

1 A bill to be entitled
2 An act relating to economic development;
3 amending s. 288.0655, F.S.; providing for
4 additional uses of moneys in the Rural
5 Infrastructure Fund; amending s. 288.095, F.S.;
6 revising terminology relating to certain
7 incentive payment schedules; revising the due
8 date and content for an annual report on
9 incentives and reassigning responsibility for
10 such report to Enterprise Florida, Inc.;
11 amending s. 288.1045, F.S.; revising
12 definitions; revising conditions and procedures
13 governing applications for tax refunds;
14 revising provisions relating to the order
15 authorizing a tax refund; revising the required
16 elements of a tax refund agreement; providing
17 an exemption from mandatory loss of tax refund
18 eligibility and decertification resulting from
19 agreement breach in cases of uncontrollable
20 economic factors; prescribing a deadline for
21 applying for tax refunds; authorizing the
22 office to grant extensions to certain
23 application and notification deadlines;
24 revising conditions under which a prorated tax
25 refund will be approved; providing for
26 calculation of such prorated refund; specifying
27 that the section does not create a presumption
28 a claim will be approved and paid; revising the
29 agencies with which the office may verify
30 information and to which the office may provide
31 information; expanding purposes for which the

1 office may seek assistance from certain
 2 entities; specifying that certain
 3 appropriations may not be used for any purpose
 4 other than the payment of specified tax
 5 refunds; amending s. 288.106, F.S., relating to
 6 the tax refund program for qualified target
 7 industry businesses; revising requirements for
 8 application for certification as such business
 9 with respect to the number of current and new
 10 jobs at the business and projections by the
 11 Office of Tourism, Trade, and Economic
 12 Development of refunds based thereon; revising
 13 requirements relating to the tax refund
 14 agreement with respect to job creation and the
 15 time for filing of claims for refund; providing
 16 for an exemption from mandatory loss of tax
 17 refund eligibility and decertification
 18 resulting from agreement breach in cases of
 19 uncontrollable economic factors; revising
 20 provisions relating to annual claims for
 21 refund; authorizing an extension of time for
 22 signing the tax refund agreement; providing an
 23 application deadline; revising provisions
 24 relating to the order authorizing a tax refund;
 25 revising conditions under which a prorated tax
 26 refund will be approved; providing for
 27 calculation of such prorated tax refund;
 28 specifying that the section does not create a
 29 presumption that a claim will be approved and
 30 paid; revising the agencies with which the
 31 office may verify information and to which the

1 office may provide information; expanding
2 purposes for which the office may seek
3 assistance from certain entities; specifying
4 that certain appropriations may not be used for
5 any purpose other than the payment of specified
6 tax refunds; amending s. 213.053, F.S.;
7 authorizing the Department of Revenue to
8 provide certain information concerning
9 specified tax-refund programs with the Office
10 of Tourism, Trade, and Economic Development and
11 specified agents; amending ss. 212.08 and
12 288.108, F.S.; removing references, to conform;
13 providing an effective date.

14

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

16

17 Section 1. Paragraphs (a) and (b) of subsection (2) of
18 section 288.0655, Florida Statutes, are amended to read:

19

288.0655 Rural Infrastructure Fund.--

20

(2)(a) Funds appropriated by the Legislature shall be
21 distributed by the office through ~~a grant~~ programs ~~program~~
22 that maximize ~~maximizes~~ the use of federal, local, and private
23 resources, including, but not limited to, those available
24 under the Small Cities Community Development Block Grant
25 Program.

26

(b) To facilitate access of rural communities and
27 rural areas of critical economic concern as defined by the
28 Rural Economic Development Initiative to infrastructure
29 funding programs of the Federal Government, such as those
30 offered by the United States Department of Agriculture and the
31 United States Department of Commerce, and state programs,

1 including those offered by Rural Economic Development
 2 Initiative agencies, and to facilitate local government or
 3 private infrastructure funding efforts,the office may award
 4 grants to ~~applicants for such federal programs~~ for up to 30
 5 percent of the total infrastructure project cost. Eligible
 6 projects must be related to specific job-creation or
 7 job-retention ~~job-creating~~ opportunities. Eligible projects
 8 may also include improving any inadequate infrastructure that
 9 has resulted in regulatory action that prohibits economic or
 10 community growth or reducing the costs to community users of
 11 proposed infrastructure improvements that exceed such costs in
 12 comparable communities.Eligible uses of funds shall include
 13 improvements to public infrastructure for industrial or
 14 commercial sites and upgrades to or development of public
 15 tourism infrastructure. Authorized infrastructure may include
 16 the following public or public-private partnership facilities:
 17 storm water systems; telecommunications facilities; roads or
 18 other remedies to transportation impediments; nature-based
 19 tourism facilities; or other physical requirements necessary
 20 to facilitate tourism, trade, and economic development
 21 activities in the community. Authorized infrastructure may
 22 also include publicly owned self-powered nature-based tourism
 23 facilities and additions to the distribution facilities of the
 24 existing natural gas utility as defined in s. 366.04(3)(c),
 25 the existing electric utility as defined in s. 366.02, or the
 26 existing water or wastewater utility as defined in s.
 27 367.021(12), or any other existing water or wastewater
 28 facility, which owns a gas or electric distribution system or
 29 a water or wastewater system in this state where:
 30 1. A contribution-in-aid of construction is required
 31 to serve public or public-private partnership facilities under

1 the tariffs of any natural gas, electric, water, or wastewater
2 utility as defined herein; and

3 2. Such utilities as defined herein are willing and
4 able to provide such service.

5 Section 2. Paragraphs (b) and (c) of subsection (3) of
6 section 288.095, Florida Statutes, are amended to read:

7 288.095 Economic Development Trust Fund.--

8 (3)

9 (b) The total amount of tax refund claims approved for
10 payment by the Office of Tourism, Trade, and Economic
11 Development based on actual project performance may not exceed
12 the amount appropriated to the Economic Development Incentives
13 Account for such purposes for the fiscal year. In the event
14 the Legislature does not appropriate an amount sufficient to
15 satisfy estimates ~~projections~~ by the office for tax refunds
16 under ss. 288.1045 and 288.106 in a fiscal year, the Office of
17 Tourism, Trade, and Economic Development shall, not later than
18 July 15 of such year, determine the proportion of each refund
19 claim which shall be paid by dividing the amount appropriated
20 for tax refunds for the fiscal year by the estimated ~~projected~~
21 total of refund claims for the fiscal year. The amount of each
22 claim for a tax refund shall be multiplied by the resulting
23 quotient. If, after the payment of all such refund claims,
24 funds remain in the Economic Development Incentives Account
25 for tax refunds, the office shall recalculate the proportion
26 for each refund claim and adjust the amount of each claim
27 accordingly.

28 (c) By December 31 ~~September 30~~ of each year,
29 Enterprise Florida, Inc., the Office of Tourism, Trade, and
30 Economic Development shall submit a complete and detailed
31 report to the Governor, the President of the Senate, the

1 Speaker of the House of Representatives, and the director of
2 the Office of Tourism, Trade, and Economic Development ~~board~~
3 ~~of directors of Enterprise Florida, Inc., created under part~~
4 ~~VII of this chapter,~~of all applications received,
5 recommendations made to the Office of Tourism, Trade, and
6 Economic Development,final decisions issued, tax refund
7 agreements executed, and tax refunds paid or other payments
8 made under all programs funded out of the Economic Development
9 Incentives Account, including analyses of benefits and costs,
10 types of projects supported, and employment and investment
11 created. Enterprise Florida, Inc.,~~The Office of Tourism,~~
12 ~~Trade, and Economic Development~~ shall also include a separate
13 analysis of the impact of such tax refunds on state enterprise
14 zones designated pursuant to s. 290.0065, rural communities,
15 brownfield areas, and distressed urban communities. By
16 ~~December 1 of each year, the board of directors of Enterprise~~
17 ~~Florida, Inc., shall review and comment on the report, and the~~
18 ~~board shall submit the report, together with the comments of~~
19 ~~the board, to the Governor, the President of the Senate, and~~
20 ~~the Speaker of the House of Representatives.~~The report must
21 discuss whether the authority and moneys appropriated by the
22 Legislature to the Economic Development Incentives Account
23 were managed and expended in a prudent, fiducially sound
24 manner. The Office of Tourism, Trade, and Economic Development
25 shall assist Enterprise Florida, Inc., in the collection of
26 data related to business performance and incentive payments.

27 Section 3. Section 288.1045, Florida Statutes, is
28 amended to read:

29 288.1045 Qualified defense contractor tax refund
30 program.--

31 (1) DEFINITIONS.--As used in this section:

1 (a) "Consolidation of a Department of Defense
2 contract" means the consolidation of one or more of an
3 applicant's facilities under one or more Department of Defense
4 contracts either from outside this state or from inside and
5 outside this state, into one or more of the applicant's
6 facilities inside this state.

7 (b) "Average wage in the area" means the average of
8 all wages and salaries in the state, the county, or in the
9 standard metropolitan area in which the business unit is
10 located.

11 (c) "Applicant" means any business entity that holds a
12 valid Department of Defense contract or any business entity
13 that is a subcontractor under a valid Department of Defense
14 contract or any business entity that holds a valid contract
15 for the reuse of a defense-related facility, including all
16 members of an affiliated group of corporations as defined in
17 s. 220.03(1)(b).

18 (d) "Office" means the Office of Tourism, Trade, and
19 Economic Development.

20 (e) "Department of Defense contract" means a
21 competitively bid Department of Defense contract or
22 subcontract or a competitively bid federal agency contract or
23 subcontract issued on behalf of the Department of Defense for
24 manufacturing, assembling, fabricating, research, development,
25 or design with a duration of 2 or more years, but excluding
26 any contract or subcontract to provide goods, improvements to
27 real or tangible property, or services directly to or for any
28 particular military base or installation in this state. The
29 term includes contracts or subcontracts for products or
30 services for military use which contracts or subcontracts are
31 approved by the United States Department of Defense, the

1 United States Department of State, or the United States Coast
2 Guard.

3 (f) "New Department of Defense contract" means a
4 Department of Defense contract entered into after the date
5 application for certification as a qualified applicant is made
6 and after January 1, 1994.

7 (g) "Jobs" means full-time equivalent positions,
8 consistent with the use of such terms by the Agency for
9 Workforce Innovation Department of Labor and Employment
10 Security for the purpose of unemployment compensation tax,
11 resulting directly from a project in this state. This number
12 does not include temporary construction jobs involved with the
13 construction of facilities for the project.

14 (h) "Nondefense production jobs" means employment
15 exclusively for activities that, directly or indirectly, are
16 unrelated to the Department of Defense.

17 (i) "Project" means any business undertaking in this
18 state under a new Department of Defense contract,
19 consolidation of a Department of Defense contract, or
20 conversion of defense production jobs over to nondefense
21 production jobs or reuse of defense-related facilities.

22 (j) "Qualified applicant" means an applicant that has
23 been approved by the director to be eligible for tax refunds
24 pursuant to this section.

25 (k) "Director" means the director of the Office of
26 Tourism, Trade, and Economic Development.

27 (l) "Taxable year" means the same as in s.
28 220.03(1)(z).

29 (m) "Fiscal year" means the fiscal year of the state.

30 (n) "Business unit" means an employing unit, as
31 defined in s. 443.036, that is registered with the Agency for

1 Workforce Innovation ~~Department of Labor and Employment~~
 2 ~~Security~~ for unemployment compensation purposes or means a
 3 subcategory or division of an employing unit that is accepted
 4 by the Agency for Workforce Innovation ~~Department of Labor and~~
 5 ~~Employment Security~~ as a reporting unit.

6 (o) "Local financial support" means funding from local
 7 sources, public or private, which is paid to the Economic
 8 Development Trust Fund and which is equal to 20 percent of the
 9 annual tax refund for a qualified applicant. Local financial
 10 support may include excess payments made to a utility company
 11 under a designated program to allow decreases in service by
 12 the utility company under conditions, regardless of when
 13 application is made. A qualified applicant may not provide,
 14 directly or indirectly, more than 5 percent of such funding in
 15 any fiscal year. The sources of such funding may not include,
 16 directly or indirectly, state funds appropriated from the
 17 General Revenue Fund or any state trust fund, excluding tax
 18 revenues shared with local governments pursuant to law.

19 (p) "Contract for reuse of a defense-related facility"
 20 means a contract with a duration of 2 or more years for the
 21 use of a facility for manufacturing, assembling, fabricating,
 22 research, development, or design of tangible personal
 23 property, but excluding any contract to provide goods,
 24 improvements to real or tangible property, or services
 25 directly to or for any particular military base or
 26 installation in this state. Such facility must be located
 27 within a port, as defined in s. 313.21, and have been occupied
 28 by a business entity that held a valid Department of Defense
 29 contract or occupied by any branch of the Armed Forces of the
 30 United States, within 1 year of any contract being executed
 31 for the reuse of such facility. A contract for reuse of a

1 defense-related facility may not include any contract for
2 reuse of such facility for any Department of Defense contract
3 for manufacturing, assembling, fabricating, research,
4 development, or design.

5 (q) "Local financial support exemption option" means
6 the option to exercise an exemption from the local financial
7 support requirement available to any applicant whose project
8 is located in a county designated by the Rural Economic
9 Development Initiative, if the county commissioners of the
10 county in which the project will be located adopt a resolution
11 requesting that the applicant's project be exempt from the
12 local financial support requirement. Any applicant that
13 exercises this option is not eligible for more than 80 percent
14 of the total tax refunds allowed such applicant under this
15 section.

16 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.--

17 (a) There shall be allowed, from the Economic
18 Development Trust Fund, a refund to a qualified applicant for
19 the amount of eligible taxes certified by the director which
20 were paid by such qualified applicant. The total amount of
21 refunds for all fiscal years for each qualified applicant
22 shall be determined pursuant to subsection (3). The annual
23 amount of a refund to a qualified applicant shall be
24 determined pursuant to subsection (5).

25 (b) A qualified applicant may not be qualified for any
26 project to receive more than \$5,000 times the number of jobs
27 provided in the tax refund agreement pursuant to subparagraph
28 (4)(a)1. A qualified applicant may not receive refunds of more
29 than 25 percent of the total tax refunds provided in the tax
30 refund agreement pursuant to subparagraph (4)(a)1. in any
31 fiscal year, provided that no qualified applicant may receive

1 more than \$2.5 million in tax refunds pursuant to this section
2 in any fiscal year.

3 (c) A qualified applicant may not receive more than
4 \$7.5 million in tax refunds pursuant to this section in all
5 fiscal years.

6 (d) Contingent upon an annual appropriation by the
7 Legislature, the director may approve not more in tax refunds
8 than the amount appropriated to the Economic Development Trust
9 Fund for tax refunds, for a fiscal year pursuant to subsection
10 (5) and s. 288.095.

11 (e) For the first 6 months of each fiscal year, the
12 director shall set aside 30 percent of the amount appropriated
13 for refunds pursuant to this section by the Legislature to
14 provide tax refunds only to qualified applicants who employ
15 500 or fewer full-time employees in this state. Any
16 unencumbered funds remaining undisbursed from this set-aside
17 at the end of the 6-month period may be used to provide tax
18 refunds for any qualified applicants pursuant to this section.

19 (f) After entering into a tax refund agreement
20 pursuant to subsection (4), a qualified applicant may receive
21 refunds from the Economic Development Trust Fund for the
22 following taxes due and paid by the qualified applicant
23 beginning with the applicant's first taxable year that begins
24 after entering into the agreement:

25 1. Taxes on sales, use, and other transactions paid
26 pursuant to chapter 212.

27 2. Corporate income taxes paid pursuant to chapter
28 220.

29 3. Intangible personal property taxes paid pursuant to
30 chapter 199.

31

1 4. Emergency excise taxes paid pursuant to chapter
2 221.

3 5. Excise taxes paid on documents pursuant to chapter
4 201.

5 6. Ad valorem taxes paid, as defined in s.
6 220.03(1)(a) on June 1, 1996.

7
8 However, a qualified applicant may not receive a tax refund
9 pursuant to this section for any amount of credit, refund, or
10 exemption granted such contractor for any of such taxes. If a
11 refund for such taxes is provided by the office, which taxes
12 are subsequently adjusted by the application of any credit,
13 refund, or exemption granted to the qualified applicant other
14 than that provided in this section, the qualified applicant
15 shall reimburse the Economic Development Trust Fund for the
16 amount of such credit, refund, or exemption. A qualified
17 applicant must notify and tender payment to the office within
18 20 days after receiving a credit, refund, or exemption, other
19 than that provided in this section.

20 (g) Any qualified applicant who fraudulently claims
21 this refund is liable for repayment of the refund to the
22 Economic Development Trust Fund plus a mandatory penalty of
23 200 percent of the tax refund which shall be deposited into
24 the General Revenue Fund. Any qualified applicant who
25 fraudulently claims this refund commits a felony of the third
26 degree, punishable as provided in s. 775.082, s. 775.083, or
27 s. 775.084.

28 (h) Funds made available pursuant to this section may
29 not be expended in connection with the relocation of a
30 business from one community to another community in this state
31 unless the Office of Tourism, Trade, and Economic Development

1 determines that without such relocation the business will move
2 outside this state or determines that the business has a
3 compelling economic rationale for the relocation which creates
4 additional jobs.

5 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
6 DETERMINATION.--

7 (a) To apply for certification as a qualified
8 applicant pursuant to this section, an applicant must file an
9 application with the office which satisfies the requirements
10 of paragraphs (b) and (e), paragraphs (c) and (e), or
11 paragraphs (d) and (e). An applicant may not apply for
12 certification pursuant to this section after a proposal has
13 been submitted for a new Department of Defense contract, after
14 the applicant has made the decision to consolidate an existing
15 Department of Defense contract in this state for which such
16 applicant is seeking certification, or after the applicant has
17 made the decision to convert defense production jobs to
18 nondefense production jobs for which such applicant is seeking
19 certification.

20 (b) Applications for certification based on the
21 consolidation of a Department of Defense contract or a new
22 Department of Defense contract must be submitted to the office
23 as prescribed by the office and must include, but are not
24 limited to, the following information:

25 1. The applicant's federal employer identification
26 number, the applicant's Florida sales tax registration number,
27 and a notarized signature of an officer of the applicant.

28 2. The permanent location of the manufacturing,
29 assembling, fabricating, research, development, or design
30 facility in this state at which the project is or is to be
31 located.

1 3. The Department of Defense contract numbers of the
2 contract to be consolidated, the new Department of Defense
3 contract number, or the "RFP" number of a proposed Department
4 of Defense contract.

5 4. The date the contract was executed or is expected
6 to be executed, and the date the contract is due to expire or
7 is expected to expire.

8 5. The commencement date for project operations under
9 the contract in this state.

10 6. The number of net new full-time equivalent Florida
11 jobs included in this state ~~which are or will be dedicated to~~
12 the project as of December 31 of each ~~during the~~ year and the
13 average wage of such jobs.

14 7. The total number of full-time equivalent employees
15 employed by the applicant in this state.

16 8. The percentage of the applicant's gross receipts
17 derived from Department of Defense contracts during the 5
18 taxable years immediately preceding the date the application
19 is submitted.

20 9. The amount of:

21 a. Taxes on sales, use, and other transactions paid
22 pursuant to chapter 212;

23 b. Corporate income taxes paid pursuant to chapter
24 220;

25 c. Intangible personal property taxes paid pursuant to
26 chapter 199;

27 d. Emergency excise taxes paid pursuant to chapter
28 221;

29 e. Excise taxes paid on documents pursuant to chapter
30 201; and

31 f. Ad valorem taxes paid

1
2 during the 5 fiscal years immediately preceding the date of
3 the application, and the projected amounts of such taxes to be
4 due in the 3 fiscal years immediately following the date of
5 the application.

6 10. The estimated amount of tax refunds to be claimed
7 for ~~in~~ each fiscal year.

8 11. A brief statement concerning the applicant's need
9 for tax refunds, and the proposed uses of such refunds by the
10 applicant.

11 12. A resolution adopted by the county commissioners
12 of the county in which the project will be located, which
13 recommends the applicant be approved as a qualified applicant,
14 and which indicates that the necessary commitments of local
15 financial support for the applicant exist. Prior to the
16 adoption of the resolution, the county commission may review
17 the proposed public or private sources of such support and
18 determine whether the proposed sources of local financial
19 support can be provided or, for any applicant whose project is
20 located in a county designated by the Rural Economic
21 Development Initiative, a resolution adopted by the county
22 commissioners of such county requesting that the applicant's
23 project be exempt from the local financial support
24 requirement.

25 13. Any additional information requested by the
26 office.

27 (c) Applications for certification based on the
28 conversion of defense production jobs to nondefense production
29 jobs must be submitted to the office as prescribed by the
30 office and must include, but are not limited to, the following
31 information:

1 1. The applicant's federal employer identification
2 number, the applicant's Florida sales tax registration number,
3 and a notarized signature of an officer of the applicant.

4 2. The permanent location of the manufacturing,
5 assembling, fabricating, research, development, or design
6 facility in this state at which the project is or is to be
7 located.

8 3. The Department of Defense contract numbers of the
9 contract under which the defense production jobs will be
10 converted to nondefense production jobs.

11 4. The date the contract was executed, and the date
12 the contract is due to expire or is expected to expire, or was
13 canceled.

14 5. The commencement date for the nondefense production
15 operations in this state.

16 6. The number of net new full-time equivalent Florida
17 jobs included in this state which are or will be dedicated to
18 the nondefense production project as of December 31 of each
19 during the year and the average wage of such jobs.

20 7. The total number of full-time equivalent employees
21 employed by the applicant in this state.

22 8. The percentage of the applicant's gross receipts
23 derived from Department of Defense contracts during the 5
24 taxable years immediately preceding the date the application
25 is submitted.

26 9. The amount of:

27 a. Taxes on sales, use, and other transactions paid
28 pursuant to chapter 212;

29 b. Corporate income taxes paid pursuant to chapter
30 220;

31

1 c. Intangible personal property taxes paid pursuant to
2 chapter 199;

3 d. Emergency excise taxes paid pursuant to chapter
4 221;

5 e. Excise taxes paid on documents pursuant to chapter
6 201; and

7 f. Ad valorem taxes paid

8
9 during the 5 fiscal years immediately preceding the date of
10 the application, and the projected amounts of such taxes to be
11 due in the 3 fiscal years immediately following the date of
12 the application.

13 10. The estimated amount of tax refunds to be claimed
14 for ~~in~~ each fiscal year.

15 11. A brief statement concerning the applicant's need
16 for tax refunds, and the proposed uses of such refunds by the
17 applicant.

18 12. A resolution adopted by the county commissioners
19 of the county in which the project will be located, which
20 recommends the applicant be approved as a qualified applicant,
21 and which indicates that the necessary commitments of local
22 financial support for the applicant exist. Prior to the
23 adoption of the resolution, the county commission may review
24 the proposed public or private sources of such support and
25 determine whether the proposed sources of local financial
26 support can be provided or, for any applicant whose project is
27 located in a county designated by the Rural Economic
28 Development Initiative, a resolution adopted by the county
29 commissioners of such county requesting that the applicant's
30 project be exempt from the local financial support
31 requirement.

1 13. Any additional information requested by the
2 office.

3 (d) Applications for certification based on a contract
4 for reuse of a defense-related facility must be submitted to
5 the office as prescribed by the office and must include, but
6 are not limited to, the following information:

7 1. The applicant's Florida sales tax registration
8 number and a notarized signature of an officer of the
9 applicant.

10 2. The permanent location of the manufacturing,
11 assembling, fabricating, research, development, or design
12 facility in this state at which the project is or is to be
13 located.

14 3. The business entity holding a valid Department of
15 Defense contract or branch of the Armed Forces of the United
16 States that previously occupied the facility, and the date
17 such entity last occupied the facility.

18 4. A copy of the contract to reuse the facility, or
19 such alternative proof as may be prescribed by the office that
20 the applicant is seeking to contract for the reuse of such
21 facility.

22 5. The date the contract to reuse the facility was
23 executed or is expected to be executed, and the date the
24 contract is due to expire or is expected to expire.

25 6. The commencement date for project operations under
26 the contract in this state.

27 7. The number of net new full-time equivalent Florida
28 jobs included ~~in this state which are or will be dedicated to~~
29 the project as of December 31 of each ~~during the~~ year and the
30 average wage of such jobs.

31

1 8. The total number of full-time equivalent employees
2 employed by the applicant in this state.

3 9. The amount of:

4 a. Taxes on sales, use, and other transactions paid
5 pursuant to chapter 212.

6 b. Corporate income taxes paid pursuant to chapter
7 220.

8 c. Intangible personal property taxes paid pursuant to
9 chapter 199.

10 d. Emergency excise taxes paid pursuant to chapter
11 221.

12 e. Excise taxes paid on documents pursuant to chapter
13 201.

14 f. Ad valorem taxes paid during the 5 fiscal years
15 immediately preceding the date of the application, and the
16 projected amounts of such taxes to be due in the 3 fiscal
17 years immediately following the date of the application.

18 10. The estimated amount of tax refunds to be claimed
19 for ~~in~~ each fiscal year.

20 11. A brief statement concerning the applicant's need
21 for tax refunds, and the proposed uses of such refunds by the
22 applicant.

23 12. A resolution adopted by the county commissioners
24 of the county in which the project will be located, which
25 recommends the applicant be approved as a qualified applicant,
26 and which indicates that the necessary commitments of local
27 financial support for the applicant exist. Prior to the
28 adoption of the resolution, the county commission may review
29 the proposed public or private sources of such support and
30 determine whether the proposed sources of local financial
31 support can be provided or, for any applicant whose project is

1 located in a county designated by the Rural Economic
2 Development Initiative, a resolution adopted by the county
3 commissioners of such county requesting that the applicant's
4 project be exempt from the local financial support
5 requirement.

6 13. Any additional information requested by the
7 office.

8 (e) To qualify for review by the office, the
9 application of an applicant must, at a minimum, establish the
10 following to the satisfaction of the office:

11 1. The jobs proposed to be provided under the
12 application, pursuant to subparagraph (b)6. or subparagraph
13 (c)6., must pay an estimated annual average wage equaling at
14 least 115 percent of the average wage in the area where the
15 project is to be located.

16 2. The consolidation of a Department of Defense
17 contract must result in a net increase of at least 25 percent
18 in the number of jobs at the applicant's facilities in this
19 state or the addition of at least 80 jobs at the applicant's
20 facilities in this state.

21 3. The conversion of defense production jobs to
22 nondefense production jobs must result in net increases in
23 nondefense employment at the applicant's facilities in this
24 state.

25 4. The Department of Defense contract cannot allow the
26 business to include the costs of relocation or retooling in
27 its base as allowable costs under a cost-plus, or similar,
28 contract.

29 5. A business unit of the applicant must have derived
30 not less than 60 ~~70~~ percent of its gross receipts in this
31 state from Department of Defense contracts over the

1 applicant's last fiscal year, and must have derived not less
2 than an average of 60 ~~80~~ percent of its gross receipts in this
3 state from Department of Defense contracts over the 5 years
4 preceding the date an application is submitted pursuant to
5 this section. This subparagraph does not apply to any
6 application for certification based on a contract for reuse of
7 a defense-related facility.

8 6. The reuse of a defense-related facility must result
9 in the creation of at least 100 jobs at such facility.

10 (f) Each application meeting the requirements of
11 paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs
12 (d) and (e) must be submitted to the office for a
13 determination of eligibility. The office shall review,
14 evaluate, and score each application based on, but not limited
15 to, the following criteria:

16 1. Expected contributions to the state strategic
17 economic development plan adopted by Enterprise Florida, Inc.,
18 taking into account the extent to which the project
19 contributes to the state's high-technology base, and the
20 long-term impact of the project and the applicant on the
21 state's economy.

22 2. The economic benefit of the jobs created or
23 retained by the project in this state, taking into account the
24 cost and average wage of each job created or retained, and the
25 potential risk to existing jobs.

26 3. The amount of capital investment to be made by the
27 applicant in this state.

28 4. The local commitment and support for the project
29 and applicant.

30
31

1 5. The impact of the project on the local community,
2 taking into account the unemployment rate for the county where
3 the project will be located.

4 6. The dependence of the local community on the
5 defense industry.

6 7. The impact of any tax refunds granted pursuant to
7 this section on the viability of the project and the
8 probability that the project will occur in this state if such
9 tax refunds are granted to the applicant, taking into account
10 the expected long-term commitment of the applicant to economic
11 growth and employment in this state.

12 8. The length of the project, or the expected
13 long-term commitment to this state resulting from the project.

14 (g) The office shall forward its written findings and
15 evaluation on each application meeting the requirements of
16 paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs
17 (d) and (e) to the director within 60 calendar days after ~~of~~
18 receipt of a complete application. The office shall notify
19 each applicant when its application is complete, and when the
20 60-day period begins. In its written report to the director,
21 the office shall specifically address each of the factors
22 specified in paragraph (f), and shall make a specific
23 assessment with respect to the minimum requirements
24 established in paragraph (e). The office shall include in its
25 report projections of the tax refunds the applicant would be
26 eligible to receive ~~refund claims that will be sought by the~~
27 ~~applicant~~ in each fiscal year based on the creation and
28 maintenance of the net new Florida jobs specified in
29 subparagraph (b)6., subparagraph (c)6., or subparagraph (d)7.
30 as of December 31 of the preceding state fiscal year
31 ~~information submitted in the application.~~

1 (h) Within 30 days after receipt of the office's
2 findings and evaluation, the director shall issue a letter of
3 certification which ~~enter a final order that~~ either approves
4 or disapproves an application. The decision must be in writing
5 and provide the justifications for either approval or
6 disapproval. If appropriate, the director shall enter into a
7 written agreement with the qualified applicant pursuant to
8 subsection (4).

9 (i) The director may not certify ~~enter any final order~~
10 ~~that certifies~~ any applicant as a qualified applicant when the
11 value of tax refunds to be included in that letter of
12 certification ~~final order~~ exceeds the available amount of
13 authority to certify new businesses ~~enter final orders~~ as
14 determined in s. 288.095(3). A letter of certification ~~final~~
15 ~~order~~ that approves an application must specify the maximum
16 amount of a tax refund that is to be available to the
17 contractor for ~~in~~ each fiscal year and the total amount of tax
18 refunds for all fiscal years.

19 (j) This section does not create a presumption that an
20 applicant should receive any tax refunds under this section.

21 (4) QUALIFIED DEFENSE CONTRACTOR TAX REFUND
22 AGREEMENT.--

23 (a) A qualified applicant shall enter into a written
24 agreement with the office containing, but not limited to, the
25 following:

26 1. The total number of full-time equivalent jobs in
27 this state that are or will be dedicated to the qualified
28 applicant's project, the average wage of such jobs, the
29 definitions that will apply for measuring the achievement of
30 these terms during the pendency of the agreement, and a time
31 schedule or plan for when such jobs will be in place and

1 active in this state. ~~This information must be the same as the~~
2 ~~information contained in the application submitted by the~~
3 ~~contractor pursuant to subsection (3).~~

4 2. The maximum amount of a refund that the qualified
5 applicant is eligible to receive for ~~in~~ each fiscal year,
6 based on the job creation or retention and maintenance
7 schedule specified in subparagraph 1.

8 3. An agreement with the office allowing the office to
9 review and verify the financial and personnel records of the
10 qualified applicant to ascertain whether the qualified
11 applicant is complying with the requirements of this section.

12 4. The date by ~~after~~ which, in each fiscal year, the
13 qualified applicant may file a ~~an annual~~ claim pursuant to
14 subsection (5) to be considered to receive a tax refund in the
15 following fiscal year.

16 5. That local financial support shall be annually
17 available and will be paid to the Economic Development Trust
18 Fund.

19 (b) Compliance with the terms and conditions of the
20 agreement is a condition precedent for receipt of tax refunds
21 each year. The failure to comply with the terms and conditions
22 of the agreement shall result in the loss of eligibility for
23 receipt of all tax refunds previously authorized pursuant to
24 this section, and the revocation of the certification as a
25 qualified applicant by the director, unless the qualified
26 applicant is eligible to receive and elects to accept a
27 prorated refund under paragraph (5)(g) or the office grants
28 the qualified applicant an economic-stimulus exemption.

29 1. A qualified applicant may submit, in writing, a
30 request to the office for an economic-stimulus exemption. The
31 request must provide quantitative evidence demonstrating how

1 negative economic conditions in the qualified applicant's
2 industry have prevented the qualified applicant from complying
3 with the terms and conditions of its tax refund agreement.

4 2. Upon receipt of a request under subparagraph 1.,
5 the director shall have 45 days to notify the requesting
6 qualified applicant, in writing, if its exemption has been
7 granted or denied. In determining if an exemption should be
8 granted, the director shall consider the extent to which
9 negative economic conditions in the requesting qualified
10 applicant's industry have prevented the qualified applicant
11 from complying with the terms and conditions of its tax refund
12 agreement.

13 3. As a condition for receiving a prorated refund
14 under paragraph (5)(g) or an economic-stimulus exemption under
15 this paragraph, a qualified applicant must agree to
16 renegotiate its tax refund agreement with the office to, at a
17 minimum, ensure that the terms of the agreement comply with
18 current law and office procedures governing application for
19 and award of tax refunds. Upon approving the award of a
20 prorated refund or granting an economic-stimulus exemption,
21 the office shall renegotiate the tax refund agreement with the
22 qualified applicant as required by this subparagraph. When
23 amending the agreement of a qualified applicant receiving an
24 economic-stimulus exemption, the office may extend the
25 duration of the agreement for a period not to exceed 1 year.

26 4. A qualified applicant may submit a request for an
27 economic-stimulus exemption to the office in lieu of any tax
28 refund claim scheduled to be submitted after June 30, 2001,
29 but before July 1, 2003.

30
31

1 5. A qualified applicant that receives an
2 economic-stimulus exemption may not receive a tax refund for
3 the period covered by the exemption.

4 (c) The agreement shall be signed by the director and
5 the authorized officer of the qualified applicant.

6 (d) The agreement must contain the following legend,
7 clearly printed on its face in bold type of not less than 10
8 points:

9
10 "This agreement is neither a general obligation
11 of the State of Florida, nor is it backed by
12 the full faith and credit of the State of
13 Florida. Payment of tax refunds are conditioned
14 on and subject to specific annual
15 appropriations by the Florida Legislature of
16 funds sufficient to pay amounts authorized in
17 s. 288.1045, Florida Statutes."

18
19 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE
20 CONTRACTOR.--

21 (a) To be eligible to claim any scheduled tax refund,
22 qualified applicants who have entered into a written agreement
23 with the office pursuant to subsection (4) and who have
24 entered into a valid new Department of Defense contract,
25 commenced the consolidation of a Department of Defense
26 contract, commenced the conversion of defense production jobs
27 to nondefense production jobs, ~~or who have~~ entered into a
28 valid contract for reuse of a defense-related facility must
29 ~~may~~ apply by January 31 of ~~once~~ each fiscal year to the office
30 for tax refunds scheduled to be paid from the appropriation
31 for the fiscal year that begins on July 1 following the

1 January 31 claims-submission date. The office may, upon
2 written request, grant a 30-day extension of the filing date.

3 ~~The application must be made on or after the date contained in~~
4 ~~the agreement entered into pursuant to subsection (4) and must~~
5 include a notarized signature of an officer of the applicant.

6 (b) The claim for refund by the qualified applicant
7 must include a copy of all receipts pertaining to the payment
8 of taxes for which a refund is sought, and data related to
9 achieving each performance item contained in the tax refund
10 agreement pursuant to subsection (4). The amount requested as
11 a tax refund may not exceed the amount for the relevant fiscal
12 year in the written agreement entered pursuant to subsection
13 (4).

14 (c) A tax refund may not be approved for any qualified
15 applicant unless local financial support has been paid to the
16 Economic Development Trust Fund for in that refund fiscal
17 ~~year~~. If the local financial support is less than 20 percent
18 of the approved tax refund, the tax refund shall be reduced.
19 The tax refund paid may not exceed 5 times the local financial
20 support received. Funding from local sources includes tax
21 abatement under s. 196.1995 provided to a qualified applicant.
22 The amount of any tax refund for an applicant approved under
23 this section shall be reduced by the amount of any such tax
24 abatement, and the limitations in subsection (2) and paragraph
25 (3)(h) shall be reduced by the amount of any such tax
26 abatement. A report listing all sources of the local financial
27 support shall be provided to the office when such support is
28 paid to the Economic Development Trust Fund.

29 (d) The director, with assistance from the office, the
30 Department of Revenue, and the Agency for Workforce Innovation
31 ~~Department of Labor and Employment Security~~, shall, by June 30

1 following the scheduled date for submitting the tax-refund
 2 claim, specify by written order the approval or disapproval of
 3 the tax refund claim and, if approved, determine the amount of
 4 the tax refund that is authorized to be paid to for the
 5 qualified applicant for the ~~fiscal year in a written final~~
 6 ~~order within 30 days after the date the claim for the annual~~
 7 tax refund ~~is received by the office.~~ The office may grant an
 8 extension of this date upon the request of the qualified
 9 applicant for the purpose of filing additional information in
 10 support of the claim.

11 (e) The total amount of tax refunds approved by the
 12 director under this section in any fiscal year may not exceed
 13 the amount appropriated to the Economic Development Trust Fund
 14 for such purposes for the fiscal year. If the Legislature does
 15 not appropriate an amount sufficient to satisfy projections by
 16 the office for tax refunds in a fiscal year, the director
 17 shall, not later than July 15 of such year, determine the
 18 proportion of each refund claim which shall be paid by
 19 dividing the amount appropriated for tax refunds for the
 20 fiscal year by the projected total amount of refund claims for
 21 the fiscal year. The amount of each claim for a tax refund
 22 shall be multiplied by the resulting quotient. If, after the
 23 payment of all such refund claims, funds remain in the
 24 Economic Development Trust Fund for tax refunds, the director
 25 shall recalculate the proportion for each refund claim and
 26 adjust the amount of each claim accordingly.

27 (f) Upon approval of the tax refund pursuant to
 28 paragraphs (c) and (d), the Comptroller shall issue a warrant
 29 for the amount included in the written final order. In the
 30 event of any appeal of the written final order, the
 31 Comptroller may not issue a warrant for a refund to the

1 qualified applicant until the conclusion of all appeals of the
2 written final order.

3 (g) A prorated tax refund, less a 5 percent penalty,
4 shall be approved for a qualified applicant provided all other
5 applicable requirements have been satisfied and the applicant
6 proves to the satisfaction of the director that it has
7 achieved at least 80 percent of its projected employment and
8 that the average wage paid by the qualified applicant is at
9 least 90 percent of the average wage specified in the tax
10 refund agreement, but in no case less than 115 percent of the
11 average private-sector wage in the area available at the time
12 of certification. The prorated tax refund shall be calculated
13 by multiplying the tax refund amount for which the qualified
14 applicant would have been eligible, if all applicable
15 requirements had been satisfied, by the percentage of the
16 average employment specified in the tax refund agreement which
17 was achieved, and by the percentage of the average wages
18 specified in the tax refund agreement which was achieved.

19 (h) This section does not create a presumption that a
20 tax refund claim will be approved and paid.

21 (6) ADMINISTRATION.--

22 (a) The office may adopt rules pursuant to chapter 120
23 for the administration of this section.

24 (b) The office may verify information provided in any
25 claim submitted for tax credits under this section with regard
26 to employment and wage levels or the payment of the taxes with
27 the appropriate agency or authority including the Department
28 of Revenue, the Agency for Workforce Innovation ~~Department of~~
29 ~~Labor and Employment Security~~, or any local government or
30 authority.

31

1 (c) To facilitate the process of monitoring and
2 auditing applications made under this program, the office may
3 provide a list of qualified applicants to the Department of
4 Revenue, to the Agency for Workforce Innovation ~~Department of~~
5 ~~Labor and Employment Security~~, or to any local government or
6 authority. The office may request the assistance of said
7 entities with respect to monitoring jobs, wages, and the
8 payment of the taxes listed in subsection (2).

9 (d) By December 1 of each year, the office shall
10 submit a complete and detailed report to the Governor, the
11 President of the Senate, and the Speaker of the House of
12 Representatives of all tax refunds paid under this section,
13 including analyses of benefits and costs, types of projects
14 supported, employment and investment created, geographic
15 distribution of tax refunds granted, and minority business
16 participation. The report must indicate whether the moneys
17 appropriated by the Legislature to the qualified applicant tax
18 refund program were expended in a prudent, fiducially sound
19 manner.

20 (e) Funds specifically appropriated for the tax refund
21 program under this section may not be used for any purpose
22 other than the payment of tax refunds authorized by this
23 section.

24 (7) EXPIRATION.--An applicant may not be certified as
25 qualified under this section after June 30, 2004.

26 Section 4. Paragraphs (a) and (d) of subsection (3),
27 paragraphs (a), (b), and (c) of subsection (4), and
28 subsections (5) and (6) of section 288.106, Florida Statutes,
29 are amended, and subsection (7) of that section is reenacted,
30 to read:

31

1 288.106 Tax refund program for qualified target
2 industry businesses.--

3 (3) APPLICATION AND APPROVAL PROCESS.--

4 (a) To apply for certification as a qualified target
5 industry business under this section, the business must file
6 an application with the office before the business has made
7 the decision to locate a new business in this state or before
8 the business had made the decision to expand an existing
9 business in this state. The application shall include, but is
10 not limited to, the following information:

11 1. The applicant's federal employer identification
12 number and the applicant's state sales tax registration
13 number.

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

16 3. A description of the type of business activity or
17 product covered by the project, including four-digit SIC codes
18 for all activities included in the project.

19 4. The number of net new full-time equivalent Florida
20 jobs at the qualified target industry business as of December
21 31 of each year included in this state that are or will be
22 ~~dedicated to~~ the project and the average wage of those jobs.
23 If more than one type of business activity or product is
24 included in the project, the number of jobs and average wage
25 for those jobs must be separately stated for each type of
26 business activity or product.

27 5. The total number of full-time equivalent employees
28 employed by the applicant in this state.

29 6. The anticipated commencement date of the project.
30
31

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

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

7 9. A resolution adopted by the governing board of the
8 county or municipality in which the project will be located,
9 which resolution recommends that certain types of businesses
10 be approved as a qualified target industry business and states
11 that the commitments of local financial support necessary for
12 the target industry business exist. In advance of the passage
13 of such resolution, the office may also accept an official
14 letter from an authorized local economic development agency
15 that endorses the proposed target industry project and pledges
16 that sources of local financial support for such project
17 exist. For the purposes of making pledges of local financial
18 support under this subsection, the authorized local economic
19 development agency shall be officially designated by the
20 passage of a one-time resolution by the local governing
21 authority.

22 10. Any additional information requested by the
23 office.

24 (d) The office shall forward its written findings and
25 evaluation concerning each application meeting the
26 requirements of paragraph (b) to the director within 45
27 calendar days after receipt of a complete application. The
28 office shall notify each target industry business when its
29 application is complete, and of the time when the 45-day
30 period begins. In its written report to the director, the
31 office shall specifically address each of the factors

1 specified in paragraph (c) and shall make a specific
2 assessment with respect to the minimum requirements
3 established in paragraph (b). The office shall include in its
4 report projections of the tax refunds the business would be
5 eligible to receive ~~refund claim that will be sought by the~~
6 ~~target industry business~~ in each fiscal year based on the
7 creation and maintenance of the net new Florida jobs specified
8 in subparagraph (a)4. as of December 31 of the preceding state
9 fiscal year ~~information submitted in the application.~~

10 (4) TAX REFUND AGREEMENT.--

11 (a) Each qualified target industry business must enter
12 into a written agreement with the office which specifies, at a
13 minimum:

14 1. The total number of full-time equivalent jobs in
15 this state that will be dedicated to the project, the average
16 wage of those jobs, the definitions that will apply for
17 measuring the achievement of these terms during the pendency
18 of the agreement, and a time schedule or plan for when such
19 jobs will be in place and active in this state. ~~This~~
20 ~~information must be the same as the information contained in~~
21 ~~the application submitted by the business under subsection~~
22 ~~(3).~~

23 2. The maximum amount of tax refunds which the
24 qualified target industry business is eligible to receive on
25 the project and the maximum amount of a tax refund that the
26 qualified target industry business is eligible to receive for
27 in each fiscal year, based on the job creation and maintenance
28 schedule specified in subparagraph 1.

29 3. That the office may review and verify the financial
30 and personnel records of the qualified target industry
31

1 business to ascertain whether that business is in compliance
2 with this section.

3 4. The date by ~~after~~ which, in each fiscal year, the
4 qualified target industry business may file a ~~an annual~~ claim
5 under subsection (5) to be considered to receive a tax refund
6 in the following fiscal year.

7 5. That local financial support will be annually
8 available and will be paid to the account. The director may
9 not enter into a written agreement with a qualified target
10 industry business if the local financial support resolution is
11 not passed by the local governing authority within 90 days
12 after he or she has issued the letter of certification under
13 subsection (3).

14 (b) Compliance with the terms and conditions of the
15 agreement is a condition precedent for the receipt of a tax
16 refund each year. The failure to comply with the terms and
17 conditions of the tax refund agreement results in the loss of
18 eligibility for receipt of all tax refunds previously
19 authorized under this section and the revocation by the
20 director of the certification of the business entity as a
21 qualified target industry business, unless the business is
22 eligible to receive and elects to accept a prorated refund
23 under paragraph (5)(d) or the office grants the business an
24 economic-stimulus exemption.

25 1. A qualified target industry business may submit, in
26 writing, a request to the office for an economic-stimulus
27 exemption. The request must provide quantitative evidence
28 demonstrating how negative economic conditions in the
29 business's industry have prevented the business from complying
30 with the terms and conditions of its tax refund agreement.

31

1 2. Upon receipt of a request under subparagraph 1.,
2 the director shall have 45 days to notify the requesting
3 business, in writing, if its exemption has been granted or
4 denied. In determining if an exemption should be granted, the
5 director shall consider the extent to which negative economic
6 conditions in the requesting business's industry have
7 prevented the business from complying with the terms and
8 conditions of its tax refund agreement.

9 3. As a condition for receiving a prorated refund
10 under paragraph (5)(d) or an economic-stimulus exemption under
11 this paragraph, a qualified target industry business must
12 agree to renegotiate its tax refund agreement with the office
13 to, at a minimum, ensure that the terms of the agreement
14 comply with current law and office procedures governing
15 application for and award of tax refunds. Upon approving the
16 award of a prorated refund or granting an economic-stimulus
17 exemption, the office shall renegotiate the tax refund
18 agreement with the business as required by this subparagraph.
19 When amending the agreement of a business receiving an
20 economic-stimulus exemption, the office may extend the
21 duration of the agreement for a period not to exceed 1 year.

22 4. A qualified target industry business may submit a
23 request for an economic-stimulus exemption to the office in
24 lieu of any tax refund claim scheduled to be submitted after
25 June 30, 2001, but before July 1, 2003.

26 5. A qualified target industry business that receives
27 an economic-stimulus exemption may not receive a tax refund
28 for the period covered by the exemption.

29 (c) The agreement must be signed by the director and
30 by an authorized officer of the qualified target industry
31 business within 120 days after the issuance of the letter of

1 certification under subsection (3), but not before passage and
 2 receipt of the resolution of local financial support. The
 3 office may grant an extension of this period at the written
 4 request of the qualified target industry business.

5 (5) ANNUAL CLAIM FOR REFUND.--

6 (a) To be eligible to claim any scheduled tax refund,
 7 a qualified target industry business that has entered into a
 8 tax refund agreement with the office under subsection (4) must
 9 ~~may~~ apply by January 31 of ~~once~~ each fiscal year to the office
 10 for the a tax refund scheduled to be paid from the
 11 appropriation for the fiscal year that begins on July 1
 12 following the January 31 claims-submission date. The office
 13 may, upon written request, grant a 30-day extension of the
 14 filing date.~~The application must be made on or after the date~~
 15 ~~specified in that agreement.~~

16 (b) The claim for refund by the qualified target
 17 industry business must include a copy of all receipts
 18 pertaining to the payment of taxes for which the refund is
 19 sought and data related to achievement of each performance
 20 item specified in the tax refund agreement. The amount
 21 requested as a tax refund may not exceed the amount specified
 22 for the relevant ~~that~~ fiscal year in that agreement.

23 (c) A tax refund may not be approved for a qualified
 24 target industry business unless the required local financial
 25 support has been paid into the account for that refund ~~in that~~
 26 ~~fiscal year~~. If the local financial support provided is less
 27 than 20 percent of the approved tax refund, the tax refund
 28 must be reduced. In no event may the tax refund exceed an
 29 amount that is equal to 5 times the amount of the local
 30 financial support received. Further, funding from local
 31 sources includes any tax abatement granted to that business

1 under s. 196.1995 or the appraised market value of municipal
2 or county land conveyed or provided at a discount to that
3 business. The amount of any tax refund for such business
4 approved under this section must be reduced by the amount of
5 any such tax abatement granted or the value of the land
6 granted; and the limitations in subsection (2) and paragraph
7 (3)(f) must be reduced by the amount of any such tax abatement
8 or the value of the land granted. A report listing all sources
9 of the local financial support shall be provided to the office
10 when such support is paid to the account.

11 (d) A prorated tax refund, less a 5-percent penalty,
12 shall be approved for a qualified target industry business
13 provided all other applicable requirements have been satisfied
14 and the business proves to the satisfaction of the director
15 that it has achieved at least 80 percent of its projected
16 employment and that the average wage paid by the business is
17 at least 90 percent of the average wage specified in the tax
18 refund agreement, but in no case less than 115 percent of the
19 average private-sector wage in the area available at the time
20 of certification, or 150 percent or 200 percent of the average
21 private-sector wage if the business requested the additional
22 per-job tax refund authorized in paragraph (2)(b) for wages
23 above those levels. The prorated tax refund shall be
24 calculated by multiplying the tax refund amount for which the
25 qualified target industry business would have been eligible,
26 if all applicable requirements had been satisfied, by the
27 percentage of the average employment specified in the tax
28 refund agreement which was achieved, and by the percentage of
29 the average wages specified in the tax refund agreement which
30 was achieved.

31

1 (e) The director, with such assistance as may be
 2 required from the office, the Department of Revenue, or the
 3 Agency for Workforce Innovation ~~Department of Labor and~~
 4 ~~Employment Security~~, shall, by June 30 following the scheduled
 5 date for submission of the tax-refund claim, specify by
 6 written ~~final~~ order the approval or disapproval of the tax
 7 refund claim and, if approved, the amount of the tax refund
 8 that is authorized to be paid to ~~for~~ the qualified target
 9 industry business for the ~~fiscal year within 30 days after the~~
 10 ~~date that the claim for the annual tax refund is received by~~
 11 ~~the office.~~ The office may grant an extension of this date on
 12 the request of the qualified target industry business for the
 13 purpose of filing additional information in support of the
 14 claim.

15 (f) The total amount of tax refund claims approved by
 16 the director under this section in any fiscal year must not
 17 exceed the amount authorized under s. 288.095(3).

18 (g) This section does not create a presumption that a
 19 tax refund claim will be approved and paid.

20 (h)~~(g)~~ Upon approval of the tax refund under
 21 paragraphs (c), (d), and (e), the Comptroller shall issue a
 22 warrant for the amount specified in the written ~~final~~ order.
 23 If the written ~~final~~ order is appealed, the Comptroller may
 24 not issue a warrant for a refund to the qualified target
 25 industry business until the conclusion of all appeals of that
 26 order.

27 (6) ADMINISTRATION.--

28 (a) The office is authorized to verify information
 29 provided in any claim submitted for tax credits under this
 30 section with regard to employment and wage levels or the
 31 payment of the taxes to the appropriate agency or authority,

1 including the Department of Revenue, the Agency for Workforce
2 Innovation ~~Department of Labor and Employment Security~~, or any
3 local government or authority.

4 (b) To facilitate the process of monitoring and
5 auditing applications made under this program, the office may
6 provide a list of qualified target industry businesses to the
7 Department of Revenue, to the Agency for Workforce Innovation
8 ~~Department of Labor and Employment Security~~, or to any local
9 government or authority. The office may request the assistance
10 of those entities with respect to monitoring jobs, wages, and
11 the payment of the taxes listed in subsection (2).

12 (c) Funds specifically appropriated for the tax refund
13 program for qualified target industry businesses may not be
14 used for any purpose other than the payment of tax refunds
15 authorized by this section.

16 (7) EXPIRATION.--This section expires June 30, 2004.

17 Section 5. Paragraph (k) of subsection (7) of section
18 213.053, Florida Statutes, is amended to read:

19 213.053 Confidentiality and information sharing.--

20 (7) Notwithstanding any other provision of this
21 section, the department may provide:

22 (k)1. Payment information relative to chapters 199,
23 201, 212, 220, and 221, and 624 to the Office of Tourism,
24 Trade, and Economic Development, or its employees or agents
25 that are identified in writing by the office to the
26 department, in the its administration of the tax refund
27 program for qualified defense contractors authorized by s.
28 288.1045 and the tax refund program for qualified target
29 industry businesses authorized by s. 288.106.

30 2. Information relative to tax credits taken by a
31 business under s. 220.191 and exemptions or tax refunds

1 received by a business under s. 212.08(5)(j) to the Office of
2 Tourism, Trade, and Economic Development, or its employees or
3 agents that are identified in writing by the office to the
4 department, in the administration and evaluation of the
5 capital investment tax credit program authorized in s. 220.191
6 and the semiconductor, defense, and space tax exemption
7 program authorized in s. 212.08(5)(j).

8
9 Disclosure of information under this subsection shall be
10 pursuant to a written agreement between the executive director
11 and the agency. Such agencies, governmental or
12 nongovernmental, shall be bound by the same requirements of
13 confidentiality as the Department of Revenue. Breach of
14 confidentiality is a misdemeanor of the first degree,
15 punishable as provided by s. 775.082 or s. 775.083.

16 Section 6. Paragraph (j) of subsection (5) of section
17 212.08, Florida Statutes, is amended to read:

18 212.08 Sales, rental, use, consumption, distribution,
19 and storage tax; specified exemptions.--The sale at retail,
20 the rental, the use, the consumption, the distribution, and
21 the storage to be used or consumed in this state of the
22 following are hereby specifically exempt from the tax imposed
23 by this chapter.

24 (5) EXEMPTIONS; ACCOUNT OF USE.--

25 (j) Machinery and equipment used in semiconductor,
26 defense, or space technology production and research and
27 development.--

28 1.a. Industrial machinery and equipment used in
29 semiconductor technology facilities certified under
30 subparagraph 6. to manufacture, process, compound, or produce
31 semiconductor technology products for sale or for use by these

1 facilities are exempt from the tax imposed by this chapter.
2 For purposes of this paragraph, industrial machinery and
3 equipment includes molds, dies, machine tooling, other
4 appurtenances or accessories to machinery and equipment,
5 testing equipment, test beds, computers, and software, whether
6 purchased or self-fabricated, and, if self-fabricated,
7 includes materials and labor for design, fabrication, and
8 assembly.

9 b. Industrial machinery and equipment used in defense
10 or space technology facilities certified under subparagraph 6.
11 to manufacture, process, compound, or produce defense
12 technology products or space technology products for sale or
13 for use by these facilities are exempt from 25 percent of the
14 tax imposed by this chapter.

15 2.a. Machinery and equipment are exempt from the tax
16 imposed by this chapter if used predominately in semiconductor
17 wafer research and development activities in a semiconductor
18 technology research and development facility certified under
19 subparagraph 6. For purposes of this paragraph, machinery and
20 equipment includes molds, dies, machine tooling, other
21 appurtenances or accessories to machinery and equipment,
22 testing equipment, test beds, computers, and software, whether
23 purchased or self-fabricated, and, if self-fabricated,
24 includes materials and labor for design, fabrication, and
25 assembly.

26 b. Machinery and equipment are exempt from 25 percent
27 of the tax imposed by this chapter if used predominately in
28 defense or space research and development activities in a
29 defense or space technology research and development facility
30 certified under subparagraph 6.

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1 3. Building materials purchased for use in
2 manufacturing or expanding clean rooms in
3 semiconductor-manufacturing facilities are exempt from the tax
4 imposed by this chapter.

5 4. In addition to meeting the criteria mandated by
6 subparagraph 1., subparagraph 2., or subparagraph 3., a
7 business must be certified by the Office of Tourism, Trade,
8 and Economic Development as authorized in this paragraph in
9 order to qualify for exemption under this paragraph.

10 5. For items purchased tax exempt pursuant to this
11 paragraph, possession of a written certification from the
12 purchaser, certifying the purchaser's entitlement to exemption
13 pursuant to this paragraph, relieves the seller of the
14 responsibility of collecting the tax on the sale of such
15 items, and the department shall look solely to the purchaser
16 for recovery of tax if it determines that the purchaser was
17 not entitled to the exemption.

18 6.a. To be eligible to receive the exemption provided
19 by subparagraph 1., subparagraph 2., or subparagraph 3., a
20 qualifying business entity shall apply to Enterprise Florida,
21 Inc. The application shall be developed by the Office of
22 Tourism, Trade, and Economic Development in consultation with
23 Enterprise Florida, Inc.

24 b. Enterprise Florida, Inc., shall review each
25 submitted application and information and determine whether or
26 not the application is complete within 5 working days. Once an
27 application is complete, Enterprise Florida, Inc., shall,
28 within 10 working days, evaluate the application and recommend
29 approval or disapproval of the application to the Office of
30 Tourism, Trade, and Economic Development.

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1 c. Upon receipt of the application and recommendation
2 from Enterprise Florida, Inc., the Office of Tourism, Trade,
3 and Economic Development shall certify within 5 working days
4 those applicants who are found to meet the requirements of
5 this section and notify the applicant, Enterprise Florida,
6 Inc., and the department of the certification. If the Office
7 of Tourism, Trade, and Economic Development finds that the
8 applicant does not meet the requirements of this section, it
9 shall notify the applicant and Enterprise Florida, Inc.,
10 within 10 working days that the application for certification
11 has been denied and the reasons for denial. The Office of
12 Tourism, Trade, and Economic Development has final approval
13 authority for certification under this section.

14 7.a. A business may apply once each year for the
15 exemption.

16 b. The application must indicate, for program
17 evaluation purposes only, the average number of full-time
18 equivalent employees at the facility over the preceding
19 calendar year, the average wage and benefits paid to those
20 employees over the preceding calendar year, the total
21 investment made in real and tangible personal property over
22 the preceding calendar year, and the total value of tax-exempt
23 purchases and taxes exempted during the previous year. The
24 department shall assist the Office of Tourism, Trade, and
25 Economic Development in evaluating and verifying information
26 provided in the application for exemption.

27 c. The Office of Tourism, Trade, and Economic
28 Development may use the information reported on the
29 application for evaluation purposes only and shall prepare an
30 annual report on the exemption program and its cost and
31 impact. The annual report for the preceding fiscal year shall

1 be submitted to the Governor, the President of the Senate, and
2 the Speaker of the House of Representatives by September 30 of
3 each fiscal year. ~~This report may be submitted in conjunction~~
4 ~~with the annual report required in s. 288.095(3)(c).~~

5 8. A business certified to receive this exemption may
6 elect to designate one or more state universities or community
7 colleges as recipients of up to 100 percent of the amount of
8 the exemption for which they may qualify. To receive these
9 funds, the institution must agree to match the funds so earned
10 with equivalent cash, programs, services, or other in-kind
11 support on a one-to-one basis in the pursuit of research and
12 development projects as requested by the certified business.
13 The rights to any patents, royalties, or real or intellectual
14 property must be vested in the business unless otherwise
15 agreed to by the business and the university or community
16 college.

17 9. As used in this paragraph, the term:

18 a. "Predominately" means at least 50 percent of the
19 time in qualifying research and development.

20 b. "Research and development" means basic and applied
21 research in the science or engineering, as well as the design,
22 development, and testing of prototypes or processes of new or
23 improved products. Research and development does not include
24 market research, routine consumer product testing, sales
25 research, research in the social sciences or psychology,
26 nontechnological activities, or technical services.

27 c. "Semiconductor technology products" means raw
28 semiconductor wafers or semiconductor thin films that are
29 transformed into semiconductor memory or logic wafers,
30 including wafers containing mixed memory and logic circuits;
31 related assembly and test operations; active-matrix flat panel

1 displays; semiconductor chips; semiconductor lasers;
2 optoelectronic elements; and related semiconductor technology
3 products as determined by the Office of Tourism, Trade, and
4 Economic Development.

5 d. "Clean rooms" means manufacturing facilities
6 enclosed in a manner that meets the clean manufacturing
7 requirements necessary for high-technology
8 semiconductor-manufacturing environments.

9 e. "Defense technology products" means products that
10 have a military application, including, but not limited to,
11 weapons, weapons systems, guidance systems, surveillance
12 systems, communications or information systems, munitions,
13 aircraft, vessels, or boats, or components thereof, which are
14 intended for military use and manufactured in performance of a
15 contract with the United States Department of Defense or the
16 military branch of a recognized foreign government or a
17 subcontract thereunder which relates to matters of national
18 defense.

19 f. "Space technology products" means products that are
20 specifically designed or manufactured for application in space
21 activities, including, but not limited to, space launch
22 vehicles, missiles, satellites or research payloads, avionics,
23 and associated control systems and processing systems. The
24 term does not include products that are designed or
25 manufactured for general commercial aviation or other uses
26 even though those products may also serve an incidental use in
27 space applications.

28 Section 7. Subsection (7) of section 288.108, Florida
29 Statutes, is amended to read:

30 288.108 High-impact business.--
31

1 (7) REPORTING.--The office shall by December 1 of each
2 year issue a complete and detailed report of all designated
3 high-impact sectors, all applications received and their
4 disposition, all final orders issued, and all payments made,
5 including analyses of benefits and costs, types of projects
6 supported, and employment and investments created. The report
7 shall be submitted to the Governor, the President of the
8 Senate, and the Speaker of the House of Representatives. ~~The~~
9 ~~report may be combined with the incentives report required in~~
10 ~~s. 288.095.~~

11 Section 8. This act shall take effect upon becoming a
12 law.

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