

CHAPTER 2010-147

Committee Substitute for Senate Bill No. 1752

An act relating to economic development; amending s. 125.045, F.S.; requiring an agency or entity that receives county funds for economic development purposes pursuant to a contract to submit a report on the use of the funds; requiring the county to include the report in its annual financial audit; requiring counties to report on the provision of economic development incentives to businesses to the Legislative Committee on Intergovernmental Relations or successor entity; amending s. 166.021, F.S.; requiring an agency or entity that receives municipal funds for economic development purposes pursuant to a contract to submit a report on the use of the funds; requiring the municipality to include the report in its annual financial audit; requiring municipalities to report on the provision of economic development incentives to businesses to the Legislative Committee on Intergovernmental Relations or successor entity; amending s. 196.1995, F.S.; authorizing counties and municipalities to extend economic development ad valorem tax exemptions under certain circumstances; amending s. 212.02, F.S.; defining the term “fractional aircraft ownership program”; amending s. 212.031, F.S.; providing a partial exemption from the tax on renting, leasing, letting, or granting a license for the use of real property for property rented, leased, subleased, or licensed to a person providing certain services at convention halls, civic centers, or public lodging establishments; providing for application only to certain portions of payments; providing for retroactive application; amending s. 212.04, F.S.; extending certain exemptions from the admissions tax; expanding an exemption for admissions to certain professional sporting events; amending s. 212.05, F.S.; deleting a requirement that a certain penalty is mandatory and not waivable by the Department of Revenue; deleting authorization to return certain aircraft to the state for repairs without liability for taxes and penalty under certain circumstances; imposing a maximum limitation on the amount of tax collected on sales of boats in this state; creating s. 212.0597, F.S.; providing a maximum tax on the sale or use of fractional aircraft ownership interests; amending s. 212.08, F.S.; redefining the terms “real property” and “rehabilitation of real property” for purposes of the sales tax exemption on certain building materials used in the rehabilitation of real property used in an enterprise zone; specifying procedures to claim a sales tax credit under the entertainment industry financial incentive program; providing an exemption from the use tax for an aircraft that temporarily enters the state or is temporarily in the state for certain purposes; requiring documentation that identifies the aircraft in order to qualify for the exemption; providing that the exemption is in addition to certain other exemptions; providing tax exemptions on the sale or use of aircraft primarily used in a fractional aircraft ownership program and for the parts and labor used in the maintenance, repair, and overhaul of such aircraft; authorizing the department to adopt rules; amending s. 213.053, F.S.;

authorizing the Department of Revenue to provide tax credit information to the Office of Film and Entertainment and the Office of Tourism, Trade, and Economic Development; amending s. 220.02, F.S.; providing for tax credits pursuant to the entertainment industry financial incentive program and the jobs for the unemployed tax credit program to be taken against the corporate income tax or the franchise tax after other existing credits are taken; amending s. 220.13, F.S.; revising the calculation of additions to adjusted federal income; creating s. 220.1896, F.S.; creating the jobs for the unemployed tax credit program to provide a tax credit to certain businesses that employ certain individuals who were previously unemployed after a certain date; providing for applications for certification under the program to be reviewed by Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development; providing criminal penalties for fraudulent claims of a tax credit; authorizing the Office of Tourism, Trade, and Economic Development and the Department of Revenue to adopt rules; providing for the expiration of the tax credit program; creating s. 220.1899, F.S.; providing for credits against the corporate income tax in the amounts awarded under the entertainment industry financial incentive program; providing for carryforward of the tax credits under certain circumstances; amending s. 288.018, F.S.; revising the allowable uses for matching grants awarded under the Regional Rural Development Grants Program; creating s. 288.0659, F.S.; creating the Local Government Distressed Area Matching Grant Program within the Office of Tourism, Trade, and Economic Development; providing a program purpose; providing definitions; authorizing the office to accept and administer appropriated moneys to provide local government distressed area matching grants; authorizing local governments to apply for grants to match qualified business assistance; providing qualifying requirements for targeted businesses; specifying evaluation criteria for reviewing grant requests; subjecting grant approval to legislative appropriation; providing limitations on expending funds; providing procedures for approving grant allocations or disapproving application; providing a process for making preliminary and final grant awards; providing requirements for grant recipients; providing for revocation of grants; limiting the grant amount for the qualified business assistance; authorizing the office to retain certain funds for administrative costs; amending s. 288.1045, F.S.; revising the definition of the term “jobs” for purposes of the qualified defense contractor and space flight business tax refund program; amending s. 288.106, F.S.; revising definitions, refund amounts, eligibility, requirements, and procedures for the tax refund program for qualified target industry businesses; amending s. 288.107, F.S.; revising the definition of the term “jobs” for purposes of brownfield redevelopment bonus refunds; correcting a cross-reference; amending s. 288.108, F.S.; revising the definitions of the terms “eligible high-impact business” and “jobs” for purposes of high-impact sector performance grants; revising the guidelines for negotiating the award of high-impact sector performance grants; creating s. 288.1083, F.S.; creating the Manufacturing and Spaceport Investment Incentive Program within the Office of Tourism, Trade and Economic Development; providing a purpose; providing definitions; providing for refunds of sales

and use taxes paid on certain equipment purchases; providing for allocation of refunds by the office; limiting the amount of individual refunds; providing application requirements and procedures; providing for priority of allocations; providing requirements and procedures for certification of refunds for eligible equipment purchases; providing procedures for allocating surplus amounts; providing refund limitations; requiring the office to adopt emergency rules; authorizing the office to establish guideline for demonstrating certain purchases; providing for future repeal; amending s. 288.1088, F.S.; revising the process for legislative consultation and review of Quick Action Closing Fund projects; authorizing certain Quick Action Closing Fund businesses to request renegotiation of their contracts; providing for review and approval of the requests; providing for the return of funds under certain circumstances; providing for the reappropriation of returned funds; providing for expiration; requiring that certain funds be placed in reserve; providing for the release of funds; providing for the reversion of funds; amending s. 288.1089, F.S.; revising the definitions of the term “jobs” for purposes of the Innovation Incentive Program; amending s. 288.125, F.S.; redefining the term “entertainment industry” to include digital media projects; amending s. 288.1251, F.S.; requiring the Office of Film and Entertainment to update its strategic plan every 5 years; deleting requirements for the Office of Film and Entertainment to represent certain decisionmakers within the entertainment industry and to act as a liaison between entertainment industry producers and labor organizations; amending s. 288.1252, F.S.; deleting obsolete provisions; deleting the requirement for the Commissioner of Film and Entertainment and a representative of the Florida Tourism Marketing Council to serve as ex officio members of the Film and Entertainment Advisory Council; amending s. 288.1253, F.S.; eliminating provisions authorizing the payment of travel expenses to persons other than employees of the Office of Film and Entertainment, the Governor and Lieutenant Governor, and security staff; providing for the payment of travel expenses through reimbursements; amending s. 288.1254, F.S.; revising the entertainment industry financial incentive program to provide corporate income tax and sales and use tax credits to qualified entertainment entities rather than reimbursements from appropriations; revising provisions relating to definitions, creation and scope, application procedures, approval process, eligibility, required documents, qualified and certified productions, and annual reports; providing duties and responsibilities of the Office of Film and Entertainment, the Office of Tourism, Trade, and Economic Development, and the Department of Revenue relating to the tax credits; providing criteria and limitations for awards of tax credits; providing for uses, allocations, election, distributions, and carryforward of the tax credits; providing for withdrawal of tax credit eligibility; providing for use of consolidated returns; providing for partnership and noncorporate distributions of tax credits; providing for succession of tax credits; providing for relinquishment of tax credits; providing requirements for transfer of tax credits; authorizing the Office of Tourism, Trade, and Economic Development to adopt rules, policies, and procedures; authorizing the Department of Revenue to adopt rules and conduct audits;

providing for revocation and forfeiture of tax credits; providing liability for reimbursement of certain costs and fees associated with a fraudulent claim; requiring an annual report to the Governor and the Legislature; providing for future repeal; amending s. 288.1258, F.S.; requiring the Office of Film and Entertainment to include in its records certain ratios of tax exemptions and incentives to the estimated funds expended by a certified production; creating s. 288.9552, F.S.; creating the Florida Research Commercialization Matching Grant Program; providing program purposes, goals and objectives; providing for administration of the program by the Florida Institute for the Commercialization of Public Research; providing eligibility guidelines; providing application guidelines; providing peer review guidelines; providing responsibilities of the program administrator; providing application review requirements and procedures; providing for grant awards; providing reporting requirements; providing for expiration unless reviewed and reenacted; amending s. 288.9625, F.S.; revising the purpose of the Institute for the Commercialization of Public Research; deleting a requirement that Enterprise Florida, Inc., contract with a state university to fulfill the purposes of the institute; revising the institute's powers and duties; requiring the institute to administer a matching grant program to provide financial assistance for certain early stage companies; amending ss. 14.2015, 212.20, and 218.64, F.S., relating to the Office of Tourism, Trade, and Economic Development, the distribution of certain tax proceeds, and the allocation of a portion of the local government half-cent sales tax; conforming provisions to changes made by the act; conforming cross-references; amending s. 288.1162, F.S.; deleting provisions relating to the certification and funding of facilities for spring training baseball franchises; authorizing the Auditor General to conduct audits to verify whether certain funds for professional sports franchises are used as required by law; requiring the Auditor General to notify the Department of Revenue if the funds are not used as required by law; creating s. 288.11621, F.S.; authorizing certain units of local government to apply for certification to receive state funding for a facility for a spring training franchise; providing definitions; providing eligibility requirements; providing criteria to competitively evaluate applications for certification; requiring a certified applicant to use the funds awarded for specified public purposes and place unexpended funds in a trust fund or separate account; authorizing a certified applicant to request a suspension of the distribution of funds for a specified period under certain circumstances; requiring the expenditure of funds by certain certified applicants within a specified period; requiring the completion of certain spring training facility projects within a specified period; requiring certified applicants to submit annual reports to the Office of Tourism, Trade, and Economic Development; requiring the office to decertify applicants under certain circumstances; providing for delay in decertification proceedings for local governments certified before a specified date under certain circumstances; providing for review of the office's notice of intent to decertify an applicant; requiring an applicant to repay unencumbered state funds and interest after decertification; specifying circumstances under which a certified applicant that is a local government

may not be decertified under certain circumstances; requiring the office to develop a strategic plan relating to baseball spring training activities; requiring the office to adopt rules; authorizing the Auditor General to conduct audits to verify whether certified funds for baseball spring training facilities are used as required by law; requiring the Auditor General to notify the Department of Revenue if the funds are not used as required by law; amending s. 288.1229, F.S.; providing that the Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist in the retention of professional sports franchises; recognizing the validity of specified agreements under certain circumstances; amending s. 288.9913, F.S.; revising the definition of the term “qualified active low-income community business” for purposes of the New Markets Development Program Act; amending s. 288.9920, F.S.; extending the period within which a qualified community development entity may cure an investment deficiency; limiting the number of corrections permitted for qualified equity investments; amending s. 373.441, F.S.; revising provisions relating to adoption of rules relating to permitting; requiring the Department of Environmental Protection to adopt rules that authorize a local government to petition the Governor and Cabinet for certain delegation requests; requiring the Department of Environmental Protection to detail the statutes or rules that were not satisfied by a local government that made a request for delegation and to detail actions that could be taken to allow for delegation; authorizing a local government to petition the Governor and Cabinet to review the denial of a delegation request; providing for approval of a delegation of authority that meets the requirements of certain rule provisions; amending s. 403.061, F.S.; directing the Department of Environmental Protection to expand the use of online self-certification for certain exemptions and permits; limiting the authority of local governments to specify the method or form for documenting that projects qualify for exemptions or permits; amending s. 47 of chapter 2009-82, Laws of Florida; delaying the expiration of the Florida Homebuyer Opportunity Program; requiring the Office of Program Policy Analysis and Government Accountability to review the Enterprise Zone Program and submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring the Office of Program Policy Analysis and Government Accountability to review and evaluate the Research Commercialization Matching Grant Program and submit a report of its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives; extending the expiration dates of certain permits issued by the Department of Environmental Protection or a water management district; extending certain previously granted buildout dates; requiring a permitholder to notify the authorizing agency of its intended use of the extension; exempting certain permits from eligibility for an extension; providing for applicability of rules governing permits; declaring that certain provisions do not impair the authority of counties and municipalities under certain circumstances; providing legislative intent; reauthorizing certain exemptions, 2-year extensions, and local comprehensive plan amendments granted, authorized, or

adopted under general law and in effect as of a certain date; providing construction; providing for retroactive application; authorizing the funds in specific appropriation 2649 of chapter 2008-152, Laws of Florida, to be used for additional space-related economic-development purposes; specifying requirements for fuel tank upgrades; extending certain fuel service facility order deadlines; specifying compliance requirements; requiring that construction contracts funded by state funds contain a provision requiring the contractor to give preference to the employment of state residents if they have substantially equal qualifications as nonresidents; defining the term “substantially equal qualifications”; providing a finding that the act fulfills an important state interest; providing severability; providing appropriations; providing effective dates.

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

Section 1. Effective July 1, 2010, subsections (4) and (5) are added to section 125.045, Florida Statutes, to read:

125.045 County economic development powers.—

(4) A contract between the governing body of a county or other entity engaged in economic development activities on behalf of the county and an economic development agency must require the agency or entity receiving county funds to submit a report to the governing body of the county detailing how county funds were spent and detailing the results of the economic development agency’s or entity’s efforts on behalf of the county. By January 15, 2011, and annually thereafter, the county must file a copy of the report with the Legislative Committee on Intergovernmental Relations or its successor entity and post a copy of the report on the county’s website.

(5)(a) By January 15, 2011, and annually thereafter, each county shall report to the Legislative Committee on Intergovernmental Relations or its successor entity the economic development incentives in excess of \$25,000 given to any business during the county’s previous fiscal year. The Legislative Committee on Intergovernmental Relations or its successor entity shall provide the report to the Office of Tourism, Trade, and Economic Development. Economic development incentives include:

1. Direct financial incentives of monetary assistance provided to a business from the county or through an organization authorized by the county. Such incentives include, but are not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies.

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

3. Fee-based or tax-based incentives, including, but not limited to, credits, refunds, exemptions, and property tax abatement or assessment reductions.

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

(b) A county shall report its economic development incentives in the format specified by the Legislative Committee on Intergovernmental Relations or its successor entity.

(c) The Legislative Committee on Intergovernmental Relations or its successor entity shall compile the economic development incentives provided by each county in a manner that shows the total of each class of economic development incentives provided by each county and all counties.

Section 2. Effective July 1, 2010, paragraph (d) of subsection (9) of section 166.021, Florida Statutes, is redesignated as paragraph (f) and amended, and new paragraphs (d) and (e) are added to that subsection, to read:

166.021 Powers.—

(9)

(d) A contract between the governing body of a municipality or other entity engaged in economic development activities on behalf of the municipality and an economic development agency must require the agency or entity receiving municipal funds to submit a report to the governing body of the municipality detailing how the municipal funds are spent and detailing the results of the economic development agency’s or entity’s efforts on behalf of the municipality. By January 15, 2011, and annually thereafter, the municipality shall file a copy of the report with the Legislative Committee on Intergovernmental Relations or its successor entity and post a copy of the report on the municipality’s website.

(e)1. By January 15, 2011, and annually thereafter, each municipality having annual revenues or expenditures greater than \$250,000 shall report to the Legislative Committee on Intergovernmental Relations or its successor entity the economic development incentives in excess of \$25,000 given to any business during the municipality’s previous fiscal year. The Legislative Committee on Intergovernmental Relations or its successor entity shall provide the report to the Office of Tourism, Trade, and Economic Development. Economic development incentives include:

a. Direct financial incentives of monetary assistance provided to a business from the municipality or through an organization authorized by the municipality. Such incentives include, but are not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies.

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

c. Fee-based or tax-based incentives, including, but not limited to, credits, refunds, exemptions, and property tax abatement or assessment reductions.

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

2. A municipality shall report its economic development incentives in the format specified by the Legislative Committee on Intergovernmental Relations or its successor entity.

3. The Legislative Committee on Intergovernmental Relations or its successor entity shall compile the economic development incentives provided by each municipality in a manner that shows the total of each class of economic development incentives provided by each municipality and all municipalities.

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

Section 3. Subsection (7) of section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.—

(7) The authority to grant exemptions under this section expires will expire 10 years after the date such authority was approved in an election, but such authority may be renewed for subsequent another 10-year periods if each 10-year renewal is approved period in a referendum called and held pursuant to this section.

Section 4. Effective July 1, 2010, subsection (34) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(34) “Fractional aircraft ownership program” means a program that meets the requirements of 14 C.F.R. part 91, subpart K, relating to fractional ownership operations, except that the program must include a minimum of 25 aircraft owned or leased by the program manager and used in the program.

Section 5. Effective July 1, 2010, paragraph (a) of subsection (1) of section 212.031, Florida Statutes, is amended to read:

212.031 Tax on rental or license fee for use of real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing,

letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.
5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or provider of communications services, as defined by s. 202.11, for utility or communications or television purposes. For purposes of this subparagraph, the term “utility” means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.
6. A public street or road which is used for transportation purposes.
7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.
 - 8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.
 - b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term “qualified production services” means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term “sale” shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility, during an event at the facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products. This subparagraph applies only to that portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price. This subparagraph is repealed July 1, 2009.

13. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

14. Rented, leased, subleased, or licensed to a person providing telecommunications, data systems management, or Internet services at a publicly or privately owned convention hall, civic center, or meeting space at a public lodging establishment as defined in s. 509.013. This subparagraph applies only to that portion of the rental, lease, or license payment that is based upon a percentage of sales, revenue sharing, or royalty payments and not based upon a fixed price. This subparagraph is intended to be clarifying and remedial in nature and shall apply retroactively. This subparagraph does not provide a basis for an assessment of any tax not paid, or create a right to a refund of any tax paid, pursuant to this section before July 1, 2010.

Section 6. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, is reenacted and amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used. However, this exemption shall not apply to admission to athletic events sponsored by a state university, and the proceeds of the tax collected on such admissions shall be retained and

used by each institution to support women's athletics as provided in s. 1006.71(2)(c).

2.a. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended.

b. No tax shall be levied on admission charges to an event sponsored by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility and when 100 percent of the risk of success or failure lies with the sponsor of the event and 100 percent of the funds at risk for the event belong to the sponsor, and student or faculty talent is not exclusively used. As used in this sub-subparagraph, the terms "sports authority" and "sports commission" mean a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts. ~~This sub-subparagraph is repealed July 1, 2009.~~

3. No tax shall be levied on an admission paid by a student, or on the student's behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his or her attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game or Pro Bowl; on admissions to any semifinal game or championship game of a national collegiate tournament; ~~or~~ on admissions to a Major League Baseball, National Basketball Association, or National Hockey League all-star game; on admissions to the Major League Baseball Home Run Derby held before the Major League Baseball All-Star Game; or on admissions to the National Basketball Association Rookie Challenge, Celebrity Game, 3-Point Shooting Contest, or Slam Dunk Challenge.

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that

the organization is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of \$1.5 million multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

7. Also exempt from the tax imposed by this section are entry fees for participation in freshwater fishing tournaments.

8. Also exempt from the tax imposed by this section are participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event.

9. No tax shall be levied on admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

Section 7. Effective July 1, 2010, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including

the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

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

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the

purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations;

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

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

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

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

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser shall apply to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, prior to delivery of the boat.

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

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

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

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

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

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

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

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

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(ggg), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft

and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department. The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason. ~~Notwithstanding other provisions of this paragraph to the contrary, an aircraft purchased in this state under the provisions of this paragraph may be returned to this state for repairs within 6 months after the date of its departure without being in violation of the law and without incurring liability for the payment of tax or penalty on the purchase price of the aircraft if the aircraft is removed from this state within 20 days after the completion of the repairs and if such removal can be demonstrated by invoices for fuel, tie-down, hangar charges issued by out-of-state vendors or suppliers, or similar documentation.~~

(5) Notwithstanding any other provision of this chapter, the maximum amount of tax imposed under this chapter and collected on each sale or use of a boat in this state may not exceed \$18,000.

Section 8. Effective July 1, 2010, section 212.0597, Florida Statutes, is created to read:

212.0597 Maximum tax on fractional aircraft ownership interests.—The maximum tax imposed under this chapter, including any discretionary sales surtax under s. 212.055, is limited to \$300 on the sale or use in this state of a fractional ownership interest in aircraft pursuant to a fractional aircraft ownership program. The tax applies to the total consideration paid for the fractional ownership interest, including any amounts paid by the fractional owner as monthly management or maintenance fees. The tax applies only if the fractional ownership interest is sold by or to the program manager of the fractional aircraft ownership program, or if the fractional ownership interest is transferred upon the approval of the program manager of the fractional aircraft ownership program.

Section 9. Effective July 1, 2010, paragraphs (b) and (g) of subsection (5) of section 212.08, Florida Statutes, are amended, paragraph (q) is added to that subsection, and paragraphs (ggg) and (hhh) are added to subsection (7) of that section, to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

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

1. Industrial machinery and equipment purchased for exclusive use by a new business in spaceport activities as defined by s. 212.02 or for use in new

businesses ~~that~~ which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months after of that date.

2. Industrial machinery and equipment purchased for exclusive use by an expanding facility which is engaged in spaceport activities as defined by s. 212.02 or for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded facility or business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

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

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

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

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

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

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air-conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant, ~~or operation, or product line~~ in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months selected by the expanding business immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, ~~if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an~~

expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

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

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

- a. The name and address of the person claiming the refund.
- b. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.
- c. A description of the improvements made to accomplish the rehabilitation of the real property.
- d. A copy of the building permit issued for the rehabilitation of the real property.
- e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. ~~If In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices that which~~ evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the

cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

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

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

h. Whether the business is a small business as defined by s. 288.703(1).

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

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

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 1. or subparagraph 2. and that ~~that~~ meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the department of Revenue. The applicant is ~~shall be~~ responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

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

5. Not more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds \$500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or \$5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund granted pursuant to this paragraph ~~may shall~~ not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or \$10,000. A refund approved pursuant to this paragraph shall be made within 30 days ~~after~~ of formal approval by the department of the application for the refund. This subparagraph ~~applies shall apply~~ retroactively to July 1, 2005.

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

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

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

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

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

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

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

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

(q) Entertainment industry tax credit; authorization; eligibility for credits.—The credits against the state sales tax authorized pursuant to s. 288.1254 shall be deducted from any sales and use tax remitted by the dealer to the department by electronic funds transfer and may only be deducted on a sales and use tax return initiated through electronic data interchange. The dealer shall separately state the credit on the electronic return. The net amount of tax due and payable must be remitted by electronic funds transfer. If the credit for the qualified expenditures is larger than the amount owed on the sales and use tax return that is eligible for the credit, the unused amount of the credit may be carried forward to a succeeding reporting period as provided in s. 288.1254(4)(e). A dealer may only obtain a credit using the method described in this subparagraph. A dealer is not authorized to obtain a credit by applying for a refund.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ggg) Aircraft temporarily in the state—

1. An aircraft owned by a nonresident is exempt from the use tax imposed by this chapter if the aircraft enters and remains in this state for less than a total of 21 days during the 6-month period after the date of purchase. The temporary use of the aircraft and subsequent removal from this state may be proven by invoices for fuel, tie-down, or hangar charges issued by out-of-state vendors or suppliers or similar documentation that clearly and specifically identifies the aircraft. The exemption created by this subparagraph is in addition to the exemptions provided in subparagraph 2. and s. 212.05(1)(a).

2. An aircraft owned by a nonresident is exempt from the use tax imposed by this chapter if the aircraft enters or remains in this state exclusively for the purpose of flight training, repairs, alterations, refitting, or modification. Such purposes must be supported by written documentation issued by in-state vendors or suppliers which clearly and specifically identifies the

aircraft. The exemption created by this subparagraph is in addition to the exemptions provided in subparagraph 1. and s. 212.05(1)(a).

(hhh) Fractional aircraft ownership programs—The sale or use of aircraft primarily used in a fractional aircraft ownership program or of any parts or labor used in the completion, maintenance, repair, or overhaul of such aircraft is exempt from the tax imposed by this chapter. The exemption is not allowed unless the program manager of the fractional aircraft ownership program furnishes the dealer with a certificate stating that the lease, purchase, repair, or maintenance is for aircraft primarily used in a fractional aircraft ownership program and that the program manager qualifies for the exemption. If a program manager makes tax-exempt purchases on a continual basis, the program manager may allow the dealer to keep the certificate on file. The program manager must inform a dealer that keeps the certificate on file if the program manager no longer qualifies for the exemption. The department may adopt rules to administer this paragraph, including rules determining the format of the certificate.

Section 10. Effective July 1, 2010, paragraph (z) is added to subsection (8) of section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

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

(z) Information relative to tax credits taken under s. 288.1254 to the Office of Film and Entertainment and the Office of Tourism, Trade, and Economic Development.

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

Section 11. Effective July 1, 2010, subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, those enumerated in s. 220.187, those enumerated in s. 220.192, those enumerated in s. 220.193, and those enumerated in s.

288.9916, those enumerated in s. 220.1899, and those enumerated in s. 220.1896.

Section 12. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 “Adjusted federal income” defined.—

(1) The term “adjusted federal income” means an amount equal to the taxpayer’s taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) *Additions.*—There shall be added to such taxable income:

1. The amount of any tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any state of the United States which is deductible from gross income in the computation of taxable income for the taxable year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

6. The amount of emergency excise tax paid or accrued as a liability to this state under chapter 221 which tax is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

9. The amount taken as a credit for the taxable year under s. 220.1895.

10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for the taxable year under s. 220.185.

11. The amount taken as a credit for the taxable year under s. 220.187.

12. The amount taken as a credit for the taxable year under s. 220.192.

13. The amount taken as a credit for the taxable year under s. 220.193.

14. Any portion of a qualified investment, as defined in s. 288.9913, which is claimed as a deduction by the taxpayer and taken as a credit against income tax pursuant to s. 288.9916.

15. The costs to acquire a tax credit pursuant to s. 288.1254(5) that are deducted from or otherwise reduce federal taxable income for the taxable year.

Section 13. Effective July 1, 2010, section 220.1896, Florida Statutes, is created to read:

220.1896 Jobs for the Unemployed Tax Credit Program.—

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

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

(b) "Office" means the Office of Tourism, Trade, and Economic Development.

(c) "Qualified employee" means a person:

1. Who was unemployed at least 30 days immediately prior to being hired by an eligible business.

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

3. Who performed duties connected to the operations of the eligible business on a regular, full-time basis for an average of at least 36 hours per

week and for at least 12 months before an eligible business is awarded a tax credit.

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

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

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

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

2. Relevant employment information.

3. A sworn affidavit, signed by each employee, attesting to his or her previous unemployment for whom the eligible business is seeking credits under this section.

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

5. Any other information necessary to process the application.

(b) The office shall process applications to certify a business in the order in which the applications are received, without regard as to whether the applicant is a new or an existing business. The office shall review and approve or deny an application within 10 days after receiving a completed application. The office shall notify the applicant in writing as to the office's decision.

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

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

3. If the application of an eligible business does not contain sufficient documentation of the number of qualified employees, the office shall approve the application with respect to the employees for whom the office determines are qualified employees. The office must deny the application with respect to persons for whom the office determines are not qualified employees or for whom insufficient documentation has been provided. A business may not submit a revised application for certification or for the determination of a person as a qualified employee more than 3 months after the issuance of a

notice of denial with respect to the business or a particular person as a qualified employee.

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

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

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

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

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

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

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

Section 14. Effective July 1, 2010, section 220.1899, Florida Statutes, is created to read:

220.1899 Entertainment industry tax credit.—

(1) There shall be a credit allowed against the tax imposed by this chapter in the amounts awarded by the Office of Tourism, Trade, and Economic Development under the entertainment industry financial incentive program in s. 288.1254.

(2) A qualified production company as defined in s. 288.1254 that is awarded a tax credit under s. 288.1254 may not claim the credit before July 1, 2011, regardless of when the credit is awarded.

(3) To the extent that the amount of a tax credit exceeds the amount due on a return, the balance of the credit may be carried forward to a succeeding taxable year pursuant to s. 288.1254(4)(e).

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

288.018 Regional Rural Development Grants Program.—

(1) The Office of Tourism, Trade, and Economic Development shall establish a matching grant program to provide funding to regionally based economic development organizations representing rural counties and communities for the purpose of building the professional capacity of their organizations. Such matching grants may also be used by an economic development organization to provide technical assistance to businesses within the rural counties and communities that it serves. The Office of Tourism, Trade, and Economic Development is authorized to approve, on an annual basis, grants to such regionally based economic development organizations. The maximum amount an organization may receive in any year will be \$35,000, or \$100,000 in a rural area of critical economic concern recommended by the Rural Economic Development Initiative and designated by the Governor, and must be matched each year by an equivalent amount of nonstate resources.

Section 16. Effective July 1, 2010, section 288.0659, Florida Statutes, is created to read:

288.0659 Local Government Distressed Area Matching Grant Program.

(1) The Local Government Distressed Area Matching Grant Program is created within the Office of Tourism, Trade, and Economic Development. The purpose of the program is to stimulate investment in the state's economy by providing grants to match demonstrated business assistance by local governments to attract and retain businesses in this state.

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

(a) "Local government" means a county or municipality.

(b) "Office" means the Office of Tourism, Trade, and Economic Development.

(c) "Qualified business assistance" means economic incentives provided by a local government for the purpose of attracting or retaining a specific business, including, but not limited to, suspensions, waivers, or reductions of impact fees or permit fees; direct incentive payments; expenditures for onsite

or offsite improvements directly benefiting a specific business; or construction or renovation of buildings for a specific business.

(3) The office may accept and administer moneys appropriated to the office for providing grants to match expenditures by local governments to attract or retain businesses in this state.

(4) A local government may apply for grants to match qualified business assistance made by the local government for the purpose of attracting or retaining a specific business. A local government may apply for no more than one grant per targeted business. A local government may only have one application pending with the office. Additional applications may be filed after a previous application has been approved or denied.

(5) To qualify for a grant, the business being targeted by a local government must create at least 15 full-time jobs, must be new to this state, must be expanding its operations in this state, or would otherwise leave the state absent state and local assistance, and the local government applying for the grant must expedite its permitting processes for the target business by accelerating the normal review and approval timelines. In addition to these requirements, the office shall review the grant requests using the following evaluation criteria, with priority given in descending order:

(a) The presence and degree of pervasive poverty, unemployment, and general distress as determined pursuant to s. 290.0058 in the area where the business will locate, with priority given to locations with greater degrees of poverty, unemployment, and general distress.

(b) The extent of reliance on the local government expenditure as an inducement for the business's location decision, with priority given to higher levels of local government expenditure.

(c) The number of new full-time jobs created, with priority given to higher numbers of jobs created.

(d) The average hourly wage for jobs created, with priority given to higher average wages.

(e) The amount of capital investment to be made by the business, with priority given to higher amounts of capital investment.

(6) In evaluating grant requests, the office shall take into consideration the need for grant assistance as it relates to the local government's general fund balance as well as local incentive programs that are already in existence.

(7) Funds made available pursuant to this section may not be expended in connection with the relocation of a business from one community to another community in this state unless the office determines that without such relocation the business will move outside this state or determines that

the business has a compelling economic rationale for the relocation which creates additional jobs. Funds made available pursuant to this section may not be used by the receiving local government to supplant matching commitments required of the local government pursuant to other state or federal incentive programs.

(8) Within 30 days after the office receives an application for a grant, the office shall approve a preliminary grant allocation or disapprove the application. The preliminary grant allocation shall be based on estimates of qualified business assistance submitted by the local government and shall equal 50 percent of the amount of the estimated qualified business assistance or \$50,000, whichever is less. The preliminary grant allocation shall be executed by contract with the local government. The contract shall set forth the terms and conditions, including the timeframes within which the final grant award will be disbursed. The final grant award may not exceed the preliminary grant allocation. The office may approve preliminary grant allocations only to the extent that funds are appropriated for such grants by the Legislature.

(a) Preliminary grant allocations that are revoked or voluntarily surrendered shall be immediately available for reallocation.

(b) Recipients of preliminary grant allocations shall promptly report to the office the date on which the local government's permitting and approval process is completed and the date on which all qualified business assistance are completed.

(9) The office shall make a final grant award to a local government within 30 days after receiving information from the local government sufficient to demonstrate actual qualified business assistance. An awarded grant amount shall equal 50 percent of the amount of the qualified business assistance or \$50,000, whichever is less, and may not exceed the preliminary grant allocation. The amount by which a preliminary grant allocation exceeds a final grant award shall be immediately available for reallocation.

(10) Up to 2 percent of the funds appropriated annually be the Legislature for the program may be used by the office for direct administrative costs associated with implementing this section.

Section 17. Paragraph (j) of subsection (1) of section 288.1045, Florida Statutes, is amended to read:

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

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

(j) "Jobs" means full-time equivalent positions, including, but not limited to, positions obtained from a temporary employment agency or employee leasing company or through a union agreement or coemployment under a professional employer organization agreement, that consistent with the use

~~of such terms by the Agency for Workforce Innovation for the purpose of unemployment compensation tax, created or retained as a direct result directly from~~ of a project in this state. This number does not include temporary construction jobs involved with the construction of facilities for the project.

Section 18. Paragraphs (c), (d), and (e) of subsection (2) of section 288.106, Florida Statutes, are redesignated as paragraphs (d), (e), and (f), respectively, and paragraph (o) of subsection (1), paragraph (b) of subsection (2), paragraphs (a) and (b) of subsection (3), and subsection (8) of that section are amended to read:

288.106 Tax refund program for qualified target industry businesses.—

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

(o) “Target industry business” means a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by the office in consultation with Enterprise Florida, Inc.:

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

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

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

4. Market and resource independent.—The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis, except for businesses in the renewable energy industry. ~~Special consideration should be given to the development of strong industrial clusters which include defense and homeland security businesses.~~

5. Industrial base diversification and strengthening.—The industry should contribute toward expanding or diversifying the state’s or area’s economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis. Special consideration should also be given to the

development of strong industrial clusters which include defense and homeland security businesses.

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

~~The office, in consultation with Enterprise Florida, Inc., shall develop a list of such target industries annually and submit such list as part of the final agency legislative budget request submitted pursuant to s. 216.023(1). A target industry business may not include any business industry engaged in retail industry activities; any electrical utility company; any phosphate or other solid minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation. Any business within NAICS code 5611 or 5614, office administrative services and business support services, respectively, may be considered a target industry business only after the local governing body and Enterprise Florida, Inc., make a determination that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area, including but not limited to, factors such as low per capita income, high unemployment, high underemployment, and a lack of year-round stable employment opportunities, and such conditions may be improved by the location of such a business to the community. By January 1 of every 3rd year, beginning January 1, 2011, the office, in consultation with Enterprise Florida, Inc., economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists, shall review and, as appropriate, revise the list of such target industries and submit the list to the Governor, the President of the Senate, and the Speaker of the House of Representatives.~~

(2) TAX REFUND; ELIGIBLE AMOUNTS.—

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

2. ~~Further,~~ A qualified target industry business shall be allowed additional tax refund payments equal to \$1,000 multiplied by times the number of jobs specified in the tax refund agreement under subparagraph (4)(a)1., if such jobs pay an annual average wage of at least 150 percent of the average private sector wage in the area, or equal to \$2,000 multiplied by times the number of jobs if such jobs pay an annual average wage of at least 200 percent of the average private sector wage in the area.

3. A qualified target industry business shall be allowed tax refund payments in addition to the other payments authorized in this paragraph

equal to \$1,000 multiplied by the number of jobs specified in the tax refund agreement under subparagraph (4)(a)1. if the local financial support is equal to that of the state's incentive award under subparagraph 1.

4. In addition to the other tax refund payments authorized in this paragraph, a qualified target industry business shall be allowed a tax refund payment equal to \$2,000 multiplied by the number of jobs specified in the tax refund agreement under subparagraph (4)(a)1. if the business:

a. Falls within one of the high-impact sectors designated under s. 288.108; or

b. Increases exports of its goods through a seaport or airport in the state by at least 10 percent in value or tonnage in each of the years that the business receives a tax refund under this section. For purposes of this subparagraph, seaports in the state are limited to the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

(c) A qualified target industry business may not receive refund payments of more than 25 percent of the total tax refunds specified in the tax refund agreement under subparagraph (4)(a)1. in any fiscal year. Further, a qualified target industry business may not receive more than \$1.5 million in refunds under this section in any single fiscal year, or more than \$2.5 million in any single fiscal year if the project is located in an enterprise zone. A qualified target industry may not receive more than \$5 million in refund payments under this section in all fiscal years, or more than \$7.5 million if the project is located in an enterprise zone. Funds made available pursuant to this section may not be expended in connection with the relocation of a business from one community to another community in this state unless the Office of Tourism, Trade, and Economic Development determines that without such relocation the business will move outside this state or determines that the business has a compelling economic rationale for the relocation and that the relocation will create additional jobs.

(3) APPLICATION AND APPROVAL PROCESS.—

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

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

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

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

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

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

6. The anticipated commencement date of the project.

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

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

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

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

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

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

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

b. The office may waive the average wage requirement at the request of the local governing body recommending the project and Enterprise Florida, Inc. The office may waive the wage requirement may only be waived for a project located in a brownfield area designated under s. 376.80, or in a rural city, in a rural community, or county or in an enterprise zone, or for a manufacturing project at any location in the state if the jobs proposed to be created pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located, and only if when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a recommendation, it must be transmitted in writing, and the specific justification for the waiver recommendation must be explained. If the office director elects to waive the wage requirement, the waiver must be stated in writing, and the reasons for granting the waiver must be explained.

2. The target industry business's project must result in the creation of at least 10 jobs at the such project and, in the case of if an expansion of an existing business, must result in a net increase in employment of at least 10 percent at the business. Notwithstanding the definition of the term "expansion of an existing business" in paragraph (1)(g), At the request of the local governing body recommending the project and Enterprise Florida, Inc., the office may waive this requirement for a business define an "expansion of an existing business" in a rural community or an enterprise zone as the expansion of a business resulting in a net increase in employment of less than 10 percent at such business if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a request, the request must be transmitted in writing, and the specific justification for the request must be explained. If the office director elects to grant the request, the grant must be stated in writing and the reason for granting the request must be explained.

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

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

(8) EXPIRATION.—An applicant may not be certified as qualified under this section after June 30, 2020 ~~2010~~. A tax refund agreement existing on that date shall continue in effect in accordance with its terms.

Section 19. Paragraph (f) of subsection (1) and paragraph (d) of subsection (4) of section 288.107, Florida Statutes, are amended to read:

288.107 Brownfield redevelopment bonus refunds.—

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

(f) “Jobs” means full-time equivalent positions, including, but not limited to, positions obtained from a temporary employment agency or employee leasing company or through a union agreement or coemployment under a professional employer organization agreement, that result as that term is consistent with terms used by the Agency for Workforce Innovation for the purpose of unemployment compensation tax, resulting directly from a project in this state. The term does not include temporary construction jobs involved with the construction of facilities for the project and which are not associated with the implementation of the site rehabilitation as provided in s. 376.80.

(4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—

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

Section 20. Paragraphs (a) and (g) of subsection (2), paragraph (b) of subsection (3), and paragraph (a) of subsection (6) of section 288.108, Florida Statutes, are amended to read:

288.108 High-impact business.—

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

(a) “Eligible high-impact business” means a business in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the Office of Tourism, Trade, and Economic Development as provided in subsection (5), which is making a cumulative investment in the state of at least \$50 ~~\$100~~ million and creating at least 50 ~~100~~ new full-time equivalent jobs in the state or a research and development facility making a cumulative investment of at least \$25 ~~\$75~~ million and creating at least 25 ~~75~~ new full-time equivalent jobs. Such investment and employment must be achieved in

a period not to exceed 3 years after the date the business is certified as a qualified high-impact business.

(g) “Jobs” means full-time equivalent positions, including, but not limited to, positions obtained from a temporary employment agency or employee leasing company or through a union agreement or coemployment under a professional employer organization agreement, that result as that term is consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation, resulting directly from a project in this state. The term does not include temporary construction jobs involved in the construction of the project facility.

(3) HIGH-IMPACT SECTOR PERFORMANCE GRANTS; ELIGIBLE AMOUNTS.—

(b) The office may, in consultation with Enterprise Florida, Inc., negotiate qualified high-impact business performance grant awards for any single qualified high-impact business. In negotiating such awards, the office shall consider the following guidelines in conjunction with other relevant applicant impact and cost information and analysis as required in subsection (5). A qualified high-impact business making a cumulative investment of \$50 million and creating 50 jobs may be eligible for a total qualified high-impact business performance grant of \$500,000 to \$1 million. A qualified high-impact business making a cumulative investment of \$100 million and creating 100 jobs may be eligible for a total qualified high-impact business performance grant of \$1 million to \$2 million. A qualified high-impact business making a cumulative investment of \$800 million and creating 800 jobs may be eligible for a qualified high-impact business performance grant of \$10 million to \$12 million. A qualified high-impact business engaged in research and development making a cumulative investment of \$25 million and creating 25 jobs may be eligible for a total qualified high-impact business performance grant of \$700,000 to \$1 million. A qualified high-impact business, engaged in research and development, making a cumulative investment of \$75 million, and creating 75 jobs may be eligible for a total qualified high-impact business performance grant of \$2 million to \$3 million. A qualified high-impact business, engaged in research and development, making a cumulative investment of \$150 million, and creating 150 jobs may be eligible for a qualified high-impact business performance grant of \$3.5 million to \$4.5 million.

(6) SELECTION AND DESIGNATION OF HIGH-IMPACT SECTORS.

(a) Enterprise Florida, Inc., shall, by January 1, of every third year, beginning January 1, 2011, at its discretion, initiate the process of reviewing and, if appropriate, selecting a new high-impact sector for designation or recommending the deactivation of a designated high-impact sector. The process of reviewing designated high-impact sectors or recommending the deactivation of a designated high-impact sector shall be in consultation with the office, economic development organizations, the State University

System, local governments, employee and employer organizations, market analysts, and economists.

Section 21. Section 288.1083, Florida Statutes, is created to read:

288.1083 Manufacturing and Spaceport Investment Incentive Program.

(1) The Manufacturing and Spaceport Investment Incentive Program is created within the Office of Tourism, Trade, and Economic Development. The purpose of the program is to encourage capital investment and job creation in manufacturing and spaceport activities in this state.

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

(a) “Base year purchases” means the total cost of eligible equipment purchased and placed into service in this state by an eligible entity in its tax year that began in 2008.

(b) “Department” means the Department of Revenue.

(c) “Eligible entity” means an entity that manufactures, processes, compounds, or produces items for sale of tangible personal property or engages in spaceport activities. The term also includes an entity that engages in phosphate or other solid minerals severance, mining, or processing operations. The term does not include electric utility companies, communications companies, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm that does not manufacture, process, compound, or produce for sale items of tangible personal property or that does not use such machinery and equipment in spaceport activities.

(d) “Eligible equipment” means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities, and that is located and placed into service in this state. A building and its structural components are not eligible equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air-conditioning systems are not eligible equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories only to the extent that the exemption of such parts and accessories is consistent with the provisions of this paragraph.

(e) “Eligible equipment purchases” means the cost of eligible equipment purchased and placed into service in this state in a given state fiscal year by an eligible entity in excess of the entity’s base year purchases.

(f) “Office” means the Office of Tourism, Trade, and Economic Development.

(g) “Refund” means a payment to an eligible entity for the amount of state sales and use tax actually paid on eligible equipment purchases.

(3) Beginning July 1, 2010, and ending June 30, 2011, and beginning July 1, 2011, and ending June 30, 2012, sales and use tax paid in this state on eligible equipment purchases may qualify for a refund as provided in this section. The total amount of refunds that may be allocated by the office to all applicants during the period beginning July 1, 2010, and ending June 30, 2011, is \$19 million. The total amount of tax refunds that may be allocated to all applicants during the period beginning July 1, 2011, and ending June 30, 2012, is \$24 million. An applicant may not be allocated more than \$50,000 in refunds under this section for a single year. Preliminary refund allocations that are revoked or voluntarily surrendered shall be immediately available for reallocation.

(4) To receive a refund, a business entity must first apply to the office for a tax refund allocation. The entity shall provide such information in the application as reasonably required by the office. Further, the business entity shall provide such information as is required by the office to establish the cost incurred and actual sales and use tax paid to purchase eligible equipment located and placed into service in this state during its taxable year that began in 2008.

(a) Within 30 days after the office receives an application for a refund, the office shall approve or disapprove the application.

(b) Refund allocations made during the 2010-2011 fiscal year shall be awarded in the same order in which applications are received. Eligible entities may apply to the office beginning July 1, 2010 for refunds attributable to eligible equipment purchases made during the 2010-2011 fiscal year. For the 2010-2011 fiscal year, the office shall allocate the maximum amount of \$50,000 per entity until the entire \$19 million available for refund in state fiscal year 2010-2011 has been allocated. If the total amount available for allocation during the 2010-2011 fiscal year is allocated, the office shall continue taking applications. Each applicant shall be informed of its place in the queue and whether the applicant received an allocation of the eligible funds.

(c) Refund allocations made during the 2011-2012 fiscal year shall first be given to any applicants remaining in the queue from the prior fiscal year. The office shall allocate the maximum amount of \$50,000 per entity, first to those applicants that remained in the queue from 2010-2011 for eligible purchases in 2010-2011, then to applicants for 2011-2012 in the order applications are

received for eligible purchases in 2011-2012. The office shall allocate the maximum amount of \$50,000 per entity until the entire \$24 million available to be allocated for refund in the 2011-2012 fiscal year is allocated. If the total amount available for refund in 2011-2012 has been allocated, the office shall continue to accept applications from eligible entities in the 2011-2012 fiscal year for refunds attributable to eligible equipment purchases made during the 2011-2012 fiscal year. Refund allocations made during the 2011-2012 fiscal year shall be awarded in the same order in which applications are received. Upon submitting an application, each applicant shall be informed of its place in the queue and whether the applicant has received an allocation of the eligible funds.

(5) Upon completion of eligible equipment purchases, a business entity that received a refund allocation from the office must apply to the office for certification of a refund. For eligible equipment purchases made during the 2010-2011 fiscal year, the application for certification must be made no later than September 1, 2011. For eligible equipment purchases made during the 2011-2012 fiscal year, the application for certification must be made no later than September 1, 2012. The application shall provide such documentation as is reasonably required by the office to calculate the refund amount including documentation necessary to confirm the cost of eligible equipment purchases supporting the claim of the sales and use tax paid thereon. Further, the business entity shall provide such documentation as required by the office to establish the entity's base year purchases. If, upon reviewing the application, the office determines that eligible equipment purchases did not occur, that the amount of tax claimed to have been paid or remitted on the eligible equipment purchases is not supported by the documentation provided, or that the information provided to the office was otherwise inaccurate, the amount of the refund allocation not substantiated shall not be certified. Otherwise, the office shall determine and certify the amount of the refund to the eligible entity and to the department within 30 days after the office receives the application for certification.

(6) Upon certification of a refund for an eligible entity, the entity shall apply to the department within 30 days for payment of the certified amount as a refund on a form prescribed by the department. The department may request documentation in support of the application and adopt emergency rules to administer the refund application process.

(7) For each of the 2010-2011 and 2011-2012 fiscal years, if the amount certified is less than the amount allocated, additional applicants shall be eligible to receive refund allocations in the order that applications are received for that year.

(8) An entity may receive refunds in each of the two years but only to the extent that the entity has eligible equipment purchases in each year. In no event may refunds for eligible equipment purchases made during 2010-11 result in more than \$50,000 of refunds per entity.

(9) The office shall adopt emergency rules governing applications for, issuance of, and procedures for allocation and certification and may establish guidelines as to the requisites for an demonstrating base year purchases and eligible equipment purchases.

(10) This section is repealed July 1, 2013.

Section 22. Subsection (3) of section 288.1088, Florida Statutes, is amended, and subsections (4) and (5) are added to that section, to read:

288.1088 Quick Action Closing Fund.—

(3)(a) Enterprise Florida, Inc., shall review applications pursuant to s. 288.061 and determine the eligibility of each project consistent with the criteria in subsection (2). Enterprise Florida, Inc., in consultation with the Office of Tourism, Trade, and Economic Development, may waive these criteria based on extraordinary circumstances or in rural areas of critical economic concern if the project would significantly benefit the local or regional economy.

(b) Enterprise Florida, Inc., shall evaluate individual proposals for high-impact business facilities and forward recommendations regarding the use of moneys in the fund for such facilities to the director of the Office of Tourism, Trade, and Economic Development. Such evaluation and recommendation must include, but need not be limited to:

1. A description of the type of facility or infrastructure, its operations, and the associated product or service associated with the facility.

2. The number of full-time-equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs or, in the case of privately developed rural infrastructure, the types of business activities and jobs stimulated by the investment.

3. The cumulative amount of investment to be dedicated to the facility within a specified period.

4. A statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

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

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

a. A financial analysis of the company, including an evaluation of the company's short-term liquidity ratio as measured by its assets to liability, the

company's profitability ratio, and the company's long-term solvency as measured by its debt-to-equity ratio;

- b. The historical market performance of the company;
- c. A review of any independent evaluations of the company;
- d. A review of the latest audit of the company's financial statement and the related auditor's management letter; and
- e. A review of any other types of audits that are related to the internal and management controls of the company.

~~(c)~~(b) Within 22 calendar days after receiving the evaluation and recommendation from Enterprise Florida, Inc., the director of the Office of Tourism, Trade, and Economic Development shall recommend to the Governor approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund. In recommending a project, the director shall include proposed performance conditions that the project must meet to obtain incentive funds. The Governor shall provide the evaluation of projects recommended for approval to the President of the Senate and the Speaker of the House of Representatives and consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. At least 14 days before releasing funds for a project, the Executive Office of the Governor shall recommend approval of the a project and the release of funds by delivering notice of such action pursuant to the legislative consultation and review requirements set forth in s. 216.177. The recommendation must include proposed performance conditions that the project must meet in order to obtain funds. If the chair or vice-chair of the Legislative Budget Commission or the President of the Senate or the Speaker of the House of Representatives timely advises the Executive Office of the Governor, in writing, that such action or proposed action exceeds the delegated authority of the Executive Office of the Governor or is contrary to legislative policy or intent, the Executive Office of the Governor shall void the release of funds and instruct the Office of Tourism, Trade, and Economic Development to immediately change such action or proposed action until the Legislative Budget Commission or the Legislature addresses the issue. Notwithstanding such requirement, any project exceeding \$2,000,000 must be approved by the Legislative Budget Commission prior to the funds being released.

~~(d)~~(e) Upon the approval of the Governor, the director of the Office of Tourism, Trade, and Economic Development and the business shall enter into a contract that sets forth the conditions for payment of moneys from the fund. The contract must include the total amount of funds awarded; the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment; demonstrate a baseline of current service and a measure of enhanced capability; the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet

performance conditions. The contract must provide that payment of moneys from the fund is contingent upon sufficient appropriation of funds by the Legislature and upon sufficient release of appropriated funds by the Legislative Budget Commission.

(e)(d) Enterprise Florida, Inc., shall validate contractor performance. Such validation shall be reported within 6 months after completion of the contract to the Governor, President of the Senate, and the Speaker of the House of Representatives.

(4)(a) A Quick Action Closing Fund business that, pursuant to its contract, submits reports to the Office of Tourism, Trade, and Economic Development on or after January 1, 2010, but no later than June 30, 2011, on the status of the business's compliance with the performance conditions of its contract may submit a written request to the Office of Tourism, Trade, and Economic Development for renegotiation of the contract. The request must provide quantitative evidence demonstrating how the business has materially complied with the terms of the contract or how negative economic conditions in the business's industry have prevented the business from complying with the terms and conditions of the contract. The request must also include proposed adjusted performance conditions.

(b) Within 45 days after receiving a Quick Action Closing Fund business's request to renegotiate its contract, the director of the Office of Tourism, Trade, and Economic Development must provide written notice to the business of whether the request for renegotiation is granted or denied. In making such a determination, the director shall consider the extent to which the business materially complied with the terms of the contract, the extent to which negative economic conditions in the business's industry occurred in the state, the proposed adjusted performance conditions, and the business's efforts to comply with the contract.

(c) Under no circumstances is the director of the Office of Tourism, Trade, and Economic Development required or obligated to grant a business' request to renegotiate its agreement.

(d) Upon granting a business's request to renegotiate, the Office of Tourism, Trade, and Economic Development, together with Enterprise Florida, Inc., shall determine the economic impact of the adjusted performance conditions and notify the business of any waiver of specified performance conditions and any adjusted award amount associated with the proposed adjusted performance conditions. The Quick Action Closing Fund business must renegotiate its contract with the Office of Tourism, Trade, and Economic Development in accordance with any waiver granted or for the adjusted amount and agree to return the difference between the original Quick Action Closing Fund award and the adjusted award without interest or penalties. When renegotiating a contract with a Quick Action Closing Fund business, the Office of Tourism, Trade, and Economic Development may extend the duration of the contract for a period not to exceed 2 years. The Office of Tourism, Trade, and Economic Development

shall notify the President of the Senate and the Speaker of the House of Representatives upon completion of any contract renegotiation. Any funds returned pursuant to this paragraph shall be reappropriated to the Office of Tourism, Trade, and Economic Development for the Quick Action Closing Fund.

(e) This subsection expires June 30, 2011.

(5) Funds appropriated by the Legislature for purposes of implementing this section shall be placed in reserve and may only be released pursuant to the legislative consultation and review requirements set forth in this section.

Section 23. Paragraph (k) of subsection (2) of section 288.1089, Florida Statutes, is amended to read:

288.1089 Innovation Incentive Program.—

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

(k) “Jobs” means full-time equivalent positions, including, but not limited to, positions obtained from a temporary employment agency or employee leasing company or through a union agreement or coemployment under a professional employer organization agreement, that result as that term is consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation, resulting directly from a project in this state. The term does not include temporary construction jobs.

Section 24. Effective July 1, 2010, section 288.125, Florida Statutes, is amended to read:

288.125 Definition of “entertainment industry”.—For the purposes of ss. 288.1251-288.1258, the term “entertainment industry” means those persons or entities engaged in the operation of motion picture or television studios or recording studios; those persons or entities engaged in the preproduction, production, or postproduction of motion pictures, made-for-television movies, television programming, digital media projects, commercial advertising, music videos, or sound recordings; and those persons or entities providing products or services directly related to the preproduction, production, or postproduction of motion pictures, made-for-television movies, television programming, digital media projects, commercial advertising, music videos, or sound recordings, including, but not limited to, the broadcast industry.

Section 25. Effective July 1, 2010, paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of section 288.1251, Florida Statutes, are amended to read:

288.1251 Promotion and development of entertainment industry; Office of Film and Entertainment; creation; purpose; powers and duties.—

(1) CREATION.—

(b) The Office of Tourism, Trade, and Economic Development shall conduct a national search for a qualified person to fill the position of Commissioner of Film and Entertainment, ~~when the position is vacant, and~~ The Executive Director of the Office of Tourism, Trade, and Economic Development ~~has the responsibility to~~ shall hire the commissioner of ~~Film and Entertainment. Qualifications for the commissioner~~ Guidelines for selection of the ~~Commissioner of Film and Entertainment~~ shall include, but ~~are~~ not be limited to, the ~~Commissioner of Film and Entertainment~~ having the following:

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

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

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

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

(2) POWERS AND DUTIES.—

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

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

a. Be annual in construction and ongoing in nature.

b. Include recommendations relating to the organizational structure of the office.

c. Include an annual budget projection for the office for each year of the plan.

d. Include an operational model for the office to use in implementing programs for rural and urban areas designed to:

(I) Develop and promote the state’s entertainment industry.

(II) Have the office serve as a liaison between the entertainment industry and other state and local governmental agencies, local film commissions, and labor organizations.

(III) Gather statistical information related to the state’s entertainment industry.

(IV) Provide information and service to businesses, communities, organizations, and individuals engaged in entertainment industry activities.

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

e. Include performance standards and measurable outcomes for the programs to be implemented by the office.

f. Include an assessment of, and make recommendations on, the feasibility of creating an alternative public-private partnership for the purpose of contracting with such a partnership for the administration of the state’s entertainment industry promotion, development, marketing, and service programs.

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

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

4. Represent the state’s indigenous entertainment industry to key decisionmakers within the national and international entertainment industry, and to state and local officials.

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

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

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

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

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

Section 26. Effective July 1, 2010, subsection (3) of section 288.1252, Florida Statutes, is amended to read:

288.1252 Florida Film and Entertainment Advisory Council; creation; purpose; membership; powers and duties.—

(3) MEMBERSHIP.—

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

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

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

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

~~2. The President of the Senate shall appoint one member for a 1-year term, one member for a 2-year term, two members for 3-year terms, and one member for a 4-year term.~~

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

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

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

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

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

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

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

Section 27. Effective July 1, 2010, subsections (1), (2), and (5) of section 288.1253, Florida Statutes, are amended to read:

288.1253 Travel and entertainment expenses.—

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

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

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

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

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

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

(a) the Governor, the Lieutenant Governor, security staff of the Governor or Lieutenant Governor, the Commissioner of Film and Entertainment, or staff of the Office of Film and Entertainment for travel expenses or entertainment expenses incurred by such individuals solely and exclusively in connection with the performance of the statutory duties of the Office of Film and Entertainment.

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

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

The rules ~~are~~ shall be subject to approval by the Chief Financial Officer ~~before adoption prior to promulgation~~. The rules shall require the submission of paid receipts, or other proof of expenditure prescribed by the Chief Financial Officer, with any claim for reimbursement and shall require, as a condition for any advancement of funds, an agreement to submit paid receipts or other proof of expenditure and to refund any unused portion of the advancement within 15 days after the expense is incurred or, if the advancement is made in connection with travel, within 10 working days after the traveler's return to headquarters. However, with respect to an advancement of funds made solely for travel expenses, the rules may allow paid receipts or other proof of expenditure to be submitted, and any unused portion of the advancement to be refunded, within 10 working days after the traveler's return to headquarters. Operational or promotional advancements, as defined in s. 288.35(4), obtained pursuant to this section shall not be commingled with any other state funds.

(5) Any claim submitted under this section ~~is~~ shall not be required to be sworn to before a notary public or other officer authorized to administer oaths, but any claim authorized or required to be made under any provision of this section shall contain a statement that the expenses were actually incurred as necessary travel or entertainment expenses in the performance of official duties of the Office of Film and Entertainment and shall be verified by written declaration that it is true and correct as to every material matter. Any person who willfully makes and subscribes to any claim which he or she

does not believe to be true and correct as to every material matter or who willfully aids or assists in, procures, or counsels or advises with respect to, the preparation or presentation of a claim pursuant to this section that is fraudulent or false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present the claim, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Whoever receives a an ~~advancement or~~ reimbursement by means of a false claim is civilly liable, in the amount of the overpayment, for the reimbursement of the public fund from which the claim was paid.

Section 28. Effective July 1, 2010, section 288.1254, Florida Statutes, is amended to read:

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

288.1254 Entertainment industry financial incentive program.—

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

(a) “Certified production” means a qualified production that has tax credits allocated to it by the Office of Tourism, Trade, and Economic Development based on the production’s estimated qualified expenditures, up to the production’s maximum certified amount of tax credits, by the Office of Tourism, Trade, and Economic Development. The term does not include a production if its first day of principal photography or project start date in this state occurs before the production is certified by the Office of Tourism, Trade, and Economic Development, unless the production spans more than one fiscal year, was a certified production on its first day of principal photography or project start date in this state, and submits an application for continuing the same production for the subsequent fiscal year.

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

(c) “High-impact television series” means a production created to run multiple production seasons and having an estimated order of at least seven episodes per season and qualified expenditures of at least \$625,000 per episode.

(d) “Off-season certified production” means a feature film, independent film, or television series or pilot which films 75 percent or more of its principal photography days from June 1 through November 30.

(e) “Principal photography” means the filming of major or significant components of the qualified production which involve lead actors.

(f) “Production” means a theatrical or direct-to-video motion picture; a made-for-television motion picture; visual effects or digital animation sequences produced in conjunction with a motion picture; a commercial; a music video; an industrial or educational film; an infomercial; a documentary film; a television pilot program; a presentation for a television pilot program; a television series, including, but not limited to, a drama, a reality show, a comedy, a soap opera, a telenovela, a game show, an awards show, or a miniseries production; or a digital media project by the entertainment industry. One season of a television series is considered one production. The term does not include a weather or market program; a sporting event; a sports show; a gala; a production that solicits funds; a home shopping program; a political program; a political documentary; political advertising; a gambling-related project or production; a concert production; or a local, regional, or Internet-distributed-only news show, current-events show, pornographic production, or current-affairs show. A production may be produced on or by film, tape, or otherwise by means of a motion picture camera; electronic camera or device; tape device; computer; any combination of the foregoing; or any other means, method, or device.

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

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

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

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

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

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

(h) “Qualified expenditures” means production expenditures incurred in this state by a qualified production for:

1. Goods purchased or leased from, or services, including, but not limited to, insurance costs and bonding, payroll services, and legal fees, which are provided by, a vendor or supplier in this state that is registered with the Department of State or the Department of Revenue, has a physical location in this state, and employs one or more legal residents of this state. When services are provided by the vendor or supplier include personal services or labor, only personal services or labor provided by residents of this state, evidenced by the required documentation of residency in this state, qualify.

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

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

(i) “Qualified production” means a production in this state meeting the requirements of this section. The term does not include a production:

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

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

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

(2) CREATION AND PURPOSE OF PROGRAM.—The entertainment industry financial incentive program is created within the Office of Film and Entertainment. The purpose of this program is to encourage the use of this

state as a site for filming, for the digital production of films, and to develop and sustain the workforce and infrastructure for film, digital media, and entertainment production.

(3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

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

(b) Required documentation.—The Office of Film and Entertainment shall develop an application form for qualifying an applicant as a qualified production. The form must include, but need not be limited to, production-related information concerning employment of residents in this state, a detailed budget of planned qualified expenditures, and the applicant's signed affirmation that the information on the form has been verified and is correct. The Office of Film and Entertainment and local film commissions shall distribute the form.

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

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

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

(f) Verification of actual qualified expenditures.—

1. The Office of Film and Entertainment shall develop a process to verify the actual qualified expenditures of a certified production. The process must require:

a. A certified production to submit, in a timely manner after production ends in this state and after making all of its qualified expenditures in this state, data substantiating each qualified expenditure, including documentation on the net expenditure on equipment and other tangible personal property by the qualified production, to an independent certified public accountant licensed in this state;

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

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

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

(g) Promoting Florida.—The Office of Film and Entertainment shall ensure that, as a condition of receiving a tax credit under this section, marketing materials promoting this state as a tourist destination or film and entertainment production destination are included, when appropriate, at no cost to the state, which must, at a minimum, include placement of a “Filmed in Florida” or “Produced in Florida” logo in the end credits. The placement of a “Filmed in Florida” or “Produced in Florida” logo on all packaging material and hard media is also required, unless such placement is prohibited by licensing or other contractual obligations. The size and placement of such logo shall be commensurate to other logos used. If no logos are used, the statement “Filmed in Florida using Florida’s Entertainment Industry Financial Incentive,” or a similar statement approved by the Office of Film and Entertainment, shall be used. The Office of Film and Entertainment shall provide a logo and supply it for the purposes specified in this paragraph. A 30-second “Visit Florida” promotional video must also be included on all optical disc formats of a film, unless such placement is prohibited by licensing or other contractual obligations. The 30-second promotional video shall be approved and provided by the Florida Tourism Industry Marketing Corporation in consultation with the Commissioner of Film and Entertainment.

(4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES; ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND ACQUISITIONS.—

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

(b) Tax credit eligibility.—

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

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

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

2. Commercial and music video queue.—Three percent of tax credits authorized pursuant to subsection (6) in any state fiscal year must be dedicated to the commercial and music video queue. A qualified production company that produces national or regional commercials or music videos may be eligible for a tax credit award if it demonstrates a minimum of \$100,000 in qualified expenditures per national or regional commercial or music video and exceeds a combined threshold of \$500,000 after combining actual qualified expenditures from qualified commercials and music videos during a single state fiscal year. After a qualified production company that produces commercials, music videos, or both reaches the threshold of \$500,000, it is eligible to apply for certification for a tax credit award. The maximum credit award shall be equal to 20 percent of its actual qualified expenditures up to a maximum of \$500,000. If there is a surplus at the end of a fiscal year after the Office of Film and Entertainment certifies and determines the tax credits for all qualified commercial and video projects,

such surplus tax credits shall be carried forward to the following fiscal year and be available to any eligible qualified productions under the general production queue.

3. Independent and emerging media production queue.—Three percent of tax credits authorized pursuant to subsection (6) in any state fiscal year must be dedicated to the independent and emerging media production queue. This queue is intended to encourage Florida independent film and emerging media production. Any qualified production, excluding commercials, infomercials, or music videos, that demonstrates at least \$100,000, but not more than \$625,000, in total qualified expenditures is eligible for tax credits equal to 20 percent of its actual qualified expenditures. If a surplus exists at the end of a fiscal year after the Office of Film and Entertainment certifies and determines the tax credits for all qualified independent and emerging media production projects, such surplus tax credits shall be carried forward to the following fiscal year and be available to any eligible qualified productions under the general production queue.

4. Family-friendly productions.—A certified theatrical or direct-to-video motion picture production or video game determined by the Commissioner of Film and Entertainment, with the advice of the Florida Film and Entertainment Advisory Council, to be family-friendly, based on the review of the script and the review of the final release version, is eligible for an additional tax credit equal to 5 percent of its actual qualified expenditures. Family-friendly productions are those that have cross-generational appeal; would be considered suitable for viewing by children age 5 or older; are appropriate in theme, content, and language for a broad family audience; embody a responsible resolution of issues; and do not exhibit or imply any act of smoking, sex, nudity, or vulgar or profane language.

(c) Withdrawal of tax credit eligibility.—A qualified or certified production must continue on a reasonable schedule, which includes beginning principal photography or the production project in this state no more than 45 calendar days before or after the principal photography or project start date provided in the production’s program application. The Office of Tourism, Trade, and Economic Development shall withdraw the eligibility of a qualified or certified production that does not continue on a reasonable schedule.

(d) Election and distribution of tax credits.—

1. A certified production company receiving a tax credit award under this section shall, at the time the credit is awarded by the Office of Tourism, Trade, and Economic Development after production is completed and all requirements to receive a credit award have been met, make an irrevocable election to apply the credit against taxes due under chapter 220, against state taxes collected or accrued under chapter 212, or against a stated combination of the two taxes. The election is binding upon any distributee, successor, transferee, or purchaser. The Office of Tourism, Trade, and

Economic Development shall notify the Department of Revenue of any election made pursuant to this paragraph.

2. A qualified production company is eligible for tax credits against its sales and use tax liabilities and corporate income tax liabilities as provided in this section. However, tax credits awarded under this section may not be claimed against sales and use tax liabilities or corporate income tax liabilities for any tax period beginning before July 1, 2011, regardless of when the credits are applied for or awarded.

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

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

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

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

(5) TRANSFER OF TAX CREDITS.—

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

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

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

(6) RELINQUISHMENT OF TAX CREDITS.—

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

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

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

(7) ANNUAL ALLOCATION OF TAX CREDITS.—

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

1. For fiscal year 2010-2011, \$53.5 million.
2. For fiscal year 2011-2012, \$74.5 million.
3. For fiscal years 2012-2013, 2013-2014, and 2014-2015, \$38 million per fiscal year.

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

(c) Upon approval of the final tax credit award amount pursuant to subparagraph (3)(f)2., an amount equal to the difference between the

maximum tax credit award amount previously certified under paragraph (3)(d) and the approved final tax credit award amount shall immediately be available for recertification during the current and following fiscal years in addition to the amounts available for certification under paragraph (a) for those fiscal years.

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

(8) RULES, POLICIES, AND PROCEDURES.—

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

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

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

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

(b) Revocation of tax credits.—The Office of Tourism, Trade, and Economic Development may revoke or modify any written decision qualifying, certifying, or otherwise granting eligibility for tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive tax credits under this section. The Office of Tourism, Trade, and Economic Development shall immediately notify the Department of Revenue of any revoked or modified orders affecting previously granted tax credits. Additionally, the applicant

must notify the Department of Revenue of any change in its tax credit claimed.

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

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

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

(11) REPEAL.—This section is repealed July 1, 2015, except that:

(a) Tax credits certified under paragraph (3)(d) before July 1, 2015, may be awarded under paragraph (3)(f) on or after July 1, 2015, if the other requirements of this section are met.

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

(c) Subsections (5), (8) and (9) shall remain in effect until July 1, 2020.

Section 29. Effective July 1, 2010, subsection (5) of section 288.1258, Florida Statutes, is amended to read:

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

(5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The Office of Film and Entertainment shall keep annual records from the information

provided on taxpayer applications for tax exemption certificates beginning January 1, 2001. These records shall reflect a ratio percentage comparison of the annual amount of funds exempted sales and use tax exemptions under this section and incentives awarded pursuant to s. 288.1254 to the estimated amount of funds expended by certified productions, including productions that received incentives pursuant to s. 288.1254 in relation to entertainment industry products. These records also shall reflect a separate ratio of the annual amount of sales and use tax exemptions under this section, plus the incentives awarded pursuant to s. 288.1254 to the estimated amount of funds expended by certified productions. In addition, the office shall maintain data showing annual growth in Florida-based entertainment industry companies and entertainment industry employment and wages. The Office of Film and Entertainment shall report this information to the Legislature by no later than December 1 of each year.

Section 30. Effective July 1, 2010, section 288.9552, Florida Statutes, is created to read:

288.9552 Florida Research Commercialization Matching Grant Program.—

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

(a) The purpose of the Florida Research Commercialization Matching Grant Program is to increase the amount of federal funding to this state which will produce the kind of distinctive technologies that drive today's knowledge-based economy. By leveraging federal, state, and private-sector resources, the Legislature intends that the program accelerate the innovation process and more efficiently transform research results into products in the marketplace.

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

1. Increasing the amount of federal research moneys received by small businesses in this state through Phase I and Phase II awards from the Small Business Innovation Research Program and the Small Business Technology Transfer Program of the Office of Technology of the United States Small Business Administration.

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

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

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

5. Speeding commercialization of promising technologies.

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

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

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

(2) ADMINISTRATION.—The Florida Institute for the Commercialization of Public Research shall develop programmatic policy, ensure statewide applicability of the matching grant program, establish criteria for grant awards, approve grant awards, and annually report on program progress and results.

(3) GENERAL ELIGIBILITY GUIDELINES.—A qualified applicant for a Phase I or Phase II grant must:

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

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

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

1. Private-sector investments offset the total cost of the project.

2. Not more than 25 percent of the project's total funding is provided by the state grant.

(d) Conduct the project funded by the matching grant program in this state.

(4) PHASE-SPECIFIC APPLICATION GUIDELINES.—

(a) A successful applicant for a grant must meet the requirements of this section and be approved by the institute. An application for a grant must be made on an application form prescribed by the institute. An applicant shall provide all information that the institute finds necessary to make the determinations required by this section.

(b) All applications for a grant fund must include the following:

1. A fully elaborated technical research or business plan, whichever applies, that is appropriate for review by outside experts as provided in this section.

2. A detailed financial analysis that includes the commitment of resources by other entities that will be involved in the project.

3. A statement of the economic development potential of the project, such as:

a. A statement of the way in which grant support will lead to significantly increased funding from federal or private sources and from private sector research partners.

b. A projection of the jobs to be created.

c. The identity, qualifications, and obligations of the applicant.

d. Any other information that the Institute considers appropriate.

(c)1. An application for a grant fund submitted by an academic researcher must be made through the office of the president of the researcher's academic institution with the express endorsement of the institution's president.

2. An application for a grant submitted by a private researcher must be made through the office of the highest ranking officer of the researcher's institution with the express endorsement of the institution.

3. Any other application must be made through the office of the highest ranking officer of the entity submitting the application. In the case of an application for a grant that is submitted jointly by one or more researchers or entities, the application must be endorsed by each institution or entity.

(d) A Phase I state grant may not be awarded unless the applicant has received a federal Phase I award. An entity may receive no more than five Phase I state grants.

(e) A qualified applicant for a Phase II state grant must have received an invitation to submit an application for a federal Phase II award or must have received a federal Phase II award. If a federal Phase II award has already been issued, the end date of the federal award must be identified and justification must be provided as to how the state funds will enhance the existing federal award. A Phase II state grant may not be awarded unless the applicant has received a federal Phase II award.

(5) PHASE I PEER REVIEW GUIDELINES.—In making a determination on a proposal intended to obtain Phase I federal funding, the institute shall be advised by a peer review panel and shall consider the following factors in evaluating the proposal:

- (a) The scientific merit of the proposal.
- (b) The predicted future success of federal funding for the proposal.
- (c) The ability of the researcher to attract merit based scientific funding of research.
- (d) The extent to which the proposal evidences interdisciplinary or inter-institutional collaboration among two or more postsecondary educational institutions or private sector partners in this state, as well as cost sharing and partnership support from the business community.
- (e) The peer review panel shall be chosen by and report to the institute. In determining the composition and duties of a peer review panel, the institute shall consider the National Institutes of Health and the National Science Foundation peer review processes as models. The members of the panel must have extensive experience in federal research funding. A panel member may not have a relationship with any private entity or postsecondary educational institution in the state that would constitute a conflict of interest for the panel member. The members of a panel shall serve without compensation and are not entitled to per diem and travel expenses while in the performance of their duties.
- (f) A grant for a Phase I award may not be approved by the Institute unless the proposal has received a positive recommendation from a peer review panel described in this section.
- (6) PHASE II REVIEW GUIDELINES.—In making a determination on an application for a Phase II grant, the institute shall consult with experts as necessary to analyze the likelihood of success of the proposal and the relative merit of the proposal.
- (7) PROGRAM ADMINISTRATOR; RESPONSIBILITIES.—The Florida Institute for the Commercialization of Public Research shall serve as program administrator. The institute may contract for the performance of a technology review and related functions with a third party. Not more than 5 percent of a legislative appropriation made for the purposes of implementing this program may be used for administering this program. The responsibilities of the Institute as the program administrator include, but are not limited to:

 - (a) Coordinating and supporting the grant review, approval, and contracting activities.
 - (b) Administering the grant-selection process, including, but not limited to, issuing open-call requests for grant applications and receiving, reviewing, and processing grant applications, and awarding grants to selected qualified applicants.
 - (c) Entering into a contract with each grant recipient and serving as the grant contract manager.

(d) Reporting program progress and results.

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

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

(9) AWARDS.—The matching grant program may make a one-time award of up to \$50,000 per project for a Phase I grant to a qualified applicant and up to \$250,000 per project for a Phase II grant to a qualified applicant. Grant funds shall be released upon completion of all contract requirements.

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

(11) EXPIRATION.—This section expires July 1, 2013, unless reviewed and reenacted by the Legislature prior to that date.

Section 31. Effective July 1, 2010, subsections (7) through (12) of section 288.9625, Florida Statutes, are amended to read:

288.9625 Institute for the Commercialization of Public Research.—There is established the Institute for the Commercialization of Public Research.

~~(7) Enterprise Florida, Inc., shall issue a request for proposals to state universities requesting proposals to fulfill the purposes of the institute as described in this section and provide for its physical location in a major metropolitan area in the southern part of the state having extensive commercial air service to facilitate access by venture capital providers. Enterprise Florida, Inc., shall review the proposals in a committee appointed by its board of directors which shall make a recommendation for final selection. Final approval of the selected proposal must be by the board of directors of Enterprise Florida, Inc., at one of its duly noticed meetings.~~

~~(7)(8)(a)~~ To be eligible for assistance, the company or organization attempting to commercialize its product must be accepted by the institute before receiving the institute's assistance.

(b) The institute shall receive recommendations from any publicly supported organization that a company that is commercializing the research, technology, or patents from a qualifying publicly supported organization should be accepted into the institute.

(c) The institute shall thereafter review the business plans and technology information of each such recommended company. If accepted, the

institute shall mentor the company, develop marketing information on the company, and use its resources to attract capital investment into the company, as well as bring other resources to the company which may foster its effective management, growth, capitalization, technology protection, or marketing or business success.

~~(8)~~(9) The institute shall:

(a) Maintain a centralized location to showcase companies and their technologies and products;

(b) Develop an efficient process to inventory and publicize companies and products that have been accepted by the institute for commercialization;

(c) Routinely communicate with private investors and venture capital organizations regarding the investment opportunities in its showcased companies;

(d) Facilitate meetings between prospective investors and eligible organizations in the institute;

(e) Hire full-time staff who understand relevant technologies needed to market companies to the angel investors and venture capital investment community; and

(f) Develop cooperative relationships with publicly supported organizations all of which work together to provide resources or special knowledge that is likely to be helpful to institute companies.

(g) Administer the Florida Research Commercialization Matching Grant Program created in s. 288.9552.

~~(9)~~(10) The institute shall not develop or accrue any ownership, royalty, patent, or other such rights over or interest in companies or products in the institute and shall maintain the secrecy of proprietary information.

~~(10)~~(11) The institute shall not charge for services rendered to state universities and affiliated organizations, community colleges, or state agencies.

~~(11)~~(12) By December 1 of each year, the institute shall issue an annual report concerning its activities to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall include the following:

(a) Information on any assistance and activities provided by the institute to assist publicly supported universities, colleges, research institutes, and other publicly supported organizations in the state.

(b) A description of the benefits to this state resulting from the institute, including the number of businesses created, associated industries started, the number of jobs created, and the growth of related projects.

(c) Independently audited financial statements, including statements that show receipts and expenditures during the preceding fiscal year for personnel, administration, and operational costs of the institute.

Section 32. Paragraph (f) of subsection (2) of section 14.2015, Florida Statutes, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

(f1). Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for qualified target industry businesses under s. 288.106, the tax-refund program for qualified defense contractors and space flight business contractors under s. 288.1045, contracts for transportation projects under s. 288.063, the sports franchise facility ~~programs program~~ under ~~ss. 288.1162 and 288.1162~~ ~~s. 288.1162~~, the professional golf hall of fame facility program under s. 288.1168, the expedited permitting process under s. 403.973, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, the Rural Economic Development Initiative, and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor. Notwithstanding any other provisions of law, the office may expend interest earned from the investment of program funds deposited in the Grants and Donations Trust Fund to contract for the administration of the programs, or portions of the programs, enumerated in this paragraph or assigned to the office by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, tax incentives under the Certified Capital Company Act in chapter 288, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320, Spaceport Florida under chapter

331, Expedited Permitting under chapter 403, and in carrying out other functions that are specifically assigned to the office by law, by the appropriations process, or by the Governor.

Section 33. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less \$5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in

combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of \$29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute \$166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a facility for a new or retained professional sports franchise “~~facility for a new professional sports franchise~~” or a “~~facility for a retained professional sports franchise~~” pursuant to s. 288.1162. Up to \$41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. ~~that has been certified as a “facility for a retained spring training franchise” pursuant to s. 288.1162;~~ However, not more than \$416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for a retained spring training franchises franchise. Distributions ~~must~~ begin 60 days after following such certification and shall continue for not more than 30 years, except as otherwise provided in s. 288.11621. ~~A certified applicant identified in this sub-subparagraph may not~~ This paragraph may not be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(5) or s. 288.11621(3) s. 288.1162(6).

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, \$166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, \$83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be made, after certification and before July 1, 2000.

7. All other proceeds must remain in the General Revenue Fund.

Section 34. Section 218.64, Florida Statutes, is amended to read:

218.64 Local government half-cent sales tax; uses; limitations.—

(1) The proportion of the local government half-cent sales tax received by a county government based on two-thirds of the incorporated area population shall be deemed countywide revenues and shall be expended only for countywide tax relief or countywide programs. The remaining county government portion shall be deemed county revenues derived on behalf of the unincorporated area but may be expended on a countywide basis.

(2) Municipalities shall expend their portions of the local government half-cent sales tax only for municipality-wide programs or for municipality-wide property tax or municipal utility tax relief. All utility tax rate reductions afforded by participation in the local government half-cent sales tax shall be applied uniformly across all types of taxed utility services.

(3) Subject to ordinances enacted by the majority of the members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of such county, counties may use up to \$2 million annually of the local government half-cent sales tax allocated to that county for funding for any of the following applicants:

(a) A certified applicant as a facility for a new or retained professional sports franchise under ~~“facility for a new professional sports franchise,” a “facility for a retained professional sports franchise,” or a “facility for a retained spring training franchise,” as provided for in s. 288.1162 or a certified applicant as defined in s. 288.11621 for a facility for a spring training franchise.~~ It is the Legislature’s intent that the provisions of s. 288.1162, including, but not limited to, the evaluation process by the Office of Tourism, Trade, and Economic Development except for the limitation on the number of certified applicants or facilities as provided in that section and the restrictions set forth in s. 288.1162(8) ~~s. 288.1162(9)~~, shall apply to an applicant’s facility to be funded by local government as provided in this subsection.

(b) A certified applicant as a “motorsport entertainment complex,” as provided for in s. 288.1171. Funding for each franchise or motorsport complex

shall begin 60 days after certification and shall continue for not more than 30 years.

(4) A local government is authorized to pledge proceeds of the local government half-cent sales tax for the payment of principal and interest on any capital project.

Section 35. Section 288.1162, Florida Statutes, is amended to read:

288.1162 Professional sports franchises; ~~spring training franchises;~~ duties.—

(1) The Office of Tourism, Trade, and Economic Development shall serve as the state agency for screening applicants for state funding under pursuant to s. 212.20 and for certifying an applicant as a facility for a new or retained professional sports franchise. ~~“facility for a new professional sports franchise,” a “facility for a retained professional sports franchise,” or a “facility for a retained spring training franchise.”~~

(2) The Office of Tourism, Trade, and Economic Development shall develop rules for the receipt and processing of applications for funding under pursuant to s. 212.20.

(3) As used in this section, the term:

(a) “New professional sports franchise” means a professional sports franchise that was is not based in this state before prior to April 1, 1987.

(b) “Retained professional sports franchise” means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a facility that has been previously certified under any provision of this section.

(4) Before Prior to certifying an applicant as a facility for a new or retained professional sports franchise, ~~“facility for a new professional sports franchise” or a “facility for a retained professional sports franchise,”~~ the Office of Tourism, Trade, and Economic Development must determine that:

(a) A “unit of local government” as defined in s. 218.369 is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located.

(b) The applicant has a verified copy of a signed agreement with a new professional sports franchise for the use of the facility for a term of at least 10 years, or in the case of a retained professional sports franchise, an agreement for use of the facility for a term of at least 20 years.

(c) The applicant has a verified copy of the approval from the governing authority of the league in which the new professional sports franchise exists

authorizing the location of the professional sports franchise in this state after April 1, 1987, or in the case of a retained professional sports franchise, verified evidence that it has had a league-authorized location in this state on or before December 31, 1976. As used in this section, the term “league” means the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.

(d) The applicant has projections, verified by the Office of Tourism, Trade, and Economic Development, which demonstrate that the new or retained professional sports franchise will attract a paid attendance of more than 300,000 annually.

(e) The applicant has an independent analysis or study, verified by the Office of Tourism, Trade, and Economic Development, which demonstrates that the amount of the revenues generated by the taxes imposed under chapter 212 with respect to the use and operation of the professional sports franchise facility will equal or exceed \$2 million annually.

(f) The municipality in which the facility for a new or retained professional sports franchise is located, or the county if the facility for a new or retained professional sports franchise is located in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.

(g) The applicant has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility.

(h) An ~~No~~ applicant previously certified under any provision of this section who has received funding under such certification is not ~~shall be~~ eligible for an additional certification.

~~(5)(a) As used in this section, the term “retained spring training franchise” means a spring training franchise that has been based in this state prior to January 1, 2000.~~

~~(b) Prior to certifying an applicant as a “facility for a retained spring training franchise,” the Office of Tourism, Trade, and Economic Development must determine that:~~

~~1. A “unit of local government” as defined in s. 218.369 is responsible for the acquisition, construction, management, or operation of the facility for a retained spring training franchise or holds title to the property on which the facility for a retained spring training franchise is located.~~

~~2. The applicant has a verified copy of a signed agreement with a retained spring training franchise for the use of the facility for a term of at least 15 years.~~

3.—The applicant has a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility for a retained spring training franchise. The agreement can be contingent upon the awarding of funds under this section and other conditions precedent to use by the spring training franchise.

4.—The applicant has projections, verified by the Office of Tourism, Trade, and Economic Development, which demonstrate that the facility for a retained spring training franchise will attract a paid attendance of at least 50,000 annually.

5.—The facility for a retained spring training franchise is located in a county that is levying a tourist development tax pursuant to s. 125.0104.

(c)1.—The Office of Tourism, Trade, and Economic Development shall competitively evaluate applications for funding of a facility for a retained spring training franchise. Applications must be submitted by October 1, 2000, with certifications to be made by January 1, 2001. If the number of applicants exceeds five and the aggregate funding request of all applications exceeds \$208,335 per month, the office shall rank the applications according to a selection criteria, certifying the highest ranked proposals. The evaluation criteria shall include, with priority given in descending order to the following items:

a.—The intended use of the funds by the applicant, with priority given to the construction of a new facility.

b.—The length of time that the existing franchise has been located in the state, with priority given to retaining franchises that have been in the same location the longest.

c.—The length of time that a facility to be used by a retained spring training franchise has been used by one or more spring training franchises, with priority given to a facility that has been in continuous use as a facility for spring training the longest.

d.—For those teams leasing a spring training facility from a unit of local government, the remaining time on the lease for facilities used by the spring training franchise, with priority given to the shortest time period remaining on the lease.

e.—The duration of the future-use agreement with the retained spring training franchise, with priority given to the future-use agreement having the longest duration.

f.—The amount of the local match, with priority given to the largest percentage of local match proposed.

g.—The net increase of total active recreation space owned by the applying unit of local government following the acquisition of land for the spring

training facility, with priority given to the largest percentage increase of total active recreation space.

~~h. The location of the facility in a brownfield, an enterprise zone, a community redevelopment area, or other area of targeted development or revitalization included in an Urban Infill Redevelopment Plan, with priority given to facilities located in these areas.~~

~~i. The projections on paid attendance attracted by the facility and the proposed effect on the economy of the local community, with priority given to the highest projected paid attendance.~~

~~2. Beginning July 1, 2006, the Office of Tourism, Trade, and Economic Development shall competitively evaluate applications for funding of facilities for retained spring training franchises in addition to those certified and funded under subparagraph 1. An applicant that is a unit of government that has an agreement for a retained spring training franchise for 15 or more years which was entered into between July 1, 2003, and July 1, 2004, shall be eligible for funding. Applications must be submitted by October 1, 2006, with certifications to be made by January 1, 2007. The office shall rank the applications according to selection criteria, certifying no more than five proposals. The aggregate funding request of all applicants certified shall not exceed an aggregate funding request of \$208,335 per month. The evaluation criteria shall include the following, with priority given in descending order:~~

~~a. The intended use of the funds by the applicant for acquisition or construction of a new facility.~~

~~b. The intended use of the funds by the applicant to renovate a facility.~~

~~e. The length of time that a facility to be used by a retained spring training franchise has been used by one or more spring training franchises, with priority given to a facility that has been in continuous use as a facility for spring training the longest.~~

~~d. For those teams leasing a spring training facility from a unit of local government, the remaining time on the lease for facilities used by the spring training franchise, with priority given to the shortest time period remaining on the lease. For consideration under this subparagraph, the remaining time on the lease shall not exceed 5 years, unless an agreement of 15 years or more was entered into between July 1, 2003, and July 1, 2004.~~

~~e. The duration of the future use agreement with the retained spring training franchise, with priority given to the future use agreement having the longest duration.~~

~~f. The amount of the local match, with priority given to the largest percentage of local match proposed.~~

~~g. The net increase of total active recreation space owned by the applying unit of local government following the acquisition of land for the spring~~

training facility, with priority given to the largest percentage increase of total active recreation space.

h. ~~The location of the facility in a brownfield area, an enterprise zone, a community redevelopment area, or another area of targeted development or revitalization included in an urban infill redevelopment plan, with priority given to facilities located in those areas.~~

i. ~~The projections on paid attendance attracted by the facility and the proposed effect on the economy of the local community, with priority given to the highest projected paid attendance.~~

~~(d) Funds may not be expended to subsidize privately owned and maintained facilities for use by the spring training franchise. Funds may be used to relocate a retained spring training franchise to another unit of local government only if the existing unit of local government with the retained spring training franchise agrees to the relocation.~~

~~(5)(6) An applicant certified as a facility for a new or retained professional sports franchise or a facility for a retained professional sports franchise or as a facility for a retained spring training franchise may use funds provided under pursuant to s. 212.20 only for the public purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise, a facility for a retained professional sports franchise, or a facility for a retained spring training franchise or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.~~

~~(6)(7)(a) The Office of Tourism, Trade, and Economic Development shall notify the Department of Revenue of any facility certified as a facility for a new or retained professional sports franchise or a facility for a retained professional sports franchise or as a facility for a retained spring training franchise. The Office of Tourism, Trade, and Economic Development shall certify no more than eight facilities as facilities for a new professional sports franchise or as facilities for a retained professional sports franchise, including in the such total any facilities certified by the former Department of Commerce before July 1, 1996. The number of facilities certified as a retained spring training franchise shall be as provided in subsection (5). The office may make no more than one certification for any facility. The office may not certify funding for less than the requested amount to any applicant certified as a facility for a retained spring training franchise.~~

~~(b) The eighth certification of an applicant under this section as a facility for a new or retained professional sports franchise or a facility for a retained professional sports franchise shall be for a franchise that is a member of the National Basketball Association, has been located within the state since~~

1987, and has not been previously certified. This paragraph is repealed July 1, 2010.

~~(7)(8) The Auditor General Department of Revenue may conduct audits audit as provided in s. 11.45 s. 213.34 to verify that the distributions under pursuant to this section are have been expended as required in this section. Such information is subject to the confidentiality requirements of chapter 213. If the Auditor General Department of Revenue determines that the distributions under pursuant to this section are have not been expended as required by this section, the Auditor General shall notify the Department of Revenue, which it may pursue recovery of the such funds under pursuant to the laws and rules governing the assessment of taxes.~~

~~(8)(9) An applicant is not qualified for certification under this section if the franchise formed the basis for a previous certification, unless the previous certification was withdrawn by the facility or invalidated by the Office of Tourism, Trade, and Economic Development or the former Department of Commerce before any funds were distributed under pursuant to s. 212.20. This subsection does not disqualify an applicant if the previous certification occurred between May 23, 1993, and May 25, 1993; however, any funds to be distributed under pursuant to s. 212.20 for the second certification shall be offset by the amount distributed to the previous certified facility. Distribution of funds for the second certification shall not be made until all amounts payable for the first certification are have been distributed.~~

Section 36. Section 288.11621, Florida Statutes, is created to read:

288.11621 Spring training baseball franchises.—

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

(a) “Agreement” means a certified, signed lease between an applicant that applies for certification on or after July 1, 2010, and the spring training franchise for the use of a facility.

(b) “Applicant” means a unit of local government as defined in s. 218.369, including local governments located in the same county that have partnered with a certified applicant before the effective date of this section or with an applicant for a new certification, for purposes of sharing in the responsibilities of a facility.

(c) “Certified applicant” means a facility for a spring training franchise that was certified before July 1, 2010, under s. 288.1162(5), Florida Statutes 2009, or a unit of local government that is certified under this section.

(d) “Facility” means a spring training stadium, playing fields, and appurtenances intended to support spring training activities.

(e) “Local funds” and “local matching funds” mean funds provided by a county, municipality, or other local government.

(f) “Office” means the Office of Tourism, Trade, and Economic Development.

(2) CERTIFICATION PROCESS.—

(a) Before certifying an applicant to receive state funding for a facility for a spring training franchise, the office must verify that:

1. The applicant is responsible for the acquisition, construction, management, or operation of the facility for a spring training franchise or holds title to the property on which the facility for a spring training franchise is located.

2. The applicant has a certified copy of a signed agreement with a spring training franchise for the use of the facility for a term of at least 20 years. The agreement also must require the franchise to reimburse the state for state funds expended by an applicant under this section if the franchise relocates before the agreement expires. The agreement may be contingent on an award of funds under this section and other conditions precedent.

3. The applicant has made a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility for a spring training franchise. The commitment may be contingent upon an award of funds under this section and other conditions precedent.

4. The applicant demonstrates that the facility for a spring training franchise will attract a paid attendance of at least 50,000 annually to the spring training games.

5. The facility for a spring training franchise is located in a county that levies a tourist development tax under s. 125.0104.

(b) The office shall competitively evaluate applications for state funding of a facility for a spring training franchise. The total number of certifications may not exceed 10 at any time. The evaluation criteria must include, with priority given in descending order to, the following items:

1. The anticipated effect on the economy of the local community where the spring training facility is to be built, including projections on paid attendance, local and state tax collections generated by spring training games, and direct and indirect job creation resulting from the spring training activities. Priority shall be given to applicants who can demonstrate the largest projected economic impact.

2. The amount of the local matching funds committed to a facility relative to the amount of state funding sought, with priority given to applicants that commit the largest amount of local matching funds relative to the amount of state funding sought.

3. The potential for the facility to serve multiple uses.

4. The intended use of the funds by the applicant, with priority given to the funds being used to acquire a facility, construct a new facility, or renovate an existing facility.

5. The length of time that a spring training franchise has been under an agreement to conduct spring training activities within an applicant's geographic location or jurisdiction, with priority given to applicants having agreements with the same franchise for the longest period of time.

6. The length of time that an applicant's facility has been used by one or more spring training franchises, with priority given to applicants whose facilities have been in continuous use as facilities for spring training the longest.

7. The term remaining on a lease between an applicant and a spring training franchise for a facility, with priority given to applicants having the shortest lease terms remaining.

8. The length of time that a spring training franchise agrees to use an applicant's facility if an application is granted under this section, with priority given to applicants having agreements for the longest future use.

9. The net increase of total active recreation space owned by the applicant after an acquisition of land for the facility, with priority given to applicants having the largest percentage increase of total active recreation space that will be available for public use.

10. The location of the facility in a brownfield, an enterprise zone, a community redevelopment area, or other area of targeted development or revitalization included in an urban infill redevelopment plan, with priority given to applicants having facilities located in these areas.

(c) Each applicant certified on or after July 1, 2010, shall enter into an agreement with the office that:

1. Specifies the amount of the state incentive funding to be distributed.

2. States the criteria that the certified applicant must meet in order to remain certified.

3. States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.

4. States that the office may recover state incentive funds if the certified applicant is decertified.

5. Specifies information that the certified applicant must report to the office.

6. Includes any provision deemed prudent by the office.

(3) USE OF FUNDS.—

(a) A certified applicant may use funds provided under s. 212.20(6)(d)6.b. only to:

1. Serve the public purpose of acquiring, constructing, reconstructing, or renovating a facility for a spring training franchise.

2. Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

3. Assist in the relocation of a spring training franchise from one unit of local government to another only if the governing board of the current host local government by a majority vote agrees to relocation.

(b) State funds awarded to a certified applicant for a facility for a spring training franchise may not be used to subsidize facilities that are privately owned, maintained, and used only by a spring training franchise.

(c) The Department of Revenue may not distribute funds to an applicant certified on or after July 1, 2010, until it receives notice from the office that the certified applicant has encumbered funds under subparagraph (a)2.

(d)1. All certified applicants must place unexpended state funds received pursuant to s. 212.20(6)(d)6.b. in a trust fund or separate account for use only as authorized in this section.

2. A certified applicant may request that the Department of Revenue suspend further distributions of state funds made available under s. 212.20(6)(d)6.b. for 12 months after expiration of an existing agreement with a spring training franchise to provide the certified applicant with an opportunity to enter into a new agreement with a spring training franchise, at which time the distributions shall resume.

3. The expenditure of state funds distributed to an applicant certified before July 1, 2010, must begin within 48 months after the initial receipt of the state funds. In addition, the construction of, or capital improvements to, a spring training facility must be completed within 24 months after the project's commencement.

(4) ANNUAL REPORTS.—On or before September 1 of each year, a certified applicant shall submit to the office a report that includes, but is not limited to:

(a) A copy of its most recent annual audit.

(b) A detailed report on all local and state funds expended to date on the project being financed under this section.

(c) A copy of the contract between the certified local governmental entity and the spring training team.

(d) A cost-benefit analysis of the team’s impact on the community.

(e) Evidence that the certified applicant continues to meet the criteria in effect when the applicant was certified.

(5) DECERTIFICATION.—

(a) The office shall decertify a certified applicant upon the request of the certified applicant.

(b) The office shall decertify a certified applicant if the certified applicant does not:

- 1. Have a valid agreement with a spring training franchise;
- 2. Satisfy its commitment to provide local matching funds to the facility;

or

However, decertification proceedings against a local government certified before July 1, 2010, shall be delayed until 12 months after the expiration of the local government’s existing agreement with a spring training franchise, and without a new agreement being signed, if the certified local government can demonstrate to the office that it is in active negotiations with a major league spring training franchise, other than the franchise that was the basis for the original certification.

(c) A certified applicant has 60 days after it receives a notice of intent to decertify from the office to petition the office’s director for review of the decertification. Within 45 days after receipt of the request for review, the director must notify a certified applicant of the outcome of the review.

(d) The office shall notify the Department of Revenue that a certified applicant is decertified within 10 days after the order of decertification becomes final. The Department of Revenue shall immediately stop the payment of any funds under this section that were not encumbered by the certified applicant under subparagraph (3)(a)2.

(e) The office shall order a decertified applicant to repay all of the unencumbered state funds that the local government received under this section and any interest that accrued on those funds. The repayment must be made within 60 days after the decertification order becomes final. These funds shall be deposited into the General Revenue Fund.

(f) A local government as defined in s. 218.369 may not be decertified if it has paid or pledged for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of the facility for which the local government was certified,

or for the reimbursement of such costs or the refinancing of bonds issued for the acquisition, construction, reconstruction, or renovation of the facility for which the local government was certified, or for the reimbursement of such costs or the refinancing of bonds issued for such purpose. This subsection does not preclude or restrict the ability of a certified local government to refinance, refund, or defease such bonds.

(6) ADDITIONAL CERTIFICATIONS.—If the office decertifies a unit of local government, the office may accept applications for an additional certification. A unit of local government may not be certified for more than one spring training franchise at any time.

(7) STRATEGIC PLANNING.—

(a) The office shall request assistance from the Florida Sports Foundation and the Florida Grapefruit League Association to develop a comprehensive strategic plan to:

1. Finance spring training facilities.
2. Monitor and oversee the use of state funds awarded to applicants.
3. Identify the financial impact that spring training has on the state and ways in which to maintain or improve that impact.
4. Identify opportunities to develop public-private partnerships to engage in marketing activities and advertise spring training baseball.
5. Identify efforts made by other states to maintain or develop partnerships with baseball spring training teams.
6. Develop recommendations for the Legislature to sustain or improve this state's spring training tradition.

(b) The office shall submit a copy of the strategic plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2010.

(8) RULEMAKING.—The office shall adopt rules to implement the certification, decertification, and decertification review processes required by this section.

(9) AUDITS.—The Auditor General may conduct audits as provided in s. 11.45 to verify that the distributions under this section are expended as required in this section. If the Auditor General determines that the distributions under this section are not expended as required by this section, the Auditor General shall notify the Department of Revenue, which may pursue recovery of the funds under the laws and rules governing the assessment of taxes.

Section 37. Subsection (1) of section 288.1229, Florida Statutes, is amended to read:

288.1229 Promotion and development of sports-related industries and amateur athletics; direct-support organization; powers and duties.—

(1) The Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office in:

(a) The promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida.

(b) The promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions.

(c) The retention of professional sports franchises, including the spring training operations of Major League Baseball.

Section 38. An agreement with a spring training franchise relocating from one local government to another local government shall be recognized as a valid agreement under this act if the Office of Tourism, Trade, and Economic Development approved the continuing release of funds to the local government to which the franchise relocated before the effective date of this act. The Legislature recognizes the validity of the agreement and acknowledges the authority of the Office of Tourism, Trade, and Economic Development to provide for the continuing release of funds to the local government under the terms of s. 288.1162, Florida Statutes, which were in effect before the effective date of this act.

Section 39. Subsection (7) of section 288.9913, Florida Statutes, is amended to read:

288.9913 Definitions.—As used in ss. 288.991-288.9922, the term:

(7) “Qualified active low-income community business” means a corporation, including a nonprofit corporation, or partnership that complies with each of the following:

(a)1. Derives at least 50 percent of its total gross income from the active conduct of business within any low-income community for any taxable year.;

2. Uses at least 40 percent a substantial portion of its tangible property, whether owned or leased, within any low-income community for any taxable year, which percentage shall be the average value of the tangible property owned or leased and used within a low-income community by the corporation or partnership divided by the average value of the total tangible property owned or leased and used by the corporation or partnership during the

taxable year. The value assigned to leased property by the corporation or partnership must be reasonable.;

3. Performs at least 40 percent a substantial portion of its services through its employees in a low-income community for any taxable year, which percentage shall be the amount paid by the corporation or partnership for salaries, wages, and benefits to employees in a low-income community divided by the total amount paid by the corporation or partnership for salaries, wages, and benefits during the taxable year.;

4. Attributes less than 5 percent of the average of the aggregate unadjusted bases of the property of the entity to collectibles, as defined in 26 U.S.C. s. 408(m)(2), other than collectibles that are held primarily for sale to customers in the ordinary course of the business for any taxable year.;~~and~~

5. Attributes less than 5 percent of the average of the aggregate unadjusted bases of the property of the entity to nonqualified financial property, as defined in 26 U.S.C. s. 1397C(e), for any taxable year.

A corporation or partnership complies with subparagraph 1. if, as calculated in subparagraph 2., it uses at least 50 percent of its tangible property, whether owned or leased, within any low-income community for any taxable year or if, as calculated in subparagraph 3., the corporation or partnership performs at least 50 percent of its services through its employees in a low-income community for any taxable year.

(b) Is reasonably expected by a qualified community development entity at the time of an investment to continue to satisfy the requirements of paragraphs (a), (c), and (d) for the duration of the investment.

(c) Satisfies the requirements of paragraphs (a) and (b), but does not:

1. Derive or project to derive 15 percent or more of its annual revenue from the rental or sale of real estate, unless the corporation or partnership derives such revenue from the rental of real estate and the primary lessee and user of such real estate is another qualified active low-income community business that is owned or controlled by, or that is under common ownership or control with, such corporation or partnership;

2. Engage predominantly in the development or holding of intangibles for sale or license;

3. Operate a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack, gambling facility, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises; or

4. Engage principally in farming and owns or leases assets the sum of the aggregate unadjusted bases or the fair market value of which exceeds \$500,000.

(d) Will create or retain jobs that pay an average wage of at least 115 percent of the federal poverty income guidelines for a family of four.

Section 40. Subsection (2) of section 288.9920, Florida Statutes, is amended to read:

288.9920 Recapture and penalties.—

(2) The office shall provide notice to the qualified community development entity and the department of a proposed recapture of a tax credit. The entity shall have 6 months ~~90 days~~ following the receipt of the notice to cure a deficiency identified in the notice and avoid recapture. The office shall issue a final order of recapture if the entity fails to cure a deficiency within the 6-month ~~90-day~~ period. The final order of recapture shall be provided to the entity, the department, and a taxpayer otherwise authorized to claim the tax credit. Only one correction is permitted for each qualified equity investment during the 7-year credit period. Recaptured funds shall be deposited into the General Revenue Fund.

Section 41. Effective July 1, 2010, section 373.441, Florida Statutes, is amended to read:

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

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

(a) ~~Provisions under which the environmental resource permit program are shall be delegated, upon approval of the department and the appropriate water management districts, only to a county, municipality, or local pollution control program that which has the financial, technical, and administrative capabilities and desire to implement and enforce the program;~~

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

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

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

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

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

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

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

(i) Provisions for a local government to petition the Governor and Cabinet for review of a request for a delegation of authority that is not approved or denied within 1 year after being initiated.

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

(3) Delegation of authority shall be approved if the local government meets the requirements set forth in rule 62-344, Florida Administrative Code. This section does not require a local government to seek delegation of the environmental resource permit program.

(4)(2) Nothing in This section does not affect affects or modify modifies land development regulations adopted by a local government to implement its comprehensive plan pursuant to chapter 163.

(5)(3) The department shall review environmental resource permit applications for electrical distribution and transmission lines and other facilities related to the production, transmission, and distribution of electricity which are not certified under ss. 403.52-403.5365, the Florida Electric Transmission Line Siting Act, regulated under this part.

Section 42. Effective July 1, 2010, subsection (41) is added to section 403.061, Florida Statutes, to read:

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

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

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

Section 43. Section 47 of chapter 2009-82, Laws of Florida, is amended to read:

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

(1) The intent of the Legislature is to ensure that residents of the state derive the maximum possible economic benefit from the federal first-time homebuyer tax credit created through The American Recovery and Reinvestment Act of 2009 by providing subordinate down payment assistance loans to first-time homebuyers for owner-occupied primary residences which can be repaid by the income tax refund the homebuyer is entitled to under the First Time Homebuyer Credit. The state program shall be called the "Florida Homebuyer Opportunity Program."

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

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

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

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

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

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

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

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

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

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

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

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

Section 44. The Office of Program Policy Analysis and Government Accountability shall review and evaluate the Florida Enterprise Zone Program in ss. 290.001-290.014, Florida Statutes, and submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 11, 2011. The review shall include, but need not be limited to: how the program

has changed over the years since it was created; whether the program is effectively and efficiently addressing the issues that precipitated its creation; the direct and indirect costs of the program to the state and local governments that participate; whether the program's tax incentives are effectively designed to benefit economically distressed or high-poverty areas and their residents and business owners; and whether the application, review, and approval processes are transparent, effective, and efficient.

Section 45. The Office of Program Policy Analysis and Government Accountability shall review and evaluate the effectiveness and viability of the Florida Research Commercialization Matching Grant Program in s. 288.9552, Florida Statutes. The office shall specifically evaluate the use of federal grants and private investment and the creation of new businesses and jobs. The office shall also recommend outcome measures for further evaluation of the program. The office shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2011.

Section 46. (1) Except as provided in subsection (4), a development order issued by a local government, a building permit, and any permit issued by the Department of Environmental Protection or by a water management district pursuant to part IV of chapter 373, Florida Statutes, which has an expiration date from September 1, 2008, through January 1, 2012, is extended and renewed for a period of 2 years after its previously scheduled date of expiration. This 2-year extension also applies to buildout dates, including any extension of a buildout date that was previously granted under s. 380.06(19)(c), Florida Statutes. This section does not prohibit conversion from the construction phase to the operation phase upon completion of construction. This extension is in addition to the 2-year permit extension provided under section 14 of chapter 2009-96, Laws of Florida.

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

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

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

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

(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning

letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.

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

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

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

Section 47. (1) The Legislature hereby reauthorizes:

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

(b) Any 2-year extension authorized and timely applied for pursuant to section 14 of chapter 2009-96, Laws of Florida.

(c) Any amendment to a local comprehensive plan adopted pursuant to s. 163.3184, Florida Statutes, as amended by chapter 2009-96, Laws of Florida, and in effect pursuant to s. 163.3189, Florida Statutes, which authorizes and implements a transportation concurrency exception area pursuant to s. 163.3180, Florida Statutes, as amended by chapter 2009-96, Laws of Florida.

(2) Subsection (1) is intended to be remedial in nature and to reenact provisions of existing law. This section shall apply retroactively to all actions specified in subsection (1) and therefore to any such actions lawfully undertaken in accordance with chapter 2009-96, Laws of Florida.

Section 48. The unexpended funds appropriated in Specific Appropriation 2649 of chapter 2008-152, Laws of Florida, for improvements to Launch Complex 36 on the 45th Space Wing property shall revert immediately and are reappropriated for state fiscal year 2010-2011 from the Economic Development Transportation Trust Fund for improvements to other launch complexes and space transportation facilities in order to attract new space vehicle testing and launch business to the state; to address intermodal

requirements and impacts of the launch ranges, spaceports, and other space transportation facilities; to advance aerospace technology to meet the current and future needs of the United States commercial space transportation industry; and to assist in the development of joint-use facilities and technology that support aviation and aerospace operations, including high-altitude and suborbital flights and range technology development.

Section 49. The installation of fuel tank upgrades to secondary containment systems shall be completed by the deadlines specified in rule 62-761.510, Florida Administrative Code, Table UST. For fuel service station facilities that have orders issued by the Department of Environmental Protection before July 1, 2010, granting an extension to the deadline, the deadline shall be extended to September 30, 2011. Such facilities must be in compliance with all other state and federal regulations pertaining to petroleum storage systems.

Section 50. Preference to state residents.—

(1) Each contract for construction that is funded by state funds must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work on the project if state residents have substantially equal qualifications to those of nonresidents. A contract for construction funded by local funds may contain such a provision.

(a) As used in this section, the term “substantially equal qualifications” means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons.

(b) A contractor required to employ state residents must contact the Agency for Workforce Innovation to post the contractor’s employment needs in the state’s job bank system.

(2) No contract shall be let to any person refusing to execute an agreement containing the provisions required by this section. However, in work involving the expenditure of federal aid funds, this section may not be enforced in such a manner as to conflict with or be contrary to federal law prescribing a labor preference to honorably discharged soldiers, sailors, or marines, or prohibiting as unlawful any other preference or discrimination among the citizens of the United States.

Section 51. The Legislature finds that this act fulfills an important state interest.

Section 52. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the

invalid provision or application, and to this end the provisions of this act are declared severable.

Section 53. Effective July 1, 2010, there is appropriated for state fiscal year 2010-2011 to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor:

(1) The sum of \$10 million in nonrecurring funds from the General Revenue Fund for Space Florida to address financing, business development, and infrastructure needs to assist in the continued development of the aerospace industry in this state and management of state-of-the-art facilities for space businesses that will create high-technology, high-wage-earning jobs.

(2) The sum of \$3.2 million in nonrecurring funds from the General Revenue Fund exclusively for Space Florida to retrain workers as the result of the retirement of the Space Shuttle Program.

(3) The sum of \$3 million in nonrecurring funds from the General Revenue Fund for the exclusive purpose of providing targeted-business-development support services and business recruitment through Space Florida. Activities and services may include, but are not limited to, securing federal programs and processes, identifying and securing new contract and grant opportunities for businesses in this state, assisting businesses in establishing operations, securing necessary qualifications and approvals, obtaining capital, and engaging company and federal officials to site new program elements including research, design, testing, and manufacturing work packages in this state. Emphasis will be placed on assisting small- to medium-sized businesses on a statewide basis. These funds may not be used for administrative or operational costs of Space Florida.

(4) The sum of \$3 million in nonrecurring funds from the General Revenue Fund to provide local government distressed area matching grants pursuant to s. 288.0659, Florida Statutes. Notwithstanding s. 216.301, Florida Statutes, and pursuant to s. 216.351, Florida Statutes, any funds remaining from this appropriation as of June 30, 2011, shall remain available for carrying out the purpose of s. 288.0659, Florida Statutes.

(5) The sum of \$1 million in nonrecurring funds from the General Revenue Fund for the purposes of the Economic Gardening Technical Assistance Pilot Program pursuant to s. 288.1082, Florida Statutes, notwithstanding section 4 of chapter 2009-13, Laws of Florida.

(6) The sum of \$2 million in nonrecurring funds from the General Revenue Fund for the purposes of the Defense Infrastructure Grant Program pursuant to s. 288.980(4), Florida Statutes.

(7) The sums of \$94,250 in recurring funds and \$3,877 in nonrecurring funds from the General Revenue Fund and one additional full-time equivalent position and the associated salary rate of \$67,001 is authorized,

for the purpose of administering the provisions of this act relating to the Office of Tourism, Trade, and Economic Development.

(8) The sum of \$2.9 million in nonrecurring funds from the General Revenue Fund for the Florida Export Finance Corporation for the purpose of capitalizing a self-sustaining cash collateral fund to be available to lenders participating in the corporation's existing loan guarantee program. The cash collateral fund must complement the corporation's existing loan and loan guarantee programs and otherwise comply with the requirements of part V of chapter 288, Florida Statutes.

(9) The sum of \$3.6 million in nonrecurring funds from the General Revenue Fund for Space Florida to address infrastructure projects to assist in the continued development of the aerospace industry in this state and management of state-of-the-art facilities for space businesses that will create high-technology, high-wage-earning jobs.

Section 54. Effective July 1, 2010, for the 2010-2011 state fiscal year, there is appropriated to the Department of Environmental Protection the sum of \$1 million in nonrecurring funds from the General Revenue Fund for beach restoration.

Section 55. (1) Effective July 1, 2010, for the 2010-2011 state fiscal year, the sum of \$2 million in nonrecurring funds from the General Revenue Fund is appropriated to the Board of Governors of the State University System solely for the State University Research Commercialization Assistance Grant Program, pursuant to s. 1004.226(7), Florida Statutes. The Florida Technology, Research, and Scholarship Board shall solicit proposals in accordance with s. 1004.226(7)(b), Florida Statutes, no later than August 1, 2010, and shall grant awards no later than October 30, 2010.

(2)(a) Effective July 1, 2010, there is appropriated for the 2010-2011 state fiscal year to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor:

1. The sum of \$1 million in nonrecurring funds from the General Revenue Fund for the purposes of the Economic Gardening Technical Assistance Pilot Program pursuant to section 288.1082, Florida Statutes, notwithstanding section 4 of Chapter 2009-13, Laws of Florida.

2. The sum of \$2 million in nonrecurring funds from the General Revenue Fund for the purposes of the Defense Infrastructure Grant Program pursuant to s. 288.980(4), Florida Statutes.

3. The sum of \$15 million in nonrecurring funds from the General Revenue Fund for the purposes of the Quick Action Closing Fund pursuant to section 288.1088, Florida Statutes.

4. The sum of \$2 million in nonrecurring funds from the General Revenue Fund for the Florida Export Finance Corporation for the purpose of capitalizing a self-sustaining cash collateral fund to be available to lenders

participating in the corporation's existing loan guarantee program. The cash collateral fund must complement the corporation's existing loan and loan guarantee programs and otherwise comply with the requirements of part V of chapter 288, Florida Statutes.

(b) The funding provided in paragraph (a) is contingent upon the enactment of federal law which extends the enhanced Federal Medicaid Assistance Percentage rate, as provided under the American Reinvestment and Recovery Act (P.L. 111-5), from December 31, 2010, through June 30, 2011.

Section 56. Effective July 1, 2010, the sum of \$3 million in nonrecurring funds from the General Revenue Fund is appropriated to the Institute for the Commercialization of Public Research solely for purposes of the Florida Research Commercialization Grant Program, pursuant to s. 288.9552, Florida Statutes, of which up to \$750,000 may be used for Phase I grants.

Section 57. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor May 28, 2010.

Filed in Office Secretary of State May 28, 2010.