

1 A bill to be entitled
2 An act relating to economic development; amending s.
3 212.08, F.S.; redefining the term "productive output" for
4 purposes of the sales tax exemption on certain machinery
5 and equipment used by an expanding facility which is
6 engaged in spaceport activities or used in expanding
7 manufacturing facilities; redefining the term "real
8 property" for purposes of the sales tax exemption on
9 certain building materials used in the rehabilitation of
10 real property used in an enterprise zone; creating s.
11 288.0659, F.S; providing for local government distressed
12 area matching grants; providing for the Office of Tourism,
13 Trade and Economic Development to administer grant moneys;
14 specifying applicants for grants to match qualified
15 expenditures; providing a definition for "qualified
16 expenditures"; providing qualifying requirements for
17 targeted businesses; providing the office with evaluation
18 criteria for grant requests; providing that grant approval
19 is subject to appropriation; providing funds may not be
20 used to relocate businesses within the state except under
21 certain circumstances; providing that funds may not
22 substitute other local government incentive commitments;
23 providing a preliminary and final grant award process;
24 providing for revocation of grants; limiting the grant
25 amount for the qualified expenditure; providing an
26 appropriation for infrastructure needs in the development
27 and management of facilities for space businesses;
28 providing an appropriation for Space Florida to retrain

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29 workers; providing an appropriation for local government
 30 distressed area matching grants; providing an effective
 31 date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Paragraphs (b) and (g) of subsection (5) of
 36 section 212.08, Florida Statutes, are amended to read:

37 212.08 Sales, rental, use, consumption, distribution, and
 38 storage tax; specified exemptions.—The sale at retail, the
 39 rental, the use, the consumption, the distribution, and the
 40 storage to be used or consumed in this state of the following
 41 are hereby specifically exempt from the tax imposed by this
 42 chapter.

43 (5) EXEMPTIONS; ACCOUNT OF USE.—

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

46 1. Industrial machinery and equipment purchased for
 47 exclusive use by a new business in spaceport activities as
 48 defined by s. 212.02 or for use in new businesses which
 49 manufacture, process, compound, or produce for sale items of
 50 tangible personal property at fixed locations are exempt from
 51 the tax imposed by this chapter upon an affirmative showing by
 52 the taxpayer to the satisfaction of the department that such
 53 items are used in a new business in this state. Such purchases
 54 must be made prior to the date the business first begins its
 55 productive operations, and delivery of the purchased item must
 56 be made within 12 months of that date.

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

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

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

82 | c. If, in a subsequent audit conducted by the department,
83 | it is determined that the machinery and equipment purchased as
84 | exempt under subparagraph 1. or subparagraph 2. did not meet the

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85 criteria mandated by this paragraph or if commencement of
86 production did not occur, the amount of taxes exempted at the
87 time of purchase shall immediately be due and payable to the
88 department by the business entity, together with the appropriate
89 interest and penalty, computed from the date of purchase, in the
90 manner prescribed by this chapter.

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

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

107 5. The exemptions provided in subparagraphs 1. and 2. do
108 not apply to machinery or equipment purchased or used by
109 electric utility companies, communications companies, oil or gas
110 exploration or production operations, publishing firms that do
111 not export at least 50 percent of their finished product out of
112 the state, any firm subject to regulation by the Division of

113 Hotels and Restaurants of the Department of Business and
 114 Professional Regulation, or any firm which does not manufacture,
 115 process, compound, or produce for sale items of tangible
 116 personal property or which does not use such machinery and
 117 equipment in spaceport activities as required by this paragraph.
 118 The exemptions provided in subparagraphs 1. and 2. shall apply
 119 to machinery and equipment purchased for use in phosphate or
 120 other solid minerals severance, mining, or processing
 121 operations.

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

125 a. "Industrial machinery and equipment" means tangible
 126 personal property or other property that has a depreciable life
 127 of 3 years or more and that is used as an integral part in the
 128 manufacturing, processing, compounding, or production of
 129 tangible personal property for sale or is exclusively used in
 130 spaceport activities. A building and its structural components
 131 are not industrial machinery and equipment unless the building
 132 or structural component is so closely related to the industrial
 133 machinery and equipment that it houses or supports that the
 134 building or structural component can be expected to be replaced
 135 when the machinery and equipment are replaced. Heating and air-
 136 conditioning systems are not industrial machinery and equipment
 137 unless the sole justification for their installation is to meet
 138 the requirements of the production process, even though the
 139 system may provide incidental comfort to employees or serve, to
 140 an insubstantial degree, nonproduction activities. The term

141 includes parts and accessories only to the extent that the
 142 exemption thereof is consistent with the provisions of this
 143 paragraph.

144 b. "Productive output" means the number of units actually
 145 produced by a single plant, ~~or operation,~~ or product line in a
 146 single continuous 12-month period, irrespective of sales.
 147 Increases in productive output shall be measured by the output
 148 for 12 continuous months selected by the expanding business
 149 ~~immediately~~ following the completion of installation of such
 150 machinery or equipment over the output for the 12 continuous
 151 months immediately preceding such installation. ~~However, if a~~
 152 ~~different 12-month continuous period of time would more~~
 153 ~~accurately reflect the increase in productive output of~~
 154 ~~machinery and equipment purchased to facilitate an expansion,~~
 155 ~~the increase in productive output may be measured during that~~
 156 ~~12-month continuous period of time if such time period is~~
 157 ~~mutually agreed upon by the Department of Revenue and the~~
 158 ~~expanding business prior to the commencement of production;~~
 159 ~~provided,~~ However, in no case may such time period begin later
 160 than 2 years following the completion of installation of the new
 161 machinery and equipment. The units used to measure productive
 162 output shall be physically comparable between the two periods,
 163 irrespective of sales.

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

166 1. Building materials used in the rehabilitation of real
 167 property located in an enterprise zone shall be exempt from the
 168 tax imposed by this chapter upon an affirmative showing to the

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169 satisfaction of the department that the items have been used for
170 the rehabilitation of real property located in an enterprise
171 zone. Except as provided in subparagraph 2., this exemption
172 inures to the owner, lessee, or lessor of the rehabilitated real
173 property located in an enterprise zone only through a refund of
174 previously paid taxes. To receive a refund pursuant to this
175 paragraph, the owner, lessee, or lessor of the rehabilitated
176 real property located in an enterprise zone must file an
177 application under oath with the governing body or enterprise
178 zone development agency having jurisdiction over the enterprise
179 zone where the business is located, as applicable, which
180 includes:

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

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

185 c. A description of the improvements made to accomplish
186 the rehabilitation of the real property.

187 d. A copy of the building permit issued for the
188 rehabilitation of the real property.

189 e. A sworn statement, under the penalty of perjury, from
190 the general contractor licensed in this state with whom the
191 applicant contracted to make the improvements necessary to
192 accomplish the rehabilitation of the real property, which
193 statement lists the building materials used in the
194 rehabilitation of the real property, the actual cost of the
195 building materials, and the amount of sales tax paid in this
196 state on the building materials. In the event that a general

197 contractor has not been used, the applicant shall provide this
 198 information in a sworn statement, under the penalty of perjury.
 199 Copies of the invoices which evidence the purchase of the
 200 building materials used in such rehabilitation and the payment
 201 of sales tax on the building materials shall be attached to the
 202 sworn statement provided by the general contractor or by the
 203 applicant. Unless the actual cost of building materials used in
 204 the rehabilitation of real property and the payment of sales
 205 taxes due thereon is documented by a general contractor or by
 206 the applicant in this manner, the cost of such building
 207 materials shall be an amount equal to 40 percent of the increase
 208 in assessed value for ad valorem tax purposes.

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

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

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

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

222 2. This exemption inures to a city, county, other
 223 governmental agency, or nonprofit community-based organization
 224 through a refund of previously paid taxes if the building

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225 materials used in the rehabilitation of real property located in
226 an enterprise zone are paid for from the funds of a community
227 development block grant, State Housing Initiatives Partnership
228 Program, or similar grant or loan program. To receive a refund
229 pursuant to this paragraph, a city, county, other governmental
230 agency, or nonprofit community-based organization must file an
231 application which includes the same information required to be
232 provided in subparagraph 1. by an owner, lessee, or lessor of
233 rehabilitated real property. In addition, the application must
234 include a sworn statement signed by the chief executive officer
235 of the city, county, other governmental agency, or nonprofit
236 community-based organization seeking a refund which states that
237 the building materials for which a refund is sought were paid
238 for from the funds of a community development block grant, State
239 Housing Initiatives Partnership Program, or similar grant or
240 loan program.

241 3. Within 10 working days after receipt of an application,
242 the governing body or enterprise zone development agency shall
243 review the application to determine if it contains all the
244 information required pursuant to subparagraph 1. or subparagraph
245 2. and meets the criteria set out in this paragraph. The
246 governing body or agency shall certify all applications that
247 contain the information required pursuant to subparagraph 1. or
248 subparagraph 2. and meet the criteria set out in this paragraph
249 as eligible to receive a refund. If applicable, the governing
250 body or agency shall also certify if 20 percent of the employees
251 of the business are residents of an enterprise zone, excluding
252 temporary and part-time employees. The certification shall be in

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253 writing, and a copy of the certification shall be transmitted to
254 the executive director of the Department of Revenue. The
255 applicant shall be responsible for forwarding a certified
256 application to the department within the time specified in
257 subparagraph 4.

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

263 5. Not more than one exemption through a refund of
264 previously paid taxes for the rehabilitation of real property
265 shall be permitted for any single parcel of property unless
266 there is a change in ownership, a new lessor, or a new lessee of
267 the real property. No refund shall be granted pursuant to this
268 paragraph unless the amount to be refunded exceeds \$500. No
269 refund granted pursuant to this paragraph shall exceed the
270 lesser of 97 percent of the Florida sales or use tax paid on the
271 cost of the building materials used in the rehabilitation of the
272 real property as determined pursuant to sub-subparagraph 1.e. or
273 \$5,000, or, if no less than 20 percent of the employees of the
274 business are residents of an enterprise zone, excluding
275 temporary and part-time employees, the amount of refund granted
276 pursuant to this paragraph shall not exceed the lesser of 97
277 percent of the sales tax paid on the cost of such building
278 materials or \$10,000. A refund approved pursuant to this
279 paragraph shall be made within 30 days of formal approval by the
280 department of the application for the refund. This subparagraph

281 shall apply retroactively to July 1, 2005.

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

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

293 8. For the purposes of the exemption provided in this
 294 paragraph:

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

297 b. "Real property" has the same meaning as provided in s.
 298 192.001(12), except that the term does not include a condominium
 299 parcel or condominium property as defined in s. 718.103.

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

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

305 9. This paragraph expires on the date specified in s.
 306 290.016 for the expiration of the Florida Enterprise Zone Act.

307 Section 2. Section 288.0659, Florida Statutes, is created
 308 to read:

309 288.0659 Local Government Distressed Area Matching Grants.

310 (1) The Office of Tourism, Trade, and Economic Development
 311 may accept and administer moneys appropriated to the office for
 312 providing grants to match expenditures by local governments to
 313 attract or retain businesses in Florida.

314 (2) A county or city may apply for grants to match
 315 qualified expenditures made by the local government. For
 316 purposes of this section, the term "qualified expenditures"
 317 means expenditures made by a local government for the purpose of
 318 attracting or retaining a specific business and includes, but is
 319 not limited to, suspension, waiver, or reduction of impact fees
 320 or permit fees; direct incentive payments; expenditures for
 321 infrastructure improvements directly benefiting and necessary
 322 for site development for a business; land purchases; or
 323 construction or renovation of buildings for a specific business.
 324 A local government may apply for no more than one grant per
 325 targeted business.

326 (3) To qualify for a grant the business being targeted by
 327 a local government must create 15 or more full-time jobs, must
 328 be new to Florida, expanding its operations in Florida, or would
 329 otherwise leave the state absent state and local assistance, and
 330 the local government applying for the grant must expedite its
 331 permitting processes for the target business by accelerating the
 332 normal review and approval timelines. In addition to these
 333 requirements, the Office of Tourism, Trade, and Economic
 334 Development shall review the grant requests using the evaluation
 335 criteria set forth below, with priority given in descending
 336 order to the following items:

337 (a) The presence and degree of pervasive poverty,
 338 unemployment and general distress as determined pursuant to s.
 339 290.0058, in the area where the business will locate, with
 340 priority given to locations with greater degrees of poverty,
 341 unemployment and general distress;

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

346 (c) The number of new full time jobs created, with priority
 347 given to higher numbers of jobs created;

348 (d) The average hourly rate of wages for jobs created, with
 349 priority given to higher average wages;

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

353 (4) Funds made available pursuant to this section may not
 354 be expended in connection with the relocation of a business from
 355 one community to another community in this state unless the
 356 Office of Tourism, Trade, and Economic Development determines
 357 that without such relocation the business will move outside this
 358 state or determines that the business has a compelling economic
 359 rationale for the relocation which creates additional jobs.
 360 Funds made available pursuant to this section may not be used by
 361 the receiving local government to supplant matching commitments
 362 required of the local government pursuant to other state or
 363 federal incentive programs.

364 (5) Within 30 days of receipt of an application for a

365 grant, the Office of Tourism, Trade, and Economic Development
 366 shall either approve a preliminary grant allocation or
 367 disapprove the request. The preliminary grant allocation shall
 368 be based on estimates of qualified expenditures submitted by the
 369 local government and shall equal 50 percent of the amount of the
 370 estimated qualified expenditures or 50 thousand dollars,
 371 whichever is less. The preliminary grant allocation is a
 372 commitment to pay, when the final grant award is made, an amount
 373 not to exceed the allocated amount. The office may approve
 374 preliminary grant allocations only to the extent that funds are
 375 appropriated for such grants by the Legislature.

376 (a) Preliminary grant allocations that are revoked or
 377 voluntarily surrendered shall be immediately available for
 378 reallocation. A preliminary grant allocation may be revoked if:

379 1. The applying local government does not complete its
 380 permitting and approval process for the targeted business within
 381 four months of receipt of the preliminary grant allocation, or

382 2. The final grant award has not been made within 12 months
 383 of completion of the local government permitting process for the
 384 targeted business.

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

389 (6) The office shall make a final grant award to a local
 390 government within 30 days of receipt of information from the
 391 local government sufficient to demonstrate actual qualified
 392 expenditures. An awarded grant amount shall equal 50 percent of

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393 the amount of the qualified expenditure or 50 thousand dollars,
 394 whichever is less, and shall not exceed the preliminary grant
 395 allocation. The amount by which a preliminary grant allocation
 396 exceeds a final grant award shall be immediately available for
 397 reallocation. The office may make final grant awards only to the
 398 extent that funds are appropriated for such grants by the
 399 Legislature.

400 Section 3. There is appropriated for the 2010-2011 state
 401 fiscal year to the Office of Tourism, Trade, and Economic
 402 Development within the Executive Office of the Governor the sum
 403 of \$5 million in nonrecurring general revenue and \$5 million in
 404 recurring general revenue to address business infrastructure
 405 needs to assist in the development and management of state-of-
 406 the-art facilities for space businesses that will create high-
 407 technology, high-wage-earning jobs.

408 Section 4. There is appropriated for the 2010-2011 state
 409 fiscal year to the Office of Tourism, Trade and Economic
 410 Development within the Executive Office of the Governor the sum
 411 of \$3.2 million in nonrecurring general revenue exclusively for
 412 Space Florida to retrain workers as the result of the retirement
 413 of the Space Shuttle Program.

414 Section 5. There is appropriated for the 2010-2011 state
 415 fiscal year to the Office of Tourism, Trade and Economic
 416 Development within the Executive Office of the Governor the sum
 417 of \$2 million in nonrecurring general revenue to provide local
 418 government distressed area matching grants pursuant to s.
 419 288.0659. Notwithstanding s. 216.301 and pursuant to s. 216.351,
 420 any remaining funds from this appropriation as of June 30, 2011,

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421 | shall remain in the trust fund and be available for carrying out
422 | the purpose of the trust fund.

423 | Section 6. This act shall take effect July 1, 2010.