

1 A bill to be entitled

2 An act relating to economic development; amending ss.
3 220.191 and 288.005, F.S.; revising definitions;
4 amending s. 288.061, F.S.; revising economic
5 development incentive application review and
6 evaluation procedures and requirements; amending s.
7 288.107, F.S.; revising the definition of the term
8 "eligible business"; revising criteria for
9 participation in the brownfield redevelopment bonus
10 refund; amending s. 288.108, F.S.; revising the
11 application and approval process for high-impact
12 business performance grants; amending s. 288.1088,
13 F.S.; revising the application and approval process
14 for receipt of funds from the Quick Action Closing
15 Fund; amending s. 288.1089, F.S.; revising the
16 application and approval process for innovation
17 incentive awards; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Paragraph (b) of subsection (1) of section
22 220.191, Florida Statutes, is amended to read:

23 220.191 Capital investment tax credit.—

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

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

27 business or another member of the same controlled group of
 28 corporations of which the qualifying business is a member in
 29 connection with a qualifying project during the period from the
 30 beginning of construction of the project to the commencement of
 31 operations. As used in this paragraph, the term "controlled
 32 group of corporations" has the same meaning as provided in 26
 33 U.S.C. s. 1563(a).

34 Section 2. Subsection (1) of section 288.005, Florida
 35 Statutes, is amended to read:

36 288.005 Definitions.—As used in this chapter, the term:

37 (1) "Economic benefits" means the direct, indirect, and
 38 induced gains in state revenues as a percentage of the state's
 39 investment. The state's investment includes all state funds
 40 spent or forgone to benefit the business, including, but not
 41 limited to, state grants, tax exemptions, tax refunds, tax
 42 credits, and other state incentives.

43 Section 3. Subsection (2) of section 288.061, Florida
 44 Statutes, is amended to read:

45 288.061 Economic development incentive application
 46 process.—

47 (2) (a) ~~Beginning July 1, 2013,~~ The department shall review
 48 and evaluate each economic development incentive application for
 49 the economic benefits of the proposed award of state incentives
 50 proposed for the project.

51 (b) As used in paragraph (a), the term "economic benefits"
 52 has the same meaning as provided in s. 288.005. The Office of

53 Economic and Demographic Research shall establish the
 54 methodology and model used to calculate the economic benefits
 55 and shall establish guidelines for the appropriate application
 56 of the model. For purposes of this requirement, an amended
 57 definition of "economic benefits" may be developed by the Office
 58 of Economic and Demographic Research. However, an amended
 59 definition of "economic benefits" developed by the Office of
 60 Economic and Demographic Research shall include all state funds
 61 spent or forgone to benefit a business, including state grants,
 62 tax exemptions, tax refunds, tax credits, and other state
 63 incentives, and any other source of state funds which should
 64 reasonably be known to the department at the time of approval.

65 (c) In the evaluation of economic development incentive
 66 applications, capital investments may only be attributed to a
 67 business if the costs are directly incurred by the business or a
 68 member of the same controlled group of corporations of which the
 69 business is a member. As used in this section, the term
 70 "controlled group of corporations" has the same meaning as
 71 provided in 26 U.S.C. s. 1563(a).

72 Section 4. Paragraph (d) of subsection (1) and paragraph
 73 (b) of subsection (3) of section 288.107, Florida Statutes, is
 74 amended to read:

75 288.107 Brownfield redevelopment bonus refunds.—

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

77 (d) "Eligible business" means:

78 1. A qualified target industry business as defined in s.

79 | 288.106(2); or

80 | 2. A business that can demonstrate that it has made a
 81 | fixed capital investment of at least \$2 million in mixed-use
 82 | business activities, including multiunit housing, commercial,
 83 | retail, and industrial in brownfield areas eligible for bonus
 84 | refunds, and that provides benefits to its employees.

85 | (3) CRITERIA.—The minimum criteria for participation in
 86 | the brownfield redevelopment bonus refund are:

87 | (b) The completion of a fixed capital investment of at
 88 | least \$2 million by the business in mixed-use business
 89 | activities, including multiunit housing, commercial, retail, and
 90 | industrial in brownfield areas eligible for bonus refunds, by an
 91 | eligible business applying for a refund under paragraph (2) (b)
 92 | which provides benefits to its employees.

93 | Section 5. Subsection (5) of section 288.108, Florida
 94 | Statutes, is amended to read:

95 | 288.108 High-impact business.—

96 | (5) APPLICATIONS; CERTIFICATION PROCESS; GRANT CONTRACT
 97 | ~~AGREEMENT~~.—

98 | (a) The department shall review and certify, pursuant to
 99 | s. 288.061, an application ~~pursuant to s. 288.061~~ which is
 100 | received from an ~~any~~ eligible high-impact business, as defined
 101 | in subsection (2), for consideration as a qualified high-impact
 102 | business before the business has made a decision to locate or
 103 | expand a facility in this state. The business must provide the
 104 | following information:

105 1. A complete description of the type of facility,
 106 business operations, and product or service associated with the
 107 project.

108 2. The number of full-time equivalent jobs that will be
 109 created by the project and the average annual wage of those
 110 jobs.

111 3. The cumulative amount of investment to be dedicated to
 112 this project within 3 years.

113 4. A statement concerning any special impacts the facility
 114 is expected to stimulate in the sector, the state, or regional
 115 economy and in state universities and community colleges.

116 5. A statement concerning the role the grant will play in
 117 the decision of the applicant business to locate or expand in
 118 this state.

119 6. Any additional information requested by the department.

120 (b) Within 7 business days after evaluating an
 121 application, the department shall recommend to the Governor
 122 approval or disapproval of an eligible high-impact business for
 123 receipt of funds. Recommendations to the Governor shall include
 124 a memorandum of understanding between the department and the
 125 applicant, which shall be incorporated into the final contract,
 126 setting forth the conditions for payment of the qualified high-
 127 impact business performance grant. The memorandum of
 128 understanding must include the total amount of the qualified
 129 high-impact business facility performance grant award; the
 130 performance conditions that must be met to obtain the award,

131 including, but not limited to, net new employment in the state,
 132 average salary, and total capital investment incurred by the
 133 business; a baseline of current service and a measure of
 134 enhanced capability; the methodology for validating performance;
 135 the schedule of performance grant payments; and sanctions for
 136 failure to meet performance conditions ~~Applications shall be~~
 137 ~~reviewed and certified pursuant to s. 288.061.~~

138 (c) The Governor may approve a high-impact business
 139 performance grant in an amount less than \$2 million without
 140 consulting the Legislature. However, the Governor shall provide
 141 a written description and evaluation of the approved project and
 142 a memorandum of understanding meeting the requirements of
 143 paragraph (b) to the chair and vice chair of the Legislative
 144 Budget Commission, the President of the Senate, and the Speaker
 145 of the House of Representatives within 1 business day after
 146 approval ~~The department and the qualified high-impact business~~
 147 ~~shall enter into a performance grant agreement setting forth the~~
 148 ~~conditions for payment of the qualified high-impact business~~
 149 ~~performance grant. The agreement shall include the total amount~~
 150 ~~of the qualified high-impact business facility performance grant~~
 151 ~~award, the performance conditions that must be met to obtain the~~
 152 ~~award, including the employment, average salary, investment, the~~
 153 ~~methodology for determining if the conditions have been met, and~~
 154 ~~the schedule of performance grant payments.~~

155 (d) The Governor shall provide a written description and
 156 evaluation of each eligible high-impact business recommended for

157 approval for a high-impact business performance grant in an
 158 amount of \$2 million or more to the chair and vice chair of the
 159 Legislative Budget Commission, the President of the Senate, and
 160 the Speaker of the House of Representatives at least 14 days
 161 before giving final approval for a qualified high-impact
 162 business performance grant. The recommendation must include a
 163 memorandum of understanding meeting the requirements provided in
 164 paragraph (b). If the chair or vice chair of the Legislative
 165 Budget Commission, the President of the Senate, or the Speaker
 166 of the House of Representatives timely advises the Executive
 167 Office of the Governor in writing that the award of funds
 168 exceeds the delegated authority of the Executive Office of the
 169 Governor or is contrary to legislative policy or intent, the
 170 Executive Office of the Governor shall void the release of funds
 171 and instruct the department to immediately change such action or
 172 proposed action.

173 (e) An amendment or modification to an executed contract
 174 that results in a one-half point or greater reduction in the
 175 economic benefit ratio shall not take effect until it has been
 176 approved through the approval process provided for in paragraph
 177 (d).

178 (f) The department shall validate contractor performance
 179 and report such validation in the annual incentives report
 180 required under s. 288.907.

181 Section 6. Subsection (3) of section 288.1088, Florida
 182 Statutes, is amended to read:

183 288.1088 Quick Action Closing Fund.—

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

- 189 1. Based on extraordinary circumstances;
- 190 2. In order to mitigate the impact of the conclusion of
 191 the space shuttle program; or
- 192 3. In rural areas of critical economic concern if the
 193 project would significantly benefit the local or regional
 194 economy.

195 (b) The department shall evaluate individual proposals for
 196 high-impact business facilities. Such evaluation must include,
 197 but need not be limited to:

- 198 1. A description of the type of facility or
 199 infrastructure, its operations, and the associated product or
 200 service associated with the facility.
- 201 2. The number of full-time-equivalent jobs that will be
 202 created by the facility and the total estimated average annual
 203 wages of those jobs or, in the case of privately developed rural
 204 infrastructure, the types of business activities and jobs
 205 stimulated by the investment.
- 206 3. The cumulative amount of investment to be dedicated to
 207 the facility within a specified period.
- 208 4. A statement of any special impacts the facility is

209 expected to stimulate in a particular business sector in the
 210 state or regional economy or in the state's universities and
 211 community colleges.

212 5. A statement of the role the incentive is expected to
 213 play in the decision of the applicant business to locate or
 214 expand in this state or for the private investor to provide
 215 critical rural infrastructure.

216 6. A report evaluating the quality and value of the
 217 company submitting a proposal. The report must include:

218 a. A financial analysis of the company, including an
 219 evaluation of the company's short-term liquidity ratio as
 220 measured by its assets to liability, the company's profitability
 221 ratio, and the company's long-term solvency as measured by its
 222 debt-to-equity ratio;

223 b. The historical market performance of the company;

224 c. A review of any independent evaluations of the company;

225 d. A review of the latest audit of the company's financial
 226 statement and the related auditor's management letter; and

227 e. A review of any other types of audits that are related
 228 to the internal and management controls of the company.

229 (c)1. Within 7 business days after evaluating a project,
 230 the department shall recommend to the Governor approval or
 231 disapproval of a project for receipt of funds from the Quick
 232 Action Closing Fund. In recommending a project, the department
 233 shall include a memorandum of understanding between the
 234 department and the applicant, which shall be incorporated into

235 the final contract, that sets forth the conditions for payment
 236 of moneys from the fund. The memorandum of understanding must
 237 include the total amount of recommended funds to be awarded; the
 238 performance conditions that must be met to obtain the award,
 239 including, but not limited to, net new employment in the state,
 240 average salary, and total capital investment incurred by the
 241 business; a baseline of current service and a measure of
 242 enhanced capability; the methodology for validating performance;
 243 the schedule of payments from the fund; and sanctions for
 244 failure to meet performance conditions, including any clawback
 245 provisions ~~proposed performance conditions that the project must~~
 246 ~~meet to obtain incentive funds.~~

247 2. The Governor may approve a project requiring less than
 248 \$2 million in funding ~~projects~~ without consulting the
 249 Legislature ~~for projects requiring less than \$2 million in~~
 250 ~~funding.~~ However, the Governor shall provide a written
 251 description and evaluation of the approved project and a
 252 memorandum of understanding meeting the requirements of
 253 subparagraph 1. to the chair and vice chair of the Legislative
 254 Budget Commission, the President of the Senate, and the Speaker
 255 of the House of Representatives within 1 business day after
 256 approval.

257 3. ~~For projects requiring funding in the amount of \$2~~
 258 ~~million to \$5 million,~~ The Governor shall provide a written
 259 description and evaluation of each ~~a~~ project recommended for
 260 approval that requires funding in an amount of \$2 million or

261 more to the chair and vice chair of the Legislative Budget
 262 Commission, the President of the Senate, and the Speaker of the
 263 House of Representatives at least 14 ~~10~~ days before ~~prior to~~
 264 giving final approval for a project. The recommendation must
 265 include a memorandum of understanding meeting the requirements
 266 of subparagraph 1 ~~proposed performance conditions that the~~
 267 ~~project must meet in order to obtain funds.~~

268 4. If the chair or vice chair of the Legislative Budget
 269 Commission, ~~or~~ the President of the Senate, or the Speaker of
 270 the House of Representatives timely advises the Executive Office
 271 of the Governor, in writing, that such action or proposed action
 272 exceeds the delegated authority of the Executive Office of the
 273 Governor or is contrary to legislative policy or intent, the
 274 Executive Office of the Governor shall void the release of funds
 275 and instruct the department to immediately change such action or
 276 proposed action ~~until the Legislative Budget Commission or the~~
 277 ~~Legislature addresses the issue. Notwithstanding such~~
 278 ~~requirement, any project exceeding \$5 million must be approved~~
 279 ~~by the Legislative Budget Commission prior to the funds being~~
 280 ~~released.~~

281 (d) Upon the approval of the Governor in accordance with
 282 subparagraph(c)2. or upon expiration of the 14-day legislative
 283 consultation period provided for in subparagraph (c)3. without
 284 objection, the department and the business shall enter into a
 285 contract that sets forth the conditions for payment of moneys
 286 from the fund. The contract must include the total amount of

287 funds awarded; the performance conditions that must be met to
 288 obtain the award, including, but not limited to, net new
 289 employment in the state, average salary, and total capital
 290 investment; demonstrate a baseline of current service and a
 291 measure of enhanced capability; the methodology for validating
 292 performance; the schedule of payments from the fund; and
 293 sanctions for failure to meet performance conditions. The
 294 contract must provide that payment of moneys from the fund is
 295 contingent upon sufficient appropriation of funds by the
 296 Legislature.

297 (e) An amendment or modification to an executed contract
 298 that results in a one-half point or greater reduction in the
 299 economic benefit ratio shall not take effect until it has been
 300 approved through the approval process provided for in
 301 subparagraph (c)3.

302 (f)~~(e)~~ The department shall validate contractor
 303 performance and report such validation in the annual incentives
 304 report required under s. 288.907.

305 Section 7. Subsections (7) and (8) of section 288.1089,
 306 Florida Statutes, are amended to read:

307 288.1089 Innovation Incentive Program.—

308 (7) (a) Within 7 days after evaluating an innovation
 309 incentive award proposal, the department shall recommend to the
 310 Governor approval or disapproval of an award. In recommending an
 311 award, the department shall include a memorandum of
 312 understanding between the department and the applicant, which

313 shall be incorporated into the final contract, setting forth the
 314 conditions for payment of the incentive funds. The memorandum of
 315 understanding must include the total amount of funds awarded;
 316 the performance conditions that must be met to obtain the award,
 317 including, but not limited to, net new employment in the state,
 318 average salary, and total capital investment incurred by the
 319 business; a baseline of current service and a measure of
 320 enhanced capability; the methodology for validating performance;
 321 the schedule of payments; and sanctions for failure to meet
 322 performance conditions, including any clawback provisions ~~Upon~~
 323 ~~receipt of the evaluation and recommendation from the~~
 324 ~~department, the Governor shall approve or deny an award. In~~
 325 ~~recommending approval of an award, the department shall include~~
 326 ~~proposed performance conditions that the applicant must meet in~~
 327 ~~order to obtain incentive funds and any other conditions that~~
 328 ~~must be met before the receipt of any incentive funds. The~~
 329 ~~Governor shall consult with the President of the Senate and the~~
 330 ~~Speaker of the House of Representatives before giving approval~~
 331 ~~for an award. Upon review and approval of an award by the~~
 332 ~~Legislative Budget Commission, the Executive Office of the~~
 333 ~~Governor shall release the funds.~~

334 (b) The Governor may approve an innovation incentive award
 335 in an amount less than \$2 million without consulting the
 336 Legislature. However, the Governor shall provide a written
 337 description and evaluation of the approved project and a
 338 memorandum of understanding meeting the requirements of

339 paragraph (a) to the chair and vice chair of the Legislative
 340 Budget Commission, the President of the Senate, and the Speaker
 341 of the House of Representatives within 1 business day after
 342 approval.

343 (c) The Governor shall provide a written description and
 344 evaluation of each innovation incentive award proposal
 345 recommended for approval for an innovation incentive award in an
 346 amount of \$2 million or more to the chair and vice chair of the
 347 Legislative Budget Commission, the President of the Senate, and
 348 the Speaker of the House of Representatives at least 14 days
 349 before giving final approval for an award. The recommendation
 350 must include a memorandum of understanding meeting the
 351 requirements of paragraph (a). If the chair or vice chair of the
 352 Legislative Budget Commission, the President of the Senate, or
 353 the Speaker of the House of Representatives timely advises the
 354 Executive Office of the Governor in writing that the award of
 355 incentive funds exceeds the delegated authority of the Executive
 356 Office of the Governor or is contrary to legislative policy or
 357 intent, the Executive Office of the Governor shall void the
 358 release of funds and instruct the department to immediately
 359 change such action or proposed action.

360 (d) An amendment or modification to an executed contract
 361 that results in a one-half point or greater reduction in the
 362 economic benefit ratio shall not take effect until it has been
 363 approved through the approval process provided for in paragraph
 364 (c).

365 (8)(a) In addition to the requirements provided in
 366 paragraph (7) (a), a contract between the department and an award
 367 recipient ~~After the conditions set forth in subsection (7) have~~
 368 ~~been met, the department shall issue a letter certifying the~~
 369 ~~applicant as qualified for an award. The department and the~~
 370 ~~award recipient shall enter into an agreement that sets forth~~
 371 ~~the conditions for payment of the incentive funds. The agreement~~
 372 ~~must include, at a minimum:~~

- 373 1. ~~The total amount of funds awarded.~~
- 374 2. ~~The performance conditions that must be met in order to~~
 375 ~~obtain the award or portions of the award, including, but not~~
 376 ~~limited to, net new employment in the state, average wage, and~~
 377 ~~total cumulative investment.~~
- 378 3. ~~Demonstration of a baseline of current service and a~~
 379 ~~measure of enhanced capability.~~
- 380 4. ~~The methodology for validating performance.~~
- 381 5. ~~The schedule of payments.~~
- 382 6. ~~Sanctions for failure to meet performance conditions,~~
 383 ~~including any clawback provisions.~~

384 ~~(b)~~ ~~Additionally, agreements signed on or after July 1,~~
 385 ~~2009,~~ must include the following provisions:

- 386 1. Notwithstanding subsection (4), a requirement that the
 387 jobs created by the recipient of the incentive funds pay an
 388 annual average wage at least equal to the relevant industry's
 389 annual average wage or at least 130 percent of the average
 390 private sector wage, whichever is greater.

391 2. A reinvestment requirement. Each recipient of an award
392 shall reinvest up to 15 percent of net royalty revenues,
393 including revenues from spin-off companies and the revenues from
394 the sale of stock it receives from the licensing or transfer of
395 inventions, methods, processes, and other patentable discoveries
396 conceived or reduced to practice using its facilities in Florida
397 or its Florida-based employees, in whole or in part, and to
398 which the recipient of the grant becomes entitled during the 20
399 years following the effective date of its agreement with the
400 department. Each recipient of an award also shall reinvest up to
401 15 percent of the gross revenues it receives from naming
402 opportunities associated with any facility it builds in this
403 state. Reinvestment payments shall commence no later than 6
404 months after the recipient of the grant has received the final
405 disbursement under the contract and shall continue until the
406 maximum reinvestment, as specified in the contract, has been
407 paid. Reinvestment payments shall be remitted to the department
408 for deposit in the Biomedical Research Trust Fund for companies
409 specializing in biomedicine or life sciences, or in the Economic
410 Development Trust Fund for companies specializing in fields
411 other than biomedicine or the life sciences. If these trust
412 funds no longer exist at the time of the reinvestment, the
413 state's share of reinvestment shall be deposited in their
414 successor trust funds as determined by law. Each recipient of an
415 award shall annually submit a schedule of the shares of stock
416 held by it as payment of the royalty required by this paragraph

417 and report on any trades or activity concerning such stock. Each
418 recipient's reinvestment obligations survive the expiration or
419 termination of its agreement with the state.

420 3. Requirements for the establishment of internship
421 programs or other learning opportunities for educators and
422 secondary, postsecondary, graduate, and doctoral students.

423 4. A requirement that the recipient submit quarterly
424 reports and annual reports related to activities and performance
425 to the department, according to standardized reporting periods.

426 5. A requirement for an annual accounting to the
427 department of the expenditure of funds disbursed under this
428 section.

429 6. A process for amending the agreement.

430 Section 8. This act shall take effect July 1, 2014.