Puerto Rico under American Administration

Since the conclusion of the Spanish-American War in 1898, the island of Puerto Rico has been part of the United States.¹ While the island was initially placed under military jurisdiction, Congress quickly passed the Foraker Act, providing a civilian government for the territory, a non-voting Resident Commissioner in Congress, and applying all federal laws to the island.²

The Jones-Shafroth Act of 1917 (Jones Act) made significant changes in both the organization of the government of Puerto Rico and the relationship of the island with the United States. The act

¹ Treaty of Peace between the United States and Spain (Treaty of Paris), Dec. 10, 1898, available at http://avalon.law.yale.edu/19th_century/sp1898.asp.

² Liberty of Congress, *Foraker Act (Organic Act of 1900)*, <https://www.loc.gov/rr/hispanic/1898/foraker.html> (last visited Dec. 30, 2015).

established a bill of rights for the territory,³ created a bicameral legislature,⁴ and made the Resident Commissioner an elected position.⁵

The Jones Act granted United States citizenship to all residents of the island.⁶ The Jones Act also provided that bonds issued by the government of Puerto Rico or under its authority are exempt from federal, state, and local taxation, regardless of the location of the bondholder.⁷ This provision makes Puerto Rican municipal debts particularly attractive to bondholders, since municipal bonds generally are only exempt from taxation when held by residents of the issuing state.⁸

The passage of the Puerto Rico Federal Relations Act of 1950 paved the way for modern self-government in Puerto Rico.⁹ The act authorized the Legislature of Puerto Rico to call for a referendum to establish a constitutional convention.¹⁰ The new constitution drafted by the convention was approved by voters on March 3, 1952,¹¹ approved by Congress on July 3, 1952,¹² and was officially proclaimed on July 25, 1952.¹³

Current Situation

Section 936, Federal Tax Credit for Manufacturing

Puerto Rico is in the midst of a severe economic downturn and its government is unable to meet certain debt obligations as they become due. The island has been in continuous recession since 2006.¹⁴ The beginning of the recession is often linked to the expiration of section 936 tax credit of the Internal Revenue Code,¹⁵ a federal tax credit for manufacturing.¹⁶ Section 936 provided a federal tax credit for income earned in Puerto Rico for firms making at least 80 percent of their income from sources within the territory with at least 75 percent of their total income being derived from an active trade or business within the Commonwealth.¹⁷

³ Jones-Shafroth Act, Pub. L. No. 64-368, s. 2, 39 Stat. 951 (Mar. 2, 1917).

⁴ Jones-Shafroth Act, s. 25.

⁵ Jones-Shafroth Act, s. 29. The Resident Commissioner had previously been appointed by the President of the United States.

⁶ Jones-Shafroth Act, s. 5.

⁷ Jones-Shafroth Act, s. 3.

⁸ See *The Bonds that Broke Puerto Rico*, N.Y. Times (June 30, 2015),

<http://www.nytimes.com/2015/07/01/business/dealbook/the-bonds-that-broke-puerto-rico.html> (last visited Dec. 30, 2015).

⁹ Puerto Rico Federal Relations Act of 1950, Pub. L. No. 81-600 (July 3, 1950).

¹⁰ Puerto Rico Federal Relations Act of 1950, s. 2.

¹¹ Dieter Nohlen, *Elections in the Americas A Data Handbook Volume 1: North America, Central America, and the Caribbean* 556 (Oxford University Press 2005).

¹² Pub. L. No. 82-447 (July 3, 1952).

¹³ PBS, Puerto Rico: A Timeline, <http://www.pbs.org/wgbh/masterpiece/americancollection/woman/timeline.html> (last visited Dec. 30, 2015).

¹⁴ *Puerto Pobre*, The Economist (Oct. 26, 2013), <http://www.economist.com/news/finance-and-economics/21588364-heavily-indebted-island-weighs-americas-municipal-bond-market-puerto-pobre> (last visited Dec. 30, 2015).

¹⁵ 28 U.S.C. s. 936; see Internal Revenue Manual, Part 4: Examining Process, Ch. 61: International Program Audit Guidelines, S. 9: Possession Corporations, available at https://www.irs.gov/irm/part4/irm_04-061-009.html (last visited Jan. 4, 2016) (phase out rules for Section 936 credit).

¹⁶ *Puerto Pobre*, *supra* note 14.

¹⁷ General Accounting Office, *Puerto Rico and the Section 936 Tax Credit* (June 1993) at 2, <http://www.gao.gov/assets/220/218131.pdf> (last visited Dec. 30, 2015).

Section 936 was credited with encouraging major pharmaceutical firms like Pfizer to establish operations on the island.¹⁸ The phase out of the provision, however, slowed the growth of new firms in Puerto Rico, harming the island's economy.¹⁹ Some studies suggest the benefits of section 936 to the Puerto Rican economy were overstated, with benefits largely flowing to firms who employed few workers on the island.²⁰

The recession has had a significant impact on the island's population. The number of residents leaving the island has been steadily increasing for the last decade, from approximately 10,000 per year in 2005 and 26,000 per year in 2010 to more than 64,000 in 2014.²¹ Much of this migration has been to Florida, with the state's population of people of Puerto Rican heritage increasing from 816,002 in 2009 to 1,006,542 in 2014.²²

Cuts to Medicare Advantage Program Reimbursements

The United States Centers for Medicare & Medicaid Services will implement an 11-percent cut to Puerto Rico's Medicare Advantage program reimbursements for 2016. Puerto Rico's Medicaid plan has relied on a one-time, \$6.4 million block grant expected to run out in roughly 1 year. Without additional federal funding, Puerto Rico would receive less than \$400 million a year in Medicaid funds. Oregon, with roughly the same number of people as Puerto Rico, gets \$5 billion.²³ Puerto Rico generally fears that these cuts will contribute to further economic recession.²⁴

Trade and Labor Costs

Puerto Rico's higher labor and transportation costs combine to make Puerto Rican firms less competitive.

The federal minimum wage and federal welfare benefits interact with Puerto Rico's average per capita income to result in a disincentive to Puerto Rican companies to hire employees, and to welfare beneficiaries to seek employment. The federal minimum wage allows minimum wage workers in Puerto Rico to receive the equivalent of 77 percent of Puerto Rico's average per

¹⁸ *Can Puerto Rico Reinvent Itself as a Global Competitor?*, Knowledge@Wharton (Aug. 22, 2012), <http://knowledge.wharton.upenn.edu/article/can-puerto-rico-reinvent-itself-as-a-global-competitor/> (last visited Dec. 30, 2015).

¹⁹ *Id.*

²⁰ See generally J. Tomas Hexner and Glenn P. Jenkins, *Puerto Rico and Section 936: A Costly Dependence*, 10 Tax Notes Int'l 235 (Jan. 16, 1995). In 1989, pharmaceutical companies received 50 percent of Section 936 credits, but employed 17 percent of workers in firms receiving credits.

²¹ Jens Manuel Krogstad, *Puerto Ricans leave in record numbers for mainland U.S.*, Pew Research Center (Oct. 14, 2015), <http://www.pewresearch.org/fact-tank/2015/10/14/puerto-ricans-leave-in-record-numbers-for-mainland-u-s/> (last visited Dec. 30, 2015).

²² United States Census Bureau, Geographies: *State - ACS Demographic and Housing Estimates 2014 American Community Survey 1-Year Estimates*, <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t#none> (last visited Dec. 30, 2015); United States Census Bureau, Geographies: *State - ACS Demographic and Housing Estimates 2009 American Community Survey 1-Year Estimates*, <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t#none> (last visited Dec. 30, 2015).

²³ US News, *Puerto Ricans are watchful of cuts*, available at: <http://www.usnews.com/news/business/articles/2015/11/16/puerto-ricans-fear-for-their-health-as-federal-cuts-loom> (last visited on December 11, 2015).

²⁴ *Id.*

capita income, compared to a similar full-time employee employed on the mainland United States, whose income is equal to 28 percent of per capita income.²⁵ Additionally, federal welfare payments are generous compared to Puerto Rico's per capita income.²⁶

The Merchant Marine Act of 1920 requires all shipping between two United States ports to occur on ships that are built in the United States and owned and crewed by American citizens. This regulation results in significantly high shipping and transportation costs for trade in and out of Puerto Rico. As a result, firms generally choose to trade with Puerto Rico's neighboring islands, where trade costs are approximately half the cost found in Puerto Rico.²⁷ These increased labor and transportation costs place Puerto Rico in a weak position in view of global trade liberalization policies that remove tariff barriers which open competition to nations such as Mexico, Canada, Chile, Peru, and Columbia.²⁸

Puerto Rico's Debt

Puerto Rico's government, including municipalities and government utilities, currently has \$72 billion of outstanding debt.²⁹ Approximately one-third of the payment due is for general obligation bonds, while the remainder is mostly due from public corporations operating vital services such as water, electricity, and the highway system.³⁰ Concerns about repayment led some creditors of the Electric Power Authority to agree to limited debt restructuring in late December 2015.³¹ Puerto Rico's government previously defaulted on a \$58 million "moral obligation bond" in August 2015.³² The crisis was accelerated when much of Puerto Rico's general debt was downgraded to junk status in early 2014.³³ This downgrade required the government to post cash as collateral to cover interest-rate swaps and sparked selling by mutual funds and other financial institutions which are prohibited from holding assets that are not investment-grade.³⁴

Bonds issued by the Puerto Rico Urgent Interest Fund Corporation (COFINA) represent roughly \$16 billion of Puerto Rico's outstanding debt.³⁵ These bonds were sold to investors as a safe asset, since the government pledged a portion of the island's sales tax revenues to bond

²⁵ Anne O. Kreuger, Ranjit Teja, and Andrew Wolfe, *Puerto Rico – A Way Forward* at 6, Government Development Bank of Puerto Rico, June 29, 2015, available at www.bgfpr.com/documents/puertoricowayforward.pdf.

²⁶ *Id.* at 18.

²⁷ *Id.* at 8.

²⁸ Knowledge@Wharton, *supra* note 18.

²⁹ Michael Corkery and Mary Williams Walsh, *Governor of Puerto Rico Warns of Looming Default Without Bankruptcy Plan*, N.Y. Times (Dec. 16, 2015), <http://www.nytimes.com/2015/12/17/business/dealbook/governor-of-puerto-rico-warns-of-looming-default-without-bankruptcy-plan.html> (last visited Dec. 30, 2015).

³⁰ *Id.*

³¹ Michelle Kaske and Erik Schatzker, *Puerto Rico Electric Reaches Tentative Pact With Creditors*, Bloomberg Business (Dec. 18, 2015), <http://www.bloomberg.com/news/articles/2015-12-18/puerto-rico-electric-said-to-reach-tentative-pact-with-creditors> (last visited Dec. 30, 2015).

³² Corkery and Walsh, *supra* note 26.

³³ *Fitch becomes third agency to cut Puerto Rico to junk*, Reuters (Feb. 11, 2014), <http://www.reuters.com/article/munis-puertorico-ratings-idUSWNAB046DO20140211> (last visited Dec. 30, 2015).

³⁴ Mary Williams Walsh, *Worsening Debt Crisis Threatens Puerto Rico*, N.Y. Times (Oct. 7, 2013), http://dealbook.nytimes.com/2013/10/07/worsening-debt-crisis-threatens-puerto-rico/?_r=0 (last visited Dec. 30, 2015).

³⁵ Aaron Kuriloff, *'Safe' Puerto Rican Debt Stirs Worries*, The Wall Street Journal (Dec. 27, 2015), <http://www.wsj.com/articles/safe-puerto-rican-debt-stirs-worries-1451266037> (last visited Dec. 30, 2015).

repayment.³⁶ The rights of these bondholders, however, may be threatened if the government of Puerto Rico redirects funds pledged for the repayment of COFINA bonds to avoid default on general obligation debt.³⁷ Some analysts fear this outcome is likely since general obligation debt is protected by Puerto Rico's constitution.³⁸ This concern was partially realized on January 4, 2016, when Puerto Rico's government defaulted on \$174 million of non-general obligation bonds.³⁹

Beyond its effect on Puerto Rico, the threat of default poses risks for investors in Florida. Puerto Rico's debt burden is the third highest in the nation, behind only California and New York.⁴⁰ Since the interest from Puerto Rican bonds is exempt from federal, state, and local taxes, the bonds are a popular choice for mutual funds.⁴¹ Nearly 70 percent of domestic municipal bonds funds have exposure to Puerto Rico.⁴²

Potential Policies

Chapter 9 of the Bankruptcy Code or Other Forms of Debt Relief

Municipal bankruptcy is governed by Chapter 9 of the Bankruptcy Code. The interactions between various provisions of the U.S. Constitution require municipal bankruptcy to be a cooperative enterprise between states and the federal government.⁴³ States would be unable to provide an effective resolution for debtors without violating the Contracts Clause,⁴⁴ while an entirely federal scheme would infringe on state sovereignty to control their municipalities under the Tenth Amendment.⁴⁵ The Bankruptcy Code does not prevent a state from creating its own insolvency procedures, as long as the state statute does not bind any creditors who do not consent to the procedures.⁴⁶

To file for relief as a debtor under Chapter 9, an entity must meet five criteria:⁴⁷

- The entity must be a municipality;⁴⁸

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Mary Williams Walsh, *Puerto Rico Defaults on Debt Payments*, N.Y. Times (Jan. 4, 2016), http://www.nytimes.com/2016/01/05/business/dealbook/puerto-rico-defaults-on-debt-payments.html?_r=0 (last visited Jan. 6, 2016).

⁴⁰ Michelle Caruso-Cabrera, *Why Puerto Rico needs to borrow money—and soon*, CNBC (Jan. 24, 2014), <http://www.cnbc.com/2014/01/24/puerto-rico-debt-crisis-island-must-borrow-by-end-of-january.html> (last visited Dec. 30, 2015).

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Franklin California Tax-Free Trust v. Puerto Rico*, 805 F.3d 322, 328 (1st Cir. 2015), *cert. granted*, 84 USLW 3100 (Dec. 4, 2015).

⁴⁴ U.S. Const. art. I, s. 10, cl. 1.

⁴⁵ *Id.* at 327-28.

⁴⁶ 11 U.S.C. s. 903.

⁴⁷ 11 U.S.C. s. 109(c).

⁴⁸ 11 U.S.C. s. 101(40) defines “municipality” to mean any political subdivision, public agency, or public instrumentality of the state. This definition encompasses counties, cities, special districts, school districts, and publicly-owned corporations.

- The entity must be specifically authorized to be a debtor under Chapter 9 by state⁴⁹ law or by a governmental official or organization empowered by state law to make such authorization;
- The entity must be insolvent;
- The entity must desire to effect a plan to adjust such debts; and
- The entity must meet one of the following four criteria:
 - The entity has obtained the agreement of the creditors holding a majority of the claims in each class of claims that would be impaired by the plan;
 - The entity has negotiated in good faith with creditors and has failed to obtain agreement of creditors holding a majority in each class of claims that would be impaired by the plan;
 - The entity is unable to negotiate with creditors because such negotiations are impracticable; or
 - The entity reasonably believes a creditor may attempt to obtain a transfer that is avoidable under s. 547 of the Bankruptcy Code.⁵⁰

After a petition has been filed, the case is administered and directed similar to reorganizations under Chapter 11 of the Bankruptcy Code. The United States Trustee may appoint committees of creditors and of equity security holders⁵¹ authorized to investigate issues and participate in formulating a restructuring plan.⁵²

Puerto Rican municipalities are currently precluded from filing for bankruptcy under Chapter 9.⁵³ From 1938 (the first municipal bankruptcy statute) until 1978, Puerto Rico was defined as a state for all bankruptcy purposes, expressly able to afford bankruptcy protection to its municipalities.⁵⁴ The Bankruptcy Reform Act of 1978 removed the definition of “state” from the statute, placing the status of Puerto Rican municipalities under Chapter 9 into limbo.⁵⁵ When the definition of “state” was reintroduced to the Bankruptcy Code in 1984, the current language was added excluding Puerto Rico for the purpose of determining who qualified as a debtor under Chapter 9.⁵⁶

Since its municipalities are ineligible for Chapter 9, Puerto Rico attempted to create an alternative bankruptcy-like process with the passage of the Puerto Rico Public Corporation Debt Enforcement and Recovery Act.⁵⁷ The act created two paths for the restructuring of public corporations, a consensual out-of-court process and a judicially-managed in-court process, that closely parallel the Bankruptcy Code.⁵⁸ The act, however, was permanently enjoined by the United States District Court for the District of Puerto Rico on the grounds it is preempted by 11

⁴⁹ 11 U.S.C. s. 101(52) defines “state” for the purposes of the bankruptcy code as including the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor in 11U.S.C. s. 109(c).

⁵⁰ 11 U.S.C. s. 547.

⁵¹ 11 U.S.C. ss. 901, 1102. Since 1986, Florida and Puerto Rico have been represented by the same United States Trustee office. *See* Bankruptcy Judges, U.S. Trustees, and Family Farmer Bankruptcy Act of 1986, Pub. L. No. 99-554 s. 111(a) (1986), codified at 28 U.S.C. s. 581.

⁵² 11 U.S.C. ss. 901, 1103.

⁵³ *See* 11 U.S.C. s. 101(52) (excluding Puerto Rico from the definition of “state” for the purposes of defining Ch. 9 debtors).

⁵⁴ *Franklin California Tax-Free Trust* at 329.

⁵⁵ *Id.* at 330.

⁵⁶ *Id.*

⁵⁷ 2014 P.R. Laws Act No. 71.

⁵⁸ *Puerto Rico Public Corporation Debt Enforcement and Recovery Act*, 128 Harv. L. Rev. 1320, 1322 (2015).

U.S.C. s. 903.⁵⁹ This decision was upheld by the United States Court of Appeals for the First Circuit and is currently awaiting hearing at the Supreme Court of the United States.⁶⁰

Economic Development

Structural reforms may provide another potential avenue for economic development in Puerto Rico. The labor force participation rate in Puerto Rico is approximately 40 percent, compared to 63 percent on the mainland.⁶¹ This disparity is the result of federal policies that create disincentives for employers to hire workers and for potential employees to seek employment. A full-time employee working for minimum wage receives a salary equivalent to 77 percent of per capita income, compared to 28 percent on the mainland.⁶² This disparity creates a strong constraint on employment for low-wage workers, with 28 percent of hourly workers in Puerto Rico earning less than \$8.50 per hour, compared to 3 percent on the mainland.⁶³ Some scholars have suggested additional labor market opportunities could be created by suspending the minimum wage in Puerto Rico until its per capita income is closer to that of the poorest state, or by setting a special minimum wage for Puerto Rico.⁶⁴ The federal government could create additional work incentives by restricting welfare programs in Puerto Rico to be more responsive to local labor market conditions, instead of using a one-size-fits-all approach.⁶⁵

Puerto Rico's economy could be invigorated by measures to reduce transportation and energy costs. The Merchant Marine Act of 1920 (also known as the Jones Act) places a unique burden on Puerto Rico, as the island is almost completely dependent on ships for the delivery of goods. Import costs to the island are nearly double those of neighboring islands.⁶⁶ Exemptions for territories have proven successful at reducing shipping costs in the past. Congress exempted the U.S. Virgin Islands from the Jones Act in 1992 and today shipping costs are nearly half of those of shipping to Puerto Rico.⁶⁷ The Jones Act is a contributing factor in the island's high electricity costs, raising the cost of gasoline by 15 cents per gallon.⁶⁸ Over half of Puerto Rico's electricity generation utilizes petroleum.⁶⁹ Energy costs are also increased due to inefficiencies in the public-owned company responsible for producing and distributing energy.⁷⁰

⁵⁹ *Franklin California Tax-Free Trust* at 332.

⁶⁰ *Melba Acosta-Febo v. Franklin California Tax-Free Trust*, 2015 WL 5096465 (Dec. 4, 2015).

⁶¹ Kreuger, Teja, and Wolfe, *supra* note 25, at 6. The labor force participation rate is the ratio of the labor force (all persons employed or unemployed and looking for work) as a percentage of the civilian non-institutional population (persons aged 16 or older who are not inmates of institutions and are not on active military duty). BLS Glossary, <http://www.bls.gov/bls/glossary.htm>.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* at 17. Currently, American Samoa and the Northern Mariana Islands have special minimum wage rates. United States Dept. of Labor Wage and Hour Division, *Minimum Wages Laws in the States – January 1, 2015*, <http://www.dol.gov/whd/minwage/america.htm> (last visited Dec. 30, 2015).

⁶⁵ *Id.* at 18.

⁶⁶ *Id.* at 8.

⁶⁷ Patrick Holland, *Help Puerto Rico by Repealing the Jones Act*, e21 (July 15, 2015), <http://economics21.org/commentary/jones-act-puerto-rico-debt-crisis-anne-krueger-07-15-2015> (last visited Dec. 30, 2015).

⁶⁸ *Id.*

⁶⁹ United States Energy Information Administration, *Puerto Rico Territory Energy Profile*, <https://www.eia.gov/state/print.cfm?sid=RQ> (last visited Dec. 30, 2015).

⁷⁰ Kreuger, Teja, and Wolfe, *supra* note 24, at 8.

Pending Legislation

There are currently three proposals pending in Congress to address the fiscal crisis in Puerto Rico.

The Puerto Rico Assistance Act of 2015, is currently pending in the Senate Finance Committee.⁷¹ The bill creates the Puerto Rico Financial Responsibility and Management Assistance Authority to oversee financial planning and budgets for the Commonwealth and insolvent public corporations.⁷² The bill commissions a study on public pension debt and requires the Commonwealth and local governments to conform to generally applicable reporting requirements.⁷³ The bill also contains a temporary employee payroll tax cut of 3.1 percent for calendar years 2016-2019 and 1.55 percent for calendar year 2020.⁷⁴

The Puerto Rico Chapter 9 Uniformity Act of 2015, would amend the Bankruptcy Code to enable Puerto Rican municipalities to file for bankruptcy.⁷⁵

The Puerto Rico Financial Stability and Debt Restructuring Choice Act combines the above approaches.⁷⁶ The bill would create the Puerto Rico Financial Stability Council.⁷⁷ The Governor of Puerto Rico would be required to submit the Commonwealth's annual budget to the council for final approval.⁷⁸ Any budget approved by the council must apply "sound budgetary practices," make progress on balancing the Commonwealth's budget, and be reviewed by an independent auditor.⁷⁹ The bill would also allow Puerto Rican municipalities to file for bankruptcy under Chapter 9 of the Bankruptcy Code.⁸⁰

III. Effect of Proposed Changes:

SM 798 urges Congress to promote economic recovery in Puerto Rico by:

- Enacting legislation to allow Puerto Rico to file for bankruptcy under Chapter 9 of the United States Bankruptcy Code;
- Allowing Puerto Rico to propose a comprehensive plan to pay its municipal and public utility debts under Chapter 9 of the United States Bankruptcy Code;
- Discontinuing the 11-percent reduction in Puerto Rico's Medicare Advantage program; and
- Establishing programs to encourage Puerto Rico's economic development in order to increase Puerto Rican manufacturing, trade, and employment.

Copies of the memorial will be sent to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

⁷¹ Puerto Rico Assistance Act of 2015, S. 2381, 114th Cong. (2015).

⁷² Puerto Rico Assistance Act of 2015, s. 321-328.

⁷³ Puerto Rico Assistance Act of 2015, s. 201-202.

⁷⁴ Puerto Rico Assistance Act of 2015, s. 101.

⁷⁵ Puerto Rico Chapter 9 Uniformity Act of 2015, H.R. 870, 114th Cong. (2015) Section 1774, contains identical language.

⁷⁶ See Puerto Rico Financial Stability and Debt Restructuring Choice Act, H.R. 4199, 114th Cong. (2015).

⁷⁷ Puerto Rico Financial Stability and Debt Restructuring Choice Act, s. 101.

⁷⁸ Puerto Rico Financial Stability and Debt Restructuring Choice Act, s. 202.

⁷⁹ Puerto Rico Financial Stability and Debt Restructuring Choice Act, s. 201.

⁸⁰ Puerto Rico Financial Stability and Debt Restructuring Choice Act, s. 301.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for the states to formally petition the federal government to act on a particular subject.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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.

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

By Senator Soto

14-00889C-16

2016798__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to enact legislation to promote economic recovery in the Commonwealth of Puerto Rico.

WHEREAS, the Commonwealth of Puerto Rico and the State of Florida share a strong cultural bond and are important trade partners, and

WHEREAS, the Commonwealth of Puerto Rico has experienced a prolonged and difficult economic recession that has led to mass unemployment in Puerto Rico and decreased trade opportunities with the State of Florida, and

WHEREAS, the Commonwealth of Puerto Rico has public debts in excess of \$72 billion, which continue to cripple Puerto Rico's ability to improve and sustain economic growth, and

WHEREAS, the 1984 amendments to the United States Bankruptcy Code prohibit the Commonwealth of Puerto Rico from authorizing its municipalities and public utilities to file for bankruptcy relief under Chapter 9 of the code, and

WHEREAS, the United States Bankruptcy Code amendments require Puerto Rico's municipalities and public utilities to engage in piecemeal negotiations with each of their creditors, rather than consolidating debt and developing a comprehensive plan for repayment, and

WHEREAS, the citizens of Puerto Rico are suffering greatly due to their government's inability to renegotiate the terms of this debt under a comprehensive plan, and

WHEREAS, the United States Government has an obligation to promote and assist the economic prosperity of the Commonwealth

Page 1 of 3

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

14-00889C-16

2016798__

of Puerto Rico as an important territory of our nation, and

WHEREAS, the United States Centers for Medicare & Medicaid Services will be implementing an 11-percent cut to Puerto Rico's Medicare Advantage program reimbursements for 2016, further contributing to economic recession in Puerto Rico, and

WHEREAS, the United States Congress eliminated a tax exemption for manufacturers from Section 936 of the Internal Revenue Code, greatly contributing to an increase in unemployment in the Commonwealth of Puerto Rico, and

WHEREAS, the Commonwealth of Puerto Rico would greatly benefit from new ideas and programs that promote economic development to bring high paying jobs back to Puerto Rico, and

WHEREAS, the Commonwealth of Puerto Rico and the State of Florida would both benefit from Puerto Rico's renewed economic prosperity, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

That the Congress of the United States is urged to enact legislation to promote economic recovery in the Commonwealth of Puerto Rico, including:

(1) Allowing the Commonwealth of Puerto Rico to authorize its municipalities and public utilities to file for bankruptcy relief under Chapter 9 of the United States Bankruptcy Code.

(2) Allowing the Commonwealth of Puerto Rico to propose a comprehensive plan to pay municipal and public utility debts under Chapter 9 of the United States Bankruptcy Code.

(3) Discontinuing the proposed 11-percent reduction in Puerto Rico's Medicare Advantage program.

Page 2 of 3

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

14-00889C-16

2016798__

59 (4) Establishing programs to encourage economic development
60 to promote increased manufacturing, trade, and employment in
61 Puerto Rico.

62 BE IT FURTHER RESOLVED that copies of this memorial be
63 dispatched to the President of the United States, to the
64 President of the United States Senate, to the Speaker of the
65 United States House of Representatives, and to each member of
66 the Florida delegation to the United States Congress.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Environmental Preservation and Conservation
Finance and Tax
Judiciary

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DARREN SOTO

Minority Caucus Rules Chair

14th District

January 8, 2016

The Honorable Nancy C. Detert
Committee on Commerce and Tourism
310 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Detert,

I respectfully request that Senate Memorial 798, Promotion of Economic Recovery in Puerto Rico, be placed on the agenda as soon as possible. Senate Memorial 798 requests that Congress allow Puerto Rico's municipalities and public utilities to file for Chapter 9 Bankruptcy, and to discount the 11 percent deduction in Puerto Rico's Medicaid Advantage program.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

A handwritten signature in cursive script that reads "Darren M. Soto".

Darren M. Soto
State Senator, District 14

Cc: Todd McKay, Staff Director
Patty Blackburn, Committee Administrative Assistant

REPLY TO:

- Kissimmee City Hall, 101 North Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (407) 846-5188
- 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

ANDY GARDINER
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)

01/25/16
Meeting Date

SM 798
Bill Number (if applicable)

Topic Economic Recovery for Puerto Rico

Amendment Barcode (if applicable)

Name Lynnette Acosta

Job Title Director Public Relations Democratic Hispanic Caucus

Address 3018 Helen Ave

Phone 863-207-7890

Street

Orlando

City

FL

State

32804

Zip

Email lynnette.acosta@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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)

1-25-16

Meeting Date

798

Bill Number (if applicable)

Topic SM 798

Amendment Barcode (if applicable)

Name Vivian Rodriguez

Job Title President Democratic Hispanic Caucus

Address 441 Winghurst Blvd

Phone 407-758-2442

Street

Orlando

City

FL

State

32828

Zip

Email R.Vivian370@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Democratic Hispanic Caucus 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

12/5/16
Meeting Date

SM798
Bill Number (if applicable)

Topic Support Economic Recovery Puerto Rico Amendment Barcode (if applicable)

Name Daniel Marco Mulieri

Job Title President; Broward Democratic Hispanic Caucus

Address 611 Raquet Club Rd. #3 Phone 954-907-5018
Street

Weston FL 33326
City State Zip

Email danmulieri26@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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

APPEARANCE RECORD

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

Jan 25, 2016
Meeting Date

Bill Number (if applicable)

Topic ECONOMIC RECOVERY FOR PUERTO RICO

Amendment Barcode (if applicable)

Name Wendy Farfan

Job Title Sr. Underwriter

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Phone 904-234-4503

ST. JOHNS FL 32259
City State Zip

Email FARFAN_Wendy@hotmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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)

Jan 25 2016
Meeting Date

Bill Number (if applicable)

Topic ECONOMIC Recovery For Puerto Rico

Amendment Barcode (if applicable)

Name VICTOR PAREAN

Job Title STUDENT

Address 552 SPARROW BRANCH CIR

Phone 904-234-4583

Street
City ST Johns FL 32259
State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing

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)

11/25/14

Meeting Date

Bill Number (if applicable)

Topic Economic Recovery for Puerto Rico

Amendment Barcode (if applicable)

Name Sheyla A. Asencios

Job Title Self-Employed

Address 7515 SW 59 Ave., Apt. V52

Phone 407 485 4408

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South Miami, FL 33143

Email sasencios@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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 (10/14/14)

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: CS/CS/SB 940

INTRODUCER: Commerce and Tourism Committee; Banking and Insurance Committee and Senator Bradley

SUBJECT: Title Insurance

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 940 changes the unearned premium reserve requirement for title insurers that are members of an insurance holding company system having \$1 billion or more in surplus as to policyholders. However, such title insurers must have a financial strength rating of “superior,” “excellent,” “exceptional,” or an equivalent rating by a rating agency acceptable to the Office of Insurance Regulation. Such insurers must also have a reserve of a minimum of 6.5 percent of the total of (1) direct premiums written and (2) premiums for reinsurance assumed, with certain adjustments. Currently, only title insurers with a surplus of \$50 million or more as to policyholders can use that formula to calculate required unearned premium reserve.

The bill removes the requirement that a title insurer that transfers its domicile to Florida must release its unearned premium under the laws of its previous domicile state. Instead, the bill requires a title insurer that transfers its domicile to Florida to calculate an adjusted statutory or unearned premium reserve as if, on the effective date of redomestication, the insurer had been domesticated in Florida for the previous 20 years.

II. Present Situation:

Title insurance is (1) insurance of owners of real property or others having an interest in real property or contractual interest derived therefrom, or liens or encumbrances on real property,

against loss by encumbrance, or defective titles, or invalidity, or adverse claim to title; or (2) insurance of owners and secured parties of the existence, attachment, perfection, and priority of security interests in personal property under the Uniform Commercial Code.¹ Title insurance serves to indemnify the insured against financial loss caused by defects in the title arising out of events that occurred before the date of the policy.²

Title insurance agents and agencies are licensed and regulated by the Department of Financial Services (DFS), while title insurance companies are licensed and regulated by the Office of Insurance Regulation (OIR).

Title Insurance Reserve Requirements

Insurance companies must maintain cash or liquid assets on hand to pay claims and satisfy other liabilities. These are called reserves. A title insurer must maintain two types of reserves. First, a title insurer must maintain reserves sufficient to pay all of its unpaid losses.³ In addition, a title insurer must maintain a guaranty fund or unearned premium reserve to be used for reinsurance in the event the insurer becomes insolvent.⁴

Since 2014,⁵ Florida has implemented different unearned premium reserve requirements depending on whether a title insurer has \$50 million or more in surplus.⁶ For title insurers with less than \$50 million in surplus, the unearned premium reserve must consist of at least the sum of:

- A reserve with respect to unearned premiums for policies written or title liability assumed in reinsurance before July 1, 1999, equal to the reserve established on June 30, 1999, for those unearned premiums. For domestic title insurers, such amounts shall be calculated in accordance with provisions of law of this state in effect at the time the associated premiums were written or assumed and as amended prior to July 1, 1999.⁷
- A total amount equal to 30 cents for each \$1,000 of net retained liability⁸ for policies written or title liability assumed in reinsurance on or after July 1, 1999.⁹
- An additional amount, if deemed necessary by a qualified actuary.¹⁰

For title insurance with \$50 million or more in surplus, the unearned premium reserve must be the sum of:

¹ See s. 624.608, F.S.

² See *Lawyers Title Insurance Co. Inc. v. Novastar Mortgage, Inc.*, 862 So.2d 793, 797 (Fla. 4th DCA 2003).

³ See ss. 625.041, 625.111, F.S.

⁴ See s. 625.111, F.S.

⁵ The reserve requirements were changed by 2014-132, L.O.F.

⁶ The capital and surplus of an insurance company are sometimes referred to as surplus as regards to policyholders or policyholders' surplus. Policyholders' surplus is equal to net admitted assets, or admitted assets minus liabilities. See s. 627.778(2), F.S.

⁷ See s. 625.111(1)(a), F.S.

⁸ "Net retained liability" means the "total liability retained by a title insurer for a single risk, after taking into account the deduction for ceded liability, if any." s. 625.111(6)(b), F.S.

⁹ See s. 625.111(1)(b), F.S.

¹⁰ See s. 625.111(1)(d), F.S.

- A minimum of 6.5 percent of the total of (1) direct premiums written and (2) premiums for reinsurance assumed, plus other income, less premiums for reinsurance ceded as displayed in Schedule P of the title insurer's most recent annual statement filed with the OIR.¹¹
- An additional amount, if deemed necessary by a qualified actuary.¹²

According to the OIR, the changes to the reserve requirements made Florida “a more attractive place for title companies.” A large title company moved to Florida after the change in reserve requirements.¹³

Releasing Unearned Premium Reserve

Section 625.111, F.S., sets the following schedule for release of reserves. Once the reserve money is released, it is available for use by the title insurer. For policies written before July 1, 1999, an insurer must release:

- 30 percent of the initial aggregate sum during 1999;
- 15 percent during calendar year 2000;
- 10 percent during each of calendar years 2001 and 2002;
- 5 percent during each of calendar years 2003 and 2004;
- 3 percent during each of calendar years 2005 and 2006;
- 2 percent during each of calendar years 2007-2013; and
- 1 percent during each of calendar years 2014-2018.¹⁴

For policies written on or after July 1, 1999, an insurer must release:

- 30 percent of the initial sum during calendar year next succeeding the year the premium was written
- 15 percent during the next succeeding year;
- 10 percent during each of the next succeeding 2 years;
- 5 percent during each of the next succeeding 2 years;
- 3 percent during each of the next succeeding 2 years;
- 2 percent during each of the next succeeding 7 years; and
- 1 percent during each of the next succeeding 5 years.¹⁵

For companies with more than \$50 million in surplus, the title insurer must release 35 percent of the initial sum during the year following the year the premium was written or assumed, with one quarter of that amount being released on March 31, June 30, September 30, and December 31 of such year.¹⁶ Thereafter, the title insurer must release, on the same quarterly basis:

- 15 percent during each year of the next succeeding 2 years;
- 10 percent during the next succeeding year;
- 3 percent during each of the next succeeding 3 years;
- 2 percent during each of the next succeeding 3 years; and

¹¹ See s. 625.111(1)(c), F.S.

¹² See s. 625.111(1)(d), F.S.

¹³ See <http://www.floir.com/pressreleases/viewmediarelease.aspx?id=2086> (last accessed January 18, 2016).

¹⁴ See s. 625.111(2)(a), F.S.

¹⁵ See s. 625.111(2)(b), F.S.

¹⁶ See s. 625.111(2)(c), F.S.

- 1 percent during each of the next succeeding 10 years.¹⁷

Reserve Requirement When a Title Insurer Moves to Florida

A title insurer organized under the laws of another state that transfers its domicile to Florida has the same unearned premium reserve requirement as set by the laws of the title insurer's former state of domicile. The reserve is released according to the requirements of law in effect in the former state at the time of domicile. For business written after January 1, 2014, the title insurer must add to and set aside in the statutory or unearned premium reserve the appropriate amount as determined by the company's surplus.¹⁸

Rating Agencies

Rating agencies issue financial strength ratings for insurance companies. The opinions of rating agencies such as Standard & Poor's, Moody's Investors Service, Fitch Ratings, A.M. Best Company, and Demotech may be used in some instances by the OIR.¹⁹ These ratings are an attempt by the rating agencies to judge whether an insurance company can survive an economic downturn or meet policy obligations.²⁰ The A.M. Best Company ratings range from "A+" to "D."²¹ A rating of A- or higher by A.M. Best Company is considered "superior" or "excellent" under that company's rating system.²² An "A" rating by Demotech is considered "exceptional" under the Demotech rating system. The OIR is not involved in the rating of insurance companies by outside entities.

III. Effect of Proposed Changes:

This bill allows title insurers that are members of an insurance holding company system having \$1 billion or more in surplus as to policyholders and a "superior," "excellent," "exceptional," or equivalent financial strength rating, as determined by a rating agency acceptable to the OIR, to set unearned premium reserve in the same manner as companies with \$50 million in surplus. This unearned premium reserve requirement will give smaller insurers access to additional capital if they are members of larger holding companies.

The bill removes the requirement that a title insurer that transfers its domicile to Florida must release its unearned premium under the laws of its previous domicile state. Instead, the bill requires a title insurer that transfers its domicile to Florida to calculate an adjusted statutory or unearned premium reserve as if, on the effective date of redomestication, the insurer had been domesticated in Florida for the previous 20 years. This requirement conforms to the provisions under the National Association of Insurance Commissioner's Title Insurance Model Act.²³

¹⁷ *Id.*

¹⁸ *See* s. 625.111(3), F.S.

¹⁹ *See* s. 624.610(3)(e), F.S.

²⁰ *See* http://www.demotech.com/fsr_definitions.asp and <http://www.ambest.com/ratings/guide.pdf> (last accessed January 18, 2016).

²¹ *Id.*

²² *Id.*

²³ National Association of Insurance Commissioners, *Title Insurers Model Act*, MDL-628 (April 1996), available at <http://naic.org/store/free/MDL-628.pdf> (last accessed January 25, 2016).

This bill takes effect July 1, 2016.

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:

This bill could allow some title insurers to have access to additional capital due to different reserve requirements and more favorable release schedules.

C. Government Sector Impact:

The OIR does not anticipate a fiscal impact on the agency due to this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 625.111 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Commerce and Tourism on January 25, 2016:

The CS amends the bill to require a title insurer that transfers its domicile to Florida to calculate an adjusted statutory or unearned premium reserve as if, on the effective date of redomestication, the insurer had been domesticated in Florida for the previous 20 years.

CS by Banking and Insurance on January 11, 2016:

The CS allows a title insurer that is a member of an insurance holding company system that has \$1 billion or more in surplus and a superior, excellent, exceptional or equivalent financial strength rating from a rating agency acceptable to the OIR to have different reserve requirements from companies with less than \$50 million in surplus. The original bill only applied to companies with a specified rating by the A.M. Best Company. The CS allows companies to use different rating agencies if the agency is acceptable to the OIR.

- B. **Amendments:**

None.



125834

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**

2
3 Delete lines 111 - 121

4 and insert:

5 insurer shall calculate an adjusted statutory or unearned
6 premium reserve as of the effective date of redomestication to
7 this state. The adjusted statutory or unearned premium reserve
8 shall be calculated as if subsections (1) and (2) had been in
9 effect as to the insurer's foreign statutory premium reserve for



125834

10 all years beginning 20 years before the effective date of
11 redomestication. For purposes of calculating the adjusted
12 statutory or unearned premium reserve, the balance of the
13 insurer's foreign statutory premium reserve as of the date 20
14 years before the redomestication shall be \$0. If the adjusted
15 statutory or unearned premium reserve exceeds the aggregate
16 amount set aside for statutory or unearned premiums in the
17 insurer's annual statement on file with the office on the date
18 of redomestication, the insurer shall, out of total charges for
19 policies of title insurance, increase its statutory or unearned
20 premium reserve by an amount equal to one-sixth of that excess
21 in each of the succeeding 6 years, commencing with the calendar
22 year that includes the redomestication, until the entire excess
23 has been added. If the adjusted statutory or unearned premium
24 reserve is less than the aggregate amount set aside for
25 statutory or unearned premiums in the insurer's annual statement
26 on file with the office on the date of redomestication, the
27 insurer may release the excess into surplus ~~statutory or~~
28 ~~unearned premium reserve shall be the amount required by the~~
29 ~~laws of the state of the title insurer's former state of~~
30 ~~domicile as of the date of transfer of domicile and shall be~~
31 ~~released from reserve according to the requirements of law in~~
32 ~~effect in the former state at the time of domicile. On or after~~
33 ~~January 1, 2014, for new business written after the effective~~
34 ~~date of the transfer of domicile to this state, the domestic~~
35 ~~title insurer shall add to and set aside in the statutory or~~
36 ~~unearned premium reserve such amount as provided in subsection~~
37 ~~(1).~~
38



125834

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

40 And the title is amended as follows:

41 Delete line 6

42 and insert:

43 released; revising premium reserve requirements and

44 calculations for a title

By the Committee on Banking and Insurance; and Senator Bradley

597-02022-16

2016940c1

1 A bill to be entitled
 2 An act relating to title insurance; amending s.
 3 625.111, F.S.; revising the reserves that certain
 4 title insurers must set aside after a certain date;
 5 revising the manner in which reserves must be
 6 released; revising reserve requirements for a title
 7 insurer who transfers domicile to this state;
 8 providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsections (1) and (3) of section 625.111,
 13 Florida Statutes, are amended to read:

14 625.111 Title insurance reserve.—In addition to an adequate
 15 reserve as to outstanding losses relating to known claims as
 16 required under s. 625.041, a domestic title insurer shall
 17 establish, segregate, and maintain a guaranty fund or unearned
 18 premium reserve as provided in this section. The sums to be
 19 reserved for unearned premiums on title guarantees and policies
 20 shall be considered and constitute unearned portions of the
 21 original premiums and shall be charged as a reserve liability of
 22 the insurer in determining its financial condition. Such
 23 reserved funds shall be withdrawn from the use of the insurer
 24 for its general purposes, impressed with a trust in favor of the
 25 holders of title guarantees and policies, and held available for
 26 reinsurance of the title guarantees and policies in the event of
 27 the insolvency of the insurer. This section does not preclude
 28 the insurer from investing such reserve in investments
 29 authorized by law, and the income from such investments shall be
 30 included in the general income of the insurer and may be used by
 31 such insurer for any lawful purpose.

32 (1) For an unearned premium reserve established on or after

Page 1 of 5

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

597-02022-16

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33 July 1, 1999, such reserve must be in an amount at least equal
 34 to the sum of paragraphs (a), (b), and (d) for title insurers
 35 holding less than \$50 million in surplus as to policyholders as
 36 of the previous year end and the sum of paragraphs (c) and (d)
 37 for title insurers holding \$50 million or more in surplus as to
 38 policyholders as of the previous year end or title insurers that
 39 are members of an insurance holding company system that has \$1
 40 billion or more in surplus as to policyholders and a superior,
 41 excellent, exceptional, or an equivalent financial strength
 42 rating by a rating agency acceptable to the office:

43 (a) A reserve with respect to unearned premiums for
 44 policies written or title liability assumed in reinsurance
 45 before July 1, 1999, equal to the reserve established on June
 46 30, 1999, for those unearned premiums with such reserve being
 47 subsequently released as provided in subsection (2). For
 48 domestic title insurers subject to this section, such amounts
 49 shall be calculated in accordance with state law in effect at
 50 the time the associated premiums were written or assumed and as
 51 amended before July 1, 1999.

52 (b) A total amount equal to 30 cents for each \$1,000 of net
 53 retained liability for policies written or title liability
 54 assumed in reinsurance on or after July 1, 1999, with such
 55 reserve being subsequently released as provided in subsection
 56 (2). For the purpose of calculating this reserve, the total of
 57 the net retained liability for all simultaneous issue policies
 58 covering a single risk shall be equal to the liability for the
 59 policy with the highest limit covering that single risk, net of
 60 any liability ceded in reinsurance.

61 (c) On or after January 1, 2014, for title insurers that

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62 are members of an insurance holding company system that has \$1
 63 billion or more in surplus as to policyholders and a superior,
 64 excellent, exceptional, or an equivalent financial strength
 65 rating by a rating agency acceptable to the office, or title
 66 insurers holding \$50 million or more in surplus as to
 67 policyholders as of the previous year end, a minimum of 6.5
 68 percent of the total of the following:

- 69 1. Direct premiums written; and
- 70 2. Premiums for reinsurance assumed, plus other income,
 71 less premiums for reinsurance ceded as displayed in Schedule P
 72 of the title insurer's most recent annual statement filed with
 73 the office with such reserve being subsequently released as
 74 provided in subsection (2). Title insurers with less than \$50
 75 million in surplus as to policyholders that are not members of
 76 an insurance holding company system that has \$1 billion or more
 77 in surplus as to policyholders and a superior, excellent,
 78 exceptional, or an equivalent financial strength rating by a
 79 rating agency acceptable to the office must continue to record
 80 unearned premium reserve in accordance with paragraph (b).

81 (d) An additional amount, if deemed necessary by a
 82 qualified actuary, to be subsequently released as provided in
 83 subsection (2). Using financial results as of December 31 of
 84 each year, all domestic title insurers shall obtain a Statement
 85 of Actuarial Opinion from a qualified actuary regarding the
 86 insurer's loss and loss adjustment expense reserves, including
 87 reserves for known claims, incurred but not reported claims, and
 88 unallocated loss adjustment expenses. The actuarial opinion must
 89 conform to the annual statement instructions for title insurers
 90 adopted by the National Association of Insurance Commissioners

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

597-02022-16

2016940c1

91 and include the actuary's professional opinion of the insurer's
 92 reserves as of the date of the annual statement. If the amount
 93 of the reserve stated in the opinion and displayed in Schedule P
 94 of the annual statement for that reporting date is greater than
 95 the sum of the known claim reserve and unearned premium reserve
 96 as calculated under this section, as of the same reporting date
 97 and including any previous actuarial provisions added at earlier
 98 dates, the insurer shall add to the insurer's unearned premium
 99 reserve an actuarial amount equal to the reserve shown in the
 100 actuarial opinion, minus the known claim reserve and the
 101 unearned premium reserve, as of the current reporting date and
 102 calculated in accordance with this section, but not calculated
 103 as of any date before December 31, 1999. The comparison shall be
 104 made using that line on Schedule P displaying the Total Net Loss
 105 and Loss Adjustment Expense which is comprised of the Known
 106 Claim Reserve, and any associated Adverse Development Reserve,
 107 the reserve for Incurred But Not Reported Losses, and
 108 Unallocated Loss Adjustment Expenses.

109 (3) If a title insurer that is organized under the laws of
 110 another state transfers its domicile to this state, the
 111 statutory or unearned premium reserve shall be the amount
 112 required by the laws of the state of the title insurer's former
 113 state of domicile as of the date of transfer of domicile and
 114 shall be released from reserve over the subsequent 20 years at
 115 an amortization rate not to exceed the formula in paragraph
 116 (2) (c) according to the requirements of law in effect in the
 117 ~~former state at the time of domicile.~~ On or after January 1,
 118 2014, for new business written after the effective date of the
 119 transfer of domicile to this state, the domestic title insurer

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

597-02022-16

2016940c1

120 shall add to and set aside in the statutory or unearned premium
121 reserve such amount as provided in subsection (1).
122 Section 2. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Nancy C. Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 13, 2016

I respectfully request that **Senate Bill # 940**, relating to Title Insurance, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley", written over a horizontal line.

Senator Rob Bradley
Florida Senate, District 7

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 1228

INTRODUCER: Senator Detert

SUBJECT: Cottage Food Operations

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	Favorable
2.			AGG	
3.			FP	

I. Summary:

SB 1228 increases the maximum annual gross sales of cottage food products to \$30,000 from \$15,000 for a cottage food operation to maintain exempt status from state permitting requirements.

II. Present Situation:

Florida Cottage Food Operation Law

In 2011, the Legislature passed a law regarding cottage food operations in the state.¹ A cottage food operation is a natural person² who produces or packages cottage food products at his or her residence and sells such products in accordance with cottage food operations law. A cottage food product is food that is not potentially hazardous food, as defined by the Department of Agriculture and Consumer Services (DACS) rule, which is sold by a cottage food operation.

The DACS defines potentially hazardous foods as a food that requires time/temperature control for safety (TCS) to limit pathogenic micro-organism growth or toxin formation; an animal food that is raw or heat-treated; a plant food that is heat treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic micro-organism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic

¹ See ch. 2011-205, s. 21, L.O.F., and s. 500.80, F.S.

² "Natural person" is undefined for purposes of ch. 500, F.S. *Black's Law Dictionary* (10th ed. 2014), defines natural person as a human being. This definition would exclude artificial or juridical persons.

micro-organism growth or toxin formation.³ Examples of foods that could be cottage food products (and are not, therefore, potentially hazardous foods) are:

- Loaf breads, rolls, biscuits;
- Cakes, pastries, and cookies;
- Candies and confections;
- Honey;
- Jams, jellies, and preserves;
- Fruit pies and dried fruits;
- Dry herbs, seasonings, and mixtures;
- Homemade pasta;
- Cereals, trail mixes, and granola;
- Coated or uncoated nuts;
- Vinegar and flavored vinegars; and
- Popcorn, popcorn balls.⁴

Current law allows a cottage food operation to be exempt from state permitting requirements⁵ if the operation complies with cottage food law and has annual gross sales of cottage food products that do not exceed \$15,000. The annual gross sales of a cottage food operation include all sales of products from any location, regardless of the types of products sold or number of persons involved in the operation. Any such operation must provide the DACS written documentation to verify annual gross sales.

A cottage food operation is prohibited from selling, or offering to sell, cottage food products over the Internet, by mail order, or at wholesale.

Cottage food products must be prepackaged with a label that contains:

- The name and address of the cottage food operation;
- The name of the cottage food product;
- The ingredients of the cottage food product, in descending order of predominance by weight;
- The net weight or net volume of the cottage food product;
- Allergen information as specified by federal labeling requirements;
- Appropriate nutritional information (if any nutritional claim is made) as specified by federal labeling requirements;⁶ and
- The statement, “Made in a cottage food operation that is not subject to Florida’s food safety regulations” printed in 10-point type in a color in a clear contrast to the background of the label.

³ See DACS, *Division of Food Safety: Cottage Food Legislation Signed into Law*, February 2014. Available at: http://www.freshfromflorida.com/content/download/42358/891067/CottageFoodAdvisoryChanges_Feb_2014_withFormNumber.pdf (last visited January 19, 2016).

⁴ *Id.*

⁵ Section 500.12, F.S.

⁶ See C.F.R. Title 21, Part 101. Available at: <http://www.ecfr.gov/cgi-bin/text-idx?SID=b8a6ba2f29a50685c15ebddd8bbd56aa&mc=true&node=pt21.2.101&rgn=div5> (last visited January 19, 2016).

Additionally, current law provides that:

- A cottage food operation may only sell cottage food products stored on the premises of the operation;
- Cottage food operations are not exempt from any state or federal tax law, rule, regulation, or certificate that applies to all cottage food operation; and
- A cottage food operation must comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage food products by a cottage food operation or from a person's residence.

The DACS may investigate complaints that a cottage food operation has violated an applicable provision of state food products law⁷ or rule adopted under such law. Upon receiving a complaint, a DACS authorized officer or employee may enter and inspect the cottage food operation's premises to determine compliance applicable to state law and departmental rule. An operation's refusal to permit an authorized officer or employee to enter and inspect the premises is grounds for disciplinary action under s. 500.121, F.S.⁸

State law regarding cottage food operations does not apply to any person operating under a food permit issued pursuant to s. 500.12, F.S.⁹

Cottage Food Sales in Other States

Many states have adopted laws regarding cottage food operations and production, including Alabama in 2014, Texas and California in 2013, and Michigan in 2010. While regulation varies from state to state, many states have adopted limits to annual gross sales or income from cottage food products including:

- Alabama and Michigan limit annual gross income from sales to \$20,000;
- Texas limits annual gross sales to \$50,000; and
- California limited annual gross sales starting with \$35,000 in 2013, \$45,000 in 2014, and \$50,000 from 2015 and beyond.

III. Effect of Proposed Changes:

The bill increases the maximum annual gross sales of cottage food products to \$30,000 from \$15,000 for a cottage food operation to maintain exempt status from state permitting requirements.

The bill does not remove or change other requirements in current law, for a cottage food operation to be exempt from state permitting requirements.

The bill takes effect July 1, 2016.

⁷ Chapter 500, F.S.

⁸ Disciplinary action includes suspension procedures provided for in s. 500.12, F.S., and may include an administrative fine in the Class II category pursuant to s. 570.971, F.S.

⁹ Permits under this section are required for any person who operates a food establishment or retail food store.

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:

Indeterminate.

C. Government Sector Impact:

The DACS Division of Food Safety permits 3,067 “limited sales” establishments that operate out of a food production facility and may produce potentially hazardous foods. These permits are issued at a cost of \$130. Some of these establishments, who would otherwise qualify as a cottage food operation, may choose to operate out of their residence so as to no longer require a “limited sales” permit and thus take advantage of the increase in maximum allowable annual gross sales. The establishments would still need permitting if they are not in compliance with all other requirements of s. 500.80, F.S. The DACS reported that a decrease in issued permits will have a fiscal impact on the department.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DACS Division of Food Safety noted that in incidences of food-borne illnesses occurring in cottage food products the division cannot conduct “trace-back” or “trace-forward” activities since cottage food operations are not registered with the DACS and are not required to maintain a listing of where their food products are sold.¹¹

¹⁰ DACS Division of Food Safety, *Senate Bill #1228: Relating to Cottage Food Operations*, January 19, 2016, (on file with the Commerce and Tourism Committee).

¹¹ *Id.*

VIII. Statutes Affected:

This bill substantially amends section 500.80 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.

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

By Senator Detert

28-01092A-16

20161228__

1 A bill to be entitled
2 An act relating to cottage food operations; amending
3 s. 500.80, F.S.; increasing the annual gross sales
4 limitation for exempting cottage food operations from
5 certain food and building permitting requirements;
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 (1) of section
11 500.80, Florida Statutes, is amended to read:

12 500.80 Cottage food operations.—

13 (1)(a) A cottage food operation must comply with the
14 applicable requirements of this chapter but is exempt from the
15 permitting requirements of s. 500.12 if the cottage food
16 operation complies with this section and has annual gross sales
17 of cottage food products that do not exceed \$30,000 ~~\$15,000~~.

18 Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/25/2016

Meeting Date

SB 1228

Bill Number (if applicable)

Topic Cottage Food Businesses

Amendment Barcode (if applicable)

Name Melissa Fause

Job Title Policy Analyst

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City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

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 (10/14/14)

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 1302

INTRODUCER: Senator Legg

SUBJECT: Convenience Businesses

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Favorable
2.			ACJ	
3.			FP	

I. Summary:

SB 1302 revises the Convenience Business Security Act (the act). The bill amends the act to subject certain family-owned and operated convenience businesses to employee robbery deterrence and safety training requirements, but maintains their exemption from other required safety standards. The bill repeals administrative fees associated with the approval of a mandated safety training curriculum, and repeals the requirement that the safety-training curriculum be submitted biennially for re-approval. The bill also deletes obsolete language, and modernizes certain provisions.

The fiscal impact of this bill is indeterminate, but likely minimal (see Section V.).

II. Present Situation:

Convenience Business Security Act¹

In 1990, the Legislature passed the Convenience Business Security Act (the act) to deter violent crime, and provide uniform, statewide protection for employees and patrons of convenience businesses, especially late at night.²

The act generally applies to “convenience businesses,” which are defined as any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any point during the hours of 11 p.m. and 5 a.m.³ Certain

¹ Sections 812.1701-812.175, F.S.

² See, s. 812.172, F.S.

³ Section 812.171, F.S. However, a “convenience business” does not include businesses that are primarily restaurants; businesses that always have at least 5 employees on the premises during the hours of 11 p.m. and 5 a.m.; businesses that have at least 10,000 square feet of retail floor space; or to businesses that have a member of the owner’s family working between the hours of 11 p.m. and 5 a.m.

businesses are exempt from the act; notably, family owned businesses at which the owner or a member of his or her family works between 11 p.m. and 5 a.m. are expressly excluded.

The Department of Legal Affairs (Office of the Attorney General, or “the office”) enforces the act.

Minimum Security Standards

The act requires a convenience business to implement and use the following minimum security standards:⁴

- A security camera system that is capable of recording and retrieving an image to assist in identification and apprehension of an offender;
- A drop safe or management device for restricted access to cash receipts;
- A lighted parking lot;
- A conspicuous notice at the entrance that states that the cash register contains \$50 or less;
- Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area;
- Height markers at the business entrance that display height measures;
- A cash management policy that limits cash on hand between 11 p.m. and 5 a.m.;
- Window tinting that allows for identification of all persons in the sales transaction area from outside the business; and
- A silent alarm.⁵

Enhanced Security Standards⁶

The act requires any convenience business at which a murder, robbery, sexual battery, aggravated assault, aggravated battery, kidnapping, or false imprisonment has occurred to comply with at least one additional security measure. These security measures must be provided at all times between 11 p.m. and 5 a.m., and must include the following:

- Provide at least two employees on the premises;
- Install a transparent security enclosure for employee use;
- Provide a security guard on the premises; or
- Lock the premises and transact business through an indirect pass-through window.

After a 24-month period of compliance with these provisions, a business may file a notice of exemption from the enhanced security measures with the office, as long as no additional occurrence of the type of crimes indicated above occurred at the business during that period.

⁴ See Office of the Attorney General, *Convenience Business Security Act – Helping to Create Safer Florida Convenience Businesses* (rev. Aug. 2010), available at [http://www.fcpti.com/fcpti.nsf/pics/01029BCED8A92DD0852578BD0062499E/\\$file/2011_Revised_Convenience_Store_Brochure.pdf](http://www.fcpti.com/fcpti.nsf/pics/01029BCED8A92DD0852578BD0062499E/$file/2011_Revised_Convenience_Store_Brochure.pdf) (last visited Jan. 22, 2016). See also, ss. 812.173(1)-(3), F.S.

⁵ Section 812.173(3), F.S., allows convenience businesses to apply for an exemption to the silent alarm requirement with the Office of the Attorney General. The application for exemption must be in writing and include a \$25 administrative fee for each store at which the exemption is requested.

⁶ Sections 812.173(4) and (5), F.S.

Training Requirements⁷

The act requires all employees of a convenience business to receive robbery deterrence and safety training within 60 days of their employment. The convenience business must submit a proposed training curriculum to the office for review and approval. The training curriculum must be submitted biennially for re-approval. The statute provides for submission of an administrative fee of no more than \$100 for the initial and renewal approvals. However, the office does not currently charge any such fee.

Enforcement⁸

The office enforces the act.⁹ Upon finding a violation, the convenience business is given notice of the violation and has 30 days to cure the violation. If the convenience business fails to correct the violation within such time period, it may be subject to a civil fine of up to \$5,000. If the violation is determined to threaten health, safety, or public welfare, the office is authorized to pursue an injunction against the convenience business.

III. Effect of Proposed Changes:

Section 1 amends s. 812.171, F.S., to repeal the “family business exception” that specifically excludes a business in which the owner or member of the owner’s family works during 11 p.m. and 5 a.m., from the definition of “convenience business” that applies throughout the Convenience Business Security Act.

Section 2 amends s. 812.173, F.S., to modify the standard security requirements. The bill now requires a convenience business to post a notice stating that their cash register contains \$100 or less, compared to the current requirement that the business notice that its cash register contains \$50 or less.

The bill also exempts family-owned convenience businesses at which the owner or members of the owner’s immediate family work on the premises between the hours of 11 p.m. and 5 a.m., from both the minimum and enhanced security standards provided for in ss. 812.173(1)-(4), F.S. This retains the current exemption from the requirement for security measures that would otherwise be lost because of the deletion of the exemption in Section 1 of the bill.

The transfer of the family business exemption to s. 812.173(5), F.S., has the effect of requiring new employees of those specific convenience businesses to receive robbery deterrence and safety training. Such businesses are currently exempt from this training requirement.

Section 3 amends s. 812.174, F.S., to repeal:

- The requirement that a convenience business resubmit a safety training curriculum to the office biennially;

⁷ Section 812.174, F.S.

⁸ Section 812.175, F.S.

⁹ Section 812.175(4), F.S., authorizes the Office of the Attorney General to enter into agreements with local governments to assist in the enforcement of the act.

- Authorization for the office to charge administrative fees associated with initial submission and review of a convenience business' safety training curriculum (\$100 for each); and
- Obsolete language related to the enactment of the act.

Section 4 reenacts s. 893.13(1)(e), F.S., to incorporate the new definition of “convenience business” under s. 812.171, F.S., made in Section 1 of the bill.

Sections 5, 6, and 7 reenact ss. 768.0705, 812.1725, and 812.176, F.S., respectively, to incorporate the amendments to the convenience business security and employee training requirements in ss. 812.173-812.174, F.S., made in Sections 2 and 3 of the bill.

Section 8 provides an effective date of May 1, 2016.

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:

The bill will affect convenience businesses at which the owner or a member of the owner's family works during the hours between 11 p.m. and 5 a.m. to the extent that the business must make modifications to comply with employee training requirements of the act.

C. Government Sector Impact:

The fiscal impact of this bill is indeterminate, but likely minimal. The office does not currently collect the administrative fees for original and biennial review of training curriculum that are repealed by the bill. However, the bill's repeal of the requirement for biennial submission of training curriculum re-approval may have a positive fiscal impact

due to the reduction of costs expended by the office as a result of their reduced curriculum approval processes.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.171, 812.173, and 812.174. This bill reenacts the following sections of the Florida Statutes: 893.13, 768.0705, 812.1725, 812.176.

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.

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

¹⁰ The Department of Legal Affairs has not yet provided an analysis of the bill.

By Senator Legg

17-01499-16

20161302__

1 A bill to be entitled
 2 An act relating to convenience businesses; amending s.
 3 812.171, F.S.; revising the definition of the term
 4 "convenience business"; amending s. 812.173, F.S.;
 5 revising the dollar amount that a convenience business
 6 must post on a conspicuous notice at the entrance;
 7 exempting convenience businesses from specified
 8 requirements under certain circumstances; amending s.
 9 812.174, F.S.; deleting an obsolete provision;
 10 deleting the administrative fee for a convenience
 11 business' proposed training curriculum; deleting
 12 provisions requiring the periodic reapproval of a
 13 training curriculum and the accompanying
 14 administrative fee; reenacting s. 893.13(1)(e), F.S.,
 15 relating to prohibited acts and penalties, to
 16 incorporate the amendment made to s. 812.171, F.S., in
 17 a reference thereto; reenacting ss. 768.0705,
 18 812.1725, and 812.176, F.S., relating to limitation on
 19 premises liability, preemption, and rulemaking
 20 authority, respectively, to incorporate the amendments
 21 made to ss. 812.173 and 812.174, F.S., in references
 22 thereto; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Section 812.171, Florida Statutes, is amended to
 27 read:

28 812.171 Definition.—As used in this act, the term
 29 "convenience business" means any place of business that is
 30 primarily engaged in the retail sale of groceries, or both
 31 groceries and gasoline, and that is open for business at any
 32 time between the hours of 11 p.m. and 5 a.m. The term

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

17-01499-16

20161302__

33 "convenience business" does not include:
 34 (1) A business that is solely or primarily a restaurant.
 35 (2) A business that always has at least five employees on
 36 the premises after 11 p.m. and before 5 a.m.
 37 (3) A business that has at least 10,000 square feet of
 38 retail floor space.
 39
 40 ~~The term "convenience business" does not include any business in~~
 41 ~~which the owner or members of his or her family work between the~~
 42 ~~hours of 11 p.m. and 5 a.m.~~
 43 Section 2. Subsection (1) of section 812.173, Florida
 44 Statutes, is amended, present subsection (5) of that section is
 45 redesignated as subsection (6), and a new subsection (5) is
 46 added to that section, to read:
 47 812.173 Convenience business security.—
 48 (1) Every convenience business shall be equipped with the
 49 following security devices and standards:
 50 (a) A security camera system capable of recording and
 51 retrieving an image to assist in offender identification and
 52 apprehension.
 53 (b) A drop safe or cash management device for restricted
 54 access to cash receipts.
 55 (c) A lighted parking lot illuminated at an intensity of at
 56 least 2 foot-candles per square foot at 18 inches above the
 57 surface.
 58 (d) A conspicuous notice at the entrance which states that
 59 the cash register contains \$100 ~~\$50~~ or less.
 60 (e) Window signage that allows a clear and unobstructed
 61 view from outside the building and in a normal line of sight of

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20161302__

62 the cash register and sales transaction area.

63 (f) Height markers at the entrance of the convenience
64 business which display height measures.

65 (g) A cash management policy to limit the cash on hand at
66 all times after 11 p.m.

67 (5) The security devices, standards, and measures required
68 by subsections (1)-(4) do not apply to a convenience business in
69 which the owner or members of the owner's immediate family work
70 on the premises of the convenience business between the hours of
71 11 p.m. and 5 a.m.

72 Section 3. Section 812.174, Florida Statutes, is amended to
73 read:

74 812.174 Training of employees.—

75 (1) The owner or principal operator of a convenience
76 business or convenience businesses shall provide proper robbery
77 deterrence and safety training by an approved curriculum to its
78 retail employees within 60 days after of employment. Existing
79 retail employees shall receive training within 6 months of April
80 8, 1992.

81 (2) A proposed curriculum shall be submitted in writing to
82 the Attorney General with an administrative fee not to exceed
83 \$100. The Attorney General shall review and approve or
84 disapprove the curriculum in writing within 60 days after
85 receipt. The state shall have no liability for approving or
86 disapproving a training curriculum under this section. Approval
87 shall be given to a curriculum that ~~which~~ trains and
88 familiarizes retail employees with the security principles,
89 devices, and measures required by s. 812.173. Disapproval of a
90 curriculum shall be subject to ~~the provisions of~~ chapter 120.

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91 (3) A No person is not shall be liable for ordinary
92 negligence due to implementing an approved curriculum if the
93 training was actually provided. ~~A curriculum shall be submitted~~
94 ~~for reapproval biennially with an administrative fee not to~~
95 ~~exceed \$100. Any curriculum approved by the Attorney General~~
96 ~~since September 1990 shall be subject to reapproval 2 years from~~
97 ~~the anniversary of initial approval and biennially thereafter.~~

98 Section 4. For the purpose of incorporating the amendment
99 made by this act to section 812.171, Florida Statutes, in a
100 reference thereto, paragraph (e) of subsection (1) of section
101 893.13, Florida Statutes, is reenacted to read:

102 893.13 Prohibited acts; penalties.—

103 (1)

104 (e) Except as authorized by this chapter, a person may not
105 sell, manufacture, or deliver, or possess with intent to sell,
106 manufacture, or deliver, a controlled substance not authorized
107 by law in, on, or within 1,000 feet of a physical place for
108 worship at which a church or religious organization regularly
109 conducts religious services or within 1,000 feet of a
110 convenience business as defined in s. 812.171. A person who
111 violates this paragraph with respect to:

112 1. A controlled substance named or described in s.
113 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.
114 commits a felony of the first degree, punishable as provided in
115 s. 775.082, s. 775.083, or s. 775.084.

116 2. A controlled substance named or described in s.
117 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6.,
118 (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) commits a felony of
119 the second degree, punishable as provided in s. 775.082, s.

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

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120 775.083, or s. 775.084.

121 3. Any other controlled substance, except as lawfully sold,
122 manufactured, or delivered, must be sentenced to pay a \$500 fine
123 and to serve 100 hours of public service in addition to any
124 other penalty prescribed by law.

125 Section 5. For the purpose of incorporating the amendments
126 made by this act to sections 812.173 and 812.174, Florida
127 Statutes, in references thereto, section 768.0705, Florida
128 Statutes, is reenacted to read:

129 768.0705 Limitation on premises liability.—The owner or
130 operator of a convenience business that substantially implements
131 the applicable security measures listed in ss. 812.173 and
132 812.174 shall gain a presumption against liability in connection
133 with criminal acts that occur on the premises and that are
134 committed by third parties who are not employees or agents of
135 the owner or operator of the convenience business.

136 Section 6. For the purpose of incorporating the amendments
137 made by this act to sections 812.173 and 812.174, Florida
138 Statutes, in references thereto, section 812.1725, Florida
139 Statutes, is reenacted to read:

140 812.1725 Preemption.—A political subdivision of this state
141 may not adopt, for convenience businesses, security standards
142 which differ from those contained in ss. 812.173 and 812.174,
143 and all such differing standards, whether existing or proposed,
144 are hereby preempted and superseded by general law.

145 Section 7. For the purpose of incorporating the amendments
146 made by this act to sections 812.173 and 812.174, Florida
147 Statutes, in references thereto, section 812.176, Florida
148 Statutes, is reenacted to read:

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149 812.176 Rulemaking authority.—The Department of Legal
150 Affairs shall have the power to adopt rules pursuant to chapter
151 120 as necessary to implement the provisions of the Convenience
152 Business Security Act. The security measures and training
153 provisions of ss. 812.173 and 812.174 shall meet the
154 requirements of the department as set forth by rule.

155 Section 8. This act shall take effect May 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG

17th District

Legg.John.web@FLSenate.gov

January 12, 2016

The Honorable Nancy Detert
Committee on Commerce and Tourism, Chair
310 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 1302 - Convenience Business

Dear Chair Detert:

SB 1302: Convenience Business has been referred to your committee. I respectfully request that it be placed on the Committee on Commerce and Tourism Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Legg".

John Legg
State Senator, District 17

cc: Todd McKay, Staff Director
Patty Blackburn, Administrative Assistant

REPLY TO:

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

ANDY GARDINER
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)

1/25/15

Meeting Date

1302

Bill Number (if applicable)

Topic Convenience Businesses

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title Vice President & General Counsel

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Phone 222 - 4082

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Tallahassee FL 32301

Email samantha@frf.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Petroleum Marketers & Convenience Store 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.

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: CS/SB 1646

INTRODUCER: Commerce and Tourism Committee and Senator Latvala

SUBJECT: Economic Development

DATE: January 27, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1646 makes changes to some of the state's economic development programs to increase accountability and efficiency, and reforms the state's entertainment industry development incentive programs.

Specifically the bill:

- Provides a standard definition for "average private sector wage in an area" across the state's economic development incentive programs.
- Limits contract term to 10 years and requires notice of executed contracts to the Legislature.
- Requires that public funds be included when calculating ROI of a project's economic benefits.
- Adds reporting requirements regarding job creation and health care benefits to incentive program reports.
- Renames the Quick Action Closing Fund as the "Florida Enterprise Fund," and makes the following changes to the fund:
 - Lowers the required return on investment (ROI) from 5 to 1, to 3 to 1.
 - Requires that projects create at least 10 jobs.
 - Requires that 20 percent of the award comes from local financial support.
- Moves the Florida Sports Foundation under the Department of Economic Opportunity (DEO), and removes all sports-related responsibilities from Enterprise Florida, Inc. (EFI).
- Repeals expired provisions related to an International Game Fish Association World Center facility.

The bill reforms the state's entertainment industry development efforts by:

- Moving the DEO Office of Film and Entertainment (OFE) to EFI, and renaming it the Division of Film and Entertainment (division).
- Providing that the Florida Film and Entertainment Advisory Council will have an 11-member board, down from 17 members.
- Creating the Entertainment Action Fund, from which approved production companies may receive funds from the program for qualified expenditures in the state.
- Requiring application periods for the fund, and requiring applications to be reviewed, evaluated, and ranked according to criteria designed to maximize the state's investment.
- Prohibiting distribution of funds in excess of the amount appropriated by the Legislature in a given fiscal year.
- Requiring that fund projects above specified award amounts need approval by the Legislative Budget Commission.
- Changing the repeal date of the entertainment industry incentive tax credit program to April 1, 2016, and prohibiting program tax credits from being awarded after that date.
- Providing that a production company cannot benefit from both the Entertainment Action Fund and the entertainment industry tax exemption certificate program.

The bill also makes a number of clarifying, conforming, and technical changes to economic development and entertainment industry incentive programs.

II. Present Situation:

For the purposes of this bill analysis, the Present Situation will be addressed in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Economic Development Incentive Programs

Current Situation

Florida has a number of incentive programs intended to promote economic development in the state. These programs are collectively referred to as the economic development "toolkit" and come in a variety of forms including tax refunds, tax credits, tax exemptions, and cash grants.

The Qualified Target Industry Business Tax Refund (QTI) was established in 1995 with the purpose of attracting high wage jobs to the state.¹ The tax refunds are made to qualified, pre-approved businesses creating jobs in target industries. The target industries are identified by the DEO for criteria including future growth, stability, high wages, market and resource independence, industrial base diversification, and positive economic impact. Approved QTI projects have contractual performance measures with specific milestones to be verified prior to payment of any tax refunds. This incentive requires 20 percent of the award to come from the local government. The program is funded through a specific annual appropriation.² The program

¹ Section 288.106, F.S.

² Section 288.095, F.S.

shares a \$35 million cap on tax refund payments, per fiscal year, with the Qualified Defense and Space Contractor Tax Refund (QDSC) program.

The QDSC program was established in 1996 and is designed to attract high wage jobs in the space and defense industries.³ The QDSC tax refunds are made to qualified and approved businesses bidding on new or securing existing defense or space contracts. As with the QTI refund, 20 percent of the award comes from the local government. As with other programs, the QDSC tax refunds are awarded after contractual performance-based milestones are met and verified by the state. The program is funded through a specific annual appropriation. The program shares a \$35 million cap on tax refund payments, per fiscal year with the QTI tax refund. Certification for applicants has been prohibited since June 30, 2014, but any agreements in effect after that date continue in accordance with their terms.

The Capital Investment Tax Credit (CITC) became effective in 1998 and its purpose is to attract and grow capital-intensive industries in Florida.⁴ Eligible projects must be in designated high-impact portions of certain sectors, determined by the DEO, including clean energy, biomedical technology, financial services, information or silicon technology, or transportation equipment manufacturing. The project could also be a corporate headquarters facility. The DEO reports that the value of credits claimed is often lower than the value of credits approved because the company's tax liability may be lower than the value of the credits, and most often, because the credits can only be used to offset a portion of the incremental new tax liability attributable to a project. There is no cap for this program. The DEO reported that \$21.5 million in tax credits were claimed in 2014.⁵

The Quick Action Closing (QAC) Fund was established in 1999.⁶ The program is designed to be a competitive "deal closing" tool for negotiations where the state's other incentives are not enough to incentivize a business to remain, locate, or expand in the state.

Under current law, in order to be eligible for QAC funds a project must meet five criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- Be an inducement to the project's location or expansion in the state;
- Pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.

The DEO is permitted to waive these criteria under certain conditions.

All QAC Fund projects have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties

³ Section 288.1045, F.S.

⁴ Section 220.191, F.S.

⁵ The Department of Economic Opportunity, *DEO: 2015 Incentives Report*, December 30, 2015, (on file with the Commerce and Tourism Committee).

⁶ Section 288.1088, F.S.

for failure to perform. The program is funded by a specific annual appropriation, and has no cap. The DEO reports that \$44.2 million in grant incentives was approved in Fiscal Year 2014-15.⁷

The Innovation Incentive Program (IIP) was created in 2006.⁸ The program is designed to empower the state to compete effectively for research and development, innovation business, or alternative and renewable energy projects. The program creates long-term investments, made by the state, in industry clusters critical to the state's future economic diversification. The projects have contractual performance measures and milestones that must be achieved before grant payment. The contracts also include a reinvestment portion, requiring recipients to reinvest a portion of royalty revenues earned back to the state for investment in existing state trust funds. The DEO reports that as of 2015, nine companies have been awarded funds of \$455.7 million, in addition to the Scripps Florida Grant (\$310 million).⁹

The Office of Economic Development and Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) are required to provide a detailed analysis of state economic development programs according to a recurring schedule established in law.¹⁰ The EDR must evaluate and determine the economic benefits, as defined in s. 288.005(1), F.S., of each program over the previous 3 years. For the purposes of EDR's analysis, the calculation of economic benefits is the same as the state's return on investment.

The Sports Development Program, established under s. 288.11625, F.S., provides state funding to pay for a facility for a professional sports franchise, under certain circumstances. Local governments, non-profit and for-profit entities may apply to the program. The program is scheduled for recurring review by EDR and OPPAGA beginning January 1, 2018. The retention of Major League Baseball spring training baseball franchises program, established under section 288.11631, F.S., provides state funds to pay for construction and renovation of spring training baseball facilities under certain circumstances. This program is currently not included in the list of economic development programs that must be analyzed by EDR and OPPAGA.

Effect of Proposed Changes

The bill amends s. 288.005, F.S., to include a definition for "average private sector wage in the area." The term is defined to mean the statewide average wage in the private sector or the average of all private sector wages in the county or standard metropolitan area in which the project is located, as determined by the DEO (**Section 7**).

The bill makes conforming changes to reflect the new definition for "average private sector wage in the area" in:

- The Capital Investment Tax Credit program;¹¹
- The Research and Development Tax Credit program;¹²

⁷ *Supra* note 5, at 18.

⁸ Section 288.1089, F.S.

⁹ *Supra* note 5, at 27.

¹⁰ Section 288.0001, F.S.

¹¹ Section 220.191, F.S.

¹² Section 220.196, F.S.

- The Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) program;¹³
- The Qualified Target Industry Tax Refund Program;¹⁴
- The Quick Action Closing Fund;¹⁵ and
- The Innovation Incentive Program¹⁶ (**Sections 4, 5, 11, 12, 14, 15**).

The bill requires that all state funds used to benefit a business be included in the ROI for calculating projects' economic benefits. For all incentive programs, the bill clarifies:

- That when calculating projects' economic benefits, a business's capital investment does not include any public funds;
- Requires capital investment made by a business to remain in the state for the duration of the incentives contract;
- Limits the duration of contracts to 10 years (except for the Capital Investment Tax Credit program and the Innovation Incentive Program); and
- Requires the DEO to provide a notice to the Legislature of executed contracts (**Section 8**).

The bill also prohibits the use of public funds when calculating cumulative investment by a high-impact business pursuant to s. 288.108, F.S., (**Section 13**).

The bill repeals expired language allowing a waiver between July 1, 2011, and June 30, 2014, under certain circumstances, in the Capital Investment Tax Credit program (**Section 4**).

The bill extends certification for the QDSC program to June 30, 2018, and allows for late filings in 2014 to be claimed under certain conditions (**Section 11**).

The bill clarifies that the Qualified Target Industry "tax refund" program is not a repayment of taxes, but that taxes paid operate as a limitation on the incentive award amount (**Section 12**).

The bill sets the required ROI for a project receiving Quick Action Closing funds at 3 to 1 (currently 5 to 1), requires that a project create 10 jobs, and that 20 percent of the award must come from local financial support. The bill provides that if a local government and EFI request a waiver of criteria required for a project to be eligible to receive funds from the Quick Action Closing Fund, a written request must be sent to the DEO explaining the reasons for the request. Additionally, the DEO must write an explanation regarding the reasons for an approval of any such request. The bill requires that after the Governor approves a Quick Action Closing Fund applicant, the DEO will issue a letter certifying the applicant is qualified for an award. The bill prohibits any payment of program funds until scheduled performance conditions have been met. The bill renames the Quick Action Closing Fund as the "Florida Enterprise Fund." (**Section 14**).

The bill requires that the incentive project reports by the DEO (**Section 9**), and the annual incentives report by EFI (**Section 30**), include data on the number of jobs created and retained and the number of jobs created and retained that provide health benefits.

¹³ Section 288.1045, F.S.

¹⁴ Section 288.106, F.S.

¹⁵ Section 288.1088, F.S.

¹⁶ Section 288.1089, F.S.

The bill adds a report on the retention of MLB spring training baseball franchises under s. 288.11631, F.S., to the list of reports required by the economic development programs evaluation¹⁷ schedule beginning January 1, 2018, and every 3 years thereafter (**Section 6**).

The bill repeals an expired provision allowing an application for state funding under the Sports Development program¹⁸ related to new facilities or projects commenced before July 1, 2014 (**Section 17**).

Additionally the bill makes clarifying, conforming, or technical changes to:

- ROI reporting for economic development programs in s. 288.076, F.S., (**Section 9**);
- The Economic Development Trust Fund in s. 288.095, F.S., (**Section 10**);
- The Innovation Incentive Program in s. 288.1089, F.S., (**Section 15**);
- Sports Development in s. 288.11625, F.S., (**Section 17**); and
- The Retention of MLB spring training baseball franchises in s. 288.11631, F.S., (**Section 18**).

Florida Sports Foundation

Current Situation

The Florida Sports Foundation (foundation) was a direct-support organization of the Office of Tourism Trade and Economic Development, prior to the governmental reorganization that created the DEO and EFI.¹⁹ The foundation served as the official sports promotion and development organization for the state. Currently the foundation is a non-profit corporation serving as the Division of Sports Industry Development within EFI. The foundation's mission is to:

- Assist state communities with securing, hosting and retaining, sporting events that generate economic impact and sports-tourism for the state;
- Provide state citizens with participation opportunities in the Sunshine State Games and Florida Senior Games;
- Serve as the state's leading source for sports-tourism research and information;
- Assist in the promotion of targeted leisure sport industries in the state; and
- Assist national and state governing bodies to promote amateur sports development through the Sunshine State Games and hosting events in the state.

Effect of Proposed Changes

The bill revives, reenacts, and amends s. 288.1229, F.S., ch. 2011-142, L.O.F., as s. 288.1229, F.S., and makes conforming changes, thereby housing the foundation within the DEO (**Section 20**). The DEO is directed to contract with the foundation by July 1, 2016. The foundation is charged with:

- The promotion and development of the sports industry and any related industries to improve their economic presence in the state;

¹⁷ Section 288.0001, F.S.

¹⁸ Section 288.11625, F.S.

¹⁹ Chapter 2011-142, L.O.F.

- The promotion of amateur athletic participation for state citizens and the state as a host for national and international amateur athletic competition to encourage and increase the direct and ancillary economic events of any such events and competitions; and
- The retention of professional sports franchises, including the spring training operations of Major League Baseball.

The statutorily provided powers and duties of the DEO are amended to include contracting with the foundation to (**Section 1**):

- Guide, stimulate, and promote the sports industry in the state;
- Promote the participation of state residents in amateur athletic competition; and
- Promote the state as a host for national and international amateur athletic competition.

The bill repeals all duties and responsibilities related to the sports industry from EFI. These repeals include the requirement for a sports marketing director on the EFI Board of Directors, marketing the state for sports, and having a Division of Sports Industry Development (**Section 28, 29, 31**).

The bill transfers EFI responsibilities related to spring training baseball franchises under s. 288.11621, F.S., to the foundation (**Section 16**).

Any responsibilities held by EFI regarding sports-related specialty license plates in s. 320.08058, F.S., have been given to the foundation (**Section 33**). The specialty license plates included are:

- Florida United States Olympic Committee license plates;
- Florida Professional Sports Team license plates;
- Florida Golf license plates;
- Florida NASCAR license plates; and
- Florida Tennis license plates.

The bill removes the requirement that the foundation use proceeds from the Florida Professional Sports Team license plate to promote and develop education programs in state schools (**Section 33**).

International Game Fish Association World Center

Current Situation

The International Game Fish Association (IGFA) is a nonprofit organization founded in 1939 that focuses on the conservation of game fish and the promotion of responsible and ethical angling practices. The association is housed at the IGFA Museum and Hall of Fame in Dania Beach, Florida. The facility was certified by the state as an IGFA World Center facility in February 2000. Section 288.1169, F.S., establishes the IGFA World Center facility funding program which allows the DEO to approve applicants and certify one applicant as the IGFA World Center facility.

Every 10 years the world center facility must be recertified by demonstrating that it is open, continues to be the only international administrative headquarters, fishing museum, and hall of fame in the country recognized by the IGFA, and is meeting at least one of the minimum

projections established at the time of original certification: 300,000 annual visitors or \$1 million in annual sales tax revenue. The facility reported an average of \$3.8 million in annual sales tax revenues generated from 2000 through 2010, and it was recertified in 2011. Certified applicants are eligible to receive monthly disbursements from the state in an amount equal to \$83,333 for up to 168 months (a total of \$13,999,944 for 14 years).²⁰ The state made its last disbursement to the facility in February 2014.

Effect of Proposed Changes

The bill repeals s. 288.1169, F.S., which provides for the application process, and certification, of an IGFA World Center facility (**Section 19**). Additionally, the bill repeals the distribution of state funds to any such facility, pursuant to s. 212.20(6)(d)6.d., F.S., (**Section 3**); and economic development programs evaluation reporting requirements regarding any such facility, pursuant to s. 288.0001(2)(b)4., F.S., (**Section 6**).

Office of Film and Entertainment

Current Situation

The Office of Film and Entertainment (OFE) in the DEO develops, markets, promotes, and provides services to Florida's entertainment industry, including serving as a liaison between the industry and government entities and facilitating access to filming locations.²¹ 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; 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. The OFE's mission is to build, support, and market the entertainment industry in Florida.

Effect of Proposed Changes

The bill rennumbers and amends s. 288.1251, F.S., as s. 288.913, F.S., to rename the OFE as the Division of Film and Entertainment and house it within EFI (**Section 22**). The bill makes corresponding conforming changes. Additionally, the bill requires the 5-year plan to address new issues including:

- Any field offices outside the state;
- The coordination of the division with local and regional offices in the state, local film commissions, and labor organizations to facilitate a working relationship; and
- Strategies to identify, solicit, and recruit entertainment production opportunities for the state.

The bill provides that EFI's board of directors will review and approve the 5-year plan annually, and any funds provided for the purposes of the 5-year plan will be deposited in a separate account with EFI.

²⁰ Section 212.20(6)(d)6.d., F.S.

²¹ Section 288.1251, F.S. See also OFE website, available at <http://www.filminflorida.com/about/vm.asp> (last visited January 21, 2016).

The bill renumbers s. 288.1253, F.S., related to travel and entertainment expenses incurred by employees of OFE, as s. 288.915, F.S., and makes conforming changes to apply the section to the division. Additionally, the bill prohibits the division, its employees, and its representatives, from accepting any complimentary travel, accommodations, meeting space, meals, equipment, transportation, or other goods and services from any entity, or employee, designee, or representative of such entity, which has received, applied to receive, or anticipates to receive, any funds from the Entertainment Action Fund created under s. 288.1256, F.S., (**Section 24**). Failure to abide by this prohibition is subject to the penalties provided for in s. 112.317, F.S.

Florida Film and Entertainment Advisory Council

Current Situation

The OFE is assisted by the Florida Film and Entertainment Advisory Council (council), which is composed of 17 members, of which seven members are appointed by the Governor, and five members each are appointed by the President of the Senate and the Speaker of the House of Representatives.²² In addition, EFI, Workforce Florida, Inc., and the Florida Tourism Industry Marketing Corporation (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.

Effect of Proposed Changes

The bill amends and renumbers s. 288.1552, F.S., as s. 288.914, F.S., (**Section 23**). The bill conforms this section to reflect that the council now advises EFI's Division of Film and Entertainment, rather than the OFE. Additionally, the bill reduces the number of members appointed to 11 from 17, with five members appointed by the Governor and three members by each chamber of the Legislature. Members may serve out the remainder of their term, but upon vacancy or the conclusion of a term, members must be appointed in accordance with the section. The bill provides that the council will no longer assist in the creation of the 5-year plan.

Entertainment Action Fund

Current Situation

The Entertainment Action Fund does not exist in current law.

Effect of Proposed Changes

The bill creates s. 288.1256, F.S., as the Entertainment Action Fund (**Section 26**). The bill provides that the fund is created within the DEO in order to:

- Respond to extraordinary opportunities;
- Compete effectively to attract and retain production companies; and
- Provide favorable conditions for the growth of the entertainment industry in the state.

Production companies may submit applications to receive funds from the fund. The division must accept applications for 3 months and provide public notice of the application period. There

²² Section 288.1252, F.S.

can be multiple application periods in a single fiscal year depending on the availability of funds. The division is to review and evaluate applications to identify, if any, competitive projects for approval. The evaluation criteria, listed in order of priority, are:

- The number of state residents to be employed in full and part-time positions related to the project and the average wages paid;
- The amount of qualified, and unqualified, expenditures to be made in the state;
- Planned or executed contracts with production facilities in the state for production activity;
- The amount of capital investment, especially fixed capital, made directly by the production company in this state related to a project;
- The duration of the project;
- The amount of principal photography that will occur in an underutilized county;
- The extent to which the state will be promoted by the production company;
- The employment of in-state students and recent graduates;
- Any plans to work with in-state higher education institutions;
- Any local support, financial or otherwise;
- If the project is about the state, or positively reflects the state;
- A review of the production company's past activity in the state;
- A production company's number of productions already made and overall commitment to the state;
- Expected contributions to the state's economy; and
- The effect of any award on the viability of a project and the possibility of the project being undertaken in the state.

The DEO is directed to prescribe an application form with specific required information to aid in the review and evaluation of project criteria.

The DEO must make a recommendation to the Governor within 7 days of reviewing an application. Recommendations must include performance conditions required to obtain any funds. Any award cannot constitute more than 30 percent of qualified expenditures in the state and cannot be used for wages paid to nonresidents. A recommendation can be for less than that amount. A production must start within 1 year of having an award being approved by the Governor.

The Governor may approve any project requiring less than \$2 million in funding without consulting the Legislature. For projects requiring funding between \$2 million and \$5 million, the Governor must submit a written description and evaluation of the project to the Legislative Budget Commission (LBC) at least 10 days before giving final approval. The LBC, President of the Senate, or Speaker of the House of Representatives may direct the Governor to avoid release of funds until the LBC or the Legislature addresses the issue. For projects requiring over \$5 million in funding, LBC approval is required before any funds can be released.

Upon approval, the DEO and the production company must enter into an agreement specifying;

- The total funds awarded and scheduled payments;
- The performance conditions required to obtain payments;
- The methodology for validating performance conditions;
- That the DEO may review and verify company records to ascertain compliance;

- Sanctions for failure to meet performance conditions; and
- That fund payments are contingent upon appropriation by the Legislature.

Agreements must be signed within 90 days of the Governor's approval. Production companies cannot receive funds from this section and benefit from tax exemptions in s. 288.1258, F.S., for the same production. The DEO cannot approve awards in excess of, if any, amount appropriated in a fiscal year. For the first 6 months, the DEO will set aside 50 percent of any amount appropriated to the fund. These funds can be used for awarding application received on or after January 1st of each fiscal year. The DEO cannot accept applications or commit awards in a period where there has been no appropriations for the fund. The bill provides for the reimbursement of costs and penalties associated with fraudulent claims. Any penalty is in addition to any criminal penalties liable for the committing of such an act.

The DEO, nor the division, may waive any requirements of this program.

The DEO must validate contractor performance and include such findings in an annual report required to be submitted on November 1st of each year.

This program (s. 288.1256, F.S.) expires on July 1, 2026. Agreements in existence on that date continue in accordance with their terms.

The bill does not provide an appropriation for the fund.

Other Entertainment Incentive Programs

Current Situation

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program.²³ The 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 program is administered by the OFE, subject to the policies and oversight of the DEO. Currently, the program is a 6-year program, which began July 1, 2010, and sunsets June 30, 2016. The 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.²⁴

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

- \$53.5 million in Fiscal Year 2010-11;

²³ 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.

²⁴ Also, tax credits may be relinquished to the Department of Revenue for 90 percent of the amount of the relinquished tax credit.

- \$74.5 million in Fiscal Year 2011-12; and
- \$42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.²⁵

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. The OFE reports that all of the tax credits authorized for the 6-year period have been certified (or allocated to certified productions).²⁶

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.²⁷ 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).²⁸
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.²⁹
- *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.³⁰
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes.*³¹

The OFE reviews and approves applications for the exemptions, while the Department of Revenue (DOR) issues certificates of exemption to the production companies. The estimated cost of these exemptions was \$51.1 million for Fiscal Year 2014-2015.³²

Effect of Proposed Changes

The bill amends s. 288.1254, F.S.,³³ to provide that duties held by OFE, including the approval of transferring of tax credits, authority over the revocation and forfeiture of tax credits, and responsibility to submit an annual program report, remain with the DEO. Additionally, the bill changes the repeal date of the program to April 1, 2016, 2 months forward from July 1, 2016, and provides that no credits certified before the repeal date may be awarded after the repeal date, and that the DOR must deny any credit claimed on a tax return if the credit was awarded on or after the repeal date (**Section 25**).

²⁵ 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.

²⁶ Office of Economic and Demographic Research, The Florida Legislature, *Return on Investment for the Entertainment Industry Incentive Programs* (January, 2015).

²⁷ Section 288.1258, F.S. See also Department of Revenue, Film in Florida Sales Tax Exemption, available at http://dor.myflorida.com/dor/taxes/film_in_florida.html (last visited January 21, 2016).

²⁸ Section 212.031(1)(a)9., F.S.

²⁹ Section 212.06(1)(b), F.S. The term “qualified motion picture” is defined in the statute.

³⁰ Section 212.08(5)(f), F.S.

³¹ Section 212.08(12), F.S.

³² Florida Revenue Estimating Conference, 2015 Florida Tax Handbook.

³³ The entertainment industry financial incentive program.

The bill makes changes to reflect any responsibilities held by OFE regarding tax exemption will remain with the DEO. The bill provides that production companies that receive a sales tax exemption certificate under this section may not receive benefits from the Entertainment Action Fund under s. 288.1256, F.S. The bill provides that each year, or upon surrender of a certificate, the production company will submit aggregate data for production-related information on employment, in-state expenditures, capital investment, and items purchased exempt from sales and use tax, for inclusion in the required annual report. Additionally, the bill provides for a 90-day certificate of exemption, which can be applied for and is approved in the same manner as the 1-year certificate. The same aggregate data must be submitted for each 90-day certificate for inclusion in the annual report (**Section 27**).

Additionally, the bill fixes cross references to the definition of “entertainment industry” in s. 288.125, F.S., (**Section 21**); and makes conforming changes in s. 477.0135, F.S., related to certain individuals providing service to a production being exempt from licensure (**Section 34**).

Miscellaneous Changes

The bill makes clarifying, conforming, or technical changes to:

- The Military Base Retention Grants Program in s. 288.980, F.S., (**Section 32**); and
- Definitions related to tax exemption in s. 196.012, F.S. (**Section 2**).

The bill is effective upon becoming law, except as otherwise expressly provided for in the bill.

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:

Indeterminate.

C. **Government Sector Impact:**

The DEO and the DOR have not yet submitted an analysis on the bill.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.60, 196.012, 212.20, 220.191, 220.196, 288.0001, 288.005, 288.061, 288.076, 288.095, 288.1045, 288.106, 288.108, 288.1088, 288.1089, 288.11621, 288.11625, 288.11631, 288.125, 288.1254, 288.1258, 288.901, 288.9015, 288.907, 288.92, 288.980, 320.08058, and 477.0135.

This bill revives, re-enacts, and amends section 288.1229 of the Florida Statutes.³⁴

This bill substantially amends and renumbers the following sections of the Florida Statutes: 288.1251 as 288.913, 288.1252 as 288.914, and 288.1253 as 288.915.

This bill creates section 288.1256 of the Florida Statutes.

This bill repeals section 288.1169 of the Florida Statutes.

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 January 25, 2016:

- The CS renames the Quick Action Closing Fund as the “Florida Enterprise Fund,” and makes the following changes to the fund:
 - Lowers the required return on investment (ROI) from 5 to 1, to 3 to 1.
 - Requires that projects create at least 10 jobs.
 - Requires that 20 percent of the award comes from local financial support.
- The bill requires that all state funds used to benefit a business be included in the ROI for calculating projects’ economic benefits.
- For all incentive programs, the bill:
 - Clarifies that when calculating projects’ economic benefits a business’s capital investment does not include any public funds;
 - Requires capital investment made by a business to remain in the state for the duration of the incentives contract;

³⁴ Section 288.1229, F.S., was repealed by ch. 2011-142, L.O.F.

- Limits the duration of contracts to 10 years; and
- Requires the DEO to provide a notice to the Legislature of executed contracts.
- The bill extends certification for the QDSC program to June 30, 2018 and allows for late filings in 2014 to be claimed under certain conditions. The bill clarifies that the “tax refund” program is not a repayment of taxes but taxes paid operate as a limitation on the incentive award amount.
- The bill requires that the incentive project reports by the DEO, and the annual incentives report by EFI, include data on the number of jobs created and retained and the number of jobs created and retained that provide health benefits.
- The bill updates the board requirements for the Florida Sports Foundation to reflect their current board. The bill also removes the requirement that the foundation use proceeds from the Florida Professional Sports Team license plate to promote and develop education programs in state schools.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 354 - 710

and insert:

Section 4. Paragraphs (b) and (g) of subsection (1) of section 220.191, Florida Statutes, are amended to read:

220.191 Capital investment tax credit.—

(1) DEFINITIONS.—For purposes of this section:

(b) "Cumulative capital investment" means the total capital investment in land, buildings, and equipment made by, or on



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11 behalf of, the qualifying business in connection with a
12 qualifying project during the period from the beginning of
13 construction of the project to the commencement of operations.
14 The term does not include funds granted to or spent on behalf of
15 the qualifying business by the state, a local government, or
16 other governmental entity; funds appropriated in the General
17 Appropriations Act; or funds otherwise provided to the
18 qualifying business by a state agency, local government, or
19 other governmental entity.

20 (g) "Qualifying project" means a facility in this state
21 meeting one or more of the following criteria:

22 1. A new or expanding facility in this state which creates
23 at least 100 new jobs in this state and is in one of the high-
24 impact sectors identified by Enterprise Florida, Inc., and
25 certified by the Department of Economic Opportunity pursuant to
26 s. 288.108(6), including, but not limited to, aviation,
27 aerospace, automotive, and silicon technology industries.
28 ~~However, between July 1, 2011, and June 30, 2014, the~~
29 ~~requirement that a facility be in a high-impact sector is waived~~
30 ~~for any otherwise eligible business from another state which~~
31 ~~locates all or a portion of its business to a Disproportionally~~
32 ~~Affected County. For purposes of this section, the term~~
33 ~~"Disproportionally Affected County" means Bay County, Escambia~~
34 ~~County, Franklin County, Gulf County, Okaloosa County, Santa~~
35 ~~Rosa County, Walton County, or Wakulla County.~~

36 2. A new or expanded facility in this state which is
37 engaged in a target industry designated pursuant to the
38 procedure specified in s. 288.106(2) and which is induced by
39 this credit to create or retain at least 1,000 jobs in this



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40 state, provided that at least 100 of those jobs are new, pay an
41 annual average wage of at least 130 percent of the average
42 private sector wage in the area as defined in s. 288.005(1) ~~s.~~
43 ~~288.106(2)~~, and make a cumulative capital investment of at least
44 \$100 million. Jobs may be considered retained only if there is
45 significant evidence that the loss of jobs is imminent.

46 Notwithstanding subsection (2), annual credits against the tax
47 imposed by this chapter may not exceed 50 percent of the
48 increased annual corporate income tax liability or the premium
49 tax liability generated by or arising out of a project
50 qualifying under this subparagraph. A facility that qualifies
51 under this subparagraph for an annual credit against the tax
52 imposed by this chapter may take the tax credit for a period not
53 to exceed 5 years.

54 3. A new or expanded headquarters facility in this state
55 which locates in an enterprise zone and brownfield area and is
56 induced by this credit to create at least 1,500 jobs which on
57 average pay at least 200 percent of the statewide average annual
58 private sector wage, as published by the Department of Economic
59 Opportunity, and which new or expanded headquarters facility
60 makes a cumulative capital investment in this state of at least
61 \$250 million.

62 Section 5. Paragraph (a) of subsection (2) of section
63 220.196, Florida Statutes, is amended to read:

64 220.196 Research and development tax credit.—

65 (2) TAX CREDIT.—

66 (a) As provided in this section, a business enterprise is
67 eligible for a credit against the tax imposed by this chapter if
68 it:



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69 1. Has qualified research expenses in this state in the
70 taxable year exceeding the base amount;
71 2. Claims and is allowed a research credit for such
72 qualified research expenses under 26 U.S.C. s. 41 for the same
73 taxable year as subparagraph 1.; and
74 3. Is a qualified target industry business as defined in s.
75 288.106(2) ~~s. 288.106(2)(n)~~. Only qualified target industry
76 businesses in the manufacturing, life sciences, information
77 technology, aviation and aerospace, homeland security and
78 defense, cloud information technology, marine sciences,
79 materials science, and nanotechnology industries may qualify for
80 a tax credit under this section. A business applying for a
81 credit pursuant to this section shall include a letter from the
82 Department of Economic Opportunity certifying whether the
83 business meets the requirements of this subparagraph with its
84 application for credit. The Department of Economic Opportunity
85 shall provide such a letter upon receiving a request.
86 Section 6. Paragraphs (a), (b), and (e) of subsection (2)
87 of section 288.0001, Florida Statutes, are amended to read:
88 288.0001 Economic Development Programs Evaluation.—The
89 Office of Economic and Demographic Research and the Office of
90 Program Policy Analysis and Government Accountability (OPPAGA)
91 shall develop and present to the Governor, the President of the
92 Senate, the Speaker of the House of Representatives, and the
93 chairs of the legislative appropriations committees the Economic
94 Development Programs Evaluation.
95 (2) The Office of Economic and Demographic Research and
96 OPPAGA shall provide a detailed analysis of economic development
97 programs as provided in the following schedule:



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98 (a) By January 1, 2014, and every 3 years thereafter, an
99 analysis of the following:

100 1. The capital investment tax credit established under s.
101 220.191.

102 2. The qualified target industry tax refund established
103 under s. 288.106.

104 3. The brownfield redevelopment bonus refund established
105 under s. 288.107.

106 4. High-impact business performance grants established
107 under s. 288.108.

108 5. The Florida Enterprise ~~Quick Action Closing~~ Fund
109 established under s. 288.1088.

110 6. The Innovation Incentive Program established under s.
111 288.1089.

112 7. Enterprise Zone Program incentives established under ss.
113 212.08(5) and (15), 212.096, 220.181, and 220.182.

114 8. The New Markets Development Program established under
115 ss. 288.991-288.9922.

116 (b) By January 1, 2015, and every 3 years thereafter, an
117 analysis of the following:

118 1. The entertainment industry financial incentive program
119 established under s. 288.1254.

120 2. The entertainment industry sales tax exemption program
121 established under s. 288.1258.

122 3. The Florida Tourism Industry Marketing Corporation
123 ~~VISIT Florida~~ and its programs established or funded under ss.
124 288.122, 288.1226, 288.12265, and 288.124.

125 4. The Florida Sports Foundation and related programs
126 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,



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127 288.1168, ~~288.1169~~, and 288.1171.

128 (e) Beginning January 1, 2018, and every 3 years
129 thereafter, an analysis of the Sports Development Program
130 established under s. 288.11625 and the retention of Major League
131 Baseball spring training baseball franchises under s. 288.11631.

132 Section 7. Present subsection (1) of section 288.005,
133 Florida Statutes, is redesignated as subsection (3) and amended,
134 and present subsections (3) through (6) of that section are
135 redesignated as subsections (4) through (7), respectively, and a
136 new subsection (1) is added to that section, to read:

137 288.005 Definitions.—As used in this chapter, the term:

138 (1) “Average private sector wage in the area” means the
139 statewide average wage in the private sector or the average of
140 all private sector wages in the county or in the standard
141 metropolitan area in which the project is located, as determined
142 by the department.

143 (3)(1) “Economic benefits” means the direct, indirect, and
144 induced gains in state revenues as a percentage of the state’s
145 investment. The state’s investment includes all state funds
146 spent or foregone to benefit a business, including state funds
147 appropriated to public and private entities, state grants, tax
148 exemptions, tax refunds, tax credits, and other state
149 incentives.

150 Section 8. Section 288.061, Florida Statutes, is amended to
151 read:

152 288.061 Economic development incentive application
153 process.—

154 (2) (a) ~~Beginning July 1, 2013,~~ The department shall review
155 and evaluate each economic development incentive application for



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156 the economic benefits of the proposed award of state incentives
157 proposed for the project.

158 (b) As used in this subsection, the term "economic
159 benefits" has the same meaning as in s. 288.005. The Office of
160 Economic and Demographic Research shall establish the
161 methodology and model used to calculate the economic benefits,
162 including guidelines for the appropriate application of the
163 department's internal model. For purposes of this requirement,
164 an amended definition of the term "economic benefits" may be
165 developed by the Office of Economic and Demographic Research.
166 However, the amended definition must reflect the requirement of
167 s. 288.005 that the calculation of the state's investment
168 include all state funds spent or foregone to benefit the
169 business, including state funds appropriated to public and
170 private entities, to the extent that those funds should
171 reasonably be known to the department at the time of approval.

172 (c) For the purpose of calculating the economic benefits of
173 the proposed award of state incentives for the project, the
174 department may not attribute to the business any capital
175 investment made by the business using state funds. However, for
176 the purpose of evaluating an economic development incentive
177 application, the department shall consider the cumulative
178 capital investment, as defined in s. 220.191.

179 (3) Within 10 business days after the department receives a
180 complete ~~the submitted~~ economic development incentive
181 application, the executive director shall approve or disapprove
182 the application and issue a letter of certification to the
183 applicant which includes a justification of that decision,
184 unless the business requests an extension of ~~that~~ time.



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185 (a) The ~~contract or~~ agreement or contract with the
186 applicant must specify the total amount of the award, the
187 performance conditions that must be met to obtain the award, the
188 schedule for payment, and sanctions that would apply for failure
189 to meet performance conditions. Any agreement or contract that
190 requires the business to make a capital investment must also
191 require that such investment remain in this state for the
192 duration of the agreement or contract, with the exception of an
193 investment made in transportation-related assets specifically
194 used for the purpose of transporting goods or employees. The
195 department may enter into one agreement or contract covering all
196 of the state incentives that are being provided to the
197 applicant. The agreement or contract must provide that release
198 of funds is contingent upon sufficient appropriation of funds by
199 the Legislature.

200 (b) The department may not enter into an agreement or a
201 contract that has a term of more than 10 years. However, the
202 department may enter into a successive agreement or contract for
203 a specific project to extend the initial 10-year term if each
204 successive agreement or contract is contingent upon the
205 successful completion of the previous agreement or contract.
206 This paragraph does not apply to an agreement or a contract for
207 a project receiving a capital investment tax credit under s.
208 220.191 or an Innovation Incentive Program award under s.
209 288.1089.

210 (c) The department shall provide a notice, including an
211 updated description and evaluation, to the Legislature upon the
212 final execution of each contract or agreement. Any contract or
213 agreement executed by the department for a project under s.



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214 288.108, s. 288.1088, or s. 288.1089 must embody performance
215 criteria and timelines in a written description and evaluation
216 submitted to the Legislature before the contract is executed.

217 (d) The release of funds for the incentive or incentives
218 awarded to the applicant depends upon the statutory requirements
219 of the particular incentive program.

220 Section 9. Paragraphs (a), (c), and (e) of subsection (1)
221 and subsection (6) of section 288.076, Florida Statutes, are
222 amended to read:

223 288.076 Return on investment reporting for economic
224 development programs.—

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

226 (a) "Jobs" has the same meaning as provided in s.
227 288.106(2) s. 288.106(2)(i).

228 (c) "Project" has the same meaning as provided in s.
229 288.106(2) s. 288.106(2)(m).

230 (e) "State investment" means all state funds spent or
231 foregone to benefit a business, including state funds
232 appropriated to public and private entities, any state grants,
233 tax exemptions, tax refunds, tax credits, and any other source
234 of state funds which should reasonably be known to the
235 department at the time of approval or other state incentives
236 provided to a business under a program administered by the
237 department, including the capital investment tax credit under s.
238 220.191.

239 (6) Annually, the department shall publish information
240 relating to the progress of Florida Enterprise Quick Action
241 Closing Fund projects, including the average number of days
242 between the date the department receives a completed application



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243 and the date on which the application is approved.

244 Section 10. Subsection (2) and paragraph (c) of subsection
245 (3) of section 288.095, Florida Statutes, is amended to read:

246 288.095 Economic Development Trust Fund.—

247 (2) There is created, within the Economic Development Trust
248 Fund, the Economic Development Incentives Account. The Economic
249 Development Incentives Account consists of moneys appropriated
250 to the account for purposes of the tax incentives programs
251 authorized under ss. 288.1045 and 288.106, and local financial
252 support provided under ss. 288.1045, and 288.106, and 288.1088.
253 Moneys in the Economic Development Incentives Account shall be
254 subject to the provisions of s. 216.301(1) (a).

255 (3)

256 (c) Moneys in the Economic Development Incentives Account
257 may be used only to pay tax refunds and make other payments
258 authorized under s. 288.1045, s. 288.106, or s. 288.107 and
259 payments authorized under s. 288.1088.

260 Section 11. Paragraph (b) of subsection (1) and paragraph
261 (e) of subsection (3) of section 288.1045, Florida Statutes, are
262 amended, paragraph (i) is added to subsection (5) of that
263 section, and subsection (7) of that section is amended, to read:

264 288.1045 Qualified defense contractor and space flight
265 business tax refund program.—

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

267 ~~(b) "Average wage in the area" means the average of all~~
268 ~~wages and salaries in the state, the county, or in the standard~~
269 ~~metropolitan area in which the business unit is located.~~

270 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
271 DETERMINATION.—



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272 (e) To qualify for review by the department, the
273 application of an applicant must, at a minimum, establish the
274 following to the satisfaction of the department:

275 1. The jobs proposed to be provided under the application,
276 pursuant to subparagraph (b)6., subparagraph (c)6., or
277 subparagraph (j)6., must pay an estimated annual average wage
278 equaling at least 115 percent of the average private sector wage
279 in the area where the project is to be located.

280 2. The consolidation of a Department of Defense contract
281 must result in a net increase of at least 25 percent in the
282 number of jobs at the applicant's facilities in this state or
283 the addition of at least 80 jobs at the applicant's facilities
284 in this state.

285 3. The conversion of defense production jobs to nondefense
286 production jobs must result in net increases in nondefense
287 employment at the applicant's facilities in this state.

288 4. The Department of Defense contract or the space flight
289 business contract does not ~~cannot~~ allow the business to include
290 the costs of relocation or retooling in its base as allowable
291 costs under a cost-plus, or similar, contract.

292 5. A business unit of the applicant must have derived not
293 less than 60 percent of its gross receipts in this state from
294 Department of Defense contracts or space flight business
295 contracts over the applicant's last fiscal year, and must have
296 derived not less than an average of 60 percent of its gross
297 receipts in this state from Department of Defense contracts or
298 space flight business contracts over the 5 years preceding the
299 date an application is submitted pursuant to this section. This
300 subparagraph does not apply to any application for certification



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301 based on a contract for reuse of a defense-related facility.

302 6. The reuse of a defense-related facility will ~~must~~ result
303 in the creation of at least 100 jobs at such facility.

304 7. A new space flight business contract or the
305 consolidation of a space flight business contract will ~~must~~
306 result in net increases in space flight business employment at
307 the applicant's facilities in this state.

308 (5) ANNUAL CLAIM FOR REFUND.—

309 (i) If a business fails to timely submit documentation
310 requested by the department as required in the agreement between
311 the business and the department and such failure results in the
312 department withholding an otherwise approved refund, the
313 business may receive the approved refund if:

314 1. The business submits the documentation to the
315 department.

316 2. The business provides a written statement to the
317 department detailing the extenuating circumstances that resulted
318 in the failure to timely submit the documentation required by
319 the agreement.

320 3. Funds appropriated under this section remain available.

321 4. The business was scheduled under the terms of the
322 agreement to submit information to the department between
323 January 1, 2014, and December 31, 2014.

324 5. The business has met all other requirements of the
325 agreement.

326 (7) EXPIRATION.—An applicant may not be certified as
327 qualified under this section after June 30, 2018 ~~2014~~. A tax
328 refund agreement existing on that date shall continue in effect
329 in accordance with its terms.



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330 Section 12. Paragraph (c) of subsection (2) and paragraph
331 (b) of subsection (4) of section 288.106, Florida Statutes, are
332 amended, present subsection (9) is redesignated as subsection
333 (10), and a new subsection (9) is added to that section, to
334 read:

335 288.106 Tax refund program for qualified target industry
336 businesses.-

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

338 ~~(c) "Average private sector wage in the area" means the~~
339 ~~statewide private sector average wage or the average of all~~
340 ~~private sector wages and salaries in the county or in the~~
341 ~~standard metropolitan area in which the business is located.~~

342 (4) APPLICATION AND APPROVAL PROCESS.-

343 (b) To qualify for review by the department, the
344 application of a target industry business must, at a minimum,
345 establish the following to the satisfaction of the department:

346 1.a. The jobs proposed to be created under the application,
347 pursuant to subparagraph (a)4., must pay an estimated annual
348 average wage equaling at least 115 percent of the average
349 private sector wage in the area where the business is to be
350 located ~~or the statewide private sector average wage.~~ The
351 governing board of the local governmental entity providing the
352 local financial support of the jurisdiction where the qualified
353 target industry business is to be located shall notify the
354 department and Enterprise Florida, Inc., which calculation of
355 the average private sector wage in the area must be used as the
356 basis for the business's wage commitment. In determining the
357 average annual wage, the department shall include only new
358 proposed jobs, and wages for existing jobs shall be excluded



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359 from this calculation.

360 b. The department may waive the average wage requirement at
361 the request of the local governing body recommending the project
362 and Enterprise Florida, Inc. The department may waive the wage
363 requirement for a project located in a brownfield area
364 designated under s. 376.80, in a rural city, in a rural
365 community, in an enterprise zone, or for a manufacturing project
366 at any location in the state if the jobs proposed to be created
367 pay an estimated annual average wage equaling at least 100
368 percent of the average private sector wage in the area where the
369 business is to be located, only if the merits of the individual
370 project or the specific circumstances in the community in
371 relationship to the project warrant such action. If the local
372 governing body and Enterprise Florida, Inc., make such a
373 recommendation, it must be transmitted in writing and must
374 include an explanation of,~~and~~ the specific justification for
375 the waiver recommendation ~~must be explained~~. If the department
376 elects to waive the wage requirement, the waiver must be stated
377 in writing and must include an explanation of,~~and~~ the reasons
378 for granting the waiver ~~must be explained~~.

379 2. The target industry business's project must result in
380 the creation of at least 10 jobs at the project and, in the case
381 of an expansion of an existing business, must result in a net
382 increase in employment of at least 10 percent at the business.
383 At the request of the local governing body recommending the
384 project and Enterprise Florida, Inc., the department may waive
385 this requirement for a business in a rural community or
386 enterprise zone if the merits of the individual project or the
387 specific circumstances in the community in relationship to the



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388 project warrant such action. If the local governing body and
389 Enterprise Florida, Inc., make such a request, the request must
390 be transmitted in writing and must include an explanation of
391 ~~and~~ the specific justification for the request ~~must be~~
392 ~~explained~~. If the department elects to grant the request, the
393 grant must be stated in writing~~r~~ and explain why the request was
394 granted ~~the reason for granting the request must be explained~~.

395 3. The business activity or product for the applicant's
396 project must be within an industry identified by the department
397 as a target industry business that contributes to the economic
398 growth of the state and the area in which the business is
399 located, that produces a higher standard of living for residents
400 of this state in the new global economy, or that can be shown to
401 make an equivalent contribution to the area's and state's
402 economic progress.

403 (9) INCENTIVE PAYMENTS.—The incentive payments made to a
404 business pursuant to this section are not repayments of the
405 actual taxes paid to the state or to a local government by the
406 business. The amount of state and local government taxes paid by
407 a business serve as a limitation on the amount of incentive
408 payments a business may receive.

409 Section 13. Paragraph (b) of subsection (2) of section
410 288.108, Florida Statutes, is amended to read:

411 288.108 High-impact business.—

412 (2) DEFINITIONS.—As used in this section, the term:

413 (b) "Cumulative investment" means the total investment in
414 buildings and equipment made by a qualified high-impact business
415 since the beginning of construction of such facility. The term
416 does not include funds granted to or spent on behalf of the



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417 qualifying business by the state, a local government, or other
418 governmental entity; funds appropriated in the General
419 Appropriations Act; or funds otherwise provided to the
420 qualifying business by a state agency, local government, or
421 other governmental entity.

422 Section 14. Section 288.1088, Florida Statutes, are amended
423 to read:

424 288.1088 Florida Enterprise ~~Quick Action Closing~~ Fund.—

425 (1) (a) The Legislature finds that attracting, retaining,
426 and providing favorable conditions for the growth of certain
427 high-impact business facilities, privately developed critical
428 rural infrastructure, or key facilities in economically
429 distressed urban or rural communities which provide widespread
430 economic benefits to the public through high-quality employment
431 opportunities in such facilities or in related facilities
432 attracted to the state, through the increased tax base provided
433 by the high-impact facility and related businesses, through an
434 enhanced entrepreneurial climate in the state and the resulting
435 business and employment opportunities, and through the
436 stimulation and enhancement of the state's universities and
437 community colleges. In the global economy, there exists serious
438 and fierce international competition for these facilities, and
439 in most instances, when all available resources for economic
440 development have been used, the state continues to encounter
441 severe competitive disadvantages in vying for these business
442 facilities. Florida's rural areas must provide a competitive
443 environment for business in the information age. This often
444 requires an incentive to make it feasible for private investors
445 to provide infrastructure in those areas.



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446 (b) The Legislature finds that the conclusion of the space
447 shuttle program and the gap in civil human space flight will
448 result in significant job losses that will negatively impact
449 families, companies, the state and regional economies, and the
450 capability level of this state's aerospace workforce. Thus, the
451 Legislature also finds that this loss of jobs is a matter of
452 state interest and great public importance. The Legislature
453 further finds that it is in the state's interest for provisions
454 to be made in incentive programs for economic development to
455 maximize the state's ability to mitigate these impacts and to
456 develop a more diverse aerospace economy.

457 (c) The Legislature therefore declares that sufficient
458 resources shall be available to respond to extraordinary
459 economic opportunities and to compete effectively for these
460 high-impact business facilities, critical private infrastructure
461 in rural areas, and key businesses in economically distressed
462 urban or rural communities, and that up to 20 percent of these
463 resources may be used for projects to retain or create high-
464 technology jobs that are directly associated with developing a
465 more diverse aerospace economy in this state.

466 (2) There is created within the department the Florida
467 Enterprise ~~Quick Action Closing~~ Fund. Except as provided in
468 subsection (3), projects eligible for receipt of funds from the
469 Florida Enterprise ~~Quick Action Closing~~ Fund must shall:

470 (a) Be in an industry as referenced in s. 288.106.

471 (b) Have a positive economic benefit ratio of at least 3 to
472 1 ~~5 to 1~~.

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



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475 (d) Pay an average annual wage of at least 125 percent of
476 the average areawide or statewide private sector average wage in
477 the area.

478 (e) Be supported by the local community in which the
479 project is to be located. Support must include a resolution
480 adopted by the governing board of the county or municipality in
481 which the project will be located, which resolution recommends
482 that the project be approved and specifies that the commitments
483 of local financial support necessary for the business exist.
484 Before the passage of such resolution, the department may also
485 accept an official letter from an authorized local economic
486 development agency that endorses the proposed project and
487 pledges that sources of local financial support for such project
488 exist. For the purposes of making pledges of local financial
489 support under this paragraph, the authorized local economic
490 development agency shall be officially designated by the passage
491 of a one-time resolution by the local governing board. For
492 purposes of this section, the term "local financial support"
493 means funding from local sources, public or private, which is
494 paid to the Economic Development Trust Fund and which is equal
495 to 20 percent of the Florida Enterprise Fund award to a
496 business.

497 1. A business may not provide, directly or indirectly, more
498 than 5 percent of such funding in any fiscal year. The sources
499 of such funding may not include, directly or indirectly, state
500 funds appropriated from the General Revenue Fund or any state
501 trust fund, excluding tax revenues shared with local governments
502 pursuant to law.

503 2. A business may not receive more than 80 percent of its



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504 total award under this section from state funds.

505 (f) Create at least 10 new jobs.

506 (3) (a) The department and Enterprise Florida, Inc., shall
507 jointly review applications pursuant to s. 288.061 and determine
508 the eligibility of each project consistent with the criteria in
509 subsection (2).

510 (b) If the local governing body and Enterprise Florida,
511 Inc., decide to request a waiver of the criteria in subsection
512 (2), the request must be transmitted in writing to the
513 department with an explanation of the specific justification for
514 the request. If the department approves the request, the
515 decision must be stated in writing with an explanation of the
516 reason for approving the request. A waiver of the criteria in
517 subsection (2) ~~these criteria~~ may be considered for ~~under~~ the
518 following reasons ~~criteria~~:

- 519 1. Based on extraordinary circumstances;
520 2. In order to mitigate the impact of the conclusion of the
521 space shuttle program; or
522 3. In rural areas of opportunity if the project would
523 significantly benefit the local or regional economy.

524 (4) ~~(b)~~ The department shall evaluate individual proposals
525 for high-impact business facilities. Such evaluation must
526 include, but need not be limited to:

527 (a) ~~1.~~ A description of the type of facility or
528 infrastructure, its operations, and the associated product or
529 service associated with the facility.

530 (b) ~~2.~~ The number of full-time-equivalent jobs that will be
531 created by the facility and the total estimated average annual
532 wages of those jobs or, in the case of privately developed rural



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533 infrastructure, the types of business activities and jobs
534 stimulated by the investment.

535 ~~(c)3.~~ The cumulative amount of investment to be dedicated
536 to the facility within a specified period.

537 ~~(d)4.~~ A statement of any special impacts the facility is
538 expected to stimulate in a particular business sector in the
539 state or regional economy or in the state's universities and
540 community colleges.

541 ~~(e)5.~~ A statement of the role the incentive is expected to
542 play in the decision of the applicant business to locate or
543 expand in this state or for the private investor to provide
544 critical rural infrastructure.

545 ~~(f)6.~~ A report evaluating the quality and value of the
546 company submitting a proposal. The report must include:

547 ~~1.a.~~ A financial analysis of the company, including an
548 evaluation of the company's short-term liquidity ratio as
549 measured by its assets to liabilities ~~liability~~, the company's
550 profitability ratio, and the company's long-term solvency as
551 measured by its debt-to-equity ratio;

552 ~~2.b.~~ The historical market performance of the company;

553 ~~3.c.~~ A review of any independent evaluations of the
554 company;

555 ~~4.d.~~ A review of the latest audit of the company's
556 financial statement and the related auditor's management letter;
557 and

558 ~~5.e.~~ A review of any other types of audits that are related
559 to the internal and management controls of the company.

560 (g) The amount of local financial support for the project.

561 ~~(5)(e)1.~~ Within 7 business days after evaluating a project,



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562 the department shall recommend to the Governor approval or
563 disapproval of the a project for receipt of funds from the
564 Florida Enterprise Quick Action Closing Fund. In recommending a
565 project, the department shall include proposed performance
566 conditions that the project must meet to obtain incentive funds.

567 (a)2. The Governor may approve projects without consulting
568 the Legislature for projects requiring less than \$2 million in
569 funding.

570 (b)3. For projects requiring funding in the amount of \$2
571 million to \$5 million, the Governor shall provide a written
572 description and evaluation of a project recommended for approval
573 to the chair and vice chair of the Legislative Budget Commission
574 at least 10 days before ~~prior to~~ giving final approval for the a
575 project. The recommendation must include proposed performance
576 conditions that the project must meet in order to obtain funds.

577 (c)4. If the chair or vice chair of the Legislative Budget
578 Commission or the President of the Senate or the Speaker of the
579 House of Representatives timely advises the Executive Office of
580 the Governor, in writing, that such action or proposed action
581 exceeds the delegated authority of the Executive Office of the
582 Governor or is contrary to legislative policy or intent, the
583 Executive Office of the Governor shall void the release of funds
584 and instruct the department to immediately change such action or
585 proposed action until the Legislative Budget Commission or the
586 Legislature addresses the issue. Notwithstanding such
587 requirement, any project exceeding \$5 million must be approved
588 by the Legislative Budget Commission before ~~prior to~~ the funds
589 are being released.

590 (6)(d) Upon the approval of the Governor, the department



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591 shall issue a letter certifying the applicant as qualified for
592 an award. The department and the business shall enter into a
593 contract that sets forth the performance conditions for payment
594 of moneys from the fund. Such payment may not be made to the
595 business until the scheduled performance conditions have been
596 met. The contract must include the total amount of funds
597 awarded; the performance conditions that must be met to obtain
598 the award, including, but not limited to, net new employment in
599 the state, average salary, and total capital investment;
600 demonstrate a baseline of current service and a measure of
601 enhanced capability; the methodology for validating performance;
602 the schedule of payments from the fund; the amount of local
603 financial support that will be annually available and that will
604 be paid into the Economic Development Trust Fund; and sanctions
605 for failure to meet performance conditions. The contract must
606 provide that payment of moneys from the fund is contingent upon
607 sufficient appropriation of funds by the Legislature. The
608 department may not enter into a contract with a business if the
609 local financial support resolution is not passed by the local
610 governing body within 90 days after the department has issued
611 the letter of certification.

612 (7)(e) The department shall validate contractor performance
613 and report such validation in the annual incentives report
614 required under s. 288.907.

615 (8)(a)(4) Funds appropriated by the Legislature for
616 purposes of implementing this section shall be placed in reserve
617 and may only be released pursuant to the legislative
618 consultation and review requirements set forth in this section.

619 (b) A scheduled payment from the fund may not be approved



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620 for a business unless the required local financial support has
621 been paid into the account for that project. Funding from local
622 sources includes any tax abatement granted to that business
623 under s. 196.1995 or the appraised market value of municipal or
624 county land conveyed or provided at a discount to that business.
625 The amount of any scheduled payment from the fund to such
626 business approved under this section must be reduced by the
627 amount of any such tax abatement granted or the value of the
628 land granted. A report listing all sources of the local
629 financial support shall be provided to the department when such
630 support is paid to the account.

631
632 ===== T I T L E A M E N D M E N T =====

633 And the title is amended as follows:

634 Delete lines 11 - 39

635 and insert:

636 amending s. 220.191, F.S.; revising the definition of
637 the term "cumulative capital investment"; conforming a
638 cross-reference; deleting an obsolete provision;
639 amending s. 220.196, F.S.; conforming a cross-
640 reference; amending s. 288.0001, F.S.; conforming
641 cross-references; requiring the Office of Economic and
642 Demographic Research and the Office of Program Policy
643 Analysis and Government Accountability to provide a
644 detailed analysis of the retention of Major League
645 Baseball spring training baseball franchises; amending
646 s. 288.005, F.S.; defining the term "average private
647 sector wage in the area"; revising the definition of
648 the term "economic benefits"; amending s. 288.061,



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649 F.S.; requiring the Office of Economic and Demographic
650 Research to include certain guidelines for the
651 calculation of economic benefits; providing
652 requirements for an amended definition by the office;
653 prohibiting the department from attributing to a
654 business certain investments for specified purposes;
655 requiring the department to consider certain
656 investments for specified purposes; providing
657 requirements for the contract or agreement;
658 prohibiting the department from entering into an
659 agreement or a contract that has a term of longer than
660 10 years; authorizing the department to enter into a
661 successive agreement or contract for a specified
662 project under certain circumstances; providing
663 applicability; requiring the department to provide
664 specified notice to the Legislature upon the final
665 execution of each contract or agreement; amending s.
666 288.076, F.S.; revising definitions; conforming cross-
667 references; amending s. 288.095, F.S.; conforming
668 cross-references to changes made by the act; amending
669 s. 288.1045, F.S.; deleting the definition of the term
670 "average wage in the area"; authorizing a business to
671 receive an approved refund if the business fails to
672 submit certain documentation under certain
673 circumstances; extending the expiration date of the
674 section; conforming provisions to changes made by the
675 act; amending s. 288.106, F.S.; deleting the
676 definition of the term "average private sector wage in
677 the area"; making technical changes; amending s.



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678 288.108, F.S.; revising definitions; amending s.
679 288.1088, F.S.; renaming the Quick Action Closing Fund
680 as the Florida Enterprise Fund; revising the
681 requirements for projects eligible for receipt of
682 funds from the fund; requiring local financial
683 support; conforming provisions to changes made by the
684 act; requiring a certain waiver request to be
685 transmitted in writing to the Department of Economic
686 Opportunity with an explanation of the specific
687 justification for the request; requiring a decision to
688 be stated in writing with an explanation of the reason
689 for approving the request if the department approves
690 the request; requiring the department to issue a
691 letter to an applicant in certain circumstances;
692 prohibiting the payment of moneys from the fund to a
693 business until the scheduled goals have been achieved;
694 amending s. 288.1089, F.S.;



402838

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/25/2016	.	
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The Committee on Commerce and Tourism (Richter) recommended the following:

1 **Senate Amendment to Amendment (168922) (with title**
2 **amendment)**

3
4 Delete lines 220 - 243
5 and insert:

6 Section 9. Paragraphs (a), (c), and (e) of subsection (1),
7 paragraph (3) of subsection (3), and subsection (6) of section
8 288.076, Florida Statutes, are amended to read:

9 288.076 Return on investment reporting for economic
10 development programs.-



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

12 (a) "Jobs" has the same meaning as provided in s.
13 288.106(2) ~~s. 288.106(2)(i)~~.

14 (c) "Project" has the same meaning as provided in s.
15 288.106(2) ~~s. 288.106(2)(m)~~.

16 (e) "State investment" means all state funds spent or
17 foregone to benefit a business, including state funds
18 appropriated to public and private entities, any state grants,
19 tax exemptions, tax refunds, tax credits, and any other source
20 of state funds which should reasonably be known to the
21 department at the time of approval ~~or other state incentives~~
22 ~~provided to a business under a program administered by the~~
23 ~~department,~~ including the capital investment tax credit under s.
24 220.191.

25 (3) Within 48 hours after expiration of the period of
26 confidentiality for project information deemed confidential and
27 exempt pursuant to s. 288.075, the department shall publish the
28 following information pertaining to each project:

29 (e) *Project performance goals.*-

30 1. The incremental direct jobs attributable to the project,
31 identifying the number of jobs generated and the number of jobs
32 retained.

33 2. The number of jobs generated and the number of jobs
34 retained by the project, and for projects commencing after
35 October 1, 2013, the average annual wage of persons holding such
36 jobs and the number of jobs generated and the number of jobs
37 retained which provide health benefits for the employee.

38 3. The incremental direct capital investment in the state
39 generated by the project.



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40 (6) Annually, the department shall publish information
41 relating to the progress of Florida Enterprise ~~Quick Action~~
42 ~~Closing~~ Fund projects, including the average number of days
43 between the date the department receives a completed application
44 and the date on which the application is approved.

45 Section 10. Paragraph (c) of subsection (1), paragraph (d)
46 of subsection (2), and subsection (3) of section 288.907,
47 Florida Statutes, are amended, to read:

48 288.907 Annual incentives report.—By December 30 of each
49 year, Enterprise Florida, Inc., in conjunction with the
50 department, shall provide the Governor, the President of the
51 Senate, and the Speaker of the House of Representatives a
52 detailed incentives report quantifying the economic benefits for
53 all of the economic development incentive programs marketed by
54 Enterprise Florida, Inc. The annual incentives report must
55 include:

56 (1) For each incentive program:

57 (c) The actual amount of private capital invested, the
58 actual number of jobs created, the actual number of jobs created
59 which provide health benefits for the employee, the actual
60 number of jobs retained, the actual number of jobs retained
61 which provide health benefits for the employee, and actual wages
62 paid for incentive agreements completed during the previous 3
63 years for each target industry sector.

64 (2) For projects completed during the previous state fiscal
65 year:

66 (d) The projects for which a tax refund, tax credit, or
67 cash grant agreement was executed, identifying for each project:

68 1. The number of jobs committed to be created and the



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69 number of those jobs that will provide health benefits for the
70 employee.

71 2. The number of jobs committed to be retained and the
72 number of those jobs that will provide health benefits for the
73 employee.

74 3.2. The amount of capital investments committed to be
75 made.

76 4.3. The annual average wage committed to be paid.

77 5.4. The amount of state economic development incentives
78 committed to the project from each incentive program under the
79 project's terms of agreement with the Department of Economic
80 Opportunity.

81 6.5. The amount and type of local matching funds committed
82 to the project.

83 (3) For economic development projects that received tax
84 refunds, tax credits, or cash grants under the terms of an
85 agreement for incentives:

86 (a) The number of jobs actually created and the number of
87 those jobs that provided health benefits for the employee.

88 (b) The number of jobs actually retained and the number of
89 those jobs that provided health benefits for the employee.

90 (c) ~~(b)~~ The amount of capital investments actually made.

91 (d) ~~(e)~~ The annual average wage paid.

92

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

94 And the title is amended as follows:

95 Delete line 667

96 and insert:

97 references; providing requirements for information



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98 that the department is required to publish on a
99 certain website; amending s. 288.907, F.S.; requiring
100 reporting on the number of jobs that provide health
101 benefits to employees; amending s. 288.095, F.S.;
102 conforming



553254

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
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The Committee on Commerce and Tourism (Latvala) recommended the following:

Senate Amendment

Delete lines 1054 - 1164
and insert:

(b)1. Be governed by a board of directors, which must consist of 20 ~~up to 15~~ members appointed by the Governor, which include:

a. Ten members representing Florida major league franchises of Major League Baseball, National Basketball Association, National Football League, Arena Football League, National Hockey



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11 League, and Major League Soccer teams domiciled in this state.
12 b. A member representing Florida Sports Commissions.
13 c. A member representing the boating and fishing industries
14 in Florida.
15 d. A member representing the golf industry in Florida.
16 e. A member representing Major League Baseball spring
17 training.
18 f. A member representing the auto racing industry in
19 Florida.
20 g. Five members at-large. and up to 15 members appointed by
21 the existing board of directors. In making at-large
22 appointments, the governor ~~board~~ must consider a potential
23 member's background in community service and sports activism in,
24 and financial support of, the sports industry, professional
25 sports, or organized amateur athletics. Members must be
26 residents of the state and highly knowledgeable about or active
27 in professional or organized amateur sports.
28 2. The board must contain representatives of all
29 geographical regions of the state and must represent ethnic and
30 gender diversity. The terms of office of the members shall be 4
31 years. No member may serve more than two consecutive terms. The
32 Governor may remove any member for cause and shall fill all
33 vacancies that occur.
34 (c) Have as its purpose, as stated in its articles of
35 incorporation, to receive, hold, invest, and administer
36 property; to raise funds and receive gifts; and to promote and
37 develop the sports industry and related industries for the
38 purpose of increasing the economic presence of these industries
39 in Florida.



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40 (d) Have a prior determination by the department ~~Office of~~
41 ~~Tourism, Trade, and Economic Development~~ that the organization
42 will benefit the department ~~office~~ and act in the best interests
43 of the state as a direct-support organization to the department
44 ~~office~~.

45 (3) The Florida Sports Foundation shall operate under
46 contract with the department. The department shall enter into a
47 contract with the foundation by July 1, 2016. The contract must
48 provide ~~Office of Tourism, Trade, and Economic Development shall~~
49 ~~contract with the organization and shall include in the contract~~
50 that:

51 (a) The department ~~office~~ may review the foundation's
52 ~~organization's~~ articles of incorporation.

53 (b) The foundation ~~organization~~ shall submit an annual
54 budget proposal to the department ~~office~~, on a form provided by
55 the department ~~office~~, in accordance with department ~~office~~
56 procedures for filing budget proposals based upon the
57 recommendation of the department ~~office~~.

58 (c) Any funds that the foundation ~~organization~~ holds in
59 trust will revert to the state upon the expiration or
60 cancellation of the contract.

61 (d) The foundation ~~organization~~ is subject to an annual
62 financial and performance review by the department ~~office~~ to
63 determine whether the foundation ~~organization~~ is complying with
64 the terms of the contract and whether it is acting in a manner
65 consistent with the goals of the department ~~office~~ and in the
66 best interests of the state.

67 (e) The fiscal year of the foundation ~~organization~~
68 ~~will begin~~ July 1 of each year and ends ~~end~~ June 30 of the next



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69 ensuing year.

70 (4) The department ~~Office of Tourism, Trade, and Economic~~
71 ~~Development~~ may allow the foundation ~~organization~~ to use the
72 property, facilities, personnel, and services of the department
73 ~~office~~ if the foundation ~~organization~~ provides equal employment
74 opportunities to all persons regardless of race, color,
75 religion, sex, age, or national origin, subject to the approval
76 of the executive director of the department ~~office~~.

77 (5) The foundation ~~organization~~ shall provide for an annual
78 financial audit in accordance with s. 215.981.

79 (6) The foundation ~~organization~~ is not granted any taxing
80 power.

81 ~~(7) In exercising the power provided in this section, the~~
82 ~~Office of Tourism, Trade, and Economic Development may authorize~~
83 ~~and contract with the direct-support organization existing on~~
84 ~~June 30, 1996, and authorized by the former Florida Department~~
85 ~~of Commerce to promote sports-related industries. An appointed~~
86 ~~member of the board of directors of such direct-support~~
87 ~~organization as of June 30, 1996, may serve the remainder of his~~
88 ~~or her unexpired term.~~

89 ~~(7)-(8)~~ To promote amateur sports and physical fitness, the
90 foundation ~~direct-support organization~~ shall:

91 (a) Develop, foster, and coordinate services and programs
92 for amateur sports for the people of Florida.

93 (b) Sponsor amateur sports workshops, clinics, conferences,
94 and other similar activities.

95 (c) Give recognition to outstanding developments and
96 achievements in, and contributions to, amateur sports.

97 (d) Encourage, support, and assist local governments and



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98 communities in the development of or hosting of local amateur
99 athletic events and competitions.

100 (e) Promote Florida as a host for national and
101 international amateur athletic competitions.

102 (f) Develop ~~a~~ statewide programs ~~program~~ of amateur
103 athletic competition to be known as the "Florida Senior Games"
104 and the "Sunshine State Games."

105 (g) Continue the successful amateur sports programs
106 previously conducted by the Florida Governor's Council on
107 Physical Fitness and Amateur Sports created under former s.
108 14.22.

109 (h) Encourage and continue the use of volunteers in its
110 amateur sports programs to the maximum extent possible.

111 (i) Develop, foster, and coordinate services and programs
112 designed to encourage the participation of Florida's youth in
113 Olympic sports activities and competitions.

114 (j) Foster and coordinate services and programs designed to
115 contribute to the physical fitness of the citizens of Florida.

116 ~~(8)-(9)~~ (a) The Sunshine State Games and Florida Senior Games
117 shall both be patterned after the Summer Olympics with
118 variations as necessitated by availability of facilities,
119 equipment, and expertise. The games shall be designed to
120 encourage the participation of athletes representing a broad
121 range of age groups, skill levels, and Florida communities.
122 ~~Participants shall be residents of this state. Regional~~
123 ~~competitions shall be held throughout the state, and the top~~
124 ~~qualifiers in each sport shall proceed to the final competitions~~
125 ~~to be held at a site in the state with the necessary facilities~~
126 ~~and equipment for conducting the competitions.~~



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127 (b) The department ~~Executive Office of the Governor~~ is
128 authorized to permit the use of property, facilities, and
129 personal services of or at any State University System facility
130 or institution by the direct-support organization operating the
131 Sunshine State Games and Florida Senior Games. For the purposes
132 of this paragraph,



551246

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
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The Committee on Commerce and Tourism (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2217 - 2285

and insert:

Committee and the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ are nonprofit organizations dedicated to providing athletes with support and training and preparing athletes of all ages and skill levels for sports competition, and because the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ assists in the bidding for sports competitions that provide significant



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11 impact to the economy of this state, and the Legislature
12 supports the efforts of the United States Olympic Committee and
13 the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, the
14 Legislature establishes a Florida United States Olympic
15 Committee license plate for the purpose of providing a
16 continuous funding source to support this worthwhile effort.
17 Florida United States Olympic Committee license plates must
18 contain the official United States Olympic Committee logo and
19 must bear a design and colors that are approved by the
20 department. The word "Florida" must be centered at the top of
21 the plate.

22 (9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

23 (b) The license plate annual use fees are to be annually
24 distributed as follows:

25 1. Fifty-five percent of the proceeds from the Florida
26 Professional Sports Team plate must be deposited into the
27 Professional Sports Development Trust Fund within the Department
28 of Economic Opportunity. These funds must be used solely to
29 attract and support major sports events in this state. As used
30 in this subparagraph, the term "major sports events" means, but
31 is not limited to, championship or all-star contests of Major
32 League Baseball, the National Basketball Association, the
33 National Football League, the National Hockey League, Major
34 League Soccer, the men's and women's National Collegiate
35 Athletic Association championships ~~Final Four basketball~~
36 ~~championship~~, or a horseracing or dogracing Breeders' Cup. All
37 funds must be used to support and promote major sporting events,
38 and the uses must be approved by the Department of Economic
39 Opportunity.



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40 2. The remaining proceeds of the Florida Professional
41 Sports Team license plate must be allocated to the Florida
42 Sports Foundation ~~Enterprise Florida, Inc.~~ These funds must be
43 deposited into the Professional Sports Development Trust Fund
44 within the Department of Economic Opportunity. These funds must
45 be used by the Florida Sports Foundation ~~Enterprise Florida,~~
46 ~~Inc.,~~ to promote the economic development of the sports
47 industry; to distribute licensing and royalty fees to
48 participating professional sports teams; ~~to promote education~~
49 ~~programs in Florida schools that provide an awareness of the~~
50 ~~benefits of physical activity and nutrition standards; to~~
51 ~~partner with the Department of Education and the Department of~~
52 ~~Health to develop a program that recognizes schools whose~~
53 ~~students demonstrate excellent physical fitness or fitness~~
54 ~~improvement;~~ to institute a grant program for communities
55 bidding on minor sporting events that create an economic impact
56 for the state; to distribute funds to Florida-based charities
57 designated by the Florida Sports Foundation ~~Enterprise Florida,~~
58 ~~Inc.,~~ and the participating professional sports teams; and to
59 fulfill the sports promotion responsibilities of the Department
60 of Economic Opportunity.

61 3. The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~
62 shall provide an annual financial audit in accordance with s.
63 215.981 of its financial accounts and records by an independent
64 certified public accountant pursuant to the contract established
65 by the Department of Economic Opportunity as specified in s.
66 288.1229(5). The auditor shall submit the audit report to the
67 Department of Economic Opportunity for review and approval. If
68 the audit report is approved, the Department of Economic



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69 Opportunity shall certify the audit report to the Auditor
70 General for review.

71 4. Notwithstanding the provisions of subparagraphs 1. and
72 2., proceeds from the Professional Sports Development Trust Fund
73 may also be used for operational expenses of the Florida Sports
74 Foundation ~~Enterprise Florida, Inc.~~, and financial support of
75 the Sunshine State Games and Florida Senior Games.

76
77

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

79 And the title is amended as follows:

80 Delete lines 164 - 166

81 and insert:

82 defense-dependent community; amending s. 320.08058,
83 F.S.; conforming provisions to changes made by the
84 act; amending uses of the proceeds of the Florida
85 Professional Sports Team license plate; amending s.
86 477.0135, F.S.; conforming provisions to changes made
87 by the act; providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/25/2016	.	
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The Committee on Commerce and Tourism (Richter) recommended the following:

1 **Senate Amendment to Amendment (168922) (with title**
2 **amendment)**

3
4 Delete lines 220 - 243
5 and insert:

6 Section 9. Paragraphs (a), (c), and (e) of subsection (1),
7 paragraph (3) of subsection (3), and subsection (6) of section
8 288.076, Florida Statutes, are amended to read:

9 288.076 Return on investment reporting for economic
10 development programs.-



402838

- 11 (1) As used in this section, the term:
- 12 (a) "Jobs" has the same meaning as provided in s.
13 288.106(2) ~~s. 288.106(2)(i)~~.
- 14 (c) "Project" has the same meaning as provided in s.
15 288.106(2) ~~s. 288.106(2)(m)~~.
- 16 (e) "State investment" means all state funds spent or
17 foregone to benefit a business, including state funds
18 appropriated to public and private entities, any state grants,
19 tax exemptions, tax refunds, tax credits, and any other source
20 of state funds which should reasonably be known to the
21 department at the time of approval ~~or other state incentives~~
22 ~~provided to a business under a program administered by the~~
23 ~~department,~~ including the capital investment tax credit under s.
24 220.191.
- 25 (3) Within 48 hours after expiration of the period of
26 confidentiality for project information deemed confidential and
27 exempt pursuant to s. 288.075, the department shall publish the
28 following information pertaining to each project:
- 29 (e) *Project performance goals.*—
- 30 1. The incremental direct jobs attributable to the project,
31 identifying the number of jobs generated and the number of jobs
32 retained.
- 33 2. The number of jobs generated and the number of jobs
34 retained by the project, and for projects commencing after
35 October 1, 2013, the average annual wage of persons holding such
36 jobs and the number of jobs generated and the number of jobs
37 retained which provide health benefits for the employee.
- 38 3. The incremental direct capital investment in the state
39 generated by the project.



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40 (6) Annually, the department shall publish information
41 relating to the progress of Florida Enterprise ~~Quick Action~~
42 ~~Closing~~ Fund projects, including the average number of days
43 between the date the department receives a completed application
44 and the date on which the application is approved.

45 Section 10. Paragraph (c) of subsection (1), paragraph (d)
46 of subsection (2), and subsection (3) of section 288.907,
47 Florida Statutes, are amended, to read:

48 288.907 Annual incentives report.—By December 30 of each
49 year, Enterprise Florida, Inc., in conjunction with the
50 department, shall provide the Governor, the President of the
51 Senate, and the Speaker of the House of Representatives a
52 detailed incentives report quantifying the economic benefits for
53 all of the economic development incentive programs marketed by
54 Enterprise Florida, Inc. The annual incentives report must
55 include:

56 (1) For each incentive program:

57 (c) The actual amount of private capital invested, the
58 actual number of jobs created, the actual number of jobs created
59 which provide health benefits for the employee, the actual
60 number of jobs retained, the actual number of jobs retained
61 which provide health benefits for the employee, and actual wages
62 paid for incentive agreements completed during the previous 3
63 years for each target industry sector.

64 (2) For projects completed during the previous state fiscal
65 year:

66 (d) The projects for which a tax refund, tax credit, or
67 cash grant agreement was executed, identifying for each project:

68 1. The number of jobs committed to be created and the



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69 number of those jobs that will provide health benefits for the
70 employee.

71 2. The number of jobs committed to be retained and the
72 number of those jobs that will provide health benefits for the
73 employee.

74 3.2. The amount of capital investments committed to be
75 made.

76 4.3. The annual average wage committed to be paid.

77 5.4. The amount of state economic development incentives
78 committed to the project from each incentive program under the
79 project's terms of agreement with the Department of Economic
80 Opportunity.

81 6.5. The amount and type of local matching funds committed
82 to the project.

83 (3) For economic development projects that received tax
84 refunds, tax credits, or cash grants under the terms of an
85 agreement for incentives:

86 (a) The number of jobs actually created and the number of
87 those jobs that provided health benefits for the employee.

88 (b) The number of jobs actually retained and the number of
89 those jobs that provided health benefits for the employee.

90 (c) ~~(b)~~ The amount of capital investments actually made.

91 (d) ~~(e)~~ The annual average wage paid.

92

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

94 And the title is amended as follows:

95 Delete line 667

96 and insert:

97 references; providing requirements for information



402838

98 that the department is required to publish on a
99 certain website; amending s. 288.907, F.S.; requiring
100 reporting on the number of jobs that provide health
101 benefits to employees; amending s. 288.095, F.S.;
102 conforming

By Senator Latvala

20-01581B-16

20161646__

1 A bill to be entitled
 2 An act relating to economic development; amending s.
 3 20.60, F.S.; requiring the Department of Economic
 4 Opportunity to contract with a direct-support
 5 organization to promote the sports industry and the
 6 participation of residents in certain athletic
 7 competitions in this state and to promote the state as
 8 a host for certain athletic competitions; amending s.
 9 196.012, F.S.; conforming a cross-reference; amending
 10 s. 212.20, F.S.; deleting an obsolete provision;
 11 amending s. 220.191, F.S.; conforming a cross-
 12 reference; deleting an obsolete provision; amending s.
 13 220.196, F.S.; conforming a cross-reference; amending
 14 s. 288.0001, F.S.; conforming a cross-reference;
 15 requiring the Office of Economic and Demographic
 16 Research and the Office of Program Policy Analysis and
 17 Government Accountability to provide a detailed
 18 analysis of the retention of Major League Baseball
 19 spring training baseball franchises; amending s.
 20 288.005, F.S.; defining the term "average private
 21 sector wage in the area"; amending s. 288.076, F.S.;
 22 conforming cross-references; amending s. 288.1045,
 23 F.S.; deleting the definition of the term "average
 24 wage in the area"; conforming provisions to changes
 25 made by the act; amending s. 288.106, F.S.; deleting
 26 the definition of the term "average private sector
 27 wage in the area"; making technical changes; amending
 28 s. 288.1088, F.S.; conforming provisions to changes
 29 made by the act; requiring a certain waiver request to
 30 be transmitted in writing to the Department of
 31 Economic Opportunity with an explanation of the
 32 specific justification for the request; requiring a

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

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33 decision to be stated in writing with an explanation
 34 of the reason for approving the request if the
 35 department approves the request; requiring the
 36 department to issue a letter to an applicant in
 37 certain circumstances; prohibiting the payment of
 38 moneys from the fund to a business until the scheduled
 39 goals have been achieved; amending s. 288.1089, F.S.;
 40 deleting the definition of the term "average private
 41 sector wage"; conforming provisions to changes made by
 42 the act; amending s. 288.11621, F.S.; conforming a
 43 provision to changes made by the act; amending s.
 44 288.11625, F.S.; conforming cross-references; deleting
 45 an obsolete provision relating to applications for
 46 state funds by new facilities or projects commenced
 47 before July 1, 2014; amending s. 288.11631, F.S.;
 48 conforming cross-references; repealing s. 288.1169,
 49 F.S., relating to state agency funding of the
 50 International Game Fish Association World Center
 51 facility; reviving, reenacting, and amending s.
 52 288.1229, F.S., relating to the promotion and
 53 development of sports-related industries and amateur
 54 athletics; requiring the Department of Economic
 55 Opportunity to create a direct-support organization to
 56 assist the department in certain promotion and
 57 development; naming the direct support organization
 58 the Florida Sports Foundation; specifying the purpose
 59 of the foundation; specifying requirements for the
 60 foundation, including appointment of a governing
 61 board; requiring that the foundation operate under

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

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62 written contract with the department; specifying
 63 provisions that must be included in the contract;
 64 providing that the department may allow the foundation
 65 to use certain facilities, personnel, and services if
 66 it complies with certain provisions; requiring an
 67 annual financial audit of the foundation; specifying
 68 duties of the foundation; conforming provisions to
 69 changes made by the act; amending s. 288.125, F.S.;
 70 revising the applicability of the term "entertainment
 71 industry"; renumbering and amending s. 288.1251, F.S.;
 72 renaming the Office of Film and Entertainment within
 73 the department as the Division of Film and
 74 Entertainment within Enterprise Florida, Inc.;
 75 requiring the division to serve as a liaison between
 76 the entertainment industry and other agencies,
 77 commissions, and organizations; requiring the
 78 president of Enterprise Florida, Inc., to appoint the
 79 film and entertainment commissioner within a specified
 80 period of time; revising the requirements of the
 81 division's strategic plan; renumbering and amending s.
 82 288.1252, F.S.; revising the powers and duties of the
 83 Florida Film and Entertainment Advisory Council;
 84 revising council membership; conforming provisions to
 85 changes made by the act; renumbering and amending s.
 86 288.1253, F.S.; conforming provisions to changes made
 87 by the act; conforming a cross-reference; prohibiting
 88 the division and its employees and representatives
 89 from accepting specified accommodations, goods, or
 90 services from specified parties; providing that a

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20161646__

91 person who accepts any such goods or services is
 92 subject to specified penalties; amending s. 288.1254,
 93 F.S.; revising the date of repeal; prohibiting, rather
 94 than authorizing, an award of credits after April 1,
 95 2016; requiring the Department of Revenue to deny
 96 certain credits received on or after April 1, 2016;
 97 creating s. 288.1256, F.S.; creating the Entertainment
 98 Action Fund within the Department of Economic
 99 Opportunity; defining terms; authorizing a production
 100 company to apply for funds from the Entertainment
 101 Action Fund in certain circumstances; requiring the
 102 division to review and evaluate applications to
 103 determine the eligibility of each project; requiring
 104 the division to select projects that maximize the
 105 return to the state; requiring certain criteria to be
 106 considered by the division; requiring a production
 107 company to have financing for a project before it
 108 applies for action funds; requiring the department to
 109 prescribe a form for an application with specified
 110 information; requiring that the division and the
 111 department make a recommendation to the Governor to
 112 approve or deny an award within a specified timeframe
 113 after the completion of the review and evaluation;
 114 providing that an award of funds may not constitute
 115 more than a specified percentage of qualified
 116 expenditures in this state; prohibiting the use of
 117 such funds to pay wages to nonresidents; requiring a
 118 production to start within a specified period after it
 119 is approved by the Governor; requiring that the

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120 recommendation include performance conditions that the
 121 project must meet to obtain funds; authorizing the
 122 Governor to approve a project without consulting the
 123 Legislature under certain circumstances; requiring the
 124 Governor to provide a written description and
 125 evaluation of a project before giving final approval
 126 of the project under certain circumstances; requiring
 127 the department and the production company to enter
 128 into a specified agreement after approval by the
 129 Governor; requiring that the agreement be finalized
 130 and signed by an authorized officer of the production
 131 company within a specified period after approval by
 132 the Governor; prohibiting an approved production
 133 company from simultaneously receiving specified
 134 benefits for the same production; requiring that the
 135 department validate contractor performance and report
 136 such validation in the annual report; prohibiting the
 137 department from approving awards in excess of the
 138 amount appropriated for a fiscal year; requiring the
 139 department to maintain a schedule of funds;
 140 prohibiting the department or division from accepting
 141 applications or conditionally committing funds under
 142 certain circumstances; providing that a production
 143 company that submits fraudulent information is liable
 144 for reimbursement of specified costs; providing a
 145 penalty; prohibiting the department or division from
 146 waiving any provision or providing an extension of
 147 time to meet specified requirements; providing an
 148 expiration date; amending s. 288.1258, F.S.;

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149 conforming provisions to changes made by the act;
 150 prohibiting an approved production company from
 151 simultaneously receiving benefits under specified
 152 provisions for the same production; requiring the
 153 department to develop a standardized application form
 154 in cooperation with the division and other agencies;
 155 requiring the production company to submit aggregate
 156 data on specified topics; authorizing a production
 157 company to renew its certificate of exemption for a
 158 specified period; amending ss. 288.901 and 288.9015,
 159 F.S.; conforming provisions to changes made by the
 160 act; amending s. 288.92, F.S.; revising the required
 161 divisions within Enterprise Florida, Inc.; amending s.
 162 288.980, F.S.; making technical changes; authorizing
 163 grant awards for activities that grow the economy of a
 164 defense-dependent community; amending ss. 320.08058
 165 and 477.0135, F.S.; conforming provisions to changes
 166 made by the act; providing effective dates.

167
 168 Be It Enacted by the Legislature of the State of Florida:

169
 170 Section 1. Effective July 1, 2016, paragraph (g) is added
 171 to subsection (4) of section 20.60, Florida Statutes, to read:
 172 20.60 Department of Economic Opportunity; creation; powers
 173 and duties.—

174 (4) The purpose of the department is to assist the Governor
 175 in working with the Legislature, state agencies, business
 176 leaders, and economic development professionals to formulate and
 177 implement coherent and consistent policies and strategies

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178 designed to promote economic opportunities for all Floridians.

179 To accomplish such purposes, the department shall:

180 (g) Notwithstanding part I of chapter 287, contract with
 181 the direct-support organization created under s. 288.1229 to
 182 guide, stimulate, and promote the sports industry in this state,
 183 to promote the participation of residents of this state in
 184 amateur athletic competition, and to promote this state as a
 185 host for national and international amateur athletic
 186 competitions.

187 Section 2. Paragraph (a) of subsection (14) of section
 188 196.012, Florida Statutes, is amended to read:

189 196.012 Definitions.—For the purpose of this chapter, the
 190 following terms are defined as follows, except where the context
 191 clearly indicates otherwise:

192 (14) "New business" means:

193 (a)1. A business or organization establishing 10 or more
 194 new jobs to employ 10 or more full-time employees in this state
 195 which pays, ~~paying~~ an average wage for such new jobs which that
 196 is above the average wage in the area and, which principally
 197 engages in any one or more of the following operations:

198 a. Manufactures, processes, compounds, fabricates, or
 199 produces for sale items of tangible personal property at a fixed
 200 location and which comprises an industrial or manufacturing
 201 plant; or

202 b. Is a target industry business as defined in s.
 203 288.106(2) ~~s. 288.106(2)(g)~~;

204 2. A business or organization establishing 25 or more new
 205 jobs to employ 25 or more full-time employees in this state, the
 206 sales factor of which, as defined by s. 220.15(5), for the

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207 facility with respect to which it requests an economic
 208 development ad valorem tax exemption is less than 0.50 for each
 209 year the exemption is claimed; or

210 3. An office space in this state owned and used by a
 211 business or organization newly domiciled in this state if,
 212 ~~provided~~ such office space houses 50 or more full-time employees
 213 of such business or organization and, ~~provided that such~~
 214 ~~business or organization office~~ first begins operation on a site
 215 clearly separate from any other commercial or industrial
 216 operation owned by the same business or organization.

217 Section 3. Paragraph (d) of subsection (6) of section
 218 212.20, Florida Statutes, is amended to read:

219 212.20 Funds collected, disposition; additional powers of
 220 department; operational expense; refund of taxes adjudicated
 221 unconstitutionally collected.—

222 (6) Distribution of all proceeds under this chapter and ss.
 223 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

224 (d) The proceeds of all other taxes and fees imposed
 225 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
 226 and (2)(b) shall be distributed as follows:

227 1. In any fiscal year, the greater of \$500 million, minus
 228 an amount equal to 4.6 percent of the proceeds of the taxes
 229 collected pursuant to chapter 201, or 5.2 percent of all other
 230 taxes and fees imposed pursuant to this chapter or remitted
 231 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
 232 monthly installments into the General Revenue Fund.

233 2. After the distribution under subparagraph 1., 8.9744
 234 percent of the amount remitted by a sales tax dealer located
 235 within a participating county pursuant to s. 218.61 shall be

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236 transferred into the Local Government Half-cent Sales Tax
 237 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
 238 transferred shall be reduced by 0.1 percent, and the department
 239 shall distribute this amount to the Public Employees Relations
 240 Commission Trust Fund less \$5,000 each month, which shall be
 241 added to the amount calculated in subparagraph 3. and
 242 distributed accordingly.

243 3. After the distribution under subparagraphs 1. and 2.,
 244 0.0966 percent shall be transferred to the Local Government
 245 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
 246 to s. 218.65.

247 4. After the distributions under subparagraphs 1., 2., and
 248 3., 2.0810 percent of the available proceeds shall be
 249 transferred monthly to the Revenue Sharing Trust Fund for
 250 Counties pursuant to s. 218.215.

251 5. After the distributions under subparagraphs 1., 2., and
 252 3., 1.3653 percent of the available proceeds shall be
 253 transferred monthly to the Revenue Sharing Trust Fund for
 254 Municipalities pursuant to s. 218.215. If the total revenue to
 255 be distributed pursuant to this subparagraph is at least as
 256 great as the amount due from the Revenue Sharing Trust Fund for
 257 Municipalities and the former Municipal Financial Assistance
 258 Trust Fund in state fiscal year 1999-2000, no municipality shall
 259 receive less than the amount due from the Revenue Sharing Trust
 260 Fund for Municipalities and the former Municipal Financial
 261 Assistance Trust Fund in state fiscal year 1999-2000. If the
 262 total proceeds to be distributed are less than the amount
 263 received in combination from the Revenue Sharing Trust Fund for
 264 Municipalities and the former Municipal Financial Assistance

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265 Trust Fund in state fiscal year 1999-2000, each municipality
 266 shall receive an amount proportionate to the amount it was due
 267 in state fiscal year 1999-2000.

268 6. Of the remaining proceeds:

269 a. In each fiscal year, the sum of \$29,915,500 shall be
 270 divided into as many equal parts as there are counties in the
 271 state, and one part shall be distributed to each county. The
 272 distribution among the several counties must begin each fiscal
 273 year on or before January 5th and continue monthly for a total
 274 of 4 months. If a local or special law required that any moneys
 275 accruing to a county in fiscal year 1999-2000 under the then-
 276 existing provisions of s. 550.135 be paid directly to the
 277 district school board, special district, or a municipal
 278 government, such payment must continue until the local or
 279 special law is amended or repealed. The state covenants with
 280 holders of bonds or other instruments of indebtedness issued by
 281 local governments, special districts, or district school boards
 282 before July 1, 2000, that it is not the intent of this
 283 subparagraph to adversely affect the rights of those holders or
 284 relieve local governments, special districts, or district school
 285 boards of the duty to meet their obligations as a result of
 286 previous pledges or assignments or trusts entered into which
 287 obligated funds received from the distribution to county
 288 governments under then-existing s. 550.135. This distribution
 289 specifically is in lieu of funds distributed under s. 550.135
 290 before July 1, 2000.

291 b. The department shall distribute \$166,667 monthly to each
 292 applicant certified as a facility for a new or retained
 293 professional sports franchise pursuant to s. 288.1162. Up to

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 294 \$41,667 shall be distributed monthly by the department to each
 295 certified applicant as defined in s. 288.11621 for a facility
 296 for a spring training franchise. However, not more than \$416,670
 297 may be distributed monthly in the aggregate to all certified
 298 applicants for facilities for spring training franchises.
 299 Distributions begin 60 days after such certification and
 300 continue for not more than 30 years, except as otherwise
 301 provided in s. 288.11621. A certified applicant identified in
 302 this sub-subparagraph may not receive more in distributions than
 303 expended by the applicant for the public purposes provided in s.
 304 288.1162(5) or s. 288.11621(3).

305 c. Beginning 30 days after notice by the Department of
 306 Economic Opportunity to the Department of Revenue that an
 307 applicant has been certified as the professional golf hall of
 308 fame pursuant to s. 288.1168 and is open to the public, \$166,667
 309 shall be distributed monthly, for up to 300 months, to the
 310 applicant.

311 ~~d. Beginning 30 days after notice by the Department of~~
 312 ~~Economic Opportunity to the Department of Revenue that the~~
 313 ~~applicant has been certified as the International Game Fish~~
 314 ~~Association World Center facility pursuant to s. 288.1169, and~~
 315 ~~the facility is open to the public, \$83,333 shall be distributed~~
 316 ~~monthly, for up to 168 months, to the applicant. This~~
 317 ~~distribution is subject to reduction pursuant to s. 288.1169. A~~
 318 ~~lump sum payment of \$999,996 shall be made after certification~~
 319 ~~and before July 1, 2000.~~

320 d.e. The department shall distribute up to \$83,333 monthly
 321 to each certified applicant as defined in s. 288.11631 for a
 322 facility used by a single spring training franchise, or up to

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 323 \$166,667 monthly to each certified applicant as defined in s.
 324 288.11631 for a facility used by more than one spring training
 325 franchise. Monthly distributions begin 60 days after such
 326 certification or July 1, 2016, whichever is later, and continue
 327 for not more than 20 years to each certified applicant as
 328 defined in s. 288.11631 for a facility used by a single spring
 329 training franchise or not more than 25 years to each certified
 330 applicant as defined in s. 288.11631 for a facility used by more
 331 than one spring training franchise. A certified applicant
 332 identified in this sub-subparagraph may not receive more in
 333 distributions than expended by the applicant for the public
 334 purposes provided in s. 288.11631(3).

335 e.f. Beginning 45 days after notice by the Department of
 336 Economic Opportunity to the Department of Revenue that an
 337 applicant has been approved by the Legislature and certified by
 338 the Department of Economic Opportunity under s. 288.11625 or
 339 upon a date specified by the Department of Economic Opportunity
 340 as provided under s. 288.11625(6)(d), the department shall
 341 distribute each month an amount equal to one-twelfth of the
 342 annual distribution amount certified by the Department of
 343 Economic Opportunity for the applicant. The department may not
 344 distribute more than \$7 million in the 2014-2015 fiscal year or
 345 more than \$13 million annually thereafter under this sub-
 346 subparagraph.

347 f.g. Beginning December 1, 2015, and ending June 30, 2016,
 348 the department shall distribute \$26,286 monthly to the State
 349 Transportation Trust Fund. Beginning July 1, 2016, the
 350 department shall distribute \$15,333 monthly to the State
 351 Transportation Trust Fund.

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352 7. All other proceeds must remain in the General Revenue
353 Fund.

354 Section 4. Paragraph (g) of subsection (1) of section
355 220.191, Florida Statutes, is amended to read:

356 220.191 Capital investment tax credit.—

357 (1) DEFINITIONS.—For purposes of this section:

358 (g) "Qualifying project" means a facility in this state
359 meeting one or more of the following criteria:

360 1. A new or expanding facility in this state which creates
361 at least 100 new jobs in this state and is in one of the high-
362 impact sectors identified by Enterprise Florida, Inc., and
363 certified by the Department of Economic Opportunity pursuant to
364 s. 288.108(6), including, but not limited to, aviation,
365 aerospace, automotive, and silicon technology industries.
366 ~~However, between July 1, 2011, and June 30, 2014, the~~
367 ~~requirement that a facility be in a high-impact sector is waived~~
368 ~~for any otherwise eligible business from another state which~~
369 ~~locates all or a portion of its business to a Disproportionally~~
370 ~~Affected County. For purposes of this section, the term~~
371 ~~"Disproportionally Affected County" means Bay County, Escambia~~
372 ~~County, Franklin County, Gulf County, Okaloosa County, Santa~~
373 ~~Rosa County, Walton County, or Wakulla County.~~

374 2. A new or expanded facility in this state which is
375 engaged in a target industry designated pursuant to the
376 procedure specified in s. 288.106(2) and which is induced by
377 this credit to create or retain at least 1,000 jobs in this
378 state, provided that at least 100 of those jobs are new, pay an
379 annual average wage of at least 130 percent of the average
380 private sector wage in the area as defined in s. 288.005(1) ~~s.~~

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381 ~~288.106(2)~~, and make a cumulative capital investment of at least
382 \$100 million. Jobs may be considered retained only if there is
383 significant evidence that the loss of jobs is imminent.
384 Notwithstanding subsection (2), annual credits against the tax
385 imposed by this chapter may not exceed 50 percent of the
386 increased annual corporate income tax liability or the premium
387 tax liability generated by or arising out of a project
388 qualifying under this subparagraph. A facility that qualifies
389 under this subparagraph for an annual credit against the tax
390 imposed by this chapter may take the tax credit for a period not
391 to exceed 5 years.

392 3. A new or expanded headquarters facility in this state
393 which locates in an enterprise zone and brownfield area and is
394 induced by this credit to create at least 1,500 jobs which on
395 average pay at least 200 percent of the statewide average annual
396 private sector wage, as published by the Department of Economic
397 Opportunity, and which new or expanded headquarters facility
398 makes a cumulative capital investment in this state of at least
399 \$250 million.

400 Section 5. Paragraph (a) of subsection (2) of section
401 220.196, Florida Statutes, is amended to read:

402 220.196 Research and development tax credit.—

403 (2) TAX CREDIT.—

404 (a) As provided in this section, a business enterprise is
405 eligible for a credit against the tax imposed by this chapter if
406 it:

- 407 1. Has qualified research expenses in this state in the
408 taxable year exceeding the base amount;
409 2. Claims and is allowed a research credit for such

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410 qualified research expenses under 26 U.S.C. s. 41 for the same
411 taxable year as subparagraph 1.; and

412 3. Is a qualified target industry business as defined in s.
413 288.106(2) ~~s. 288.106(2)(a)~~. Only qualified target industry
414 businesses in the manufacturing, life sciences, information
415 technology, aviation and aerospace, homeland security and
416 defense, cloud information technology, marine sciences,
417 materials science, and nanotechnology industries may qualify for
418 a tax credit under this section. A business applying for a
419 credit pursuant to this section shall include a letter from the
420 Department of Economic Opportunity certifying whether the
421 business meets the requirements of this subparagraph with its
422 application for credit. The Department of Economic Opportunity
423 shall provide such a letter upon receiving a request.

424 Section 6. Paragraphs (b) and (e) of subsection (2) of
425 section 288.0001, Florida Statutes, are amended to read:

426 288.0001 Economic Development Programs Evaluation.—The
427 Office of Economic and Demographic Research and the Office of
428 Program Policy Analysis and Government Accountability (OPPAGA)
429 shall develop and present to the Governor, the President of the
430 Senate, the Speaker of the House of Representatives, and the
431 chairs of the legislative appropriations committees the Economic
432 Development Programs Evaluation.

433 (2) The Office of Economic and Demographic Research and
434 OPPAGA shall provide a detailed analysis of economic development
435 programs as provided in the following schedule:

436 (b) By January 1, 2015, and every 3 years thereafter, an
437 analysis of the following:

438 1. The entertainment industry financial incentive program

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439 established under s. 288.1254.

440 2. The entertainment industry sales tax exemption program
441 established under s. 288.1258.

442 3. VISIT Florida and its programs established or funded
443 under ss. 288.122, 288.1226, 288.12265, and 288.124.

444 4. The Florida Sports Foundation and related programs
445 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,
446 288.1168, ~~288.1169~~, and 288.1171.

447 (e) Beginning January 1, 2018, and every 3 years
448 thereafter, an analysis of the Sports Development Program
449 established under s. 288.11625 and the retention of Major League
450 Baseball spring training baseball franchises under s. 288.11631.

451 Section 7. Present subsections (1), (3), (4), (5), and (6)
452 of section 288.005, Florida Statutes, are redesignated as
453 subsections (3), (4), (5), (6), and (7), respectively, and a new
454 subsection (1) is added to that section, to read:

455 288.005 Definitions.—As used in this chapter, the term:

456 (1) "Average private sector wage in the area" means the
457 statewide average wage in the private sector or the average of
458 all private sector wages in the county or in the standard
459 metropolitan area in which the project is located, as determined
460 by the department.

461 Section 8. Paragraphs (a) and (c) of subsection (1) of
462 section 288.076, Florida Statutes, are amended to read:

463 288.076 Return on investment reporting for economic
464 development programs.—

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

466 (a) "Jobs" has the same meaning as provided in s.
467 288.106(2) ~~s. 288.106(2)(i)~~.

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468 (c) "Project" has the same meaning as provided in s.
 469 288.106(2) ~~s. 288.106(2)(m)~~.

470 Section 9. Paragraph (b) of subsection (1) and paragraph
 471 (e) of subsection (3) of section 288.1045, Florida Statutes, are
 472 amended to read:

473 288.1045 Qualified defense contractor and space flight
 474 business tax refund program.—

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

476 ~~(b) "Average wage in the area" means the average of all~~
 477 ~~wages and salaries in the state, the county, or in the standard~~
 478 ~~metropolitan area in which the business unit is located.~~

479 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
 480 DETERMINATION.—

481 (e) To qualify for review by the department, the
 482 application of an applicant must, at a minimum, establish the
 483 following to the satisfaction of the department:

484 1. The jobs proposed to be provided under the application,
 485 pursuant to subparagraph (b)6., subparagraph (c)6., or
 486 subparagraph (j)6., must pay an estimated annual average wage
 487 equaling at least 115 percent of the average private sector wage
 488 in the area where the project is to be located.

489 2. The consolidation of a Department of Defense contract
 490 must result in a net increase of at least 25 percent in the
 491 number of jobs at the applicant's facilities in this state or
 492 the addition of at least 80 jobs at the applicant's facilities
 493 in this state.

494 3. The conversion of defense production jobs to nondefense
 495 production jobs must result in net increases in nondefense
 496 employment at the applicant's facilities in this state.

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497 4. The Department of Defense contract or the space flight
 498 business contract does not ~~cannot~~ allow the business to include
 499 the costs of relocation or retooling in its base as allowable
 500 costs under a cost-plus, or similar, contract.

501 5. A business unit of the applicant must have derived not
 502 less than 60 percent of its gross receipts in this state from
 503 Department of Defense contracts or space flight business
 504 contracts over the applicant's last fiscal year, and must have
 505 derived not less than an average of 60 percent of its gross
 506 receipts in this state from Department of Defense contracts or
 507 space flight business contracts over the 5 years preceding the
 508 date an application is submitted pursuant to this section. This
 509 subparagraph does not apply to any application for certification
 510 based on a contract for reuse of a defense-related facility.

511 6. The reuse of a defense-related facility will ~~must~~ result
 512 in the creation of at least 100 jobs at such facility.

513 7. A new space flight business contract or the
 514 consolidation of a space flight business contract will ~~must~~
 515 result in net increases in space flight business employment at
 516 the applicant's facilities in this state.

517 Section 10. Paragraph (c) of subsection (2) and paragraph
 518 (b) of subsection (4) of section 288.106, Florida Statutes, are
 519 amended to read:

520 288.106 Tax refund program for qualified target industry
 521 businesses.—

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

523 ~~(c) "Average private sector wage in the area" means the~~
 524 ~~statewide private sector average wage or the average of all~~
 525 ~~private sector wages and salaries in the county or in the~~

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526 ~~standard metropolitan area in which the business is located.~~

527 (4) APPLICATION AND APPROVAL PROCESS.—

528 (b) To qualify for review by the department, the
529 application of a target industry business must, at a minimum,
530 establish the following to the satisfaction of the department:

531 1.a. The jobs proposed to be created under the application,
532 pursuant to subparagraph (a)4., must pay an estimated annual
533 average wage equaling at least 115 percent of the average
534 private sector wage in the area where the business is to be
535 located ~~or the statewide private sector average wage~~. The
536 governing board of the local governmental entity providing the
537 local financial support of the jurisdiction where the qualified
538 target industry business is to be located shall notify the
539 department and Enterprise Florida, Inc., which calculation of
540 the average private sector wage in the area must be used as the
541 basis for the business's wage commitment. In determining the
542 average annual wage, the department shall include only new
543 proposed jobs, and wages for existing jobs shall be excluded
544 from this calculation.

545 b. The department may waive the average wage requirement at
546 the request of the local governing body recommending the project
547 and Enterprise Florida, Inc. The department may waive the wage
548 requirement for a project located in a brownfield area
549 designated under s. 376.80, in a rural city, in a rural
550 community, in an enterprise zone, or for a manufacturing project
551 at any location in the state if the jobs proposed to be created
552 pay an estimated annual average wage equaling at least 100
553 percent of the average private sector wage in the area where the
554 business is to be located, only if the merits of the individual

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555 project or the specific circumstances in the community in
556 relationship to the project warrant such action. If the local
557 governing body and Enterprise Florida, Inc., make such a
558 recommendation, it must be transmitted in writing and must
559 include an explanation of, ~~and~~ the specific justification for
560 the waiver recommendation ~~must be explained~~. If the department
561 elects to waive the wage requirement, the waiver must be stated
562 in writing and must include an explanation of, ~~and~~ the reasons
563 for granting the waiver ~~must be explained~~.

564 2. The target industry business's project must result in
565 the creation of at least 10 jobs at the project and, in the case
566 of an expansion of an existing business, must result in a net
567 increase in employment of at least 10 percent at the business.
568 At the request of the local governing body recommending the
569 project and Enterprise Florida, Inc., the department may waive
570 this requirement for a business in a rural community or
571 enterprise zone if the merits of the individual project or the
572 specific circumstances in the community in relationship to the
573 project warrant such action. If the local governing body and
574 Enterprise Florida, Inc., make such a request, the request must
575 be transmitted in writing and must include an explanation of,
576 ~~and~~ the specific justification for the request ~~must be~~
577 ~~explained~~. If the department elects to grant the request, the
578 grant must be stated in writing, and explain why the request was
579 granted ~~the reason for granting the request must be explained~~.

580 3. The business activity or product for the applicant's
581 project must be within an industry identified by the department
582 as a target industry business that contributes to the economic
583 growth of the state and the area in which the business is

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584 located, that produces a higher standard of living for residents
 585 of this state in the new global economy, or that can be shown to
 586 make an equivalent contribution to the area's and state's
 587 economic progress.

588 Section 11. Subsections (2), (3), and (4) of section
 589 288.1088, Florida Statutes, are amended to read:
 590 288.1088 Quick Action Closing Fund.—
 591 (2) There is created within the department the Quick Action
 592 Closing Fund. Except as provided in subsection (3), projects
 593 eligible for receipt of funds from the Quick Action Closing Fund
 594 must shall:

595 (a) Be in an industry as referenced in s. 288.106.
 596 (b) Have a positive economic benefit ratio of at least 5 to
 597 1.
 598 (c) Be an inducement to the project's location or expansion
 599 in the state.
 600 (d) Pay an average annual wage of at least 125 percent of
 601 the average areawide or statewide private sector average wage in
 602 the area.
 603 (e) Be supported by the local community in which the
 604 project is to be located.

605 (3) (a) The department and Enterprise Florida, Inc., shall
 606 jointly review applications pursuant to s. 288.061 and determine
 607 the eligibility of each project consistent with the criteria in
 608 subsection (2).
 609 (b) If the local governing body and Enterprise Florida,
 610 Inc., decide to request a waiver of the criteria in subsection
 611 (2), the request must be transmitted in writing to the
 612 department with an explanation of the specific justification for

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613 the request. If the department approves the request, the
 614 decision must be stated in writing with an explanation of the
 615 reason for approving the request. A waiver of the criteria in
 616 subsection (2) these criteria may be considered for under the
 617 following reasons ~~criteria~~:

618 1. Based on extraordinary circumstances;
 619 2. In order to mitigate the impact of the conclusion of the
 620 space shuttle program; or
 621 3. In rural areas of opportunity if the project would
 622 significantly benefit the local or regional economy.

623 (4) (b) The department shall evaluate individual proposals
 624 for high-impact business facilities. Such evaluation must
 625 include, but need not be limited to:

626 (a) 1- A description of the type of facility or
 627 infrastructure, its operations, and the associated product or
 628 service associated with the facility.

629 (b) 2- The number of full-time-equivalent jobs that will be
 630 created by the facility and the total estimated average annual
 631 wages of those jobs or, in the case of privately developed rural
 632 infrastructure, the types of business activities and jobs
 633 stimulated by the investment.

634 (c) 3- The cumulative amount of investment to be dedicated
 635 to the facility within a specified period.

636 (d) 4- A statement of any special impacts the facility is
 637 expected to stimulate in a particular business sector in the
 638 state or regional economy or in the state's universities and
 639 community colleges.

640 (e) 5- A statement of the role the incentive is expected to
 641 play in the decision of the applicant business to locate or

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642 expand in this state or for the private investor to provide
643 critical rural infrastructure.

644 ~~(f)6-~~ A report evaluating the quality and value of the
645 company submitting a proposal. The report must include:

646 ~~1.a-~~ A financial analysis of the company, including an
647 evaluation of the company's short-term liquidity ratio as
648 measured by its assets to ~~liabilities~~ liability, the company's
649 profitability ratio, and the company's long-term solvency as
650 measured by its debt-to-equity ratio;

651 ~~2.b-~~ The historical market performance of the company;

652 ~~3.e-~~ A review of any independent evaluations of the
653 company;

654 ~~4.d-~~ A review of the latest audit of the company's
655 financial statement and the related auditor's management letter;
656 and

657 ~~5.e-~~ A review of any other types of audits that are related
658 to the internal and management controls of the company.

659 ~~(5)(e)1-~~ Within 7 business days after evaluating a project,
660 the department shall recommend to the Governor approval or
661 disapproval of the a project for receipt of funds from the Quick
662 Action Closing Fund. In recommending a project, the department
663 shall include proposed performance conditions that the project
664 must meet to obtain incentive funds.

665 ~~(a)2-~~ The Governor may approve projects without consulting
666 the Legislature for projects requiring less than \$2 million in
667 funding.

668 ~~(b)3-~~ For projects requiring funding in the amount of \$2
669 million to \$5 million, the Governor shall provide a written
670 description and evaluation of a project recommended for approval

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671 to the chair and vice chair of the Legislative Budget Commission
672 at least 10 days ~~before~~ prior to giving final approval for the a
673 project. The recommendation must include proposed performance
674 conditions that the project must meet in order to obtain funds.

675 ~~(c)4-~~ If the chair or vice chair of the Legislative Budget
676 Commission or the President of the Senate or the Speaker of the
677 House of Representatives timely advises the Executive Office of
678 the Governor, in writing, that such action or proposed action
679 exceeds the delegated authority of the Executive Office of the
680 Governor or is contrary to legislative policy or intent, the
681 Executive Office of the Governor shall void the release of funds
682 and instruct the department to immediately change such action or
683 proposed action until the Legislative Budget Commission or the
684 Legislature addresses the issue. Notwithstanding such
685 requirement, any project exceeding \$5 million must be approved
686 by the Legislative Budget Commission ~~before~~ prior to the funds
687 ~~are being~~ released.

688 ~~(6)(d)~~ Upon the approval of the Governor, the department
689 shall issue a letter certifying the applicant as qualified for
690 an award. The department and the business shall enter into a
691 contract that sets forth the performance conditions for payment
692 of moneys from the fund. Such payment may not be made to the
693 business until the scheduled performance conditions have been
694 met. The contract must include the total amount of funds
695 awarded; the performance conditions that must be met to obtain
696 the award, including, but not limited to, net new employment in
697 the state, average salary, and total capital investment;
698 demonstrate a baseline of current service and a measure of
699 enhanced capability; the methodology for validating performance;

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700 the schedule of payments from the fund; and sanctions for
701 failure to meet performance conditions. The contract must
702 provide that payment of moneys from the fund is contingent upon
703 sufficient appropriation of funds by the Legislature.

704 ~~(7)(e)~~ The department shall validate contractor performance
705 and report such validation in the annual incentives report
706 required under s. 288.907.

707 ~~(8)(4)~~ Funds appropriated by the Legislature for purposes
708 of implementing this section shall be placed in reserve and may
709 only be released pursuant to the legislative consultation and
710 review requirements set forth in this section.

711 Section 12. Paragraph (b) of subsection (2), paragraphs (a)
712 and (d) of subsection (4), and paragraph (b) of subsection (8)
713 of section 288.1089, Florida Statutes, are amended to read:

714 288.1089 Innovation Incentive Program.—

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

716 ~~(b) "Average private sector wage" means the statewide
717 average wage in the private sector or the average of all private
718 sector wages in the county or in the standard metropolitan area
719 in which the project is located as determined by the department.~~

720 (4) To qualify for review by the department, the applicant
721 must, at a minimum, establish the following to the satisfaction
722 of the department:

723 (a) The jobs created by the project must pay an estimated
724 annual average wage equaling at least 130 percent of the average
725 private sector wage in the area. The department may waive this
726 average wage requirement at the request of Enterprise Florida,
727 Inc., for a project located in a rural area, a brownfield area,
728 or an enterprise zone, when the merits of the individual project

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729 or the specific circumstances in the community in relationship
730 to the project warrant such action. A recommendation for waiver
731 by Enterprise Florida, Inc., must include a specific
732 justification for the waiver and be transmitted to the
733 department in writing. If the department elects to waive the
734 wage requirement, the waiver must be stated in writing and
735 explain the reasons for granting the waiver ~~must be explained~~.

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

738 1. Demonstrate a plan for significant collaboration with an
739 institution of higher education;

740 2. Provide the state, at a minimum, a cumulative break-even
741 economic benefit within a 20-year period;

742 3. Include matching funds provided by the applicant or
743 other available sources. The match requirement may be reduced or
744 waived in rural areas of opportunity or reduced in rural areas,
745 brownfield areas, and enterprise zones;

746 4. Be located in this state; and

747 5. Provide at least 35 direct, new jobs that pay an
748 estimated annual average wage that equals at least 130 percent
749 of the average private sector wage in the area.

750 (8)

751 (b) Additionally, agreements ~~signed on or after July 1,
752 2009,~~ must include the following provisions:

753 1. Notwithstanding subsection (4), a requirement that the
754 jobs created by the recipient of the incentive funds pay an
755 annual average wage at least equal to the relevant industry's
756 annual average wage or at least 130 percent of the average
757 private sector wage in the area, whichever is greater.

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758 2. A reinvestment requirement. Each recipient of an award
 759 shall reinvest up to 15 percent of net royalty revenues,
 760 including revenues from spin-off companies and the revenues from
 761 the sale of stock it receives from the licensing or transfer of
 762 inventions, methods, processes, and other patentable discoveries
 763 conceived or reduced to practice using its facilities in Florida
 764 or its Florida-based employees, in whole or in part, and to
 765 which the recipient of the grant becomes entitled during the 20
 766 years following the effective date of its agreement with the
 767 department. Each recipient of an award also shall reinvest up to
 768 15 percent of the gross revenues it receives from naming
 769 opportunities associated with any facility it builds in this
 770 state. Reinvestment payments shall commence no later than 6
 771 months after the recipient of the grant has received the final
 772 disbursement under the contract and shall continue until the
 773 maximum reinvestment, as specified in the contract, has been
 774 paid. Reinvestment payments shall be remitted to the department
 775 for deposit in the Biomedical Research Trust Fund for companies
 776 specializing in biomedicine or life sciences, or in the Economic
 777 Development Trust Fund for companies specializing in fields
 778 other than biomedicine or the life sciences. If these trust
 779 funds no longer exist at the time of the reinvestment, the
 780 state's share of reinvestment shall be deposited in their
 781 successor trust funds as determined by law. Each recipient of an
 782 award shall annually submit a schedule of the shares of stock
 783 held by it as payment of the royalty required by this paragraph
 784 and report on any trades or activity concerning such stock. Each
 785 recipient's reinvestment obligations survive the expiration or
 786 termination of its agreement with the state.

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787 3. Requirements for the establishment of internship
 788 programs or other learning opportunities for educators and
 789 secondary, postsecondary, graduate, and doctoral students.
 790 4. A requirement that the recipient submit quarterly
 791 reports and annual reports related to activities and performance
 792 to the department, according to standardized reporting periods.
 793 5. A requirement for an annual accounting to the department
 794 of the expenditure of funds disbursed under this section.
 795 6. A process for amending the agreement.
 796 Section 13. Effective July 1, 2016, subsection (7) of
 797 section 288.11621, Florida Statutes, is amended to read:
 798 288.11621 Spring training baseball franchises.—
 799 (7) STRATEGIC PLANNING.—The department shall request
 800 assistance from the Florida Sports Foundation Enterprise
 801 Florida, Inc., and the Florida Grapefruit League Association to
 802 develop a comprehensive strategic plan to:
 803 (a) Finance spring training facilities.
 804 (b) Monitor and oversee the use of state funds awarded to
 805 applicants.
 806 (c) Identify the financial impact that spring training has
 807 on the state and ways in which to maintain or improve that
 808 impact.
 809 (d) Identify opportunities to develop public-private
 810 partnerships to engage in marketing activities and advertise
 811 spring training baseball.
 812 (e) Identify efforts made by other states to maintain or
 813 develop partnerships with baseball spring training teams.
 814 (f) Develop recommendations for the Legislature to sustain
 815 or improve this state's spring training tradition.

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816 Section 14. Subsections (1) and (3), paragraph (a) of
 817 subsection (5), paragraph (e) of subsection (7), and subsections
 818 (11) through (14) of section 288.11625, Florida Statutes, are
 819 amended to read:

820 288.11625 Sports development.—

821 (1) ADMINISTRATION.—The department shall serve as the state
 822 agency responsible for screening applicants for state funding
 823 under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~

824 (3) PURPOSE.—The purpose of this section is to provide
 825 applicants state funding under s. 212.20(6)(d)6.e. ~~s.~~
 826 ~~212.20(6)(d)6.f.~~ for the public purpose of constructing,
 827 reconstructing, renovating, or improving a facility.

828 (5) EVALUATION PROCESS.—

829 (a) Before recommending an applicant to receive a state
 830 distribution under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~, the
 831 department must verify that:

832 1. The applicant or beneficiary is responsible for the
 833 construction, reconstruction, renovation, or improvement of a
 834 facility and obtained at least three bids for the project.

835 2. If the applicant is not a unit of local government, a
 836 unit of local government holds title to the property on which
 837 the facility and project are, or will be, located.

838 3. If the applicant is a unit of local government in whose
 839 jurisdiction the facility is, or will be, located, the unit of
 840 local government has an exclusive intent agreement to negotiate
 841 in this state with the beneficiary.

842 4. A unit of local government in whose jurisdiction the
 843 facility is, or will be, located supports the application for
 844 state funds. Such support must be verified by the adoption of a

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845 resolution, after a public hearing, that the project serves a
 846 public purpose.

847 5. The applicant or beneficiary has not previously
 848 defaulted or failed to meet any statutory requirements of a
 849 previous state-administered sports-related program under s.
 850 288.1162, s. 288.11621, s. 288.11631, or this section.
 851 Additionally, the applicant or beneficiary is not currently
 852 receiving state distributions under s. 212.20 for the facility
 853 that is the subject of the application, unless the applicant
 854 demonstrates that the franchise that applied for a distribution
 855 under s. 212.20 no longer plays at the facility that is the
 856 subject of the application.

857 6. The applicant or beneficiary has sufficiently
 858 demonstrated a commitment to employ residents of this state,
 859 contract with Florida-based firms, and purchase locally
 860 available building materials to the greatest extent possible.

861 7. If the applicant is a unit of local government, the
 862 applicant has a certified copy of a signed agreement with a
 863 beneficiary for the use of the facility. If the applicant is a
 864 beneficiary, the beneficiary must enter into an agreement with
 865 the department. The applicant's or beneficiary's agreement must
 866 also require the following:

867 a. The beneficiary must reimburse the state for state funds
 868 that will be distributed if the beneficiary relocates or no
 869 longer occupies or uses the facility as the facility's primary
 870 tenant before the agreement expires. Reimbursements must be sent
 871 to the Department of Revenue for deposit into the General
 872 Revenue Fund.

873 b. The beneficiary must pay for signage or advertising

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874 within the facility. The signage or advertising must be placed
875 in a prominent location as close to the field of play or
876 competition as is practicable, must be displayed consistent with
877 signage or advertising in the same location and of like value,
878 and must feature Florida advertising approved by the Florida
879 Tourism Industry Marketing Corporation.

880 8. The project will commence within 12 months after
881 receiving state funds or did not commence before January 1,
882 2013.

883 (7) CONTRACT.—An applicant approved by the Legislature and
884 certified by the department must enter into a contract with the
885 department which:

886 (e) Requires the applicant to reimburse the state by
887 electing to do one of the following:

888 1. After all distributions have been made, reimburse at the
889 end of the contract term any amount by which the total
890 distributions made under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~
891 exceed actual new incremental state sales taxes generated by
892 sales at the facility during the contract, plus a 5 percent
893 penalty on that amount.

894 2. After the applicant begins to submit the independent
895 analysis under paragraph (c), reimburse each year any amount by
896 which the previous year's annual distribution exceeds 75 percent
897 of the actual new incremental state sales taxes generated by
898 sales at the facility.

899
900 Any reimbursement due to the state must be made within 90 days
901 after the applicable distribution under this paragraph. If the
902 applicant is unable or unwilling to reimburse the state for such

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903 amount, the department may place a lien on the applicant's
904 facility. If the applicant is a municipality or county, it may
905 reimburse the state from its half-cent sales tax allocation, as
906 provided in s. 218.64(3). Reimbursements must be sent to the
907 Department of Revenue for deposit into the General Revenue Fund.

908 ~~(11) APPLICATION RELATED TO NEW FACILITIES OR PROJECTS~~
909 ~~COMMENCED BEFORE JULY 1, 2014. Notwithstanding paragraph (4)(c),~~
910 ~~the Legislative Budget Commission may approve an application for~~
911 ~~state funds by an applicant for a new facility or a project~~
912 ~~commenced between March 1, 2013, and July 1, 2014. Such an~~
913 ~~application may be submitted after May 1, 2014. The department~~
914 ~~must review the application and recommend approval to the~~
915 ~~Legislature or deny the application. The Legislative Budget~~
916 ~~Commission may approve applications on or after January 1, 2015.~~
917 ~~The department must certify the applicant within 45 days of~~
918 ~~approval by the Legislative Budget Commission. State funds may~~
919 ~~not be distributed until the department notifies the Department~~
920 ~~of Revenue that the applicant was approved by the Legislative~~
921 ~~Budget Commission and certified by the department. An applicant~~
922 ~~certified under this subsection is subject to the provisions and~~
923 ~~requirements of this section. An applicant that fails to meet~~
924 ~~the conditions of this subsection may reapply during future~~
925 ~~application periods.~~

926 (11)(12) REPAYMENT OF DISTRIBUTIONS.—An applicant that is
927 certified under this section may be subject to repayment of
928 distributions upon the occurrence of any of the following:

929 (a) An applicant's beneficiary has broken the terms of its
930 agreement with the applicant and relocated from the facility or
931 no longer occupies or uses the facility as the facility's

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932 primary tenant. The beneficiary must reimburse the state for
 933 state funds that will be distributed, plus a 5 percent penalty
 934 on that amount, if the beneficiary relocates before the
 935 agreement expires.

936 (b) A determination by the department that an applicant has
 937 submitted information or made a representation that is
 938 determined to be false, misleading, deceptive, or otherwise
 939 untrue. The applicant must reimburse the state for state funds
 940 that have been and will be distributed, plus a 5 percent penalty
 941 on that amount, if such determination is made. If the applicant
 942 is a municipality or county, it may reimburse the state from its
 943 half-cent sales tax allocation, as provided in s. 218.64(3).

944 (c) Repayment of distributions must be sent to the
 945 Department of Revenue for deposit into the General Revenue Fund.
 946 (12)~~(13)~~ HALTING OF PAYMENTS.—The applicant may request in
 947 writing at least 20 days before the next monthly distribution
 948 that the department halt future payments. The department shall
 949 immediately notify the Department of Revenue to halt future
 950 payments.

951 (13)~~(14)~~ RULEMAKING.—The department may adopt rules to
 952 implement this section.

953 Section 15. Paragraph (c) of subsection (2) and paragraphs
 954 (a), (c), and (d) of subsection (3) of section 288.11631,
 955 Florida Statutes, are amended to read:

956 288.11631 Retention of Major League Baseball spring
 957 training baseball franchises.—

958 (2) CERTIFICATION PROCESS.—

959 (c) Each applicant certified on or after July 1, 2013,
 960 shall enter into an agreement with the department which:

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961 1. Specifies the amount of the state incentive funding to
 962 be distributed. The amount of state incentive funding per
 963 certified applicant may not exceed \$20 million. However, if a
 964 certified applicant's facility is used by more than one spring
 965 training franchise, the maximum amount may not exceed \$50
 966 million, and the Department of Revenue shall make distributions
 967 to the applicant pursuant to s. 212.20(6)(d)6.d. ~~s.~~
 968 ~~212.20(6)(d)6.e.~~

969 2. States the criteria that the certified applicant must
 970 meet in order to remain certified. These criteria must include a
 971 provision stating that the spring training franchise must
 972 reimburse the state for any funds received if the franchise does
 973 not comply with the terms of the contract. If bonds were issued
 974 to construct or renovate a facility for a spring training
 975 franchise, the required reimbursement must be equal to the total
 976 amount of state distributions expected to be paid from the date
 977 the franchise violates the agreement with the applicant through
 978 the final maturity of the bonds.

979 3. States that the certified applicant is subject to
 980 decertification if the certified applicant fails to comply with
 981 this section or the agreement.

982 4. States that the department may recover state incentive
 983 funds if the certified applicant is decertified.

984 5. Specifies the information that the certified applicant
 985 must report to the department.

986 6. Includes any provision deemed prudent by the department.

987 (3) USE OF FUNDS.—

988 (a) A certified applicant may use funds provided under s.
 989 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.e.~~ only to:

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990 1. Serve the public purpose of constructing or renovating a
991 facility for a spring training franchise.

992 2. Pay or pledge for the payment of debt service on, or to
993 fund debt service reserve funds, arbitrage rebate obligations,
994 or other amounts payable with respect thereto, bonds issued for
995 the construction or renovation of such facility, or for the
996 reimbursement of such costs or the refinancing of bonds issued
997 for such purposes.

998 (c) The Department of Revenue may not distribute funds
999 under s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.e.~~ until July 1,
1000 2016. Further, the Department of Revenue may not distribute
1001 funds to an applicant certified on or after July 1, 2013, until
1002 it receives notice from the department that:

1003 1. The certified applicant has encumbered funds under
1004 either subparagraph (a)1. or subparagraph (a)2.; and

1005 2. If applicable, any existing agreement with a spring
1006 training franchise for the use of a facility has expired.

1007 (d)1. All certified applicants shall place unexpended state
1008 funds received pursuant to s. 212.20(6)(d)6.d. ~~s.~~
1009 ~~212.20(6)(d)6.e.~~ in a trust fund or separate account for use
1010 only as authorized in this section.

1011 2. A certified applicant may request that the department
1012 notify the Department of Revenue to suspend further
1013 distributions of state funds made available under s.
1014 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.e.~~ for 12 months after
1015 expiration of an existing agreement with a spring training
1016 franchise to provide the certified applicant with an opportunity
1017 to enter into a new agreement with a spring training franchise,
1018 at which time the distributions shall resume.

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1019 3. The expenditure of state funds distributed to an
1020 applicant certified after July 1, 2013, must begin within 48
1021 months after the initial receipt of the state funds. In
1022 addition, the construction or renovation of a spring training
1023 facility must be completed within 24 months after the project's
1024 commencement.

1025 Section 16. Section 288.1169, Florida Statutes, is
1026 repealed.

1027 Section 17. Effective July 1, 2016, notwithstanding the
1028 repeal of section 288.1229, Florida Statutes, in s. 485, chapter
1029 2011-142, Laws of Florida, section 288.1229, Florida Statutes,
1030 is revived, reenacted, and amended to read:

1031 288.1229 Promotion and development of sports-related
1032 industries and amateur athletics; direct-support organization
1033 established; powers and duties.—

1034 (1) The Department of Economic Opportunity shall establish
1035 a direct-support organization known as the Florida Sports
1036 Foundation. The foundation shall ~~The Office of Tourism, Trade,~~
1037 ~~and Economic Development may authorize a direct-support~~
1038 ~~organization to assist the department office in:~~

1039 (a) The promotion and development of the sports industry
1040 and related industries for the purpose of improving the economic
1041 presence of these industries in Florida.

1042 (b) The promotion of amateur athletic participation for the
1043 citizens of Florida and the promotion of Florida as a host for
1044 national and international amateur athletic competitions for the
1045 purpose of encouraging and increasing the direct and ancillary
1046 economic benefits of amateur athletic events and competitions.

1047 (c) The retention of professional sports franchises,

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1048 including the spring training operations of Major League
1049 Baseball.

1050 (2) ~~The Florida Sports Foundation~~ To be authorized as a
1051 ~~direct support organization, an organization~~ must:

1052 (a) Be incorporated as a corporation not for profit
1053 pursuant to chapter 617.

1054 (b) Be governed by a board of directors, which must consist
1055 of up to 15 members appointed by the Governor and up to 15
1056 members appointed by the existing board of directors. In making
1057 appointments, the board must consider a potential member's
1058 background in community service and sports activism in, and
1059 financial support of, the sports industry, professional sports,
1060 or organized amateur athletics. Members must be residents of the
1061 state and highly knowledgeable about or active in professional
1062 or organized amateur sports. The board must contain
1063 representatives of all geographical regions of the state and
1064 must represent ethnic and gender diversity. The terms of office
1065 of the members shall be 4 years. No member may serve more than
1066 two consecutive terms. The Governor may remove any member for
1067 cause and shall fill all vacancies that occur.

1068 (c) Have as its purpose, as stated in its articles of
1069 incorporation, to receive, hold, invest, and administer
1070 property; to raise funds and receive gifts; and to promote and
1071 develop the sports industry and related industries for the
1072 purpose of increasing the economic presence of these industries
1073 in Florida.

1074 (d) Have a prior determination by the department Office of
1075 ~~Tourism, Trade, and Economic Development~~ that the organization
1076 will benefit the department office and act in the best interests

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1077 of the state as a direct-support organization to the department
1078 office.

1079 (3) The Florida Sports Foundation shall operate under
1080 contract with the department. The department shall enter into a
1081 contract with the foundation by July 1, 2016. The contract must
1082 provide ~~Office of Tourism, Trade, and Economic Development shall~~
1083 ~~contract with the organization and shall include in the contract~~
1084 that:

1085 (a) The department office may review the foundation's
1086 organization's articles of incorporation.

1087 (b) The foundation organization shall submit an annual
1088 budget proposal to the department office, on a form provided by
1089 the department office, in accordance with department office
1090 procedures for filing budget proposals based upon the
1091 recommendation of the department office.

1092 (c) Any funds that the foundation organization holds in
1093 trust will revert to the state upon the expiration or
1094 cancellation of the contract.

1095 (d) The foundation organization is subject to an annual
1096 financial and performance review by the department office to
1097 determine whether the foundation organization is complying with
1098 the terms of the contract and whether it is acting in a manner
1099 consistent with the goals of the department office and in the
1100 best interests of the state.

1101 (e) The fiscal year of the foundation begins organization
1102 ~~will begin~~ July 1 of each year and ~~ends end~~ June 30 of the next
1103 ensuing year.

1104 (4) The department Office of Tourism, Trade, and Economic
1105 ~~Development~~ may allow the foundation organization to use the

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1106 property, facilities, personnel, and services of the department
 1107 ~~office~~ if the foundation organization provides equal employment
 1108 opportunities to all persons regardless of race, color,
 1109 religion, sex, age, or national origin, subject to the approval
 1110 of the executive director of the department office.

1111 (5) The foundation organization shall provide for an annual
 1112 financial audit in accordance with s. 215.981.

1113 (6) The foundation organization is not granted any taxing
 1114 power.

1115 ~~(7) In exercising the power provided in this section, the~~
 1116 ~~Office of Tourism, Trade, and Economic Development may authorize~~
 1117 ~~and contract with the direct support organization existing on~~
 1118 ~~June 30, 1996, and authorized by the former Florida Department~~
 1119 ~~of Commerce to promote sports-related industries. An appointed~~
 1120 ~~member of the board of directors of such direct-support~~
 1121 ~~organization as of June 30, 1996, may serve the remainder of his~~
 1122 ~~or her unexpired term.~~

1123 ~~(7)(8)~~ To promote amateur sports and physical fitness, the
 1124 foundation direct-support organization shall:

1125 (a) Develop, foster, and coordinate services and programs
 1126 for amateur sports for the people of Florida.

1127 (b) Sponsor amateur sports workshops, clinics, conferences,
 1128 and other similar activities.

1129 (c) Give recognition to outstanding developments and
 1130 achievements in, and contributions to, amateur sports.

1131 (d) Encourage, support, and assist local governments and
 1132 communities in the development of or hosting of local amateur
 1133 athletic events and competitions.

1134 (e) Promote Florida as a host for national and

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1135 international amateur athletic competitions.

1136 (f) Develop a statewide program of amateur athletic
 1137 competition to be known as the "Sunshine State Games."

1138 (g) Continue the successful amateur sports programs
 1139 previously conducted by the Florida Governor's Council on
 1140 Physical Fitness and Amateur Sports created under former s.
 1141 14.22.

1142 (h) Encourage and continue the use of volunteers in its
 1143 amateur sports programs to the maximum extent possible.

1144 (i) Develop, foster, and coordinate services and programs
 1145 designed to encourage the participation of Florida's youth in
 1146 Olympic sports activities and competitions.

1147 (j) Foster and coordinate services and programs designed to
 1148 contribute to the physical fitness of the citizens of Florida.

1149 ~~(8)(9)~~(a) The Sunshine State Games shall be patterned after
 1150 the Summer Olympics with variations as necessitated by
 1151 availability of facilities, equipment, and expertise. The games
 1152 shall be designed to encourage the participation of athletes
 1153 representing a broad range of age groups, skill levels, and
 1154 Florida communities. Participants shall be residents of this
 1155 state. Regional competitions shall be held throughout the state,
 1156 and the top qualifiers in each sport shall proceed to the final
 1157 competitions to be held at a site in the state with the
 1158 necessary facilities and equipment for conducting the
 1159 competitions.

1160 (b) The department ~~Executive Office of the Governor~~ is
 1161 authorized to permit the use of property, facilities, and
 1162 personal services of or at any State University System facility
 1163 or institution by the direct-support organization operating the

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1164 Sunshine State Games. For the purposes of this paragraph,
1165 personal services includes full-time or part-time personnel as
1166 well as payroll processing.

1167 Section 18. Section 288.125, Florida Statutes, is amended
1168 to read:

1169 288.125 Definition of term "entertainment industry."—For
1170 the purposes of ss. 288.1254, 288.1256, 288.1258, 288.913,
1171 288.914, and 288.915 ~~ss. 288.1251–288.1258~~, the term
1172 "entertainment industry" means those persons or entities engaged
1173 in the operation of motion picture or television studios or
1174 recording studios; those persons or entities engaged in the
1175 preproduction, production, or postproduction of motion pictures,
1176 made-for-television movies, television programming, digital
1177 media projects, commercial advertising, music videos, or sound
1178 recordings; and those persons or entities providing products or
1179 services directly related to the preproduction, production, or
1180 postproduction of motion pictures, made-for-television movies,
1181 television programming, digital media projects, commercial
1182 advertising, music videos, or sound recordings, including, but
1183 not limited to, the broadcast industry.

1184 Section 19. Section 288.1251, Florida Statutes, is
1185 renumbered as section 288.913, Florida Statutes, and amended to
1186 read:

1187 288.913 ~~288.1251~~ Promotion and development of entertainment
1188 industry; Division Office of Film and Entertainment; creation;
1189 purpose; powers and duties.—

1190 (1) CREATION.—

1191 ~~(a) The Division of Film and Entertainment~~ There is hereby
1192 created within Enterprise Florida, Inc., ~~the department the~~

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1193 ~~Office of Film and Entertainment~~ for the purpose of developing,
1194 recruiting, marketing, promoting, and providing services to the
1195 state's entertainment industry. The division shall serve as a
1196 liaison between the entertainment industry and other state and
1197 local governmental agencies, local film commissions, and labor
1198 organizations.

1199 ~~(2)(b)~~ COMMISSIONER.—The president of Enterprise Florida,
1200 Inc., shall appoint the film and entertainment commissioner, who
1201 is subject to confirmation by the Senate, within 90 days after
1202 the effective date of this act ~~department shall conduct a~~
1203 ~~national search for a qualified person to fill the position of~~
1204 ~~Commissioner of Film and Entertainment when the position is~~
1205 ~~vacant. The executive director of the department has the~~
1206 ~~responsibility to hire the film commissioner. The commissioner~~
1207 is subject to the requirements of s. 288.901(1)(c).

1208 Qualifications for the film commissioner include, but are not
1209 limited to, the following:

1210 ~~(a)1-~~ At least 5 years' A working knowledge of and
1211 experience with the equipment, personnel, financial, and day-to-
1212 day production operations of the industries to be served by the
1213 division ~~Office of Film and Entertainment;~~

1214 ~~(b)2-~~ Marketing and promotion experience related to the
1215 film and entertainment industries to be served;

1216 ~~(c)3-~~ Experience working with a variety of individuals
1217 representing large and small entertainment-related businesses,
1218 industry associations, local community entertainment industry
1219 liaisons, and labor organizations; ~~and~~

1220 ~~(d)4-~~ Experience working with a variety of state and local
1221 governmental agencies; ~~and-~~

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1222 (e) A record of high-level involvement in production deals
 1223 and contacts with industry decisionmakers.

1224 ~~(3)(2) POWERS AND DUTIES.-~~

1225 (a) In the performance of its duties, the Division Office
 1226 of Film and Entertainment, ~~in performance of its duties~~, shall
 1227 develop and periodically+

1228 ~~1. In consultation with the Florida Film and Entertainment~~
 1229 ~~Advisory Council~~, update a 5-year the strategic plan ~~every 5~~
 1230 ~~years~~ to guide the activities of the division Office of Film and
 1231 ~~Entertainment~~ in the areas of entertainment industry
 1232 development, marketing, promotion, liaison services, field
 1233 office administration, and information. The plan ~~must shall+~~

1234 ~~a.~~ be annual in construction and ongoing in nature.

1235 1. At a minimum, the plan must address the following:

1236 ~~a.b. Include recommendations relating to~~ The organizational
 1237 structure of the division, including any field offices outside
 1238 the state ~~office~~.

1239 b. The coordination of the division with local or regional
 1240 offices maintained by counties and regions of the state, local
 1241 film commissions, and labor organizations, and the coordination
 1242 of such entities with each other to facilitate a working
 1243 relationship.

1244 c. Strategies to identify, solicit, and recruit
 1245 entertainment production opportunities for the state, including
 1246 implementation of programs for rural and urban areas designed to
 1247 develop and promote the state's entertainment industry.

1248 ~~d.e.~~ Include An annual budget projection for the division
 1249 office for each year of the plan.

1250 ~~d.~~ Include an operational model for the office to use in

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1251 ~~implementing programs for rural and urban areas designed to:~~
 1252 ~~(I) develop and promote the state's entertainment industry.~~
 1253 ~~(II) Have the office serve as a liaison between the~~
 1254 ~~entertainment industry and other state and local governmental~~
 1255 ~~agencies, local film commissions, and labor organizations.~~
 1256 ~~(III) Gather statistical information related to the state's~~
 1257 ~~entertainment industry.~~

1258 ~~e.(IV) Provision of~~ Provide information and service to
 1259 businesses, communities, organizations, and individuals engaged
 1260 in entertainment industry activities.

1261 ~~(V) Administer field offices outside the state and~~
 1262 ~~coordinate with regional offices maintained by counties and~~
 1263 ~~regions of the state, as described in sub sub subparagraph (II),~~
 1264 ~~as necessary.~~

1265 ~~f.e.~~ Include Performance standards and measurable outcomes
 1266 for the programs to be implemented by the division office.

1267 2. The plan shall be annually reviewed and approved by the
 1268 board of directors of Enterprise Florida, Inc.

1269 ~~f.~~ Include an assessment of, and make ~~recommendations on,~~
 1270 ~~the feasibility of creating an alternative public-private~~
 1271 ~~partnership for the purpose of contracting with such a~~
 1272 ~~partnership for the administration of the state's entertainment~~
 1273 ~~industry promotion, development, marketing, and service~~
 1274 ~~programs.~~

1275 2. Develop, market, and facilitate a working relationship
 1276 between state agencies and local governments in cooperation with
 1277 local film commission offices for out-of-state and indigenous
 1278 entertainment industry production entities.

1279 3. Implement a structured methodology prescribed for

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1280 ~~coordinating activities of local offices with each other and the~~
 1281 ~~commissioner's office.~~

1282 (b) The division shall also:

1283 ~~1.4.~~ Represent the state's indigenous entertainment
 1284 industry to key decisionmakers within the national and
 1285 international entertainment industry, and to state and local
 1286 officials.

1287 ~~2.5.~~ Prepare an inventory and analysis of the state's
 1288 entertainment industry, including, but not limited to,
 1289 information on crew, related businesses, support services, job
 1290 creation, talent, and economic impact and coordinate with local
 1291 offices to develop an information tool for common use.

1292 ~~3.6.~~ Identify, solicit, and recruit entertainment
 1293 production opportunities for the state.

1294 ~~4.7.~~ Assist rural communities and other small communities
 1295 in the state in developing the expertise and capacity necessary
 1296 for such communities to develop, market, promote, and provide
 1297 services to the state's entertainment industry.

1298 (c) (b) The division Office of Film and Entertainment, in
 1299 the performance of its duties, may:

1300 1. Conduct or contract for specific promotion and marketing
 1301 functions, including, but not limited to, production of a
 1302 statewide directory, production and maintenance of ~~a an Internet~~
 1303 website, establishment and maintenance of a toll-free telephone
 1304 number, organization of trade show participation, and
 1305 appropriate cooperative marketing opportunities.

1306 2. Conduct its affairs, carry on its operations, establish
 1307 offices, and exercise the powers granted by this act in any
 1308 state, territory, district, or possession of the United States.

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1309 3. Carry out any program of information, special events, or
 1310 publicity designed to attract the entertainment industry to
 1311 Florida.

1312 4. Develop relationships and leverage resources with other
 1313 public and private organizations or groups in their efforts to
 1314 publicize to the entertainment industry in this state, other
 1315 states, and other countries the depth of Florida's entertainment
 1316 industry talent, crew, production companies, production
 1317 equipment resources, related businesses, and support services,
 1318 including the establishment of and expenditure for a program of
 1319 cooperative advertising with these public and private
 1320 organizations and groups in accordance with the provisions of
 1321 chapter 120.

1322 5. Provide and arrange for reasonable and necessary
 1323 promotional items and services for such persons as the division
 1324 office deems proper in connection with the performance of the
 1325 promotional and other duties of the division office.

1326 6. Prepare an ~~annual~~ economic impact analysis on
 1327 entertainment industry-related activities in the state.

1328 7. Request or accept any grant, payment, or gift of funds
 1329 or property made by this state, the United States, or any
 1330 department or agency thereof, or by any individual, firm,
 1331 corporation, municipality, county, or organization, for ~~any or~~
 1332 ~~all of the purposes of the division's Office of Film and~~
 1333 ~~Entertainment's~~ 5-year strategic plan or those ~~permitted~~
 1334 activities authorized by enumerated in this paragraph. Such
 1335 funds shall be deposited in a separate account with Enterprise
 1336 Florida, Inc., the Grants and Donations Trust Fund of the
 1337 ~~Executive Office of the Governor~~ for use by the division Office

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 1338 ~~of Film and Entertainment~~ in carrying out its responsibilities
 1339 and duties ~~as delineated in law~~. The division office may expend
 1340 such funds in accordance with the terms and conditions of any
 1341 such grant, payment, or gift in the pursuit of its
 1342 administration or in support of fulfilling its duties and
 1343 responsibilities. The division office shall separately account
 1344 for the public funds and the private funds deposited into the
 1345 account trust fund.

1346 Section 20. Section 288.1252, Florida Statutes, is
 1347 renumbered as section 288.914, Florida Statutes, and amended to
 1348 read:

1349 288.914 288.1252 Florida Film and Entertainment Advisory
 1350 Council; ~~creation~~; purpose; membership; powers and duties.-

1351 ~~(1) CREATION. There is created within the department, for~~
 1352 ~~administrative purposes only, the Florida Film and Entertainment~~
 1353 ~~Advisory Council.~~

1354 (1)(2) CREATION AND PURPOSE.-The Florida Film and
 1355 Entertainment Advisory Council is created ~~purpose of the Council~~
 1356 ~~is~~ to serve as an advisory body to the Division of Film and
 1357 Entertainment within Enterprise Florida, Inc., and department
 1358 ~~and to the Office of Film and Entertainment~~ to provide these
 1359 ~~offices with~~ industry insight and expertise related to
 1360 developing, marketing, and promoting, ~~and providing service to~~
 1361 the state's entertainment industry.

1362 (2)(3) MEMBERSHIP.-

1363 (a) The council shall consist of 11 17 members, 5 7 to be
 1364 appointed by the Governor, 3 5 to be appointed by the President
 1365 of the Senate, and 3 5 to be appointed by the Speaker of the
 1366 House of Representatives.

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 1367 (b) When making appointments to the council, the Governor,
 1368 the President of the Senate, and the Speaker of the House of
 1369 Representatives shall appoint persons who are residents of the
 1370 state and who are highly knowledgeable of, active in, and
 1371 recognized as leaders in Florida's motion picture, television,
 1372 video, sound recording, or other entertainment industries. These
 1373 persons ~~must shall~~ include, but need not be limited to,
 1374 representatives of local film commissions, representatives of
 1375 entertainment associations, a representative of the broadcast
 1376 industry, representatives of labor organizations in the
 1377 entertainment industry, and board chairs, presidents, chief
 1378 executive officers, chief operating officers, or persons of
 1379 comparable executive position or stature of leading or otherwise
 1380 important entertainment industry businesses and offices. Council
 1381 members must shall be appointed in such a manner as to equitably
 1382 represent the broadest spectrum of the entertainment industry
 1383 and geographic areas of the state.

1384 (c) Council members shall serve for 4-year terms. A council
 1385 member serving as of July 1, 2016, may serve the remainder of
 1386 his or her term, but upon the conclusion of the term or upon
 1387 vacancy, the appointment must be made in accordance with this
 1388 section.

1389 (d) Subsequent appointments shall be made by the official
 1390 who appointed the council member whose expired term is to be
 1391 filled.

1392 (e) In addition to the 11 17 appointed members ~~of the~~
 1393 ~~council~~, 1 representative from each of Enterprise Florida, Inc.,
 1394 CareerSource Florida, Inc., and VISIT Florida shall serve as ex
 1395 officio, nonvoting members of the council.

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1396 (f) Absence from three consecutive meetings shall result in
1397 automatic removal from the council.

1398 (g) A vacancy on the council shall be filled for the
1399 remainder of the unexpired term by the official who appointed
1400 the vacating member.

1401 (h) No more than one member of the council may be an
1402 employee of any one company, organization, or association.

1403 (i) Any member shall be eligible for reappointment but may
1404 not serve more than two consecutive terms.

1405 ~~(3)~~(4) MEETINGS; ORGANIZATION.—

1406 (a) The council shall meet at least ~~no less frequently than~~
1407 once each quarter of the calendar year, and ~~but~~ may meet more
1408 often as determined necessary ~~set~~ by the council.

1409 (b) The council shall annually elect from its appointed
1410 membership one member to serve as chair ~~of the council~~ and one
1411 member to serve as vice chair. The Division Office of Film and
1412 Entertainment shall provide staff assistance to the council,
1413 which must ~~shall~~ include, but need not be limited to, keeping
1414 records of the proceedings of the council, and serving as
1415 custodian of all books, documents, and papers filed with the
1416 council.

1417 (c) A majority of the members of the council constitutes
1418 ~~shall constitute~~ a quorum.

1419 (d) Members of the council shall serve without
1420 compensation, but are ~~shall be~~ entitled to reimbursement for per
1421 diem and travel expenses in accordance with s. 112.061 while in
1422 performance of their duties.

1423 ~~(4)~~(5) POWERS AND DUTIES.—The Florida Film and
1424 Entertainment Advisory Council has ~~shall have all the~~ power

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1425 ~~powers necessary or convenient~~ to carry out ~~and effectuate the~~
1426 ~~purposes and provisions of~~ this act, including, but not limited
1427 to, the power to:

1428 (a) Adopt bylaws for the governance of its affairs and the
1429 conduct of its business.

1430 (b) Advise the Division ~~and consult with the Office~~ of Film
1431 and Entertainment on the content, development, and
1432 implementation of the division's 5-year strategic plan ~~to guide~~
1433 ~~the activities of the office.~~

1434 (c) Review ~~the Commissioner of Film and Entertainment's~~
1435 ~~administration of the programs related to the strategic plan,~~
1436 ~~and Advise the Division of Film and Entertainment commissioner~~
1437 on the division's programs and any changes that might be made to
1438 better meet the strategic plan.

1439 (d) Consider and study the needs of the entertainment
1440 industry for the purpose of advising the Division of Film and
1441 Entertainment film commissioner ~~and the department.~~

1442 (e) Identify ~~and make recommendations on~~ state agency and
1443 local government actions that may have an impact on the
1444 entertainment industry or that may appear to industry
1445 representatives as ~~an~~ official state or local actions ~~action~~
1446 affecting production in the state, and advise the Division of
1447 Film and Entertainment of such actions.

1448 (f) Consider all matters submitted to it by the Division of
1449 Film and Entertainment film commissioner ~~and the department.~~

1450 ~~(g) Advise and consult with the film commissioner and the~~
1451 ~~department, at their request or upon its own initiative,~~
1452 ~~regarding the promulgation, administration, and enforcement of~~
1453 ~~all laws and rules relating to the entertainment industry.~~

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1454 (g)(h) Suggest policies and practices ~~for the conduct of~~
 1455 ~~business by the Office of Film and Entertainment or by the~~
 1456 ~~department that will improve interaction with internal~~
 1457 ~~operations affecting the entertainment industry and will enhance~~
 1458 ~~related state the economic development initiatives of the state~~
 1459 ~~for the industry.~~

1460 ~~(i) Appear on its own behalf before boards, commissions,~~
 1461 ~~departments, or other agencies of municipal, county, or state~~
 1462 ~~government, or the Federal Government.~~

1463 Section 21. Section 288.1253, Florida Statutes, is
 1464 renumbered as section 288.915, Florida Statutes, and amended to
 1465 read:

1466 288.915 ~~288.1253~~ Travel and entertainment expenses.—

1467 (1) As used in this section, the term "travel expenses"
 1468 means the actual, necessary, and reasonable costs of
 1469 transportation, meals, lodging, and incidental expenses normally
 1470 incurred by an employee of the Division Office of Film and
 1471 Entertainment within Enterprise Florida, Inc., as which costs
 1472 are defined and prescribed by ~~rules adopted by the~~ department
 1473 rule, subject to approval by the Chief Financial Officer.

1474 (2) Notwithstanding ~~the provisions of~~ s. 112.061, the
 1475 department shall adopt rules by which the Division of Film and
 1476 Entertainment ~~it~~ may make expenditures by reimbursement to: the
 1477 Governor, the Lieutenant Governor, security staff of the
 1478 Governor or Lieutenant Governor, the Commissioner of Film and
 1479 Entertainment, or staff of the Division Office of Film and
 1480 Entertainment for travel expenses or entertainment expenses
 1481 incurred by such individuals solely and exclusively in
 1482 connection with the performance of the statutory duties of the

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1483 ~~division Office of Film and Entertainment.~~ The rules are subject
 1484 to approval by the Chief Financial Officer before adoption. The
 1485 rules shall require the submission of paid receipts, or other
 1486 proof of expenditure prescribed by the Chief Financial Officer,
 1487 with any claim for reimbursement.

1488 (3) The Division Office of Film and Entertainment shall
 1489 include in the annual report for the entertainment industry
 1490 ~~financial incentive program required under s. 288.1256(10) or~~
 1491 ~~288.1254(10)~~ a report of the division's office's expenditures
 1492 for the previous fiscal year. The report must consist of a
 1493 summary of all travel, entertainment, and incidental expenses
 1494 incurred within the United States and all travel, entertainment,
 1495 and incidental expenses incurred outside the United States, as
 1496 well as a summary of all successful projects that developed from
 1497 such travel.

1498 (4) The Division Office of Film and Entertainment and its
 1499 employees and representatives, when authorized, may accept and
 1500 use complimentary travel, accommodations, meeting space, meals,
 1501 equipment, transportation, and any other goods or services
 1502 necessary for or beneficial to the performance of the division's
 1503 office's duties and purposes, so long as such acceptance or use
 1504 is not in conflict with part III of chapter 112. The department
 1505 shall, by rule, develop internal controls to ensure that such
 1506 goods or services accepted or used pursuant to this subsection
 1507 are limited to those that will assist solely and exclusively in
 1508 the furtherance of the division's office's goals and are in
 1509 compliance with part III of chapter 112. Notwithstanding this
 1510 subsection, the division and its employees and representatives
 1511 may not accept any complimentary travel, accommodations, meeting

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1512 space, meals, equipment, transportation, or other goods or
 1513 services from an entity or a party, including an employee, a
 1514 designee, or a representative of such entity or party, which has
 1515 received, has applied to receive, or anticipates that it will
 1516 receive through an application, funds under s. 288.1256. If the
 1517 division or its employee or representative accepts such goods or
 1518 services, the division or its employee or representative is
 1519 subject to the penalties provided in s. 112.317.

1520 (5) A ~~Any~~ claim submitted under this section is not
 1521 required to be sworn to before a notary public or other officer
 1522 authorized to administer oaths, but a ~~any~~ claim authorized or
 1523 required to be made under any provision of this section shall
 1524 contain a statement that the expenses were actually incurred as
 1525 necessary travel or entertainment expenses in the performance of
 1526 official duties of the Division ~~Office~~ of Film and Entertainment
 1527 and shall be verified by written declaration that it is true and
 1528 correct as to every material matter. A ~~Any~~ person who willfully
 1529 makes and subscribes to a ~~any~~ claim that ~~which~~ he or she does
 1530 not believe to be true and correct as to every material matter
 1531 or who willfully aids or assists in, procures, or counsels or
 1532 advises with respect to, the preparation or presentation of a
 1533 claim pursuant to this section which ~~that~~ is fraudulent or false
 1534 as to any material matter, whether such falsity or fraud is with
 1535 the knowledge or consent of the person authorized or required to
 1536 present the claim, commits a misdemeanor of the second degree,
 1537 punishable as provided in s. 775.082 or s. 775.083. Whoever
 1538 receives a reimbursement by means of a false claim is civilly
 1539 liable, in the amount of the overpayment, for the reimbursement
 1540 of the public fund from which the claim was paid.

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1541 Section 22. Paragraph (a) of subsection (5), paragraph (c)
 1542 of subsection (9), and subsections (10) and (11) of section
 1543 288.1254, Florida Statutes, are amended to read:

1544 288.1254 Entertainment industry financial incentive
 1545 program.—

1546 (5) TRANSFER OF TAX CREDITS.—

1547 (a) ~~Authorization.~~—Upon application to ~~the Office of Film~~
 1548 ~~and Entertainment~~ and approval by the department, a certified
 1549 production company, or a partner or member that has received a
 1550 distribution under paragraph (4)(g), may elect to transfer, in
 1551 whole or in part, any unused credit amount granted under this
 1552 section. An election to transfer any unused tax credit amount
 1553 under chapter 212 or chapter 220 must be made no later than 5
 1554 years after the date the credit is awarded, after which period
 1555 the credit expires and may not be used. The department shall
 1556 notify the Department of Revenue of the election and transfer.

1557 (9) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
 1558 CREDITS; FRAUDULENT CLAIMS.—

1559 (c) *Forfeiture of tax credits.*—A determination by the
 1560 Department of Revenue, as a result of an audit pursuant to
 1561 paragraph (a) or from information received from the department
 1562 ~~Office of Film and Entertainment~~, that an applicant received tax
 1563 credits pursuant to this section to which the applicant was not
 1564 entitled is grounds for forfeiture of previously claimed and
 1565 received tax credits. The applicant is responsible for returning
 1566 forfeited tax credits to the Department of Revenue, and such
 1567 funds shall be paid into the General Revenue Fund of the state.
 1568 Tax credits purchased in good faith are not subject to
 1569 forfeiture unless the transferee submitted fraudulent

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1570 information in the purchase or failed to meet the requirements
 1571 in subsection (5).

1572 (10) ANNUAL REPORT.—Each November 1, the ~~department Office~~
 1573 ~~of Film and Entertainment~~ shall submit an annual report for the
 1574 previous fiscal year to the Governor, the President of the
 1575 Senate, and the Speaker of the House of Representatives which
 1576 outlines the incentive program's return on investment and
 1577 economic benefits to the state. The report must also include an
 1578 estimate of the full-time equivalent positions created by each
 1579 production that received tax credits under this section and
 1580 information relating to the distribution of productions
 1581 receiving credits by geographic region and type of production.
 1582 The report must also include the expenditures report required
 1583 under s. 288.915(3) ~~s. 288.1253(3)~~ and the information
 1584 describing the relationship between tax exemptions and
 1585 incentives to industry growth required under s. 288.1258(5).

1586 (11) REPEAL.—This section is repealed April 1, 2016 ~~July 1,~~
 1587 ~~2016~~, except that:

1588 (a) Tax credits certified under paragraph (3) (d) before
 1589 April 1, 2016 ~~July 1, 2016~~, may not be awarded under paragraph
 1590 (3) (f) on or after April 1, 2016, and the Department of Revenue
 1591 shall deny any credit claimed on a tax return when that credit
 1592 was awarded under paragraph (3) (f) on or after April 1, 2016
 1593 July 1, 2016, if the other requirements of this section are met.

1594 (b) Tax credits carried forward under paragraph (4) (e)
 1595 remain valid for the period specified.

1596 (c) Subsections (5), (8), and (9) shall remain in effect
 1597 until July 1, 2021.

1598 Section 23. Section 288.1256, Florida Statutes, is created

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1599 to read:

1600 288.1256 Entertainment Action Fund.—

1601 (1) The Entertainment Action Fund is created within the
 1602 department in order to respond to extraordinary opportunities
 1603 and to compete effectively with other states to attract and
 1604 retain production companies and to provide favorable conditions
 1605 for the growth of the entertainment industry in this state.

1606 (2) As used in this section, the term:

1607 (a) "Division" means the Division of Film and Entertainment
 1608 within Enterprise Florida, Inc.

1609 (b) "Principal photography" means the filming of major or
 1610 significant components of a project which involve lead actors.

1611 (c) "Production" means a theatrical, direct-to-video, or
 1612 direct-to-Internet motion picture; a made-for-television motion
 1613 picture; visual effects or digital animation sequences produced
 1614 in conjunction with a motion picture; a commercial; a music
 1615 video; an industrial or educational film; an infomercial; a
 1616 documentary film; a television pilot program; a presentation for
 1617 a television pilot program; a television series, including, but
 1618 not limited to, a drama, a reality show, a comedy, a soap opera,
 1619 a telenovela, a game show, an awards show, or a miniseries
 1620 production; a direct-to-Internet television series; or a digital
 1621 media project by the entertainment industry. One season of a
 1622 television series is considered one production. The term does
 1623 not include a weather or market program; a sporting event or a
 1624 sporting event broadcast; a gala; a production that solicits
 1625 funds; a home shopping program; a political program; a political
 1626 documentary; political advertising; a gambling-related project
 1627 or production; a concert production; a local, a regional, or an

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1628 Internet-distributed-only news show or current-events show; a
 1629 sports news or a sports recap show; a pornographic production;
 1630 or any production deemed obscene under chapter 847. A production
 1631 may be produced on or by film, tape, or otherwise by means of a
 1632 motion picture camera; an electronic camera or device; a tape
 1633 device; a computer; any combination of the foregoing; or any
 1634 other means, method, or device.

1635 (d) "Production company" means a corporation, limited
 1636 liability company, partnership, or other legal entity engaged in
 1637 one or more productions in this state.

1638 (e) "Production expenditures" means the costs of tangible
 1639 and intangible property used for, and services performed
 1640 primarily and customarily in, production, including
 1641 preproduction and postproduction, but excluding costs for
 1642 development, marketing, and distribution. The term includes, but
 1643 is not limited to:

1644 1. Wages, salaries, or other compensation paid to legal
 1645 residents of this state, including amounts paid through payroll
 1646 service companies, for technical and production crews,
 1647 directors, producers, and performers.

1648 2. Net expenditures for sound stages, backlots, production
 1649 editing, digital effects, sound recordings, sets, and set
 1650 construction. As used in this paragraph, the term "net
 1651 expenditures" means the actual amount of money a project spent
 1652 for equipment or other tangible personal property, after
 1653 subtracting any consideration received for reselling or
 1654 transferring the item after the production ends, if applicable.

1655 3. Net expenditures for rental equipment, including, but
 1656 not limited to, cameras and grip or electrical equipment.

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1657 4. Up to \$300,000 of the costs of newly purchased computer
 1658 software and hardware unique to the project, including servers,
 1659 data processing, and visualization technologies, which are
 1660 located in and used exclusively in this state for the production
 1661 of digital media.

1662 5. Expenditures for meals, travel, and accommodations.

1663 (f) "Project" means a production in this state meeting the
 1664 requirements of this section. The term does not include a
 1665 production:

1666 1. In which less than 70 percent of the positions that make
 1667 up its production cast and below-the-line production crew are
 1668 filled by legal residents of this state, whose residency is
 1669 demonstrated by a valid Florida driver license or other state-
 1670 issued identification confirming residency, or students enrolled
 1671 full-time in an entertainment-related course of study at an
 1672 institution of higher education in this state; or

1673 2. That contains obscene content as defined in s.
 1674 847.001(10).

1675 (g) "Qualified expenditures" means production expenditures
 1676 incurred in this state by a production company for:

1677 1. Goods purchased or leased from, or services, including,
 1678 but not limited to, insurance costs and bonding, payroll
 1679 services, and legal fees, which are provided by a vendor or
 1680 supplier in this state which is registered with the Department
 1681 of State or the Department of Revenue, has a physical location
 1682 in this state, and employs one or more legal residents of this
 1683 state. This does not include rebilled goods or services provided
 1684 by an in-state company from out-of-state vendors or suppliers.
 1685 If services provided by the vendor or supplier include personal

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1686 services or labor, only personal services or labor provided by
 1687 residents of this state, evidenced by the required documentation
 1688 of residency in this state, qualify.

1689 2. Payments to legal residents of this state in the form of
 1690 salary, wages, or other compensation up to a maximum of \$400,000
 1691 per resident. A completed declaration of residency in this state
 1692 must accompany the documentation submitted to the department for
 1693 reimbursement.

1694
 1695 For a project involving an event, such as an awards show, the
 1696 term does not include expenditures solely associated with the
 1697 event itself and not directly required by the production. The
 1698 term does not include expenditures incurred before the agreement
 1699 is signed. The production company may not include in the
 1700 calculation for qualified expenditures the original purchase
 1701 price for equipment or other tangible property that is later
 1702 sold or transferred by the production company for consideration.
 1703 In such cases, the qualified expenditure is the net of the
 1704 original purchase price minus the consideration received upon
 1705 sale or transfer.

1706 (h) "Underutilized county" means a county in which less
 1707 than \$500,000 in qualified expenditures were made in the last 2
 1708 fiscal years.

1709 (3) A production company may apply for funds from the
 1710 Entertainment Action Fund for a production or successive seasons
 1711 of a production. The division shall review and evaluate
 1712 applications to determine the eligibility of each project
 1713 consistent with the requirements of this section. The division
 1714 shall leverage funds to select projects that maximize the return

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1715 to the state. The division must accept applications for at least
 1716 3 months, and shall provide public notice of the application
 1717 period. The division may allow multiple, nonoverlapping
 1718 application periods in a fiscal year subject to the availability
 1719 of funds. The division shall review and evaluate applications
 1720 timely received during the application period to identify any
 1721 competitive projects to recommend for approval as provided in
 1722 this section. The division may determine that no applications
 1723 were submitted which meet the requirements of this section and
 1724 maximize the return to the state.

1725 (4) The division, in its review and evaluation of
 1726 applications, must consider the following criteria, which are
 1727 listed in order of priority, with the highest priority given to
 1728 paragraph (a):

1729 (a) The number of state residents who will be employed in
 1730 full-time equivalent and part-time positions related to the
 1731 project, the duration of such employment, and the average wages
 1732 paid to such residents. Preference shall be given to a project
 1733 that expects to pay higher than the statewide average wage.

1734 (b) The amount of qualified and nonqualified expenditures
 1735 that will be made in this state.

1736 (c) Planned or executed contracts with production
 1737 facilities or soundstages in this state and the percentage of
 1738 principal photography or production activity that will occur at
 1739 each location.

1740 (d) Planned preproduction and postproduction to occur in
 1741 this state.

1742 (e) The amount of capital investment, especially fixed
 1743 capital investment, to be made directly by the production

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1744 company in this state related to the project and the amount of
 1745 any other capital investment to be made in this state related to
 1746 the project.

1747 (f) The duration of the project in this state.

1748 (g) The amount and duration of principal photography or
 1749 production activity that will occur in an underutilized county.

1750 (h) The extent to which the production company will promote
 1751 Florida, including the production of marketing materials
 1752 promoting this state as a tourist destination or a film and
 1753 entertainment production destination; placement of state agency
 1754 logos in the production and credits; authorized use of
 1755 production assets, characters, and themes by this state;
 1756 promotional videos for this state included on optical disc
 1757 formats; and other marketing integration.

1758 (i) The employment of students enrolled full-time in an
 1759 entertainment-related course of study at an institution of
 1760 higher education in this state or of graduates from such an
 1761 institution within 12 months after graduation.

1762 (j) Plans to work with entertainment industry-related
 1763 courses of study at an institution of higher education in this
 1764 state.

1765 (k) Local support and any local financial commitment for
 1766 the project.

1767 (l) The project is about this state or shows this state in
 1768 a positive light.

1769 (m) A review of the production company's past activities in
 1770 this state or other states.

1771 (n) The length of time the production company has made
 1772 productions in this state, the number of productions the

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1773 production company has made in this state, and the production
 1774 company's overall commitment to this state. This includes a
 1775 production company that is based in this state.

1776 (o) Expected contributions to this state's economy,
 1777 consistent with the state strategic economic development plan
 1778 prepared by the department.

1779 (p) The expected effect of the award on the viability of
 1780 the project and the probability that the project would be
 1781 undertaken in this state if funds are granted to the production
 1782 company.

1783 (5) A production company must have financing in place for a
 1784 project before it applies for funds under this section.

1785 (6) The department shall prescribe a form upon which an
 1786 application must be made to the division. At a minimum, the
 1787 application must include:

1788 (a) The applicant's federal employer identification number,
 1789 reemployment assistance account number, and state sales tax
 1790 registration number, as applicable. If such numbers are not
 1791 available at the time of application, they must be submitted to
 1792 the department in writing before the disbursement of any
 1793 payments.

1794 (b) The signature of the applicant.

1795 (c) A detailed budget of planned qualified and nonqualified
 1796 expenditures in this state.

1797 (d) The type and amount of capital investment that will be
 1798 made in this state.

1799 (e) The locations in this state where the project will
 1800 occur.

1801 (f) The anticipated commencement date and duration of the

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1802 project.

1803 (g) The proposed number of state residents and nonstate

1804 residents who will be employed in full-time equivalent and part-

1805 time positions related to the project and wages paid to such

1806 persons.

1807 (h) The total number of full-time equivalent employees

1808 employed by the production company in this state, if applicable.

1809 (i) Proof of financing for the project.

1810 (j) The amount of promotion of Florida which the production

1811 company will provide for the state.

1812 (k) An attestation verifying that the information provided

1813 on the application is true and accurate.

1814 (l) Any additional information requested by the department

1815 or division.

1816 (7) The division and department must make a recommendation

1817 to the Governor to approve or deny an award within 7 days after

1818 completion of the review and evaluation. An award of funds may

1819 constitute up to 30 percent of qualified expenditures in this

1820 state and may not fund wages paid to nonresidents. The division

1821 may recommend an award of funds that is less than 30 percent of

1822 qualified expenditures in this state. A production must start

1823 within 1 year after the date the project is approved by the

1824 Governor. The recommendation must include the performance

1825 conditions that the project must meet to obtain funds.

1826 (a) The Governor may approve projects without consulting

1827 the Legislature for projects requiring less than \$2 million in

1828 funding.

1829 (b) For projects requiring funding of at least \$2 million

1830 but not more than \$5 million, the Governor must provide a

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1831 written description and evaluation of a project recommended for

1832 approval to the chair and vice chair of the Legislative Budget

1833 Commission at least 10 days before giving final approval for the

1834 project. The recommendation must include the performance

1835 conditions that the project must meet in order to obtain funds.

1836 (c) If the chair or vice chair of the Legislative Budget

1837 Commission, the President of the Senate, or the Speaker of the

1838 House of Representatives timely advises the Executive Office of

1839 the Governor, in writing, that an action or a proposed action

1840 exceeds the delegated authority of the Executive Office of the

1841 Governor or is contrary to legislative policy or intent, the

1842 Executive Office of the Governor shall void the release of funds

1843 and instruct the department to immediately change such action or

1844 proposed action until the Legislative Budget Commission or the

1845 Legislature addresses the issue.

1846 (d) A project requiring more than \$5 million in funding

1847 must be approved by the Legislative Budget Commission before the

1848 funds are released.

1849 (8) Upon the approval of the Governor, the department and

1850 the production company shall enter into an agreement that

1851 specifies, at a minimum:

1852 (a) The total amount of funds awarded and the schedule of

1853 payment.

1854 (b) The performance conditions the production company must

1855 meet to obtain payment of moneys from the fund. Performance

1856 conditions must include the criteria considered in the review

1857 and evaluation of the application. Performance conditions must

1858 relate to activity that occurs in this state.

1859 (c) The methodology for validating performance and the date

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1860 by which the production company must submit proof of performance
 1861 to the department.

1862 (d) That the department may review and verify any records
 1863 of the production company to ascertain whether that company is
 1864 in compliance with this section and the agreement.

1865 (e) Sanctions for failure to meet performance conditions.

1866 (f) That payment of moneys from the fund is contingent upon
 1867 sufficient appropriation of funds by the Legislature.

1868 (9) The agreement must be finalized and signed by an
 1869 authorized officer of the production company within 90 days
 1870 after the Governor's approval. A production company that
 1871 receives funds under this section may not receive benefits under
 1872 s. 288.1258 for the same production.

1873 (10) The department shall validate contractor performance
 1874 and report such validation in an annual report. Each November 1,
 1875 the department and the division shall submit an annual report
 1876 for the previous fiscal year to the Governor, the President of
 1877 the Senate, and the Speaker of the House of Representatives
 1878 which outlines the program's return on investment and economic
 1879 benefits to the state. The report must also include an estimate
 1880 of the full-time equivalent positions created by each production
 1881 that received a grant under this section and information
 1882 relating to the distribution of productions receiving credits by
 1883 geographic region and type of production. In addition, the
 1884 report must include the expenditures report required under s.
 1885 288.915, the information describing the relationship between tax
 1886 exemptions and incentives to industry growth required under s.
 1887 288.1258(5), and program performance information required under
 1888 this section.

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1889 (11) The department may not approve awards in excess of the
 1890 amount appropriated for a fiscal year. The department must
 1891 maintain a schedule of funds to be paid from the appropriation
 1892 for the fiscal year that begins on July 1. For the first 6
 1893 months of each fiscal year, the department shall set aside 50
 1894 percent of the amount appropriated for the fund by the
 1895 Legislature. At the end of the 6-month period, these funds are
 1896 available to provide funding under this section for applications
 1897 submitted on or after January 1. The department or division may
 1898 not accept any applications or conditionally commit funds or
 1899 grant priority to a production company if funds are not
 1900 available in the current period.

1901 (12) A production company that submits fraudulent
 1902 information under this section is liable for reimbursement of
 1903 the reasonable costs and fees associated with the review,
 1904 processing, investigation, and prosecution of the fraudulent
 1905 claim. A production company that receives a payment under this
 1906 section through a claim that is fraudulent is liable for
 1907 reimbursement of the payment amount, plus a penalty in an amount
 1908 double the payment amount. The penalty is in addition to any
 1909 criminal penalty for which the production company is liable for
 1910 the same acts. The production company is also liable for costs
 1911 and fees incurred by the state in investigating and prosecuting
 1912 the fraudulent claim.

1913 (13) The department or division may not waive any provision
 1914 or provide an extension of time to meet any requirement of this
 1915 section.

1916 (14) This section expires on July 1, 2026. An agreement in
 1917 existence on that date shall continue in effect in accordance

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1918 with its terms.

1919 Section 24. Section 288.1258, Florida Statutes, is amended

1920 to read:

1921 288.1258 Entertainment industry qualified production

1922 companies; application procedure; categories; duties of the

1923 Department of Revenue; records and reports.—

1924 (1) PRODUCTION COMPANIES AUTHORIZED TO APPLY.—

1925 (a) Any production company engaged in this state in the

1926 production of motion pictures, made-for-TV motion pictures,

1927 television series, commercial advertising, music videos, or

1928 sound recordings may submit an application for exemptions under

1929 ss. 212.031, 212.06, and 212.08 to the Department of Revenue to

1930 be approved by the Department of Economic Opportunity Office of

1931 Film and Entertainment as a qualified production company for the

1932 purpose of receiving a sales and use tax certificate of

1933 exemption from the Department of Revenue to exempt purchases on

1934 or after the date that the completed application is filed with

1935 the Department of Revenue.

1936 (b) As used in ~~For the purposes of~~ this section, the term

1937 “qualified production company” means any production company that

1938 has submitted a properly completed application to the Department

1939 of Revenue and that is subsequently qualified by the Department

1940 of Economic Opportunity Office of Film and Entertainment.

1941 (2) APPLICATION PROCEDURE.—

1942 (a) The Department of Revenue shall will review all

1943 submitted applications for the required information. Within 10

1944 working days after the receipt of a properly completed

1945 application, the Department of Revenue shall will forward the

1946 completed application to the Department of Economic Opportunity

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1947 ~~Office of Film and Entertainment~~ for approval.

1948 (b)1. The Department of Economic Opportunity Office of Film

1949 ~~and Entertainment~~ shall establish a process by which an

1950 entertainment industry production company may be approved by the

1951 ~~department office~~ as a qualified production company and may

1952 receive a certificate of exemption from the Department of

1953 Revenue for the sales and use tax exemptions under ss. 212.031,

1954 212.06, and 212.08. A production company that receives a sales

1955 tax exemption certificate under this section for a production

1956 may not receive benefits under s. 288.1256 for the same

1957 production.

1958 2. Upon determination by the ~~department Office of Film and~~

1959 ~~Entertainment~~ that a production company meets the established

1960 approval criteria and qualifies for exemption, the ~~department~~

1961 ~~Office of Film and Entertainment~~ shall return the approved

1962 application or application renewal or extension to the

1963 Department of Revenue, which shall issue a certificate of

1964 exemption.

1965 3. The ~~department Office of Film and Entertainment~~ shall

1966 deny an application or application for renewal or extension from

1967 a production company if it determines that the production

1968 company does not meet the established approval criteria.

1969 (c) The ~~department Office of Film and Entertainment~~ shall

1970 develop, with the cooperation of the Department of Revenue, the

1971 Division of Film and Entertainment within Enterprise Florida,

1972 Inc., and local government entertainment industry promotion

1973 agencies, a standardized application form for use in approving

1974 qualified production companies.

1975 1. The application form shall include, but not be limited

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1976 to, production-related information on employment, proposed
 1977 budgets, planned purchases of items exempted from sales and use
 1978 taxes under ss. 212.031, 212.06, and 212.08, a signed
 1979 affirmation from the applicant that any items purchased for
 1980 which the applicant is seeking a tax exemption are intended for
 1981 use exclusively as an integral part of entertainment industry
 1982 preproduction, production, or postproduction activities engaged
 1983 in primarily in this state, and a signed affirmation from the
 1984 ~~department Office of Film and Entertainment~~ that the information
 1985 on the application form has been verified and is correct. In
 1986 lieu of information on projected employment, proposed budgets,
 1987 or planned purchases of exempted items, a production company
 1988 seeking a 1-year certificate of exemption may submit summary
 1989 historical data on employment, production budgets, and purchases
 1990 of exempted items related to production activities in this
 1991 state. Any information gathered from production companies for
 1992 the purposes of this section shall be considered confidential
 1993 taxpayer information and shall be disclosed only as provided in
 1994 s. 213.053.

1995 2. The application form may be distributed to applicants by
 1996 the department, the Division Office of Film and Entertainment,
 1997 or local film commissions.

1998 (d) All applications, renewals, and extensions for
 1999 designation as a qualified production company shall be processed
 2000 by the ~~department Office of Film and Entertainment~~.

2001 (e) ~~If in the event that~~ the Department of Revenue
 2002 determines that a production company no longer qualifies for a
 2003 certificate of exemption, or has used a certificate of exemption
 2004 for purposes other than those authorized by this section and

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2005 chapter 212, the Department of Revenue shall revoke the
 2006 certificate of exemption of that production company, and any
 2007 sales or use taxes exempted on items purchased or leased by the
 2008 production company during the time such company did not qualify
 2009 for a certificate of exemption or improperly used a certificate
 2010 of exemption shall become immediately due to the Department of
 2011 Revenue, along with interest and penalty as provided by s.
 2012 212.12. In addition to the other penalties imposed by law, any
 2013 person who knowingly and willfully falsifies an application, or
 2014 uses a certificate of exemption for purposes other than those
 2015 authorized by this section and chapter 212, commits a felony of
 2016 the third degree, punishable as provided in ss. 775.082,
 2017 775.083, and 775.084.

2018 (3) CATEGORIES.—

2019 (a)1. A production company may be qualified for designation
 2020 as a qualified production company for a period of 1 year if the
 2021 company has operated a business in Florida at a permanent
 2022 address for a period of 12 consecutive months. Such a qualified
 2023 production company shall receive a single 1-year certificate of
 2024 exemption from the Department of Revenue for the sales and use
 2025 tax exemptions under ss. 212.031, 212.06, and 212.08, which
 2026 certificate shall expire 1 year after issuance or upon the
 2027 cessation of business operations in the state, at which time the
 2028 certificate shall be surrendered to the Department of Revenue.

2029 2. ~~The Office of Film and Entertainment shall develop a~~
 2030 ~~method by which~~ A qualified production company may submit a new
 2031 application for annually renew a 1-year certificate of exemption
 2032 upon the expiration of that company's certificate of exemption;
 2033 however, upon approval of the department, such qualified

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2034 production company may annually renew the 1-year certificate of
 2035 exemption for a period of up to 5 years without submitting
 2036 ~~requiring the production company to resubmit~~ a new application
 2037 during that 5-year period.

2038 3. Each year, or upon surrender of the certificate of
 2039 exemption to the Department of Revenue, the ~~Any~~ qualified
 2040 production company shall ~~may~~ submit to the department aggregate
 2041 data for production-related information on employment,
 2042 expenditures in this state, capital investment, and purchases of
 2043 items exempted from sales and use taxes under ss. 212.031,
 2044 212.06, and 212.08 for inclusion in the annual report required
 2045 under subsection (5) a new application for a 1 year certificate
 2046 of exemption upon the expiration of that company's certificate
 2047 of exemption.

2048 (b)1. A production company may be qualified for designation
 2049 as a qualified production company for a period of 90 days. Such
 2050 production company shall receive a single 90-day certificate of
 2051 exemption from the Department of Revenue for the sales and use
 2052 tax exemptions under ss. 212.031, 212.06, and 212.08, which
 2053 certificate shall expire 90 days after issuance or upon the
 2054 cessation of business operations in the state, at which time,
 2055 ~~with extensions contingent upon approval of the Office of Film~~
 2056 ~~and Entertainment, the certificate shall be surrendered to the~~
 2057 Department of Revenue ~~upon its expiration.~~

2058 2. A qualified production company may submit a new
 2059 application for a 90-day certificate of exemption each quarter
 2060 upon the expiration of that company's certificate of exemption;
 2061 however, upon approval of the department, such qualified
 2062 production company may renew the 90-day certificate of exemption

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2063 for a period of up to 1 year without submitting a new
 2064 application during that 1-year period.

2065 3.2- Each 90 days, or upon surrender of the certificate of
 2066 exemption to the Department of Revenue, the qualified ~~Any~~
 2067 production company shall ~~may~~ submit to the department aggregate
 2068 data for production-related information on employment,
 2069 expenditures in this state, capital investment, and purchases of
 2070 items exempted from sales and use taxes under ss. 212.031,
 2071 212.06, and 212.08 for inclusion in the annual report required
 2072 under subsection (5) a new application for a 90-day certificate
 2073 of exemption upon the expiration of that company's certificate
 2074 of exemption.

2075 (4) DUTIES OF THE DEPARTMENT OF REVENUE.-

2076 (a) The Department of Revenue shall review the initial
 2077 application and notify the applicant of any omissions and
 2078 request additional information if needed. An application shall
 2079 be complete upon receipt of all requested information. The
 2080 Department of Revenue shall forward all complete applications to
 2081 the department Office of Film and Entertainment within 10
 2082 working days.

2083 (b) The Department of Revenue shall issue a numbered
 2084 certificate of exemption to a qualified production company
 2085 within 5 working days of the receipt of an approved application,
 2086 application renewal, or application extension from the
 2087 department Office of Film and Entertainment.

2088 (c) The Department of Revenue may adopt promulgate such
 2089 rules and shall prescribe and publish such forms as may be
 2090 necessary to effectuate the purposes of this section or any of
 2091 the sales tax exemptions which are reasonably related to the

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2092 provisions of this section.

2093 (d) The Department of Revenue is authorized to establish
2094 audit procedures in accordance with the provisions of ss.
2095 212.12, 212.13, and 213.34 which relate to the sales tax
2096 exemption provisions of this section.

2097 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO
2098 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The department
2099 ~~Office of Film and Entertainment~~ shall keep annual records from
2100 the information provided on taxpayer applications for tax
2101 exemption certificates and regularly reported as required in
2102 this section ~~beginning January 1, 2001~~. These records also must
2103 reflect a ratio of the annual amount of sales and use tax
2104 exemptions under this section, plus the funds granted incentives
2105 ~~awarded pursuant to s. 288.1256 s. 288.1254~~ to the estimated
2106 amount of funds expended by certified productions. In addition,
2107 the department office shall maintain data showing annual growth
2108 in Florida-based entertainment industry companies and
2109 entertainment industry employment and wages. The employment
2110 information must include ~~an estimate of~~ the full-time equivalent
2111 positions created by each production that received funds tax
2112 credits pursuant to s. 288.1256 s. 288.1254. The department
2113 ~~Office of Film and Entertainment~~ shall include this information
2114 in the annual report for the entertainment industry ~~financial~~
2115 ~~incentive~~ program required under s. 288.1256(10) s.
2116 ~~288.1254(10)~~.

2117 Section 25. Paragraph (b) of subsection (5) of section
2118 288.901, Florida Statutes, is amended to read:

2119 288.901 Enterprise Florida, Inc.—

2120 (5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

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2121 (b) In making their appointments, the Governor, the
2122 President of the Senate, and the Speaker of the House of
2123 Representatives shall ensure that the composition of the board
2124 of directors reflects the diversity of Florida's business
2125 community and is representative of the economic development
2126 goals in subsection (2). The board must include at least one
2127 director for each of the following areas of expertise:
2128 international business, tourism marketing, the space or
2129 aerospace industry, managing or financing a minority-owned
2130 business, manufacturing, and finance and accounting, ~~and sports~~
2131 ~~marketing~~.

2132 Section 26. Subsection (1) of section 288.9015, Florida
2133 Statutes, is amended to read:

2134 288.9015 Powers of Enterprise Florida, Inc.; board of
2135 directors.—

2136 (1) Enterprise Florida, Inc., shall integrate its efforts
2137 in business recruitment and expansion, job creation, marketing
2138 the state for tourism ~~and sports~~, and promoting economic
2139 opportunities for minority-owned businesses and promoting
2140 economic opportunities for rural and distressed urban
2141 communities with those of the department, to create an
2142 aggressive, agile, and collaborative effort to reinvigorate the
2143 state's economy.

2144 Section 27. Subsection (1) of section 288.92, Florida
2145 Statutes, is amended to read:

2146 288.92 Divisions of Enterprise Florida, Inc.—

2147 (1) Enterprise Florida, Inc., may create and dissolve
2148 divisions as necessary to carry out its mission. Each division
2149 shall have distinct responsibilities and complementary missions.

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2150 At a minimum, Enterprise Florida, Inc., shall have divisions
 2151 related to the following areas:

2152 (a) International Trade and Business Development;
 2153 (b) Business Retention and Recruitment;
 2154 (c) Tourism Marketing;
 2155 (d) Minority Business Development; and
 2156 (e) Film and Entertainment ~~Sports Industry Development~~.

2157 Section 28. Paragraph (c) of subsection (3) and subsection
 2158 (4) of section 288.980, Florida Statutes, are amended to read:

2159 288.980 Military base retention; legislative intent; grants
 2160 program.—

2161 (3)

2162 (c) The department shall require that an applicant:

2163 1. Represent a local government with a military
 2164 installation or military installations that could be adversely
 2165 affected by federal actions.

2166 2. ~~Agree to match at least 30 percent of any grant awarded.~~

2167 ~~3.~~ Prepare a coordinated program or plan of action
 2168 delineating how the eligible project will be administered and
 2169 accomplished.

2170 ~~3.4.~~ Provide documentation describing the potential for
 2171 changes to the mission of a military installation located in the
 2172 applicant's community and the potential impacts such changes
 2173 will have on the applicant's community.

2174 (4) The Florida Defense Reinvestment Grant Program is
 2175 established to respond to the need for this state to work in
 2176 conjunction with defense-dependent communities in developing and
 2177 implementing strategies and approaches that will help
 2178 communities support the missions of military installations, and

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2179 in developing and implementing alternative economic
 2180 diversification strategies to transition from a defense economy
 2181 to a nondefense economy. The department shall administer the
 2182 program.

2183 (a) Eligible applicants include defense-dependent counties
 2184 and cities, and local economic development councils located
 2185 within such communities. ~~The program shall be administered by~~
 2186 ~~the department and~~ Grant awards may be provided to support
 2187 community-based activities that:

2188 1. ~~(a)~~ Protect existing military installations;
 2189 2. ~~(b)~~ Diversify or grow the economy of a defense-dependent
 2190 community; or

2191 3. ~~(c)~~ Develop plans for the reuse of closed or realigned
 2192 military installations, including any plans necessary for
 2193 infrastructure improvements needed to facilitate reuse and
 2194 related marketing activities.

2195 (b) Applications for grants under paragraph (a) this
 2196 ~~subsection~~ must include a coordinated program of work or plan of
 2197 action delineating how the eligible project will be administered
 2198 and accomplished, which must include a plan for ensuring close
 2199 cooperation between civilian and military authorities in the
 2200 conduct of the funded activities and a plan for public
 2201 involvement. An applicant must agree to match at least 30
 2202 percent of any grant awarded.

2203 Section 29. Effective July 1, 2016, paragraph (a) of
 2204 subsection (6), paragraph (b) of subsection (9), paragraph (a)
 2205 of subsection (35), subsection (60), and paragraph (b) of
 2206 subsection (64) of section 320.08058, Florida Statutes, are
 2207 amended to read:

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2208 320.08058 Specialty license plates.—

2209 (6) FLORIDA UNITED STATES OLYMPIC COMMITTEE LICENSE

2210 PLATES.—

2211 (a) Because the United States Olympic Committee has

2212 selected this state to participate in a combined fundraising

2213 program that provides for one-half of all money raised through

2214 volunteer giving to stay in this state and be administered by

2215 the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to

2216 support amateur sports, and because the United States Olympic

2217 Committee and Enterprise Florida, Inc., are nonprofit

2218 organizations dedicated to providing athletes with support and

2219 training and preparing athletes of all ages and skill levels for

2220 sports competition, and because Enterprise Florida, Inc.,

2221 assists in the bidding for sports competitions that provide

2222 significant impact to the economy of this state, and the

2223 Legislature supports the efforts of the United States Olympic

2224 Committee and Enterprise Florida, Inc., the Legislature

2225 establishes a Florida United States Olympic Committee license

2226 plate for the purpose of providing a continuous funding source

2227 to support this worthwhile effort. Florida United States Olympic

2228 Committee license plates must contain the official United States

2229 Olympic Committee logo and must bear a design and colors that

2230 are approved by the department. The word "Florida" must be

2231 centered at the top of the plate.

2232 (9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

2233 (b) The license plate annual use fees are to be annually

2234 distributed as follows:

2235 1. Fifty-five percent of the proceeds from the Florida

2236 Professional Sports Team plate must be deposited into the

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2237 Professional Sports Development Trust Fund within the Department

2238 of Economic Opportunity. These funds must be used solely to

2239 attract and support major sports events in this state. As used

2240 in this subparagraph, the term "major sports events" means, but

2241 is not limited to, championship or all-star contests of Major

2242 League Baseball, the National Basketball Association, the

2243 National Football League, the National Hockey League, Major

2244 League Soccer, the men's and women's National Collegiate

2245 Athletic Association Final Four basketball championship, or a

2246 horseracing or dogracing Breeders' Cup. All funds must be used

2247 to support and promote major sporting events, and the uses must

2248 be approved by the Florida Sports Foundation ~~Department of~~

2249 ~~Economic Opportunity.~~

2250 2. The remaining proceeds of the Florida Professional

2251 Sports Team license plate must be allocated to the Florida

2252 Sports Foundation ~~Enterprise Florida, Inc.~~ These funds must be

2253 deposited into the Professional Sports Development Trust Fund

2254 within the Department of Economic Opportunity. These funds must

2255 be used by the Florida Sports Foundation ~~Enterprise Florida,~~

2256 ~~Inc.,~~ to promote the economic development of the sports

2257 industry; to distribute licensing and royalty fees to

2258 participating professional sports teams; to promote education

2259 programs in Florida schools that provide an awareness of the

2260 benefits of physical activity and nutrition standards; to

2261 partner with the Department of Education and the Department of

2262 Health to develop a program that recognizes schools whose

2263 students demonstrate excellent physical fitness or fitness

2264 improvement; to institute a grant program for communities

2265 bidding on minor sporting events that create an economic impact

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2266 for the state; to distribute funds to Florida-based charities
 2267 designated by the Florida Sports Foundation Enterprise Florida,
 2268 ~~Inc.,~~ and the participating professional sports teams; and to
 2269 fulfill the sports promotion responsibilities of the Department
 2270 of Economic Opportunity.

2271 3. The Florida Sports Foundation Enterprise Florida, Inc.,
 2272 shall provide an annual financial audit in accordance with s.
 2273 215.981 of its financial accounts and records by an independent
 2274 certified public accountant pursuant to the contract established
 2275 by the Department of Economic Opportunity as specified in s.
 2276 288.1229(5). The auditor shall submit the audit report to the
 2277 Department of Economic Opportunity for review and approval. If
 2278 the audit report is approved, the Department of Economic
 2279 Opportunity shall certify the audit report to the Auditor
 2280 General for review.

2281 4. Notwithstanding the provisions of subparagraphs 1. and
 2282 2., proceeds from the Professional Sports Development Trust Fund
 2283 may also be used for operational expenses of the Florida Sports
 2284 Foundation Enterprise Florida, Inc., and financial support of
 2285 the Sunshine State Games.

2286 (35) FLORIDA GOLF LICENSE PLATES.—

2287 (a) The Department of Highway Safety and Motor Vehicles
 2288 shall develop a Florida Golf license plate as provided in this
 2289 section. The word "Florida" must appear at the bottom of the
 2290 plate. The Dade Amateur Golf Association, following consultation
 2291 with the PGA TOUR, the Florida Sports Foundation Enterprise
 2292 Florida, Inc., the LPGA, and the PGA of America may submit a
 2293 revised sample plate for consideration by the department.

2294 (60) FLORIDA NASCAR LICENSE PLATES.—

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2295 (a) The department shall develop a Florida NASCAR license
 2296 plate as provided in this section. Florida NASCAR license plates
 2297 must bear the colors and design approved by the department. The
 2298 word "Florida" must appear at the top of the plate, and the term
 2299 "NASCAR" must appear at the bottom of the plate. The National
 2300 Association for Stock Car Auto Racing, following consultation
 2301 with the Florida Sports Foundation Enterprise Florida, Inc., may
 2302 submit a sample plate for consideration by the department.

2303 (b) The license plate annual use fees shall be distributed
 2304 to the Florida Sports Foundation Enterprise Florida, Inc. The
 2305 license plate annual use fees shall be annually allocated as
 2306 follows:

2307 1. Up to 5 percent of the proceeds from the annual use fees
 2308 may be used by the Florida Sports Foundation Enterprise Florida,
 2309 ~~Inc.,~~ for the administration of the NASCAR license plate
 2310 program.

2311 2. The National Association for Stock Car Auto Racing shall
 2312 receive up to \$60,000 in proceeds from the annual use fees to be
 2313 used to pay startup costs, including costs incurred in
 2314 developing and issuing the plates. Thereafter, 10 percent of the
 2315 proceeds from the annual use fees shall be provided to the
 2316 association for the royalty rights for the use of its marks.

2317 3. The remaining proceeds from the annual use fees shall be
 2318 distributed to the Florida Sports Foundation Enterprise Florida,
 2319 ~~Inc.~~ The Florida Sports Foundation Enterprise Florida, Inc.,
 2320 will retain 15 percent to support its regional grant program,
 2321 attracting sporting events to Florida; 20 percent to support the
 2322 marketing of motorsports-related tourism in the state; and 50
 2323 percent to be paid to the NASCAR Foundation, a s. 501(c) (3)

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2324 charitable organization, to support Florida-based charitable
 2325 organizations.

2326 (c) ~~The Florida Sports Foundation Enterprise Florida, Inc.,~~
 2327 shall provide an annual financial audit in accordance with s.
 2328 215.981 of its financial accounts and records by an independent
 2329 certified public accountant pursuant to the contract established
 2330 by the Department of Economic Opportunity as specified in s.
 2331 288.1229(5). The auditor shall submit the audit report to the
 2332 Department of Economic Opportunity for review and approval. If
 2333 the audit report is approved, the Department of Economic
 2334 Opportunity shall certify the audit report to the Auditor
 2335 General for review.

2336 (64) FLORIDA TENNIS LICENSE PLATES.—

2337 (b) The department shall distribute the annual use fees to
 2338 ~~the Florida Sports Foundation Enterprise Florida, Inc.~~ The
 2339 license plate annual use fees shall be annually allocated as
 2340 follows:

2341 1. Up to 5 percent of the proceeds from the annual use fees
 2342 may be used by ~~the Florida Sports Foundation Enterprise Florida,~~
 2343 ~~Inc.,~~ to administer the license plate program.

2344 2. The United States Tennis Association Florida Section
 2345 Foundation shall receive the first \$60,000 in proceeds from the
 2346 annual use fees to reimburse it for startup costs,
 2347 administrative costs, and other costs it incurs in the
 2348 development and approval process.

2349 3. Up to 5 percent of the proceeds from the annual use fees
 2350 may be used for promoting and marketing the license plates. The
 2351 remaining proceeds shall be available for grants by the United
 2352 States Tennis Association Florida Section Foundation to

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2353 nonprofit organizations to operate youth tennis programs and
 2354 adaptive tennis programs for special populations of all ages,
 2355 and for building, renovating, and maintaining public tennis
 2356 courts.

2357 Section 30. Subsection (5) of section 477.0135, Florida
 2358 Statutes, is amended to read:

2359 477.0135 Exemptions.—

2360 (5) A license is not required of any individual providing
 2361 makeup, special effects, or cosmetology services to an actor,
 2362 stunt person, musician, extra, or other talent during a
 2363 production recognized by the Department of Economic Opportunity
 2364 Office of Film and Entertainment as a project qualified
 2365 production as defined in s. 288.1256 ~~s. 288.1254(1)~~. Such
 2366 services are not required to be performed in a licensed salon.
 2367 Individuals exempt under this subsection may not provide such
 2368 services to the general public.

2369 Section 31. Except as otherwise expressly provided in this
 2370 act, this act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-25-16
Meeting Date

1646
Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Dale Gordon

Job Title Film Commissioner

Address 101 E. Kennedy Blvd, St 1750

Phone 813-997-7497

Tampa FL 33602
City State Zip

Email d.gordon@tampardc.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Film Tampa Bay

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)

5B1646
Bill Number (if applicable)

Meeting Date _____

Amendment Barcode (if applicable) _____

Topic Economic Development

Name JERRY SANSON

Job Title _____

Address PO Box 98
Street

Phone 321-277-8130

Cocoa FL 32923
City State Zip

Email FISHAWK @ AOL.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NORTHROP GRUMMAN Corp.

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)

1/25/2016

Meeting Date

SB 1646

Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Melissa Fause

Job Title Policy Analyst

Address 200 W. College Ave, Ste 101

Phone 850-408-1218

Street

Tallahassee

City

FL

State

32301

Zip

Email Mfause@aphq.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/25/16

Meeting Date

1646

Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

Job Title LOBBYIST

Address 115 S. Andrews Ave, Rm. 426
Street

Phone 954-253-7320

Ft. LAUDERDALE FL 33301
City State Zip

Email dsainvil@broward.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing BROWARD COUNTY

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)

1646

Meeting Date _____

Bill Number (if applicable) _____

Topic _____

Amendment Barcode (if applicable) _____

Name JESS MCCARTY

Job Title _____

Address 111 NW 151 ST 2810

Phone 305-979-7110

Street

MIAMI 33128

Email JMM2@MIAMI.DADE.FL.GOV

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

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)

1/25/16

Meeting Date

1646

Bill Number (if applicable)

Topic Film Program

Amendment Barcode (if applicable)

Name CHRIS RAWUNG

Job Title _____

Address 403 Shamrock Road

Phone 904/806-6369

St. Augustine Florida 32086
City State Zip

Email chrisrawung@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Congress of Motion Picture Associations of Florida

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.

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Commerce and Tourism Committee

Judge:

Started: 1/25/2016 1:03:10 PM

Ends: 1/25/2016 2:13:43 PM

Length: 01:10:34

1:03:08 PM Call Roll
1:03:23 PM Quorum Present
1:03:27 PM CS/SB 940 Senator Bradley
1:04:37 PM Amendment 125834
1:04:49 PM Senator Bradley Explains Amendment
1:05:14 PM Questions
1:05:18 PM Appearance
1:05:22 PM Debate
1:05:25 PM Amendment Adopted
1:05:34 PM Back on Bill as Amended
1:05:39 PM Questions
1:05:43 PM Appearance
1:05:46 PM Debate
1:05:48 PM Close
1:05:52 PM CS/SB 940
1:05:58 PM Roll
1:06:09 PM CS/SB 940 Passed
1:06:22 PM SM 798 Senator Soto
1:06:58 PM Questions
1:07:00 PM Senator Latvala
1:08:04 PM Senator Soto
1:08:11 PM Senator Detert
1:08:46 PM Senator Soto
1:08:51 PM Senator Detert
1:08:54 PM Senator Soto
1:09:36 PM Appearance
1:09:42 PM Lynnette Acosta - Director of PR for Democratic Hispanic Arts
1:12:14 PM Vivian Rodriguez - Democratic Hispanic Caucus of FL
1:12:41 PM Daniel Marco Mulieri -
1:12:55 PM Wendy Farfan
1:13:05 PM Victor Farfan
1:13:47 PM Shayla Asencios
1:13:57 PM Debate
1:13:58 PM Senator Latvala
1:15:07 PM Senator Bean
1:15:19 PM Senator Soto
1:16:25 PM Senator Bean
1:17:18 PM Senator Soto
1:17:21 PM Senator Thompson
1:18:12 PM Close
1:19:10 PM Vote on SM 798
1:19:45 PM SM 798 Reported Favorably
1:20:05 PM SB 1302 Senator Legg
1:20:29 PM Senator Legg's LA Jim Browne Explaining Bill
1:20:55 PM Questions
1:21:03 PM Appearance
1:21:09 PM Samantha Padgett
1:21:20 PM Debate
1:21:21 PM Close
1:21:24 PM Roll on SB 1302
1:21:29 PM SB 1302 Reported Favorably
1:21:50 PM Turn over Chair to Senator Thompson

1:21:59 PM SB 1228 Senator Detert
1:23:07 PM Questions
1:23:18 PM Senator Bean
1:24:03 PM Senator Detert
1:24:59 PM Appearance
1:25:49 PM Meliissa Fause - Americans for Prosperity
1:26:01 PM Debate
1:26:03 PM Senator Latvala
1:26:53 PM Close
1:26:58 PM Roll Call SB 1228
1:27:09 PM SB 1228 Reported Favorably
1:27:23 PM Return Chair to Chair Detert
1:27:31 PM SB 754 Senator Richter
1:27:43 PM Amendment 952922
1:28:12 PM Questions
1:28:15 PM Appearance
1:28:25 PM Amendment Approved
1:28:28 PM Back on Bill as Amended
1:28:35 PM Questions
1:29:02 PM Senator Detert
1:29:25 PM Senato Richter
1:29:37 PM Appearance
1:29:41 PM Grace Lovett - FL Dept of Agriculture and Consumer Services
1:29:55 PM Debate
1:29:57 PM Close
1:30:01 PM Roll Call SB 754
1:30:05 PM SB 754 Reported Favorably
1:30:33 PM SB 1646 Senator Latvala
1:35:51 PM Amendments
1:35:54 PM Amendment 168922 Senator Latvala
1:39:34 PM Questions
1:39:38 PM Amendment to the Amendment 402838 Senator Richter
1:41:02 PM Questions
1:41:19 PM Debate
1:41:25 PM Senator Latvala
1:41:54 PM Close Senator Richter
1:42:06 PM Amendment to Amendment Adopted
1:42:10 PM Back on Amendment as Amended
1:42:17 PM Close on Amendment on Amended
1:42:33 PM Amendment 168922 Adopted
1:42:39 PM Amendment 553524 Senator Latvala
1:42:52 PM Questions
1:42:58 PM Appearance
1:43:03 PM Debate
1:43:09 PM Close
1:43:11 PM Amendment 553524 Adopted
1:43:20 PM Amendment 551246 Senator Latvala
1:43:37 PM Questions
1:43:43 PM Appearance
1:43:47 PM Debate
1:43:48 PM Close
1:43:51 PM Amendment 551246 Adopted
1:43:58 PM Back on Bill as Amended
1:44:06 PM Questions
1:44:09 PM Senator Latvala
1:44:44 PM Staffer
1:45:02 PM Senator Detert
1:46:51 PM Debate
1:47:51 PM Senator Ring
1:51:32 PM Senator Richter
1:53:16 PM Senator Detert
1:54:08 PM Appearance

1:54:14 PM Dale Gordon - Film Tampa Bay
1:54:27 PM Jerry Sansom - North
1:54:32 PM Melissa Fause - Americans for Prosperity
1:56:47 PM Daphnee Sainvil - Broward County
1:56:53 PM Jess MccCarty - Miami-Dade County
1:57:09 PM Chris Ranung
1:57:12 PM Close
2:00:49 PM Roll Call CS/SB 1646
2:01:55 PM CS/SB 1646 Reported Favorably
2:02:05 PM SB 294 Senator Thompson
2:02:24 PM Questions
2:03:05 PM Appearance
2:03:17 PM Stephanie Kunkel
2:03:22 PM Rich Templin
2:03:31 PM David Daniel
2:05:14 PM Samantha Padgett - FL Retail Federation
2:05:25 PM Tim Nungesser - NFIB
2:05:38 PM Lance Lozano - FL United Businesses Assoc
2:05:46 PM Debate
2:05:49 PM Senator Latvala
2:06:52 PM Senator Richter
2:08:15 PM Senator Detert
2:10:33 PM Close
2:13:01 PM Roll Call SB 294
2:13:09 PM SB 294 Reported Unfavorably
2:13:34 PM Meeting Adjourned