

By Senator Clary

7-2382A-02

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., relating to the tax
12 refund program for qualified defense
13 contractors; revising definitions; revising
14 conditions and procedures governing
15 applications for tax refunds; revising
16 provisions relating to the order authorizing a
17 tax refund; revising the required elements of a
18 tax refund agreement; providing an exemption
19 from mandatory loss of tax refund eligibility
20 and decertification resulting from agreement
21 breach in cases of uncontrollable economic
22 factors or specific acts of terrorism;
23 prescribing a deadline for applying for tax
24 refunds; authorizing the office to grant
25 extensions to certain application and
26 notification deadlines; revising conditions
27 under which a prorated tax refund will be
28 approved; providing for calculation of such
29 prorated refund; specifying that the section
30 does not create a presumption a claim will be
31 approved and paid; revising the agencies with

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

1 presumption that a claim will be approved and
2 paid; revising the agencies with which the
3 office may verify information and to which the
4 office may provide information; expanding
5 purposes for which the office may seek
6 assistance from certain entities; specifying
7 that certain appropriations may not be used for
8 any purpose other than the payment of specified
9 tax refunds; amending ss. 212.08 and 288.108,
10 F.S.; removing references, to conform;
11 providing for construction of the act in pari
12 materia with laws enacted at the 2002 Regular
13 Session; 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 subparagraphs (b)6., (c)6., or (d)7. as of December 31 of the
30 preceding state fiscal year ~~information submitted in the~~
31 ~~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, or specific acts of terrorism affecting the
3 qualified applicant, have prevented the qualified applicant
4 from complying with the terms and conditions of its tax refund
5 agreement.

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

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

29 4. A qualified applicant may submit a request for an
30 economic-stimulus exemption to the office in lieu of any tax
31

1 refund claim scheduled to be submitted after January 1, 2001,
2 but before July 1, 2003.

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

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

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

11
12 "This agreement is neither a general obligation
13 of the State of Florida, nor is it backed by
14 the full faith and credit of the State of
15 Florida. Payment of tax refunds are conditioned
16 on and subject to specific annual
17 appropriations by the Florida Legislature of
18 funds sufficient to pay amounts authorized in
19 s. 288.1045, Florida Statutes."
20

21 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE
22 CONTRACTOR.--

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

1 for tax refunds scheduled to be paid from the appropriation
2 for the fiscal year that begins on July 1 following the
3 January 31 claims-submission date. The office may, upon
4 written request, grant a 30-day extension of the filing date.

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

8 (b) The claim for refund by the qualified applicant
9 must include a copy of all receipts pertaining to the payment
10 of taxes for which a refund is sought, and data related to
11 achieving each performance item contained in the tax refund
12 agreement pursuant to subsection (4). The amount requested as
13 a tax refund may not exceed the amount for the relevant fiscal
14 year in the written agreement entered pursuant to subsection
15 (4).

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

31

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

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

30 (f) Upon approval of the tax refund pursuant to
31 paragraphs (c) and (d), the Comptroller shall issue a warrant

1 for the amount included in the written ~~final~~ order. In the
2 event of any appeal of the written ~~final~~ order, the
3 Comptroller may not issue a warrant for a refund to the
4 qualified applicant until the conclusion of all appeals of the
5 written ~~final~~ order.

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

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

24 (6) ADMINISTRATION.--

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

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

1 ~~Labor and Employment Security~~, or any local government or
2 authority.

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

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

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

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

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

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, or specific acts of terrorism affecting
30 the qualified target industry business, have prevented the
31

1 business from complying with the terms and conditions of its
2 tax refund agreement.

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

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

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

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

1 (c) The agreement must be signed by the director and
2 by an authorized officer of the qualified target industry
3 business within 120 days after the issuance of the letter of
4 certification under subsection (3), but not before passage and
5 receipt of the resolution of local financial support. The
6 office may grant an extension of this period at the written
7 request of the qualified target industry business.

8 (5) ANNUAL CLAIM FOR REFUND.--

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

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

26 (c) A tax refund may not be approved for a qualified
27 target industry business unless the required local financial
28 support has been paid into the account for that refund ~~in that~~
29 ~~fiscal year~~. If the local financial support provided is less
30 than 20 percent of the approved tax refund, the tax refund
31 must be reduced. In no event may the tax refund exceed an

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

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

1 the average wages specified in the tax refund agreement which
2 was achieved.

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

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

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

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

29 (6) ADMINISTRATION.--

30 (a) The office is authorized to verify information
31 provided in any claim submitted for tax credits under this

1 section with regard to employment and wage levels or the
2 payment of the taxes to the appropriate agency or authority,
3 including the Department of Revenue, the Agency for Workforce
4 Innovation ~~Department of Labor and Employment Security~~, or any
5 local government or authority.

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

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

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

19 Section 5. Paragraph (j) of subsection (5) of section
20 212.08, Florida Statutes, is amended to read:

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

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

28 (j) Machinery and equipment used in semiconductor,
29 defense, or space technology production and research and
30 development.--

31

1 1.a. Industrial machinery and equipment used in
2 semiconductor technology facilities certified under
3 subparagraph 6. to manufacture, process, compound, or produce
4 semiconductor technology products for sale or for use by these
5 facilities are exempt from the tax imposed by this chapter.
6 For purposes of this paragraph, industrial machinery and
7 equipment includes molds, dies, machine tooling, other
8 appurtenances or accessories to machinery and equipment,
9 testing equipment, test beds, computers, and software, whether
10 purchased or self-fabricated, and, if self-fabricated,
11 includes materials and labor for design, fabrication, and
12 assembly.

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

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

30 b. Machinery and equipment are exempt from 25 percent
31 of the tax imposed by this chapter if used predominately in

1 defense or space research and development activities in a
2 defense or space technology research and development facility
3 certified under subparagraph 6.

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

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

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

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

27 b. Enterprise Florida, Inc., shall review each
28 submitted application and information and determine whether or
29 not the application is complete within 5 working days. Once an
30 application is complete, Enterprise Florida, Inc., shall,
31 within 10 working days, evaluate the application and recommend

1 approval or disapproval of the application to the Office of
2 Tourism, Trade, and Economic Development.

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

16 7.a. A business may apply once each year for the
17 exemption.

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

29 c. The Office of Tourism, Trade, and Economic
30 Development may use the information reported on the
31 application for evaluation purposes only and shall prepare an

1 annual report on the exemption program and its cost and
2 impact. The annual report for the preceding fiscal year shall
3 be submitted to the Governor, the President of the Senate, and
4 the Speaker of the House of Representatives by September 30 of
5 each fiscal year. ~~This report may be submitted in conjunction~~
6 ~~with the annual report required in s. 288.095(3)(c).~~

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

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

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

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

29 c. "Semiconductor technology products" means raw
30 semiconductor wafers or semiconductor thin films that are
31 transformed into semiconductor memory or logic wafers,

1 including wafers containing mixed memory and logic circuits;
2 related assembly and test operations; active-matrix flat panel
3 displays; semiconductor chips; semiconductor lasers;
4 optoelectronic elements; and related semiconductor technology
5 products as determined by the Office of Tourism, Trade, and
6 Economic Development.

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

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

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

30 Section 6. Subsection (7) of section 288.108, Florida
31 Statutes, is amended to read:

1 288.108 High-impact business.--
2 (7) REPORTING.--The office shall by December 1 of each
3 year issue a complete and detailed report of all designated
4 high-impact sectors, all applications received and their
5 disposition, all final orders issued, and all payments made,
6 including analyses of benefits and costs, types of projects
7 supported, and employment and investments created. The report
8 shall be submitted to the Governor, the President of the
9 Senate, and the Speaker of the House of Representatives. ~~The~~
10 ~~report may be combined with the incentives report required in~~
11 ~~s. 288.095.~~

12 Section 7. If any law that is amended by this act was
13 also amended by a law enacted at the 2002 Regular Session of
14 the Legislature, such laws shall be construed as if they had
15 been enacted at the same session of the Legislature, and full
16 effect should be given to each if that is possible.

17 Section 8. This act shall take effect upon becoming a
18 law.

19
20 *****

21 SENATE SUMMARY

22 Provides for additional uses of moneys in the Rural
23 Infrastructure Fund. Substitutes Enterprise Florida, Inc.
24 for the Office of Tourism, Trade, and Economic
25 Development for specified purposes relating to the
26 Economic Development Trust Fund. Revises the qualified
27 defense contractor tax refund program. Revises
28 requirements for the tax refund program for qualified
29 target industry businesses. (See bill for details.)
30
31